The City of Durango encourages the participation of all its citizens in its public meetings. If an accommodation is needed, please contact the City of Durango ADA Coordinator at (970) 375-5005.

MISSION
The City of Durango and our employees provide efficient city services, effectively maintain city assets and manage growth, are accountable, ethical and fiscally responsible, and collaborate with regional partners to improve the quality of life for our entire community.

VISION
Durango is an authentic, diverse, multigenerational, and thriving community. Our residents value and enjoy our unique natural environment and benefit from the management of our city’s resources in a fiscally responsible, environmental, and socially sustainable manner.

VALUES
- Teamwork
- Dependability
- Professionalism
- Service
- Respect
- Innovation
- Well-Being

STRATEGIC GOALS
- Affordability & Economic Opportunity (AEO)
- Diversity, Equity, Inclusion (DEI)
- Effective Infrastructure Network (EIN)
- Enhanced Livability & Sense of Place (ELSP)
- Environmental Sustainability & Resilience (ESR)
- Financial Excellence & High Performing Government (FE)
- Engaged & Collaborative Governance (ECG)
1. CALL TO ORDER AND ROLL CALL 5:30 PM

2. INTRODUCTION OF TRANSLATOR

3. OPENING REMARKS BY MAYOR AND COUNCIL - Information Only

4. PRESENTATIONS/PROCLAMATIONS - NO ITEMS

5. CITY MANAGER UPDATES - Information Only 5:45 PM

5.1. Community Development & Engineering Building Renovation Completion and Grand Opening

6. COMMITTEE, BOARD AND LIAISON REPORTS - Information Only 6:00 PM

6.1. Airport Commission Quarterly Report - ECG

7. PUBLIC COMMENT ON AGENDA ITEMS ONLY (Items 8, 9 & 11) 6:05 PM

8. CONSENT AGENDA - Action Items without discussion 6:15 PM

8.1. Approval of Meeting Minutes

8.1.1. Approval of Minutes January 2, 2024 City Council Regular Meeting - ECG

8.1.2. Approval of Minutes January 9, 2024 City Council Special Meeting - ECG

8.2. Final Reading of Ordinances - NO ITEMS

8.3. Adoption of Resolution(s) by Consent - NO ITEMS

8.4. Approval of Other Administrative Items - NO ITEMS

8.5. Land use and Development Action Items - NO ITEMS

9. ITEMS PULLED FROM THE CONSENT AGENDA - Action Item with discussion

10. LAND USE AND DEVELOPMENT - Action Items with Discussion 6:20 PM

This meeting is being held in a virtual/In Person format (Durango Resolution R 2022-00017 dated 4/5/2022). Link to the virtual meeting at http://durangogov.org/zoom. If this link fails, please copy and paste into your browser.
10.1. Public Hearing To Consider A Resolution Amending The Future Land Use Map For Tree Farm Village (Located North Of State Highway 160, East Of CR 233, In The Vicinity Of Elmore’s Corner) - AEO - Submitted by Community Development

11. RESOLUTIONS - CONSIDERATION OF ADOPTION - Action Item with discussion 6:30 PM

11.1. A Resolution Authorizing an Additional Appropriation to the Housing Fund in the 2024 Budget for a Community Development Block Grant - AEO - Submitted By Community Development

12. FIRST READING OF ORDINANCES - CONSIDERATION OF ADOPTION AND PUBLIC HEARING - Action items with discussion 6:40 PM

12.1. A Public Hearing to Consider an Ordinance for 2900 Block of W 2nd Ave Right-of-Way Abandonment Request - ELSP - Submitted by Community Development

12.2. A Public Hearing to Consider an Ordinance for Land Use and Development Code Text Amendments regarding Detached Condominiums and Updated Flood Insurance Study - AEO & ESR – Submitted by Community Development

13. PUBLIC COMMENT ON NON-AGENDA ITEMS - No discussion 7:00 PM

14. INTRODUCTION OF ORDINANCES AND REQUEST FOR PUBLIC HEARING - Action Item with limited discussion 7:10 PM

14.1. Request for Public Hearing to Consider Approval of the Elk Grove Preliminary Plan at 455 and 589 High Llama Lane, and to Introduce the Annexation Ordinance (February 6, 2024) - AEO - Submitted by Community Development

15. OTHER NEW BUSINESS - Non-Dispositive with limited discussion

15.1. Assignment of Two Councilors to the Interview Team for the Community Development Commission - ECG

16. REQUESTS FOR EXCUSED ABSENCES

17. ADJOURNMENT 7:20 PM

NOTE THAT ALL TIMES ARE APPROXIMATIONS
Members of the public who wish to provide verbal comments can use the Virtual Meeting Information at the top of this agenda to join the meeting. Please ensure you have the Zoom app installed on your computer or mobile device prior to the meeting (https://zoom.us/download). The mayor will provide additional details during the meeting when public comment is accepted.
Date: December 29, 2023

Prepared by: Emily Lashbrooke, Airport Commission Chair
Tony Vicari, Aviation Director

Subject: Durango-La Plata County Airport Commission Quarterly Report

Meeting Highlights

October 19, 2023
- Received updates on the Terminal Expansion Phase 1A project
- Reviewed and approved airport marketing goals for 2024
- Discussed airport branding and potential future initiatives

November 16, 2023
- Reviewed and approved a loan application through the CDOT State Infrastructure Bank
- Discussed long-term aeronautical development opportunities for the east airfield

December 21, 2023
- Received updates on the Terminal Expansion Phase 1A project
- Reviewed and approved a Request for Proposals (RFP) document for hangar development within the North General Aviation zone
- Reviewed the 2024 airport work plan outline
CALL TO ORDER AND ROLL CALL

Mayor Youssef called the meeting to order at 5:30 p.m. Present were Mayor Youssef, Mayor Pro Tem Buell and Councilors Yazzie, Woodruff and Bosmans. Also, present were City Manager José Madrigal, City Attorney Mark Morgan and City Clerk Faye Harmer.

INTRODUCTION OF TRANSLATOR

Diego Pons from CLC Translation provided translation services in Spanish.

OPENING REMARKS BY MAYOR AND COUNCIL

Mayor Youssef was excited to convene the first meeting of 2024. She thought the city was well positioned to assess key priorities for the community. The mayor outlined areas of focus for the year, including capital projects, community partnerships, and tax initiatives.

PRESENTATIONS/PROCLAMATIONS

Focus Group Update Requested by Councilor Bosmans

Klancy Nixon provided an overview of the newly implemented focus groups, intended for staff to engage the community on specific projects. She said members of the focus groups would provide feedback but not consensus. The focus groups would be in addition to current community engagement tools, such as public meetings, boards and commissions, councilor office hours, surveys, and social media.

Councilor Bosmans wanted to know who would select the members of the focus groups. He also had concerns about engaging targeted members for specific projects instead of getting an assortment of viewpoints. Minutes, recordings, and meeting postings were also items of interest.

Ms. Nixon noted the program was new, however, currently had an application open for a focus group to develop an Indigenous Land Acknowledgement. They would select individuals based on the answered criteria to garner feedback, but not consensus.

Mayor Pro Tem Buell spoke of her recent conversations regarding focus group members and said she received favorable impressions.

Councilor Yazzie encouraged Ms. Nixon to make sure the community knew that the focus groups were only one part of the data gathering process to make informed decisions.

Councilor Woodruff thought the groups were valuable for gathering community information in addition to the current tools.

Durango Trails Annual Update

Mary Monroe, with Durango Trails, was in attendance to give a recap of their activities in 2023 and highlight their partnerships with area stakeholders and agencies. She reviewed education campaigns, volunteer opportunities, and various ways the non-profit informed the community about Durango’s trails. She thanked Council for their time and support.

Mayor Pro Tem Buell and Councilor Bosmans both thanked Ms. Monroe and her organization for their commitment to the community and the area’s trail systems.

CITY MANAGER UPDATES

No items.

COMMITTEE, BOARD AND LIAISON REPORTS

Councilor Yazzie updated the group on her attendance at a local Scout meeting where they discussed community involvement and civics. She also attended the Animas High School Winter Exhibit, noting the completion of recent construction. A Regional Housing Alliance meeting was also attended, along with the Fort Lewis College commencement. Lastly, she attended a Southern Ute Inauguration for the current Council.
Councilor Woodruff had attended a roundtable with Natasha Hudson of Senator Bennett’s office and had gone to the recent La Plata Economic Development Alliance meeting, along with a meeting for local watershed protection from fires.

Mayor Pro Tem Buell had recent office hours where she met with citizens and a Regional Housing Alliance Meeting where they reviewed housing development.

Councilor Bosmans had reviewed budget items at a recent Colorado Communities for Climate Action and Region 9 Southwest Colorado Council of Governments meetings.

Mayor Youssef commented on recent terminal construction at the Durango La Plata County Airport along with other development plans at the recent Airport Commission meeting.

**PUBLIC COMMENT ON AGENDA ITEMS ONLY (Items 8, 9 & 11)**

There was no one in person or virtually to comment on the agenda items.

**CONSENT AGENDA**

City Clerk Faye Harmer read the consent agenda as follows:

**Approval of Meeting Minutes**
- Approval of Minutes City Council Special Meeting December 5, 2023
- Approval of Minutes City Council Special Meeting December 19, 2023

**Final Reading of Ordinances**
- Final Reading of Ordinance O 2023-0024 to Approve a License Agreement, Including a Lease, Between Tesla, Inc. Regarding Electric Vehicle Superchargers at the Durango Transit Center

**Adoption of Resolution(s) by Consent**
- No Items.

**Approval of Other Administrative Items**
- A Motion Concerning Requirements of the City to Comply with the State Sunshine Act Submitted by the City Clerk’s Office

**Land Use and Development Action Items**
- No Items.

Mayor Pro Tem Buell made a motion to approve the Consent agenda. The motion was seconded by Councilor Woodruff. A roll call vote was taken, and the motion passed unanimously.

The motion passed: 5 in favor; 0 opposed; Abstain 0; Absent 0

**ITEMS PULLED FROM THE CONSENT AGENDA**

No items.

**LAND USE AND DEVELOPMENT**

No items.

**RESOLUTIONS - CONSIDERATION OF ADOPTION**

**A Resolution Approving the Appointment of Kelly Schmidt as Parks and Recreation Director Submitted by Jose Madrigal**

City Manager Jose Madrigal thanked Council for their review of his proposed appointment for Parks and Recreation Director. He shared Kelly Schmidt’s successes and history in parks and recreation, including her accreditations.

Ms. Schmidt introduced herself and was open to any questions.

Mayor Pro Tem Buell made a motion to approve the resolution as read by the City Clerk and Councilor Yazzie seconded it.

There was council discussion and several councilors praised her on accepting the position. They were excited to have her on board and for her future accomplishments in the community.

A roll call vote was taken, and the motion passed.

The motion passed: 5 in favor; 0 opposed; Abstain 0; Absent 0
A Resolution Adopting the 2024-2026 Durango Public Library Strategic Plan
Submitted by Luke Alvey-Henderson

Library Director Luke Alvey-Henderson reviewed the proposed resolution to adopt a two year strategic plan for the library with the intent to better serve the public. He reviewed customer surveys from the past two years including the demographics of the individuals it reached. He said the proposed strategic plan was recently approved by the Library Advisory Board and shared the goals and objectives that the plan would accomplish.

Mayor Pro Tem Buell made a motion to approve the resolution as read by the City Clerk and Councilor Woodruff seconded it.

Mayor and Council thanks Mr. Alvey-Henderson for his presentation and his liveliness and excitement for the plan.

A roll call vote was taken, and the motion passed.

The motion passed: 5 in favor; 0 opposed; Abstain 0; Absent 0

A Resolution To Amend The 2024 Budget For The Purpose Of Budget Adjustments To The 2024 Appropriations

Chief Financial Officer Devon Schmidt reviewed the resolution to amend the 2024 budget. There were a few projects that needed additional appropriations such as the North College Drive improvements, Santa Rita Water Reclamation Facility Waterline repairs, and construction phases at the Durango La Plata County Airport.

Mayor Pro Tem Buell made a motion to approve the resolution as read by the City Clerk and Councilor Woodruff seconded it.

Councilor Yazzie was interested in reductions in scope of the 3rd Avenue improvements and what stages the project was at.

Councilor Bosmans reviewed recent bids and prior year budgets where he thought there were discrepancies and cost increases.

Public Works Director Allison Baker commented on the minimal change of scope on the College Drive improvements. She also said the construction industry had vastly changed in recent years which was impacting bid costs. She would follow up with Councilors Bosmans and Yazzie regarding specific project questions.

A roll call vote was taken, and the motion passed with Councilor Bosmans abstaining.

The motion passed: 5 in favor; 0 opposed; Abstain 1; Absent 0

A Resolution and Public Hearing for the Road Naming of City Right of Way Dedicated as Part of the Downtown Fire Station – Powerhouse Subdivision

Daniel Murray, with Community Development, commented on the Powerhouse and fire station subdivision and the need for renaming the road. He shared how the road’s right-of-way was dedicated to the City of Durango. Various names for the road were discussed, including criteria on how names are selected.

Mayor Pro Tem Buell made a motion to approve the resolution as read by the City Clerk and Councilor Yazzie seconded it.

Council shared their opinions on the names and appreciated the practical naming of the road in addition to honorary names.

A roll call vote was taken, and the motion passed.

The motion passed: 5 in favor; 0 opposed; Abstain 0; Absent 0

A Motion To Adopt A Resolution To Approve The Joint Stipulation Of Dismissal Concerning Litigation Filed By John Simpson, Specifically Simpson v. City Of Durango, Et Al. 2023CV30146, Filed In La Plata County District Court

Mayor Youssef said the item proposed was moot and would not be discussed further.

A Resolution Reprimanding And Reproaching Councilor Olivier Bosmans For Acting In A Manner Unbecoming Of A Councilor, Bringing Disrepute To The Durango City Council And Issuing A Letter Of Apology To The City Manager And His Staff-Submitted by Councilor Yazzie

Councilor Yazzie made a motion to approve the resolution as read by the City Clerk and Councilor Buell seconded it.
Councilor Bosmans spoke on the proposed resolution saying that during the November 6th City Council Meeting had a serious concern to discuss a personnel matter and wanted to have a special meeting to discuss the item. He first wanted to get information from the city attorney without identifying the staff. He said that he followed the appropriate process. Mr. Bosmans wanted to see more transparency about funding a pilot program when it hadn’t been reviewed or approved by council. He thought that Council should issue an apology to the community.

Counsel Mark Morgan noted that under Robert’s Rules, Mr. Bosmans shouldn’t vote on the resolution.

A roll call vote was taken, and the motion passed, with Councilor Bosmans not voting.

The motion passed: 4 in favor; 0 opposed; Abstain 0; Absent 0

FIRST READING OF ORDINANCES - CONSIDERATION OF ADOPTION AND PUBLIC HEARING
No Items.

PUBLIC COMMENT ON NON-AGENDA ITEMS

Sweetie Marbury, a Durango resident, wanted to thank Council for raising the sidewalk improvement program funding. She said residents did not support a sidewalk district and that the city should focus on residential sidewalks. She also shared ways the City could promote the program.

Sara Sanchez read a comment in support of the Durango Palestinian Solidarity Group.

INTRODUCTION OF ORDINANCES AND REQUEST FOR PUBLIC HEARING

A Request for Public Hearing and Introduction of Ordinance for Land Use and Development Code Text Amendments regarding Detached Condominiums and Updated Flood Insurance Study (Jan. 16, 2024)

Mayor Pro Tem Buell made a motion to approve the request for public hearing as read by the City Clerk and Councilor Yazzie seconded it.

A roll call vote was taken, and the motion passed.

The motion passed: 5 in favor; 0 opposed; Abstain 0; Absent 0

A Request for Public Hearing and Introduction of Ordinance for 2900 Block of W 2nd Ave Right-of-Way Abandonment Request (Jan 16th, 2024)

Mayor Pro Tem Buell made a motion to approve the request for a public hearing as read by the City Clerk and Councilor Woodruff seconded it.

A roll call vote was taken, and the motion passed.

The motion passed: 5 in favor; 0 opposed; Abstain 0; Absent 0

A Resolution Accepting the Durango Crossings Addition Annexation Petitions and Setting a Public Hearing, and the Introduction of an Ordinance for the Annexation and Initial Zoning of the Durango Crossings Addition and Declaring an Effective Date

Mayor Pro Tem Buell made a motion to set up a public hearing for the state ordinance as read by the City Clerk and Councilor Woodruff seconded it.

A roll call vote was taken, and the motion passed.

The motion passed: 5 in favor; 0 opposed; Abstain 0; Absent 0

A Request for Public Hearing to Consider a Resolution Amending the Future Land Use Map for Tree Farm Village (Located North of State Highway 160, East of CR 233, in the Vicinity of Elmore’s Corner) January 16, 2024

Councilor Woodruff made a motion to approve the item as read by the City Clerk and Councilor Yazzie seconded it.

A roll call vote was taken, and the motion passed.

The motion passed: 5 in favor; 0 opposed; Abstain 0; Absent 0

OTHER NEW BUSINESS - Non-Dispositive with limited discussion

Update Regarding The Process For The Promotion Of Bob Brammer To Assistant City Manager And The Process For Hiring Of The Police Chief Position

City Manager Madrigal reviewed recent discussions with Council on the City’s growth, including the team that he had built in the past three years. He said the high priority projects, along with his direct reports, are limiting his capacity in management. Mr. Madrigal
said Chief Bob Brammer would be an amazing compliment to the City Manager’s office as an additional Assistant City Manager. He also commented on the intended recruitment process for a new police chief.

Chief Brammer was humbled by the opportunity and wanted to serve the community in the new capacity.

Councilor Woodruff was excited to see Chief step into the new role and, under his guidance, search for a new police chief.

Mayor Youssef appreciated Mr. Madrigal’s transparency and thought Chief Brammer had done an outstanding job serving the community.

Requests for Excused Absences
There were no requests for excused absences.

Directives
No directives were offered.

ADJOURNMENT
Mayor Youssef adjourned the meeting at 7:24 p.m.

APPROVED:

_____________________________  ______________________________
Melissa Youssef, Mayor        Faye Harmer, City Clerk
DURANGO CITY COUNCIL  
SPECIAL MEETING MINUTES  
VIRTUAL MEETING  
TUESDAY JANUARY 9, 2024  
1:30 PM

CALL TO ORDER

Mayor Melissa Youssef called the meeting to order at 1:30 p.m.

PROCEDURES

Roll Call

Present virtually on behalf of the Durango City Council were Mayor Youseff, Mayor Pro Tem Buell and Councilors Bosmans. Councilor Yazzie joined the meeting in person at 1:37 p.m. Councilor Woodruff was absent. Also present virtually were City Manager José Madrigal, City Attorney Mark Morgan and City Clerk Faye Harmer.

ACTION ITEMS

RESOLUTION R-2024-0008 ESTABLISHING THE 2024 MILL LEVY FOR THE CITY OF DURANGO

Chief Financial Officer Devon Schmidt provided a short presentation explaining the delay in approving the mill levy and the amount to be approved. The state allowed an extension of the normal December 15\textsuperscript{th} deadline until January 10, 2024 based on SB23B-01. The mill levy for the city of Durango is 5.007 and will generate approximately $3,380,475 in net revenue to the City.

Mayor Pro Tem Buell moved to approve Resolution R-2024-0008. Mayor Youssef seconded the motion. A roll call vote was taken, and the motion passed.

Passed: For 4; Against: 0; Abstain: 0; Absent: 1

ADJOURNMENT

Mayor Youssef adjourned the meeting at 1:38 p.m.

APPROVED:  

_____________________________  
Melissa Youssef, Mayor

ATTESTED:  

_____________________________  
City Clerk
RECOMMENDATION
It is the recommendation of Community Development staff that the City Council, by motion,
1. Move to approve the Resolution changing the Tree Farm Village Properties to Residential, Low Density on the Future Land Use Map with the findings as described in the staff report and discussed at this public hearing.

BACKGROUND/SUMMARY
This is a request from Tree Farm Village to make changes to the City’s Comprehensive Plan’s Future Land Use designations for 3 parcels located north of State Highway 160 and east of County Road 233, in the vicinity of Elmore’s Corner. The subject property consists of three parcels totaling 81.11 acres. The parcels are located outside the City limits, but within the boundaries of the City’s Future Land Use Map.

The Tree Farm Village properties are currently shown on the City of Durango’s Future Land Use Map with four different land use designations, Commercial, Mixed Use, Residential, Low Density, and Residential, Large Lot. The applicants wish to amend the map to change the designation of all the properties to Residential, Low Density. The applicants are proposing to create a manufactured home community on the property with approximately 310 units, with a resulting density of 3.8 units per acre. The applicants are requesting to change the land use designation of the three parcels to Residential, Low Density (< 5 units/acre) which aligns with their proposal for 310 individual manufactured homes.

The current land use designations would allow for commercial uses on the south end of the property with an overall density similar to the proposed density. The major change is to disperse the units over the entire property rather than concentrating the density at the southern part of the property.

The Planning Commission heard this proposal on August 17, 2023, and recommended denial on a 2-1 vote. The main concern of the Planning Commission dealt with the availability of water and redundancy if there was a need. A transcription of the motion is attached as well as summary minutes from the public hearing.

STRATEGIC PLAN ALIGNMENT
The proposed map amendments align with the Affordability and Economic Opportunity section: 1. Create housing opportunities to support a multigenerational & mixed-income community workforce and increase affordability to bridge the disparity between income and home/rental prices. As well as section 1.2 Support the production of a variety of housing types through incentives, partnerships, efficient review processes, and other mechanisms with a particular emphasis on middle-income housing.

ALTERNATIVE OPTIONS CONSIDERED:
Aside from the recommendation described above, the following options may be considered by Council.
- Deny the proposed future land use map amendments with reasons/findings stated.
- Continue project consideration with specific direction to staff.

FISCAL IMPACT
There is no direct fiscal impact stemming from the adoption of these amendments.

POTENTIAL ADVERSE IMPACTS:
There are no adverse impacts anticipated with the adoption of the proposed future land use map changes.

NEXT STEPS AND TIMELINE
Adopting the proposed future land use map changes will allow the applicants to move forward with their Major Project Review. The project will follow the County’s planning process, a major land use permit process at the sketch/conceptual plan stage. The permit will be reviewed by Joint Planning since the applicants have successfully changed the Joint Planning Area Map boundary to include their properties.
RESOLUTION NO. R-2024-___
A RESOLUTION AMENDING THE FUTURE LAND USE MAP FOR TREE FARM VILLAGE (LOCATED NORTH OF STATE HIGHWAY 160, EAST OF CR 233, IN THE VICINITY OF ELMORE’S CORNER).

WHEREAS, the owners of Tree Farm Village described on Exhibit “A” attached hereto have requested changing the land use designation of their property to Residential, Low Density; and
WHEREAS, the property is within the City’s Urbanizing Boundary identified in the 2017 Comprehensive Plan; and
WHEREAS, Amendments to the Comprehensive Plan’s Future Land Use Map can be made in accordance with Section 6-3-12-3 of the Land Use and Development Code; and
WHEREAS, the City finds substantial compliance with the Land Use and Development Code Section 6-3-12-5(B); and
WHEREAS, the City finds substantial compliance with the Comprehensive Plan Policy 6.2.1 which guides amending the Future Land Use Map; and
WHEREAS, the City finds substantial compliance with additional policies in the Comprehensive Plan, the Grandview Area Plan and the Housing Plan; and
WHEREAS, A public hearing has heretofore been held before the City Council of the City of Durango, and the Council has determined, subsequent to said public hearing, that the proposed land use changes for the Tree Farm Properties are in the best interest of the citizens of the City of Durango; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Durango, in regular meeting assembled, that:

said Resolution changing the Tree Farm Village properties to Residential, Low Density on the Future Land Use Map with the findings as described in the staff report and discussed at this public hearing.

Approved and adopted this ________ day of ______________, 2024
CITY OF DURANGO, COLORADO

By____________________________ Melissa Youssef, Mayor

ATTEST:
By______________________
Faye Harmer, City Clerk
Thursday, August 17, 2023  6:00 PM  Board Room

These are abbreviated minutes prepared by the County for the La Plata County Planning Commission and shared with City of Durango Planning Commission and Staff for their own record. The official record of this meeting is the audio file, available via the La Plata County web site http://co.laplata.co.us. For a CD of the audio file for a specific meeting, please contact the Clerk to the Board at (970) 382.6263 or via e-mail at planning@co.laplata.co.us. There may be a charge for the recording.

I.  Call to Order

6:10 pm meeting called to order. Roll called for both commissions.

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II. Approval of Agenda

Commissioner Ulery moved to approve the agenda.
Commissioner Haar seconded.
Agenda approved.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Susan Ulery, Commissioner
SECONDER: Roger Haar, Commissioner
AYES: Geri Malandra, Charles Minkler, Alma Evans, Susan Ulery, George Hepner, Roger Haar, Eric Ames, Brian Devine
ABSENT: Matt Payne, Clark Craig, Sarah Pritchard, Daniel Vagasky

III. Identification of Potential or Perceived Conflicts of Interest

None disclosed.

IV. Approval of Minutes

Tonight’s meeting is not officially a Joint Planning Commission meeting, but a joint meeting of the City and County Planning Commissions and seated differently. Both sets of minutes continued to the next Joint Planning Commission meeting, and no action taken tonight.

1. Minutes of Mar 21, 2019
RESULT: NO VOTE

2. Minutes of Jul 21, 2022
RESULT: NO VOTE
IGA Introduction

(TS 00:04:30) Deputy County Manager Kevin Hall introduced the Intergovernmental Agreement governing the Joint Planning Commission and joint meetings of the City and County Planning Commissions, explained the hearing process for tonight, and what the County and City Planning Commissions can expect to see in the coming months, specific to this amendment and the related project.

Public Hearing of the following requests

V. Decision

1. PL20230002: Comprehensive Plan Amendment – Durango District Plan

This public hearing is for the purpose of considering a request from Tree Farm Village MHC, LP represented by SEH Planning & Engineering, for the City of Durango Planning Commission and the La County Planning Commission meeting jointly, but requiring separate actions, to consider several amendments to the City Comprehensive Plan, the County Comprehensive Plan, and the Joint Planning Area Map (JPAM). The amendments would clear the way for a potential future land use application to La Plata County to develop the property. The proposed Tree Farm Village development consists of three parcels totaling 81.11 acres. The applicants would like to propose a manufactured home community on the property. In order for the development proposal to proceed as envisioned, both the City and County must take action to amend their respective plans and the JPAM.

(TS 00:16:10) Planner III Vicki Vandegrift, City of Durango, gave the City Planning Department staff report presentation via screenshare.

(TS 00:25:35) Chair Malandra called PL20230002: Comprehensive Plan Amendment - Durango District Plan.

(TS 00:26:00) Deputy County Manager Hall, La Plata County, gave the County Planning Department staff report via screenshare.

(TS 00:35:10) Commissioner Minkler questioned Planner III Vandegrift. Commissioner Ames questioned Deputy County Manager Hall.

Planner III Vandegrift also provided response to Commissioner Ames’ questions.

Development Services Manager Murray came forward to provide additional response.

Commissioner Ames questioned Deputy County Manager Hall further.
Deputy County Manager Hall presented updated information to Commissioners.

Planner III Vandegrift made additional comment.

Deputy County Manager Hall clarified next steps.

(TS 00:57:13) Chair Malandra invited the agents and applicants for the project to come forward to present.

Applicant Brandon Sindell and Agent Nancy Dosdall came forward; both agreed with findings and conditions presented the staff reports.

Applicant Sindell introduced himself and explained he is here to answer questions; has no additional presentation.

(TS 00:58:24) Agent Dosdall gave additional presentation via a screenshare.

(TS 00:07:51) Chair Malandra invited questions from Commissioners.

Commissioner Devine questioned Agent Dosdall.

Chair Malandra questioned Agent Dosdall.

(TS 01:10:58) Chair Malandra opened Public Comment.

Naomi Riess made public comment.

Andy Barley made public comment.

Bob Winski made public comment.

Jeramiah St. Ours made public comment.

Mike Foutz made public comment.

Rivian Bell made public comment.

Dayle Simons made public comment

(TS 01:32:29) Chair Malandra closed Public Comment 7:39PM.

Commissioner Evans questioned city staff.

Planner III Vandegrift provided response.

Commissioner Devine questioned Planner III Vandegrift.

Commissioner Ulery questioned Planner III Vandegrift.

Commissioner Devine questioned Planner III Vandegrift.

Commissioner Haar questioned Planner III Vandegrift.

Chair Malandra questioned Deputy County Manager Hall.

Commissioner Minkler initiated discussion with Commissioners.

(TS 01:46:00) Chair Malandra called a 5-minute recess at 7:53PM.

Reconvened at 7:59PM.
Commissioner Ulery opened the City’s portion of the meeting. City Commissioners were invited to question City staff. No questions.

(TS 01:54:52) Commissioner Evans began comments and discussion between commissioners.

(TS 01:58:57) Chair Ulery made comments.

(TS 02:02:56) Commissioner Devine made comments.

(TS 02:06:58) Chair Ulery called for a motion

Commissioner Evans moved to deny the proposed amendments to the City of Durango’s Comprehensive Plan and joint area map.

(TS 02:09:58) Chair Ulery seconded the motion.

City Planning Commission’s motion passed to recommend denial to the City Council.

RESULT: RECOMMEND DENIAL [2 TO 1]
MOVER: Alma Evans, Commissioner
SECONDER: Susan Ulery, Commissioner
AYES: Alma Evans, Susan Ulery
NO: Brian Devine
ABSENT: Matt Payne, Sarah Pritchard

(TS 02:11:45) Chair Malandra opened the County’s portion of the meeting and read the recommendation to County Planning Commission by staff.

Chair Malandra invited discussion from Commissioners.

(TS 02:12:30) Commissioner Ames made comments regarding jurisdiction.

(TS 02:17:01) Commissioner Haar made comments.

(TS 02:17:50) Commissioner Minkler made comments.

Commissioner Hepner made no comments; stated nothing to add.

(TS 02:18:58) Chair Malandra made comments.

(TS 02:23:20) Chair Malandra called for a motion.

Commissioner Ames moved to deny the proposal on two grounds; one that the proposal is not within the LPC Planning Commission’s jurisdiction, and secondly, the proposal does not comply with the requirements of LUC section 63-4.4.

Commissioner Minkler discussed the motion with Commissioner Ames. Commissioner Hepner discussed amending the motion.
Deputy County Manager Hall, asked the Commission to look for clarity from others first, to determine jurisdiction.

Commissioner Hepner wants clarification from County Attorney.

Commissioner Minkler commented favor of a continuation.

(TS 02:27:05) Chair Malandra discussed the possibility of continuing.

Deputy County Manager Hall suggested the commission could continue to the regular meeting date of Sept 19th, which would allow time for county attorney to provide guidance. It would also need to be clarified if the city and county would need to meet together or if the county could meet alone.

Planner III Vandegrift provided additional explanation.

Chair Malandra discussed further a continuation.

(TS 02:30:50) Commissioner Ames asked other Commissioners about a revised motion.

(TS 02:32:56) Deputy County Manager Hall believes legal opinion is due.

(TS 02:33:33) Commissioner Ames commented on the commission’s obligation to act, not continue.

Discussion occurred detailing what would happen if the commission denies the request vs moved to continue.

Commissioner Haar commented in favor of a continuance.

Commissioner Hepner agreed a continuance would be beneficial to receive informed advice from legal counsel.

Commissioner Minkler commented in favor of a continuance.

(TS 02:36:03) Chair Malandra brought the discussion back to the motion on the table.

Commissioner Ames withdrew his motion and commented on the absence of the county attorney; the commission is obligated to make a decision.

(TS 02:37:25) Commissioner Haar moved to continue to a further date.

Commissioner Hepner seconded the motion.

County Planning Commission’s decision is continued, by majority vote.

RESULT: CONTINUED [4 to 1]
MOVER: Roger Haar, Commissioner
SECONDER: George Hepner, Commissioner
AYES: Geri Malandra, Charles Minkler, George Hepner, Roger Haar
NO: Eric Ames
ABSENT: Clark Craig, Daniel Vagasky
VI. Other Business

None

VII. Adjournment

Commissioner Minkler moved to adjourn.
Meeting adjourned at 8:36PM.

Chair, Geri Melandra

Clerk, Brittany Medved
Public Hearing of the following requests

I. Decision

1. PL20230002: Comprehensive Plan Amendment – Durango District Plan
This public hearing is for the purpose of considering a request from Tree Farm Village MHC, LP represented by SEH Planning & Engineering, for the City of Durango Planning Commission and the La County Planning Commission meeting jointly, but requiring separate actions, to consider several amendments to the City Comprehensive Plan, the County Comprehensive Plan, and the Joint Planning Area Map (JPAM). The amendments would clear the way for a potential future land use application to La Plata County to develop the property. The proposed Tree Farm Village development consists of three parcels totaling 81.11 acres. The applicants would like to propose a manufactured home community on the property. In order for the development proposal to proceed as envisioned, both the City and County must take action to amend their respective plans and the JPAM.

(TS 00:16:10) Planner III Vicki Vandegrift, City of Durango, gave the City Planning Department staff report presentation via screenshare.

(TS 00:25:35) Chair Malandra called PL20230002: Comprehensive Plan Amendment - Durango District Plan.

(TS 00:26:00) Deputy County Manager Hall, La Plata County, gave the County Planning Department staff report via screenshare.

(TS 00:35:10) Commissioner Minkler questioned Planner III Vandegrift.
Commissioner Ames questioned Deputy County Manager Hall.
Planner III Vandegrift also provided response to Commissioner Ames’ questions.
Development Services Manager Murray came forward to provide additional response.
Commissioner Ames questioned Deputy County Manager Hall further.
Deputy County Manager Hall presented updated information to Commissioners.

Planner III Vandegrift made additional comment.

Deputy County Manager Hall clarified next steps.

(TS 00:57:13) Chair Malandra invited the agents and applicants for the project to come forward to present.

Applicant Brandon Sindell and Agent Nancy Dosdall came forward; both agreed with findings and conditions presented the staff reports.

Applicant Sindell introduced himself and explained he is here to answer questions; has no additional presentation.

(TS 00:58:24) Agent Dosdall gave additional presentation via a screenshare.

(TS 00:07:51) Chair Malandra invited questions from Commissioners.
Commissioner Devine questioned Agent Dosdall.
Chair Malandra questioned Agent Dosdall.
(TS 01:10:58) Chair Malandra opened Public Comment.
Naomi Riess made public comment.
Andy Barley made public comment.
Bob Winski made public comment.
Jeramiah St. Ours made public comment.
Mike Foutz made public comment.
Rivian Bell made public comment.
Dayle Simons made public comment.
(TS 01:32:29) Chair Malandra closed Public Comment 7:39PM.
Commissioner Evans questioned city staff.
Planner III Vandegrift provided response.
Commissioner Devine questioned Planner III Vandegrift.
Commissioner Ulery questioned Planner III Vandegrift.
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Chair Malandra questioned Deputy County Manager Hall.
Commissioner Minkler initiated discussion with Commissioners.
(TS 01:46:00) Chair Malandra called a 5-minute recess at 7:53PM.
Reconvened at 7:59PM.
Commissioner Ulery opened the City’s portion of the meeting. City Commissioners were invited to question City staff. No questions.

(TS 01:54:52) Commissioner Evans began comments and discussion between commissioners.

The infrastructure in Durango has not kept pace with the growth and development in Durango. In the Comprehensive Plan section 5.3.1 it says we need to ensure that new growth does not outstrip our ability to serve. This is in Durango’s service area, it has been planned, capacity is not the issue, Durango has planned for the capacity of this area and the potential growth of land uses in this area and water uses. But we are restricted by what [water] comes down the Animas and Florida. We have not been able to tap into Lake Nighthorse yet, because we do not have the infrastructure to tap into our water rights at Lake Nighthorse. We also have Comprehensive Plan on Growth Management section 5.5, one objective is that adequate public service be in place or assured prior to approval of urbanized development and phased development subject to installation of improvements in accordance with our CIP. As background, our Planning Commission has approved over 840 units in South Fork and Three Springs. We are infilling what we have water to right now, that is Three Springs and South Fork. Phase two of Three Springs has yet to even be initiated. I believe with the City’s revamping of Fair Share and the staff’s work of affordable housing that additional opportunities in the areas of Three Springs, that homeownership is within reach. I feel at this time that infill of Three Springs is preferable to spreading outside into new areas outside of the current Durango District Plan. The City’s Water Master Plan recommendation in section 7.6.1.1 says a critical piece of capacity limitations and is recommendation that a redundant water supply line be constructed to the Grandview Zone, and that needs to be on our CIP schedule before any further extension of the Durango District Plan. That is how I read the Comprehensive Plan. I agree with the city on the housing plan and water sources. It is the one thing that there is no redundancy to the system, if that fails, it is critical, the capacity in Three Springs in the summer is less than 2 days if the line were to fail. That is a critical piece before we extend our service area.

(TS 01:58:57) Chair Ulery made comments.

There is a requirement that there be compatibility with adjacent land uses. My observation is it still feels very rural, it is mixed as it is the county. But north of CR 233 is pretty rural. This property is very wide open and nothing is on it, so it is rural looking. I am concerned about compatibility. In looking at the City’s Comprehensive Plan 5.3.1 it’s recognized that the city has limited resources for staff, funding, infrastructure. We are getting out in front of ourselves because of the redundancy concerns. Worst case scenario of drought conditions, bring into that wildfire which requires water to fight fires, which raises concerns with the importance of providing water service, with redundancies, particularly to the hospital. We need to meet our current service demands for residences and services that are already
there. In Comprehensive Plan section 9.3.2 talks about securing adequate water supplies. We have sufficient water rights to serve, but we need the water supply to provide the services we are already obligated to deliver on.

(TS 02:02:56) Commissioner Devine made comments.

We need to distinguish between water rights, water supply, and water delivery and infrastructure in this area. It’s a linear process and system, and any gap in one impacts the other. Accessing water in Lake Nighthorse is a missing link in that chain, and the city is more recently moving towards filling that critical issue, and the redundant supply to Three Springs. Development is not linear as we want it to be, and therefore it happens that development will pay for and enable improvements in one location or capacity to meet their needs, such as extending a line and the tap fees go to the overall infrastructure. The criterion of “are utilities and services available or they be extended” has been met.

(TS 02:06:58) Chair Ulery called for a motion

Commissioner Evans moved to deny the proposed amendments to the City of Durango's Comprehensive Plan and joint area map.

I move to deny the proposed amendments to the City Comprehensive Plan and joint planning area map with the findings that the amendment is not consistent with the adopted plans and standards. Specifically:

1. The relevant Comprehensive Plan citation of 5.3.1. which is coordinating the new growth and the City’s ability to serve, and
2. Comprehensive Plan policy 5.5. Growth Management goals, objectives, and policies, that summarizes adequate public services and facilities to be in place or assured prior to approval of urban development, which is the urbanization which was talked about, and
3. The phased development subject to installation of improvements in accordance with the City’s Capital Improvements Plan (CIP), and
4. Referencing the Utilities element of the Comprehensive Plan section 9.3.2 securing adequate water supply, which do have except for the Lake Nighthorse access, and
5. Referencing the Water System Master Plan, the capacity of the Grandview storage tank, which is the largest we have, but still less than a two-day supply under high use conditions, and
6. Water System Master Plan section 7.6.1.1. the finished water supply line which the plan says is a critical piece of infrastructure, if it were to fail the zone would be without water supply until it is restored, therefore it is recommended that a redundant water supply line be constructed to the Grandview zone.

As a city commissioner I cannot in good conscious recommend that the City Council approve these proposed amendments that would extend water service into areas outside the current Durango District Plan.

(TS 02:09:58) Chair Ulery seconded the motion.
City Planning Commission’s motion passed to recommend denial to the City Council.

<table>
<thead>
<tr>
<th>RESULT:</th>
<th>RECOMMEND DENIAL [2 TO 1]</th>
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<tbody>
<tr>
<td>MOVER:</td>
<td>Alma Evans, Commissioner</td>
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<tr>
<td>SECONDER:</td>
<td>Susan Ulery, Commissioner</td>
</tr>
<tr>
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<td>Alma Evans, Susan Ulery</td>
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<tr>
<td>NO:</td>
<td>Brian Devine</td>
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<td>Matt Payne, Sarah Pritchard</td>
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(TS 02:11:45) Chair Malandra opened the County’s portion of the meeting and read the recommendation to County Planning Commission by staff.

Chair Malandra invited discussion from Commissioners.

(TS 02:12:30) Commissioner Ames made comments regarding jurisdiction.

(TS 02:17:01) Commissioner Haar made comments.

(TS 02:17:50) Commissioner Minkler made comments.

Commissioner Hepner made no comments; stated nothing to add.

(TS 02:18:58) Chair Malandra made comments.

(TS 02:23:20) Chair Malandra called for a motion.

Commissioner Ames moved to deny the proposal on two grounds; one that the proposal is not within the LPC Planning Commission’s jurisdiction, and secondly, the proposal does not comply with the requirements of LUC section 63-4.4.

Commissioner Minkler discussed the motion with Commissioner Ames.

Commissioner Hepner discussed amending the motion.

Deputy County Manager Hall, asked the Commission to look for clarity from others first, to determine jurisdiction.

Commissioner Hepner wants clarification from County Attorney.

Commissioner Minkler commented favor of a continuation.

(TS 02:27:05) Chair Malandra discussed the possibility of continuing.

Deputy County Manager Hall suggested the commission could continue to the regular meeting date of Sept 19th, which would allow time for county attorney to provide guidance. It would also need to be clarified if the city and county would need to meet together or if the county could meet alone.

Planner III Vandegrift provided additional explanation.

Chair Malandra discussed further a continuation.

(TS 02:30:50) Commissioner Ames asked other Commissioners about a
revised motion.

(TS 02:32:56) Deputy County Manager Hall believes legal opinion is due.

(TS 02:33:33) Commissioner Ames commented on the commission’s obligation to act, not continue.

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Commissioner Haar commented in favor of a continuance.

Commissioner Hepner agreed a continuance would be beneficial to receive informed advice from legal counsel.

Commissioner Minkler commented in favor of a continuance.

(TS 02:36:03) Chair Malandra brought the discussion back to the motion on the table.

Commissioner Ames withdrew his motion and commented on the absence of the county attorney; the commission is obligated to make a decision.

(TS 02:37:25) Commissioner Haar moved to continue to a further date.

Commissioner Hepner seconded the motion.

County Planning Commission’s decision is continued, by majority vote.

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<td>Roger Haar, Commissioner</td>
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<tr>
<td>SECONDER:</td>
<td>George Hepner, Commissioner</td>
</tr>
<tr>
<td>AYES:</td>
<td>Geri Malandra, Charles Minkler, George Hepner, Roger Haar</td>
</tr>
<tr>
<td>NO:</td>
<td>Eric Ames</td>
</tr>
<tr>
<td>ABSENT:</td>
<td>Clark Craig, Daniel Vagasky</td>
</tr>
</tbody>
</table>

II. Other Business

None

III. Adjournment

Commissioner Minkler moved to adjourn.

Meeting adjourned at 8:36PM.
"Pursuant to 24-6-402(2)c. C.R.S., notice is hereby given to the members of the general public that the La Plata County and City of Durango Joint Planning Commission will hold a public hearing:"

I. Call to Order

II. Approval of Agenda

III. Approval of Minutes

1. Minutes of Mar 21, 2019
2. Minutes of Jul 21, 2022

Public Hearing of the following requests

IV. Decision

1. PL20230002: Comprehensive Plan Amendment – Durango District Plan
   This public hearing is for the purpose of considering a request from Tree Farm Village MHC, LP represented by SEH Planning & Engineering, for the City of Durango Planning Commission and the La County Planning Commission meeting jointly, but requiring separate actions, to consider several amendments to the City Comprehensive Plan, the County Comprehensive Plan, and the Joint Planning Area Map (JPAM). The amendments would clear the way for a potential future land use application to La Plata County to develop the property. The proposed Tree Farm Village development consists of three parcels totaling 81.11 acres. The applicants would like to propose a manufactured home community on the property. In order for the development proposal to proceed as envisioned, both the City and County must take action to amend their respective plans and the JPAM.

V. Other Business

VI. Adjournment

VII. Public Participation Information
Important Public Participation Information:

All joint meetings of the City and County Planning Commissions will be offered in-person and online with Zoom access. Audio access is available with a computer or tablet or by phone. Remote meeting access can be found below:

Participate:

Online (computer, tablet or smartphone):

https://us02web.zoom.us/j/371987878

Or by telephone:

Dial (if the first number is busy, try another number):

(346) 248-7799
(669) 900-9128
(312) 626-6799

Enter Webinar ID: 371 987 878

Comments can be submitted through our forms portal:

https://forms.laplata.co.us/Forms/BOCC_PC_MeetingComments

Items submitted 72 hours prior to the public meeting will be included in the packet. Comment forms may be submitted up until the item is heard.

The public can access the County’s free wi-fi from the parking lot of the La Plata County Administration Building: LPC Wireless, password = LaplataCounty

Access to the agenda packet, minutes, and recordings may be found at:

https://www.co.laplata.co.us/meetings

NOTICE is further given that all persons may appear and present oral & written testimony regarding these projects prior to or at public hearing and the Joint Planning Commission may continue a project until a recommendation decision is reached. Complete files for projects listed on this agenda are maintained and available for review at the La Plata County Planning Department office located at 211 Rock Point Drive, Durango, CO 81301. Interested persons may visit the Planning Department office during regular business hours to review the files or ask any questions, or call (970) 382.6263. The policy of La Plata County is to not discriminate against the disabled in the provision of service. For special assistance, please call the Planning Department.
PL20230002: Comprehensive Plan Amendment – Durango District Plan

This public hearing is for the purpose of considering a request from Tree Farm Village MHC, LP represented by SEH Planning & Engineering, for the City of Durango Planning Commission and the La County Planning Commission meeting jointly, but requiring separate actions, to consider several amendments to the City Comprehensive Plan, the County Comprehensive Plan, and the Joint Planning Area Map (JPAM). The amendments would clear the way for a potential future land use application to La Plata County to develop the property. The proposed Tree Farm Village development consists of three parcels totaling 81.11 acres. The applicants would like to propose a manufactured home community on the property. In order for the development proposal to proceed as envisioned, both the City and County must take action to amend their respective plans and the JPAM.

RECOMMENDATION TO CITY PLANNING COMMISSION

CITY OF DURANGO ALTERNATIVE ACTIONS

. Move to approve the Tree Farm Village amendments to the City of Durango’s Comprehensive Plan’s Future Land Use Plan and support the proposed change to the Joint Planning Area Map with the following findings that the amendment is consistent with adopted plans and standards.

. Move to deny the Tree Farm Village amendments to the City of Durango’s Comprehensive Plan Future Land Use Plan and the proposed change to the Joint Planning Area Map with the following findings that the amendment is not consistent with adopted plans and standards.

. Move to continue the item with direction to Staff.

RECOMMENDED ACTION

Staff recommends alternative action A.

RECOMMENDATION TO COUNTY PLANNING COMMISSION

Based on specific findings, the Planning Commission may vote to continue the project, approve the project, or deny the project. A majority vote of the full Planning Commission is required to approve the proposals.
Staff recommends the following:

Approve Project #2023-0002, by Resolution 2023-1-PC as attached, Tree Farm Village Comprehensive Plan/District Plan Amendments based on the following findings:

1. The proposal fulfills the general purpose of creating coordinated and harmonious development of the area under study and of the county as a whole.
2. The proposal promotes the health, safety, prosperity and general welfare of the county's residents, as well as efficiency and economy in the use of land and its natural resources.
3. The proposal encourages a well-balanced, prosperous economy for the county.
4. The proposal preserves and enhances the county's unique character and protects its natural environment.
5. The proposal bears a substantial relationship to the general welfare of the entire community rather than to relieve a particular property from the restrictions set forth in this code.
6. The amended Durango District Plan provisions are consistent with the comprehensive plan.
7. The proposal is consistent with the other provisions of the Durango District Plan to which it will become a part.
8. The approval of comprehensive plan amendment is in accordance with the code and shall serve as presumptive evidence that the considerations presented herein have been determined in the affirmative.
SECTION 1

SUMMARY

<table>
<thead>
<tr>
<th>County Project #</th>
<th>PL 2023-0002</th>
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<tbody>
<tr>
<td>Project Name</td>
<td>Tree Farm Village Comp Plan/District Plan Amendments</td>
</tr>
<tr>
<td>Project Type</td>
<td>Area Plan Map Amendments</td>
</tr>
<tr>
<td>Hearing Body</td>
<td>Joint Meeting of the City of Durango and La Plata County Planning Commissions</td>
</tr>
<tr>
<td>Hearing Date</td>
<td>August 17, 2023</td>
</tr>
<tr>
<td>Staff</td>
<td>Kevin Hall, Deputy County Manager and Vicki Vandegrift, City of Durango</td>
</tr>
</tbody>
</table>

Brief Project Description

This public hearing is for the purpose of considering a request from Tree Farm Village MHC, LP represented by SEH Planning & Engineering, for the City of Durango Planning Commission and the La County Planning Commission meeting jointly, but requiring separate actions, to consider several amendments to the City Comprehensive Plan, the County Comprehensive Plan, and the Joint Planning Area Map (JPAM). The amendments would clear the way for a potential future land use application to La Plata County to develop the property. The proposed Tree Farm Village development consists of three parcels totaling 81.11 acres. The applicants would like to propose a manufactured home community on the property with approximately 310 units. In order for the development proposal to proceed, both the City and County must take the necessary actions to amend their respective plans and the JPAM.

The City of Durango Planning Commission will consider: 1) expanding the JPAM; and 2) amending the City Comprehensive Plan Future Land Use Map for the listed properties from their existing land use categories to Residential, Low Density as further described in the staff report.

The La Plata County Planning Commission will consider amending the La Plata County Comprehensive Plan by: 1) Expanding the Joint Planning Area boundary map (JPAM) with the City of Durango to add certain territory to the County’s Durango District Plan and remove same territory from the Florida Mesa District Plan; and 2) Amending land use designations to reflect the City of Durango’s proposed Future Land Use Map.

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Tatras Investment LLC</th>
</tr>
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<tbody>
<tr>
<td>Owner</td>
<td>Same</td>
</tr>
<tr>
<td>Agent</td>
<td>Nancy Dosdall, SEH</td>
</tr>
<tr>
<td>Project Location</td>
<td>The properties are located north of State Highway 160, east of CR 233, in the vicinity of Elmore’s Corner. The La Paloma Subdivision is to the west and Durango Height Subdivision is to the east.</td>
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<td>------------------</td>
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<tr>
<td>Parcel Number(s)</td>
<td>566901400055, 566901400056, 566901400053</td>
</tr>
<tr>
<td>Parcel Size</td>
<td>81.1 combined</td>
</tr>
<tr>
<td>Planning District &amp; Land Use Classification(s)</td>
<td>Current District: Florida Mesa; Proposed District: Durango The Tatras property is currently shown on the City of Durango’s Future Land Use Map with four different land use designations, Commercial, Mixed Use, Residential, Low Density and Residential, Large Lot. The applicants wish to amend the map to change the designation of all the properties to Residential, Low Density.</td>
</tr>
<tr>
<td>Issues</td>
<td>Meeting criteria for a Comprehensive Plan amendment as reviewed in Section 6 of the staff report.</td>
</tr>
</tbody>
</table>
Table of Contents

Section 1 - Summary
  • General Project Summary by Staff

Section 2 - Location and Land Use
  • Location Map
  • Proposed Amendment to the Durango and Florida Mesa District Plans

Section 3 - Project Description
  • Narrative summary
  • Attachments
    o Applicant (Tree Farm Village) Narrative

Section 4 – Agency Comments
  • List of Agencies solicited for comments
  • Attachments – Submitted comments

Section 5 - Public Notification
  • List of surrounding landowners receiving notice for Joint Planning meeting
  • April 5, 2023 Neighborhood Meeting
    o Attachments – Written Public comments received

Section 6 - Analysis

Section 7 - Recommendations
  • City Staff Recommendation
  • County Staff Recommendation
  • Attachment -- County Resolution No. 2023-2-PC
SECTION 2

LOCATION AND LAND USE

Existing Durango District Plan

March 16, 2023

Proposed Durango District Plan

Joint Planning Area Expansion
SECTION 3  PROJECT DESCRIPTION (Narrative)

Proposal

This public hearing is for the purpose of considering a request from Tree Farm Village MHC, LP represented by SEH Planning & Engineering, for the City of Durango Planning Commission and the La County Planning Commission meeting jointly, but requiring separate actions, to consider amendments to each jurisdiction’s comprehensive plan maps relative to a potential future land use application to develop the property. Property affected by the proposed amendments consists of three parcels totaling 81.11 acres. If approved, the applicant will submit a separate land use application under the Joint Planning Intergovernmental Agreement to propose a manufactured home community on the properties with approximately 310 units. In order for the specific development proposal to proceed to application, both the City and County must take action to amend their respective comprehensive plan maps, and the Joint Planning Area Map (JPAM).

The City of Durango Planning Commission will consider the proposal to: 1) expand the JPAM, which must occur to allow for the property to be served with City of Durango water; and 2) amend the City Comprehensive Plan Future Land Use Map, modifying future land use on the subject properties from their existing land use categories to Residential, Low Density. A full description of the proposal is included later in the staff report.

The La Plata County Planning Commission will consider the proposal to amend the La Plata County Comprehensive Plan by: 1) Expanding the JPAM to add said territory to the County’s Durango District Plan and remove same territory from the Florida Mesa District Plan; and 2) Amend land use designations to reflect the City of Durango’s proposed Future Land Use Map. If supported by the County Planning Commission, Resolution 2023-2-PC is attached to formalize the amendments.

<table>
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<tr>
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<tr>
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<td>6/20/23</td>
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<tr>
<th>PLANS, PLATS, AND OTHER INFORMATION SUBMITTED BY APPLICANT</th>
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<tr>
<td>Date Submitted</td>
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<tr>
<td>1/23/23</td>
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</table>
Amendment to Joint Planning Area: To Be added to Durango District Plan Map and removed from Florida Mesa Plan Map
SECTION 3.1 Proposed Amendments

Existing Durango District Plan

Proposed Durango District Plan

Joint Planning Area Expansion
Affected Area of Florida Mesa Plan Map: Existing

Affected Area of Florida Mesa Plan: Proposed
Tree Farm Village
Proposed Florida Mesa District Plan Amendment/Durango District Plan Amendment/Joint Planning Area Expansion
1/23/2023

Proposal
The requested amendment is to allow the development of a new manufactured housing community of 310 units on a total of 81+ acres.

Tree Farm Village is a proposed five-star manufactured housing community placed on over 80 acres of beautiful rolling hills in Durango, CO. With extraordinary views, Tree Farm Village will be an all-ages community equipped with a clubhouse, pool, basketball and tennis courts, sports fields, 1.7 miles of walking trails, a park, fire pits, picnic pavilions and its own pond. In a quest for sustainability, Tree Farm Village also boasts its own solar panel field, providing clean electricity for all its residents.

In its dedication to making home ownership affordable, the majority of homes in Tree Farm Village will be available for purchase for under $275,000, and the space rent growth is capped year over year. Thus, making Tree Farm Village the only manufactured housing community in the State of Colorado with self-imposed rent control. Whether a first-time buyer, a young family or a retiree, residents of Tree Farm Village will enjoy professional on-site management, a full range of recreational amenities, all while benefitting from exceptional housing value in a relaxing and friendly environment all of which creates an authentic community.

Background
The property is currently in both the Florida Mesa District Plan area and also within the City of Durango Comprehensive Plan area. To facilitate the development and extension of City water lines to the site, the applicants are requesting that the property be included into the Durango District Plan and the Joint Planning Area rather than the Florida Mesa Plan.

The applicants are proposing to redesignate La Plata County parcel numbers 566901400055, 566901400056 and 566901400053, from the current mix of Commercial General, Mixed Use, Residential Low Density and Residential Large Lot in the Florida Mesa Plan to Residential Low Density for the entire property in the Durango District Plan. The applicants are also requesting that the properties be included in the Joint Planning Area Map (JPAM) to allow for the property to be served by City of Durango water.

The three parcels total 81.11 acres and are split by undeveloped County Road ROW for a planned extension of CR 233.

<table>
<thead>
<tr>
<th>Parcel Number</th>
<th>Ownership</th>
<th>Acreage</th>
<th>Plan Designation (approximate acres in designation)</th>
</tr>
</thead>
<tbody>
<tr>
<td>566901400055</td>
<td>Tatras Investments</td>
<td>53.9</td>
<td>Residential Large Lot (34.2) Residential Low Density (15.2)</td>
</tr>
<tr>
<td>Parcel ID</td>
<td>Company</td>
<td>Zoning</td>
<td>Description</td>
</tr>
<tr>
<td>-----------------</td>
<td>--------------------------</td>
<td>-----------------</td>
<td>---------------------------------------</td>
</tr>
<tr>
<td>566901400056</td>
<td>Tatras Investments</td>
<td>Mixed Use (4.5)</td>
<td>Commercial General (10.3)</td>
</tr>
<tr>
<td>566901400053</td>
<td>Miller and Tatras Investments</td>
<td>15.583</td>
<td>Residential large lot (15.583)</td>
</tr>
</tbody>
</table>

Existing Comprehensive Plan Designation (Florida Mesa)

Existing Comprehensive Plan Designation (City of Durango)

Existing Boundary – Durango District Plan
Criteria for approval

The Land Use Code, Sec. 6-3-12-5, establishes the following criteria for amendments to the Future Land Plan Map:

Sufficient evidence has been provided that the Future Land Use Map amendment meets the following criteria:

1. The proposed map amendment is compatible with existing or planned land uses on adjacent properties;
2. Adequate public utilities, facilities, and/or services are available or may be extended in a cost-effective and efficient manner to serve the development for the type and scope suggested by the proposed amendment;
3. The proposed map amendment is warranted by changing conditions in the area, or it corrects an error in fact concerning the property's future land use classification at the time of the original plan adoption;
4. The map amendment meets a currently unaddressed need; and
5. If the map amendment is approved, there will be an adequate supply of land permitted in the category being changed.

Discussion

Existing or Planned Land Uses
The proposed revision to the Future Land Use Map and the Joint Planning Area Map is proposed to allow for a proposed land use that is compatible with the mix of existing and planned land uses in the Grandview area. The area has long been planned for urban or suburban style development, although urban infrastructure has been lacking. Surrounding land uses include single family homes/ lots to the east and west, a mobile home park and commercial uses to the east, a mix of commercial and residential uses to the west, an abandoned mobile home park to the south and mostly commercial uses across the highway to the south.

Adequate Public Utilities
The proposed map amendment will facilitate the applicant extending City of Durango water to the property. This extension has long been considered by various property owners. The area was intentionally left out of the service area for the La Plata Archuleta Water District because it was proposed to be serviced by the City of Durango. This extension will also facilitate additional growth and development along CR 233 and perhaps beyond.

The property is capable of being served by South Durango Sewer District and it is also within 400’ of Loma Linda Sewer District. The existing topography makes it more reasonable to connect to South Durango who have indicated that they have capacity to serve the property.

Both the County and CDOT have long planned to extend CR 233 through this property, with the County purchasing right-of-way and designing the extension, although plans are now out of date. Should this amendment be approved, and subsequent development occur, a portion of the planned extension will be constructed and paid for by the developer.

Changing Conditions
The Grandview area has been the most rapidly changing and developing portion of the County over the last 20 years. The construction of the new intersection of Highways 160E and 550 South is well underway, Three Springs Development Phase 1 is significantly built out and additional projects have been constructed in the area. The pre-existing pattern of mostly small lots in the Grandview area has contributed to the inability of major infrastructure improvements such as extension of water and sewer lines. Perhaps more importantly, recent changes in the housing market have resulted in a serious lack of affordable housing options in the community. Revising the land uses to allow for low density residential development on one of the few large parcels available in the area will result in additional housing choices in a very challenging market.

Unaddressed Need
The Durango Housing Plan (2018) specifically mentions the need to review the LUDC to ensure that “a new park could be successfully built.” The plan then states that “The City views manufactured home parks as an important potential source of housing for the City’s workforce.” Although this project will
likely be developed in the Joint Review Area due to lack of contiguity, the plan also supports identifying areas where a large-scale project can provide housing. The Housing Plan also states that there are three existing manufactured housing parks in the City that provide affordable housing to more than five hundred people. If the revision is approved and the proposed project is constructed, 310 more, high quality affordable housing units will be provided close to major employers. The homes will have access to a clubhouse with amenities, parks, and trails.

**Adequate Supply of Commercial/Mixed Use and Residential Large Lot Land**

The proposal will convert large lot residential, commercial and mixed-use land to Residential Low Density (<4.99 units/acre). The Grandview area has significant land area devoted to commercial and mixed-use land use. Residential Large Lot land is in generous supply in nearby County properties. The proposed land use will allow for a higher density single family type affordable development.
## COUNTY AGENCY COMMENT SUMMARY

<table>
<thead>
<tr>
<th>Agency Referral</th>
<th>Comments Received</th>
<th>Condition Required</th>
<th>Attachment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colorado Department of Transportation</td>
<td>CDOT has no comments on the amendment; however, any future development proposal will need to take into account the Grandview Access Control Plan, Hwy 160 EIS.</td>
<td>NA</td>
<td>No</td>
</tr>
<tr>
<td>Colorado Division of Water Resources</td>
<td>None</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Durango Fire Protection District</td>
<td>None</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>La Plata County Public Works Department</td>
<td>Public Works initial comments based on information provided. We support the developer constructing the county road 233 extension to access existing County Roads. A traffic impact study will be required to evaluate potential access improvements at the US 160-CR 233 and CR 234A-CR234 intersections. Based on the number of dwelling units it is believed secondary access will be required.</td>
<td>See Comments</td>
<td>No</td>
</tr>
<tr>
<td>Florida Mesa RDAC</td>
<td>Yes</td>
<td>NA</td>
<td>Yes</td>
</tr>
</tbody>
</table>
The Florida Mesa District Planning Groups has reviewed Project 2023-0002 Comprehensive Plan Amendment – Durango District Plan

The Florida Mesa Planning Group has reviewed Project 2023-0002 and had extensive discussion regarding the proposal. Our comments fall into two categories – the proposal to move the property to the Joint Planning Area and the conceptual proposal for this particular property. After review we have the following comments:

Transfer to Joint Planning:

The FMDPG agrees that this area east of Three Springs and west of Elmore’s, was erroneously left out of any feasible water service area (and this would include additional properties south and east of Elmore’s). If inclusion in the Joint Planning Area somehow then causes the City of Durango to include this property in their water service area, that would be simply incredible and we are behind that concept wholeheartedly! However, we suspect that this will not be the outcome of inclusion in Joint Planning. We watch with great anticipation of this outcome.

We are very concerned that if this annexation area moves to Joint Planning, that we will be entirely forgotten as a reviewing entity and would request that we continue to be a reviewing, commenting entity for all projects in the Joint Planning area in Grandview.

In particular we are concerned with impacts to Florida Mesa Planning Area residents that are adjacent to the new joint planning area, such as the properties on CR 234A, CR 234 and the Mariposa Drive area. We believe we should be able to continue to review projects. We would request that a condition of approval for this application be that all newly annexed property still notice FMDPG when they submit development applications.

We are concerned that the properties between this project and the current Joint Planning area are being impacted without proper vetting and notice to those residents. How does this work? Are the properties to the north of the proposed area to be annexed being given the right to join in if they also desire water service to their property for future development?

Has the City of Durango agreed to accept this into the Joint Planning Area? Does the county have a mechanism to require the City of Durango to remember the Florida Mesa Planning Group? We suspect that this subject has not yet been considered, however, we are very interested in the longer range of planning in our district, we feel we bring
something to the table and would like to see the County remember to include us in relevant negotiations with the City that affect our district.

The postcard notice that was received specifically says that this is an “application to amend the La Plata County Comprehensive Plan ....to move the joint planning area boundary to Elmore’s Corner.” But a review of the project does not indicate that this is the case and that the east line of annexation is consistent with the east property line – some distance west of Elmore’s and CR 234. Which is it?

Irrigation water on Florida Mesa needs to be protected. The Florida Consolidated Ditch Company was not noticed for this application, despite an important lateral running through the center of the subject property. The Ditch Company absolutely should be noticed every time anything is proposed on Florida Mesa. Even something as simple as a Comprehensive Plan Amendment should be noticed to our Ditch Company. If they are not concerned, they will not comment – it is their decision to make, not the county’s decision to fail to notice them.

The Conceptual Project Proposal:

The group understands that this proposal was simply conceptual in nature to facilitate a request to annex the property to Joint Planning.

The group appreciates all efforts to increase the stock of attainably priced properties. We had many comments about the ability of what was presented to be able to do that, but we are prepared to table those comments to an actual project submittal.

Submitted March 25, 2023

By Naomi Riess, Planning Contact for FMDPG
Planning Project Public Comment Form

Thank you for your interest in the community development process in La Plata County. Please fill out the form below to provide your comment on a planning project.

<table>
<thead>
<tr>
<th>First Name</th>
<th>Last Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Darren</td>
<td>Rowley</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>E-mail *</th>
<th>Project# *</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="mailto:fcdcoperations@gmail.com">fcdcoperations@gmail.com</a></td>
<td>Please enter the project number here the format should be PL#### (ex. PL20220001)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Planner</th>
<th>planner email</th>
</tr>
</thead>
<tbody>
<tr>
<td>HallKS</td>
<td><a href="mailto:Kevin.Hall@co.laplata.co.us">Kevin.Hall@co.laplata.co.us</a></td>
</tr>
</tbody>
</table>

**Comments**

My Name is Darren Rowley and I am the Operations Manager of the Florida Consolidated Ditch Company. I have several concerns about the Tree Farm Village Project: 1) the map I have seen moves a large ditch on our system and we have not been contacted by either the developer or the County. 2) Our engineers have not been consulted as to the feasibility of relocating this ditch. 3) We have significant safety concerns with a ditch of this size running through such a highly populated residential area.

You may also upload your comments here:
### SECTION 5  COUNTY PUBLIC NOTIFICATION

#### NOTIFICATION

<table>
<thead>
<tr>
<th>Type</th>
<th>Description</th>
<th>Required Notice Provided</th>
<th>Attachment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant’s Mailing at Submittal</td>
<td>Property owners within 1,000’ of subject parcels.</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>County’s Mailing for JPC Meeting</td>
<td>Property owners within 500’ of proposed JPAM amendment.</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Mineral Owners</td>
<td>Mineral Owner Notice Certification</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Newspaper</td>
<td>Notice published in Durango Herald.</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Posted Notice</td>
<td>Poster provided to applicant.</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Neighborhood Meeting</td>
<td>Property owners within 1,000 of subject parcels</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

#### COMMENTS

<table>
<thead>
<tr>
<th>Type</th>
<th>Comments Received</th>
<th>Attachment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Written Comments</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Mineral Owner Comments</td>
<td>No</td>
<td>NA</td>
</tr>
<tr>
<td>Neighborhood Meeting</td>
<td>April 5, 2023. Video recording of proceedings available here: <a href="myvrspot.com">Tree Farm Village Mobile Home Community Neighborhood Compatibility Meeting</a></td>
<td>Hyperlink</td>
</tr>
</tbody>
</table>
5/17/23

Mr. Kevin Hall, Planner
La Plata County Planning Department
1101 E 2nd Ave, Durango, Colorado, 81301
Via email <kevin.hall@co.laplata.co.us>

RE: Project #PL20230002

Mr. Hall-

Please accept this letter as my official public comment regarding Project #PL20230002 wherein
the applicant has requested a major change to La Plata County’s Comprehensive Plan. My
property, Parcel #5669011100030, lies immediately north of Parcel #5669901400055, cited as the Project Location.

Like most land-use codes, La Plata County’s current document was hard fought. Many citizens,
businesses, county employees, lobbyists, representatives, HOA’s, irrigation districts, consultants,
and fire departments, to name just a few, beat the code into its current form after untold energy
was expended, countless years were exhausted, and even a tear or two were shed.

Compromises were made, sacred cows were slaughtered, deals were struck, and at last, we had
a document that all parties could at least live with — even if nobody loved it. So, when the Board
of County Commissioners signed off on the final product, we breathed a sigh of collective relief.
While not perfect, it was as good as we were going to get.

Fast forward a few years and along comes a group of out-of-town developers who deceptively
conceal their bona fides while proffering trees, solar panels, and “affordable housing.” Their initial
request? Redraw our clearly codified comprehensive plan to arbitrarily allow their non-
contiguous, county parcel to leapfrog into a more developer-friendly jurisdiction — before their
project is even reviewed.

In politics, this slick maneuver is called gerrymandering. In the legal world, it’s known as forum
shopping. Don’t like all those pesky partisans who might vote against your anointed candidate?
Just draw their addresses out of the new district’s boundary! Don’t like the judge who’s proven
time and again that he’s hard on your “type?” Shop for a kinder, gentler judge in some other
jurisdiction! And if you don’t like the land use codes that you knew were in effect when you
purchased your property — just bamboozle the locals into unilaterally re-drawing the map in your favor!

The Florida Mesa Plan plays an integral role in La Plata County’s Land Use Code. Like all the other regional plans, it was written carefully and deliberately. The fact that this developer doesn’t like what it says, after purchasing a parcel that was clearly marked well within the plan’s boundaries, is not our problem to solve.

Now, I have a laundry list of issues with the proposed project itself that I will take up at the appropriate time, but for the purpose of this boundary-change request, I will limit my comments to the matter at hand.

No one party should be able to change a long-range, community-led plan on their whim. Doing so subverts the planners’ intent, removes all pretense of a democratic process, renders all planning pointless, and grants egregious power to, in this case, out-of-town, moneyed interests that puts their personal agenda and profits over the settled will of the people.

The developer’s request to unilaterally alter the city and county’s planning posture would sweep up many unsuspecting landowners between Three Springs and Elmore’s Corner. Most of the affected neighbors would have no idea — short of a hastily discarded Public Notice postcard mailed to their address months before the fact — that this event even occurred until it’s official. Their silence is not tantamount to approval.

People are busy and preoccupied with making a living and raising their children. Expecting them to stop dead in their tracks and respond to a junk-mail-appearing postcard is almost as presumptuous as expecting the US Postal Service to have the wherewithal to accurately deliver it. Developers know this. They count on people’s preoccupation and complacency. Our county’s system for alerting folks to possible changes that could affect their interests is terribly flawed.¹

La Plata County should safeguard its citizens, not effectively advocate for private interests. Tell the developers that they signed their parcel’s contract with a well-advertised admonition: Parcel #5669901400055 lies well within the Florida Mesa Plan, nested in La Plata County’s Land Use Code — not within the City of Durango or even within the delineated Joint Land Use Planning Area. They are not permitted to forum shop their way into the arms of the city. The answer is no.

The Florida Mesa Plan was carefully written just the way it is with help from many Florida Mesa stakeholders. It is a plan that provides for growth and expansion of services. It is a plan that is open to petitioners coming forth with new uses, new ideas, and new developments. And yes, it is a plan that takes mesa citizen’s interests to heart — as it should.
La Plata County must not abandon their stewardship of this important piece of Colorado by casually ceding it to the City of Durango. Doing so would effectively leave me and my neighbors at the mercy of a city we never sought to join and rob us of any meaningful representation.

The City of Durango, even in a “joint planning” capacity with the county, should not be an arbiter in this ground’s fate. There are no good legal, geographic, or practical reasons for the city to be at all involved. The property in question falls squarely within La Plata County. The developer’s project should sink or swim based solely on how well it conforms to the Florida Mesa Plan, full stop.

Please deny the applicant’s request.

Respectfully submitted,

Jeremiah St Ours
611 County Rd 234
Durango, CO 81301

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1 The county’s method for issuing Public Notice to nearest-neighbor property owners is in dire need of revamp. Currently, the Planning Department sends out anachronistic post cards via US Mail. Ironically, printed on those paper cards are a variety of email addresses, websites, telephone numbers, and even QR Codes to be accessed through electronic means.

Even if the cards are successfully delivered to the actual, physical property address, something the US Postal service too often fails to accomplish, the owner of the property may not reside there or simply be out of town when it arrives.

Further, the diminutive postcards are readily lost or mistaken as “junk mail,” as they can easily fall through the cracks or be confused as coming from just another carpet, furniture, or used-car huckster. Mailings such as these often get shoved in the trash or recycling bin en masse before they’re even read.

This being 2023, not 1923, the county should adopt a more modern, efficient, and effective method of informing property owners of their rights. Namely, by setting up a simple system
whereby owners can opt-in to accept email and/or texts from La Plata County regarding official business (Public Notice post cards should still be mailed to cover all bases).

For example, many people travel extensively during the year. I am frequently away from my home and physical mailbox for weeks or even months at a time. My absence and inability to access my snail mail could mean that even if your post card is accurately delivered, not mistaken as junk mail, then read and understood upon my return home, that information may have “arrived” after the window for public comment had already passed.

By supplying this critical information electronically, however, I am more apt to receive the notice in timely fashion, I can easily click on the hyperlinks to emails and websites, and I can respond — even from afar — within the allotted public comment period.

Please reconsider how this important function of government is accomplished. If this change must occur at the state level, so that all Colorado counties function in the same way, then so be it. The now ancient Pony Express is not the most effective way to disseminate time-sensitive information. Fixing this will increase public engagement, streamline county-citizen interaction, and ensure that planning applicants fulfill their public notification responsibilities.
TO:
La Plata County, Colorado
Board of Commissioners/Planning Commission
1101 E. 2nd Ave
Durango, CO 81301

AND:
City of Durango
City Council/Planning Commission
949 E. 2nd Avenue
Durango, CO 81301

Date: 14 August 2023

To whom it may concern

This letter of support shall replace and supersede in its entirety our correspondence to you dated 15 June 2023. The Regional Housing Alliance of La Plata County (RHA) is in support of the proposed manufactured home development, Tree Farm Village, in La Plata County, Colorado, which by virtue of the developer’s commitment, shall include rent control. As an authority dedicated to promoting affordable housing and sustainable communities, we believe that Tree Farm Village aligns with our mission and will benefit the region.

The RHA is a multi-jurisdictional agency created in 2004 by an Intergovernmental Agreement (IGA) between La Plata County, the City of Durango, Town of Bayfield, and Town of Ignacio. Please note that all RHA board members with a potential conflict regarding this land-use proposal recused themselves from weighing in on this recommendation. This includes Directors Porter-Norton, Hall, Henson, Yazzie, and Craig. Thus, the balance of the Board, although not representing a majority of the full board, voted in favor of writing a letter of support for this project.

The RHA’s mission is to facilitate and support the preservation, rehabilitation, and development of appropriate affordable/attainable housing for the workforce essential to the long-term economic sustainability and resiliency of La Plata County and its communities. Tree Farm Village addresses the critical need to create housing inventory and product diversification in Durango and La Plata County. The market-driven approach of Tree Farm Village, offering housing at reasonable rates, is commendable and a step towards addressing the region’s need for affordable housing.

We commend Tree Farm Village for its self-imposed rent control, demonstrating a genuine concern for the community’s well-being. In an era of escalating housing costs, their commitment to maintaining reasonable rental rates sets a positive example and reinforces their dedication to long-term affordability. The development’s contribution to the local housing supply will benefit the existing market and provide options for a demographic in need of housing.

Regards,

Patrick Vaughn
Board Chair
March 28, 2023

Durango City Council
949 E. 2nd Avenue
Durango, CO 81301

and

La Plata County Commission
1101 E. 2nd Ave.,
Durango, CO 81301

Dear City Councilors and County Commissioners,

Mercy Hospital supports the efforts of the proposed Tree Farm Village development. We support the future development of the property into a well-planned project addressing the need of quality affordable housing for hospital staff.

We are respectfully requesting the City of Durango and La Plata County to approve the proposed plan of Tree Farm Village based on the contribution it will make to the community.

Sincerely,

Brandon Mencini
CEO
SECTION 6 ANALYSIS

COUNTY STAFF REVIEW

The primary analysis of the specific proposal can be found within the City of Durango portion of the staff report below. The city analysis outlines the merits of amended land use designations on the 81.1 acres, as well as the purpose of expanding the Joint Planning Area Map (JPAM) to encompass the Tree farm Village properties.

The Grandview area, which includes the Tree Farm Village parcels, was identified as a future growth area in the City of Durango’s 1997 Comprehensive Plan. The City of Durango and La Plata County adopted the Grandview Area Plan in January of 2004. In 2007 the City of Durango’s Comprehensive Plan boundaries were expanded to incorporate the future growth areas, including all of the area within the Grandview Area Plan boundaries.

Properties within the City of Durango’s Comprehensive Plan Boundary were included within the 2004 City of Durango and La Plata County Intergovernmental Agreement (IGA) map on land use (JPAM) and therefore subject to the terms of the IGA. The IGA was amended several times but the JPAM boundary did not change until it was amended in 2014. The 2014 IGA amendment moved the JPAM boundary to the west and the subject properties, as well as other properties in Grandview area were removed from the JPAM. Although the JPAM changed, the City’s Comprehensive Plan and service area boundary did not change. The City’s Comprehensive Plan was updated in 2017 and the plan’s boundaries as well as the City’s service area were reaffirmed during the adoption process. In 2017 the County Planning Commission adopted the City Comprehensive Plan as the Durango District Plan for those areas within the JPAM, but outside the city limits. This proposal would bring the subject properties back into the JPAM in order for the City to serve the properties with municipal water.

County staff review of the proposal indicates an adherence to the process defined and outlined in the joint planning IGA. Pertinent sections of the IGA are included within the city analysis.

Plan Reviews

County analysis included review of the La Plata County Strategic Plan and 2017 County Comprehensive Plan. The 2023 La Plata County Strategic Plan includes statements that are generally be in alignment with the proposal.

“Sustainable Growth: La Plata County will actively manage growth focusing on building healthy local economies, using sustainable practices, and protecting the important common values of our residents.”

“Economic Vitality: We aim to be a county where present and future generations can live and thrive, and one that grows economic vitality and stability.”

The 2017 La Plata County Comprehensive Plan include land use and housing goals and objectives that support the proposal.

Land Use

Goal 1.1: Develop and maintain a land-use planning system which encourages a high-quality living environment with a mix of compatible land uses; and coordinates managed growth with other Plan Elements, promoting public health, safety and welfare.

Objective 1.1.A: To identify and recognize general planning practice which provides for consistent, fair administration/application, while identifying clear direction for private and public land use.
Objective 1.1.B: To coordinate intergovernmental practices which encourage higher, and enhance existing, level of service standards for residents; as well as can be maintained with a growing population.

Objective 1.1.C: To coordinate recommendations for general land use classification and application with Goals, Objectives and Policies of this Plan, as well as appropriate physical conditions and characteristics of land; and economic viability and benefit to the County.

**Housing**

Goal 3.1: Support efforts to provide housing which is accessible, safe, energy efficient, and affordable for all County residents.

Objective 3.1.A: To encourage and enable the private sector to provide an adequate housing supply, at a high quality, which meets the growing number of changing needs of La Plata County residents.

Objective 3.1.B: To promote compact housing development near existing central infrastructure/services which can most adequately support affordable housing development.

Objective 3.1.C: Preserve or provide for the replacement of existing affordable housing units, including mobile home parks.

**Environmental Resources**

Goal 4.1: To maintain or improve the quality of La Plata County’s environmental resources including flora and fauna, water, air, visual resources, open lands and open space while accommodating growth and development.

Objective 4.1.A: To develop responsible methods, techniques and tools relative to the environmental resource of water in La Plata County, while recognizing the need for adequate water to support growth.

The County Comprehensive Plan is intended to provide general policy guidance for decisions related to land use, growth and a number of related issues in the unincorporated area of the county. The Comprehensive Plan establishes a framework to guide recommendations and decisions regarding future development, appropriate use of the land and its resources, needed facilities and services, and protection of the environmental quality.

Sufficient evidence needs to be provided to demonstrate that the proposed amendments are in conformance with the criteria for plan amendments as set forth in LUC Sec. 64-1.II. D, which is outlined below:

a. **The proposal fulfills the general purpose of creating coordinated and harmonious development of the area under study and of the county as a whole.**

   The IGA states that the City and County desire to maintain consistency between the County’s District Plans and the City’s Comprehensive Plan, as well as Area Plans within the joint planning area. By way of this amendment the development site would be suited for residential development receiving urbanized services subject to design standards required by the City of Durango.

b. **The proposal promotes the health, safety, prosperity and general welfare of the county’s residents, as well as efficiency and economy in the use of land and its natural resources.**
The properties are in proximity to the growth hub known as Elmore’s Corner. Growth hubs are areas in the county have been identified with the opportunity for future development due to the availability of infrastructure, or the potential for expanded infrastructure. These growth hubs indicate areas that have land use characteristics and existing infrastructure or potential infrastructure to support future development. The proposed amendment would allow for residential development in an area identified for future growth that would receive urbanized services, in particular, water and sewer thereby reducing potential impacts on ground water in the area. Staff does not believe the proposed amendments would negatively impact the health, safety, prosperity and general welfare of the county’s residents but rather would be an efficient, economical use of the properties.

c. **The proposal encourages a well-balanced, prosperous economy for the county.**
   The applicant intends to provide a manufactured housing development to support the growing need for a variety of housing stock in the county. Development of the properties for housing would provide a cost-effective solution to assist residents of various economic statuses in obtaining secure housing.

d. **The proposal preserves and enhances the county’s unique character and protects its natural environment.**
   As noted above, the development site is in proximity to a growth hub. The amendments as proposed would site needed residential housing in an area ripe for development that in turn would help alleviate the need for large lot subdivisions from occurring in remote parts of the county. Because of this, staff believes the amendment would preserve and enhance the county’s character by way of providing an area for development in an urbanizing area thereby reducing sprawl and impacts to rural resources.

e. **The proposal bears a substantial relationship to the general welfare of the entire community rather than to relieve a particular property from the restrictions set forth in this code.**
   Both La Plata County and the City of Durango have seen significant increases in housing costs in recent years. Because of this, certain employment sectors have struggled to find employees due to housing prices. The amendments as proposed would allow for the development of a manufactured home community that would offer a cost-effective means of housing. This in turn would support the general welfare of the entire community by way of providing secure housing for lower-wage employees who provide important services to the area.

f. **The amended district plan’s provisions are consistent with the comprehensive plan.**
   The development site is in the City of Durango and La Plata County district planning transitional area where the Durango Planning District and Florida Mesa Planning District adjoin. The amendment would reduce a portion of the Florida Mesa Planning District through the expansion of the JPAM boundary being extended, incorporating the expansion area into the Durango District Plan. The applicant has met with the Florida Mesa Registered District Advisory Committee (RDAC) in addition to hosting a neighborhood meeting. Throughout these meetings input was garnered regarding the proposal. A variety of individual concerns were raised by residents related to specific potential development impacts. Written public comments are attached to the staff report. A link to a recording of the April 5th neighborhood meeting is also provided. The Florida Mesa RDAC comments are also provided. Project specific development impacts will be addressed as part of any future development proposal for the properties.
appropriate development review, staff believes the proposed amendments are consistent with both the applicable district plans and the comprehensive plan.

g. **The proposal is consistent with the other provisions of the plan to which it will become a part.**
   An analysis regarding conformance with the City of Durango’s Comprehensive Plan, Grandview Area Plan and the requirements of IGA are provided as part of the analysis provided by the city. Staff believes the amendments are consistent with the provisions of the aforementioned plans.

h. **The approval of a comprehensive plan or amendment thereto in accordance with this section of the code shall serve as presumptive evidence that the considerations presented herein have been determined in the affirmative.**
   Staff has determined that sufficient evidence has been provided that demonstrates the amendment is in conformance with applicable plans and procedures.

CITY STAFF REVIEW

REQUEST

This public hearing is for the purpose of considering two requests from Tree Farm Village MHC, LP represented by SEH, for the Durango Planning Commission and the La County Planning Commission meeting jointly to consider. The first request is to amend the adopted City of Durango’s Future Land Use Map to designate their properties as Residential, Low Density. The second request is to amend the Durango District Plan boundary to include this property which results in changing the Joint Planning Map (JPAM). The extension of the Durango District Plan Map boundary causes this area to be removed from the Florida Planning District boundary. The JPAM map must be amended to allow for the property to be served with City of Durango water.

The proposed Tree Farm Village development consists of three parcels totaling 81.11 acres. The properties are located north of State Highway 160, east of CR 233, in the vicinity of Elmore’s Corner. The La Paloma Subdivision is to the west and Durango Height Subdivision is to the east.

The Tree Farm Village property is currently shown on the City of Durango’s Future Land Use Map with four different land use designations, Commercial, Mixed Use, Residential, Low Density and Residential, Large Lot. The applicants wish to amend the map to change the designation of all the properties to Residential, Low Density. The applicants are proposing to create a manufactured home community on the property with approximately 310 units.
The applicants provided the following summary of the existing land use categories and acreage for each, as well as the requested land use category.

**Existing Land Use Categories/Acreages**

<table>
<thead>
<tr>
<th>LAND USE</th>
<th>DENSITY</th>
<th>APPROX ACREAGE</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial General</td>
<td>N/A</td>
<td>11.5 acres</td>
<td>Permits a wide range of commercial development (e.g., office, retail, service), with all storage being contained within the primary buildings (e.g., grocery stores, the mall, factory outlet stores, hotels, restaurants). Operations are to be contained within buildings or enclosed areas allowed by the applicable use and zoning district. Appropriate uses include retail, service and office establishments.</td>
</tr>
<tr>
<td>Mixed Use</td>
<td>5-24 DU/acre</td>
<td>8.1 acres</td>
<td>Allows for commercial, residential or mixed-use development at appropriate scales for the setting based on proximity to existing single-family neighborhoods and the size of the site. Uses may be mixed vertically (e.g., upper floor residences) or horizontally (e.g., commercial frontage with residences located beside or behind the commercial development). Appropriate uses include one or more of the following uses incorporating pedestrian-oriented design: attached residences (generally located</td>
</tr>
</tbody>
</table>
above or behind nonresidential uses), live-work spaces, retail, services, restaurants, offices and compatible public facilities.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Density</th>
<th>Acres</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential – Low Density</td>
<td>4.99 DU/acre</td>
<td>14.8 acres</td>
<td>Single family residential lots generally ranging from 6,000 SF to 1 acre that receive full urban services. This land use allows other dwelling types through the planned development process. Limited neighborhood scale nonresidential uses may be established subject to appropriate design and location standards. Appropriate uses include single family homes and compatible public facilities.</td>
</tr>
<tr>
<td>Residential – Large Lot</td>
<td>1 DU/acre</td>
<td>46.6 acres</td>
<td>Single family residential lots which typically are served by public water and, depending on location and site conditions, may have access to centralized wastewater services. Appropriate uses include single family homes.</td>
</tr>
</tbody>
</table>
Proposed Land Use Categories

<table>
<thead>
<tr>
<th>LAND USE</th>
<th>DENSITY</th>
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</tr>
</tbody>
</table>

These plan amendments are the required first step in the process to allow the development of a manufactured home community.

Attached to this staff report is a copy of the Applicant’s narrative and additional information submitted by the applicant, correspondence from adjacent property owners / residents.

BACKGROUND

The Grandview area was identified as a future growth area in the City of Durango’s 1997 Comprehensive Plan. The City of Durango and La Plata County adopted the Grandview Area Plan in January of 2004. In 2007 the City of Durango’s Comprehensive Plan boundaries were expanded to incorporate the future growth areas, including all of the area within the Grandview Area Plan boundaries.

Properties that were within the City of Durango’s Comprehensive Plan Boundary were included within the 2004 City of Durango and La Plata County Intergovernmental Agreement (IGA) map on land use (JPAM) and therefore subject to the terms of the IGA. The IGA was amended several time but the JPAM boundary did not change until it was amended in 2014. The 2014 IGA amendment moved the JPAM boundary to the west and the subject property, as well as other properties in Grandview area were removed from the JPAM. Although the JPAM changed, the City’s Comprehensive Plan and service area boundary did not change. The City’s Comprehensive Plan was updated in 2017 and the plan’s boundaries as well as the City’s service area were reaffirmed during the adoption process.

PROCESS

The Intergovernmental Agreement on Joint Planning (IGA) adopted in 2014 outlines the process for amendments to the land use plan maps within the Joint Planning Area (JPA). The IGA states that the City and
County desire to maintain consistency between the County’s district plans and the City’s Comprehensive Plan and area plans within the joint planning area. The IGA outlines the process that is used to amend the land use plans which includes concurrent submittals to both the City and the County Planning Departments; concurrent processing by both jurisdictions; and consideration at a joint public hearing held before both the City and County’s Planning Commissions. Both Planning Commissions will make separate decisions. The City Planning Commission’s decision is a recommendation to the City Council for final action on the item. The County Planning Commission’s decision becomes final on the date of the City Council decision. See specific language below:

5. Amendment of Land Use Plans. The County and City desire to maintain consistency between the County’s district plans and the City’s Comprehensive Plan and area plans within the JPA, but recognize the County Planning Commission’s independent statutory authority under C.R.S. § 30-28-106 to adopt and amend district plans for the unincorporated portions of the County, as well as the City Council’s authority to adopt or amend the City’s Comprehensive Plan and area plans. In an effort to provide consistency between the County’s district plans and the City’s Comprehensive Plan and area plans within the JPA, requests for amendments to the County’s district plans that affect properties within the JPA and requests for amendments to the City’s Comprehensive Plan and area plans that affect lands within the JPA shall be submitted concurrently to the County Planning Department and to the City Planning and Community Development Department. Such applications for amendments shall be processed concurrently by the City and the County and shall be considered during a joint public hearing held before the County Planning Commission and the City Planning Commission. The planning commissions shall hear the request for amendment of the plans jointly but shall make their respective determinations independently. The determination of the City Planning Commission shall be forwarded as a recommendation to the City Council for final determination. The County Planning Commission’s decision shall become final on the date such decision is made, as shall the decision of the City Council.

The IGA also outlines the process to amend the JPAM. If the County Planning Commission approves an amendment to the boundary of the Durango District plan during a joint public hearing, it will also amend the boundaries of the JPAM, unless the item is called up by the Board of County Commissioners or the City Council as outlined below.

6. Effect of Amendment of Land Use Plans to the JPAM. The parties acknowledge that the Board of County Commissioners and City Council must agree to any amendment of the JPAM but also desire to provide an efficient mechanism for amendment. In an effort to accommodate both of these interests, the parties agree that the County Planning Commission’s approval of an amendment to the boundaries of the Durango District or La Posta Road Area District, subsequent to the joint public hearing process described in Section 5 above, shall not only amend the district plan(s), but shall also have the effect of amending the boundaries of the JPAM, unless either the Board of County Commissioners or the City Council, within twenty-eight (28) calendar days from the date of the County Planning Commission’s approval of the amendment, provide written notice of objection to the amendment of the JPAM. If such objection is received within twenty-eight (28) calendar days by the non-objecting party, the County Planning Commission’s approval of the resolution shall not have the effect of amending the JPAM. Nothing herein is intended to abrogate the County Planning Commission’s authority to amend district plans and the County Planning Commission’s decision to amend a district plan(s) shall not be affected by an objection by either the City Council or the Board of County Commissioners.
CITY OF DURANGO ANALYSIS

The proposed Tree Farm property is 81.1 acres in size and is made up of three parcels. The property is mostly vacant with one gas well on it. The property is currently designated on the Future Land Use Map with four different land use designations, Commercial, General (11.5 acres), Mixed Use (8.1 acre), Residential, Low Density (14.8 acres) and Residential, Large Lot (46.6 acres) on the City’s Future Land Use Map. The applicants wish to amend the map to change the designation of the entire property to Residential, Low Density. The applicants are proposing to create a manufactured home community on the property with approximately 310 units, with a resulting density of 3.8 units per acre. The applicants are requesting to change the land use designation of the three parcels to Residential, Low Density (< 5 units/acre) which aligns with their proposal for 310 individual manufactured homes on 81.1 acres.

The Comprehensive Plan designation for the property to the south is Commercial. The properties to the north and east are designated Rural, Residential (1 unit/ 10 acres). The properties to the east are designated Residential, Large Lot, 1 unit/acre); Residential, Medium Density (5-12 units/acre) and Commercial, General.

The applicants are applying for Residential, Low Density because the proposed project will be all individual homes with an overall density of 3.8 units/acre. The current land use designations would allow for commercial uses on the south end of the property and an overall density similar to the proposed density. The major change is to disperse the units over the entire property rather than concentrating the density at the southern part of the property.

The City Charter of the City of Durango, under Article VIII, Planning, states that “the Council shall adopt and may from time to time modify a comprehensive plan, which may be integrated into the plans of other governments, and which shall set forth policies concerning the future development of lands, public facilities, and public services”, and further, that “Prior to the adoption of the comprehensive plan or any modification thereto, the Council shall conduct a Public Hearing and issue notice to the public...” The Charter also states that “The comprehensive plan shall serve as a guide for all future Council action concerning land use and development regulations and expenditures for capital improvements,” and that “all proposed annexations shall be in compliance with the comprehensive plan.”

The following Comprehensive Plan policies address the Future Land Use Map and development. These policies should be considered when a plan amendment is proposed.

City Comprehensive Plan Policies

Objective 6.1: Maintain a future land use map that provides guidance on land use decisions for public and private decision-makers.

Policy 6.1.2: Use the Future Land Use Map (Map 6) in conjunction with the other goals, objectives and policies of this Plan, specific Area Plans and Character Districts to guide zoning and development decisions.

Policy 6.1.3: Coordinate with La Plata County to ensure that:

- City and County decisions about the type and intensity of land uses in the Planning Area are consistent with the Future Land Use Map; and
The City and County will review development proposals for consistency with the Future Land Use Map and compatibility with site specific conditions. Site specific review is needed to ensure that development proposals are consistent with other City policies, including but not limited to policies addressing natural hazards, environmental protection, neighborhood compatibility/stability, design, and the adequacy of public facilities and services.

Policy 6.1.4: Allow residential dwelling types other than those specifically listed in Table 1 (e.g., small lot, duplex, multi-family, patio homes, zero lot line development) for each residential category using administrative design standards in the Land Use Development Code (LUDC).

Objective 6.2: Achieve neighborhood stability, Comprehensive Plan goals and objectives and economic opportunity through implementation of the Future Land Use Map in conjunction with plan policies and the Land Use Development Code.

Policy 6.2.1: Prior to amending the Future Land Use Map, make findings that the proposed amendment will:
- Be consistent with the Plan priorities;
- Be compatible with future land uses for surrounding areas of the community;
- Not create a shortage of any category of residential or non-residential land; and
- Enhance the overall quality of life in the community.

Policy 6.2.2: Protect neighborhoods from encroachment of incompatible land uses by ensuring that zoning is consistent with the Future Land Use Map, by developing and implementing area plans, corridor plans and character districts, and by enforcing compatibility standards that address noise, traffic and aesthetics.

Policy 6.2.6: Use the guidance in this policy in addition to other Plan policies to guide zoning and development of properties marked with an asterisk on the Future Land Use Map. The Future Land Use Map identifies with numbered asterisks areas for which area plans need to be developed, updated or specific policy direction provided within the Plan. These areas include portions of Grandview Ridge, the State School Property, East Grandview, La Posta Road, Ewing Mesa, Webb Ranch, Kroeger Ranch and the Mason Property which are subject to the following specific policies:

3. Grandview:
- Development in Grandview will be guided by the general policies of the Plan and the specific policies of the Grandview Area Plan.
- The City will allow greater flexibility for the retention or expansion of non-conforming situations, while attempting to mitigate incompatibilities created by historic development patterns in this area.
- Coordinate with property owners and applicable service providers to develop a phasing and financing plan for extension of adequate water, sewer and transportation facilities throughout the urbanizing areas.
• Coordinate with property owners, applicable service providers and the County to establish standards for the expansion of the urbanizing area boundary and appropriate modifications of

Grandview Area Plan

As stated in Policy 6.2.6 3. Development is guided by policies in the Grandview Area Plan.

**Policy 4.10.3.11**: Promote the development of good quality housing for all income groups through zoning, design review and building regulations, consistent with efforts to increase the City’s affordable and attainable housing stock.

**Policy 4.10.3.17**: Develop a review process to ensure that as redevelopment occurs the transition of uses and buffers between existing and proposed uses are adequate to mitigate impacts caused by new development and/or redevelopment.

**Policy 4.10.3.21**: Create and implement Intergovernmental Agreements between La Plata County and the City of Durango to ensure that the land use development patterns and uses are contained within the urbanizing boundary and are developed to appropriate standards.

**Policy 4.10.4.5**: Promote the development of integrated residential neighborhoods in the Grandview Area.

**Policy 4.10.4.17**: Require the development of residential amenities to create a high-quality image and character for residential development in the Grandview Area.

**Policy 4.10.3.11**: Promote the development of good quality housing for all income groups through zoning, design review and building regulations, consistent with efforts to increase the City’s affordable and attainable housing stock.

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**Policy 4.10.3.21**: Create and implement Intergovernmental Agreements between La Plata County and the City of Durango to ensure that the land use development patterns and uses are contained within the urbanizing boundary and are developed to appropriate standards.

**Policy 4.10.4.5**: Promote the development of integrated residential neighborhoods in the Grandview Area.

**Policy 4.10.4.17**: Require the development of residential amenities to create a high-quality image and character for residential development in the Grandview Area.

Durango Housing Plan

The City adopted the Durango Housing Plan in 2018. Guiding Principles were developed to address the City’s housing needs. Excerpts include:
• Quality housing should be available to all residents of Durango.
• Durango is a place where you can live, work, raise a family, start a business and retire. Preserving Durango’s livability requires housing to stay affordable for as many as possible.
• The City must evaluate land use planning and regulatory authority to allow developers to respond to housing market needs: Developers must continue to create the high-quality places expected by Durango residents.
• The Plan promotes housing in what are referred to as the Areas of Change because of the importance of infill development and redevelopment.
• Growth on the periphery is likely to surpass infill development because land is cheaper and more abundant away from the core of Durango. These are Areas of Growth.
• Quality housing, whether it is infill or greenfield development, must have dense, walkable neighborhoods with access to multi-modal transportation options including transit, bike lanes and sidewalks.
• Housing is a foundation for Durango’s local economy and for its residents to build wealth through equity and financial stability.

Housing Plan Items include:

**Action 3.1:** Evaluate ways to increase housing in the Areas of Change.
**Action 3.2:** Support new housing and development in the Areas of Growth.
**Action 3.14:** The City should continue to use annexation policies that implement principles such as good urban design, a mix of housing types and price points and innovative affordable housing approaches found in projects such as Three Springs, Twin Buttes and Skyridge for use in all residential annexations where feasible.

The Durango Housing Plan states the following about manufactured homes:

**Manufactured Home Parks and Tiny Homes** The City has three manufactured home parks that provide affordable housing to more than five hundred people. The City should work to preserve these parks because of their importance to the affordable housing supply. The LUDC contains standards for manufactured home parks, but staff will reevaluate the Code to ensure that a new park could be successfully built. The City views manufactured home parks as an important potential source of housing for the City’s workforce.

The following criteria are used to review Comprehensive Plan Amendments.

**Review Criteria for Comprehensive Plan Map Amendments**

1. **Is the proposed map amendment compatible with existing or planned land uses on adjacent properties?**

The parcels are within the City of Durango’s urbanizing boundary and considered a future growth area in both the City’s and County’s plans. The surrounding properties have the following existing land uses. The property to the south is currently vacant but previously had a mobile home park on it and is designated as commercial. The property to the southeast currently has a mobile home park on it. To the east and west are single family large lot subdivisions on wells. The area to the southwest is designated as mixed use and is trending towards commercial uses. The property to the north is vacant.
The current proposal is to have a manufactured housing development with a density of 3.8 units/acre. The density is higher than the surrounding single family large lot subdivisions but much lower than the mobile home parks. The current land use categories allow the same amount of density, but have it concentrated to the south. This proposal is spreading out the density to allow the opportunity to have a manufactured home community.

The limiting factor for development in this area is the lack of central water, which is why the large lot subdivisions were built on wells. The extension of the water line does allow the development of additional density which furthers the goals to provide additional opportunities for housing. Increasing the density also helps bring the price of units down and helps provide more inventory for housing options.

The staff believe that Residential, Low Density is acceptable at this location.

2. Are adequate public utilities, facilities, and/or services available to serve the development for the type and scope suggested by the proposed amendment? If adequate utilities, facilities, and/or services are not available, could they be extended in a cost-effective manner?

The property is not currently served with public utilities. Sewer can be provided by the Loma Linda Sewer District. Water service is needed for this development to happen. The applicants are proposing to run City of Durango water from the end of the service line at Three Springs Boulevard to the property. The new water line will benefit other property owners in the area.

Any future development on this property will require the provision of adequate utilities, facilities and services and will be the responsibility of the developer or a coordinated effort of the property owners.

3. Is the proposed map amendment warranted by changing conditions in the area, or does it correct an error in fact concerning the property’s future land use classification at the time of the original plan adoption?

Yes, this proposal is changing the conditions that currently exist with the extension of water. Once water is available the entire area will be able to be developed at higher densities than currently possible. The request does support the community’s need for housing and does provide a new option for housing.

4. Does the map amendment meet a currently unaddressed need?

Housing is a critical need within the city and service area. The City’s Comprehensive Plan supports the creation of additional opportunities for housing and a variety of housing types. This map amendment is needed for the developer to develop a manufactured home park. The City’s Housing Plan specifically calls out the need for manufactured home parks to provide a new type of housing that is not currently being developed within the City’s Comprehensive Plan boundary. It further states “The City views manufactured home parks as an important potential source of housing for the City’s workforce.”

Staff does believe this amendment will enable the developer to address a currently unaddressed need.

5. If the map amendment is approved, will there be an adequate supply of land permitted in the category being changed?

The property was designated with four different land use categories, which did provide the potential for a variety of housing types. However, the majority of the property was designated as residential, large lot (1du/acre). This is not a land use category that needs to be reserved for the future. The provision of water allows for an increase in density, which is a better use of the land. The need for commercial and office space in this corridor is limited, housing does seem to be an appropriate use of the property.
**JOINT PLANNING AREA MAP**

The City of Durango has not changed the boundary of the Comprehensive Plan since 2007. The City has also not amended their service area map which is coterminous with the Comprehensive Plan. City policy will not allow water service to be extended to new areas outside of the joint planning area’s boundary. Therefore, for this property and others in the vicinity to receive city water the joint planning area map must be amended.

**SUMMARY**

The Future Land Use Map is used as a guide to the types of uses which may be appropriate for development. The proposal is to take the existing density allowed by the current land use map and create a new community for manufactured homes. The actual development proposal is not before the Planning Commissions tonight, details on traffic, utilities, design, compatibility, and functionality will be discussed in detail at future meetings. What is before planning commissions is changing the land use designation of the three parcels to Residential, Low Density to allow for the type of lots being advanced.

***
SECTION 7 RECOMMENDATIONS

RECOMMENDATION TO CITY PLANNING COMMISSION

CITY OF DURANGO ALTERNATIVE ACTIONS

A. Move to approve the Tree Farm Village amendments to the City of Durango’s Comprehensive Plan’s Future Land Use Plan and support the proposed change to the Joint Planning Area Map with the following findings that the amendment is consistent with adopted plans and standards.

B. Move to deny the Tree Farm Village amendments to the City of Durango’s Comprehensive Plan Future Land Use Plan and the proposed change to the Joint Planning Area Map with the following findings that the amendment is not consistent with adopted plans and standards.

C. Move to continue the item with direction to Staff.

RECOMMENDED ACTION

Staff recommends alternative action A.

RECOMMENDATION TO COUNTY PLANNING COMMISSION

Based on specific findings, the Planning Commission may vote to continue the project, approve the project, or deny the project. A majority vote of the full Planning Commission is required to approve the proposal.

Staff recommends the following:

Approve Project #2023-0002, by Resolution 2023-1-PC as attached, Tree Farm Village Comprehensive Plan/District Plan Amendments based on the following findings:

1. The proposal fulfills the general purpose of creating coordinated and harmonious development of the area under study and of the county as a whole.
2. The proposal promotes the health, safety, prosperity and general welfare of the county’s residents, as well as efficiency and economy in the use of land and its natural resources.
3. The proposal encourages a well-balanced, prosperous economy for the County.
4. The proposal preserves and enhances the county's unique character and protects its natural environment.
5. The proposal bears a substantial relationship to the general welfare of the entire community rather than to relieve a particular property from the restrictions set forth in this Code.
6. The amended Durango District Plan provisions are consistent with the comprehensive plan.
7. The proposal is consistent with the other provisions of the Durango District Plan to which it will become a part.
8. The approval of comprehensive plan amendment is in accordance with the Code and shall serve as presumptive evidence that the considerations presented herein have been determined in the affirmative.

***
RESOLUTION NO. 2023-1-PC

A RESOLUTION OF THE PLANNING COMMISSION OF LA PLATA COUNTY, COLORADO AMENDING THE DURANGO DISTRICT PLAN TO ADD CERTAIN TERRITORY AND AMEND THE FLORIDA MESA DISTRICT PLAN TO REMOVE SAME TERRITORY; AND CONSIDER LAND USE DESIGNATION AMENDMENTS TO THE DURANGO DISTRICT PLAN

WHEREAS, C.R.S. § 29-20-102 provides that it is the policy of this state to provide broad authority to local governments to plan for and regulate the use of land within their respective jurisdictions to provide for planned and orderly development and a balancing of the basic human needs of a changing population with legitimate environmental concerns; and

WHEREAS, C.R.S. § 30-28-106 provides that it is the duty of a county planning commission to make and adopt a master plan, with accompanying maps, for the physical development of the unincorporated territory of the country; and

WHEREAS, C.R.S. § 30-28-108 provides that a county planning commission may adopt the county master plan as a whole by a single resolution or, as the work of making the whole master plan progresses, may adopt parts thereof and that the commission may amend, extend, or add to the plan or carry any part of it into greater detail from time to time; and

WHEREAS, C.R.S. § 30-28-109 provides that the county planning commission shall certify a copy of its master plan, or any adopted part or amendment thereof or addition thereto, to the board of county commissioners of the county and to all municipalities within the county; and

WHEREAS, the La Plata County Board of County Commissioners and the City of Durango entered, in December 2013, into the 2013 Temporary Intergovernmental Agreement Regarding Joint Land Use Planning Between the City of Durango, Colorado and La Plata County, Colorado (the "Temporary Joint Land Use IGA"), effective January 1, 2013, which provided a framework to regulate the use of land identified on the Joint Planning Area Map (the "JPAM"); and

WHEREAS, the La Plata County Board of County Commissioners and the City of Durango executed the First Amendment to the Temporary Joint Land Use IGA on August 20, 2013, in which the JPAM was amended; and

WHEREAS, on December 12, 2013, by Resolution No. 2013-005, recorded at reception no. 1075682, the La Plata County Planning Commission adopted the City of Durango 2007 Comprehensive Plan as the Durango District Plan, as
applied to the unincorporated properties designated at Exhibit 2 to Resolution No. 2013-005; and

WHEREAS, Resolution No. 2013-005 reflects the agreement between La Plata County Planning Staff and City of Durango Community Development Staff that the most appropriate way to address planned development and land uses in the JPAM is through the application of the City of Durango 2007 Comprehensive Plan to properties subject to the Durango District Plan; and

WHEREAS, upon the Temporary Joint Land Use IGA's expiration by its terms on March 31, 2014, the La Plata County Board of County Commissioners and City of Durango entered, on April 1, 2014, into an Intergovernmental Agreement between La Plata County, Colorado and the City of Durango, Colorado Regarding Joint Land Use Planning (the "Joint Land Use IGA"), which likewise designated the JPAM; and

WHEREAS, the City of Durango adopted, on April 8, 2017, the City of Durango 2017 Comprehensive Plan, which incorporates by reference all the City of Durango's area plans; and

WHEREAS, on May 4, 2017, the Planning Commission adopted, by Resolution No. 17-3-PC, the 2017 La Plata County Comprehensive Plan, which incorporated the Durango District Plan (as adopted by Resolution No. 2013-005, recorded at reception no. 1075682) as Appendix 5; and

WHEREAS, the amendment of the Durango District Plan by adoption of the City of Durango 2017 Comprehensive Plan is necessary to protect the health, safety, and welfare of the community;

WHEREAS, the City of Durango's 2017 Comprehensive Plan extends to properties outside of the JPAM, but for the purposes of the Durango District Plan, the effect of the City of Durango 2017 Comprehensive Plan is limited to those areas identified on Exhibit A to this Resolution; and

WHEREAS, the La Plata County Planning Commission, seated jointly with the City of Durango Planning Commission, held a duly noticed public hearing on the 17th day of August 2023, regarding the La Plata County Planning Department's request for an amendment of the Durango District Plan, as identified in the Staff Report for Project No. 2023-0002, Comprehensive Plan Amendment- Durango District Plan, and at such hearing, heard testimony and received competent evidence that the Durango District Plan should be amended as identified in Exhibit B; and Florida Mesa District Plan be amended as generally depicted in Exhibit C.
NOW, THEREFORE, BASED ON THE EVIDENCE AND TESTIMONY PRESENTED AT THE PUBLIC HEARING CONDUCTED THIS 17th DAY OF AUGUST 2023, BE IT RESOLVED BY THE LA PLATA COUNTY PLANNING COMMISSION OF LA PLATA COUNTY, COLORADO, AS follows:

1. The La Plata County Planning Commission makes the following findings:
   a. The proposal fulfills the general purpose of creating coordinated and harmonious development of the area under study and of the county as a whole.
   b. The proposal promotes the health, safety, prosperity and general welfare of the county's residents, as well as efficiency and economy in the use of land and its natural resources.
   c. The proposal encourages a well-balanced, prosperous economy for the county.
   d. The proposal preserves and enhances the county's unique character and protects its natural environment.
   e. The proposal bears a substantial relationship to the general welfare of the entire community rather than to relieve a particular property from the restrictions set forth in the LUC.
   f. The amended Durango District Plan provisions are consistent with the comprehensive plan.
   g. The proposal is consistent with the other provisions of the Durango District Plan to which it will become a part.
   h. The approval of comprehensive plan amendment is in accordance with the code and shall serve as presumptive evidence that the considerations presented herein have been determined in the affirmative.

2. The Durango District Plan is hereby amended as shown in Exhibit B attached hereto; and.

3. The Durango District Plan shall serve as the predominant plan for any areas it covers, overlaps, or shares with the Florida Mesa Plan.

4. Areas covered, overlapped, or shared with the Florida Mesa Plan as shown in Exhibit B shall be removed from the Florida Mesa Plan as shown.

5. Subsequent to the effective date, this amendment to the Durango District Plan shall be certified to the La Plata County Board of County Commissioners; the City of Durango; the Town of Ignacio; and the Town of Bayfield for any further action that is deemed appropriate by the respective jurisdictions.
APPROVED AND ADOPTED IN DURANGO, LA PLATA COUNTY, COLORADO, this 17th day of August, 2023.

LA PLATA COUNTY PLANNING COMMISSION

ATTEST

__________________________
Chair

__________________________
Secretary
*Note - The application and contents of Exhibit B shall be limited to only those areas identified in this map.
Exhibit B

Proposed Durango District Plan Amendments
Exhibit C
Proposed Plan Amendments

Amendment to Joint Planning Area: To Be added to Durango District Plan Map and removed from Florida Mesa Plan Map
I. Call to Order

II. Approval of Agenda

III. Identification of Potential or Perceived Conflicts of Interest

IV. Approval of Minutes

1. City and County Planning Commissions, jointly seated - Regular Meeting - Aug 17, 2023 6:00 PM

2. Planning Commission - Regular Meeting - Jan 12, 2023 6:00 PM

3. Planning Commission - Regular Meeting - Feb 23, 2023 6:00 PM

4. Planning Commission - Regular Meeting - Mar 09, 2023 6:00 PM

5. Planning Commission - Regular Meeting - Apr 13, 2023 6:00 PM

6. Planning Commission - Regular Meeting - May 25, 2023 6:00 PM

7. Planning Commission - Regular Meeting - Aug 24, 2023 6:00 PM
V. Public Comment

Individuals may be limited to 3 minutes unless otherwise noted by the Chair.

VI. Consent

1. PROJECT #2022-0142, BRENNAN WILSON SUBDIVISION

Owner/Applicant: Zachary Wilson
Agent: Naomi Riess, Riess Research & Planning
Proposal to subdivide the existing 39.4-acre parcel into two 18.48-acre and 20-acre parcels pursuant to LUC Sec. 67-4.
Location: 9119 CR 510, Bayfield, CO 81122, APN: 590108400221
Staff: Jasmyn Fouts

VII. Decision

1. PL20230002: Comprehensive Plan Amendment – Durango District Plan

This public hearing is for the purpose of considering a request from Tree Farm Village MHC, LP represented by SEH Planning & Engineering, for the City of Durango Planning Commission and the La County Planning Commission meeting jointly, but requiring separate actions, to consider several amendments to the City Comprehensive Plan, the County Comprehensive Plan, and the Joint Planning Area Map (JPAM). The amendments would clear the way for a potential future land use application to La Plata County to develop the property. The proposed Tree Farm Village development consists of three parcels totaling 81.11 acres. The applicants would like to propose a manufactured home community on the property. In order for the development proposal to proceed as envisioned, both the City and County must take action to amend their respective plans and the JPAM.

2. Amendments to La Plata County Land Use Code for Changing Public Health Agency and Other Corrections
La Plata County is currently engaging in a process of establishing its own local public health agency, La Plata County Public Health ("LPCPH"). This is in response to the pending dissolution of San Juan Basin Public Health ("SJBPH").

There are multiple instances in which the County Code references SJBPH, including references that fall within the Land Use Code ("LUC"). Staff intends to present to the Board a resolution substantially similar to the one attached to this agenda packet, the purpose of which is to accomplish all of these code amendments at one time. Because some of the references occur in the LUC, the proposed amendments to the LUC are first being presented to the PC for review and recommendation to the Board. In particular, the proposed amendments to the LUC are identified in Exhibits C, D, E, and F of the attached resolution.

These proposed amendments are primarily focused on the transition from SJBPH to LPCPH, but there are also other very minor error corrections contained as well. The primary correction not related to public health is to correct a typo in Section 73-21 with respect to telecommunications projects. Staff believes that the structure and language of existing 73-21 (note the intro paragraph of subsection III as well as the exception to applicability in paragraph II.D) makes clear the intent that changes that are not a substantial change can be done without a land use permit but changes that are a substantial change require a land use permit. The language currently in paragraph 73-21.III.C is inconsistent with the remainder of 73-21 and this intent. Staff believes the minor revisions proposed for that paragraph resolve the inconsistency and accurately implement the intent of that code provision.

All new insertions are identified with underlined red text and all proposed deletions are identified with red text that has been struck through.

VIII. Other Business

A. Director and Commissioner Updates

IX. Adjournment

X. Public Participation Information

Important Public Participation Information:

All Planning Commission meetings will be offered in-person and online with Zoom access. Audio access is available with a computer or tablet or by phone. Remote meeting access can be found below:
Webinar ID: 371 987 878

Participate:

Online (computer, tablet or smartphone): Passcode: 919312

https://us02web.zoom.us/j/371987878

Or by telephone: Passcode: 919312

Dial (if the first number is busy, try another number):

(346) 248-7799

(669) 900-9128

(312) 626-6799

Comments can be submitted through our forms portal:

Items submitted 72 hours prior to the public meeting will be included in the packet. Comment forms may be submitted up until the item is heard.

The public can access the County’s free wi-fi from the parking lot of the La Plata County Administration Building: LPC Wireless, password = LaplataCounty

Access to the agenda packet, minutes, and recordings may be found at:

NOTICE is further given that all persons may appear and present oral & written testimony regarding these projects prior to or at public hearing and the Planning Commission may continue a project until a recommendation decision is reached. Complete files for projects listed on this agenda are maintained and available for review at the La Plata County Planning Department office located at 211 Rock Point Drive, Durango, CO 81301. Interested persons may visit the Planning Department office during regular business hours to review the files or ask any questions, or call (970) 382.6263. The policy of La Plata County is to not discriminate against the disabled in the provision of service. For special assistance, please call the Planning Department.
This goes into the public record for Tree Farm Village.

Marsha Porter-Norton
La Plata County Commissioner
970-382-6215
NEW EMAIL: MPorter-Norton@lpcgov.org (Please make a note of it).
OLD EMAIL: Marsha.Porter-Norton@co.laplata.co.us

Under the Colorado Open Records Act (CORA), all messages sent by me or to me on this county-owned email account may be subject to public disclosure.

From: Mike Foutz
Sent: Friday, September 8, 2023 4:40 PM
To: Marsha E. Porter-Norton <MPorter-Norton@lpcgov.org>; Matt.salka@colaplata.co.us; clyde.Church@co.laplata.co.us
Subject: Tree Farm Village - Affordable and workforce housing

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Caution! This message was sent from outside your organization.

Dear Commissioners,

It’s accurate to say that the lack of affordable workforce housing in our area has reached a crisis level. The upwards climb of housing costs started years ago but nobody could have predicted what has happened in the last three years. According to a recent letter from the Homesfund the cost of housing has nearly doubled in the last 3 years. This is forcing working and young people to leave our area, making it very difficult for businesses to retain and recruit new employees, and making it all but impossible for the average working or young family to purchase a home. I see this daily in my position with FCI Constructors and with the Bayfield School Board. In the last several months a couple of my own employees have been faced with rent increases in the $500-$600 per month range. We are doing the best we can to provide wage increases but its impossible to keep up with the cost increases our employees are facing. Many of the
“new” teachers in our school district are “retired” teachers from other states. Thanks heavens for that but its not a long-term solution.

The City of Durango, Towns of Bayfield and Ignacio, LaPlata County, and the State of Colorado are all very aware of and working on this issue but it is nowhere near being solved or even mitigated as of right now. I applaud these efforts but they are not nearly enough. This problem will not be solved with a business-as-usual approach. It has to be attacked aggressively on many fronts with a variety of tools and approaches.

Last year, I attended a workshop on affordable and workforce housing with the LaPlata County Commissioners and was given the opportunity to provide input. **Density** is an absolute must and **Modular Home parks** are a necessary part of the long-term solution. Housing has been underbuilt in this area since 2008. More product is needed. The whole county cheered when the Westside trailer park was saved. Its important to remember that event as we all move forward seeking solutions.

Fast forward to last month. It was beyond discouraging to participate in and watch the joint planning commission meeting that denied the Tree Farm Village request to amend the Durango District Plan and JPAM to include additional property. This is the single largest and most affordable housing project proposal that I have seen in years. Homes cannot be stick framed/scratch built for anywhere near what these homes can be purchased for. The self-imposed rent control alleviates the fear of predatory rent tactics by a greedy owner/landlord. The odds of getting sued by greedy and opportunistic lawyers for construction defects are almost zero further reducing the cost.

I know you all are serious about solving this problem and I know it won’t be solved overnight. It will not be solved without making some tough decisions and being willing to stand firm for those tough decisions. We need to diversify our housing supply and increase available product. If our community leaders are unwilling to do these things then its all just talk.

Please be willing to make a real stand for workforce and affordable housing. I urge you to support the Tree Farm Village proposed amendment to Durango District Plan and JPAM to include this property.

Thank you.

Mike Foutz  
Vice President  
FCI Constructors, Inc.

www.fciol.com

**Focused On Your Vision**
TO: DURANGO CITY COUNCIL
FROM: EVA HENSON, HOUSING INNOVATION MANAGER

SUBJECT: A RESOLUTION AUTHORIZING AN ADDITIONAL APPROPRIATION TO THE HOUSING FUND IN THE 2024 BUDGET FOR A COMMUNITY DEVELOPMENT BLOCK GRANT - AEO

RECOMMENDATION:
It is the recommendation that the City Council, by motion approve the attached resolution, Authorizing an Additional Appropriation to the Housing Fund for a Community Development Block Grant in Excess Amounts Budgeted in 2024 Budget.

BACKGROUND SUMMARY:
Through CRS §24-32-721 authority exists in the law and funds have been budgeted, appropriated and otherwise made available pursuant to the federal Community Development Block Grant Program (CDBG) and a sufficient unencumbered balance thereof remains available for payment and the required approvals, clearance, and coordinator have been accomplished from and with appropriate agencies.

In November 2022, HomesFund, Inc. ("HomesFund") requested that the City of Durango sponsor a Community Development Block Grant (CDBG) application on their behalf. The CDBG program is administered by the Department of Local Affairs (DOLA) and requires that local governments are the only entities eligible to apply for CDBG funds. The CDBG grant does not require any matching funds. The CDBG grant funds will be used to provide mortgage assistance, program overhead, and project delivery for loans to families who make less than 80% Area Median Income (AMI) in La Plata County and surrounding areas.

These CDBG pass-through revenue funds will assist HomesFund to provide Down Payment Assistance loans to fill the funding gap between what working families can afford to finance through a mortgage and the cost of available entry-level housing in La Plata County. The CDBG Grant Agreement is effective from the date executed through June 30, 2026. Their shared appreciation loans typically range from $15,000-$75,000. The loans are silent-there is no interest on the loan and no payments are required. When the property is sold or transferred, the borrower repays the full amount of the loan with a pro-rata split of appreciation. These loans not only help reduce the affordability burden for homeowners, but also create a method for the HomesFund to co-invest with families and see a return on the investment. The HomesFund also offers other low-interest amortizing loans that eliminate the need for mortgage insurance.

HomesFund is a non-profit corporation formed in Durango in 2008. The HomesFund’s main purpose is to expand affordable housing opportunities in Southwest Colorado by applying for funding, that supports and expands the HomesFund lending and housing development program. The city has administered the Community Development Block Grant (CDBG) as a physical agent for HomesFund since 2012-current. HomesFund is a valued city partner and these grant funds will help benefit the affordable housing efforts in the greater Southwest Colorado region.

STRATEGIC PLAN ALIGNMENT:
This initiative applies to the Affordability & Economic Opportunity (AEO) objective in the Strategic Plan for the following:
- 1. Create housing opportunities to support a multigenerational & mixed-income community workforce and increase affordability to bridge the disparity between income and home/rental prices
- 1.1 Identify and commit resources and revenue towards implementing a long-term plan that encourages housing opportunities for mixed-income demographics with an emphasis on workforce housing.
- 1.2 Support the production of a variety of housing types through incentives, partnerships, efficient review processes, and other mechanisms with a particular emphasis on middle-income housing.

FISCAL IMPACT:
There is no fiscal impact to the city associated with this this resolution. The City of Durango Housing Innovation Division’s budget will increase by $1,881,400 in grant revenue through this action, by allocating the revenue to account 19-1000-63189-1905 and for expenses associated with account 19-4137-31499-1905.

NEXT STEPS AND TIMELINE:
Once grant funds have been appropriated, staff will coordinate with HomesFund to begin administering funds for their Down Payment Assistance programs per the CDGB grant agreement scope of work.

ATTACHMENTS:
1. RESOLUTION NO. R-2024-XX
2. CDBG Grant Award Letter
3. CDBG Grant Agreement
4. CDBG Grant Presentation
RESOLUTION NO. R-2024-_____

A RESOLUTION AUTHORIZING AN ADDITIONAL APPROPRIATION TO THE HOUSING FUND IN THE 2024 BUDGET FOR A COMMUNITY DEVELOPMENT BLOCK GRANT

WHEREAS, under the provisions of Article V, Section 10 of the Durango City Charter, the City Council may make appropriations during the budget year for unanticipated expenditures required by the City not exceeding, however actual revenues and unappropriated surplus; and

WHEREAS, on November 15, 2022, City Council approved a Resolution, on behalf of HomesFund, to sponsor a grant application to the Department of Local Affairs for a funding opportunity through the Community Development Block Grant (CDBG);

WHEREAS, the City of Durango and HomesFund received a notice of award letter on May 29, 2023, for $1,881,400 CDBG grant funds;

WHEREAS, the City of Durango and HomesFund received the CDBG Grant Agreement on December 28, 2023 for signature execution;

WHEREAS, there exists $1,881,400 Community Development Block Grant pass-through revenues to be received from the CDBG grant;

WHEREAS, the CDBG grant funds will assist HomesFund Downpayment Assistance Loans that fill the funding gap between what working families can afford to finance through a mortgage and the cost of available for entry-level housing in La Plata County;

WHEREAS, HomesFund is a non-profit corporation formed in Durango in 2008;

WHEREAS, HomesFund’s main purpose is to expand affordable housing opportunities in Southwest Colorado by applying for funding, that supports and expands the HomesFund lending and housing development program;

WHEREAS, the city has administered the Community Development Block Grant (CDBG) as a physical agent for HomesFund since 2012-current;

WHEREAS, these CDBG grant funds will help benefit the affordable housing efforts in the greater Southwest Colorado region, and;

RESOLVED, that the City Council of the City of Durango, in regular meeting assembled, that:

Section 1: The sum of $1,881,400 is hereby appropriated as grant revenue in the Housing Innovation Fund by allocating the revenue and expenses to the accounts listed below.

<table>
<thead>
<tr>
<th>Account Number</th>
<th>Project Number</th>
<th>Account Description</th>
<th>Budget Increase/(Decrease)</th>
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<tr>
<td>Revenues</td>
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<td>Federal Grants</td>
<td>$1,881,400</td>
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<tr>
<td>19-1000-63189</td>
<td>1905</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expenditures</td>
<td></td>
<td>Other Contracted Services</td>
<td>$1,881,400</td>
</tr>
<tr>
<td>19-4137-31499</td>
<td>1905</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Net Effect on Fund Balance $0
Approved and adopted this 16th Day of January 2024.

CITY OF DURANGO COLORADO

by __________________________
Mayor
CITY OF DURANGO, CO

ATTEST:

__________________________________
City Clerk
May 19, 2023

Jose Madrigal, City Manager
City of Durango
150 East 9th Street Suite 207
Durango, CO 81301

Re: Application #33075 - Mortgage Assistance in Southwest Colorado

Dear Jose Madrigal:

The State Housing Board reviewed the above-referenced application at its meeting on May 9, 2023, and approved funding for the project in the form of a CDBG grant of up to $1,881,400.00. I concur with the State Housing Board’s decision and am offering to enter into a CDBG grant agreement within 12 months of the date of this letter. Following is a list of eligible funding activities:

- Down Payment Assistance Loans
- Project Delivery
- Program Overhead

Federal regulations prohibit obligating or expending State funds until an environmental review has been completed and funds have been formally released by the State. In accordance with HUD regulations 24 C.F.R. Part 58.22(a) and the department's Release of Funds policy, neither a recipient nor any of its subgrantees may commit any funds, including HUD and non-HUD funds, on an activity or project until HUD or the state has approved the recipient's environmental review.

The project is Categorically Excluded – Not Subject to Other Laws/Requirements and will require the completion and submission of Exhibit IV-B. All forms and instructions are available in the CDBG Guidebook online at www.dola.colorado.gov/environmentalreview. Please return the completed Exhibit IV-B form to your asset manager, Baillie Tichy, at baillie.tichy@state.co.us. Upon the asset manager’s approval of Exhibit IV-B, you may complete the contracting process with the Department. Expenditures made prior to the full execution of the contract cannot be reimbursed by the state.

Congratulations on this award and best wishes to you on the successful completion of your project. Please contact Baillie Tichy at baillie.tichy@state.co.us or 720-682-4359 for information on how to proceed.

Sincerely,

Rick M. Garcia
Executive Director

Cc: Senator Cleave Simpson, Senate District 6
Representative Barbara McLachlan, House District 59
ADDENDUM
Additional Funding Conditions

Funding is conditioned upon the following:

- Execution of a DOH Grant Agreement.
- Availability of CDBG funds.
- Funding will be in the form of a 3-year contract with funding being provided in 3 tranches. Tranche 1 funding of $460,900 ($943.40 in project delivery and $903.77 in program overhead per loan), Tranche 2 funding of $753,000 ($949.15 in project delivery and $711.86 in program overhead per loan), Tranche 3 funding of $667,500 ($983.05 in project delivery and $737.29 in program overhead).
## STATE OF COLORADO
### GRANT AGREEMENT
#### COVER PAGE

<table>
<thead>
<tr>
<th>State Agency</th>
<th>Contract Encumbrance Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Local Affairs, for the benefit of the Division of Housing.</td>
<td>H4CDB33075</td>
</tr>
<tr>
<td></td>
<td>CMS #185602</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Grantee</th>
<th>Agreement Performance Beginning Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Durango</td>
<td>The Effective Date</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Agreement Maximum Amount</th>
<th>Fund Expenditure End Date</th>
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</thead>
<tbody>
<tr>
<td>$460,900</td>
<td>June 30, 2026</td>
</tr>
</tbody>
</table>

**Funding Program:** Community Development Block Grant  
**Funding Source:** Federal  

**Agreement Authority** - Authority for this Agreement arises from CRS §24-32-721. Authority exists in the law and funds have been budgeted, appropriated and otherwise made available pursuant to the federal Community Development Block Grant Program and a sufficient unencumbered balance thereof remains available for payment and the required approvals, clearance, and coordination have been accomplished from and with appropriate agencies.

**Agreement Purpose** Support Grantee’s Down Payment Assistance (DPA) Program

**Exhibits** - The following Exhibits and attachments are included with this Agreement:

- Exhibit A - Applicable Laws
- Exhibit B - Statement of Project
- Exhibit C - Federal Provisions
- Exhibit D - [Reserved]
- Exhibit E - [Reserved]
- Exhibit F - [Reserved]
- Exhibit G - Option Letter
- Form 1 - Residency Declaration

**Order of Precedence** - In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

2. Colorado Special Provisions in §18 of the main body of this Agreement.
3. The provisions of the other sections of the main body of this Agreement.
4. Exhibit B, Statement of Project
5. Exhibit A, Applicable Laws
6. Exhibit D, [Reserved]
7. Form 1, Residency Declaration
8. Exhibit G, Option Letter

**Principal Representatives**

For the State:
Alison George, Director  
Division of Housing  
Department of Local Affairs  
1313 Sherman Street, Rm 320  
Denver, CO 80203  
Alison.george@state.co.us

For Grantee:
Jose Madrigal, City Manager  
City of Durango  
949 East 2nd Ave  
Durango, CO 81301  
jose.madrigal@durangogov.org
### SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature.

<table>
<thead>
<tr>
<th>GRANTEE</th>
<th>STATE OF COLORADO</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Durango</td>
<td>Jared S. Polis, Governor</td>
</tr>
<tr>
<td><strong>Jose Madrigal</strong>, City Manager</td>
<td>Rick M. Garcia, Executive Director</td>
</tr>
<tr>
<td><strong>Jose Madrigal</strong></td>
<td><strong>Rick M. García</strong>, Executive Director</td>
</tr>
<tr>
<td>Date: 12/18/2023</td>
<td>Date: 12/22/2023</td>
</tr>
<tr>
<td><strong>Andrew Paredes</strong></td>
<td><strong>Robert Jaros</strong>, CPA, MBA, JD</td>
</tr>
<tr>
<td><strong>Andrew Paredes</strong>, Director of Housing Finance</td>
<td><strong>Beulah Messick</strong>, Controller Delegate</td>
</tr>
<tr>
<td>Date: 12/22/2023</td>
<td>Effective Date: 12/28/2023</td>
</tr>
</tbody>
</table>

In accordance with §24-30-202, C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.
1. PARTIES

This Agreement is entered into by and between Grantee named on the Cover Page for this Agreement (the “Grantee”), and the STATE OF COLORADO (the “State”) acting by and through the Department of Local Affairs ("DOLA") for the benefit of the Division of Housing ("DOH"). Grantee and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and the Grant Funds shall be expended by the Fund Expenditure End Date shown on the Cover Page for this Agreement. The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Grantee for any Work
performed or expense incurred before the Effective Date, except as described in §5.D, or after the Fund Expenditure End Date.

B. Initial Term
The Parties’ respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Cover Page for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the Cover Page for this Agreement (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Extension Terms - State’s Option
The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, of one (1) year or less at the same rates and under the same terms specified in this Agreement (each such period an “Extension Term”). In order to exercise this option, the State shall provide written notice to Grantee in a form substantially equivalent to Sample Option Letter attached to this Agreement. The total duration of this Agreement including the exercise of any options to extend shall not exceed five (5) years from its Effective Date without approval of the Colorado Office of the State Controller.

D. End of Term Extension
If this Agreement approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Grantee as provided in §14, may unilaterally extend such Initial Term or Extension Term for a period not to exceed two (2) months (an “End of Term Extension”), regardless of whether additional Extension Terms are available or not. The provisions of this Agreement in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement Agreement or modification extending the total term of this Agreement.

E. Early Termination in the Public Interest
The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, the State, in its discretion, may terminate this Agreement in whole or in part. A determination that this Agreement should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Agreement by the State for breach by Grantee, which shall be governed by §12.A.i.

i. Method and Content
The State shall notify Grantee of such termination in accordance with §14. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement, and shall include, to the extent practicable, the public interest justification for the termination.
ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Grantee shall be subject to the rights and obligations set forth in §12.A.i.a.

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than sixty percent (60%) completed, as determined by the State, the State may reimburse Grantee for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Grantee which are directly attributable to the uncompleted portion of Grantee’s obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

F. Grantee’s Termination Under Federal Requirements

Grantee may request termination of this Grant by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Grant is terminated in this manner, then Grantee shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

A. “Agreement” means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.

B. “Award” means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.

C. “Breach of Agreement” means the failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within thirty (30) days after the institution of such proceeding, shall also constitute a breach. If Grantee is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Agreement, then such debarment or suspension shall constitute a breach.

D. “Budget” means the budget for the Work described in Exhibit B, §5.2.
E. “Business Day” means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1), C.R.S.

F. “CJI” means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.

G. “CORA” means the Colorado Open Records Act, §§24-72-200.1, et seq., C.R.S.

H. “Effective Date” means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature for this Agreement.

I. “End of Term Extension” means the time period defined in §2.D.

J. “Exhibits” means the exhibits and attachments included with this Contract as shown on the Cover Page for this Agreement.

K. “Extension Term” means the time period defined in §2.C.

L. “Federal Award” means an award of Federal financial assistance or a cost-reimbursement contract, under the Federal Acquisition Regulations or by a formula or block grant, by a Federal Awarding Agency to the Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

M. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient. The United States Department of Housing and Urban Development is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.

N. “Goods” means any movable material acquired, produced, or delivered by Grantee as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.

O. “Grant Funds” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.

P. “Incident” means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, et seq., C.R.S. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
Q. “Initial Term” means the time period defined in §2.B.

R. “Matching Funds” means the funds provided Grantee as a match required to receive the Grant Funds.

S. “Party” means the State or Grantee, and “Parties” means both the State and Grantee.

T. “PCI” means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.

U. “PII” means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501, C.R.S.

V. “PHI” means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.

W. “Project” means the overall project described in Exhibit B including, without limitation, the Work and the Services.

X. “Subject Property” means real property that Grant Funds are used to acquire; or to which Grant Funds are used to make on-site improvements; or on which Grant Funds are used to construct, rehabilitate, clear or demolish improvements.

Y. “Recipient” means the State agency shown on the Signature and Cover Page of this Agreement, for the purposes of this Federal Award.

Z. “Services” means the services to be performed by Grantee as set forth in this Agreement, and shall include any services to be rendered by Grantee in connection with the Goods.

AA. “State Confidential Information” means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by
Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

BB. “State Fiscal Rules” means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13) (a), C.R.S.

CC. “State Fiscal Year” means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.

DD. “State Records” means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.

EE. “Subcontractor” means third-parties, if any, engaged by Grantee to aid in performance of the Work. “Subcontractor” also includes sub-grantees of grant funds.

FF. “Subrecipient” means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program, but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency. For the purposes of this Agreement, Grantee is a Subrecipient.

GG. “Tax Information” means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax Information includes, but is not limited to all information defined as federal tax information in Internal Revenue Service Publication 1075.


II. “Work” means the Goods delivered and Services performed pursuant to this Agreement.

JJ. “Work Product” means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, information, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.
4. STATEMENT OF WORK

Grantee shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit B. The State shall have no liability to compensate Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

5. PAYMENTS TO GRANTEE

A. Maximum Amount

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Agreement that exceeds the Agreement Maximum for each State Fiscal Year shown on the Cover Page of this Agreement.

B. Payment Procedures

i. Invoices and Payment

a. The State shall pay Grantee in the amounts and in accordance with the schedule and other conditions set forth in Exhibit B. Satisfactory performance of the terms of this Agreement is a condition precedent to the State’s obligation to pay Grantee.

b. Grantee shall initiate payment requests by invoice to the State, in a form and manner approved by the State.

c. The State shall pay each invoice within forty-five (45) days following the State’s receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Grantee and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Grantee shall make all changes necessary to correct that invoice.

d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under this Agreement.

ii. Interest

Amounts not paid by the State within forty-five (45) days of the State’s acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of one percent (1%) per month, as required by §24-30-202(24) (a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Grantee shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of day’s interest to be paid and the interest rate.

iii. Payment Disputes

If Grantee disputes any calculation, determination or amount of any payment, Grantee shall notify the State in writing of its dispute within thirty (30) days following the earlier to occur of Grantee’s receipt of the payment or notification.
of the determination or calculation of the payment by the State. The State will review the information presented by Grantee and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State’s review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. **Available Funds-Contingency-Termination**

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Grantee beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State’s obligation to pay Grantee shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State’s liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in §2.E.

v. **Federal Recovery**

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. **Matching Funds**

Grantee shall provide Matching Funds as provided in Exhibit B. Grantee shall have raised the full amount of Matching Funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Grantee’s obligation to pay all or any part of any matching funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Grantee and paid into Grantee’s treasury or bank account. Grantee represents to the State that the amount designated “Grantee’s Matching Funds” in Exhibit B has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Grantee does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee’s laws or policies.
D. Payment of Grantee Costs.

The State shall pay Grantee’s allowable costs, not exceeding the maximum total amount described in Exhibit B and §5.A for all allowable costs described in this Grant and shown in the Budget in Exhibit B, except that Grantee may adjust the amounts between each line item of the Budget as provided for in §5.3 of Exhibit B, without formal modification to this Agreement as long as the Grantee provides notice to the State of the change, the change does not modify the total maximum amount of this Agreement or the maximum amount for any state fiscal year, and the change does not modify any requirements of the Work. The State shall reimburse Grantee for the federal share of properly documented allowable costs related to the Work after review and approval thereof, subject to the provisions of this Agreement and Exhibit B. However, any costs incurred by Grantee prior to the Effective Date shall not be reimbursed absent specific allowance of pre-agreement costs pursuant to §5.2.4 of Exhibit B. Grantee’s costs for Work performed after the Fund Expenditure End Date shown on the Cover Page for this Agreement, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. The State shall only reimburse allowable costs described in this Agreement and shown in the Budget if those costs are:

i. Reasonable and necessary to accomplish the Work and for the Goods and Services provided; and

ii. Equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

E. Close-Out

DOLA shall not release final payment until Grantee has met its close-out obligations, which include, without limitation, completion of the Project, and compliance with all monitoring reporting requirements. Grantee shall close out this Award within forty-five (45) days after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement. To complete close-out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Agreement and Grantee’s final reimbursement request or invoice. The State may withhold 5%-10% of allowable costs until all final documentation has been submitted and accepted by the State as complete. If the Federal Awarding Agency has not closed this Federal Award within one year and 90 days after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement due to Grantee’s failure to submit required documentation, then Grantee may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

6. REPORTING - NOTIFICATION

A. Periodic Reports

In addition to any reports required pursuant to §§6, 7 & 16 of this Agreement, Grantee shall comply with all reporting requirements of Exhibit B.

B. Litigation Reporting

If Grantee is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or
document relates to this Agreement or may affect Grantee’s ability to perform its obligations under this Agreement, Grantee shall, within ten (10) days after being served, notify the State of such action and deliver copies of such pleading or document to the State’s principal representative identified on the Cover Page.

C. **Performance and Final Status**

Grantee shall submit all financial, performance and other reports to the State as provided in §7 of Exhibit B.

D. **Violations Reporting**

Grantee shall immediately notify the State in writing, as provided in §14, of any civil lawsuit, criminal charge or notice of violation, currently pending, hereinafter filed or entered in a court of law, against Grantee, a principal of Grantee, the Responsible Administrator, or Other Key Personnel identified in §§4.1 and 4.2 of Exhibit B, involving theft, fraud, bribery, gratuity violations, embezzlement, professional negligence or malfeasance. The State or the Federal Awarding Agency may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

7. **GRANTEE RECORDS**

A. **Maintenance**

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records for a period (the “Record Retention Period”) of six (6) years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Grantee in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property.

B. **Inspection**

Grantee shall permit the State, the federal government, and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and transcribe Grantee Records during the Record Retention Period. Grantee shall make Grantee Records available during normal business hours at Grantee’s office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two (2) Business Days’ notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.
C. Monitoring

The State will monitor Grantee’s performance of its obligations under this Agreement using procedures as determined by the State. The federal government and any other duly authorized agent of a governmental agency, in its discretion, may monitor Contractor’s performance of its obligations under this Agreement using procedures as determined by that governmental entity. Grantee shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State’s risk analysis of Grantee and this Agreement. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Grantee’s performance in a manner that does not unduly interfere with Grantee’s performance of the Work.

D. Final Audit Report

Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee’s records that relates to or affects this Agreement or the Work, whether the audit is conducted by Grantee or a third party. Additionally, if Grantee is required to perform a single audit under 2 CFR 200.501, et seq., then Grantee shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Grantee shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Grantee shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law or approved in Writing by the State. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. If Grantee or any of its Subcontractors will or may receive the following types of data, Grantee or its Subcontractors shall provide for the security of such data according to the following: (i) the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Agreement as an Exhibit, if applicable, (ii) the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, (iii) the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and (iv) the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Agreement, if applicable. Grantee shall immediately forward any request or demand for State Records to the State’s principal representative.

B. Other Entity Access and Nondisclosure Agreements

Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State
Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions.

C. **Use, Security, and Retention**

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee’s reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. **Incident Notice and Remediation**

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Grantee can establish that none of Grantee or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Grantee shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan, in its sole discretion and Grantee shall make all modifications as directed by the State. If Grantee cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Grantee shall reimburse the State for the reasonable costs thereof.

E. **Safeguarding PII**

If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a “Third-Party Service Provider” as defined in §24-73-
103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101, et seq., C.R.S.

F. Health Insurance Portability and Accountability Act of 1996 (HIPAA)

DOLA is not a covered entity under HIPAA for purposes of this Grant. If the Grantee is a covered entity under HIPAA, it shall comply with the requirements of HIPAA, and in all instances shall comply with all other federal and state laws protecting the confidentiality of patient information.

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Agreement. Such a conflict of interest would arise when a Grantee or Subcontractor’s employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement.

B. Apparent Conflicts of Interest

Grantee acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State’s interests. Absent the State’s prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee’s obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State’s consideration. Failure to promptly submit a disclosure statement or to follow the State’s direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

10. INSURANCE

Grantee shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the State.

A. Workers’ Compensation

Workers’ compensation insurance as required by state statute, and employers’ liability insurance covering all Grantee or Subcontractor employees acting within the course and scope of their employment.
B. **General Liability**

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

i. $1,000,000 each occurrence;

ii. $1,000,000 general aggregate;

iii. $1,000,000 products and completed operations aggregate; and

iv. $50,000 any one (1) fire.

C. **Automobile Liability**

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of $1,000,000 each accident combined single limit.

D. **Cyber/Network Security and Privacy Liability**

This section ☐ shall | ☑ shall not apply to this Grant.

Liability insurance covering civil, regulatory, and statutory damages, contractual damages, data breach management exposure, and any loss of income or extra expense as a result of actual or alleged breach, violation, or infringement of right to privacy, consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

i. $1,000,000 each occurrence; and

ii. $2,000,000 general aggregate.

E. **Professional Liability Insurance**

This section ☐ shall | ☑ shall not apply to this Grant.

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

i. $1,000,000 each occurrence; and

ii. $1,000,000 general aggregate.

F. **Crime Insurance**

Crime insurance including employee dishonesty coverage with minimum limits as follows:

i. $1,000,000 each occurrence; and

ii. $1,000,000 general aggregate.

G. **Umbrella Liability Insurance**

For construction projects exceeding $10,000,000, Grantee and Subcontractors shall maintain umbrella/excess liability insurance on an occurrence basis in excess of the underlying insurance described in §10.A through §10.E above. Coverage shall follow the terms of the underlying insurance, included the additional insured and waiver of
subrogation provisions. The amounts of insurance required in subsections above may be satisfied by the Grantee and Subcontractor purchasing coverage for the limits specified or by any combination of underlying and umbrella limits, so long as the total amount of insurance is not less than the limits specified in each section previously mentioned. The insurance shall have a minimum amount of $5,000,000 per occurrence and $5,000,000 in the aggregate.

H. **Property Insurance**

If Grant Funds are provided for the acquisition, construction, or rehabilitation of real property, insurance on the buildings and other improvements now existing or hereafter erected on the premises and on the fixtures and personal property included in the Subject Property against loss by fire, other hazards covered by the so called “all risk” form of policy and such other perils as State shall from time to time require with respect to properties of the nature and in the geographical area of the Subject Properties, and to be in an amount at least equal to the replacement cost value of the Subject Property. Grantor will at its sole cost and expense, from time to time and at any time, at the request of State provide State with evidence satisfactory to State of the replacement cost of the Subject Property.

I. **Flood Insurance**

If the Subject Property or any part thereof is at any time located in a designated official flood hazard area, flood insurance insuring the buildings and improvements now existing or hereafter erected on the Subject Property and the personal property used in the operation thereof in an amount equal to the lesser of the amount required for property insurance identified in §10.H above, or the maximum limit of coverage made available with respect to such buildings and improvements and personal property under applicable federal laws and the regulations issued thereunder.

J. **Builder’s Risk Insurance**

This section □ shall | ☑ shall not apply to this Grant.

Grantee and/or Subcontractor shall purchase and maintain property insurance written on a builder’s risk “all-risk” or equivalent policy form in the amount of the initial construction/rehabilitation costs, plus value of subsequent modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the property owner has an insurable interest in the property.

i. The insurance shall include interests of the property owner, Grantee, and Subcontractors in the Project as named insureds.

ii. All associated deductibles shall be the responsibility of the Grantee, and Subcontractor. Such policy may have a deductible clause but not to exceed $10,000.
iii. Property insurance shall be on an “all risk” or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Grantee’s and Subcontractor’s services and expenses required as a result of such insured loss.

iv. Builders Risk coverage shall include partial use by Grantee and/or property owner.

v. The amount of such insurance shall be increased to include the cost of any additional work to be done on the Project, or materials or equipment to be incorporated in the Project, under other independent contracts let or to be let. In such event, Subcontractor shall be reimbursed for this cost as his or her share of the insurance in the same ratio as the ratio of the insurance represented by such independent contracts let or to be let to the total insurance carried.

K. Pollution Liability Insurance

If Grantee and/or its Subcontractor is providing directly or indirectly work with pollution/environmental hazards, they must provide or cause those conducting the work to provide Pollution Liability Insurance coverage. The Pollution Liability policy must include contractual liability coverage. The policy limits shall be in the amount of $1,000,000 with maximum deductible of $25,000 to be paid by the Grantee’s Subcontractor.

L. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Grantee and Subcontractors.

M. Primacy of Coverage

Coverage required of Grantee and each Subcontractor shall be primary over any insurance or self-insurance program carried by Grantee or the State.

N. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Grantee and Grantee shall forward such notice to the State in accordance with §14 within seven (7) days of Grantee’s receipt of such notice.

O. Subrogation Waiver

All commercial insurance policies secured or maintained by Grantee or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.
P. Public Entities

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §§24-10-101, et seq., C.R.S. (the “GIA”), Grantee shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Grantee shall ensure that the Subcontractor maintain at all times during the terms of this Grantee, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor’s obligations under the GIA.

Q. Certificates

For each commercial insurance plan provided by Grantee under this Agreement, Grantee shall provide to the State certificates evidencing Grantee’s insurance coverage required in this Agreement within seven (7) Business Days following the Effective Date. Grantee shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following the Effective Date, except that, if Grantee’s subcontract is not in effect as of the Effective Date, Grantee shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following Grantee’s execution of the subcontract. No later than fifteen (15) days before the expiration date of Grantee’s or any Subcontractor’s coverage, Grantee shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Grantee shall, within seven (7) Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

11. BREACH OF AGREEMENT

In the event of a Breach of Agreement, the aggrieved Party shall give written notice of Breach of Agreement to the other Party. If the notified Party does not cure the breach, at its sole expense, within thirty (30) days after the delivery of written notice, the Party may exercise any of the remedies as described in §12 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in this Agreement in order to protect the public interest of the State; or if Grantee is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Agreement in whole or in part or institute any other remedy in this Agreement as of the date that the debarment or suspension takes effect.

12. REMEDIES

A. State’s Remedies

If Grantee is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in §11, shall have all of the remedies listed in this section in addition to all other remedies set forth in this
Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. **Termination for Breach**

In the event of Grantee’s uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Additionally, if Grantee fails to comply with any terms of the Federal Award, then the State may, in its discretion or at the direction of a Federal Awarding Agency, terminate this entire Agreement or any part of this Agreement. Grantee shall continue performance of this Agreement to the extent not terminated, if any.

a. **Obligations and Rights**

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Grantee shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Agreement’s terms. At the request of the State, Grantee shall assign to the State all of Grantee’s rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee but in which the State has an interest. At the State’s request, Grantee shall return materials owned by the State in Grantee’s possession at the time of any termination. Grantee shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State’s request.

b. **Payments**

Notwithstanding anything to the contrary, the State shall only pay Grantee for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Grantee was not in breach or that Grantee’s action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under §2.E.

c. **Damages and Withholding**

Notwithstanding any other remedial action by the State, Grantee shall remain liable to the State for any damages sustained by the State in connection with any breach by Grantee, and the State may withhold payment to Grantee for the purpose of mitigating the State’s damages until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due Grantee as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.
ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance
Suspend Grantee’s performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Grantee to an adjustment in price or cost or an adjustment in the performance schedule. Grantee shall promptly cease performing Work and incurring costs in accordance with the State’s directive, and the State shall not be liable for costs incurred by Grantee after the suspension of performance.

b. Withhold Payment
Withhold payment to Grantee until Grantee corrects its Work.

c. Deny Payment
Deny payment for Work not performed, or that due to Grantee’s actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal
Demand immediate removal of any of Grantee’s employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State’s best interest.

e. Intellectual Property
If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Grantee shall, as approved by the State (i) secure that right to use such Work for the State and Grantee; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

f. Technical Assistance
State may elect to conduct on-site monitoring and work closely with Grantee until the Project is back on schedule. State shall provide prior written notice to Grantee if its elects to conduct on-site monitoring, which shall be conducted during normal business hours and shall not unduly disrupt Grantee’s business operations.
B. **Grantee’s Remedies**

If the State is in breach of any provision of this Agreement and does not cure such breach, Grantee, following the notice and cure period in §11 and the dispute resolution process in §13 shall have all remedies available at law and equity.

13. **DISPUTE RESOLUTION**

A. **Initial Resolution**

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Grantee for resolution.

B. **Resolution of Controversies**

If the initial resolution described in §13.A fails to resolve the dispute within ten (10) Business Days, Grantee shall submit any alleged breach of this Agreement by the State to the Procurement Official of the Department of Local Affairs as described in §24-101-301(30), C.R.S. for resolution following the same resolution of controversies process as described in §§24-106-109, C.R.S. and §§24-109-101.1 through 24-109-505, C.R.S. (the “Resolution Statutes”), except that if Grantee wishes to challenge any decision rendered by the Procurement Official, Grantee’s challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, in the same manner as described in the Resolution Statutes before Grantee pursues any further action. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations regardless of whether the Colorado Procurement Code applies to this Agreement.

14. **NOTICES AND REPRESENTATIVES**

Each individual identified as a Principal Representative on the Cover Page for this Agreement shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party’s principal representative at the address set forth on the Cover Page for this Agreement or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Agreement. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party’s principal representative at the address set forth on the Cover Page for this Agreement. Either Party may change its principal representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative, by notice submitted in accordance with this section without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.
15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

i. Copyrights
   [Reserved].

ii. Patents
   [Reserved].

iii. Assignments and Assistance
   Whether or not Grantee is under contract with the State at the time, Grantee shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. Grantee assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, “State Materials”). Grantee shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Grantee’s obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Grantee shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Grantee

Grantee retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Grantee including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Grantee under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, “Grantee Property”). Grantee Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

16. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Grantee under this Agreement is $100,000 or greater, either on the Effective Date or at any time thereafter, this section shall apply. Grantee agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-
106, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of Agreement performance information in the State’s Agreement management system (“Contract Management System” or “CMS”). Grantee’s performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

17. **RESTRICTIONS ON PUBLIC BENEFITS**

Grantee shall confirm that any individual natural person is lawfully present in the United States pursuant to 8 U.S.C. §§1601, *et seq.*, when such individual applies for public benefits provided under this Grant by requiring the applicant to:

A. Produce a verification document in accordance with 62 Fed. Reg. 221 (November 17, 1997), pp. 61,363 - 61,371; and,

B. Execute a Residency Declaration, attached as Form 1, or a substantially similar form as determined by the State.

18. **GENERAL PROVISIONS**

A. **Applicable Laws**

At all times during the performance of this Grant, Grantee shall comply with all applicable Federal and State laws and their implementing regulations, currently in existence and as hereafter amended including, without limitation, those set forth on **Exhibit A**, Applicable Laws. Grantee also shall require compliance with such laws and regulations by Subcontractors under subcontracts permitted by this Grant.

B. **Assignment**

Grantee’s rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee’s rights and obligations approved by the State shall be subject to the provisions of this Agreement.

C. **Subcontracts**

Grantee shall not enter into any subgrant or subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Grantee shall submit to the State a copy of each such subgrant or subcontract upon request by the State. All subgrants and subcontracts entered into by Grantee in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement. If the entity with whom Grantee enters into a subcontract or subgrant would also be considered a Subrecipient, then the subcontract or subgrant entered into by Grantee shall also contain provisions permitting both Grantee and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.
D. **Binding Effect**

Except as otherwise provided in §17.B and Exhibit B, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties’ respective successors and assigns.

E. **Authority**

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party’s obligations have been duly authorized.

F. **Captions and References**

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

G. **Counterparts**

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

H. **Entire Understanding**

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

I. **Digital Signatures**

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

J. **Jurisdiction and Venue**

[Reserved].

K. **Modification**

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the Colorado State Controller.
i. **By the Parties**

If either the State or the Grantee desires to modify the Agreement Maximum Amount, make budget adjustments and/or change the term of the Agreement, this may be achieved unilaterally by DOLA through an Option Letter, in form substantially similar to **Exhibit G**, properly executed and approved in accordance with applicable State laws, regulations, and policies.

Modifications other than by Option Letter shall not take effect unless agreed to in writing by both parties in an amendment to this Agreement properly executed and approved in accordance with State laws, regulations, and policies.

ii. **By Operation of Law**

This Agreement is subject to such modifications as may be required by changes in Federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Agreement on the effective date of such change, as if fully set forth herein.

iii. **Items not Requiring Modification - Consents**

Where the terms of this Agreement require the Grantee to obtain the consent of the Division of Housing, the Division Director or their delegate shall be authorized to provide such consent.

L. **Statutes, Regulations, Fiscal Rules, and Other Authority**

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

M. **External Terms and Conditions**

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Grantee’s or a Subcontractor’s website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

N. **Severability**

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of this Agreement.

O. **Survival of Certain Agreement Terms**

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

P. **Taxes**

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-
730123K) and from State and local government sales and use taxes under §§39-26-704(1), et seq., C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Grantee. Grantee shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Grantee may wish to have in place in connection with this Agreement.

Q. Third Party Beneficiaries

Except for the Parties’ respective successors and assigns described in §18.B, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement, and do not create any rights for such third parties.

R. Waiver

A Party’s failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

S. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

T. Standard and Manner of Performance

Grantee shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Grantee’s industry, trade, or profession.

U. Licenses, Permits, and Other Authorizations

Grantee shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

V. Indemnification

i. General Indemnification

Grantee shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the “Indemnified Parties”), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to
any act or omission by Grantee, or its employees, agents, Subcontractors, or assignees in connection with this Agreement.

ii. **Confidential Information Indemnification**

Disclosure or use of State Confidential Information by Grantee in violation of §8 may be cause for legal action by third parties against Grantee, the State, or their respective agents. Grantee shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys’ fees and costs) incurred by the State in relation to any act or omission by Grantee, or its employees, agents, assigns, or Subcontractors in violation of §8.

iii. **Intellectual Property Indemnification**

Grantee shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys’ fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

W. **Compliance with State and Federal Law, Regulations, and Executive Orders**

Grantee shall comply with all State and Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Grant.

X. **Accessibility**

Grantee shall comply with and adhere to Section 508 of the U.S. Rehabilitation Act of 1973, as amended, and §§24-85-101, *et seq.*, C.R.S. Grantee shall comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards and available at https://www.w3.org/TR/WCAG21/.

19. **COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)**

These Special Provisions apply to all agreements except where noted in italics.

A. **Statutory Approval. §24-30-202(1), C.R.S.**

This Agreement shall not be valid until it has been approved by the Colorado State Controller or designee. If this Agreement is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Agreement shall not be valid until it has been approved by the State’s Chief Information Officer or designee.

B. **Fund Availability. §24-30-202(5.5), C.R.S.**

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
C. **Governmental Immunity.**

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State’s risk management statutes, §§24-30-1501, *et seq.*, C.R.S. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. **Independent Contractor.**

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees.** Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Grantee shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

E. **Compliance with Law.**

Grantee shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. **Choice of Law, Jurisdiction and Venue.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. **Prohibited Terms.**

Any term included in this Agreement that requires the State to indemnify or hold Grantee harmless; requires the State to agree to binding arbitration; limits Grantee’s liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Agreement shall be construed as a waiver of any provision of §24-106-109 C.R.S.
H. Software Piracy Prohibition.

State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Agreement and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. Employee Financial Interest/Conflict of Interest. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee’s services and Grantee shall not employ any person having such known interests.

J. Vendor Offsets and Erroneous Payments. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State’s vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, et seq., C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State’s discretion, payments made to Grantee in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Grantee by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Grantee, or by any other appropriate method for collecting debts owed to the State.

K. Public Service Contracts. §§8-17.5-101, et seq., C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Grantee certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Grantee shall not knowingly employ or contract...
with an illegal alien to perform work under this Agreement or enter into a contract with a Subcontractor that fails to certify to Grantee that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Grantee (i) shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment (“Department Program”) to undertake pre-employment screening of job applicants while this Agreement is being performed, (ii) shall notify the Subcontractor and the contracting State agency or institution of higher education within 3 days if Grantee has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Agreement, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Grantee participates in the Department program, Grantee shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Grantee fails to comply with any requirement of this provision or §§8-17.5-101, et seq., C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Agreement for breach and, if so terminated, Grantee shall be liable for damages.

L. Public Contracts with Natural Persons. §§24-76.5-101, et seq., C.R.S.

Grantee, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Grantee (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of §§24-76.5-101, et seq., C.R.S., and (iii) has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Agreement.

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EXHIBIT A –
APPLICABLE LAWS

Laws, regulations, and authoritative guidance incorporated into this Grant include, without limitation:

2. 24 CFR Part 570, Community Development Block Grants.
3. State of Colorado Community Development Block Grant (CDBG) Guidebook, available on DOLA’s website.
4. 24 CFR Parts 0-91 Housing and Urban Development.
5. 24 CFR Subtitle B, Chapter I – XXV, HUD.
7. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
8. CRS §29-1-601 et seq., Local Government Audit Law.
10. CRS §24-32-705(1)(i) – DOH ability to accept and receive grants
11. 16 USC §469 et seq., Historic Preservation
12. 2 USC Chapter 26, Disclosure of Lobbying Activities.
13. 5 USC §552a, Public Information; agency rules, opinions, order, records and proceedings (Privacy Act 1974).
14. 8 USC §1101-1646, Immigration and Nationality.
15. 12 USC §§1701- 1701z-15, National Housing Act.
17. 16 USC Chapters 1-92, Conservation.
18. 16 USC §469 et seq., Historic Preservation
19. 16 USC §1531 et seq., Endangered Species
20. 16 USC §1271 et seq., Wild and Scenic Rivers
21. 20 USC Chapter 38, Discrimination Based on Sex or Blindness (Title IX, as amended, Education Amendment of 1972).
22. 29 USC Chapter 8, §§201, 206, et seq., as amended, Labor.
23. 29 USC Chapter 14 Age Discrimination in Employment.
24. 29 USC Chapter 16, §§793-794, et seq., as amended, Vocational Rehabilitation and Other Rehabilitation Services.
25. 31 USC Subtitles I – VI, Money and Finance.
27. 40 USC Subtitle II, Public Buildings and Works.
28. 40 USC §§ 3141 – 3148, Wage Rate Requirements (Davis Bacon).
30. 40 CFR Parts 1500-1508, Council on Environmental Quality (Regulations Implementing NEPA).
33. 41 USC Chapter 81, Drug Free Workplace.
34. 42 USC Chapter 6A, Public Health Service.
35. 42 USC Chapter 21, Civil Rights.
36. 42 USC Chapter 45 Fair Housing.
37. 42 USC Chapter 50, National Flood Insurance.
38. 42 USC Chapter 55, National Environmental Policy.
39. 42 USC Chapter 63, Lead-Based Paint Poisoning Prevention.
40. 42 USC Chapter 69, Community Development.
41. 42 USC Chapter 76, Age Discrimination in Federally Assisted Programs.
42. 42 USC Chapter 85, Air Pollution Prevention and Control.
43. 42 USC Chapter 89, Congregate Housing Services.
44. 42 USC Chapter 126, Equal Opportunity for Individuals with Disabilities.
45. 42 USC Chapter 130, National Affordable Housing.
46. 42 USC §§300f – 300j-26, Safe Drinking Water
47. 49 CFR Part 24, as amended, Uniform Relocation Assistance and Real Property for Federal and Federally Assisted Programs.
48. CRS §24-34-301, et seq., Colorado Civil Rights Division.
49. CRS §24-34-501, et seq. Housing Practices.
50. CRS §24-75-601 et seq., Legal Investment of Public Funds.
51. Executive Order 11063, HUD Equal Opportunity in Housing, as amended by Executive Order 12259, Leadership and Coordination of Fair Housing in Federal Programs.
52. Executive Order 11593, Protection and Enhancement of the Cultural Environment.
53. Executive Order 11988, Floodplain Management.
54. Executive Order 11990, Protection of Wetlands
57. Compliance with all applicable standards, orders, or requirements issued pursuant to section 508 of the Clean Water Act (33 USC §1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15). (Applicable to contracts, subcontracts, and subgrants of amounts in excess of $100,000).
EXHIBIT B –
STATEMENT OF PROJECT

1. GENERAL

1.1 Project Description. Grant funds are being provided to the counties of Archuleta, Dolores, Montezuma, La Plata, and San Juan, for use in its Down Payment Assistance (“DPA”) program. The Grant funds are expected to serve approximately Eighty Two (82) households that reside in the Service Area identified in §3.2 and have annual income equal to or less than Eighty percent (80%) of AMI. The Grant funds shall be used to support new mortgage down payment assistance loans, and program overhead and project delivery costs, which are limited to costs allowed under HCDA 105(a)(13) Rehabilitation services. HomesFund provides homebuyer education classes and operates in accordance with CDOH Revolving Fund guidelines. This Agreement is expected to last for three years. Funding will be provided in three tranches of approximately $460,900, $753,000, and $667,500. Funding for the second and third tranche is contingent upon availability of funds and grantee/program performance.

1.2 Eligibility. This project is eligible under the Housing and Community Development Act (HCDA) Section(s) 105(a)(13) and (24).

1.3 Responsibilities. Grantee is responsible for completion of the Project, administration of this Grant, and providing all required documentation to the State as specified herein.

1.3.1 Grantee shall enter into a Subcontract with HomesFund (Subgrantee), to carry out the proposed project activities. The Subcontract shall contain a provision prohibiting transfer, assignment or further subcontracting of the Subcontract without the prior, written approval of DOLA.

1.3.2 Individuals who receive direct benefits under this Agreement (i.e. program Beneficiaries).

1.4 Time of Performance. Grantee shall commence performance of its obligations on the Agreement Performance Beginning Date and complete its obligations on or before the Initial Agreement Expiration Date, both of which are listed on the Cover Page of the Grant Agreement. Time of Performance may be extended in accordance with §2C, §2D, or §18K of the Grant Agreement. To initiate the extension process, Grantee shall submit a written request to DOH Asset Manager at least 60 days prior to the Initial Agreement Expiration Date, and shall include a full justification for the extension request.

2. DEFINITIONS

The following definitions are in addition to definitions appearing in the main Grant Agreement and other Exhibits.
2.1 Affordable Rents. [Reserved].

2.2 HUD. “HUD” is the United States Department of Housing and Urban Development.

2.3 Low- and Moderate-Income Persons. “Low- and Moderate-Income Persons” are:

- Those persons who are members of households whose combined incomes are at or below 80% of area median income as set forth in Exhibit D, as may be amended by HUD and which shall be posted by HUD on its website, or
- Those persons who reside in areas that have been determined by HUD, based upon most recent Census data, to be at or below 80% of area median income areas, as further specified in §3.3.1 below, or
- Those persons belonging to clientele groups (as such term is defined by HUD) who are presumed by HUD to be at or below 80% of area median income, as further specified in §3.3.1 below.

2.4 National Objective. “National Objective” means those objectives approved by HUD and listed in §3.3.

2.5 Non-entitlement Area. “Non-entitlement Area” means an area which is not a “metropolitan city” or part of an “urban county” and does not include “Indian tribes” (as such terms are defined in 42 USC §5302(a)).

2.6 Other Funds. “Other Funds” means funding provided or to be provided by other federal, state, local or private sources for the Project. Other Funds are good faith estimates and do not include Grant Funds.

2.7 Pre-contract Costs. “Pre-contract Costs” are those costs specifically authorized as pre-contract costs by DOLA and which are specifically authorized by the federal funding source.

2.8 Principal Residence. “Principal Residence” means a dwelling that the Borrower maintains or will maintain as their permanent place of abode, and which the Borrower typically occupies or will occupy for the majority of the calendar year.

2.9 Program Income. “Program Income” shall have the meaning given in 24 CFR §570.489(e).

2.10 Substantial Completion. “Substantial Completion” means closing of the last of the loans contemplated in the Project Description in §1.1.

3. DELIVERABLES

3.1 Outcome. Project completion in accordance with the terms of Grantee’s grant application, the performance measures set forth below and the other terms and conditions of the Grant Agreement.
### 3.2 Performance Measures
Grantee shall comply with the following Milestones and Targets:

<table>
<thead>
<tr>
<th>Milestone / Grantee shall:</th>
<th>Target Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Close 7 Down Payment Assistance loans each quarter</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Submit Environmental Site Specific Checklist or Regulatory Checklist for each applicant prior to approval of loan</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Submit Quarterly Financial Status Report</td>
<td>Per §7.4.1</td>
</tr>
<tr>
<td>Submit Quarterly Performance Report</td>
<td>Per §7.4.2</td>
</tr>
<tr>
<td>Submit Project Completion Report</td>
<td>Per §7.4.4</td>
</tr>
</tbody>
</table>

### 3.3 Service Area
The performance of services for this Grant shall occur in: Archuleta, Dolores, Montezuma, La Plata, and San Juan counties (the “Service Area”). The Service Area must qualify as a Non-entitlement Area.

### 3.4 National Objective
As determined by the State, Grantee shall present documentation to demonstrate compliance by the Project with the National Objective identified below during the term of this Grant:

- [ ] Area Benefit Activities: This Project meets the National Objective of benefit to Low- and Moderate-Income Persons as required in 24 CFR §570.483(b)(1).
- [x] Homeownership Assistance: This Project meets the National Objective of benefit to Low- and Moderate-Income Persons as required in 24 CFR §570.483(b)(3).
- [ ] Planning: This Project meets the National Objective of benefit to Low- and Moderate-Income Persons as required in 24 CFR §570.483(b)(5).
- [ ] Public Services, Area Benefit: This Project meets the National Objective of benefit to Low- and Moderate- Income Persons as required in 24 CFR §570.483(b)(1).
- [ ] Public Services, Limited Clientele: This Project meets the National Objective of benefit to Low- and Moderate- Income Persons as required in 24 CFR §570.483(b)(2).
- [ ] Rental Housing: This Project meets the National Objective of benefit to Low- and Moderate-Income Persons as required in 24 CFR §570.483(b)(3).

### 4. KEY PERSONNEL

#### 4.1 Responsible Administrator
Grantee’s performance hereunder shall be under the direct supervision of the individual identified below, an employee or agent of Grantee, who is hereby designated as a key person and the Responsible Administrator of this project:
Lisa Bloomquist, Executive Director
150 E 9th Street, Suite 207
Durango, CO 81301
email: lisa@homesfund.org

4.2 Other Key Personnel. “None”

4.3 DOH Asset Manager. Baillie Tichy, baillie.tichy@state.co.us

4.4 Replacement Personnel. If any Grantee Key Personnel cease to serve, Grantee shall immediately notify DOH of such event in writing. Replacement of Grantee Key Personnel shall be subject to DOH approval. Requests to replace Grantee Key Personnel shall be made in writing and shall include, without limitation, the name of the person, their qualifications, and the effective date of the proposed change. Notices sent pursuant to this subsection shall be sent in accordance with §14 of the main body of the Agreement, with a copy to DOH Asset Manager. Anytime Grantee Key Personnel cease to serve, the State, at its sole discretion, may direct Grantee to suspend work on the Project until such time as the Grantee proposes a replacement and such replacement is approved by DOH.

5. FUNDING

The amount of funding provided by the State is limited to the Agreement Maximum Amount shown on the Cover Page of the Grant Agreement which is shown for convenience in the table below as “Grant Funds (DOLA)”. The Grant Funds shall be used for activities shown in table in §5.2.3.

5.1 Other Funds. Grantee shall provide all funds necessary to complete the Project. All Sources listed below, other than the Grant Funds and Matching Funds (if any), are good faith estimates.

5.2 Project Budget

5.2.1 Sources.

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grant Funds (DOLA)</td>
<td>$460,900.00</td>
</tr>
<tr>
<td>CDBG PI, HDG, HDG PI, AHIF, CDFI Fund, City of Durango</td>
<td>$7,673,000.00</td>
</tr>
<tr>
<td>First Mortgages (Estimated)</td>
<td>$56,020,000.00</td>
</tr>
<tr>
<td>Closing Costs</td>
<td>$1,960,700.00</td>
</tr>
<tr>
<td>Homebuyer Counseling</td>
<td>$525,000.00</td>
</tr>
<tr>
<td>Project Delivery</td>
<td>$292,300.00</td>
</tr>
<tr>
<td>Program Overhead</td>
<td>$281,750.00</td>
</tr>
<tr>
<td><strong>Total Sources</strong></td>
<td><strong>$67,213,650.00</strong></td>
</tr>
</tbody>
</table>
5.2.2 Uses

<table>
<thead>
<tr>
<th>Use</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>DPA</td>
<td>$66,541,700.00</td>
</tr>
<tr>
<td>Project Delivery</td>
<td>$342,300.00</td>
</tr>
<tr>
<td>Program Overhead</td>
<td>$329,650.00</td>
</tr>
<tr>
<td><strong>Total Uses</strong></td>
<td><strong>$67,213,650.00</strong></td>
</tr>
</tbody>
</table>

5.2.3 Grant Funds (DOLA) Costs eligible for payment with DOLA Grant Funds are limited the items and amounts listed in the table below (subject to any line item adjustments made pursuant to §5.3).

<table>
<thead>
<tr>
<th>Eligible Use</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>DPA</td>
<td>$363,000</td>
</tr>
<tr>
<td>Project Delivery Cost</td>
<td>$50,000</td>
</tr>
<tr>
<td>Program Overhead Cost</td>
<td>$47,900</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$460,900</strong></td>
</tr>
</tbody>
</table>

5.2.4 Pre-Agreement Costs. [Reserved].

5.3 Project Budget Line Item Adjustments. Adjustments made pursuant to this Section cannot increase Grant Funds.

5.3.1 If the table in §5.2.3 lists more than one Eligible Use, Grantee shall have authority to make adjustments between line items, up to an aggregate of 10% of such line item, without the prior approval of the State. Such authority shall not allow Grantee to transfer to or between administration budget lines (i.e. Project Delivery and Program Overhead). Grantee shall send written notification of allowed adjustments to the State within thirty (30) days of such adjustment.

5.3.2 Changes to individual line item amounts in excess of 10% require prior written approval of the DOLA Controller. Grantee shall submit a written request for changes pursuant to this Section to the State. Such request shall include the amount of such request, the reason for the request and any necessary documentation. If the State approves such request, the State may unilaterally execute an Option Letter accepting such request pursuant to §18.K of the Grant Agreement.

6. PAYMENT

Payments to Grantee shall be made in accordance with the provisions of §5 of the Grant Agreement, and this §6 of Exhibit B.

6.1 Payment Schedule. Grantee shall submit all payment requests in a timely manner. Unless otherwise agreed to by DOH, Grantee shall submit payment requests once per
month, on or before the 20th of each month. Eligible expenses incurred by Grantee during any calendar month shall be included in the following month’s pay request. Grantee shall submit payment requests to the DOH Asset Manager listed in §4.3. The DOH Asset Manager shall review the payment request and, if approved, shall submit the pay request to DOLA accounting for its review, approval and payment.

<table>
<thead>
<tr>
<th>Payment</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interim Payment(s)</td>
<td>$459,900</td>
<td>Paid upon DOLA’s receipt and approval of a written request for payment and expense documentation of eligible costs.</td>
</tr>
<tr>
<td>Final Payment</td>
<td>$1,000</td>
<td>Paid upon DOLA’s receipt and approval of a written request for payment, expense documentation of eligible costs, Beneficiary data, and all required reports.</td>
</tr>
<tr>
<td>Total</td>
<td>$460,900</td>
<td></td>
</tr>
</tbody>
</table>

6.2 **Remittance Address.** If mailed, payments shall be remitted to the following address unless changed in accordance with §14 of the Agreement:

City of Durango, c/o HomesFund  
150 E 9th St, Suite 207  
Durango, CO 81301

6.3 **Interest.** If advance payments are authorized, Grantee or Subgrantee may keep interest earned from Grant Funds up to $500 per year for administrative expenses. All interest earned in excess of $500 shall be remitted to DOLA.

6.4 **Withholding of Payments.** In addition to any other rights that the State has with respect to enforcement of this Agreement, DOH may, at its discretion, withhold its approval of payment requests submitted by Grantee pursuant to §6.1 pending Grantee’s submission and DOH’s review and approval of:

6.4.1 [Reserved].

6.4.2 Any reporting required pursuant to the terms of the main body of the Grant Agreement or this Exhibit B.

7. **ADMINISTRATIVE REQUIREMENTS**

Grantee, a Unit of General Local Government (“UGLG”), shall administer these funds in accordance with the requirements of this Grant, Division of Housing (DOH) Guidelines. Grantee shall comply with the administration requirements set forth in the most recent State Community Development Block Grant (CDBG) Guidebook, or such requirements as may be subsequently amended by the State, which shall be available on DOLA’s website.
7.1 **Accounting.** Grantee shall maintain properly segregated accounts of Grant Funds and Other Funds associated with the Project and make those records available to the State upon request. All receipts and expenditures associated with the Project shall be documented in a detailed and specific manner, in accordance with the Project Budget in §5.2 above.

7.2 **Audit Report.** If an audit is performed on Grantee’s records for any fiscal year covering a portion of the term of this Grant or any other grants/contracts with DOLA, Grantee shall promptly submit the final audit report, including a report in accordance with the Single Audit Act and 2 CFR Part 500, to:

Department of Local Affairs
Accounting & Financial Services
1313 Sherman Street, Room 323
Denver, CO  80203
Or email to: dola.audit@state.co.us,
And baillie.tichy@state.co.us

7.3 **Cost Certification.** [Reserved].

7.4 **Reporting.** In addition to all reporting required pursuant to the terms of the main Agreement, Grantee shall submit to DOLA the reports listed below in a format acceptable to the State. If such reports are not submitted in a timely manner, the State may withhold payments to Grantee as provided in §6 of this Exhibit B.

7.4.1 **Financial Status Report.** Within twenty (20) calendar days of the end of each quarter.

7.4.2 **Performance Reports.** Within twenty (20) calendar days of the end of each quarter.

7.4.3 **Lease-up Report.** [Reserved].

7.4.4 **Project Completion Report.** Within thirty (30) calendar days of Substantial Completion of the Project.

7.4.5 **Davis Bacon Payroll Reports.** [Reserved].

7.4.6 **Program Income.** If this project generates Program Income, Grantee shall submit Program Income reports at least semi-annually, or more frequently if required by the State. These reports shall be submitted in accordance to the reporting requirements in DOLA’s Program Income Guidelines (which are available on DOLA’s website). **THIS PARAGRAPH 7.4.6 SHALL SURVIVE EXPIRATION AND/OR TERMINATION OF THE GRANT FOR AS LONG AS THE GRANTEE RECEIVES PROGRAM INCOME.**
7.5 Monitoring. The State shall monitor this Grant in accordance with its Risk-Based Monitoring Policy (which is available in the Consolidated Plan on DOLA’s website) and §7(B) and §7(C) of the Grant. Final evaluation of the Project will be accomplished when DOLA approves the Project Completion Report.

7.6 Bonds. [Reserved].

7.7 Procurement Standards. Selection of Subcontractors and purchase of materials to accomplish the Project shall follow appropriate procurement standards as outlined in DOLA’s CDBG Guidebook, Financial Management Section (which is available on DOLA’s website).

7.8 Debarment. Grantee shall demonstrate compliance with the below requirements upon request.

7.8.1 Grantee. As a condition of funding, Grantee is actively registered at www.sam.gov, and certifies that it is without active exclusions from eligibility for federal contracts.

7.9 Affirmatively Furthering Fair Housing. As a condition of funding, Grantee submitted a list of actions to affirmatively further fair housing and certifies they have taken and will take such actions. Grantee shall maintain documentation of all actions to affirmatively further fair housing, provide such documentation to DOLA upon request, and report on such actions with the Project Completion Report.

7.9.1 Affirmative Fair Housing Marketing Plan. If five (5) or more housing units are funded in the Project, Grantee shall submit and follow an Affirmative Fair Housing Marketing Plan for the Project in accordance with this Grant. The release of funds under this Grant shall be contingent upon the approval of such plan by the State.

7.10 Minority Outreach. Grantee shall take actions to ensure that minority business enterprises and women business enterprises are used when possible in the procurement of property and services. Consistent with this requirement, Grantee shall prescribe procedures acceptable to the State to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in any subcontracts entered into by the Grantee. Grantee shall maintain documentation of all such actions in its procurement practices, provide this documentation to DOLA upon request, and report outcomes during project monitoring.
7.11 **Davis-Bacon Act.**

This section ☐ shall ☒ shall not apply to this Grant.

If 8 or more housing units are funded by Grant Funds, Grantee shall comply with all the requirements set forth in 24 CFR §570.603 (Labor Standards).

7.12 **Environmental Requirements.** Grantee shall comply with all HUD environmental requirements and shall not obligate Grant Funds prior to compliance with all federal environmental requirements in 24 CFR Part 58 and receipt of the written release of funds from the State.

7.13 **Section 3 of the HUD Act of 1968 and 24 CFR Part 135.**

This section ☐ shall ☒ shall not apply to this Grant.

In accordance with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR Part 135, to the greatest extent feasible, the Grantee shall take action to provide opportunities for training and employment that arise from this HUD-financed project, give preference in hiring to persons in the Project area whose income is equal to or less than 80% of Area Median Income (AMI), and give preference in contracting to businesses in the Project area owned in substantial part by persons, or that substantially employ persons, whose income is equal to or less than 80% of AMI.

Grantee shall maintain documentation of all such actions in its hiring and procurement practices, provide this documentation to DOLA upon request, and report outcomes during project monitoring.

7.14 **Uniform Administrative Requirements.** Grantee shall comply with the requirements of 2 CFR Part 200. To the extent 2 CFR Part 200 conflicts with 24 CFR Part 570, then the requirement of Part 570 shall prevail.

7.15 **The Federal Funding Accountability and Transparency Act of 2006 as Amended 3/20/2013 (FFATA).** The Grantee shall comply with all the requirements of the Federal Funding Accountability and Transparency Act in accordance with the provisions set forth in Exhibit C.

7.16 **Uniform Relocation Act (URA) and Section 104(d).** If this Project includes acquisition, rehabilitation, or demolition, Grantee and Subgrantee are required to follow a Residential Anti-displacement and Relocation Assistance Plan when designing their programs. All permanently displaced, temporarily displaced, and non-displaced residents and tenants must receive required notices detailed in HUD Handbook 1378. Grantee’s obligations related to voluntary and involuntary property acquisition are also provided in HUD Handbook 1378.
7.17 **Conflict of Interest.** If Grantee is a State Recipient or a Subrecipient (see §1.3 above) then the conflict of interest provisions contained in 24 CFR 85.36 and 24 CFR 84.42, respectively, shall apply with respect to the procurement of property and services. In all cases not governed by 24 CFR 85.36 and 84 CFR 84.42, the provisions of 92 CFR 356 shall apply.

7.18 **Eminent Domain.** [Reserved].

7.19 **Civil Rights.** Regardless of Project type, Grantee must comply with civil rights statutes and regulations, including Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (Section 504), Section 109 of Title I of the Housing and Community Development Act of 1974, Title II of the Americans with Disabilities Act of 1990, the Architectural Barriers Act of 1968, and the Age Discrimination Act of 1975. Implementing regulations are cited in Exhibit A. Laws specifically relevant to this Grant include, without limitation, the following:

7.19.1 **Fair Housing Act, as amended.** The Fair Housing Act prohibits discrimination in housing-related transactions based on race, color, national origin, religion, sex, familial status, and disability.

7.19.2 **Section 504, as amended.** Section 504 of the Rehabilitation Act, as amended, provides that no qualified individual with a disability may, only by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

7.19.2.1 **Section 504 Self Evaluation.** Grantee has submitted a Section 504 Self Evaluation and shall revise all policies and procedures identified, which may result in prohibited exclusion or discrimination of disabled persons, to comply with Section 504. Additionally, Grantee shall evaluate reasonable accommodation requests and comply with Section 504 requirements to make such reasonable accommodations that provide disabled individuals equal opportunities to benefit from the Project.

7.20 **Records Retention.** Grantee shall maintain and make available to the State Project records in accordance with §7.A of the Grant and the applicable CDBG program requirements.

7.21 **Single Family Owner-Occupied Housing Rehabilitation Program.** [Reserved].

7.22 **Downpayment Assistance Program.** Downpayment Assistance Programs (“DPA Program”) must have established policies which define the criteria and manner by which the program will be administered and reflect the most current DOH Revolving Loan Fund
Guidelines (which are available on DOLA’s website). As of the Effective Date of this Grant, Grantee shall have received prior written approval from DOLA of its DPA Program policies. If Grantee modifies or changes the approved DPA Program policies or desires to issue new DPA Program policies, Grantee shall submit such changed document to DOLA for approval prior to the effective date of such policies.

The DPA Program policies must include, but not be limited to, program eligibility requirements, allowable costs, CDBG maximum assistance amounts, advisory and loan committee composition and role, use of CDBG funds in conjunction with other funds, collateral requirements, files and reports, accounting, receipt and selection of applications, loan terms, Housing Quality Standards inspections of units, program changes, relocation, conflicts of interest, and grievance/appeal procedures. DPA Program policies must be available for review during the Project monitoring by the State.

8. PROJECT REQUIREMENTS

8.1 Affordability Requirements – Rental. [Reserved].

8.2 Affordability Requirements – TBRA, Homebuyer and Homeowner Rehabilitation.

8.2.1 Eligible Beneficiaries. All households served must have a gross income that does not exceed 80% of AMI. A listing of the incomes for all household sizes is attached as Exhibit D and updated annually on HUD’s website.

8.2.2 CDBG-Assisted Unit Identification. The housing units served with Grant funds shall be designated as CDBG-Assisted units.

8.2.3 Affordability Period. Homeownership. Using the mechanism(s) described at §8.2.4, below, Grantee shall ensure that each home purchased with the assistance of Grant Funds complies with the required Affordability Period specified in the current DOH Revolving Loan Fund Guidelines, which are available on DOLA’s website. The Affordability Period for CDBG is five (5) years. Grantee shall ensure that the CDBG-assisted housing units shall continue to be used to provide housing for Low- and Moderate-Income Persons for five (5) years after written notification that the Project has been closed-out (“Project Close-out Date”). At the end of the Affordability Period, no State restrictions shall remain in effect.

8.2.4 Homebuyer Deed Restriction - Recapture. Homebuyer assistance must be provided in the form of secured debt evidenced by (at a minimum) a promissory note and a deed of trust that continues through the “Affordability Period” specified in §8.2.3. The loan documents shall include the amount of the assistance provided, the Principal Residency requirement, and the requirement that the promissory note is due upon resale or transfer of the property. Copies of the
recorded loan documents evidencing these restrictions must be provided to DOH after the closing.

8.3 **Homeownership Counseling.** Grantee shall ensure that the purchasing household undergoes a minimum of 8 hours of HUD or State-approved homeownership counseling prior to date of closing. Beginning August 1, 2021, Grantee shall ensure that the purchasing household completes homeownership counseling provided by a HUD certified housing counselor at a HUD-approved housing counseling agency prior to the date of closing.

8.4 **Income Eligibility Determination.**

8.4.1 **Initial Determination.** Grantee shall determine annual income of the Project beneficiaries using “Annual Income,” as defined under the public housing and Section 8 programs in 24 CFR Part 5, Subpart F.

8.4.2 **Subsequent Determinations.** [Reserved].

8.4.3 **Program Income.** “Program Income” is defined at 24 CFR 570.489(e). Grantees shall follow the State’s Program Income Guidelines (which are available on DOLA’s website) for the tracking, accounting, and use of Program Income.

9. **PROPERTY STANDARDS**

9.1 **New Construction.** [Reserved].

9.1.1 **Rehabilitation.** [Reserved].

9.1.2 **Downpayment Assistance.** Real property that is part of the Project must meet State and local code requirements at the time of initial occupancy. If no standards exist, then HUD Section 8 Housing Quality Standards for Existing Housing contained in 24 CFR §982.401, which is incorporated by reference, must be used.

9.1.3 **Fair Housing Act (42 USC 3601-20), and Section 504 (29 USC 793), as amended.** [Reserved].

END OF EXHIBIT B
EXHIBIT C -
FEDERAL PROVISIONS

1. APPLICABILITY OF PROVISIONS.

1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.

2. DEFINITIONS.

2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.

2.1.1. “Award” means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.

2.1.1.1. Awards may be in the form of:

2.1.1.1.1. Grants;
2.1.1.1.2. Contracts;
2.1.1.1.3. Cooperative Contracts, which do not include cooperative research and development Contracts (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
2.1.1.1.4. Loans;
2.1.1.1.5. Loan Guarantees;
2.1.1.1.6. Subsidies;
2.1.1.1.7. Insurance;
2.1.1.1.8. Food commodities;
2.1.1.1.9. Direct appropriations;
2.1.1.1.10. Assessed and voluntary contributions; and
2.1.1.1.11. Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

2.1.1.1.12. Any other items specified by OMB in policy memoranda available at the OMB website or other source posted by the OMB.

2.1.2. Award does not include:

2.1.2.1. Technical assistance, which provides services in lieu of money;
2.1.1.2.2. A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;

2.1.1.2.3. Any award classified for security purposes; or

2.1.1.2.4. Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

2.1.2. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: http://fedgov.dnb.com/webform.

2.1.3. “Entity” means all of the following as defined at 2 CFR part 25, subpart C;

2.1.3.1. A governmental organization, which is a State, local government, or Indian Tribe;

2.1.3.2. A foreign public entity;

2.1.3.3. A domestic or foreign non-profit organization;

2.1.3.4. A domestic or foreign for-profit organization; and

2.1.3.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.

2.1.4. “Executive” means an officer, managing partner or any other employee in a management position.

2.1.5. “Federal Award Identification Number (FAIN)” means an Award number assigned by a Federal agency to a Prime Recipient.

2.1.6. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR §200.37

2.1.7. “FFATA” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”

2.1.8. “Federal Provisions” means these Federal Provisions subject to the Transparency Act and Uniform Guidance, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

2.1.9. “Grant” means the Grant to which these Federal Provisions are attached and includes all Award types in §2.1.1.1 of this Exhibit.

2.1.10. “Grantee” means the party or parties to a Grant funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Grantee does not include Vendors.

2.1.11. “OMB” means the Executive Office of the President, Office of Management and Budget.
2.1.12. “Prime Recipient” means a Colorado State agency or institution of higher education that receives an Award.

2.1.13. “Subaward” means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR §200.38. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

2.1.14. “Subrecipient” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee. The term does not include an individual who is a beneficiary of a federal program.

2.1.15. “Subrecipient Parent DUNS Number” means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.

2.1.16. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at http://www.sam.gov.

2.1.17. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:

2.1.17.1. Salary and bonus;

2.1.17.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;

2.1.17.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;

2.1.17.4. Change in present value of defined benefit and actuarial pension plans;

2.1.17.5. Above-market earnings on deferred compensation which is not tax-qualified;

2.1.17.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life
insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds $10,000.

2.1.18. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.

2.1.19. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

2.1.20. “Vendor” means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

3. COMPLIANCE.

3.1. Grantee shall comply with all applicable provisions of the Transparency Act, all applicable provisions of the Uniform Guidance, and the regulations issued pursuant thereto, including but not limited to these Federal Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS.

4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.

4.2. DUNS. Grantee shall provide its DUNS number to its Prime Recipient, and shall update Grantee’s information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Grantee’s information.

5. TOTAL COMPENSATION.

5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:

5.1.1. The total Federal funding authorized to date under the Award is $25,000 or more; and

5.1.2. In the preceding fiscal year, Grantee received:
5.1.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and

5.1.2.2. $25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and

5.1.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

6.1. Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit if Grantee is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee’s obligations under this Grant.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR REPORTING.

7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is $25,000 or more. If the initial Award is below $25,000 but subsequent Award modifications result in a total Award of $25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds $25,000. If the initial Award is $25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below $25,000, the Award shall continue to be subject to the reporting requirements.

7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS.

8.1. If Grantee is a Subrecipient, Grantee shall report as set forth below.

8.1.1. To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM for each Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:

8.1.1.1. Subrecipient DUNS Number;

8.1.1.2. Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;

8.1.1.3. Subrecipient Parent DUNS Number;
8.1.4. Subrecipient’s address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

8.1.5. Subrecipient’s top 5 most highly compensated Executives if the criteria in §4 above are met; and

8.1.6. Subrecipient’s Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

8.1.2. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, upon the effective date of the Grant, the following data elements:

8.1.2.1. Subrecipient’s DUNS Number as registered in SAM.

8.1.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

9. PROCUREMENT STANDARDS.

9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.

9.2. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS

10.1. A Subrecipient shall permit Recipient and auditors to have access to Subrecipient’s records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).

11. SINGLE AUDIT REQUIREMENTS

11.1. If a Subrecipient expends $750,000 or more in Federal Awards during the Subrecipient’s fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
11.1.1. **Election.** A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.

11.1.2. **Exemption.** If a Subrecipient expends less than $750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.

11.1.3. **Subrecipient Compliance Responsibility.** A Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.

12. **GRANT PROVISIONS FOR SUBRECIPIENT CONTRACTS**

12.1. If Grantee is a Subrecipient, then it shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Grant.


12.1.1.1. During the performance of this contract, the contractor agrees as follows:

12.1.1.1.1. Grantee will not discriminate against any employee or applicant for employment because of race, color, religion,
sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

12.1.1.1.2. Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

12.1.1.1.3. Grantee will send to each labor union or representative of workers with which he has a collective bargaining Grant or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

12.1.1.1.4. Grantee will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

12.1.1.1.5. Grantee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

12.1.1.1.6. In the event of Grantee's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965,
and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

12.1.1.1.7. Grantee will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Grantee becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

12.1.2. **Davis-Bacon Act.** Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

12.1.3. **Rights to Inventions Made Under a Grant or Grant.** If the Federal Award meets the definition of “funding Grant” under 37 CFR §401.2 (a) and
Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding Grant,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Contracts,” and any implementing regulations issued by the awarding agency.

12.1.4. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

12.1.5. **Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.


13. **CERTIFICATIONS.**

13.1. Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.
14. **EXEMPTIONS.**

14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

14.2. A Grantee with gross income from all sources of less than $300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

14.3. There are no Transparency Act reporting requirements for Vendors.

15. **EVENT OF DEFAULT.**

15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.
Federal Funding Accountability and Transparency Act (FFATA) Data Report Form
(For Grantee Completion)

Reporting is required for initial awards of $25,000 or more or award modifications that result in a total award of $25,000 or more.

<table>
<thead>
<tr>
<th>Information Field (Definitions can be found in Exhibit C)</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Agency or Jurisdiction DUNS Number:</td>
<td>010628352</td>
</tr>
<tr>
<td>2. Subrecipient Name Receiving Award:</td>
<td>City of Durango</td>
</tr>
<tr>
<td>3. Subrecipient Parent DUNS Number: (Report if different from subrecipient number)</td>
<td>N/A</td>
</tr>
<tr>
<td>4. Location of Entity Receiving Award: (Full street address)</td>
<td>949 E. 2nd Avenue Durango, CO 81301</td>
</tr>
<tr>
<td>5. Primary Location of Performance of the Award: (City, State and Congressional District)</td>
<td>Durango, CO 03</td>
</tr>
</tbody>
</table>

6. In the preceding fiscal year, Contractor received:
   a. $25,000,000 or more in annual gross revenues from federal procurement contracts/subcontracts and/or federal financial assistance awards or subawards subject to the Transparency Act.
   - False
   b. 80% or more of its annual gross revenues from federal procurement contracts/subcontracts and/or federal financial assistance awards or subawards subject to the Transparency Act.
   - False
   c. The public does not have access to information about the compensation of its five most highly compensated Executives through periodic reports filed through the Securities Exchange Act of 1934 or the IRS.
   - False

**Note:** An answer to question 7 is required ONLY when all answers to question 6 are true.

7. Names and total compensation of the five (5) most highly compensated Executives for the preceding fiscal year:

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<thead>
<tr>
<th>Print Name</th>
<th>Compensation Amount</th>
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</tbody>
</table>

By signing below, I certify the information contained in this report is complete and accurate to the best of my knowledge.

Heidi Wise

12/22/2023 | 10:01 AM MST
Signature of Responsible Administrator Date
EXHIBIT D –
INCOME LIMITS
[RESERVED]
EXHIBIT E – [RESERVED]
EXHIBIT F –
[RESERVED]
EXHIBIT G –
OPTION LETTER

State Agency
Department of Local Affairs,
for the benefit of the Division of Housing

Grantee
[Grantee’s full legal name.]

<table>
<thead>
<tr>
<th>Original Agreement Number</th>
<th>Option Letter Number</th>
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<tbody>
<tr>
<td>H0CDB000000</td>
<td>(1, 2, 3, etc.)</td>
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<table>
<thead>
<tr>
<th>Current Agreement Maximum Amount</th>
<th>New Agreement Maximum Amount</th>
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<tbody>
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<td>$000,000.00</td>
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</table>

<table>
<thead>
<tr>
<th>Current Expiration Date</th>
<th>New Expiration Date</th>
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</thead>
<tbody>
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<td>[Month, Day, Year]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Existing CMS Number(s)</th>
<th>New CMS Number (This Option Letter)</th>
</tr>
</thead>
<tbody>
<tr>
<td>000000, 000000, 000000</td>
<td>000000</td>
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</tbody>
</table>

Effective Date
This Option Letter is effective as of the date signed by the State Controller or Month, Day, Year, whichever is later.

1. OPTIONS: (Select all that are applicable.)
   - A. Option to extend time for performance.
     (Select this if extending the Agreement Expiration Date.)
   - B. Change in the Agreement Maximum Amount.
     (Select this if increasing or decreasing the amount of Grant Funds awarded.)
   - C. Budget Line Item Adjustment(s) Only
     (Select this if redistributing how Grant Funds are allocated within the Project Budget with no change in the Agreement Maximum Amount.)

2. REQUIRED PROVISIONS:
   A. For use with Option 1(A): In accordance with §2.C of the Original Agreement referenced above, as amended, the State hereby exercises its option for an additional term, beginning on the Effective Date of this Option Letter and ending on the New Expiration Date shown above.
   B. For use with Options 1(B): The Agreement Maximum Amount shown on the Cover Page of the Original Agreement referenced above, as amended, is hereby deleted and replaced with the New Agreement Maximum Amount shown in the table above. In addition, the Sources table in §5.2.1, the Uses table in §5.2.2, the Eligible Uses of DOLA Grant Funds table in §5.2.3, the Pre-Agreement Costs table in §5.2.4, and the Payment Schedule in §6.1, all of Exhibit B, are deleted and replaced as follows:

   5.2.1 Sources

<table>
<thead>
<tr>
<th>Sources</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$ 0.00</td>
</tr>
</tbody>
</table>

   5.2.2 Uses/Project Activities

<table>
<thead>
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</thead>
<tbody>
<tr>
<td></td>
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<tr>
<td>Total</td>
<td>$ 0.00</td>
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</table>
5.2.3 Eligible Uses of DOLA Grant Funds

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<thead>
<tr>
<th>Eligible Activity</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
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</table>

5.2.4 Pre-Agreement Costs

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<tr>
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<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
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</tr>
</tbody>
</table>

6.1 Payment Schedule

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<th>Amount</th>
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</thead>
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<tr>
<td>Final Payment</td>
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</tr>
<tr>
<td><strong>Total</strong></td>
<td>$0.00</td>
</tr>
</tbody>
</table>

Paid upon receipt of actual expense documentation and written Pay Requests from the Grantee for reimbursement of eligible approved expenses.

Paid upon Substantial Completion of the Project (as determined by the State in its sole discretion), provided that the Grantee has submitted, and DOLA has accepted, all required reports.

C. **For use with Option 1(C):** The **Grant Funds** table in §5.2.3 of Exhibit B to the Original Agreement, as amended, is deleted and replaced with the following:

<table>
<thead>
<tr>
<th>Use</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
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<tr>
<td><strong>Total</strong></td>
<td>$ 0.00</td>
</tr>
</tbody>
</table>

In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.

**STATE OF COLORADO**
Jared S. Polis, Governor  
**Department of Local Affairs**  
Rick M. Garcia, Executive Director

By: ____________________________  
Rick M. Garcia, Executive Director

Date: __________________________

**STATE CONTROLLER**  
Robert Jaros, CPA, MBA, JD

By: ____________________________  
Yingtse Cha, Controller Delegate

Option Effective Date: ____________
FORM 1 –
RESIDENCY DECLARATION

In order to be eligible to receive the assistance you seek, you, as an applicant must be lawfully within the United States. Please read this Declaration carefully. Please feel free to consult with an immigration lawyer or other expert of your choosing.

I, Jose Madrigal, swear or affirm under penalty of perjury that (check one):

☐ I am a United States citizen, or

☐ I am a non-citizen national of the United States, or

☐ I have an immigration status that makes me a "qualified alien."

I hereby agree to provide any documentation which may be required pursuant to Federal law, Interim Guidelines published by the United States Department of Justice (62 FR 61344) or, if applicable, Colorado laws and regulations, if the Colorado laws are not inconsistent with Federal law.

I acknowledge that making a false, fictitious, or fraudulent statement or representation in this Declaration is punishable under the criminal laws of Colorado as perjury in the second degree under Colorado Revised Statues §18-8-503 and shall constitute a separate criminal offense each time a public benefit is fraudulently received.

Jose Madrigal

Name (please print)

Signature

12/18/2023 | 2:06 PM MST

Date
COMMUNITY DEVELOPMENT BLOCK GRANT APPROPRIATION RESOLUTION

Eva Henson, Housing Innovation Manager
Community Development AEO
Mission (Why we exist)
“The City of Durango and our employees provide, efficient city services, effectively maintain city assets and manage growth, are accountable, ethical, fiscally responsible, and collaborate with regional partners to improve the quality of life for our entire community.”

Vision (What we want to be)
“Durango is an authentic, diverse, multigenerational, and thriving community. Our Residents value and enjoy our unique natural environment and benefit from the management of our City’s resources in a fiscally responsible, environmental, and socially sustainable manner.”

Values (What we believe in)
Teamwork | Dependability | Professionalism | Service | Respect | Innovation | Well-Being

PURPOSE
CONSIDER A RESOLUTION AUTHORIZING AN ADDITIONAL APPROPRIATION TO THE HOUSING FUND IN THE 2024 BUDGET FOR A COMMUNITY DEVELOPMENT BLOCK GRANT
This initiative applies to the **Affordability & Economic Opportunity (AEO)** objectives in the Strategic and Operating Plan.
COMMUNITY DEVELOPMENT BLOCK GRANT OVERVIEW

- GRANT **REQUIRES** THAT LOCAL GOVERNMENTS ARE THE ONLY ENTITIES ELIGIBLE TO APPLY
- GRANT **DOES NOT** REQUIRE A LOCAL MATCH & NO FISCAL IMPACT TO THE CITY
- GRANT **TERMS ARE EFFECTIVE** THROUGH JUNE 30, 2026
- THE CITY HAS ADMINISTERED THE CDBG BLOCK GRANT AS A PHYSICAL AGENT FOR HOMESFUND SINCE 2012-CURRENT
CDBG GRANT OVERVIEW

CDBG $1,881,400 PASS-THROUGH REVENUE FUNDS WILL ASSIST HOMESFUND TO PROVIDE:

- MORTGAGE ASSISTANCE LOANS
- PROGRAM OVERHEAD
- PROJECT DELIVERY OF LOANS
- TO FAMILIES MAKING LESS THAN 80% AREA MEDIAN INCOME (AMI) IN LA PLATA COUNTY AND SURROUNDING AREAS
- 2023 INCOME LIMITS $83,120 (4 PERSON)
### TIMELINE SUMMARY

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NOV 15, 2022</strong></td>
<td>CITY COUNCIL APPROVES RESOLUTION TO SPONSOR CDBG GRANT APPLICATION ON BEHALF OF HOMESFUND</td>
</tr>
<tr>
<td><strong>MAY 29, 2023</strong></td>
<td>CITY RECEIVES NOTICE OF AWARD LETTER FROM DEPARTMENT OF LOCAL AFFAIRS FOR <strong>$1,881,400 CDBG GRANT FUNDS</strong></td>
</tr>
<tr>
<td><strong>DEC 28, 2023</strong></td>
<td>CITY OF DURANGO RECEIVES GRANT AGREEMENT FOR SIGNATURE</td>
</tr>
<tr>
<td><strong>JAN 16, 2023</strong></td>
<td>RESOLUTION TO AUTHORIZE ADDITIONAL APPROPRIATION TO THE HOUSING FUND FOR THE CDBG GRANT</td>
</tr>
</tbody>
</table>
Recommended Motion:

“I move to approve Resolution R-2024___Authorizing an Additional Appropriation to the Housing Fund in the 2024 Budget for a Community Development Block Grant.”
AGENDA DOCUMENTATION
Meeting Date: January 16, 2024

TO: DURANGO CITY COUNCIL
FROM: MALLORY ST. PIERRE, PLANNER I
COMMUNITY DEVELOPMENT

SUBJECT A PUBLIC HEARING TO CONSIDER AN ORDINANCE FOR 2900 BLOCK OF W 2ND AVE RIGHT-OF-WAY ABANDONMENT REQUEST - ELSP

RECOMMENDATION:

It is the recommendation of Community Development staff and the Planning Commission that the City Council, by motion:

"Move to approve the Ordinance for the 2900 Block of W 2nd Ave Right-of-Way Abandonment with the findings and conditions as outlined in the staff report and discussed at this public hearing."

BACKGROUND SUMMARY:

The applicant, Ken Francis of 2906 and 2910 W 2nd Ave, along with all other property owners on the block, has requested that the City abandon an approximately 10,400 sqft portion of right-of-way. The subject area is a 20-foot wide strip of land adjacent to W 2nd Ave running along the east side of the block from W 30th St south to W 29th St.

The Planning Commission heard this request during their December 4, 2023 public hearing and recommended approval.

Attachment: Applicant Submittals
Planning Commission Staff Report
Planning Commission Draft Minutes
Draft Ordinance

STRATEGIC PLAN ALIGNMENT:

The proposal meets the intent of the City's Comprehensive Plan and aligns with the Strategic Plan.

ALTERNATIVE OPTIONS CONSIDERED:

Alternative actions include the option to continue or deny the proposal.

FISCAL IMPACT:

There is no anticipated fiscal impact associated with this proposal.

POTENTIAL ADVERSE IMPACTS:

There are no potential adverse impacts associated with this proposal.

NEXT STEPS AND TIMELINE:

The next step is the publication and second reading of the Ordinance.
ORDINANCE NO. O-2024-
AN ORDINANCE ABANDONING A PORTION OF THE PUBLIC
RIGHT-OF-WAY ALONG W 2nd AVE WHILE RETAINING A
UTILITY EASEMENT AND DECLARING AN EFFECTIVE DATE.

WHEREAS, a request has been made to the City to abandon a portion of the public right-of-way along W 2nd Ave, north of W 29th St and south of W 30th St; and

WHEREAS, the request for abandonment involves a 20-foot strip of right-of-way, on the easterly side of W 2nd Ave, south of W 30th St for a length of approximately 520 feet, totaling approximately 10,400 square feet; and

WHEREAS, the abandonment of the designated right-of-way and dedication of a utility easement is in conformance with the criteria outlined in the City's Land Use and Development Code and is consistent with the Comprehensive Plan Policy; and

WHEREAS, the Planning Commission has recommended approval of the requested abandonment after a public hearing held on December 4, 2023; and

WHEREAS, the Council has determined that the portion of right-of-way to be abandoned and utility easement to be dedicated comply with C.R.S, § 43-2-303(3); and

WHEREAS, a public hearing has heretofore been held before the City Council of the City of Durango, and the Council has determined, subsequent to said hearing, that the granting of the requested abandonments would not be detrimental to the interests of the citizens of the City of Durango;

NOW, THEREFORE, THE CITY OF DURANGO HEREBY ORDAINS:

Section 1. That the City of Durango does hereby abandon those portions of the public right-of-way along W 2nd Ave, north of W 29th St and south of W 30th St, as described in Exhibit A, hereto attached, the contents of which are incorporated herein. The City reserves an access and maintenance easement for utilities within the area of right-of-way to be abandoned.

Section 2. This ordinance shall become effective ten (10) days after its passage and final publication as provided by law.

CITY COUNCIL OF THE CITY OF DURANGO

Attest:

______________________________
Mayor

______________________________
City Clerk

STATE OF COLORADO )

) SS.
COUNTY OF LA PLATA )

I, Faye Harmer, City Clerk of the City of Durango, La Plata County, Colorado, do hereby certify that Ordinance No. O-2024- was regularly introduced and read at a regular meeting of the City Council of the City of Durango, Colorado on the ___ day of __________, 2024, and was ordered published in accordance with the terms and conditions of the statutes in such cases made and provided, in the Durango Herald, a newspaper of general circulation, on the _____ day of __________, 2024, prior to its final consideration by the City Council.

______________________________
City Clerk
I further certify that said Ordinance No. O-2024- was duly adopted by the Durango City Council on the ____ day of ______, 2024, and that in accordance with the instructions received from the Durango City Council, said ordinance was published by title only in the Durango Herald on the ___ day of __________, 2024.

___________________________
City Clerk

Exhibit A

Legal Description of Abandonment

A tract of land lying in the northwest ¼ quarter of the southeast ¼ of Section 17, Township 35 North, Range 9 West, New Mexico Principal Meridian, in the City of Durango, County of La Plata, State of Colorado, being more particularly described as follows:

The easterly twenty (20) feet of the existing 80-foot right-of-way of West 2nd Avenue adjoining Lots 21 through 40, Block 24, in that part of the City of Durango known and platted as the Animas City Annexation to the City of Durango, as recorded in the office of the La Plata County Clerk and Recorder under Reception Number 196734,

Together with the easterly (20) twenty feet of the existing 80-foot right-of-way of West 2nd Avenue adjoining the abandoned portion of West 30th Street right-of-way by Ordinance Number O-2004-24 as recorded in the office of said Clerk and Recorder under Reception Number 891157,

And together with the easterly (20) twenty feet of the existing 80-foot right-of-way of West 2nd Avenue adjoining the abandoned portion of West 29th Street right-of-way by Ordinance Number O-1960-0974 as recorded in the office of said Clerk and Recorder under Reception Number 300263.

Dedication of Utility Easement

The abandoned right-of-way is hereby retained as a utility easement, dedicated to the City of Durango, Atmos Energy Services, La Plata Electric Association, Century Link Communications and Spectrum Communications for the purposes of ingress, egress, installation, operation, maintenance, repair, replacement and removal of their respective utilities and related equipment.
To: Mallory St. Pierre  
From: Patrick Dressen, Sr Eng Tech  
Date: November 20, 2023  
Subject: 2900 Block W 2nd Avenue ROW Abandonment  
Project No: PR-23-00119

Engineering Review Memo
For: Abandonment Request

Mallory,
The Engineering Division is supportive of this abandonment request. As offered, I have drafted a legal description of the proposed portion of W 2nd Avenue to be abandoned.

RIGHT-OF-WAY ABANDONMENT AND UTILITY EASEMENT DEDICATION

Legal Description of Abandonment
A tract of land lying in the northwest ¼ quarter of the southeast ¼ of Section 17, Township 35 North, Range 9 West, New Mexico Principal Meridian, in the City of Durango, County of La Plata, State of Colorado, being more particularly described as follows:
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Dedication of Utility Easement
The abandoned right-of-way is hereby retained as a utility easement, dedicated to the City of Durango, Atmos Energy Services, La Plata Electric Association, Century Link Communications and Spectrum Communications for the purposes of ingress, egress, installation, operation, maintenance, repair, replacement and removal of their respective utilities and related equipment.

The entire language of the legal description and utility easement dedication should be included in the ordinance and the ordinance should be recorded at the La Plata County Clerk’s office.

Please let me know if you have any questions or concerns.

Best Wishes,

[Signature]

Patrick Dressen, Senior Engineering Tech  
Public Works Department, Engineering Division

cc. Keith Dougherty, PE, City Engineer
5.4 2900 Block of W 2nd Ave Right-of-Way Abandonment Request

Planner Mallory St. Pierre presented the project summary.

- Property owners request that the City abandon 20ft of right-of-way (ROW) along east side of 2900 block of W 2nd Ave
- Parcels were annexed in 1948; 80ft of ROW width currently exists
- Local streets require 60ft ROW; excess along north and south ends of block abandoned previously (2004 and 1960)

If PC recommends approval, request for public hearing will go to City Council on January 2, 2024

Context Map – Mallory St. Pierre showed the parcels impacted by the abandonment.

Project Review - Per Section 6-3-14-2 of the LUDC, criteria used in evaluation of request:
1. Is the requested abandonment in conflict with adopted plans or policies?
2. Will the abandonment landlock any parcels of land?
3. Will the abandonment restrict the access of any parcel so that access is unreasonable or economically prohibitive?
4. Will the abandonment result in adverse impacts on the health, safety, and/or welfare of the general community, and reduce the quality of public facilities or services provided to any parcel of land, i.e., police/fire protection, accesses, and/or utility services?

- Staff finds that the proposal meets all applicable criteria
- DFPD, LPEA, Atmos, and Charter had no concerns
- Engineering requires that ROW be retained as utility easement

Ken Francis, applicant, provided some brief history/background of the project.

Public Comments.

None.

Commissioner Pritchard moved to recommend approval of the 2900 Block of W 2nd Ave Right-of-Way Abandonment Request with the findings and conditions as outlined in the staff report and discussed at this public hearing. Seconded by Vice Chair Ulery.

Roll Call

Commissioner Evans – yes
Vice Chair Ulery – yes
Commissioner Pritchard – yes

Passed unanimously.
# 2900 Block of W 2nd Ave Right-of-Way Abandonment Request

**PROJECT STAFF**
Mallory St. Pierre, Planner I

**PROJECT NUMBER**
# 23-119

**PROJECT TYPE**
Right-of-Way Abandonment

**APPLICANT (PROPERTY OWNER)**
Ken Francis and others on block

**PROPERTY ADDRESS/LOCATION**
East side of 2900 block of W 2nd Ave

## PROJECT SUMMARY
The applicant, Ken Francis of 2906 and 2910 W 2nd Ave, along with all other property owners on the block, has requested that the City abandon an approximately 10,400 sqft portion of right-of-way. The subject area is a 20-foot wide strip of land adjacent to W 2nd Ave running along the east side of the block from W 30th St south to W 29th St.

## STAFF RECOMMENDATION
APPROVE WITH CONDITIONS

## RECOMMENDED MOTION
Move to recommend approval of the 2900 Block of W 2nd Ave Right-of-Way Abandonment Request with the findings and conditions as outlined in the staff report and discussed at this public hearing.

## ATTACHMENTS:
- STAFF REPORT
- CONTEXT MAP, ZONING MAP & SITE AERIAL
- APPLICANT NARRATIVE
- SUBMITTED PLANS

## CURRENT ZONING
| EN-2  | Residential |

## CURRENT LAND USE
| Residential |

## ADJACENT ZONING
| EN-2, MU-A |

## COMPREHENSIVE PLAN LAND USE DESIGNATION
| Residential – Low Density |

## REQUIRED PUBLIC IMPROVEMENTS
| N/A |

## SIZE OF PROPERTY
| Entire block |

## PROPOSED ZONING
| N/A |

## PROPOSED LAND USE
| N/A |

## PROPERTY HISTORY
The subject properties were annexed into the City of Durango in 1948. Portions of right-of-way along the north and south ends of the block were abandoned in 2004 and 1960, respectively.

## COMPREHENSIVE PLAN COMPATIBILITY
The Future Land Use Map designates these properties as Residential-Low Density. Staff finds no conflict of this request with the intent of the Comprehensive Plan.

## DESIGN GUIDELINES & LUDC COMPLIANCE
As outlined in Section 6-3-14 of the LUDC, there are four review criteria used in the evaluation of requests for the abandonment of right-of-way. Staff finds this proposal meets all criteria.
BACKGROUND

The subject properties were annexed into the City of Durango as part of Animas City in 1948. Since that time, portions of excess right-of-way in the area have been abandoned, including along the north (W 30th St) and south (W 29th St) ends of the subject block in 2004 and 1960, respectively. There is currently an 80-foot right-of-way width along the relevant section of W 2nd Ave, which only requires 60 feet by code based on its classification as a local street.

PROJECT ANALYSIS

Section 6-3-14-2 of the Land Use and Development Code includes the criteria used in the evaluation of applications for the abandonment of right-of-way. The criteria, with associated staff analysis, are as follows:

1. **Is the requested abandonment in conflict with adopted plans or policies?**

   The requested abandonment is not in conflict with adopted plans or policies. The proposal is consistent with the west side of the street as well as right-of-way widths along other blocks in the area, including the 2800 block of W 2nd Ave to the south. The change in location of front property lines will also bring several currently nonconforming properties on the block into compliance with the front setback requirement for the EN-2 zone.

2. **Will the abandonment landlock any parcels of land?**

   The proposed abandonment is adjacent to existing right-of-way along W 2nd Ave that will remain. As such, the proposal will not cause any parcels to become landlocked. All affected properties will continue to front W 2nd Ave to the same extent that they do currently.

3. **Will the abandonment restrict the access of any parcel so that access is unreasonable or economically prohibitive?**

   The proposed abandonment is adjacent to existing right-of-way along W 2nd Ave that will remain. Similar to above, the proposal will not restrict or alter access for any parcels.

4. **Will the abandonment result in adverse impacts on the health, safety, and/or welfare of the general community, and reduce the quality of public facilities or services provided to any parcel of land, i.e., police/fire protection, accesses, and/or utility services?**

   The required 60-foot right-of-way, which includes sidewalks, along W 2nd Ave will be maintained, therefore not adversely impacting the general community. Even though some utilities are currently located in the alley at the rear of the subject parcels, the abandoned right-of-way along the front of the properties will still be retained as a utility easement for the purposes of access, installation, maintenance, etc.

PUBLIC COMMENT

At the time this staff report was completed, no public comments had been received.

REVIEW SUMMARY

Staff finds that the proposed right-of-way abandonment meets all applicable criteria outlined in Section 6-3-14 of the Land Use and Development Code. The Engineering Division reviewed the request and is supportive with the condition that a utility easement be retained and dedicated. DFPD, LPEA, Atmos, and Charter all reviewed the request and had no concerns.

ALTERNATIVE ACTIONS

B. **Recommend approval** of the 2900 Block of W 2nd Ave Right-of-Way Abandonment Request with the finding that the proposal complies with all applicable LUDC criteria subject to the condition that the abandoned right-of-way be retained as a utility easement.

C. **Recommend denial** of the 2900 Block of W 2nd Ave Right-of-Way Abandonment Request with specific reasons and findings stated.

D. **Continue** consideration of the 2900 Block of W 2nd Ave Right-of-Way Abandonment Request with specific directions to staff and/or the applicants.

RECOMMENDED ACTION

By motion, staff recommends Alternative Action A as stated above.
LAND USE APPLICATION

OVERVIEW

This form provides the basic information about a project proposal. This application form is only one of the items required for a complete project submittal. It is the responsibility of the applicant to ensure that all other required materials are submitted. It is also the responsibility of the applicant to clearly demonstrate through narrative, visual representations, and other materials that the proposed activity complies with the City of Durango’s Land Use and Development Code. Incomplete or substandard applications may cause delays. All applications shall include digital files as well as the hard copy unless otherwise determined by staff.

PROJECT TYPE (select one or more)

☐ Temporary Use Permit (TUP)
  ☐ Class A TUP
  ☐ Class B or C TUP
☐ Special Use Permit (SUP)
☐ Limited Use Permit (LUP)
☐ Vacation Rental LUP
☐ ADU Review LUP
☐ Conditional Use Permit (CUP)
☐ Rezoning
☐ Site Plan Review
  ☐ Minor (< 10,000 SF)
  ☐ Major (10,000 SF or more)
☐ Annexation & Initial Zoning
☐ Planned Development (PD)
  ☐ Conceptual
  ☐ Preliminary
  ☐ Final
☐ Subdivision, Minor (5 or fewer lots)
  ☐ Preliminary
  ☐ Final
☐ Subdivision, Major (6 or more lots)
  ☐ Conceptual
  ☐ Preliminary
  ☐ Final
☐ Pattern Book Approval
☐ PD/Development Agreement Amendment
  ☐ Major
  ☐ Minor
☐ EN Alternative Compliance (ENAC)
☐ Design Review
☐ Certificate of Non-Conformity
☐ Zoning Verification
☐ LUDC Text Amendment
☐ Comprehensive Plan Amendment
☒ Abandonment/Vacation Request
☐ Variance
☐ Appeal of Decision
☐ ADU Owner-Occupancy Certification
☐ Oil & Gas Permit, Major or Minor
☐ Other: ________________

PROJECT DESCRIPTION

PROJECT NAME:
City Abandonment of Right-of-Way Block 2900 West Second Avenue

PROJECT LOCATION:
All properties adjacent to and on east side of 2900 West Second Avenue block.

PROJECT SUMMARY (Additional details must be included in other application materials)
After consultation with City staff, all property owners have signed a petition requesting the City abandon 20’ of excess right-of-way and transfer ownership to said owners. Please see details contained in additional submitted materials.
LAND USE APPLICATION

SITE INFORMATION

PROPERTY ASSESSOR'S PARCEL NUMBER: See list submitted with additional materials.
CURRENT ZONING: EN-2
CURRENT USE: Residential
PROPOSED ZONING:
PROPOSED USE:

PROJECT CONTACT INFORMATION

APPLICANT: Ken Francis
AGENT: same
ADDRESS: owner of 2906 and 2910 W. 2nd Avenue properties
ADDRESS: 820 E 7th Avenue Durango, Co
PHONE: 970-903-7809
PHONE:
E-MAIL: kenfrancis48@gmail.com
E-MAIL:

PROPERTY OWNER(S) (Authorization from all property owners is required if different from the applicant):
See submitted petition.

ACKNOWLEDGMENT AND AUTHORIZATION

The undersigned authorizes the Community Development Department to proceed with processing this application under the requirements of the City of Durango Land Use and Development Code (LUDC). The undersigned acknowledges that the information provided herein is accurate to the fullest extent of their knowledge.

Further, it is the responsibility of the applicant, when applicable, to provide the City with the names and addresses of adjacent property owners within a specified distance of all boundaries of the subject property, and within the boundaries, as recorded in the La Plata County Assessor’s office. The accuracy of this information is the applicant’s responsibility and improper notification of adjacent property owners, when applicable, can result in delayed processing of this application.

Applicant: Ken Francis Date: 9/21/23

DEPARTMENT USE ONLY

Application Received By: Nadia Malloy Date: 9/12/23 Project #: 23-119
Fee Required: $1.2 each $550 Paid On: 9/13/23 Receipt #
Application Accepted as Complete for Processing on:

Updated June 2014
PARCEL NUMBERS
ADDITIONAL PROJECT DETAILS FOR LUA REQUESTING ABANDONMENT OF EXCESS RIGHT-OF-WAY FOR ENTIRE EAST SIDE OF 2900 W. 2ND AVENUE BLOCK

175 W. 9TH STREET – 566517411016

2906 W. 2ND AVENUE – 566517411014

2910 W. 2ND AVENUE – 566517411019

2930 W. 2ND AVENUE – 566517411010

2940 W. 2ND AVENUE – 566517411009

2946 W. 2ND AVENUE – 566517411007

2960 W. 2ND AVENUE – 566517411005

2970 W. 2ND AVENUE – 566517411002

2978 W. 2ND AVENUE – 566517411023
August 23, 2023

PETITION TO ABANDON CITY RIGHT OF WAY.

The property owners on the east side of 2900 West 2nd Avenue request that the City abandon 20 feet of excess right-of-way and transfer said property to the owners identified on the attached list. The $550 fee for review and consideration is submitted with this petition.

OVERVIEW.

In 1948/49 the City of Durango annexed the historic Animas City, and since then determined that many of the former Animas City streets had excess rights-of-way not required for the Durango street system. Many of these excess rights-of-way have been abandoned and transferred to adjacent property owners by the City.

The right-of-way on the EAST side of the 2900 West 2nd Avenue block has not had the excess right-of-way abandoned. For comparison purposes, the right-of-way on the EAST side of this block is 50 feet, while the WEST side is 30 feet. A 30-foot right-of-way is now similar to other City abandonments in the Animas City area.

LANDSCAPING AND MAINTENANCE OF EXCESS RIGHT-OF-WAY.

Many property owners adjacent to the EAST side of the 2900 West 2nd Avenue block, unaware of the excess right-of-way, have installed and maintained fencing, parking spaces, landscaping, stone walls and planting areas, lawns, trees, and shrubbery.

CONSISTENCY WITH CITY OF DURANGO POLICY.

Petitioners have met with City staff regarding the policy for the “Abandonment of Right-Of-Way or Easements.” Staff suggested that a 20-foot abandonment meets the City’s review criteria noted below.

Sec. 6-3-14-2 Review Criteria

A. The following criteria shall be used in the evaluation of all applications for the abandonment of right-of-way or easement.

1. Is the requested abandonment in conflict with adopted plans or policies?
2. Will the abandonment landlock any parcels of land?
3. Will the abandonment restrict the access of any parcel so that access is unreasonable or economically prohibitive?
4. Will the abandonment result in adverse impacts on the health, safety, and/or welfare of the general community, and reduce the quality of public facilities or services provided to any parcel of land, i.e., police/fire protection, accesses, and/or utility services?
$550 CITY FEE FOR PROCESSING ABANDONMENT REQUEST. EACH OF THE 9 PROPERTIES/OWNERS OWE $61.12 PAYABLE BY CHECK TO THE CITY OF DURANGO.

PROPERTY OWNERS ON EAST SIDE OF 2900 BLOCK WEST SECOND AVENUE

<table>
<thead>
<tr>
<th>PRINTED NAME</th>
<th>PROPERTY ADDRESS</th>
<th>SIGNATURE &amp; DATE</th>
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</thead>
<tbody>
<tr>
<td>Sharon Parham</td>
<td>2906 W. 2nd Ave.</td>
<td>Sharon Parham 8-30-23</td>
</tr>
<tr>
<td>Sharon Parham</td>
<td>2910 W. 2nd Ave.</td>
<td>Sharon Parham 8-30-23</td>
</tr>
<tr>
<td>Kenneth Francis</td>
<td>2906 W. 2nd Ave.</td>
<td>Kenneth Francis 8-30-23</td>
</tr>
<tr>
<td>Kenneth Francis</td>
<td>2910 W. 2nd Ave.</td>
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$550 CITY FEE FOR PROCESSING ABANDONMENT REQUEST. EACH OF THE 9 PROPERTIES/OWNERS OWE $61.12 PAYABLE BY CHECK TO THE CITY OF DURANGO.

PROPERTY OWNERS ON EAST SIDE OF 2900 BLOCK WEST SECOND AVENUE

PRINTED NAME          PROPERTY ADDRESS          SIGNATURE & DATE

DAVID CERCI            2940 W. 2ND AVENUE          06/2023

Durango CO 81301
$550 CITY FEE FOR PROCESSING ABANDONMENT REQUEST.
EACH OF THE 9 PROPERTIES/OWNERS OWE $61.12 PAYABLE BY CHECK TO THE CITY OF DURANGO.

PROPERTY OWNERS ON EAST SIDE OF 2900 BLOCK WEST SECOND AVENUE

<table>
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<tr>
<th>PRINTED NAME</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Carole Nightswander 2930 W 2nd Ave</td>
<td>Durango, CO</td>
<td>Carole Nightswander</td>
</tr>
</tbody>
</table>
$550 CITY FEE FOR PROCESSING ABANDONMENT REQUEST.
EACH OF THE 9 PROPERTIES/OWNERS OWE $61.12 PAYABLE BY CHECK
TO THE CITY OF DURANGO.

PROPERTY OWNERS ON EAST SIDE OF 2900 BLOCK WEST SECOND
AVENUE

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<tbody>
<tr>
<td>Gordon Ninde</td>
<td>2970 W. 2nd Ave.</td>
<td>7/24/2023</td>
</tr>
<tr>
<td>Claire Ninde</td>
<td>2970 W. 2nd Ave.</td>
<td>Claire Ninde</td>
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</tbody>
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$550 CITY FEE FOR PROCESSING ABANDONMENT REQUEST.
EACH OF THE 9 PROPERTIES/OWNERS OWE $61.12 PAYABLE BY CHECK TO THE CITY OF DURANGO.

PROPERTY OWNERS ON EAST SIDE OF 2900 BLOCK WEST SECOND AVENUE

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<tr>
<th>PRINTED NAME</th>
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<tbody>
<tr>
<td>Kristin Hays</td>
<td>2978 N. 2nd Ave.</td>
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<td>8-31-23</td>
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<tr>
<td>Elizabeth Brown</td>
<td>175 W. 29th st.</td>
<td>Brown 8/27/23</td>
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<tr>
<td>James Brown</td>
<td>175 W 29th st.</td>
<td>JMB</td>
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<tr>
<td>Maxine Wilson</td>
<td>2960 W 2nd Ave.</td>
<td>August 25, 2023</td>
</tr>
</tbody>
</table>

Maxine Wilson by Gerald E. Wilson as attorney in fact
Unlimited Power of Attorney

Notice: This is an important document. Before signing this document, you should know these important facts. By signing this document, you are not giving up any powers or rights to control your finances and property yourself. In addition to your own powers and rights, you may be giving another person, your attorney-in-fact, broad powers to handle your finances and property. This unlimited power of attorney may give the person whom you designate (your “attorney-in-fact”) broad powers to handle your finances and property, which includes powers to encumber, sell or otherwise dispose of any real or personal property without advance notice to you or approval by you. THE POWERS WILL NOT EXIST AFTER YOU BECOME DISABLED, OR INCAPACITATED. This document does not authorize anyone to make medical or other health care decisions for you. If you own complex or special assets such as a business, or if there is anything about this form that you do not understand, you should ask a lawyer to explain this form to you before you sign it. If you wish to change your unlimited power of attorney, you must complete a new document and revoke this one. You may revoke this document at any time by destroying it, by directing another person to destroy it in your presence or by signing a written and dated statement expressing your intent to revoke this document. If you revoke this document, you should notify your attorney-in-fact and any other person to whom you have given a copy of the form. You also should notify all parties having custody of your assets. These parties have no responsibility to you unless you actually notify them of the revocation. If your attorney-in-fact is your spouse and your marriage is annulled, or you are divorced after signing this document, this document is invalid. Since some 3rd parties or some transactions may not permit use of this document, it is advisable to check in advance, if possible, for any special requirements that may be imposed. You should sign this form only if the attorney-in-fact that you appoint is reliable, trustworthy, and competent to manage your affairs. This form must be signed by the Principal (the person appointing the attorney-in-fact), witnessed by two persons other than the notary public, and acknowledged by a notary public.

I, Maxine Wilson, of 2960 W. 2nd Ave, City of Durango, State of Colorado, as Principal, do appoint Gerald E. Wilson, of 34 Starling Dr, City of Pueblo, State of Colorado, as my attorney-in-fact to act in my name, place and stead in any way which I myself could do, if I were personally present, with respect to all the following matters to the extent that I am permitted by law to act through an agent:

I grant my attorney-in-fact the maximum power under law to perform any act on my behalf that I could do personally, including but not limited to; all acts relating to any and all of my financial transactions and/or business affairs including all banking and financial institution transactions, all real estate or personal property transactions, all insurance or annuity transactions, all claims and litigation, and any and all business transactions.

If the attorney-in-fact named above is unable or unwilling to serve, then I appoint Deborah A. Wilson, of 34 Starling Dr, City of Pueblo, State of Colorado, to be my attorney-in-fact for all purposes hereunder.

My attorney-in-fact is granted full and unlimited power to act on my behalf in the same manner as if I were personally present. My attorney-in-fact accepts this appointment and agrees to act in my best interest as he or she considers advisable. To induce any third party to rely upon this power of attorney, I agree that any third party receiving a signed copy or facsimile of this power of attorney may rely upon such copy, and that revocation or termination of this power

★NOVA ALFP126 Unlimited POA Pg.1 (08-09)
An attorney shall be ineffective as to such third party until actual notice or knowledge of such revocation or termination shall have been received by such third party. I, for myself and for my heirs, executors, legal representatives and assigns, agree to indemnify and hold harmless any such third party from any and all claims that may arise against such third party by reason of such third party having relied on the provisions of this power of attorney. This power of attorney shall not be effective in the event of my future disability or incapacity. This power of attorney may be revoked by me at any time and is automatically revoked upon my death. My attorney-in-fact shall not be compensated for his or her services nor shall my attorney-in-fact be liable to me, my estate, heirs, successors, or assigns for acting or refraining from acting under this document, except for willful misconduct or gross negligence.

**Signature and Declaration of Principal**

I, _______________________, the principal, sign my name to this power of attorney this 7th day of April 2014 and, being first duly sworn, do declare to the undersigned authority that I sign and execute this instrument as my power of attorney and that I sign it willingly, or willingly direct another to sign for me, that I execute it as my free and voluntary act for the purposes expressed in the power of attorney and that I am eighteen years of age or older, of sound mind and under no constraint or undue influence.

Signature of Principal _______________________

**Witness Attestation**

I, _______________________, the first witness, and I, _______________________, the second witness, sign my name to the foregoing power of attorney being first duly sworn and do declare to the undersigned authority that the principal signs and executes this instrument as his/her power of attorney and that he/she signs it willingly, or willingly directs another to sign for him/her, and that I, in the presence and hearing of the principal, sign this power of attorney as witness to the principal’s signing and that to the best of my knowledge the principal is eighteen years of age or older, of sound mind and under no constraint or undue influence.

Signature of First Witness _______________________

Signature of Second Witness _______________________

**Notary Acknowledgment**

State of Colorado County of La Plata
Subscribed, sworn to and acknowledged before me by _______________________, the Principal, and subscribed and sworn to before me by _______________________, witness, this 7th day of April 2014.

Notary Signature

Notary Public

In and for the County of La Plata
State of Colorado
My commission expires: 5-8-17

[Seal]

[Stamp]

[Name]

[Commission Expiration Date]
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<tr>
<td>LEIGH WATERS</td>
<td>2946 W 2ND Ave</td>
<td>Signed/Date: 8/21/2015</td>
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<tr>
<td>Allison Moore</td>
<td>2940 West 2nd Ave.</td>
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A Public Hearing to Consider an Ordinance for Land Use and Development Code Text Amendments Regarding Detached Condominiums and Updated Flood Insurance Study – AEO & ESR

TO: DURANGO CITY COUNCIL
FROM: LILY OSWALD
CODE REFORM ADMINISTRATOR, COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: A PUBLIC HEARING TO CONSIDER AN ORDINANCE FOR LAND USE AND DEVELOPMENT CODE TEXT AMENDMENTS REGARDING DETACHED CONDOMINIUMS AND UPDATED FLOOD INSURANCE STUDY – AEO & ESR

RECOMMENDATION
Approve the Ordinance to update portions of Chapter 27 of the City of Durango Municipal Code (the Land Use and Development Code (LUDC)) with the finding that the proposal complies with the criteria for text amendments as described in the City of Durango Land Use and Development Code.

The Planning Commission unanimously recommended approval of the proposed text amendments at their December 4, 2023 meeting.

SUMMARY / BACKGROUND
This is a staff-initiated request to amend five sections of the LUDC, or Chapter 27 of the City of Durango Municipal Code. These amendments are intended to maintain effective and updated floodplain regulations, and provide an additional common ownership community subdivision type, termed ‘detached condominiums.’ The findings outlined in this agenda document and the proposed LUDC text amendments are the result of researched best practices and adopted community goals. At the public hearing, staff will provide a presentation to describe the topics and content of the proposed text amendments which relate to the following:

- Adopt an updated effective date for the Flood Insurance Rate Maps (FIRMs) and Study (FIS)
- Include a detached condominium process and section within subdivision regulations

Community Development staff have been working on departmental updates, process improvements, and code amendments to enhance customer service, increase transparency to development and review processes, and achieve Strategic Plan goals. During the public hearing, staff will provide a detailed overview of each of these LUDC topic areas and specific updates outlined in the ordinance.

PROPOSED AMENDMENTS
The proposed Text Amendments apply to five sections of code across all Chapter 27 of the City of Durango Municipal Code. Specific changes are summarized below and the exact language of the Text Amendments is attached to this report via a redline instrument (see ‘Exhibit A’ of the Ordinance). Staff will summarize the topic areas of the proposed Text Amendments at the public hearing.

Topic: Flood Insurance Rate Maps & Study
FEMA has issued a letter of final determination adopting an updated Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRM) for La Plata County, Colorado and Incorporated Areas as part of a statewide update effort. Current FIS & FIRMs guiding the City’s floodplains and regulations were adopted in 2010. This text amendment updates this effective date to reflect April 25, 2024, the updated FIRM and FIS released by FEMA.
Many communities are incorporating a type of condominium ownership termed ‘detached condominiums’ to allow for an additional common ownership community subdivision type. The LUDC does not currently allow for this type of housing or subdivision option. Incorporating this model into the LUDC will allow for an additional subdivision provision without deleting or negatively affecting other subdivision or development regulations.

**LUDC REVIEW CRITERIA ANALYSIS**

Per Section 6-3-13-3 of the LUDC, the following criteria are used in evaluating proposed amendments prior to approving the new code language.

1. The proposed amendments support adopted plans and policies.
2. The proposed amendment is consistent with the purposes, requirements, limitations, standards, and criteria of the Article being amended and/or other Articles, Divisions, or Sections within the LUDC.
3. The proposed amendment furthers the health, safety, or general welfare of the community.
4. The proposed amendment provides for community benefits, such as improved social or economic conditions or opportunities.

Staff finds the proposed amendments meet the criteria outlined above. The proposed amendments will be consistent with all aspects of their respective Articles and other portions of the LUDC. Several of the amendments have been proposed specifically to provide community benefits and opportunities and furthering the health, safety, and general welfare for the community.

**PUBLIC COMMENTS**

No advanced public comment has been received.

**ALTERNATIVE ACTIONS:**

The City Council may:

1. Approval of the proposed Text Amendments with the finding that the proposal is consistent with City policies and standards.
2. Amend the proposed Text Amendments and approve as stated in #1.
3. Continue the item with specific direction to staff.

**STRATEGIC PLAN ALIGNMENT**

These initiatives apply primarily to the Affordability & Economic Opportunity (AEO) and Environmental Sustainability & Resilience (ESR) objectives in Council’s Strategic and Operating Plan.

**Affordability And Economic Opportunity**

1.1 Identify and commit resources and revenue towards implementing a long-term plan that encourages housing opportunities for mixed-income demographics with an emphasis on workforce housing.

1.2 Support the production of a variety of housing types through incentives, partnerships, efficient review processes, and other mechanisms with a particular emphasis on middle-income housing.

**Environmental Sustainability & Resilience**

3.0 Improve quality and resiliency of natural resources through conservation and effective management.

3.3 Provide river protection through minimizing flooding, inappropriate materials and contaminants that reach the river.

**FISCAL IMPACT**

None anticipated.

**NEXT STEPS AND TIMELINE**

The following next steps are anticipated for advancing these amendments:

- City Council Request for Public Hearing and Introduction of Ordinance: January 2, 2024
City Council Public Hearing and First Reading of Ordinance: January 16, 2024
City Council Second/Final Reading of Ordinance: February 6, 2024
Implementation: February 2024

ATTACHMENTS
1. Ordinance O-2024 with Exhibit A (*proposed redline amendments to Chapter 27 of the Municipal Code*)
3. Text Amendments Summary Presentation Slides
ORDINANCE NO. O-2024-
AN ORDINANCE AMENDING CHAPTER 27 OF THE CODE OF ORDINANCES OF THE CITY OF DURANGO (LAND USE AND DEVELOPMENT CODE) BY THE AMENDMENT TO PORTIONS OF CHAPTERS 4, 6 AND 7 UPDATING THE EFFECTIVE DATE ON THE CITY’S FLOOD INSURANCE STUDY AND FLOOD INSURANCE RATE MAPS TO REFLECT APRIL 25, 2024; ESTABLISHING A DETACHED CONDOMINIUM PROCESS AND RELATED DEFINITIONS; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, as part of the City’s participation in the National Flood Insurance Program, the City is required pursuant to state and federal regulation to incorporate certain floodplain provisions in its municipal ordinances; and

WHEREAS, the Federal Emergency Management Agency (FEMA) has issued a final determination adopting an updated Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRM) for La Plata County, Colorado and Incorporated Areas with an effective date of April 25, 2024; and

WHEREAS, the amendments enacted by this ordinance meet the federal requirement, and will improve safety for persons and property in the City; and

WHEREAS, the Land Use and Development Code defines regulations and procedures related to different classifications of land subdivision; and

WHEREAS, many communities and land use codes are adopting a type of condominium ownership termed ‘detached condominiums’, which is not included in the existing City of Durango regulations; and

WHEREAS, the Condominium Subdivision section of the Durango Land Use Development Code must be amended to include a process to approve detached condominiums and related definitions in order to provide an additional regulated classification of common ownership subdivision, to provide an avenue for housing unit creation via detached condominiums; and

WHEREAS, after a public hearing held on December 4, 2023, the Planning Commission unanimously voted to recommend approval of these amendments to the LUDC; and

WHEREAS, a public hearing has heretofore been held before the City Council of the City of Durango, and the Council has determined, subsequent to said public hearing, that the proposed text amendments to portions of Chapters 4, 6 and 7 to the Land Use and Development Code are in the best interest of the citizens of the City of Durango;

NOW, THEREFORE, THE CITY OF DURANGO HEREBY ORDAINS:

Section 1. That Chapter 27 of the Code of Ordinances of the City of Durango should be and the same is hereby amended, with the sections described below being added or amended as is more specifically described on Exhibit ‘A’ attached hereto and incorporated herein:
Section 2. This ordinance shall become effective ten (10) days after its passage and final publication as provided by law.

CITY COUNCIL OF THE CITY OF DURANGO

Attest:

________________________________   ________________________________
City Clerk                               Mayor

STATE OF COLORADO )
) ss.
COUNTY OF LA PLATA )

I, Faye Harmer, City Clerk of the City of Durango, La Plata County, Colorado, do hereby certify that Ordinance No. O-2024- was regularly introduced and read at a regular meeting of the City Council of the City of Durango, Colorado on the ____ day of _________________, 2024, and was ordered published in accordance with the terms and conditions of the statutes in such cases made and provided, in the Durango Herald, a newspaper of general circulation, on the ____ day of _________________, 2024, prior to its final consideration by the City Council.

________________________________
City Clerk

I further certify that Ordinance No. O-2024-, was duly adopted by the Durango City Council on the ____ day of _________________, 2024, and that in accordance with instructions received from the Durango City Council, said amended ordinance was published by title only in the Durango Herald on the ____ day of _________________, 2024.

______ City Clerk
Item 1.

Sec. 4-4-6-4 Application

B. Establishment of Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled “Flood Insurance Study for La Plata County, Colorado and Incorporated Areas”, dated August 19, 2010 effective April 25, 2024, with accompanying flood insurance rate maps (“FIRM”), and any revisions thereto, are hereby adopted by reference and declared to be a part of this LUDC. The flood insurance study and FIRM are on file and may be reviewed at the offices of the Department.

Item 2.

Sec. 6-3-6-1 Classification of Subdivisions

A. Generally. There are three types of subdivisions for the purposes of this LUDC: minor subdivisions, major subdivisions, and condominium subdivisions.

B. Minor Subdivision. A minor subdivision is a subdivision containing five or fewer lots.

1. Requirements and processing: Proposed minor subdivisions shall require preliminary plan and final plat filing, processing, and approval in accordance with Section 6-3-6-3, Preliminary Plan, and Section 6-3-6-4, Final Plat. The conceptual subdivision plan stage (see Section 6-3-6-2, Conceptual Subdivision Plan) shall be disregarded.

2. All applicable materials and information required to be submitted in the conceptual plan stage (see Section 6-3-6-2, Conceptual Subdivision Plan) shall be submitted in addition to other required submittal materials and information required in the preliminary plan stage.

3. The final plat submittal shall incorporate review comments provided during the preliminary plan stage.

C. Major Subdivision. A major subdivision is a subdivision containing six or more lots. Proposed major subdivisions shall require conceptual subdivision plan, preliminary plan, and final plat filing, processing, and approval in accordance with Section 6-3-6-2, Conceptual Subdivision Plan; Section 6-3-6-3, Preliminary Plan; and Section 6-3-6-4, Final Plat.

D. Condominium Subdivision.

1. Requirements and processing: Proposed condominium subdivisions, including the conversion of an existing structure to multiple ownership interests, shall be processed as either a minor subdivision (see Subsection B., above) or a major subdivision (see Subsection C., above) and shall have the same requirements and processing as set out in those Sections.

2. The requirements and standards set out below shall apply to all structure conversions, when a structure in a single ownership converts to multiple ownership interests.
a. The conversion of an existing structure to multiple ownership interests shall not be permitted if the use in the structure is nonconforming (see Section 6-1-2-1, Nonconforming Uses).

b. If the structure or the property is nonconforming (see Section 6-1-2-5, Nonconforming Structures (Except Buildings), the conversion may occur if all the applicable provisions and requirements as set out in this Article can be met.

c. The structure shall comply with current building, plumbing, electrical, and fire codes.

d. Master water meters shall be installed for each building cluster.

e. Amenities generally associated with home ownership or condominium living shall be provided. Such amenities may include common laundry facilities, open space suitable for recreation, clubhouses, meeting rooms, spas, swimming pools, etc. The adequacy of the proposed amenities shall be determined when the subdivision application is being reviewed as per this Article.

f. The conversion of a structure for the purpose of providing residential dwellings shall conform with the following:
   1. Each dwelling unit shall meet single-family housing requirements, as specified in the Uniform Building Code.
   2. Any commercial/industrial structures proposed for conversion to accommodate a residential use shall be rezoned for compliance with this Code as necessary.
   3. Condominiums are not allowed on single-family and duplex zoned lots in EN-1 thru EN-6, RA and RL zones.

g. The installation or repair of public improvements on or adjacent to the parcel under consideration may be required as a condition of approval of a condominium application.

3. If the land on which the condominium structure exists or is to be built is not a platted parcel, all provisions, requirements, standards, and procedures of this Article shall be met for the land as well as the structure. The land shall be shown as a "lot" on a final plat and recorded in accordance with this Article.

E. **Detached Condominium Subdivision.**

1. **Requirements and processing:** Proposed detached condominium subdivisions, including the conversion of an existing subdivision of fee simple ownership to a common interest ownership model, shall be processed as either a minor subdivision (see Subsection B., above) or a major subdivision (see Subsection C., above) and shall have the same requirements and processing as set out in those Sections. Detached condominium subdivisions shall contain no fewer than three (3) residential units. Detached condominium subdivisions shall meet the following criteria:
   a. The common interest community must contain common elements such as parking areas, roads, amenities, or driveways.
   b. New detached condominium subdivisions must be filed with a rezoning development application to create a single-family common interest community if the lot is in a zone that prohibits condominiums.
   c. For conversions to existing detached condominium subdivisions, one hundred percent (100%) of all property owners must approve the conversion to condominium ownership.
d. Detached single-family dwellings must meet the dimensional standards of a similar and appropriate single-family zone district based on existing dimensional features of buildings and lots and the immediate surroundings, as determined by the Administrator.

e. Submitted documents related to the concurrent subdivision approval must include a plat note and development agreement prohibiting lot line vacations and lot line adjustments that would allow for a larger home than the original condominium subdivision would have allowed. These exclusions may be conditions applied by the Community Development Commission during the review process.

f. Detached condominiums are not allowed on single-family and duplex zoned lots in EN-1 through EN-6, RA, and RL zones.

Item 3.  

Sec. 6-3-6-3 Preliminary Plan  

C. Submittal Requirements. Engineering information submitted on preliminary plans are construction quality drawings. It should be a graphic presentation / plan that shows the intent of development and answers engineering questions. The submittal shall address all comments assembled during the conceptual subdivision plan review process. The preliminary plan submittal shall include:

1. A location map, drawn at a one inch equals five hundred feet (1” = 500’) scale, either separate or composite with the preliminary plan, covering a one-mile radius of the subdivision showing the following:
   a. Major topographical features;
   b. Existing and planned streets and highways;
   c. Zone boundaries, municipal limits, taxing districts, and any other special districts; and
   d. Significant watercourses.

2. Clear, high-contrast copies of a 22" X 34" preliminary plan of the proposed subdivision. The plan(s) shall be in a format approved by the Administrator. The following information shall be shown on the plan sheet(s):
   a. The name of the proposed subdivision (no subdivision shall bear the same name as another subdivision unless adjoining and using consecutive filing numbers);
   b. Name and address of the owner of the property, developer(s), planner / registered engineer, and / or surveyor preparing the plan / document, including the engineer and / or surveyor stamps;
   c. The date of preparation, an engineering graphic and written scale, and a symbol designating true North;
   d. Location and an accurate outer boundary survey with dimensions, certified by a registered land surveyor licensed to work in the State of Colorado, of the proposed subdivision, including a traverse of the monumented perimeter. The traverse shall have an error of closure of not greater than one part in ten thousands;
   e. One survey tie into the City grid system. Monumentation shall conform to the survey requirements of Colorado Revised Statutes;
f. Designation of survey monuments proposed to be used for control during construction;
g. Identification of any proposed excepted parcels (outlots);
h. Adjacent land uses;
i. Names of all adjoining subdivisions; and
j. Lot and street layout, including:
   1. Lots and blocks, numbered consecutively;
   2. Dimensions, rounded to the nearest foot, of all lots;
   3. Lot widths at the required front setback lines;
   4. Any tracts of land proposed to be platted in a size larger than the requirements of the zone district within which the property is located, which shall be oriented and delineated in a manner that will permit a future division of such tract;
   5. Existing structure(s) that will remain;
   6. Outlines and dimensions of any property or properties, other than a street or alley, that is/are proposed for dedication for public use, with the area(s) marked “Public Site” and showing the proposed use(s); and
   7. Outlines and dimensions of any property or properties and/or structures to be owned in common and showing proposed use(s).

3. A table showing the total land area (acres) contained in the proposed subdivision, and the number of acres and percentage of total acreage of all land uses, gross density of residential areas, number of lots, area of each lot, and the length, in feet, of public streets.

4. The names and addresses of owners, departing property lines, and zoning of adjoining property (subdivided or not subdivided).

5. Existing structures within 200 feet of the proposed subdivision boundaries.

6. **Condominiums.** If the plan is for a condominium subdivision:
   a. Building location(s) with perimeter dimensions with two or more ties to the corners of the building(s) and to the perimeter boundary of the parcel.
   b. Condominium units, lettered or numbered, with totals included in the table required by Subsection C.3., above.
   c. Locations and designations of common elements (e.g., hallways, stairs, elevators, etc.).
   d. Condominium units:
      1. Interior frontage dimensions and elevations.
      2. Wall thickness of all exterior and common walls to one hundredth of a foot.
      3. Floor elevations to one hundredth of a foot.
      4. Floor and ceiling thickness and height dimensions between them.
      5. Identification of fireplaces, balconies, chimneys if part of the unit, or included in the description required by Subsection C.6.c., above, if there are to be common elements.
   e. Statement as to whether airspace is finished or unfinished.
   f. Access from the condominium unit through the building and across the parcel to a public street.
   g. Building elevations, including front, side, and rear views.

7. **Detached Condominiums.** If the plan is for a detached condominium subdivision:
8. **Rights-of-way.**
   a. Existing streets, bikeways, sidewalks, paths, alleys, and easements within and abutting the proposed subdivision (locations, names, surface improvement widths and types, curbs, curb cuts, gutters, crossspans, and right-of-way centerlines and widths).
   b. Proposed street system, showing:
      1. Plan View:
         a. Right-of-way, centerline of right-of-way and pavement widths.
         b. Curbs, gutters, crossspans, curb cuts, and sidewalks with horizontal dimensions.
         c. Proposed street names.
         d. Any special treatments proposed within rights-of-way, such as medians, channelization, traffic control, and/or landscaping.
         e. Stationing and dimensions.
      2. Profile View:
         a. Center line and flowline profile.
         b. Grades and vertical curves.

9. **Utilities.**
   a. Overall utility plan (without contours) showing locations and sizes of existing and proposed utilities and easements within, adjacent to, and abutting the subdivision.
   b. Individual utility plans showing sizes and locations of all existing and proposed easements and sewer, water, and storm drain lines, including existing and proposed manholes, hydrants, gate valves, and all-weather access to all improvements. All new public sewer lines and water mains 12 inches and larger shall be shown in profile.
   c. Any rerouted, underground, or new irrigation ditches, and irrigation water system. Written approval shall be obtained and submitted for any rerouting of irrigation ditches from the appropriate irrigation company or association.

10. **Grading, Drainage, Storm Runoff, and Flooding.**
    a. Within the proposed subdivision and to points 50 feet beyond its boundary, the existing and proposed contours at two-foot intervals for predominant ground slopes up to 10 percent grades, at five-foot intervals for predominant ground slopes over 10 percent grade, and 10-foot intervals for predominant ground slopes over 20 percent grade. Elevations shall be based on USGS sea level datum. Existing contours shall be indicated by broken lines and proposed contours by solid lines. Permanent benchmarks shall be indicated within the proposed subdivision or within 200 feet of its boundary.
    b. Existing drainage features including pipes, structures, culverts, gutters, crossspans, ditches, or swales within or adjacent to the subdivision. Show where drainage enters and leaves the property, and include size and direction of flow(s), and any existing drainage easements.
    c. Proposed drainage system:
1. All proposed pipes, structures, culverts, gutters, crosspans, ditches, and swales, including size and directions of flow;
2. Proposed drainage easements; and
3. Drainage outlets for the subdivision with an explanation of any impact of the subdivision drainage on locations downstream from outlets.

11. Hydrology.
   a. The percentage of the total acreage that will be covered with impervious surfaces such as roads, roofs, and driveways.
   b. Storm drainage calculations based on existing and proposed 10- and 100-year design frequencies.
   c. Any intended draining, filling, dredging, or excavation of wet areas.
   d. Boundaries of areas of special flood hazard, if applicable.

12. Reports. The following preliminary reports, maps, or texts (see Appendix C for standards) shall be required, if applicable:
   a. Function, ownership, and maintenance responsibility of any common open spaces not proposed to be dedicated for public use.
   b. The preliminary draft of all grants of easements and / or dedications of property within and adjacent to the proposed subdivision; and any restrictions, covenants, or conditions to be imposed upon the use of land, buildings, and structures.
   c. Proposed condominium declarations and bylaws for ownership association, if applicable.
   d. Preliminary improvements agreement.
   e. Flood hazard report.
   f. Soils and geologic report.
   g. Wildlife mitigation report.
   h. Historical/archaeological report.
   i. Traffic study.
   j. Drainage report.
   k. Water supply.
      1. Estimated total number of gallons of treated water per day required for consumption by, and provisions for fire protection in, the proposed subdivision uses.
      2. Adequate evidence that a water supply sufficient in terms of quality, quantity, and dependability will be available. The evidence may include, but not be limited to: Letter from the City Engineer or an established district or company.
   l. Sewerage.
      1. Estimated total number of gallons per day of sewage to be treated that will be generated by the proposed subdivision.
      2. An analysis of any impacts on all downstream lift stations, if existing.
      3. A letter of acknowledgement from any established or proposed district, if a new treatment facility is proposed.

13. If a newly platted street will intersect with a State highway, a copy of State Highway Department approval.
14. **Title.**

   a. An exact copy of a certificate of a title insurance company or attorney's opinion, which shall set out the names of all owners of property included in the plan and shall include a list of all individuals or entities who may have an interest via mortgages, judgments, liens, easements, contracts, and agreements of record which affect the property covered by the plans.

   b. If a portion of an existing easement or right-of-way is contiguous to a proposed easement or right-of-way of the new subdivision, proof of the dedication of the existing easement or right-of-way shall be submitted.

15. **Covenants, Conditions, and Restrictions.** A statement of intent regarding the formation of a homeowners'/property owners' association; and a draft copy of any restrictions, covenants, or conditions proposed to be recorded with the final plat.

16. **Additional Information.** Additional information may be required by the Department in order to adequately review the proposed subdivision.

**B. Review Criteria.** The following criteria shall be used to evaluate preliminary subdivision plans:

1. The proposed subdivision is in conformance with adopted plans(s) and policies, and the standards of this LUDC.

2. The proposed subdivision is compatible with existing or approved development of adjacent properties under existing zoning.

3. The proposed streets are correctly named.

4. The proposed engineering solutions are sound for all of the major physical site features.

5. Public facilities will be available and adequate to serve the potential population of the proposed subdivision as it is occupied.

6. The impacts of the subdivision do not materially compromise the safety or welfare of the public.

**C. Timing of Subsequent Approvals.**

1. If a final plat covers only a portion of the land area within an approved preliminary plan, such preliminary plan approval for the remaining area shall be automatically renewed for an additional period of one year from the date of approval of each subsequent final plat approval, unless the City Council notifies the Applicant, in writing, to the contrary.

2. An entire preliminary plan area shall be recorded as a final plat(s) within three years of preliminary plan approval. After that time, any unrecorded portion of the preliminary plan shall be required to be reprocessed in accordance with then current City Code(s), or such portions shall become null and void.

3. The Applicant may request, in writing, a withdrawal of the preliminary plan at any time.

**Sec. 6-3-6-4 Final Plat**

**A. Generally.** Final plats are approved administratively pursuant to the standards of this Section. Final plat review is used to ensure that the final plat implements the approved preliminary plan (including conditions of approval), meets the technical requirements for a final plat, and is accompanied by all required supporting documentation, approvals, and agreements. A preliminary plan may be implemented by more than one final plat (each covering a different phase or area).
B. **Procedures.** With respect to final plats, the procedures of Division 6-3-3, *Standard Development Approval Procedures*, are modified as follows:

1. If the final plat implements the preliminary plan, all requirements of approval of the preliminary plan have been met in the final plat submittal, and no adverse comments are received from referral departments / agencies, the Administrator shall approve the final plat.

2. If the final plat has been modified to reflect improvements in design or changes which have occurred since the time of the preliminary plan review and approval, the Administrator may require the submittal of material(s) necessary to adequately review the changes. Such modified plans shall be processed in the same manner as a preliminary plan.

C. **Restrictions.**

1. Parcels that are not contiguous shall not be included in the same plat, nor shall more than one plat be made on the same sheet.

2. Contiguous parcels owned by different parties may be included in the same plat, provided that all owners join the dedication and acknowledgement.

D. **Technical Requirements.** The Applicant shall submit the number of copies of the final plat and related documents requested by the Department. The submittal shall include the following drawings, materials, and information:

1. **Drawing Standards.** Drawings shall comply with the following standards:
   a. The plat shall be delineated at a scale of not less than one inch equals two hundred feet (1" = 200'), on a waterproof, reproducible medium such as mylar, which is twenty-two inches by thirty-four inches (22" × 34") in size. The mylar shall be three-mil thick.
   b. The plat shall be prepared and certification made as to its accuracy and the placement of all monuments, as described by a registered land surveyor licensed to do such work in the State of Colorado.

2. **Mapping Format.** The plat shall show:
   a. An engineering graphic and written scale;
   b. A north arrow;
   c. Date of preparation of the final plat;
   d. The name of the subdivision;
   e. Legal description or reference thereto. The metes and bounds legal description of the perimeter boundary of the subdivision shall have the point of beginning tied to the established City grid system;
   f. A statement that the survey was performed by, or under, a professional land surveyor's direct responsibility, supervision, and checking;
   g. A statement by the land surveyor explaining how the basis of bearing was determined;
   h. Name, signature, date, and seal of the professional land surveyor; and
   i. A vicinity map at a scale of one inch equals five hundred feet (1" = 500').

3. **Multiple Sheets / Composite Maps.** A final plat may be drawn on multiple sheets covering representative and reasonable portions of the subdivision tract. In these cases, the surveyor shall include a composite map at a lesser scale indicating the sheets, numbered accordingly, and shall include title, legend, matchlines, and other information. The number of copies of the composite map shall equal the number required for final plat submittal, as established by the Administrator.
4. **Required Information.** The following subdivision information shall be shown on the plat. Sufficient data shall be provided to enable the reestablishment of the property lines of the subdivision on the ground.

   a. **Boundaries.** The outer boundaries of the subdivision:
      1. Bearings, distances, and curve data of all perimeter boundary lines shall be indicated outside the boundary line. When the subdivision is bounded by an irregular shoreline or a body of water, the bearings and distances of a closing meander traverse shall be given and a notation made that the subdivision includes all land to the water’s edge, or otherwise.
      2. On curved boundaries and all curves on the plat, circular curve data shall include radius of curve, central angle, tangent, arc length, chords, and notation of nontangent curves.
      3. Distances to one hundredths of a foot, and angles and bearings shall be shown to seconds of arc.
      4. Description of all monuments, both found and set, which mark the boundaries of the property, and a description of all control monuments used in conducting the survey.
      5. Any conflicting boundary evidence.
         a. Areas of conflict or overlapping deed descriptions should be clearly identified.
         b. When measured dimensions differ from recorded dimensions, clearly indicate both on the final plat.
   b. **Classification of Land.** All land within the boundaries of the subdivision shall be accounted for either as:
      1. Lots;
      2. Land to be dedicated to the public or to common ownership. These parcels shall be labeled "Public Site" or, in case of land to be owned in common, shall be labeled "Common Site." If the future use is known at the time the plat is prepared, it may also be noted on the respective parcel(s);
      3. Street, alley, walkway, bikeway, trail rights-of-way, or easements; or
      4. Excepted parcels (outlots) under different ownership shall be marked "Not included in this subdivision" or "Not included in this plat," as appropriate, and the boundary(s) completely indicated by bearings and distances.
   c. **Tabular Data.** A table shall be on the plat showing:
      1. The percent of total quantities of land in each classification (see Subsection D.4.b., above), which must be accounted for;
      2. Net and gross densities;
      3. Acreage (to the nearest 0.001 acre) of each land use, as applicable;
      4. Area of each lot;
      5. The length, in feet, of all streets; and
      6. Total area of the subdivision to the nearest 0.001 acres.
   d. **Condominium Requirements.** If the plat is for a condominium subdivision, it shall also show the following information:
      1. Building location(s) with perimeter dimensions with two or more ties to the corners of the building(s) and to the perimeter boundary of the parcel.
2. Condominium units, lettered or numbered, with totals included with the tabular data (see Subsection 3.4.c., above.
3. Location and designation of common elements (e.g., hallways, stairs, elevators, etc.).
4. Condominium units:
   a. Interior frontage dimensions and elevations.
   b. Wall thickness of all exterior and common walls to one hundredth of a foot.
   c. Floor elevations to one hundredth of a foot.
   d. Floor and ceiling thickness and height dimensions between them.
   e. Identification of fireplaces, balconies, chimneys if part of the unit, or include in with common elements, above, if to be common elements.
   f. Statement as to whether airspace is finished or unfinished.
5. Access from the condominium unit through the building and across the parcel to a public street.
6. Building elevations, including front, side, and rear views.

**e. Detached Condominium Requirements.** If the plat is for a detached condominium subdivision, it shall also show the following information:

1. **Detached condominium plats shall be processed as an as-built plat, to be filed after construction or installation of the detached condominium.**

2. **Detached Condominium Requirements. Plats for a detached condominium subdivision shall include the following information:**
   1. **Building footprints.**
   2. **Access from the condominium unit across parcel to a public street.**
   3. **Foundation ownership and maintenance responsibility.**

f. Numbering. All blocks, all lots within each block, and condominium units (if applicable) shall be consecutively numbered.

g. Bearings and Distances. All bearings and distances shall be given for all lot or parcel lines in the same manner as the plat boundaries (see Subsection D.4.a., above), except that bearings and distances need not be given for interior lot lines where the bearings and lengths are the same as those of both end and lot lines.

h. Easements and Rights-of-Way. All streets, alleys, walkways, bikeways, and trails shall be designated as such. Public streets shall be named.

1. **Right-of-way lines, including centerlines, shall show bearings and distances including delta angle, radius, arc length, chord, and chord bearing.**

2. **All existing easements, or easements to be created, shall be designated as to type, with bearings and dimensions given.**

3. **Existing easements shall be labeled with their reception number noted.**

4. **If easements are created by the recording of the final plat, a dedication statement indicating the allowed uses and who has the right to use the easement shall be included on the plat.**

5. **Indicate adjacent property lines departing from the subdivision boundary (to scale, but no dimensions are required).**
6. Construction limit lines, e.g., geologic hazard lines, floodplain lines, or other restrictive areas shall be shown with adequate dimensions to locate said lines on the ground.

i. Dedication Statement. A dedication statement deeding all public land or land to be owned in common including, but not limited to, streets, walkways, bikeways, trails, and public sites (e.g., open space, parks, etc.); indicating use, ownership, and maintenance of all public or private rights-of-way and land areas; and dedication of all easements.

j. Signature Blocks. The plat shall contain the following signature blocks:
   1. Space for the original signature of owner(s) and a space for a notary’s signature for each owner’s signature. All owners, lien holders, or interests shall sign the plat.
   2. Spaces for original signatures of all utility providers (gas, electric, telephone, cable) showing utility company name, signature slot, and date of signature. The Applicant shall obtain these signatures prior to submittal of the final plat.
   3. Space for City officials’ certificates of approval showing title, signature slot, and date of signature for the following:
      a. City Engineer;
      b. Director of Community Development;
      c. Mayor; and
      d. City Clerk.

k. Monument Record. A monument record delineated on the plat for required benchmarks including:
   2. All lot and block corners and street intersection centerlines.
   3. At least one elevation benchmark based on established City datum shall be set (where practical to tie in within every subdivision or subsequent filing prior to submission of the final plat for approval).

E. **Other Documents.** The following final reports, maps, or texts shall be submitted, if applicable:
   1. The following plans and reports are interrelated. They may be shown on the same sheet if this does not result in undue confusion and congestion on the sheet. If separate sheets are used, all drawings shall be to the same scale.
      a. Grading and drainage plan.
      b. Erosion control plan.
      c. Composite improvement plan.
      d. Subsurface soils investigation.
      e. Any other plan required by the preliminary plan approval.
   2. Utility plans.
   3. An exact copy of a current certificate of title which shall set forth the names of the owners of property included in the plat and shall include a list of all individuals or entities who may have an interest via mortgages, judgments, liens, easements, contracts, and agreements of record which
affect the property covered by the plat. If the opinion of title discloses any of the above, the holders of such mortgages, judgments, liens, easements, contracts, or agreements, shall be required to approve the plat, in writing, signed and notarized, before the plat may be recorded.

4. A signed improvements agreement to be recorded.
5. A signed improvements guarantee to be recorded.
7. A final document setting forth covenants, conditions, and restrictions to be recorded.
8. Proposed condominium declarations and bylaws for ownership association, if applicable.
9. Notification of approval from the State Health Department for the construction of any sewer system, or part thereof, when required by State Health Department regulations.

Item 5.

Article 7-3 Definitions

**Single-Family Detached Condominium Dwelling Unit** is a detached building containing only one (1) dwelling unit that is located within a condominium community with at least three (3) or more detached single-family condominium dwelling units located on one (1) lot. Detached condominium ownership consists of the entire structure, including all exterior walls, roofs, decks, and porches.

**Modular Home** means a dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, able to meet the applicable building code as administered by the building official. A modular home is different than a manufactured home and modular homes are not subject to regulations enacted in this code applicable to manufactured homes.
MEMBERS PRESENT: Vice Chair Ulery, Board Members Sarah Pritchard and Alma Evans

MEMBERS ABSENT: Chairman Matt Payne, Commissioners Brian Devine and Elizabeth Boone

STAFF PRESENT: Daniel Murray, Development Services Manager, Mark Williams, Planner II, Scott Shine, Community Development Director, Dan Armentano, Planner III, Mallory St Pierre, Planner I, Lily Oswald, Code Reform Administrator, and Annie Chacon, Admin Analyst.

1. Call To Order/Roll Call
   Vice Chair Ulery called the meeting to order at 5:00 pm.

2. Announcements

3. Public Participation

4. Consent Agenda
   4.1. Approval of the October 2023 Meeting Minutes
       Commissioner Evans moved to approve the October 2023 meeting minutes. Vice Chair Ulery seconded.

       Roll call
       Vice Chair Ulery – yes
       Commissioner Evans – yes
       Commissioner Pritchard – yes
       Approved unanimously

5. Public Hearings

   NOTE: THESE MINUTES ONLY CAPTURE ITEM 5.3 REGARDING THE PROPOSED LAND USE AND DEVELOPMENT CODE TEXT AMENDMENTS. ITEMS 5.1 TO 5.5 WILL BE INCLUDED IN THE FULL MINUTES.

   5.3 A Public Hearing to Consider LUDC Text Amendments Regarding Detached Condominiums and Updated Flood Insurance Rate Map Effective Date
   Code Reform Administrator, Lily Oswald presented the overview of the text amendments and the sections affected. The proposed Text Amendments are to adopt updated FIRM and FIS and to include a detached
condominium process and section to allow for additional subdivision options in the Land Use and Development Code.

Lily Oswald shared the anticipated next steps of the text amendment process and applicable review criteria.

**Review Criteria**: Per Section 6-3-13-3 of the LUDC:

1. The proposed amendment supports adopted plans and policies.
2. The proposed amendment is consistent with the purposes, requirements, limitations, standards, and criteria of the Article being amended and/or other Articles, Divisions, or Sections within the LUDC.
3. The proposed amendment furthers the health, safety, or general welfare of the community.
4. The proposed amendment provides for community benefits, such as improved social or economic conditions or opportunities.

Staff finds that the proposed amendments meet all applicable criteria.

No public comments have been received.

**Recommended Motion:**

“I move to recommend approval of the proposed Text Amendments to Chapters 4, 6 & 7 of the LUDC with the finding that the proposal complies with the criteria for text amendments as described in the City of Durango Land Use and Development Code.”

Commissioner, Alma Evans questioned the modular homes. Lily clarified, not specifically for a specific type of home.

Commissioner, Alma Evans questioned structure of fees. Oswald clarified it varies and application requirements for condominiums. Ulery asked for clarification on foundation. Sarah Pritchard commended on the new development types in the LUDC and commended the City for progressively adopting this additional subdivision type.

No chair discussion.

No public participation.

Commissioner Alma Evans moved to recommend approval of the proposed Text Amendments to Chapters 4, 6 & 7 of the LUDC with the finding that the proposal complies with the criteria for text amendments as described in the City of Durango Land Use and Development Code. Seconded by Chair Susan Ulery.

**Roll Call**

- Commissioner Pritchard – yes
- Commissioner Evans – yes
- Chair Ulery – yes

Motion passed 3-0. Approved unanimously.
JANUARY 16, 2024

LUDEC TEXT AMENDMENTS:
- Updating Flood Insurance Rate Maps (FIRMs) and Study (FIS)
- Detached Condominiums

PUBLIC HEARING

LILY OSWALD, AICP
Community Development

STRATEGIC PLAN GOALS:
AEO & ESR
Mission (Why we exist)
“The City of Durango and our employees provide, efficient city services, effectively maintain city assets and manage growth, are accountable, ethical, fiscally responsible, and collaborate with regional partners to improve the quality of life for our entire community.”

Vision (What we want to be)
“Durango is an authentic, diverse, multigenerational, and thriving community. Our Residents value and enjoy our unique natural environment and benefit from the management of our City’s resources in a fiscally responsible, environmental, and socially sustainable manner.”

Values (What we believe in)
Teamwork | Dependability | Professionalism | Service | Respect | Innovation | Well-Being

PURPOSE
FIRST READING OF AN ORDINANCE PROPOSED TEXT AMENDMENTS TO:
- ADOPT AN UPDATED INSURANCE RATE MAP AND STUDY EFFECTIVE DATE
- INCLUDE A DETACHED CONDOMINIUM PROCESS AND SECTION

IN THE LAND USE & DEVELOPMENT CODE (LUDC).
These initiatives apply primarily to the **Affordability & Economic Opportunity (AEO)** and **Environmental Sustainability & Resilience (ESR)** objectives in the Strategic and Operating Plan.
Topic: Flood Insurance Rate Maps & Study | Redline Item 1

FEMA has issued a letter of final determination adopting an updated Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRM) for La Plata County, Colorado and Incorporated Areas as part of a statewide update effort.

• The updated FIS and FIRM have an effective date of April 25, 2024.

• These updated FIRMs and FIS must be updated and codified in the LUDC to incorporate these floodplain provisions.

Current FIS & FIRMs guiding the City’s floodplains and regulations were adopted in 2010. This text amendment updates this effective date to reflect the updated FIRM and FIS released by FEMA.
Many communities are incorporating a type of condominium ownership termed ‘detached condominiums’ to allow for an additional common ownership community subdivision type.

- The LUDC does not currently allow for this type of housing or subdivision option.

Incorporating this model into the LUDC will allow for an additional subdivision provision without deleting or negatively affecting other subdivision or development regulations.
LUDC Amendments Proposed in Chapter 27 of the City of Durango Municipal Code:

- **§6-3-6-1: Classification of Subdivisions**
  - Added (E) “Detached Condominium Subdivision” to section

- **§6-3-6-3: Preliminary Plan**
  - Added specifications for detached condominium subdivisions to submittal requirements

- **§6-3-6-4: Final Plat**
  - Added specifications for detached condominium unit technical requirements on final plats

- **§7-3: Definitions**
  - Added definitions for “Single-Family Detached Condominium Unit” and “Modular Home”
ANTICIPATED NEXT STEPS

- **DEC 4, 2024** | PLANNING COMMISSION PUBLIC HEARING & RECOMMENDATION

- **JAN 2, 2024** | CITY COUNCIL CONSENT AGENDA: REQUEST FOR PUBLIC HEARING AND INTRODUCTION OF ORDINANCE FOR JANUARY 16TH
  - **JAN 16, 2024** | CITY COUNCIL CONSIDERATION & PUBLIC HEARING (1ST READING)
  - **FEB 6, 2024** | CITY COUNCIL CONSIDERATION (FINAL READING)
  - **FEB 2024** | LUDC TEXT AMENDMENTS IN EFFECT
Per Section 6-3-13-3 of the LUDC:

1. The proposed amendment **supports adopted plans** and policies.

2. The proposed amendment is **consistent with the purposes, requirements, limitations, standards, and criteria of the Article** being amended and/or other Articles, Divisions, or Sections within the LUDC.

3. The proposed amendment **further the health, safety, or general welfare** of the community.

4. The proposed amendment **provides for community benefits**, such as improved social or economic conditions or opportunities.

**Staff finds that the proposed amendments meet all applicable criteria.**
PUBLIC COMMENTS & RECOMMENDED MOTION

Public Comment:
No advanced public comment has been received.

Planning Commission:
Unanimously recommended approval of these Text Amendments at their meeting on December 4, 2023.

Recommended Motion:
“I move to approve the Ordinance to update Chapter 27 of the City of Durango Municipal Code with the finding that the proposal complies with the criteria for Text Amendments as described in the City of Durango Land Use and Development Code.”
RECOMMENDATION
It is the recommendation of Community Development staff and the Planning Commission that the City Council, by motion,

1. Set a public hearing to consider Elk Grove Preliminary Plan at 455 and 589 High Llama Lane, and to introduce the Annexation Ordinance on February 6, 2024.

SUMMARY
This is the request for public hearing for the Preliminary Plan development review of the Elk Grove development. The annexation approval, initial zoning and Conceptual Plan were approved by City Council on June 6, 2023. The Planning Commission voted to recommend approval of the Preliminary Plan on September 25, 2023.
Attachments: Context Map

STRATEGIC PLAN ALIGNMENT
The proposed annexation is in conformance with the Strategic Plan’s Affordability and Economic Opportunity section.

ALTERNATIVE OPTIONS CONSIDERED:
This will be addressed with the agenda documentation for the public hearing.

FISCAL IMPACT:
This will be addressed with the agenda documentation for the public hearing.

POTENTIAL ADVERSE IMPACTS:
This will be addressed with the agenda documentation for the public hearing.

NEXT STEPS AND TIMELINE:
The Preliminary Development Plan will be reviewed for approval by City Council at a public hearing on February 6th, 2024.
ORDINANCE NO. O-2024-

AN ORDINANCE APPROVING THE ANNEXATION AND INITIAL ZONING FOR THE ELK GROVE ADDITION TO THE CITY OF DURANGO AND DECLARING AN EFFECTIVE DATE.

WHEREAS, there has heretofore filed with the City a Petition for Annexation to the City of Durango, a tract of land, approximately 25 acres, as further described herein, to be known as the Elk Grove Addition Annexation to the City of Durango; and

WHEREAS, the Petition for Annexation was accompanied by the required plats of said tract of land; and

WHEREAS, the City Council by resolution, has previously found and determined that the subject property is eligible for annexation and that the Petition for Annexation meets the statutory requirements for annexation; and

WHEREAS, said Petition is signed by the owners of one hundred percent (100%) of the property proposed to be annexed; and

WHEREAS, the City Council, by resolution, did accept said Petition; and

WHEREAS, a public hearing was held before the City Council of the City of Durango on April 18, 2023. The Council has determined, subsequent to said public hearing, that the annexation of the property commonly known as the Elk Grove Addition is in the best interests of the citizens of the City of Durango;

NOW, THEREFORE, THE CITY OF DURANGO HEREBY ORDAINS:

Section 1. Subject to and conditioned on the execution and recording of a satisfactory Annexation Agreement and Annexation Plat, the annexation of certain territory to be known as the Elk Grove Addition to the City of Durango, which territory is legally described on Exhibit ‘A’ hereto attached, the contents of which are incorporated by reference herein, is hereby approved.

Section 2. The annexation of such territory to the City of Durango shall be complete and such territory shall become a part of the City of Durango following the effective
date of this ordinance but not until the completion and recording of the Annexation
Agreement and Annexation Plat for the property. The Property, as described on the
attached Exhibit 'A', shall be zoned PD (Planned Development).

Section 3. This ordinance shall become effective ten (10) days after its passage and
final publication as provided by law.

CITY COUNCIL OF THE CITY OF DURANGO

Attest:

___________________________
Mayor

City Clerk

STATE OF COLORADO )
) ss.
COUNTY OF LA PLATA )

I, Faye Harmer, City Clerk of the City of Durango, La Plata County,
Colorado, do hereby certify that Ordinance No. O-2024-__ was regularly introduced
and read at a regular meeting of the City Council of the City of Durango, Colorado on
the ___ day of January 2024, and was ordered published in accordance with the terms
and conditions of the statutes in such cases made and provided, in the Durango
Herald, a newspaper of general circulation, on the ___ day of February 2024, prior to
its final consideration by the City Council.

___________________________
City Clerk

I further certify that said Ordinance No. O-2024-___ was duly adopted
by the Durango City Council on the ____ day of February 2024, and that in accordance
with instructions received from the Durango City Council, said ordinance was
published by title only in the Durango Herald on the ____ day of February 2024.

___________________________
City Clerk
EXHIBIT A

Tract: B Section: 3 Township: 34 Range: 9 EXEMPTION PLAT 84-90 589 HIGH LLAMA LN DURANGO 81301
(the White property)

-AND-

Section: 3 Township: 34 Range: 11 LOT 1 BERZINS BA & CONS PROJ 2010-0003 PER PLT 1012133 455 HIGH LLAMA LN DURANGO 81301
(the Berzins property)
TO: DURANGO CITY COUNCIL  FROM: MAYOR MELISSA YOUSSEF

SUBJECT: ASSIGNMENT OF TWO COUNCILORS TO THE INTERVIEW TEAM FOR THE COMMUNITY DEVELOPMENT COMMISSION

RECOMMENDATION:

It is recommended that Council assign two Councilors to the Interview Team for the Community Development Commission.

BACKGROUND SUMMARY:

The two Councilors will be joined by a member of the Community Development Department to form a three-person committee to interview qualified candidates for the board and provide their recommendations to all of Council.

STRATEGIC PLAN ALIGNMENT:

Diversity, Equity and Inclusion; Engaged and Collaborative Governance

ALTERNATIVE OPTIONS CONSIDERED:

None

FISCAL IMPACT:

None known

POTENTIAL ADVERSE IMPACTS:

None known

NEXT STEPS AND TIMELINE:

The interview committee will conduct interviews and make recommendations to all of Council at the February 6, 2024 Regular meeting.