AGENDA

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)

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.

CITY COUNCIL REGULAR MEETING
DURANGO CITY HALL, SMITH CHAMBERS
02/20/2024 5:30 PM

MAYOR
Melissa Youssef

MAYOR PRO-TEM
Jessika Buell

CITY COUNCILORS
Olivier Bosmans – David Woodruff - Gilda Yazzie

CITY MANAGER
José Madrigal

ASSISTANT CITY MANAGER
Erin Hyder

MANAGING DIRECTOR
Bob Brammer, Public Safety

CITY ATTORNEY
Mark Morgan

CHIEF FINANCIAL OFFICER
Devon Schmidt

CITY CLERK
Faye Harmer

AIRPORT
Tony Vicari, Director

911 COMMUNICATIONS
Zeta Fail, Director

LIBRARY SERVICES
Luke Alvey-Henderson, Director

PARKS AND RECREATION
Kelly Schmidt, Director

TRANSPORTATION
Sarah Hill, Director

INFORMATION TECHNOLOGY
Justin Carlton, Director

PUBLIC WORKS
Allison Baker, Director

HUMAN RESOURCES
Bonnie Kling, Director

COMMUNITY DEVELOPMENT
Scott Shine, Director
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 - Information Only - NO ITEMS

5. CITY MANAGER UPDATES - Information Only
   5.1. 2023 Self Insurance Summary

6. COMMITTEE, BOARD AND LIAISON REPORTS - Information Only -5:45 PM
   6.1. Update from United Way of Southwest Colorado Regarding the 2024 Funding Allocations to Non-Profit Organizations for Community Support Services

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

8. CONSENT AGENDA - Action Items without discussion
   8.1. Approval of Meeting Minutes
       8.1.1. Approval of Minutes February 6, 2024 City Council Regular Meeting - ECG
   8.2. Final Reading of Ordinances
       8.2.1. Final Approval of Ordinance O-2024-0003 Approving the Durango Crossings Partnership Annexation and Declaring an Effective Date, 1480-1540 Florida Road - AEO- submitted by Community Development
   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
   8.6. Request for Public Hearing - NO ITEMS

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

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. LAND USE AND DEVELOPMENT - Action Items with Discussion -6:00 PM

10.1. ELK GROVE ADDITION 455 and 589 High Llama Lane - AEO

10.1.1. A Public Hearing for the Annexation and Preliminary Plan for the Elk Grove Addition, 455 and 589 High Llama Lane - AEO - Submitted by Community Development

10.1.2. An Ordinance Approving the Elk Grove Annexation Ordinance and Declaring an Effective Date - AEO - Submitted by Community Development

10.1.3. A Resolution Approving the Elk Grove Preliminary Plan and Authorizing the Mayor to Sign the Final Plat - AEO - Submitted by Community Development

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

11.1. A Resolution To Make Amendments To The 2024 Adopted Budget Submitted by Devon Schmidt & Various Departments - FEHPG

12. FIRST READING OF ORDINANCES - CONSIDERATION OF ADOPTION AND PUBLIC HEARING - Action items with discussion -7:00 PM

12.1. First Reading of an Ordinance Amending Chapter 18, Parks and Recreation, of the Code of Ordinances of the City of Durango and Declaring an Effective Date - AEO

13. PUBLIC COMMENT ON NON-AGENDA ITEMS - No discussion -7:30 PM

14. INTRODUCTION OF ORDINANCES AND REQUEST FOR PUBLIC HEARING - Action Item with limited discussion - NO ITEMS

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

15.1. Discussion and Possible Action Concerning a Motion to Approve the Settlement of a Case Concerning the Application of Water Rights Filed by Troy Hall, Specifically 2018CW3054, in La Plata County District Court - FEHPG

16. REQUESTS FOR EXCUSED ABSENCES

17. ADJOURNMENT -8:00 PM

NOTE THAT ALL TIMES ARE APPROXIMATIONS

The public may view the meeting live on Zoom at durangogov.org/zoom or on YouTube at https://www.youtube.com/@CityofDurango6512. An email link for public comment is located at DurangoGov.org/meetings at the top of the page as well as on the agenda itself under Public Participation. Comments must be submitted no later than noon on the Monday preceding the meeting. Each email should contain the corresponding agenda item in the subject line of the email if there is one. The sender's full name and address should be included for the record. If comment by email is not possible, comments may also be placed in the drop box located in front of City Hall no later than noon on the Monday preceding the meeting. All written comments will be provided to the Council for review. Written comments may be read into the

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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.

Email comments should be directed to: PublicComment@durangogov.org.
UPDATE FROM UNITED WAY OF SOUTHWEST COLORADO REGARDING THE 2024 FUNDING ALLOCATIONS TO NON-PROFIT ORGANIZATIONS FOR COMMUNITY SUPPORT SERVICES

RECOMMENDATION:
Information provided as an update to City Council.

BACKGROUND SUMMARY:
The City of Durango provides community support funding each year to local non-profit organizations and this program is administered by the United Way of Southwest Colorado (UWSWC). The UWSWC will coordinate the distribution of funds to local non-profit organizations to provide services that are highly desired or important to the well-being of the community but are beyond the scope of direct provision of services by local government sources. This partnership helps to maximize the effectiveness of local funds by allowing City government, UWSWC, and nonprofit services providers to each maximize our strengths in ways that optimizes services to community members.

The UWSWC’s application process requires organizations to identify how their funding requests align with the City’s adopted 2022 Strategic Plan to ensure that the organizations funded with the City’s grant dollars help in achieving the Strategic goals. A volunteer committee was constructed by UWSWC to review these applications and was composed of community members who are knowledgeable about the community and local non-profits. The below chart details the non-profit organizations that have been selected to receive funding through the 2024 community support funding program.

STRATEGIC PLAN ALIGNMENT:
Enhanced Livability & Sense of Place
Engaged & Collaborative Governance
Environmental Sustainability & Resilience
Effective Infrastructure Network
Affordable and Economic Opportunity

ALTERNATIVE OPTIONS CONSIDERED:
None known.

FISCAL IMPACT:
Known known.

POTENTIAL ADVERSE IMPACTS:
None known.

NEXT STEPS AND TIMELINE:
Upon execution of contract between UWSWC and the City of Durango for the scope of work detailed above, and approval of the committee’s funding recommendations, the grants will be distributed accordingly to the selected non-profit organizations.
<table>
<thead>
<tr>
<th>Name of the Requesting Organization</th>
<th>2024 Requested Amt</th>
<th>2024 Recommendation</th>
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<td>Know Your Dough</td>
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<td>SCAPE</td>
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<td><strong>TOTAL 2024 CSF Funding</strong></td>
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<td>United Way Admin Fee (5%)</td>
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2.20.23

2024 Community Support Funding

Elise Savastano
United Way of Southwest Colorado
City has $308,750 to grant out
Committee deliberated and created funding recommendations for each applicant based on this dollar amount using City goals/priorities/requirements

Committee held Zoom interviews with each applicant on Dec 4, 2023
Committee had a chance to ask questions, get clarifications and hear from each applicant before deliberating

26 Non-profits applied
Total of $359,500 in grant requests
CSF Committee composed of 5 community members, who reviewed all apps beforehand

Application Intake & Review

Short interview with CSF Committee

Final Funding Recommendations
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<tr>
<th>Name of the Requesting Organization</th>
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<td>The Soils Center at Southwest College</td>
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**United Way Admin Fee (5%)** $16,250.00

**TOTAL 2024 CSF Funding** $325,000.00
QUESTIONS?

- Elise Savastano  
  VP Finance & Operations  
  United Way of Southwest Colorado

- elises@unitedway-swco.org
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 Licensing and Records Specialist Dana DeBolt who was filling in for the City Clerk.

INTRODUCTION OF TRANSLATOR
Diego Pons from CLC Translation provided translation services in Spanish.

OPENING REMARKS BY MAYOR AND COUNCIL
Durango High School Update
Mayor Youssef invited students from Durango High School to present their current activities and accomplishments.

Sienna Harvey, a student with Durango High School shared the school’s choir group’s upcoming attendance at an international competition. Recently, over sixty students competed in job skill competitions in which qualifiers would move on to additional contests. There were also students who had attended the Colorado Youth Diversity Conference. Other events that were planned were discussed, along with highlights involving DHS students.

PRESENTATIONS/PROCLAMATIONS
Update on Lake Nighthorse Motorized versus Non-Motorized Use
Sara Humphrey, Parks Manager, was in attendance to provide an update on motorized versus non-motorized use at Lake Nighthorse. She gave narrative of the development of the current schedule of use including community engagement sessions that were hosted. Breakdowns of usage between different types of watercrafts were reviewed as well.

Councilor Yazzie asked if there was a way to expand the wakeless hours at the lake.

Ms. Humphrey reviewed non-motorized zones with her.

Mr. Woodruff, Mayor Pro Tem Buell, and Ms. Humphrey reviewed how boats could be wakeless with low motor use and the times of year in which they are implemented. The group also looked at other lakes in the area and similar practices.

Update on Lake Nighthorse Pipeline
Public Works Director Allison Baker provided the group with a summary of the current status of the Lake Nighthorse Pipeline to inform capital improvement processes in the future. She shared the development processes of the pipeline and the stakeholders who were involved. Concerns from the Southern Ute Tribe were identified. Ms. Baker said there were continuing meetings regarding the pipeline to identify benefits for all stakeholders.

Councilor Bosmans and Ms. Baker reviewed design costs of the pipeline and said they would be going to bid to complete the design project. Ms. Baker said she would follow up with Council on the identified costs and when they would be reviewed again by the group.

Ms. Baker confirmed with Councilor Yazzie that she would route her recent conversations with the tribes.

CITY MANAGER UPDATES
Visit Durango Board of Directors Update
Jenny Roberts, representing the lodging sector with Visit Durango, updated the Council on accomplishments with Visit Durango. There was a recent Natural Selection snowboard competition that Visit Durango had secured to support sustainable tourism. Visit Durango’s destination management department had won a Green Destinations Top 100 Stories
competition showcasing sustainable tourism. She was excited for the upcoming Durango Restaurant Week, offering special meal pairings during the off season.

Trash and Recycling Update

Public Works Director Alison Baker returned to discuss glass recycling efforts. She confirmed what items were currently recycled including single stream processes. She reviewed pricing of loads that were shipped to various recycling facilities and how there were fewer opportunities to recycle. Regarding recycling glass, she shared where current collection spots were and where the glass went to. She also commented on situations where they would stop glass collection and how much it cost to ship 30-ton loads to various facilities.

The group appreciated her information.

COMMITTEE, BOARD AND LIAISON REPORTS

Mayor Pro Tem Buell recently attended the Colorado Association of Ski Towns where they reviewed new construction requirements, housing and livability, transit, and child care. They also reviewed housing legislation recently approved by the State of Colorado that wouldn't necessarily impact smaller towns.

Councilor Yazzie had attended a recent Mayor’s Youth Advisory Commission meeting, a Library Meeting with Luke Alvey-Henderson, and a joint meeting with the La Plata Board of County Commissioners. She and Councilor Woodruff had also interviewed candidates for the new Community Development Commission.

Councilor Woodruff attended a Creative Economy Commission meeting where they looked at lodgers’ tax revenue and how it supported those contributing to Durango’s economy. They also reviewed revenue overages. He also commented on interviewing the Community Development Commission candidates.

Councilor Bosmans recently met with the Region 9 group where they reviewed grant programs, enterprise zones, and financial portfolios. He was happy to see Snowdown’s successful events that also benefited businesses during a slower time of year.

Mayor Yousse attended a stakeholder meeting with Fort Lewis College, La Plata County, Durango 9R, and Pueblo Community College. The group had decided stand down the meetings for the time being, until necessary again.

Mayor Youssef called a recess on the meeting and would convene in three minutes.

Mayor Youssef reconvened the meeting and confirmed with the audience when there would be opportunities for public comment later in the meeting.

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

There were no comments for items 8, 9, or 11.

CONSENT AGENDA

Dana DeBolt, who was filling in for the City Clerk, read the consent agenda as follows:

Approval of Meeting Minutes

- Approval of Minutes City Council Regular Meeting on January 16, 2024

Final Reading of Ordinances

- Final Reading of Ordinance O-2024-0001 for 2900 Block of W 2nd Ave Right-of-Way Abandonment- ELSP - Submitted by Community Development
- Final Reading of Ordinance O-2024-0002 for Land Use and Development Code Text Amendments regarding Detached Condominiums and Updated Flood Insurance Study - AEO & ESR – Submitted by Community Development

Adoption of Resolution(s) by Consent

- A Resolution Authorizing the Mayor to Execute an Intergovernmental Agreement with La Plata County Regarding Funding for the Annexation of County Roads 250 and 251

Approval of Other Administrative Items

- No items

Land Use and Development Action Items
No Items.

Request for Public Hearing

No Items.

Councilor Bosmans motioned to approve the consent agenda minus item 8.2.2, Final Reading of Ordinance O-2024-0002 for Land Use and Development Code Text Amendments regarding Detached Condominiums and Updated Flood Insurance Study. Mayor Pro Tem Buell seconded the motion.

A roll call was taken and the motion passed.

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

ITEMS PULLED FROM THE CONSENT AGENDA

8.2.2. Final Reading of Ordinance O-2024-0002 for Land Use and Development Code Text Amendments regarding Detached Condominiums and Updated Flood Insurance Study

Mayor Youssef motioned to approve item 8.2.2. from the Consent Agenda. Mayor Pro Tem Buell seconded the motion.

Council discussion began.

Councilor Bosmans and Community Development Director Scott Shine talked about future projects that could be impacted by the LUDC amendments. Mr. Shine commented there was a proposed development in the Twin Buttes area that could be impacted by the amendments. He did not have specific code to reference regarding multi-unit projects at the Twin Buttes site but said he could follow up with Mr. Bosmans with the information.

Councilor Woodruff thought it would be good to codify language so the city would seek less variances for housing development in the future.

A roll call was taken, and the motion passed, with Councilor Bosmans voting no.

The motion passed: 4 in favor; 1 opposed; Abstain 0; Absent 0

LAND USE AND DEVELOPMENT

Durango Crossings Partnership 1480-1540 Florida Road

A Public Hearing for the Annexation, Initial Zoning, and Conceptual Planned Development for the Durango Crossings Partnership

Mayor Pro Tem Buell motioned to open the public hearing and Councilor Yazzie seconded the motion.

A roll call was taken and the motion passed, opening the public hearing.

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

Dan Armentano, City Planner, began his presentation on the Durango Crossings planned development, annexation, and initial zoning. The project would develop deed restricted workforce housing and Mr. Armentano gave a history of the development of the project to this point. He outlined the phases of construction and the layout of the proposed property. The annexation agreement was reviewed, and he outlined workforce housing requirements.

Lisa Bloomquist, Executive Director of Homes Fund, was in attendance for the public hearing in support of the workforce housing development. She said it was extraordinary that over half of the units were for workforce housing.

Dave Linden commented that the density of the area around the development was not a natural fit and was also concerned with wildfires.

Rachel Landis commented virtually during the public hearing. She thanked Council for their hard work to advance workforce housing. She encouraged the city to think differently about how they could engaging the residents near the development. She also encouraged Council to drop the AMI range to 60% and to reduce the deed restricted sales. She was also concerned about traffic.

Mayor Youssef closed the public hearing.

An Ordinance Approving the Durango Crossings Partnership Annexation and Declaring an Effective Date, 1480-1540 Florida Road
Mayor Pro Tem Buell motioned to approve the ordinance and Councilor Yazzie seconded the motion.

Council discussion began and Mayor Pro Tem Buell commented on the gap for affordable housing and thought there was a big increase in the past few years. She also reviewed apartment complexes near the proposed site and similarities to the project. She and Mr. Armentano reviewed the minimum 50% deed restricted units and 70% AMI requirements. Mr. Armentano noted that having a fourth floor at the facility would allow for more workforce housing units.

Councilor Woodruff asked if the transit stops were being looked at for relocation so that the facility could be supported by transit.

Mr. Armentano said his department would have those conversations with Transit.

Mr. Woodruff and Armentano reviewed city ownership scenarios and expanded the conversation on title items and grant programs. They also talked about challenges with connecting the area to Jenkins Ranch Road.

Councilor Bosmans and Mr. Armentano reviewed AMI ranges and what fees would be waived for the proposed development. They also reviewed which expenses would be the responsibility of the developer. Urban Renewal Authority requirements were discussed as well, however, were not subject to Council approval at the moment.

A roll call was taken, and the motion passed.

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

A Resolution Approving the Conceptual Planned Development for the Durango Crossings Partnership, 1480-1540 Florida Road

Mayor Pro Tem Buell motioned to approve the resolution and Councilor Woodruff seconded the motion.

There was no Council discussion.

A roll call was taken, and the motion passed.

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

RESOLUTIONS - CONSIDERATION OF ADOPTION

No Items.

FIRST READING OF ORDINANCES - CONSIDERATION OF ADOPTION AND PUBLIC HEARING

No Items.

PUBLIC COMMENT ON NON-AGENDA ITEMS

Sweetie Marbury, a Durango resident, had recently attended a Financial Advisory Board meeting and supported funding for the 14th Street design and re-opening. She also thought focus group meetings should not exclude residents. She also was in support of the 2005 sales tax reauthorization and wanted to see more public engagement on the intended use of tax dollars.

Karen Pontius was in attendance to ask the Council to pass a resolution calling for a ceasefire in Gaza. She highlighted other municipalities who had adopted similar resolutions.

Laura Weaser commented on Lake Nighthorse and encouraged Council to increase wakeless hours.

Trevor Bird, a small business owner, spoke about his experiences with the Four Corners Motorcycle Rally. He was concerned with an amendment to an ordinance that would impact local event planners.

Rick Cobb, a city resident, was in attendance to advocate for more capital resources for Three Springs. He was concerned with an amendment to an ordinance that would impact local event planners.

Linda Barnes commented virtually and said there was a need for an emergency shelter for homeless individuals during the winter. She compared other municipalities and their sheltering efforts.
Mayor Youssef moved on to Introduction of Ordinances and Request for Public Hearing, however, there were additional members of the public wishing to give public comment. She allowed them to give testimony as well, though out of the order on the agenda.

Adora Higgs, Lee Dean, Michael Fidel, Zachary Lawrence, and individuals named Keaton, Whitney, and Gina advocated that Council to adopt a ceasefire resolution for the Israel and Gaza conflict.

Dean Brookie, a resident and former city councilor, noted that the State of Colorado updated distance requirements for marijuana stores and that the City of Durango should review updating local requirements as well.

**INTRODUCTION OF ORDINANCES AND REQUEST FOR PUBLIC HEARING**

*Introduction of an Ordinance Amending Chapter 18, Parks and Recreation, of the Code of Ordinances of the City of Durango and Declaring an Effective Date*

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

City Attorney Mark Morgan commented that the ordinance amendment would create more coordination with the City of Durango for events that are held at county facilities in city limits.

Mayor Pro Tem Buell and Mr. Morgan spoke briefly about the updates to the ordinance.

Councilor Bosmans and Mr. Morgan reviewed a discrepancy in the placement of the agenda item which was corrected. Mr. Bosmans thought the minor changes to the ordinance would not improve the process.

Councilor Yazzie said the ordinance amendments were reactive and thought a conversation with La Plata County would be a good starting point.

A roll call vote was taken, and the motion passed with Councilor Bosmans and Yazzie voting no.

The motion passed: 3 in favor; 2 opposed; Abstain 0; Absent 0

**OTHER NEW BUSINESS - Non-Dispositive with limited discussion**

*Appointments of Community Development Commission Members*

Councilor Woodruff outlined the interview process for the new Community Development Commission. He and councilor Yazzie had interviewed candidates and appointed seven members to the commission.

Councilor Woodruff made a motion to appoint the selected candidates to the Community Development Commission and Mayor Pro Tem Buell seconded the motion.

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

The motion passed: 4 in favor; 0 opposed; Abstain 1; Absent 0

Councilor Yazzie proposed that staff look further into the updated state marijuana zoning requirements and follow up with an informational presentation. Mayor Youssef seconded the motion.

A roll call was taken, and the motion passed.

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

**Requests for Excused Absences**

There were no requests for excused absences.

**Directives**

No directives were offered.

**ADJOURNMENT**

Mayor Youssef adjourned the meeting at 8:15 p.m.

**APPROVED:**
ORDINANCE NO. O-2024-0003

AN ORDINANCE APPROVING THE ANNEXATION AND INITIAL ZONING FOR THE DURANGO CROSSINGS ADDITION TO THE CITY OF DURANGO AND DECLARING AN EFFECTIVE DATE

WHEREAS, Petitions for Annexation of the Durango Crossings Addition, all as shown on Exhibit ‘A’ have been accepted by Resolution by the City of Durango; and

WHEREAS, the Petitions for Annexation were accompanied by the required maps of said tracts of land; and

WHEREAS, the subject property is eligible for annexation and that the Petitions for Annexation meet the statutory requirements for annexation; and

WHEREAS, said Petitions are signed by the owners of one hundred percent (100%) of the property proposed to be annexed; and

WHEREAS, the City Council has determined, subsequent to the required public hearing, that the annexation of the property 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 Durango Crossings Addition to the City of Durango, which territory is legally described on Exhibit ‘A’ hereto attached and visually demonstrated on Exhibit ‘B’ 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 Map for the property. The Property, as described on the attached Exhibit ‘A’, shall be zoned Planned Development (PD).

Section 3. This ordinance shall become effective ten (10) days after its passage and final publication as provided by law.
I, Faye Harmer, City Clerk of the City of Durango, La Plata County, Colorado, do hereby certify that Ordinance No. O-2024-0003 was regularly introduced and read at a regular meeting of the City Council of the City of Durango, Colorado on the 6th day of February 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 11th day of February, 2024, prior to its final consideration by the City Council.

City Clerk

I further certify that said Ordinance No. O-2024-0003 was duly adopted by the Durango City Council on the 20th 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 25th day of February 2024.

City Clerk
Exhibit A: Legal Descriptions

City of Durango Property:

PARCEL I:

THE EAST 50 FEET OF THE WEST 145 FEET OF THAT PART OF THE NW1/4SW1/4 (LOT 17) OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 9 WEST, N.M.P.M., COUNTY OF LA PLATA, STATE OF COLORADO, LYING SOUTHERLY OF THE UPPER FLORIDA COUNTY ROAD RIGHT OF WAY.

PARCEL II:

THE EAST 120 FEET OF THE WEST 145 FEET OF THAT PART OF THE NW1/4SW1/4 (LOT 17) OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 9 WEST, N.M.P.M., COUNTY OF LA PLATA, STATE OF COLORADO, LYING SOUTHERLY OF THE UPPER FLORIDA COUNTY ROAD RIGHT OF WAY.

LESS AND EXCEPT THE EAST 50 FEET THEREOF.

PARCEL III:

A PARCEL OF LAND DESCRIBED IN RECEPTION NO. 349356 OF THE RECORDS OF THE LA PLATA COUNTY CLERK AND RECORDER LOCATED IN SECTION 15, TOWNSHIP 35 NORTH, RANGE 9 WEST, N.M.P.M., LA PLATA COUNTY, COLORADO, AND BEING MORE COMPLETELY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS THE SOUTHWEST CORNER THEREOF, FROM WHICH THE SOUTHWEST CORNER OF GOVERNMENT LOT 17 BEARS SOUTH 25° 54' 29" WEST, A DISTANCE OF 319.13 FEET; THENCE FROM SAID POINT OF BEGINNING NORTH 01° 06′ 58″ WEST, A DISTANCE OF 83.11 FEET ALONG THE WESTERLY BOUNDARY LINE THEREOF ON THE EASTERLY BOUNDARY LINE OF A PARCEL OF LAND DESCRIBED IN RECEPTION NO. 704253 OF SAID RECORDS; THENCE ALONG THE ARC OF A CURVE DEFLECTING TO THE LEFT A DISTANCE OF 72.44 FEET, WHICH CURVE HAS A CENTRAL ANGLE OF 12° 58′ 13″ AND A RADIUS OF 320.00 FEET, THE CHORD OF WHICH BEARS SOUTH 44° 52′ 54″ EAST, A DISTANCE OF 72.28 FEET TO THE EASTERLY BOUNDARY LINE THEREOF ON THE WESTERLY BOUNDARY LINE OF A PARCEL OF LAND DESCRIBED IN RECEPTION NO. 551008 OF SAID RECORDS; THENCE SOUTH 01° 06′ 58″ EAST, A DISTANCE OF 26.07 FEET ALONG SAID LINE; THENCE SOUTH 83° 21′ 22″ WEST, A DISTANCE OF 50.23 FEET ALONG THE SOUTHERLY BOUNDARY LINE THEREOF ON THE NORTHERLY BOUNDARY LINE OF A PARCEL OF LAND DESCRIBED IN RECEPTION NO. 559475 OF SAID RECORDS TO THE POINT OF BEGINNING.

PARCEL IV:

A PORTION OF THE PARCEL OF LAND DESCRIBED IN RECEPTION NO. 559475 OF THE RECORD OF THE LA PLATA COUNTY CLERK AND RECORDER LOCATED IN SECTION 15, TOWNSHIP 35 NORTH, RANGE 9 WEST, N.M.P.M., LA PLATA COUNTY, COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS THE SOUTHWEST CORNER THEREOF, FROM WHICH THE SOUTHWEST CORNER OF GOVERNMENT LOT 17 THEREOF BEARS SOUTH 30 DEGREES 02 MINUTES 13 SECONDS WEST, 280.29 FEET; THENCE FROM SAID POINT OF BEGINNING, NORTH 01 DEGREES 06 MINUTES 58 SECONDS WEST, 44.42 FEET ALONG THE WESTERLY BOUNDARY LINE THEREOF OF THE EASTERLY BOUNDARY LINE OF A PARCEL OF LAND DESCRIBED IN
RECEPTION NO. 704253, TO THE NORTHERLY BOUNDARY LINE THEREOF ON THE SOUTHERLY BOUNDARY LINE OF A PARCEL OF LAND DESCRIBED IN RECEPTION NO. 349356; THENCE NORTH 83 DEGREES 21 MINUTES 22 SECONDS EAST, A DISTANCE OF 50.23 FEET ALONG SAID LINE TO THE EASTERLY BOUNDARY LINE THEREOF ON THE WESTERLY BOUNDARY LINE OF A PARCEL OF LAND DESCRIBED IN RECEPTION NO. 551008; THENCE SOUTH 01 DEGREES 06 MINUTES 58 SECONDS EAST, A DISTANCE OF 83.19 FEET ALONG SAID LINE; THENCE ALONG THE ARC OF A CURVE DEFLECTING TO THE RIGHT A DISTANCE OF 60.48 FEET, WHICH CURVE HAS A CENTRAL ANGLE OF 08 DEGREES 27 MINUTES 08 SECONDS AND A RADIOUS OF 410.00 FEET, THE CHORD OF WHICH BEARS NORTH 56 DEGREES 57 MINUTES 06 SECONDS WEST, A DISTANCE OF 60.43 FEET TO THE POINT OF BEGINNING.

PARCEL V:
A PORTION OF THE PARCEL OF LAND DESCRIBED IN RECEPTION NO. 559475 OF THE RECORDS OF THE LA PLATA COUNTY CLERK AND RECORDER, LOCATED IN SECTION 15, TOWNSHIP 35 NORTH, RANGE 9 WEST, N.M.P.M., LA PLATA COUNTY, COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING THE EAST 50 FEET OF THE WEST 195 FEET OF THAT PART OF THE NW1/4SW1/4, SECTION 15, TOWNSHIP 35 NORTH, RANGE 9 WEST, N.M.P.M., LYING SOUTH OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT WHICH IS THE NORTHWEST CORNER THEREOF, FROM WHICH THE SOUTHWEST CORNER OF GOVERNMENT LOT 17 THEREOF BEARS SOUTH 30 DEGREES 02 MINUTES 13 SECONDS WEST, A DISTANCE OF 280.29 FEET; THENCE FROM SAID POINT OF BEGINNING, ALONG THE ARC OF A CURVE DEFLECTING TO THE LEFT A DISTANCE OF 60.48 FEET, WHICH CURVE HAS A CENTRAL ANGLE OF 08 DEGREES 27 MINUTES 08 SECONDS AND A RADIOUS OF 410.00 FEET, THE CHORD OF WHICH BEARS SOUTH 56 DEGREES 57 MINUTES 06 SECONDS EAST, A DISTANCE OF 60.43 FEET.

PARCEL VI:
A PORTION OF THE PARCEL OF LAND DESCRIBED IN RECEPTION NO. 551008 OF THE RECORDS OF LA PLATA COUNTY CLERK AND RECORDER LOCATED IN SECTION 15, TOWNSHIP 35 NORTH, RANGE 9 WEST, N.M.P.M., LA PLTA COUNTY COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS THE SOUTHWEST CORNER THEREOF, FROM WHICH THE SOUTHWEST CORNER OF GOVERNMENT LOT 17 THEREOF BEARS SOUTH 42 DEGREES 11 MINUTES 59 SECONDS WEST, 284.63 FEET; THENCE FROM SAID POINT OF BEGINNING NORTH 01 DEGREES 06 MINUTES 58 SECONDS WEST, 83.19 FEET ALONG THE WESTERLY BOUNDARY LINE THEREOF AND ALONG THE EASTERLY BOUNDARY LINE TO THE NORTHEAST CORNER OF A PARCEL OF LAND DESCRIBED IN RECEPTION NO. 559475; THENCE NORTH 01 DEGREES 06 MINUTES 58 SECONDS WEST, A DISTANCE OF 26.07 FEET ALONG THE WESTERLY BOUNDARY LINE THEREOF ON THE EASTERLY BOUNDARY LINE OF A PARCEL OF LAND DESCRIBED IN RECEIPTION NO. 349356; THENCE ALONG THE ARC OF A CURVE DEFLECTING TO THE LEFT A DISTANCE OF 88.55 FEET WHICH CURVE HAS A CENTRAL ANGLE OF 15 DEGREES 51 MINUTES 17 SECONDS AND A RADIOUS OF 320.00 FEET, THE CHORD OF WHICH BEARS SOUTH 59 DEGREES 17 MINUTES 39 SECONDS EAST, A DISTANCE OF 88.27 FEET TO THE EASTERLY BOUNDARY LINE THEREOF ON THE WESTERLY BOUNDARY LINE OF A PARCEL OF LAND DESCRIBED IN RECEIPTION NO. 679894; THENCE SOUTH 01 DEGREES 06
MINUTES 58 SECONDS EAST, A DISTANCE OF 96.40 FEET ALONG SAID LINE; THENENCE ALONG THE ARC OF A CURVE DEFLECTING TO THE RIGHT A DISTANCE OF 82.35 FEET, WHICH CURVE HAS A CENTRAL ANGLE OF 11 DEGREES 30 MINUTES 31 SECONDS AND A RADIUS OF 410.00 FEET, THE CHORD OF WHICH BEARS NORTH 66 DEGREES 55 MINUTES 55 SECONDS WEST, A DISTANCE OF 82.22 FEET TO THE POINT OF BEGINNING.

PARCEL VII:

A PORTION OF THE PARCEL OF LAND DESCRIBED IN RECEPTION NO. 551008 OF THE RECORDS OF THE LA PLATA COUNTY CLERK AND RECORDER, LOCATED IN SECTION 15, TOWNSHIP 35 NORTH, RANGE 9 WEST, N.M.P.M., LA PLATA COUNTY, COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:


PARCEL VIII:

TRACT I: THE EAST SIXTY-EIGHT (68') FEET OF THE WEST THREE HUNDRED THIRTY-EIGHT (338') FEET OF THAT PART OF THE NW1/4SW1/4 SECTION FIFTEEN (15), TOWNSHIP 35 NORTH, RANGE 9 WEST, N.M.P.M., LYING SOUTHERLY OF THE UPPER FLORIDA COUNTY ROAD AS NOW CONSTRUCTED AND LAID OUT, COUNTY OF LA PLATA, STATE OF COLORADO.

TRACT II: THE EAST THIRTY-FOUR (34) FEET OF THE WEST THREE HUNDRED SEVENTY-TWO (372) FEET OF THAT PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER (NW1/4SW1/4), SECTION FIFTEEN (15), TOWNSHIP THIRTY-FIVE (35) NORTH, RANGE NINE (9) WEST, N.M.P.M., LYING SOUTHERLY OF THE UPPER FLORIDA COUNTY ROAD AS NOW CONSTRUCTED AND LAID OUT, COUNTY OF LA PLATA, STATE OF COLORADO.

PARCEL IX:

A PARCEL OF LAND LYING IN THE NW1/4SW1/4 OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 9 WEST, NEW MEXICO PRINCIPAL MERIDIAN, COUNTY OF LA PLATA, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE NW1/4SW1/4 OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 9 WEST, N.M.P.M., LYING EAST OF DEED RECORDED APRIL 13, 1965 IN BOOK 487 AT PAGE 293, LYING WEST OF DEED RECORDED DECEMBER 16, 1968 UNDER RECEPTION NO. 353196 AND LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE: COMMENCING AT THE WEST ON-QUARTER CORNER OF SAID SECTION 15 (A FOUND 2-1/2" ALUMINUM CAP STAMPED "NEWPORT LS 11664"), WHENCE THE SOUTHWEST CORNER OF SAID SECTION 15 BEARS SOUTH 01°25'28" EAST, A DISTANCE OF 2614.42 FEET; THENENCE SOUTH 23°28'34" EAST, A DISTANCE OF 1150.64 FEET TO THE
POINT OF BEGINNING; THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 320.00 FEET, A CENTRAL ANGLE OF 1°03'20", A CHORD BEARING OF NORTH 81°27'42" EAST, A DISTANCE OF 5.89 FEET AND AN ARC DISTANCE OF 5.90 FEET TO THE POINT OF TERMINATION, WHENCE THE SOUTHWEST CORNER OF SAID SECTION 15 BEARS SOUTH 14°21'45" WEST, A DISTANCE OF 1609.39 FEET.

PARCEL X:

A TRACT OF LAND LOCATED IN SECTION 15, TOWNSHIP 35 NORTH, RANGE 9 WEST, NEW MEXICO PRINCIPAL MERIDIAN, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

COMMENCING AT A POINT ON THE WESTERN BOUNDARY OF THE HAMER SUBDIVISION, ACCORDING TO THE PLAT THEREOF FILED FOR RECORD SEPTEMBER 4, 1979 UNDER RECEPTION NO. 434739, FROM WHENCE A 3-1/4" ALUMINUM CAP MARKED PLS 12027 BEARS SOUTH 60°01'08" WEST, A DISTANCE OF 505.80 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT WITH A DELTA ANGLE OF 12°20'33" AND A RADIUS OF 320.00 FEET FOR A DISTANCE OF 68.93 FEET, THE LONG CHORD BEARS NORTH 74°55'45" EAST, 68.80 FEET; THENCE NORTH 68°45'29" EAST, A DISTANCE OF 87.50 FEET; THENCE NORTH 21°14'31" WEST, A DISTANCE OF 10.00 FEET; THENCE NORTH 68°45'29" EAST, A DISTANCE OF 18.00 FEET; THENCE SOUTH 21°14'31" EAST, A DISTANCE OF 10.00 FEET; THENCE NORTH 68°45'29" EAST, A DISTANCE OF 149.64 FEET; THENCE SOUTH 24°11'38" EAST, A DISTANCE OF 288.17 FEET; THENCE SOUTH 83°21'40" WEST, A DISTANCE OF 418.77 FEET; THENCE NORTH 01°49'10" WEST, A DISTANCE OF 201.04 FEET TO THE POINT OF BEGINNING, COUNTY OF LA PLATA, STATE OF COLORADO.

PARCEL XI:

THE EAST SIXTY (60) FEET OF THE WEST FOUR HUNDRED THIRTY-TWO (432) FEET OF THAT PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER (NWSW), SECTION 15, TOWNSHIP THIRTY-FOUR (35), RANGE NINE (9) WEST, NEW MEXICO PRINCIPAL MERIDIAN, LYING SOUTHERLY OF THE UPPER FLORIDA COUNTY ROAD AS NOW CONSTRUCTED AND LAID OUT, LESS AND EXCEPT THOSE LANDS CONVEYED BY THE INSTRUMENT RECORDED SEPTEMBER 24, 2021 UNDER RECEPTION NO. 1199705, AND ERRONEOUSLY SHOWN HISTORICALLY IN INSTRUMENT RECORDED SEPTEMBER 24, 2021 UNDER RECEPTION NO. 1199704, AS FOLLOWS:

TRACT I: A PARCEL OF LAND DESCRIBED IN RECEPTION NO. 333490 OF THE RECORDS OF THE LA PLATA COUNTY CLERK AND RECORDED LOCATED IN SETION 15, TOWNSHIP 35 NORTH, RANGE 9 WEST, N.M.P.M., LA PLATA COUNTY, COLORADO AND BEING MORE COMPLETELY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS THE SOUTHWEST CORNER THEREOF, FROM WHICH THE SOUTHWEST CORNER OF GOVERNMENT LOT 17 BEARS SOUTH 66°38'19" WEST, A DISTANCE OF 409.91 FEET; THENCE FROM SAID POINT OF BEGINNING NORTH 01°06'58" WEST, A DISTANCE OF 90.26 FEET ALONG THE WESTERLY BOUNDARY LINE THEREOF AND ALONG THE EASTERLY BOUNDARY LINE OF A PARCEL OF LAND DESCRIBED IN RECEPTION NO. 551008 OF SAID RECORDS; THENCE ALONG THE ARC OF A CURVE DEFLECTING TO THE LEFT A DISTANCE OF 60.09 FEET, WHICH CURVE HAS A CENTRAL ANGLE OF 10°45'33" AND A RADIUS OF 320.00 FEET, THE CHORD OF WHICH BEARS NORTH 88°27'20" EAST, A DISTANCE OF 60.00 FEET TO THE EASTERLY BOUNDARY LINE
THEREOF ON THE WESTERLY BOUNDARY LINE OF A PARCEL OF LAND DESCRIBED IN BOOK 380, PAGE 510 OF SAID RECORDS; THENCE SOUTH 01°06'58" EAST, A DISTANCE OF 90.36 FEET ALONG SAID LINE; THENCE ALONG THE ARC OF A CURVE DEFLECTING TO THE RIGHT A DISTANCE OF 60.05 FEET, WHICH CURVE HAS A CENTRAL ANGLE OF 08°23'33" AND A RADIUS OF 410.00 FEET, THE CHORD OF WHICH BEARS SOUTH 88°33'01" WEST, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING.

TRACT II: A PORTION OF THE PARCEL OF LAND DESCRIBED IN RECEPTION NO. 333490 OF THE RECORDS OF THE LA PLATA COUNTY CLERK AND RECORDER LOCATED IN SECTION 15, TOWNSHIP 35 NORTH RANGE 9 WEST, N.M.P.M., AND BEING MORE COMPLETELY DESCRIBED AS FOLLOWS:

BEING THE EAST 60 FEET OF THE WEST 432.0 FEET OF THAT PART OF THE NW1/4SW1/4 OF SECTION 15, TOWNSHIP 35 NORTH, RANGE 9 WEST, N.M.P.M., LYING SOUTHERLY OF THE LINE DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS THE NORTHWEST CORNER THEREOF, FROM WHICH THE SOUTHWEST CORNER OF GOVERNMENT LOT 17 BEARS SOUTH 66°38'19" WEST, A DISTANCE OF 401.91 FEET; THENCE FROM SAID POINT OF BEGINNING, ALONG THE CURVE DEFLECTING TO THE LEFT A DISTANCE OF 60.05 FEET, WHICH CURVE HAS A CENTRAL ANGLE OF 08°23'33" AND A RADIUS OF 41.00 FEET, THE CHORD OF WHICH BEARS SOUTH 88°33'01" THE CITY OF WESTMINSTER, A DISTANCE OF 60.00 FEET.

Trujillo Property:
Section: 16 Township: 35 Range: 9 TR IN NE/4 SE/4 L&E FLA RD ROW

Durango Crossings I Property:
Section: 16 Township: 35 Range: 9 TR IN LOT 9 (NE/4SE/4) & LOT 17 (NW/4SW/4) 15-35-9, PROJ 2010-0142, CONS BY 1025413

Romero Property:
Section: 15 Township: 35 Range: 9 PORTION OF E 50 FT OF W 195 FT OF NW/4SW/4 L&E PTS TO COD FOR FLORIDA RD ROW

Mondragon Property:
Section: 15 Township: 35 Range: 9 E 60' OF W 432' OF NW/14SW1/4 PER PRD 1199705

Durango Crossings Partners, LLC Property:
Section: 15 Township: 35 Range: 9 E 60' OF W 432' OF NW/14SW1/4 PER PRD 1199705
EXHIBIT B: Annexation Map
## Ownership List

| 1.    | 1480 CR 240      | 566515300134       |
|       | TRUJILLO, KENNETH & LAURA |
|       | PO BOX 72        | CITY OF DURANGO   |
|       | CONSHOHOCKEN PA 19428 |
| 2.    | 1490 CR 240      | 566515300147       |
|       | DURANGO CROSSINGS I LLC |
|       | 1480 CR 240      | MONDRAGON, GUSTAVO & MARGARET |
|       | DURANGO CO 81301 | 8930 HIGHWAY 160  |
| 3.    | PARCEL I         | 566513000132       |
|       | CITY OF DURANGO  | CITY OF DURANGO   |
|       | 949 E 2ND AVE    | 949 E 2ND AVE     |
|       | DURANGO CO 81301 | DURANGO CO 81301  |
| 4.    | PARCEL II        | 566515300133       |
|       | PAR566515300112  | CITY OF DURANGO   |
|       | CITY OF DURANGO  | 949 E 2ND AVE     |
|       | 949 E 2ND AVE    | DURANGO CO 81301  |
| 5.    | 566513000146     | ROMERO, LOUISE     |
|       | 1510 FLORIDA RD  | CITY OF DURANGO   |
|       | DURANGO CO 81301 | 949 E 2ND AVE     |
| 6.    | PARCEL III       | 566515300077       |
|       | 566515300138     | CITY OF DURANGO   |
|       | CITY OF DURANGO  | 949 E 2ND AVE     |
|       | 949 E 2ND AVE    | DURANGO CO 81301  |
| 7.    | PARCEL IV        | 566515300152       |
|       | 566513000134     | DURANGO CROSSINGS PARTNERS LLC |
|       | CITY OF DURANGO  | PO BOX 72         |
|       | 949 E 2ND AVE    | CONSHOHOCKEN PA 19428 |
|       | DURANGO CO 81301 |                   |
| 8.    | PARCEL V         | 566513000135       |
|       | CITY Of DURANGO  | CITY OF DURANGO   |
|       | 949 E 2ND AVE    | 949 E 2ND AVE     |
|       | DURANGO CO 81301 | DURANGO CO 81301  |
| 9.    | 566513000147     | MONDRAGON, GUSTAVO & MARGARET |
|       | CITY Of DURANGO  | 8930 HIGHWAY 160  |
|       | 949 E 2ND AVE    | DURANGO CO 813036509 |
| 10.   | PARCEL VI        | 566513000132       |
|       | CITY Of DURANGO  | CITY Of DURANGO   |
|       | 949 E 2ND AVE    | 949 E 2ND AVE     |
|       | DURANGO CO 81301 | DURANGO CO 81301  |
| 11.   | PARCEL VII       | 566513000133       |
|       | CITY Of DURANGO  | CITY Of DURANGO   |
|       | 949 E 2ND AVE    | 949 E 2ND AVE     |
|       | DURANGO CO 81301 | DURANGO CO 81301  |
| 12.   | PARCEL VIII      | 566513000077       |
|       | CITY Of DURANGO  | CITY Of DURANGO   |
|       | 949 E 2ND AVE    | 949 E 2ND AVE     |
|       | DURANGO CO 81301 | DURANGO CO 81301  |
| 13.   | 1540 CR 240      | 566513000152       |
|       | DURANGO CROSSINGS PARTNERS LLC |
|       | 566513000152     | PO BOX 72         |
|       | CITY Of DURANGO  | CONSHOHOCKEN PA 19428 |
|       | 949 E 2ND AVE    |                   |
|       | DURANGO CO 81301 |                   |
| 14.   | PARCEL XI        | 566513000153       |
|       | CITY Of DURANGO  | CITY Of DURANGO   |
|       | 949 E 2ND AVE    | 949 E 2ND AVE     |
|       | DURANGO CO 81301 | DURANGO CO 81301  |
| 15.   | PARCEL IX        | 566513000139       |
|       | CITY Of DURANGO  | CITY Of DURANGO   |
|       | 949 E 2ND AVE    | 949 E 2ND AVE     |
|       | DURANGO CO 81301 | DURANGO CO 81301  |
| 16.   | PARCEL X         | 56651306003        |
|       | CITY Of DURANGO  | CITY Of DURANGO   |
|       | 949 E 2ND AVE    | 949 E 2ND AVE     |
|       | DURANGO CO 81301 | DURANGO CO 81301  |
| 17.   | Tract of Unknown | Ownership (Hatched Area) |

**Surveyor Statement:**  
This annexation exhibit was prepared in January of 2024 under the direct responsibility, supervision and checking of Joshua J. Casselberry, of Moreno Surveying and Geographics, Inc., being a Colorado Licensed Surveyor. It does not constitute a Land Survey Plat or Improvement Survey Plat as defined by section 38-51-102 C.R.S.

Joshua J. Casselberry, P.L.S.  
Colorado Registration No. 37903
RECOMMENDATION

It is the recommendation of Community Development staff and the Planning Commission that the City Council, by motion,

1. Move to open a public hearing to consider the Elk Grove annexation ordinance, and to consider a resolution for the Elk Grove Preliminary Plan at 455 and 589 High Llama Lane.

Following the completion of the public hearing:

2. Move to approve the Elk Grove Annexation Ordinance, enumerated as Ordinance O-24-XX.
3. Move to adopt a resolution for the Elk Grove Preliminary Plan Development, enumerated as R-24-XX, instruct the applicant to submit the Phase 1 Final Plan for staff review and authorize the mayor to sign the final plat mylars at the appropriate time.

SUMMARY

This is a public hearing to request approval of the Preliminary Plan development for Elk Grove, to be located on High Llama Lane west of Mercy Hospital and the Southfork area. The project proposal calls for 62 single-family homes to be built on 25 acres over three phases of construction. The homes would be approximately 1,300 square feet on lots of 4,000 to 6,000 square feet. The project would include an internal street network with sidewalks and tree lawns connecting to High Llama Lane, a playground, preserved open space and detention areas to be owned by the owner’s association.

Planned Developments require a three-step review process, with public hearings at the Conceptual and Preliminary stages, and staff review at the Final stage. This Preliminary Plan review provides detailed engineering information such as street design and utility information, details on the lots and houses, a Fair Share proposal, and proposed development timelines. The Elk Grove Annexation, Initial Zoning and Conceptual Plan were approved by a vote of 5-0 by City Council on June 6, 2023. The Planning Commission voted 4-0 to recommend approval of the Preliminary Plan on September 25, 2023.

Planned Development and Annexation Agreement

Elk Grove is both an Annexation and a Planned Development and details and procedures from both processes will be recorded in a Planned Development and Annexation Agreement. A separate Fair Share Agreement will also be signed and recorded. The Development Agreement will include and provide greater details and obligations for the following information:

- Detailed planning on project phasing, specifying the number of units per phase and corresponding amount and extent of infrastructure to be built for each phase;
- Land use regulations regarding the number and size of the units and the lots;
- Information in the design and materials of the houses (the houses are to be one story, lap sided homes, with a variety of colors allowed);
- Statements that open space and park amenities will be provided by the developer and maintained by the owner’s association; and
- Guidelines for public and private improvements (like water detention and utilities).

Fair Share and Affordable Housing

The developer has opted to pay the fee-in-lieu, totaling $1,563,392, as discussed as an option in the Planning Commission staff report from the summer of 2023. The project will be built in three phases, with 19, 22 and 21 units in the phases, respectively, and fees-in-lieu of $479,104 in Phase 1, $554,752 in Phase 2 and $529,536 in Phase 3. Consistent with how the City has frequently collected housing in-lieu fees in the past the applicant will pay the fee-in-lieu at the time of building permit for each unit, as they will with street, water and other development fees. Project phasing is discussed in more detail in the following section.

For projects currently obtaining approval the adopted fee-in-lieu per two-bedroom unit is $25,216. This fee amount will remain valid for this project for a period of two years from the recordation of the Fair Share Agreement. The fee-in-lieu is largely based on market prices which consistently increase over time. The City charges the current development fees (water, streets, etc.) in effect at time of building permit, but Fair Share is different because each Fair Share Agreement is separately negotiated. Placing this two-year guarantee on the fee amount will provide consistency for the developer while
The City and developer negotiated to have Mr. Hill build 10 Fair Share units, but for two reasons this was unable to happen. First, according to the developer, the project's lender and investor had concerns about recordation of deed restrictions with the timing of creation of restricted lots. As a condition of providing a loan, the lender required the restricted units to be presold to qualified buyers by the end of April. That timeline is not feasible because the lots will not legally exist until the subdivision plat is recorded, anticipated for late April or May, and the process to find qualified buyers will take more time after that. Recordation of deed restrictions concurrently with the Planned Development documents, including the subdivision plat, is a government best practice, and ensures those units are created and preserved in perpetuity within a mixed-income development.

Second, when this project was under development in 2023, Proposition 123 and associated state funding programs were still undefined, creating an opportunity but also uncertainty for Elk Grove. These programs were also a potential opportunity to couple with the City's recent updates to the Fair Share Ordinance for enhanced fee offsets and possible public-private-partnership opportunities. The City and applicant continued to evaluate funding from these programs, but the state provided staff and the developer guidance towards the end of the year that this project would not be eligible. This meant the City would be unable to leverage local funds with state money as proposed to the Planning Commission at its hearing on September 2023.

**Project Phasing**

Wes Hill, in addition to being the applicant for Elk Grove, is developing the larger Southfork area, including the 50-acre Crader Lot 1 (BLD, Mesa Verde Assisted Living) east of Elk Grove as well as the lots along Wilson Gulch Drive. Developing this area of over 120 acres, with close to 700 dwelling units plus commercial businesses, will require an extensive road network. The subdivision of Crader Lot 1, approved by Council in 2022, includes the north-south spine of Crader Ranch Road and Arena Lane, which will connect Crader Ranch Road to High Llama Lane. High Llama Lane is the street that will provide access for Elk Grove. These three roads will provide the looped street network required to serve the traffic that will be generated by the different development projects.

Until these roads are built, completing the looped street network, no more than 20 homes can be built at Elk Grove. City street design rules allow approximately 20 houses on a dead-end street, which High Llama will be until the loop is complete. In conjunction with the road construction, Elk Grove will have a phased completion with 19 homes in Phase 1, and after the road network is complete the 23 houses in Phase 2 and the 20 in Phase 3 can be built.

According to the schedule submitted by the applicant, Phase I, in the southern part of the development, will include the completion of Wapiti Way and the part of High Llama Lane adjacent to Phase I. High Llama will be completed to the north property line of the Elk Grove project for Phase 2, which will also include the north-south internal street called Elk Grove Drive and a portion of Arena Lane. Phase 3 will consist of the northwestern portion of the property and will extend Arena Lane (all road names are preliminary). Water and sewer will be extended as the phases are completed, and the main water detention area in the southeast corner of the development will be built during Phase 1. The playground/picnic area is in Phase 3. Trail access to the five acres of open space in Elk Grove will be dedicated with the approval of the subdivision plats.

**ATTACHMENTS**

1. September 25, 2023 Planning Commission Staff Report
2. September 25, 2023 Planning Commission Minutes
3. Vicinity Map
4. Site and Phasing Plan
5. Annexation Ordinance O-2024-XX with Exhibits
6. Resolution R-2024-XX to Approve the Elk Grove Preliminary Plan

**STRATEGIC PLAN ALIGNMENT**

The proposed use is in conformance with the Durango Strategic Plan's Affordability and Economic Opportunity section: "Create housing to enhance multigenerational community workforce, as well as attainable and affordable housing overall."

**ALTERNATIVE OPTIONS CONSIDERED**

Preliminary discussions for Elk Grove were for 50 houses, but that changed to 62 to help the project's viability. The City's Comprehensive Plan classifies the Elk Grove site as Medium Density Residential, which would allow up to 300 houses. The developer and City believe such a large amount is out of character for that area.

**FISCAL IMPACTS**

The City will collect developments for each unit for water, streets, parks, and schools, as well as building permit and use tax. Fees are paid separately to DFPD and the South Durango Sanitation District for sewer service. The City will also collect ongoing fees for water service and refuse collection.

The applicant will owe Fair Share fee-in-lieu of $479,104 in Phase 1, $554,752 in Phase 2 and $529,536 in Phase 3, for a total of $1,563,392. The applicant will pay the fee-in-lieu at the time of building permit for each unit, along with street, water, and other development fees. This fee amount will remain valid for this project for a period of two years from the recordation of the Fair Share Agreement.
Fair Share fee-in-lieu funds can be used in a variety of ways to achieve below-market units, including but not limited to land acquisition, grants requiring local match to leverage local, state, or federal funds, contribution to HomesFund for downpayment assistance programs, or other opportunities that align with housing goals to achieve tangible outcomes for affordable and attainable workforce housing units.

**POTENTIAL ADVERSE IMPACTS**
Potential adverse impacts to historic resources and wildlife were assessed in detail during the review process. The applicant's consultant recommended that bear proof containers be required for refuse. No actions were recommended by the consultant for any historic resources.

**NEXT STEPS AND TIMELINE:**
The applicant will submit the Final Plan for staff to administratively review. Upon approval, the Final Plat mylars will be submitted for signature by staff and the Mayor, to be followed by review for building permit applications.
The applicant, Wes Hill, represented by SEH Inc., proposes to annex and develop two properties totaling 25 acres on the west side of High Llama Lane. The northern lot, the White property, is 15 acres. The Berzins property to the south is 10 acres.

The proposal requires the property to be annexed, and the development will be done as a Planned Development (PD). Up to 62 single-family homes are planned. The developers will build and dedicate to the City a public street through the project. There will also be preserved open space and neighborhood amenities including a park. The project is subject to the City's Fair Share ordinance.

The White property was originally built on in 1905 and contains numerous outbuildings. The Berzins house dates to 1981, according to La Plata Tax Assessor data.

The Future Land Use Map designates this property as Residential Medium Density. In the judgement of staff, the application meets the Comprehensive Plan.

The project is subject to the Annexation requirements found in Section 6-3-11 of the Land Use and Development Code (LUDC). The Preliminary Development Plan Criteria can be found in Sec. 6-3-10-5C.4 and the Subdivision criteria in Div. 2-1-2. In the judgement of staff, the application is able to meet all of the applicable criteria.

Move to recommend approval of the proposed Elk Grove Preliminary Development Plan with the finding and conditions as outlined in the staff report.
PROJECT BACKGROUND
This is a request from Wes Hill for Preliminary Planned Development approval of the Elk Grove development, to be located at 455 and 589 High Llama Lane. The annexation consists of the southern 10-acre Berzins and the northern 15-acre White property. This area is immediately west of Southfork Crader Lot 1R-R, where the BLD Apartments and Mesa Verde Assisted Living community are to be built. The applicant plans to develop up to 62 units with single-family houses, including 60 homes on smaller lots. These homes are to be stick built and will be similar in appearance and layout with the similarity in layout and material meant to increase building efficiency, helping keep housing costs lower. The houses will be two stories, with two bedrooms and garages, and will be approximately 1,300 square feet. The lots are approximately 5,000 to 6,000 square feet, with both front and back yards.

The 2017 Comprehensive Plan designates the property as Medium Density Residential, which allows up to 11.99 units per acre—the proposed project density is a little under 2.5 units per acre. The lower density is appropriate due to steep slopes on the west side of the lots. The western portion of the Berzins (southern) lot will be preserved as open space, to be maintained by the homeowners, with slopes exceeding 30% that are as much as 160 feet higher than the east side. City regulations restricts new development on slopes with 30% of slopes or more. The applicant will also preserve the western and northern portions of the White lot as open space. The western portion of the White property will have two larger lots for new residential development. The City does not have the capacity to maintain smaller open space dedications like this, so that responsibility will fall to the Elk Grove homeowner’s association.

Copies of the proposed site plan, building elevations, and applicant narrative are attached to this report for the Commission’s review. A detailed discussion of specific development features is provided in the following section.

PROJECT ANALYSIS
The staff analysis focuses upon how well the proposal meets land use and zoning criteria according to the standards contained in LUDC Section 6-3-10-5-D, Preliminary Plan. The applicable criteria include access, parking, site planning, building dimensions, location and design, grading and drainage, utilities, lighting, and landscaping. The proposed plan appears to generally meet all applicable criteria in the LUDC, as described below, although some minor modifications are typical at the Final Plan stage. Infrastructure improvements will include onsite water detention and treatment facilities, utility extensions, and an internal road network. The City of Durango will provide water, while the South Durango Sanitation District (SDSD) will provide sewer service.

Preliminary Development Plan standards require review of the following criteria:

1. A site plan illustrating each proposed building footprint, common open area, and public uses and facilities to be dedicated to the City and / or reserved in common ownership.

   These plans were submitted as part of the Preliminary Plan submittal and comply with City and South Durango Sanitation District standards. The applicant will dedicate new public roads with sidewalks and street trees within Elk Grove. All improvements will be to City standards unless specifically authorized by the City. Completion of all required public improvements shall be insured through a Public Improvements Agreement with adequate financial security provided.

   The applicant will build eight inch water and sanitary sewer lines, and an 18” storm sewer line that drains to the detention areas. The water lines will be looped to improve the water quality and to provide redundancy, allowing the system to keep functioning, in case one section needs to be repaired. The City of Durango will provide water and the South Durango Sanitation District will provide sanitary sewer.

   Generally, the drainage design as proposed meets city standards. The site has surface detention areas along the eastern side of the property, where the water naturally drains. Clean water laws require that water be treated and released at the historic rates

2. Approximate locations of all buildings, structures, and improvements, and open space, around buildings and structures.

   Site Planning
   The lot sizes, access, and street frontage of the proposed lots comply with single-family development standards that are commonly used in Durango. The locations and dimensions of the houses of the lots are also typical for single-family homes.
3. Conceptual elevations and / or perspective drawings of typical proposed structures and improvements.
The applicant has submitted building elevations and renderings. The project design blends mountain and modern aesthetics through materials and design, with the style to be clean rustic and modern farmhouse. Building design emphasizes energy efficiency, quality interiors, and low-cost future operating expenses, including enhanced daylighting of the interior. Exterior finishes will be a mixture of Hardie siding, stucco, metal siding, or wood siding.

4. Landscaping and buffering.
Landscaping requirements for common areas are minimal in single-family neighborhoods. Street trees will be placed in the tree lawns, but individual property owners landscape their properties as they like, as regulated by the homeowner’s Covenants, Conditions and Restrictions (CCRs).

5. A copy of the covenants.
Draft covenants for a homeowner’s association for Elk Grove were submitted. The CCRs are thorough and address typical homeowners association duties and responsibilities, including voting, shared maintenance and amendment procedures.

Additional Project Information
Access and Traffic - SEH performed a traffic study for Elk Grove, as is typically required for developments of this size. Based on the analysis performed for the study, SEH has made the following conclusions about traffic impacts from the Elk Grove development:

- The anticipated traffic volume generated by the Elk Ridge Subdivision is not expected to significantly impact the surrounding roadway network.
- The southbound left-turn movement at Wilson Gulch Dr/High Llama Ln is projected to see significant travel time delay and operate at LOS F in the 2043 condition. Drivers will be able to use Arena Lane to access Crader Ranch Road and safely make the left turn movement onto Wilson Gulch Drive at the signalized intersection of Wilson Gulch Dr/Crader Ranch Rd.
- Existing lane geometry along High Llama Lane and at the intersection of Wilson Gulch Dr/High Llama Ln are sufficient. No left turn deceleration lanes are recommended at the site accesses due to the low amount of opposing traffic volumes.
- Sight distance is adequate for both site accesses.
- No additional mitigation measures for the site are proposed at this time.

Future Development – A five-acre lot—the Godfrey property—just west of the Elk Grove site has development potential for additional single-family homes, and the applicant has had informal discussions with the City about building approximately 10 houses there. Like the White and Berzins properties this lot has steep slopes and a future land use of Medium Density Residential (12 units per acre). To preserve the Godfrey property’s development potential and have access compliant with City standards, the access must go through the area to be occupied by one of the lots in Elk Grove, directly east of the Godfrey lot. What has been proposed as a lot will instead need to be a 60’-wide right-of-way dedication for use as a public street for the Godfrey lot to develop. Current access to the Godfrey lot is currently on a driveway easement slightly north of this lot/future ROW area.

When the development of Godfrey occurs the current driveway easement will be abandoned and changed to a lot, to be occupied by a house. This arrangement means the development will lose a unit in the short term but not the long term, and the City will get compliant access. All access easement holders will need to agree to the change from easement to development lot, with the future access rerouted to accommodate future development and to provide access to the Stoltz property to the west. The issue for this access is that the current driveway easement is close to one of the new streets within the development, and if the driveway was converted to a street it would be too close to the other street, per LUDC access standards.

Fair Share – Elk Grove is subject to the Fair Share Ordinance, which applies to for-sale residential developments with four or more units or lots. Fair Share amounts are based on a dollar quantity per unit, updated annually, and an obligation of 16% of the development. Sixteen percent of 62 units is 9.92 units (or 9.92 Fair Share units). This housing obligation can be met in three ways—build affordable units, donate land, or pay the fee-in-lieu. The current fee-in-lieu for 62 houses with two bedrooms per unit (the fee is also based on bedroom count) is $1,563,392.

Another option, as discussed at the Conceptual Plan review, is for Wesley Properties to partner with the City to build below-market houses. This is the City’s preferred option due to the need for below-market ownership units, but it is also the most expensive. The gap to build nine below-market units (and pay the fee for the leftover .92 unit) is $3,009,703. For 16 units, or 25% of the project, the price gap would be
$5,068,844. The Housing Innovation budget is not large enough to bridge this gap, let alone fill this gap and provide needed funding to other projects, so the City would need to use State housing funds for this option to be viable. Fee waivers for affordable housing from DFPD are included in the numbers cited above, even though they are not technically part of the cost gap but are part of the public benefit.

A detailed account of developer, City and State funding options is provided in the table below. The respective contributions of the developer (in red), the City (in blue) and the State (in green) are listed.

<table>
<thead>
<tr>
<th>Funding Sources</th>
<th>Nine Units</th>
<th>15 Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Cost - Housing Innovation Fund</td>
<td>$878,000</td>
<td>$878,000</td>
</tr>
<tr>
<td>Fair Share Fee Offsets</td>
<td>$141,358</td>
<td>$235,597</td>
</tr>
<tr>
<td>City Total</td>
<td>$1,019,358</td>
<td>$1,113,597</td>
</tr>
<tr>
<td>Developer Cost (Also donation of 9 or 15 lots and construction of units)</td>
<td>$144,992</td>
<td>$144,992</td>
</tr>
<tr>
<td>State Portion from Proposition 123</td>
<td>$1,833,500</td>
<td>$3,790,500</td>
</tr>
<tr>
<td>Value of DFPD Impact Fee Waiver for Affordable Housing</td>
<td>$11,853</td>
<td>$19,755</td>
</tr>
<tr>
<td>Total Benefit - All Sources</td>
<td>$3,009,703</td>
<td>$5,068,844</td>
</tr>
<tr>
<td>Total Cost Per Unit</td>
<td>$334,411</td>
<td>$337,923</td>
</tr>
</tbody>
</table>

Another way to phrase the “Total Benefit – All Sources” from the table is as a cost gap between selling units at market prices and selling units at affordable prices. To potentially bridge this gap the City would seek State Proposition 123 funds. Prop 123 was approved by statewide referendum in 2022 and can provide funding for ownership housing affordable to people making up to 100% of the Area Median Income (AMI). The program’s standards are based on ballot language that was necessarily brief and state agencies are still developing implementation criteria. An application window for Prop 123 is anticipated to open later this year and staff will continue to work with the Department of Local Affairs and the Colorado Housing Finance Authority to explore these opportunities.

Keeping both the fee-in-lieu option and the public-private partnership opportunity will guarantee the City will receive the fee or get units. If the City uses the fee-in-lieu option, the fee option would be structured to have the applicant pay two payments of $781,696. The first installment would be due at the time of application for the first building permit, with the second installment due no later than one year after the first payment, but prior to issuance of the final Certificate of Occupancy. For the Prop 123 option the state award decision must be made prior to the issuance of the first building permit, anticipated to occur in spring or summer 2024, or Fair Share compliance will default to the fee option.

Archeological Study – The applicants retained Chronicle Heritage to perform an archaeological survey of the White and Berzins properties. The project lead was Jenny Engelman. Ms. Engelman provided the following summary of her findings:

“In sum, we documented three sites total. Two sites are archaeological, and one is a multicomponent site with the historic building [White residence], and a scatter of prehistoric artifacts. The good news is that the two archaeological sites are in planned open space and will not be impacted by construction. The multicomponent site does cover the north portion of the proposed development, but we are recommending the site not [be] eligible for listing to the National Register for Historic Places and therefore should not interfere with construction. There are no significant sites in areas of disturbance, and we are recommending a finding of no adverse effect to historic properties.”

Wildlife Issues – The Colorado Department of Parks and Wildlife recommends having bearproof trash cans because of the proximity of the neighborhood to the open space to the west. The City will make that recommendation a condition of approval.

Public Comment
At the time this report was finalized, the City had received any public comments related to the project.

SUMMARY
Wesley Properties has proposed a 62-unit single-family subdivision adjacent to Southfork, one of Durango’s fastest growing areas. Development of Elk Grove will help complete the street network in the area, with
paved, looped access to serve not only Elk Grove but other development in the area. The applicant will dedicate 20% of the land as open space, will build and dedicate new roads and sidewalks, and will build a park for Elk Grove residents. Bear proof waste receptacles are required.

The project will contribute to Durango’s housing stock, with smaller units and lots designed to keep prices down to the extent possible in an expensive housing construction environment. At a minimum, the developer will pay the Fair Share fee-in-lieu, but the City and Mr. Hill will attempt to obtain state funding to get built at least nine—and potentially more—below market units on site.

ALTERNATIVE ACTIONS – PRELIMINARY DEVELOPMENT PLAN

A. **Recommend approval** of Elk Grove Preliminary Planned Development with findings that the project is in general conformance with the Comprehensive Plan and applicable LUDC criteria, subject to the following conditions:

1. Bear-proof trash cans shall be required for residents to use at Elk Grove.

2. The Fair Share Agreement obligation will consist of either payment of the fee-in-lieu or, if state Prop 123 funding is received, construction of affordable units, to be detailed in the Fair Share Agreement.

3. Lot 22 will be dedicated as right-of-way to facilitate access to the Godfrey property. A portion of the access currently described as ‘60’ Access Easement RN 101233’ will become development lot when all easement holders agree to the change in status.

4. Applicant may need to dedicate up to an additional 20 feet of right of way off High Llama Lane. The City will finalize that determination prior to the City Council preliminary hearing.

5. Dedication and improvement of the applicant’s portion of high llama to the north property boundary, approximately 216 feet of right of way dedication required to edge of property. The City will finalize that determination prior to the City Council preliminary hearing.

6. All future submittals by the applicant shall be in conformance with adopted city standards, regulations, plan goals, ordinances and building and fire codes.

7. All verbal and graphic representations of the applicants or their agents shall be deemed conditions of approval.

B. **Recommend denial** of the Elk Grove Preliminary Planned Development with specific reasons and findings stated.

C. **Continue** consideration of the Elk Grove Preliminary Planned Development to a date certain with specific directions to staff and/or the applicants.

RECOMMENDED ACTION

Following a detailed analysis of the project, staff recommends Alternative ‘A’.
DURANGO PLANNING COMMISSION
VIRTUAL MEETING
MONDAY, September 25th, 2023
5:00 PM
DURANGO, COLORADO

DRAFT MINUTES

MEMBERS PRESENT: Susan Ulery, Alma Evans, Sarah Pritchard, Matt Payne

MEMBERS ABSENT: Brian Devine, Elizabeth Boone

STAFF PRESENT: Scott Shine, Daniel Murray, Mark Williams, Dan Armentano, Eva Henson, Lily Oswald, Annie Chacon

1. Call To Order/Roll Call
Chair Payne called the meeting to order at 5:04 pm.

2. Announcements
None

3. Public Participation
None

4. Agenda

4.1. Approval of Minutes of July 24, 2023
Commissioner Ulery motioned to approve the meeting minutes with this change. Commissioner Evans seconded. The minutes were approved unanimously. Commissioner Payne abstained on account of not being at the meeting.

5. Public Hearings
Durango Fire Protection District-Powerhouse Minor Subdivision Preliminary Plan, 1235 and 1295 Camino del Rio - AEO

5.1. Daniel Murray presented the project summary. City is the applicant.

Request for a Minor Subdivision, turning 2 lots into 3 lots. Daniel explained the project process and the location of the project including the site aerial.

Project Summary
• The applicant, City of Durango, proposes to subdivide two lots into three to create a lot for the future DFPD Station #2, align the Powerhouse property line, and create a lot for park uses.

Process:
• Minor Subdivision, Preliminary Plat first to Planning Commission for recommendation to Council.

• City Council public hearing – October 17, 2023

• Final Plat to staff for compliance with conditions

Daniel Murray presented visuals of the plat showing the details of the 3 plats and the dedication of ROW.

Project Description
• Lot 1 is to be occupied by DFPD Station #2.
• Lot 2 is occupied by the Powerhouse Science Center and Lot 3 is for park uses including the Animas River Trail.
• Lots 2 and 3 will remain in City ownership, whereas Lot 1 is under contract to be sold to DFPD.
• All three lots are zoned Mixed Use-Arterial (MU-A) allows a Fire Station and science center (Place of Assembly). Lot 3 can be rezoned in the future to Public.

Background
• The City of Durango purchased lots 1 and 2 in 1983 from Western Colorado Power. Building constructed in 1970.
• Lot 2 historic steam power plant is estimated construction in 1893.

Review Criteria
• Dedication of Right of Way and Access – Public street
• Lot standards – Exceed min lot size and width
• Utilities – Dedication and/or vacation for water, sewer, stormwater

Conditions:
• Engineering, LPEA, DFPD comments – compliance prior to plat recording

Future development:
• DFPD Station #2 is subject to Major Site Plan Review, #23-0094 PC and DRB approval.

Upon compliance with conditions of approval, the proposed plan meets all applicable criteria in the LUDC.

Strategic Plan, Comprehensive Plan

Staff reviewed all applicable city policies and weighed the overall outcome based on a wide range of identified community goals.

Strategic Plan
Enhanced Livability & Sense of Place - Safety: Police and emergency services.

Comprehensive Plan
Following a holistic review of the Comprehensive Plan, staff finds that the project is in conformance with the Comprehensive Plan given the following:
• Policy 12.7.4 Providing for adequate fire protection – “…to ensure that stations are well located to provide adequate response times, water systems are adequate to supply needed volumes of water for fire suppression and the district has sufficient resources to ensure the public’s safety.”
• Goal 24 Foster cost-effective services and facilities that enhance the lives of community residents - Coordinate with the Durango Fire Protection District to relocate the existing station at River City Hall to enhance service capabilities, while maintaining existing response times.

Commissioner Payne opened up the PC board discussion.

Commissioner Evans asked for ROW clarification and Daniel explained it did not reach the Powerhouse.

Public Comment.
None.

Commissioner Ulery to approve the Downtown Fire Station and Powerhouse Minor Subdivision subject to the stated findings and conditions as outlined in the staff report and discussed at this public hearing.” Commissioner Payne seconded.

Roll call
Commissioner Evans – Yes
Commissioner Pritchard – Yes
Commissioner Devine – Yes
Vice Chair Ulery – Yes
5.2. **BLD Preliminary Minor Subdivision, Crader Lot 1R-R3 - AEO**

Planner Mark Williams presented the project summary.

- BLD requests a subdivision to split current lot into two smaller lots: Phase I with 287 apartments and Phase II with 205.
- Request is driven by the need to secure funding in a difficult environment for multifamily construction. Dividing project allows separate lenders to collateralize the two lots.
- BLD will voluntarily provide 25 below market units for a term of 30 years, for units ranging between 80% and 100% AMI. City will cover development fees proportionate to 5% of total as an incentive. This will be a net benefit to residents.

**STAFF RECOMMENDS APPROVAL OF THE BLD PRELIMINARY MINOR SUBDIVISION, HELPING BLD SECURE PROJECT FUNDING**

Public input

- To date, no public comments have been received.

Process

- Public Hearing required at PC and Council.
- Staff-level Final Plat review.

Decision

- City Council will review the subdivision request on November 7.

PC Discussion

None.

Applicant BLD – Alex Liven, 1815 Road, Beach Florida

Available for questions but no comments.

Chair Payne opened the meeting for public comment.

There was no public comment.

**Commissioner Ulery move to recommend approval of the BLD Preliminary Minor Subdivision with the finding and conditions as outlined in the staff report and discussed at this public hearing.” Commissioner Pritchard seconded.**

Commissioner Evans – Yes

Commissioner Pritchard – Yes

Commissioner Devine – Yes

Vice Chair Ulery – Yes

The motion was approved 4-0.

5.3. **Elk Grove Preliminary Planned Development, 455 and 589 High Llama Lane - AEO**

Planner Mark Williams presented the project summary.

**STAFF RECOMMENDS APPROVAL OF THE ELK GROVE PRELIMINARY PLANNED DEVELOPMENT, TO CREATE 62 SINGLE-FAMILY HOUSES**

- Wesley Properties requests approval of the Elk Grove PD for 62 single-family homes. Houses to be @1,300 sf and two bedrooms, with 5,000-6,000 sf lots.
• Applicant will provide internal streets with sidewalks and street trees, open space for residents and water quality detention.
• The applicant could pay $1.5m Fair Share fee-in-lieu. Preferred option is Prop 123 funding, with a @ $1m City contribution yielding either 9 or 15 units, with $1.6m or $3.8m from state. Developer to build units.

• An archeological survey found no significant historic resources.
• Staff recommends that all trash cans be bear proof, as recommended by Colorado Department of Parks and Wildlife.
• The City may require additional right-of-way along High Llama Lane. TBD prior to Final Plan review. Lot 22 will become ROW to serve future possible development of Godfrey parcel.

Public input.
To date, no public comments have been received.

Process

Public Hearings required at PC and Council.

Staff-level Final Plan review.

Decision
Council review will be Jan. 16, giving City time to adopt new Fair Share language allowing incentives for developers. Elk Grove cannot receive incentives under current program.

Relevant Strategic Plan Goals
• Affordability & Economic Opportunity

• Create housing opportunities to support a multigenerational & mixed-income community workforce and increase affordability to bridge the disparity between income and home/rental prices

Mark presented the site plans and explained the details of the visuals.

Recommended Motion
I move to recommend approval of the Elk Grove Preliminary PD with the finding and conditions as outlined in the staff report and discussed at this public hearing.”

PC Discussion
Commissioner Evans asked about the dark skies requirements. Commissioner Payne discussed the current requirements Commissioner Evans.
Chair Payne asked for clarification on units built either way – Fair share route or not. Mark Williams clarified the funding questions and affordable housing aspect.
Commissioner Ulery came back to the dark skies PC roles, and Mark read the codes of the dark skies section for compliance.

Applicant presentation

Jack and Wes Hill

Wes Hill, discussed the dark skies culture, happy to comply, and said can be a condition, ultimately a good opportunity with the city to provide affordable units.

Chair Payne opened the meeting for public comment.

Tom Stoltz
143 High Llama Lane (west of project property)

Timing questions of the access road and express of the interest rates discussed.
Hill answered as TBD for timing, not part of the process tonight.

There was no other public comment.

Commissioner Evans asked about condition of dark skies conform with lighting standards required by 4328 LUDC.

Applicant will comply with all single family standards.

The PD process explained if amendments for affordable housing was discussed.

**Commissioner Evans** comply to all conditions outlined in the staff report and to include the condition the lightening compliance with all single family 4328 LUDC. Seconded by Commissioner Ulery. The motion was approved unanimously.

Roll Call:  
Commissioner Evans – Yes  
Commissioner Pritchard – Yes  
Commissioner Devine – Yes  
Vice Chair Ulery – Yes

### 6. Project Review

- None

### 7. Reports and Comments

#### 7.1. **Upcoming Community Development Code Amendments**

Planner Lily Oswald introduced the presentation.

POUERE PROVIDE A STATUS ON UPCOMING CHANGES TO: BOARDS & COMMISSIONS, PROCESS IMPROVEMENTS & BUILDING PERMIT FEE UPDATES, CLARIFICATION TO ADU PROVISIONS, FAIR SHARE PROGRAM IN THE LAND USE & DEVELOPMENT CODE (LUDC).

Director Shine presented the Com Dev Code updates, explained the process and logistics of the approach of upcoming Com Dev code.

These initiatives apply primarily to the Affordability & Economic Opportunity (AEO) objective in the Strategic Plan while also addressing elements of the Enhanced Livability & Sense of Place (ELSP) and Financial Excellence & High Performing Government (FEHPG) objectives.

Scott Shine discussed the Strategic Plan Alignment and the 2023 Com Dev Dep Work Plan review.

Shine gave a boards and commissions update including the goals, backgrounds, status and next steps. The updated goals included:

- **Remove redundancy** and increase efficiency.
- Create a **better integrated** and holistic process.
- Retain and enhance a **high level of customer service**, ensure transparency, and allow for adequate public input on development proposals and other community development items.
- Lessen the administrative burden and costs to prepare packets and run meetings while also ensuring adequate public involvement.
Establish more clarity for applicants and the public regarding the sequence of events involved in development review processes.

Ensure the most effective path is in place for items that are appealed.

Scott Shine explained the revising and process to reconfigure the boards, not just combining.

Shared the Planning and Design Commission – DUTIES and Responsibilities.

Section 6-2-3-2 Planning & Design Commission

C. Powers. The PDC is delegated the following powers:

a. Make studies and recommendations to the City Council regarding plans, goals, and objectives relating to land use, growth, development, and redevelopment of the City.

b. Develop and recommend to the City Council policies, ordinances, and administrative procedures, and other means for implementing adopted plans in a coordinated and efficient manner.

c. Conduct public meetings and hearings to review land use and development applications, consider the Administrator's recommendations and public comments, and:

i. Decide the application if empowered to do so by this LUDC; or

ii. Formulate its own recommendations to forward to the City Council.

d. Serves as a referral body and an appellate body with respect to the application of adopted design guidelines within the City.

e. Serve as the Board of Adjustment (BOA) as described in the City Charter. When serving in this capacity, the PDC will:

i. Hear and decide variances as described in Division 6-3-5.

ii. Utilize criteria found in Division 6-3-5 for hearing and deciding variances.

iii. The PDC will utilize separate motions for each action and will not proceed with land use and development application if the variance is denied.

iv. Decisions made by the PDC when serving as the Board of Adjustment are not subject to administrative appeal pursuant to LUDC Sec. 6-3-17-1 A.2.

f. Perform any other duties assigned by the City Council by resolution.

Summary of the Community Engagement Background was discussed with a visual timeline presented.

Scott Shine reviewed the current status and next steps involving the process.

- Planning Commission & Design Review Board Joint Meetings
- Feedback Received & Considerations
- Advance LUDC Amendments to PC & CC

Daniel Murray explained no standards or noticing procedures changing. The specific updates to the LUDC that will be changing include the following:

- Update Sec. 6-2-3-2 Durango Planning Commission to reflect updated duties related to design review
- Remove Sec. 6-2-3-4 Design Review Board
- Update Sec. 6-2-3-5 Board of Adjustment to reflect updated powers to the PDC to at times act as the BOA
- Update various references to "Planning Commission" or "Design Review Board" to reflect "Planning & Design Commission"
LUDC process improvements were discussed with the goal to improve LUDC permitting process efficiency and effectiveness.

**Building Permit Valuation Update – Status and Next steps**
- Discussion and Recommendations
- Public Engagement
- Public hearings to adopt updated fee schedule and implementation.

Lily presented the Updates to ADU provisions in the LUDC. Goal is to apply the codes consistently.
- Clarify integrated ADU shared wall requirements
- Clarify ADU parking requirements related to street frontage and proximity to street types.
- Clarify floor area calculation for detached and integrated ADUs.

Eva Henson presented the Fair Share Update Phase 1 and provided policy updates.

Lily notified the board of upcoming opportunity for involvement including an Open House for upcoming LUDC updates October 5th. Amendments include Dark Sky / Lighting Code, Fair Share Program, Affordable Housing, ADU Program.

**PC comments**

Commissioner Ulery expressed concerns of other communities where planning commissioners have been real estate developers and architects, and it did not go well as well.

Avoid what does not have legal standing, wanting to tighten up process and avoid confusion from applicants.

Commissioner Pritchard agreed with Commissioner Ulery, also had concern of background of the board members such as needing to excuse themselves if part of many projects.

Chair Payne commented on the background requirements as well and recommended considering a separate DRB board based on referral with discrepancies.

Discussion continued of Procedural things – and to avoid long meetings – possibility the result of disagreeing architects.

Commissioner Evans – agreed with fellow Commissioners.

Better use of time -
Strategize an advisory group until the code is finalized and discussed to clean up code with timing.

Staff -
Appreciated the feedback and will work on refreshing guidelines abilities of staff to implement these changes.

Tiny home conversation – Commissioner Ulery
8  Adjournment. There being no further discussion, the meeting adjourned at 7:06 PM.

<table>
<thead>
<tr>
<th>Matt Payne, Chair</th>
<th>Daniel Murray, Secretary</th>
</tr>
</thead>
</table>

Matt Payne, Chair  
Daniel Murray, Secretary
NOTES:

1. A 20' WIDE GRADING, DRAINAGE, AND UTILITY EASEMENT WILL BE LOCATED AT THE FRONT OF EACH LOT.

2. A 10' WIDE GRADING, DRAINAGE, AND UTILITY EASEMENT WILL BE LOCATED AT THE REAR OF EACH LOT.

3. A 5' WIDE MINIMUM GRADING, DRAINAGE, AND UTILITY EASEMENT WILL BE LOCATED AT THE SIDE OF EACH LOT.

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<thead>
<tr>
<th>LAND USE DESCRIPTION</th>
<th>AREA (ACRES)</th>
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<tbody>
<tr>
<td>TOTAL</td>
<td>X.12</td>
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<tr>
<td>ROADWAY/SCREW</td>
<td>0.15</td>
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<tr>
<td>OPEN SPACE</td>
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</tbody>
</table>

LAND USE BREAKDOWN

1. PHASE 1
2. PHASE 2
3. PHASE 3
February 20, 2024

ELK GROVE PRELIMINARY PLANNED DEVELOPMENT PUBLIC HEARING

Mark Williams
Community Development

*Strategic Plan Goals:*

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
62 single-family homes @ 1,300 sq. ft. with two bedrooms on 4,000-6,000 sf lots. Applicant will construct internal streets with sidewalks and street trees, open space for residents, and water quality detention.

Streets, utilities, project design, and amenities all meet City standards.

Three Phases: Phase 1 - 19 houses, Phase 2 - 23 houses and Phase 3 – 20 houses. Project to begin in May 2024 and construction complete in 2026. Phase 1 can begin now, but overall street network must be done before Phases 2 and 3.
PHASING AND LAYOUT

1. All site grading, drainage, and utility easements shall be located at the front of each lot.
2. All site grading, drainage, and utility easements shall be located at the rear of each lot.
3. A 6" wide asphalt grading, drainage, and utility easement will be located at the edge of each lot.

<table>
<thead>
<tr>
<th>LAND USE</th>
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<tbody>
<tr>
<td>Lots</td>
<td>8.71</td>
</tr>
<tr>
<td>Open Space</td>
<td>13.73</td>
</tr>
</tbody>
</table>

- Phase 1
- Phase 2
- Phase 3
Fair Share fee will be assessed at building permit. The total fee-in-lieu amount will be $1,563,392.

Fee-in-lieu funds can be used by the City for:

• Land acquisition
• Grants requiring local match to leverage state or federal funds
• Contribution to HomesFund for downpayment assistance programs
• Other opportunities that align with housing goals to achieve tangible outcomes for affordable and attainable workforce housing units.
ALIGNMENT WITH ADOPTED PLANS

✓ **Strategic Plan** - AEO Objectives
Create housing opportunities to support a multigenerational & mixed-income community workforce and increase affordability to bridge the disparity between income and home/rental prices.

✓ **Comprehensive Plan**
Meets Future Land Use standards.

✓ **Housing Plan**
Supports market rate housing development goals.
Planning Commission

- Following a public hearing on September 25, 2023, the Planning Commission unanimously recommended approval with a 4-0 vote.

Public Comment

- Some neighbors in the residential area to the north had concerns about light pollution and road construction.
HEARING PROCEDURES

- There is no applicant presentation, but the applicant is available to answer questions.
- Council can now take public comments.
- Following public comment, Council can close the public hearing and act on two separate items – Ordinance and Resolution.
- Staff will display the recommended motions at that time.
Recommended Motions

10.1.2. Annexation Ordinance

“Move to approve the ordinance annexing the Elk Grove Addition with the initial zoning of Planned Development with the findings and conditions as outlined in the staff report and discussed at this public hearing.”
RECOMMENDATION

Recommended Motions

10.1.3. Elk Grove Preliminary Plan Development Resolution

Move to approve the Elk Grove Preliminary Plan Resolution, with the findings and conditions as outlined in the staff report and discussed at this public hearing, instruct the applicant to submit the Phase I Final Plan for staff review and authorize the mayor to sign the final plat mylars at the appropriate time.
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’ and as shown on Exhibit ‘B’ 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:

________________________________
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 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)
BERZINS & WHITE PROPERTIES
ANNEXATION TO THE CITY OF DURANGO
SW1/4 NE1/4 S3 & NE1/4 SE1/4 S3, T34N, R9W, N.M.P.M.
LA PLATA COUNTY, COLORADO

The Plat shown hereon is approved by the City Council of the City of Durango and all adjoining jurisdictions affected by the City of Durango and hereby accepted this Day of __________ 2023.

City Clerk, City of Durango

CITY OF DURANGO APPROVAL:

This plat is hereby executed by the following parties:

By
Jack Sheehan, Manager of Wesley Properties, LLC, a Colorado limited liability company.

STATE OF COLORADO
COUNTY OF LA PLATA

The Plat shown hereon is approved by the City Council of the City of Durango and all adjoining jurisdictions affected by the City of Durango and hereby accepted this Day of __________ 2023 for the aforementioned purposes.

City Engineer Date

Durango Fire Protection District, Fire Marshal Date

Community Development Director Date

Water Energy Services Date

Communications Director Date

La Plata Electric Association Date

Charter Communications Date

Sherry Bracken, City Clerk, City of Durango

Reception Number ____________ Fee $ ________

STATE OF COLORADO
COUNTY OF LA PLATA

1. SURVEY CONTROL NOTE: Location of improvements is based upon found survey monuments as shown herein.

2. TITLE RESEARCH: Title Research - Title, easement and Right-of-Way research was conducted by Colorado Title & Closing Services, LLC, per Order No. LP22202218, effective date June 6, 2022 at 5:00PM for the Berzins property. Title research was conducted by Colorado Title & Closing Services, LLC, per Order No. LP22202218, effective date June 6, 2022 at 5:00PM for the Wesley property. Title research was conducted by Colorado Title & Closing Services, LLC, per Order No. LP22202219, effective date June 6, 2022 at 5:00PM for the White property. Title research was conducted by Colorado Title & Closing Services, LLC, per Order No. LP22202218, effective date June 6, 2022 at 5:00PM for the White property. Title research was conducted by Colorado Title & Closing Services, LLC, per Order No. LP22202219, effective date June 6, 2022 at 5:00PM for the White property.

3. According to Colorado law you must commence any legal action based upon any defect in this survey within three (3) years after you first discovered such defect. In no event may any action based upon any defect in this survey be commenced more than ten (10) years from the date of the certification shown herein.

4. Any encroachment of fences across property may indicate possessory rights are deemed.

CERTIFICATE OF OWNERS KNOWN BY ALL THESE PRESENTS
That Wesley Properties, LLC, Colorado Limited Liability Company, whose legal address is 635 East 2nd Ave, Durango, Colorado 81301, being the legal and record owner of all land hereafter described in the RECITATION OF FACTS of section 3 of this plat, being familiar with the above mentioned property, as the same is legally described, do hereby file this plat in order that the same may be recorded and of record, according to law, in the office of the Clerk and Recorder of La Plata County, State of Colorado, being more particularly described as follows:

5.1. CITY OF DURANGO DEPARTMENT AND LUC LEWIS CONSULTANTS PROJECT NO. 2022-006, as referenced in the plat hereto filed for record March 30, 2023 and duly filed.

5.2. Loop 1, WILSON PLAT - PROJECT NO. 2023-007, as referenced in the plat hereto filed for record July 25, 2023 and duly filed.

5.3. Berzins & White Properties

6. This plat is hereby executed by the following parties:

By
Jack Sheehan, Manager of Wesley Properties, LLC, a Colorado limited liability company.

STATE OF COLORADO
COUNTY OF LA PLATA

The Plat shown hereon is approved by the City Council of the City of Durango and all adjoining jurisdictions affected by the City of Durango and hereby accepted this Day of __________ 2023.
RESOLUTION NO. R-2024-0013
A RESOLUTION TO APPROVE THE ELK GROVE PRELIMINARY DEVELOPMENT PLAN FOR WESLEY PROPERTIES, 455 AND 589 HIGH LLAMA LANE

WHEREAS, the applicants for the Elk Grove Development have submitted for a Preliminary Planned Development review; and

WHEREAS, the property is located at 455 and 589 High Llama Lane which is situated in the County of La Plata, State of Colorado, in the City of Durango; and

WHEREAS, this project will provide 62 new single-family homes for area residents; and

WHEREAS, the applicant has submitted a Fair Share proposal to pay a fee-in-lieu payment of $1,563,392 million to satisfy the Fair Share requirement; and

WHEREAS, the Planning Commission conducted a public hearing considering the proposal on September 25, 2023, and unanimously recommended approval of the Conceptual Planned Development on a 4-0 vote, subject to the conditions described within the staff report; and

WHEREAS, Community Development staff have reviewed the proposal and found it to be in general compliance with the adopted standards of the Land Use and Development Code; and

WHEREAS, the City Council has conducted a subsequent public hearing considering the proposal on February 20, 2023, and found the project to be in alignment with adopted codes and policies.

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

Said Preliminary Planned Development approval has been granted, with Council direction to the applicant to submit the Final Plan to the City for staff review and to authorize the mayor to sign the mylar plats at the appropriate time, by the Durango City Council on the 20th day of February 2024, at the Council Chambers, Durango City Hall, 949 E 2nd Avenue, Durango, Colorado, 81301.

Approved and adopted this ________ day of _____________, 2024.

CITY OF DURANGO,

By____________________________
Melissa Youssef, Mayor

ATTEST:
By____________________________
Faye Harmer, City Clerk
TO: DURANGO CITY COUNCIL
FROM: DEVON SCHMIDT, CHIEF FINANCIAL OFFICER

SUBJECT: A Resolution To Make Amendments To The 2024 Adopted Budget

RECOMMENDATION:

It is the recommendation that the City Council, by motion, approve the attached resolution authorizing the budgetary transfers and additional or reduced appropriations.

BACKGROUND SUMMARY:

The budget impacts associated with the 2024 Adopted Budget are related to the following:

Airport Construction Fund:
- Additional appropriations are requested as a true-up of unspent funds in 2023 for incomplete projects.

2015 Sales Tax Fund:
- Additional appropriations are requested for the Midtown Safety and Connectivity Improvement Design. This appropriation will allow for additional design for the intersection. The additional design is due to successful community input on the intersection and staff is exploring options beyond what road engineers originally presented. All other amendments are truing up projects to 2023 actuals. Some projects are being increased in the 2024 budget due to being unspent in 2023 and some projects are being decreased in 2024 due to projects moving quicker than expected in the last quarter of 2023.

2005 Sales Tax Fund:
- Additional appropriations are requested as a true-up of unspent funds in 2023 for incomplete projects.

STRATEGIC PLAN ALIGNMENT:


ALTERNATIVE OPTIONS CONSIDERED:

N/A

FISCAL IMPACT

<table>
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<tr>
<th>Fund Name</th>
<th>Fund</th>
<th>Net Effect on Fund Balance Increase/(Decrease)</th>
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<tbody>
<tr>
<td>Airport Construction Fund</td>
<td>41</td>
<td>(1,807,057)</td>
</tr>
<tr>
<td>2015 Sales Tax Fund</td>
<td>21</td>
<td>(67,065)</td>
</tr>
<tr>
<td>2005 Sales Tax Fund</td>
<td>48</td>
<td>(1,109,127)</td>
</tr>
</tbody>
</table>

POTENTIAL ADVERSE IMPACTS:

N/A

NEXT STEPS AND TIMELINE:

Projects reappropriated will work towards completion in 2024.
RESOLUTION R-2024-0012

A RESOLUTION TO AMEND THE 2024 BUDGET FOR THE PURPOSE OF BUDGET ADJUSTMENTS TO THE 2024 APPROPRIATIONS

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

WHEREAS, to accomplish the goals of City Council and foster a team oriented working environment resulted in budget impacts and incorporates several unanticipated budget adjustments increasing, transferring, or amending the appropriations for expenditures and revenues; and

WHEREAS, there exists sufficient funds within fund balance;

NOW, THEREFORE, BE IT RESOLVED, as follows

Section 1. That the City Council of the City of Durango, in regular meeting assembled, that 2024 budget shall reflect the changes and the appropriations for 2024 are increasing, transferring, or amending according to the tables below:

### Airport Construction Fund

<table>
<thead>
<tr>
<th>Account Number</th>
<th>Project Number</th>
<th>Account Description</th>
<th>Budget Increase/(Decrease)</th>
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<tbody>
<tr>
<td>41-5102-31499</td>
<td>6072</td>
<td>Terminal Expansion - Phase 1A</td>
<td>1,591,428</td>
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<td>41-5102-31499</td>
<td>6076</td>
<td>Terminal Expansion - Phase 1B Design</td>
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<td>41-5102-31499</td>
<td>6075</td>
<td>Replace ARFF Vehicle and Acquire Tools</td>
<td>161,800</td>
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<td>41-5701-31499</td>
<td>5066</td>
<td>Commercial Apron Concrete Joint Seal</td>
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Net Effect on Fund Balance: (1,807,057)

### 2015 Sales Tax Fund

<table>
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<th>Project Number</th>
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<td>21-5202-31499</td>
<td>0249</td>
<td>MidTown Safety and Connectivity Improvement Design</td>
<td>75,000</td>
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<tr>
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<td>MidTown Safety and Connectivity Improvement Design</td>
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<td>21-5204-31499</td>
<td>0266</td>
<td>ART Santa Rita to CR 210 Design</td>
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<td>21-5204-31499</td>
<td>0271</td>
<td>Lake Nighthorse FLAP</td>
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<td>21-5201-31499</td>
<td>276</td>
<td>Roosa Connect Safety Project</td>
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<td>21-5202-31499</td>
<td>262</td>
<td>Downtown's Next Step (Pedestrian Improvement Design)</td>
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<td>21-5202-31499</td>
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<td>ADA Improvement</td>
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<td>21-5201-31499</td>
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<td>Junction St Traffic Calming Design</td>
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Net Effect on Fund Balance: (67,065)
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<tr>
<td>48.5204.31499</td>
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<td>Outdoor Pickleball Courts</td>
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<td>1,009,127</td>
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<td>48.5204.31499</td>
<td>0291</td>
<td>Open Space Assessment and Plan</td>
<td></td>
<td>100,000</td>
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<tr>
<td><strong>Net Effect on Fund Balance</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>(1,109,127)</strong></td>
</tr>
</tbody>
</table>

Approved and adopted this 20th day of February, 2024.

CITY OF DURANGO, COLORADO

By: ________________________________
    Mayor

ATTEST:

By: ________________________________
    Faye Harmer, City Clerk
February 20th 2024
City Council
A RESOLUTION AMENDING THE 2024 CAPITAL BUDGET

Devon Schmidt & Various Departments
Financial Services
Financial Excellence High Performing Government
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

A RESOLUTION AMENDING THE 2024 CAPITAL BUDGET
2024 ANNUAL CAPITAL
BUDGET FOR THE CITY OF DURANGO

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<thead>
<tr>
<th>By Fund</th>
<th>Estimated Beginning</th>
<th>Revenues</th>
<th>Charges for Services Provided</th>
<th>Transfers in</th>
<th>Revenue Amendment ts</th>
<th>Total Revenue</th>
<th>Capital Expenditures</th>
<th>Charges for Services Out</th>
<th>Transfers out</th>
<th>Expense Amendment ts</th>
<th>Total Expenditures</th>
<th>Fund Balance +/-</th>
<th>Ending Fund Balances</th>
<th>Combined Ending Fund Balances</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015 Sales Tax Fund</td>
<td>16,223,274</td>
<td>12,133,596</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>12,133,596</td>
<td>23,864,927</td>
<td>-</td>
<td>1,000,000</td>
<td>67,065</td>
<td>24,931,992</td>
<td>(12,798,396)</td>
<td>3,424,878</td>
<td></td>
</tr>
<tr>
<td>2019 Sales Tax Fund</td>
<td>6,702,454</td>
<td>5,530,075</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>5,530,075</td>
<td>11,757,200</td>
<td>-</td>
<td>200,000</td>
<td>-</td>
<td>11,957,200</td>
<td>(6,427,125)</td>
<td>275,329</td>
<td></td>
</tr>
<tr>
<td>Capital Project Fund- General Fund</td>
<td>597,910</td>
<td>4,805,000</td>
<td>-</td>
<td>62,000</td>
<td>4,867,000</td>
<td>5,425,522</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>5,425,522</td>
<td>(558,522)</td>
<td>39,388</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2005 Open Space, Parks, &amp; Trails Fund</td>
<td>7,747,895</td>
<td>2,805,904</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2,805,904</td>
<td>7,806,703</td>
<td>-</td>
<td>453,557</td>
<td>1,109,127</td>
<td>9,369,387</td>
<td>(6,563,483)</td>
<td>1,184,412</td>
<td></td>
</tr>
<tr>
<td>2005 Capital Improvement Fund</td>
<td>202,777</td>
<td>2,786,733</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2,786,733</td>
<td>2,439,312</td>
<td>-</td>
<td>-</td>
<td>2,439,312</td>
<td>347,421</td>
<td>550,198</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water Capital Fund</td>
<td>8,574,161</td>
<td>-</td>
<td>-</td>
<td>6,700,000</td>
<td>-</td>
<td>6,700,000</td>
<td>12,090,073</td>
<td>-</td>
<td>-</td>
<td>12,090,073</td>
<td>(5,390,073)</td>
<td>3,184,088</td>
<td>5,906,076</td>
<td></td>
</tr>
<tr>
<td>Sewer Capital Fund</td>
<td>(1,135,658)</td>
<td>-</td>
<td>-</td>
<td>1,440,830</td>
<td>-</td>
<td>1,440,830</td>
<td>1,642,587</td>
<td>-</td>
<td>-</td>
<td>1,642,587</td>
<td>(201,757)</td>
<td>(1,337,415)</td>
<td>4,444,571</td>
<td></td>
</tr>
<tr>
<td>Airport Capital Fund</td>
<td>2,678,869</td>
<td>29,755,523</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>29,755,523</td>
<td>32,303,796</td>
<td>-</td>
<td>1,807,057</td>
<td>34,110,853</td>
<td>(4,355,330)</td>
<td>130,596</td>
<td>15,126,717</td>
<td></td>
</tr>
<tr>
<td>Trash and Recycle Capital Fund</td>
<td>833</td>
<td>-</td>
<td>-</td>
<td>12,356</td>
<td>-</td>
<td>12,356</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>12,356</td>
<td>13,189</td>
<td>902,419</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales Tax Bond Debt 2007 Fund</td>
<td>183,003</td>
<td>2,435,718</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2,435,718</td>
<td>2,433,768</td>
<td>-</td>
<td>-</td>
<td>2,433,768</td>
<td>1,950</td>
<td>184,953</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Capital Funds</td>
<td>41,775,518</td>
<td>60,252,549</td>
<td>-</td>
<td>8,215,186</td>
<td>-</td>
<td>68,467,735</td>
<td>99,763,888</td>
<td>-</td>
<td>1,653,557</td>
<td>2,983,249</td>
<td>104,400,694</td>
<td>(35,932,959)</td>
<td>5,842,559</td>
<td>26,379,783</td>
</tr>
</tbody>
</table>
Project Description: The MidTown Safety and Connectivity Improvement Project is intended to improve overall safety and connectivity for all transportation modes in the scope area. The adopted budget for the project is $300,000. A focus group was developed in response to community feedback regarding the treatment of "Malfunction Junction." The focus group recommended that staff investigate the feasibility of an alignment that moves southbound left turns to 14th Street. The contract amendment required to pursue this alignment is $75,000 based on engineering estimates provided by SEH.

Reason for Amendment: Amend the contract with SEH to include moving southbound left turns to 14th Street to the 60% design level.

Strengths: Scope of project aligns with Strategic Plan. Improves safety and accessibility in MidTown. Aligns with the goals of the MidTown URA.

Weaknesses: Constrained by topography and property. Neighborhood opposition to design elements. Cost

Mitigating Factors: Innovative design strategies and staying within right-of-way. Education, outreach, and additional efforts to reduce impact and work with property owners and businesses. This request will assist with the evaluation of engineering options, allowing for cost-effective analysis and the best solution.
### Project Description:
Roosa Connect Design  
North Main ADA Improvements Design  
Junction Street Traffic Calming Design

### Reason for Amendment:
Reconcile the budget due to more of the budget being spent in 2023 than estimated during the 2024 Budget process.

### Strengths:
These amendments will ensure a balanced CIP budget

### Weaknesses:
N/A

### Mitigating Factors:
Annual estimates for multi-year CIP projects are a moving target, and require budgetary estimation during the budget process. On these three projects, work items progressed more quickly in 2023 and less funding is required in 2024 than anticipated.

<table>
<thead>
<tr>
<th>Sarah Hill, Transportation Director</th>
<th>Strategic Plan: Effective Infrastructure Network</th>
<th>Project: Reductions</th>
<th>Reviewed by FAB: (Yes)</th>
<th>Amount Requested: $(176,935)</th>
</tr>
</thead>
</table>
### Project Description:
Downtown's Next Step (Pedestrian Improvement Design) Phase 1

### Reason for Amendment:
This request reconciles the budget due to less of the budget being spent in 2023 than estimated in the 2024 budget process.

### Strengths:
These amendments will ensure a balanced budget.

### Weaknesses:
N/A

### Mitigating Factors:
Annual estimates for multi-year CIP projects are a moving target, and require budgetary estimation during the budget process. For the DNS project, less was spent in 2023 than originally anticipated and will be spent in 2024.
<table>
<thead>
<tr>
<th>Project Description:</th>
<th>Reason for Amendment:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The addition of six pickleball courts, lighting along the Animas River Trail, and landscape improvements at Schneider Park.</td>
<td>Project funds were appropriated in 2023 budget. Reappropriation of remaining 2023 funds are required for project completion in spring of 2024.</td>
</tr>
</tbody>
</table>

**Strengths:**

Project provides much anticipated outdoor pickleball courts for community and provides an update/reactivation of an older park.

**Weaknesses:**

N/A – Project was planned to finish in 2024

**Mitigating Factors:**

N/A

<table>
<thead>
<tr>
<th>Scott McClain, Asst. Parks Director</th>
<th>Strategic Plan: Enhanced Livability and Sense of Place</th>
<th>Project: 0253 Schneider Park Improvements</th>
<th>Reviewed by FAB: (yes)</th>
<th>Amount Requested: $1,009,127</th>
</tr>
</thead>
</table>
Project Description:

Paving the drive from the entry station to the beach area and paving the parking lot above the beach through a Federal Highways grant to provide access improvements to federal lands. Total estimated project cost of $5.2 million. The city is committed to pay for $1.25M and Federal Highways is committed to pay $3.95M. Project is scheduled to bid in 2025 and construct in 2026.

Reason for Amendment:

$130,000 for project design was approved in 2023 budget. There was concern with transfer of funds not going through with FHWA by year end, so $130,000 was included in the 2024 budget proposal. Funds have been transferred and $130,000 will not be needed in 2024.

Strengths:

The grant funding provides the ability to complete a costly but needed improvement to the facilities at Lake Nighthorse.

Weaknesses:

Project construction will impact visitors to the lake.

Mitigating Factors:

Contractor to provide traffic control during project. City to work with contractors to provide messaging and project updates to the community.
### Project Description:

Assessment of existing open space system and development of a focused and strategic guiding document for identifying and prioritizing the stewardship opportunities and challenges of operations, maintenance, and management of the City’s Open Space and Trail assets.

### Reason for Amendment:

Reappropriation request from 2023 budget. With staff transition this project was not initiated in 2023.

### Strengths:

Provides strategic working plan for stewardship of city asset.

### Weaknesses:

N/A

### Mitigating Factors:

N/A
## Project Description:

Design and engineering for the replacement of 2,300 linear feet of Animas River Trail from the south end of Santa Rita Park to Nature’s Oasis. Project to include paving, lighting, and replacement of the bridge.

## Reason for Amendment:

Requesting reappropriation of $250,000 of funding that was appropriated in 2023 for completion of design, engineering, and development of bid documents for the project.

## Strengths:

Project provides update of a failing section of Animas River Trail to current standard.

## Weaknesses:

Project will require reroute during construction.

## Mitigating Factors:

Contractor to provide traffic control and alternative routing during project. City to work with contractors to provide messaging and project updates to the community.

| Scott McClain, Asst. Parks Director | Strategic Plan: Enhanced Livability and Sense of Place | Project: 0266 ART Santa Rita to CR 210 Design | Reviewed by FAB: (yes) | Amount Requested: $ 250,000 |
| Tony Vicari, Aviation Director | Strategic Plan: Effective Infrastructure Network | Project: Terminal Expansion - Phase 1A, 6072 | Reviewed by FAB: (No) Airport Commission | Amount Requested: $1,591,428 |

**Project Description:** Consistent with the 2020 Terminal Area Plan, this project includes approximately 4,400 square feet new building construction and heavy remodeling. This addition will add post-screening airline gate and hold room space, public restrooms, concessions, and utility development. Construction was initiated in April 2023, and is on schedule to be completed in 2024.

**Reason for Amendment:** FY24 project expenses were estimated in the summer of 2023 during the standard budget cycle. This amendment simply adjusts the FY24 budget to account for YE23 actuals. No change to the project scope.

**Strengths:** N/A

**Weaknesses:** N/A

**Mitigating Factors:** N/A
Project Description: Consistent with the 2020 Terminal Area Plan and continuing to build upon Phase 1A, terminal expansion Phase 1B will consist of approximately 20,000 square feet of new building construction, as well as extensive heavy and light remodeling. Central themes include relocating the TSA checkpoint to allow for improved traffic flow, expanded post-screening concessions, the addition of two new airline boarding gates, upgraded utility infrastructure, and a greatly enhanced passenger experience. Design was initiated in 2023, with construction anticipated to begin in 2024.

Reason for Amendment: FY24 project expenses were estimated in the summer of 2023 during the standard budget cycle. This amendment simply adjusts the FY24 budget to account for YE23 actuals. No change to the project scope.

Strengths: N/A

Weaknesses: N/A

Mitigating Factors: N/A
### Project Description:
The Airport maintains two Aircraft Rescue Firefighting (ARFF) vehicles to meet the FAA required ARFF Index B. This project replaces an Oshkosh T1 1500 manufactured in 1985. A new ARFF vehicle was bid and awarded in 2023, with manufacturing timelines currently estimated at ~18 months.

### Reason for Amendment:
FY24 project expenses were estimated in the summer of 2023 during the standard budget cycle. This amendment simply adjusts the FY24 budget to account for YE23 actuals. No change to the project scope.

### Strengths:
Maintaining Airport Equipment Fleet

### Weaknesses:
N/A

### Mitigating Factors:
N/A
**Project Description:** Preventative maintenance on the terminal apron concrete. Repairs will be made to deteriorating expansion joints to extend the useful life of the pavement. Concrete spalling will also be repaired.

**Reason for Amendment:** CDOT Aeronautics grant larger than anticipated. Adjusting project budget to allow for the opportunity to expend all available grant funds.

**Strengths:** Leverages state grant funds and allows for an expanded scope of work.

**Weaknesses:** None

**Mitigating Factors:** 90/10 CDOT grant
It is the recommendation that the City Council, by motion, move to approve Resolution R-2024-XX appropriating sums of money to the various funds and spending agencies, in the amounts and for the purpose as set forth below, for Capital expenditures for the city of Durango, Colorado for the 2024 budget year.
ORDINANCE NO. O-2024-XX

AN ORDINANCE AMENDING, IN PERTINENT PART, THE DURANGO CODE OF ORDINANCES CHAPTER 18- PARKS AND RECREATION - ARTICLE III- PUBLIC PARKS, PLAYGROUNDS AND RECREATIONAL FACILITIES - SECTION 18-32 – Permit Required for Assemblies, festivals and other events, to read TO READ AS FOLLOWS:

(Red type indicates addition of text, strike through indicates original text removed, empty brackets [] indicate omitted and unchanged text)

Sec. 18-32. - Permit required for assemblies, festivals, and other events.

Whenever any person, corporation, association, or organization desires to utilize a municipal public park, playground, or recreational facility within the city limits of the City of Durango, for any event, assembly, festival, entertainment, party, rally, or similar activity, a permit application shall first be obtained from the police department and be completed by the applicant. The Director of Parks and Recreation or his designated agent shall approve such permit.

Applications for said permit shall be in a form set forth by the Director of Parks and Recreation or his agent and shall be completed and submitted by the applicant not less than ten (10) days before the date on which it is proposed to conduct any such event or activity.

The Director of Parks and Recreation or his agent shall grant and issue such permit if:

(a) The proposed activity or use of the a municipal park, playground, or recreational facility will not unreasonably interfere with or detract from the general public enjoyment of such facilities;
(b) The proposed activity or use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety, and recreation;
(c) The facilities desired municipal facilities have not been reserved for other use at the date and hour required in the application;
(d) The activity will not unduly interrupt the safe flow of traffic;
(e) The activity will not divert so many police personnel as to prevent adequate protection to the rest of the city as determined by the police department;
(f) The conduct of such activity is not reasonably likely to cause injury to persons or property, incite violence, crime, or disorderly conduct;
(g) Such activity, when conducted on municipal property, is not to be held for the purpose of advertising any product, goods, or event and is not designed to be held for private profit; and
(h) Outside public displays on municipal property must be sponsored by a local Durango organization for one-time or limited duration events held on city property. Displays on municipal property must be associated with a permitted event held on city property, the display shall only be permitted for the duration of the event, and the display shall not create public disruptions or hazards. City of Durango Public Art Program displays are excluded from...
this policy. The permit application for the event at which an outside public
display on municipal property is proposed shall include a description or
rendering of the proposed display. The city manager shall have the authority
to deny the proposed outside public display if it is objectionable, or to require
removal of the permitted display if it does not conform to the description or
rendering submitted with the permit application.

(i) The fees, as determined by affected departments, have been paid

WHEREAS, the City Council of the City of Durango desires to protect and
maintain the health, safety, and welfare of all persons within the City; and

WHEREAS, the City Council of the City of Durango ("City") recognizes that
assemblies, festivals and other events within the city limits impact the citizens of
Durango; and

WHEREAS, there is a need to amend the code to provide the City of
Durango with the authority to require permits for assemblies, festivals and other
events within the city limits; and

NOW THEREFORE THE CITY OF DURANGO HEREBY ORDAINS THAT THE
DURANGO CODE OF ORDINANCES, CHAPTER 18- PARKS AND RECREATION -
ARTICLE III- PUBLIC PARKS, PLAYGROUNDS AND RECREATIONAL FACILITIES -
SECTION 18-32 –Permit Required for Assemblies, festivals and other events, BE
AMENDED TO READ AS FOLLOWS:

Sec. 18-32. - Permit required for assemblies, festivals, and other events.

Whenever any person, corporation, association, or organization desires to
utilize a public park, playground, or recreational facility within the city limits of the
City of Durango, for any event, assembly, festival, entertainment, party, rally, or
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department and be completed by the applicant. The Director of Parks and
Recreation or his designated agent shall approve such permit.

Applications for said permit shall be in a form set forth by the director of
parks and recreation or his agent and shall be completed and submitted by the
applicant not less than ten (10) days before the date on which it is proposed to
conduct any such event or activity.

The Director of Parks and Recreation or his agent shall grant and issue such permit
if:

(a) The proposed activity or use of a municipal park, playground, or
recreational facility will not unreasonably interfere with or detract from the
general public enjoyment of such facilities;

(b) The proposed activity or use will not unreasonably interfere with or
detract from the promotion of public health, welfare, safety, and recreation;

(c) The facilities desired municipal facilities have not been reserved for other
use at the date and hour required in the application;

(d) The activity will not unduly interrupt the safe flow of traffic;

(e) The activity will not divert so many police personnel as to prevent
adequate protection to the rest of the city as determined by the police
department;
The conduct of such activity is not reasonably likely to cause injury to persons or property, incite violence, crime, or disorderly conduct;

Such activity, when conducted on municipal property, is not to be held for the purpose of advertising any product, goods, or event and is not designed to be held for private profit; and

Outside public displays on municipal property must be sponsored by a local Durango organization for one-time or limited duration events held on city property. Displays on municipal property must be associated with a permitted event held on city property, the display shall only be permitted for the duration of the event, and the display shall not create public disruptions or hazards. City of Durango Public Art Program displays are excluded from this policy. The permit application for the event at which an outside public display on municipal property is proposed shall include a description or rendering of the proposed display. The city manager shall have the authority to deny the proposed outside public display if it is objectionable, or to require removal of the permitted display if it does not conform to the description or rendering submitted with the permit application.

The fees, as determined by affected departments, have been paid

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 February 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.

ATTEST: CITY OF DURANGO

Faye Harmer, City Clerk

Melissa Youssef, Mayor

Approved as to form: Approved as to Content

Mark Morgan, City Attorney

José Madrigal, City Manager
TO: DURANGO CITY COUNCIL  
FROM: MARK MORGAN  
CITY ATTORNEY

SUBJECT: DISCUSSION AND POSSIBLE ACTION CONCERNING A MOTION TO APPROVE THE SETTLEMENT OF A CASE CONCERNING THE APPLICATION OF WATER RIGHTS FILED BY TROY HALL, SPECIFICALLY 2018CW3054, IN LA PLATA COUNTY DISTRICT COURT

RECOMMENDATION:

It is recommended that, by motion, City Council:

Approve the settlement of a case concerning the application of water rights filed by Troy Hall, specifically 2018CW3054, in La Plata County District Court

BACKGROUND SUMMARY:

The City of Durango previously opposed the application for water rights filed by Mr. Hall due to the claimed rights impacts on the Florida River Water Shed. The City and the applicants’ have since developed a proposed decree which outlines parameters that ensure that the City will not incur any injuries in relation to the use of the water rights and the plan for augmentation by the applicants’.

STRATEGIC PLAN ALIGNMENT:

Engaged and Collaborative Government (ECG)

ALTERNATIVE OPTIONS CONSIDERED:

None

FISCAL IMPACT:

Unknown at this time

POTENTIAL ADVERSE IMPACTS:

Unknown at this time

NEXT STEPS AND TIMELINE:

Unknown at this time
STIPULATION BETWEEN APPLICANT AND OPPOSER, CITY OF DURANGO

TROY R. HALL (“Applicant”), and OPPOSER, CITY OF DURANGO (“Durango”) hereby stipulate as follows:

1. Durango consents to the entry of the proposed Findings of Fact, Conclusions of Law, Judgment and Decree of the Court, dated October 27, 2023 and attached hereto as Exhibit A (“Proposed Ruling”). Durango consents to the entry of any modified form of the Proposed Ruling so long as the terms and conditions therein are not less restrictive on the Applicant than those in the Proposed Ruling and are not otherwise inconsistent with this Stipulation.

2. This Stipulation is entered into by way of compromise and settlement of this
litigation. Any agreements or terms and conditions herein are due solely to the unique circumstances of this case and the resulting Stipulation. This Stipulation shall not establish any precedent and shall not be construed as a commitment to include any specific findings of fact, conclusions of law, specific engineering methodologies, or administrative practices in future stipulations.

3. This Stipulation shall bind and benefit signatories to the Stipulation and will be binding upon and benefit their heirs, assigns, and successors in interest.

4. Each party hereto shall bear its own costs and attorney fees.

5. Applicant shall file a motion requesting the Court to enter an order approving this Stipulation. Durango does not oppose said motion.

6. This Stipulation shall be enforceable as an agreement between the parties or as an order of the Court.

DATED this ____ day of _______________, 2024.

COLORADO WATER & LAND LAW, LLC   BUSHONG & HOLLEMAN PC

Amy N. Huff, #34897                P. Fritz Holleman, #21888
ATTORNEY FOR APPLICANT, TROY       Gunnar Paulsen, #52432
HALL                              ATTORNEY FOR OBJECTOR, CITY OF
                                  DURANGO
### FINDINGS OF FACT

1. Applicant, TROY R. HALL (hereinafter “Applicant”), by and through his undersigned attorney Amy N. Huff of Colorado Water & Land Law, LLC, filed an Application for a Conditional Water Right (Surface) and Conditional Underground Water Rights, and for Approval of a Plan for Augmentation (“Application”) on December 31, 2018.

2. The Application was filed in accordance with C.R.S. § 37-92-302 and the water clerk caused notice of the Application to be published in accordance with subsection 3 of said section. Notice of the Application was published both in the resume for Water Division No. 7 and in the Durango Herald Newspaper, which has general circulation in La Plata County. Applicant filed Proof of the Publication with the Court on February 6, 2019.

3. The Colorado Water Conservation Board and the City of Durango filed timely Statements of Opposition. The time for filing a Statement of Opposition has expired.

4. The Division Engineer issued his Consultation Report on March 25, 2019, and the Water
5. Applicant seeks confirmation of the following water rights, which shall provide a supplemental supply to the 5.5 acre-feet of irrigation water that Applicant leases from the Florida Water Conservancy District (“FWCD”) under the Third-Party Agreement for Purchase of Florida Project Storage Water for Long-Term Water Service, dated June 3, 2019, for wildlife, fire-protection, and the irrigation of 50 acres (“5.5 AF Contract”). A copy of the 5.5 AF Contract is attached as Exhibit A. Water available under the 5.5 AF Contract may be diverted through the structures decreed to the Hall Ditch water right when the Hall Ditch water right is out of priority, but only in the amount available of the 5.5 AF available after transit losses have been deducted and subject to curtailment by FWCD in accordance with the 5.5 Contract.

5.1. Structure Name: HALL DITCH

a. Legal Description of Points of Diversion:

Alternate POD A: In the NW ¼ NE ¼ of Section 36, T36N, R8W, NMPM. Northing 4136946, Easting 261437 Zone 13 NAD 83 UTM

Alternate POD B: In the SW ¼ NE ¼ of Section 36, T36N, R8W, NMPM. Northing 4136889, Easting 261298 Zone 13 NAD 83 UTM

Alternate POD C: In the SE ¼ NW ¼ of Section 36, T36N, R8W, NMPM. Northing 4136670, Easting 261065 Zone 13 NAD 83 UTM

b. Source: Florida River, tributary to the Animas River.

c. Appropriation Date: December 31, 2018.

d. Amount: 0.128 cfs, Conditional, combined total from all three alternate points of diversion.

e. Uses: Irrigation of 2.55 acres, as shown on Exhibit B, and firefighting.

When the Hall Ditch water right is out of priority, Applicant may divert up to 5.32 AF of the 5.5 AF Contract water, subject to curtailment by FWCD in accordance with the 5.5 AF Contract (Exhibit A), through the Hall Ditch points of diversion to continue its non-commercial, residential
irrigation practices.

5.2 Structure Name: HALL WELL/POND I

a. Legal Description of Point of Diversion:

In the SE ¼ NW ¼ of Section 36, T36N, R8W, NMPM. Northing 4136631, Easting 261126 Zone 13 NAD 83 UTM

b. Source: Groundwater tributary to the Florida River.

c. Appropriation Date: December 31, 2018.

d. Amount: 0.033 cfs (15 gpm), Conditional.

e. Use: Firefighting.

5.3 Structure Name: HALL WELL/POND II

a. Legal Description of Point of Diversion:

In the SE ¼ NW ¼ of Section 36, T36N, R8W, NMPM. Northing 4136575, Easting 261093 Zone 13 NAD 83 UTM

b. Source: Groundwater tributary to the Florida River.

c. Appropriation Date: December 31, 2018.

d. Amount: 0.033 cfs (15 gpm), Conditional.

e. Use: Firefighting.

5.4 Structure Name: HALL WELL/POND III

a. Legal Description of Point of Diversion:

In the NE ¼ SW ¼ of Section 36, T36N, R8W, NMPM.
Exhibit A to Stipulation with City of Durango
Draft 10/27/2023
Northing 4136522, Easting 260992
Zone 13 NAD 83 UTM

b. **Source:** Groundwater tributary to the Florida River.

c. **Appropriation Date:** December 31, 2018.

d. **Amount:** 0.033 cfs (15 gpm), Conditional.

e. **Use:** Firefighting.

The Hall Well/Ponds are not lined and will obtain well permits in accordance with the Plan for Augmentation described in Paragraph 7, below. When out of priority, Applicant will not apply any water from the Hall Well/Ponds to beneficial use and will augment the evaporative losses therefrom according to the Plan for Augmentation decreed herein.

6. **Conditional Rights.** The Court finds that the Applicant has demonstrated a specific plan and intent to appropriate water for the conditional water rights described above and has taken a substantial first step towards such appropriations in the amounts and for the purposes specified above. The conditional water rights can and will be completed with diligence and within a reasonable time.

7. **Plan for Augmentation:** Applicant’s plan for augmentation replaces the out-of-priority depletions caused by evaporation at the Hall Well/Ponds.

7.1 **Structures Augmented and Source of Replacement Supply:**

7.1.1 **Structures Augmented:** HALL WELL/POND I, HALL WELL/POND II, and HALL WELL POND III, described above.

7.1.2 **Source of Replacement Supply:** Out of priority evaporative depletions from the structures above will be augmented with FWCD water pursuant to a Water Service Contract for 1.5 acre-feet of augmentation water. Once this Decree is entered, Applicant will enter into a long-term Third-Party Agreement with FWCD for 1.5 AF of augmentation water.

7.2 **Amount:** Up to a maximum of 1.5 AF per year. Release of water from Lemon Reservoir under this plan for augmentation shall be made in accordance with Table 1 (Troy Hall Augmentation Plan Depletions for 114 AF Pool, Wright Water Engineers, Inc.) attached hereto.
7.3 **Uses:** Augmentation and replacement of out-of-priority evaporative depletions from not more than a total of 0.3 surface acres associated with the augmented structures described above in paragraph 7.1.1.

7.4 **Description of Plan:** The purpose of this plan for augmentation is to replace out-of-priority depletions resulting from 0.3 acres of evaporation from the Hall Well/Pond I, Hall Well/Pond II, and Hall Well/Pond III groundwater rights as described above. The gross evaporation rate of 40 inches per year for the Applicant’s property is based on NOAA Technical Report NWS 33. Depletions from the foregoing water rights will impact the Florida River, at the point of depletion near Applicant’s property, as shown on Exhibit B. The evaporation will be lagged to the stream based on the Unit Response Function provided in Table 3. Table 1 shows the depletion and augmentation requirements under this plan.

The release of augmentation water under this plan shall be made in accordance with the terms and conditions of this Decree, including Table 1, and as directed by the Division Engineer to prevent injury caused by out-of-priority depletions. Total diversions for the structures covered by this augmentation plan will be measured in accordance with paragraph 21, below. Augmentation releases will be made from Lemon Reservoir and coordinated with the Dam Superintendent for the Florida Water Conservancy District and tracked via mathematical calculations. These releases shall be made from the start of an administrative call and continue through the duration of the call period as determined by the Division Engineer.

8. **Finding of No Injury – Water Rights.** The water rights decreed herein will not injure any owner or person entitled to use water under a vested water right or decreed conditional water right, when operated in accordance with the terms and conditions of this Decree.

9. **Finding of No Injury – Plan for Augmentation.** The Court finds that operation of the augmentation plan will prevent injury to any vested or decreed conditional water rights, provided that the plan is operated in accordance with the terms and conditions of this Decree. The replacement water to be provided under the subject plan for augmentation shall be of a quality and quantity so as to meet the requirements for which the water has been used by senior downstream appropriators as required by C.R.S. § 37-92-305(5).

**CONCLUSIONS OF LAW**

10. Paragraphs 1-9 are incorporated herein, to the extent that said paragraphs contain conclusions of law.

11. The Application was published as required by law, the Court has jurisdiction over these proceedings and over all persons and water rights affected thereby, whether they have appeared or not.
12. Timely and adequate notice of these proceedings and the matters adjudicated herein has been given in the matter required by law.

13. Applicant has met all burdens of proof and complied with all standards applicable to conditional water rights and plans for augmentation.

14. No Injury. The Court finds that this Decree is consistent with the relief originally requested in the Application and for which public notice was provided. The terms and conditions contained herein are adequate to prevent injury to the owners of, or persons entitled to use, water under a vested decreed water right or a decreed conditional water right. If operated in accordance with the terms and conditions of this Decree, the plan for augmentation described herein will prevent injury to senior vested water rights and decreed conditional water rights.

15. Integrated Supply System. The conditional water rights described in Paragraph 5 are part of an integrated water supply system. Consequently, in subsequent diligence proceedings, work on any one component of Applicant’s supply system shall be considered in finding that reasonable diligence has been shown in the development of water rights for all features of Applicant’s entire water supply system. C.R.S. § 37-92-301(4)(b).

**IT IS THEREFORE, ADJUDGED AND DECREED** that:

16. The provisions of Paragraphs 1-15 are hereby incorporated as if set forth fully herein.

17. The total amount of water diverted at any point or combination of alternate points for the Hall Ditch shall not exceed the decreed amount of 0.128 cfs.

18. The combined total surface acres of the Hall Well/Pond I, Hall Well/Pond II, and Hall Well/Pond III shall not exceed 0.3 acres.

19. Administration. The conditional water rights decreed herein are subject to administration within the priority system in accordance with the law. The application for the conditional water rights decreed herein was filed in the water court in the year of 2018 and, as such, these water rights shall be administered as having been filed in that year and shall be junior to all priorities filed in previous years. As between all rights filed in the same calendar year, priorities shall be determined by historical date of appropriation and shall not be affected by the date of entry of ruling.

20. Priority and Curtailment. The water rights decreed herein will be subject to administration in priority of the Florida River Drainage and its tributaries. Pursuant to C.R.S. § 37-92-501.5, the State Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights.
21. **Measuring Devices/Records.** Applicant shall install a measurement device on the Hall Ditch near the headgate of the Hall Ditch and all other measuring devices required by this Decree and shall comply with the orders of the Division Engineer regarding measuring devices and administrative structures. An initial accounting form is provided in Exhibit D. This accounting form may be modified as needed in the future upon approval of the Division Engineer. Applicant shall keep records and make reports as reasonably requested by the Division Engineer.

22. **Retained Jurisdiction.** Pursuant to C.R.S. § 37-92-304(6), the Court shall retain continuing jurisdiction over the plan for augmentation on the question of injury to the vested rights of others, starting on the date the Decree is entered until five (5) years after the date Applicant provides written notice to the Division Engineer and all objectors that this plan for augmentation is operational. Any person may invoke retained jurisdiction within the time period provided under this Decree by filing a petition to do so with this Court. Such petition shall be filed under the caption and case number of this case and shall be served on counsel of record for all parties who have appeared. Any petition to invoke retained jurisdiction shall set forth the factual basis upon which it is asserted that injury has occurred or will occur. The petitioning party shall have the initial burden of going forward to establish the facts alleged in the petition. Applicant shall bear the ultimate burden to show (a) that no injury claimed by the other party has occurred or will occur, or (b) that any modification to this Decree sought by the other party is not required, or (c) that any term or condition proposed by Applicant in response to the petition is adequate to avoid injury.

23. **Within thirty days of execution of this Decree by the Court, Applicant shall deliver to the FWCD a completed and signed Third Party Agreement for Purchase of Florida Project Storage Water for Long Term Water Service (“Third Party Contract”) together with the first year payment. This Decree is expressly contingent on the Bureau of Reclamation, FWCD, and Applicant entering into a Third Party Contract. Applicant shall provide a fully executed Third Party Contract to the Court, Division Engineer and Opposers within six months of the entry of Decree. If Applicant shall fail to provide the Third Party Contract, the Division Engineer or any Opposer may notify the Court, and this matter shall set on the docket for a compliance review.

24. **Continuation of Rights.** The conditional rights herein awarded are continued in full force and effect until ______________, 2030. If Applicant desires to maintain the conditional water rights described herein, it shall file an application for finding of reasonable diligence on or before the last day of the month six years from the date in which the decree in this case is signed, or it shall make a showing on or before such date that the conditional water right(s) has become an absolute water right by completion of the appropriation.

25. **In accordance with Rule 9 of the Uniform Water Court Rules, upon the sale or other transfer of the conditional water right decreed herein, the transferee shall file a notice of transfer with the Division No. 7 water court, which shall state:**
   (1) The title and case number of the case in which the conditional decree was issued;
(2) The description of the conditional water right transferred;
(3) The name of the transferor;
(4) The name and mailing address of the transferee; and
(5) A copy of the recorded deed.

Additionally, the owner of the conditional water right decreed herein shall notify the clerk of the Division No. 7 water court of any change in mailing address. The clerk shall place any notice of transfer or change of address in the case file in which the conditional decree was entered and in the case file in which the court first made a finding of reasonable diligence.

Dated this _____ day of _________________ 2024.

It is so Ordered. BY THE COURT

____________________________
Hon. Jeffery Wilson, Water Judge
District Court, Water Division No. 7
Exhibit A to Stipulation with City of Durango
Draft 10/27/2023

APPROVED AS TO FORM:

COLORADO WATER & LAND LAW, LLC
Attorney for the Applicant

COLORADO ATTORNEY GENERAL
Attorneys for Colorado Water Conservation Board

CHECKED AS TO FORM AND ADMINISTRABILITY

DIVISION ENGINEER, DIVISION NO. 7

By: Amy Huff, #34897
679 E. 2nd Avenue, Ste 11B
Durango, CO 81301
Telephone: (970) 764-4372
Email: amy@waterland-law.com

Robert Genualdi, Division Engineer
Colorado Division of Water Resources
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FLORIDA WATER CONSERVANCY DISTRICT

THIRD-PARTY AGREEMENT
FOR PURCHASE OF FLORIDA PROJECT STORAGE WATER
FOR LONG-TERM WATER SERVICE

This Third-Party Agreement (Agreement) is entered into this 3rd day of JUNE, 2019, between the Florida Water Conservancy District (District), and Troy R. Hall, 12194 CR 240, Durango, CO 81301 (Buyer), as approved by the United States of America (United States).

RECITALS

A. The District has entered into a Long-Term Water Service Contract (District Contract) with the United States, acting through the Secretary of the Interior, pursuant to The Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and all acts amendatory and supplementary thereto, and particularly pursuant to the contracting authority of Section 9(c)(2) of the Reclamation Project Act of August 4, 1939 (53 Stat. 1187) and the general authorization for municipal, industrial, and other miscellaneous beneficial uses provided by the Colorado River Storage Project Act approved April 11, 1956 (70 Stat. 105), for 2,500 acre-feet of water stored in Lemon Reservoir, a participating Project of the Colorado River Storage Project. The terms of the District Contract are incorporated into this Agreement by this reference, and a copy is available upon request.

B. The District Contract authorizes the District to resell up to 2,500 acre-feet of water for municipal and industrial use and other miscellaneous beneficial uses, other than commercial agricultural irrigation, including but not limited to augmentation uses subject to the terms and conditions of the District Contract.

C. When the District is providing the water described in this Agreement for use as replacement water to the Florida River to augment depletions by the Buyer or for any other purpose specifically identified in Article 2 below, water will be provided by the District pursuant to the terms and conditions of any Court decree, substitute water supply plan, and/or other document attached hereto as Exhibit A.

D. The Point of Delivery pursuant to this Contract is at the release from Lemon Dam. The location of Lemon Dam is as follows: The axis of the dam is located in Section 17 and 20, Township 36 North, Range 7 West, N.M.P.M., beginning at a point on the right abutment, from whence the Southwest corner of Section 17, Township 46 North, Range 7 West, N.M.P.M., bears South 84 degrees 34 minutes West, a distance of 1699.6 feet, thence South 63 degrees, 22 minutes East a distance of 1,360 feet to a point on the end of the axis of the dam on the left abutment thereof.

AGREEMENT

In consideration of the mutual and dependent covenants contained herein, the parties to this Agreement agree as follows:

1. This Agreement shall become effective upon execution of this Agreement by the District, subject to the approvals required by Article 16, and shall expire October 17, 2057. This Agreement is subject to and limited by the terms of the District Contract.

1.1 Pursuant to the Act of June 21, 1963 (77 Stat. 68), renewal of this Agreement may be performed upon written request from the Buyer not less than one year prior to
expiration of this Agreement. Renewal of this Agreement shall be upon such terms and conditions as may be mutually agreeable to the United States, the District, and the Buyer. Any such renewal shall be subject to applicable Federal law, State law, and Reclamation policy in existence at the time of renewal.

2. The water to be resold pursuant to this Agreement is described in detail in the document attached to this Agreement as Exhibit A (Plan for Augmentation, substitute water supply plan, decree and/or other document) and shall be limited to the use(s) described in Exhibit A.

3. The amount of water purchased (Contracted Water) by the Buyer under this Agreement is 5.5 acre-feet.

4. For the water purchased under this Agreement, the Buyer agrees to pay the District as follows:

4.1 Upon signing this Agreement, the Buyer shall pay to the District:

4.1.1 $1.495 per acre-foot annual charge associated with the District’s irrigation repayment obligation pursuant to Contract No. 14-06-400-1322, until payout in the United States fiscal year 2021; plus

4.1.2 $200.00 minimum charge for one acre-foot or less to reimburse the District for costs of administration of this Agreement and the District Contract; plus

4.1.3 $90.06 per acre-foot for each acre-foot of water purchased by the Buyer, the Colorado River Storage Project Municipal and Industrial (M&I) water rate, as calculated annually by the Bureau of Reclamation according to the terms of the District Contract; plus

4.1.4 $167.89 per acre-foot for annual system improvement costs and water conservation activity costs, and replacement costs, all associated with the Florida Project Works; plus

4.1.5 $15.59 per acre-foot for annual operation and maintenance of Florida Project Works.

Total amount paid by the Buyer upon signing this Agreement: $2,612.70 (4.1.1 x acre-feet purchased + 4.1.2 if one acre-foot or less or 4.1.2 x acre-feet purchased if greater than one acre-foot + 4.1.3 x acre-feet purchased + 4.1.4 x acre-feet purchased + 4.1.5 x acre-feet purchased).

Example 1: Buyer is purchasing two acre-feet in 2019.
Total amount paid is $250.07 or ($1.495 x 2, plus $200 x 2 plus $90.06 x 2, plus $167.89 x 2, plus $15.59 x 2);

Example 2: Buyer is purchasing one half acre-foot in 2019.
Total amount paid is $338.28 or ($1.495 plus $200, plus $90.06 x 0.5, plus $167.89 x 0.5, plus $15.59 x 0.5).

4.2 Commencing in the calendar year following the year in which this Agreement is signed, the Buyer shall pay to the District annually the Colorado River Storage Project M&I water rate, as calculated for such year by the Bureau of Reclamation, plus the annual irrigation repayment obligation costs for each acre-foot of water purchased, plus the annual administration costs for each acre-foot of water purchased, plus the annual system improvement, replacement and water conservation activity costs for each acre-foot of water purchased, plus the operation and maintenance costs for each acre-foot of water purchased as calculated for such year by the District. The rates may be adjusted by the District as necessary to ensure that costs identified in Articles 4.1.2, 4.1.4 and 4.1.5 are recovered. The derivation of rates, as adjusted by the District shall be available upon request of the Buyer pursuant to Article 15.
4.3 On or before the last day of February of each year during the term of this Agreement, the District shall mail an invoice pursuant to Article 4.2 and an accounting form to be completed by Buyer, itemizing monthly water use for the prior year described in Article 2 as reflected by Buyer’s measuring device to Buyer’s last known address, as reflected in the District’s records.

4.4 In the event that the District incurs additional attorney’s fees, engineering fees or other costs in connection with Buyer’s Plan for Augmentation, substitute water supply plan, decree and/or any other document, including, but not limited to providing evidence in such case, and review of engineering and accounting forms, Buyer will reimburse the District those costs within 30 days of invoicing. All balances remaining after 30 days will incur interest at a rate of ten percent (10%) per annum.

4.5 On or before March 31st of each year during the term of this Agreement, the Buyer shall return the completed form of accounting provided by the District pursuant to Article 4.3, together with payment of the total amount due as described in the invoice.

The District shall pay all sums collected from Buyer, as described in Article 4.1.1 and 4.1.3 above, to the United States; provided, however, that all other cost reimbursements described in Article 4.1 will be retained by the District.

5. By signing this Agreement, Buyer acknowledges, represents and warrants to the District:

5.1 That the information provided by Buyer to the District on Exhibits A is correct to the best of Buyer’s knowledge;

5.2 That Buyer has read and understands the District Contract incorporated by reference to this Agreement and agrees to be bound by its terms, as applicable;

5.3 That a Water Court decree, substitute water supply plan, and/or other document, described in Recital C above requires that all subject diversions must have measuring devices as required by the District or the Division Engineer installed and maintained in good working order. Water purchased under this Agreement, as specifically identified in Article 2, will be released from Lemon Reservoir and delivered to the Florida River at the outlet works of Lemon Dam upon request of the Division Engineer, Water Division 7, Colorado, at times and in amounts determined by the Division Engineer and as approved by the District.

5.4 That the Buyer cannot request scheduled releases from Lemon Dam which would damage Florida Project facilities. The District will not open dam gates to satisfy the water purchased hereunder once gates are closed, which normally occurs at the end of the irrigation season, but may occur at other times for maintenance purposes, water shortages, or due to natural disaster such as fire. The Buyer agrees that it may not request release of water purchased hereunder after such gates are closed unless the District confirms that it can satisfy the requested release through the Lemon Reservoir bypass facilities;

5.5 That, if water purchased under this Agreement is for augmentation purposes, it will not protect Buyer from curtailment as a result of a call placed by any water right upstream of the Florida Project and senior to Buyer’s water right;

5.6 That nothing in this Agreement is intended to create a water right to Contracted Water obtained pursuant to this Agreement, and the Third Party Contractor may not claim a water right based on any legal theory arising under State or Federal law, before any State or Federal judicial or administrative body based on the use of Contracted Water under this Agreement, or any Third Party Contract;

5.7 That the amount of water purchased by Buyer under this Agreement has been determined solely by Buyer, and that the District makes no representation that the amount purchased by Buyer is sufficient for Buyer’s purposes, including protection of Buyer from curtailment as a result of a call placed by senior water rights diverting water downstream from the Lemon Dam;
5.8 That the amount to be paid annually by Buyer under this Agreement is due and payable in full, whether or not the water purchased is actually released from Lemon Reservoir;

5.9 That Buyer shall have no holdover of water storage in Lemon Reservoir from water year to water year.

5.10 That in the event water available for release under this Agreement is curtailed for any reason, including drought, error, the reaching of maximum use of water allotted to the State of Colorado, closing of the gates, or other reasons pursuant to the provisions of the District Contract, no liability shall attach to the District for such curtailment, even if said curtailment results in a reduction of the amount of water released under this Agreement;

5.11 That, except as expressly contained in this Agreement, no representation by or on behalf of the District has been made to Buyer as to the amount of water purchased by Buyer under this Agreement, the effectiveness of such purchase in protecting any water right from curtailment or the availability of water to the District under the District Contract. Buyer specifically acknowledges that water purchased under this Contract is subject to curtailment or shortage, and that, if water is being purchased for augmentation purposes, Buyer will need to purchase additional water to ensure a full supply in times of shortage.

6. Buyer agrees to maintain permanent accounting records of all water use as described in Article 2, as reflected by Buyer's measuring device, and to submit a copy of such records to the District annually with the payment described in Article 4.2.

7. The payment by Buyer of the amounts described in Article 4 is a condition precedent to receiving benefits under this Agreement. In the event that Buyer's tendered payment is dishonored, the District shall not make water available for Buyer until Buyer provides payment of the amount due, plus interest at the rate of ten percent (10%) per annum from the date of tender and a late charge equal to six percent (6%) of the payment, in Good Funds (cash, electronic transfer funds, certified check or cashier's check). Buyer shall also pay all attorney's fees and costs incurred by the District for collection efforts of delinquent payments. Payments received shall be applied first to the payment of costs and attorney fees incurred, if any, second to the payment of late charges and accrued interest, and the balance applied to the overdue payment.

8. This Agreement may not be assigned, or the water purchased hereunder transferred, by Buyer without the written consent of the District, at its discretion, and approval by the United States. Upon any transfer of the Plan for Augmentation, substitute water supply plan, or document identified in Article 2, Buyer shall notify the District of such transfer in writing. The notice shall include the name, address and telephone number of the person to whom the transfer will be made and an application for transfer. The District may, in its discretion, assess an administration fee to record the transfer as a condition of approving the transfer. Any transfer of the water purchased under this Agreement without the consent and approval required by this paragraph shall be void.

9. The District may, but is not required to, terminate this Agreement in the event of failure by the Buyer to perform Buyer's obligation to pay the sums due under this Agreement, in the event of a misrepresentation or breach of warranty by Buyer, or due to the inability of the District to provide water for augmentation or substitute water supply plans. In the event of termination by the District, any sums paid by Buyer shall be non-refundable. The District shall give written notice of termination to Buyer, the United States and the Division Engineer, Water Division 7, Colorado. No liability shall attach to the District for such termination.

10. In the event of breach of this Agreement by Buyer, Buyer shall reimburse the District for all costs, attorney's fees and damages incurred by the District, whether or not litigation is commenced.

11. This Agreement constitutes the entire and only agreement between the District and Buyer relating to the subject matter hereof. No subsequent modification of any of the terms of this Agreement shall be valid, binding upon the parties, or enforceable unless made in writing and
signed by the parties and approved by the United States and the Division Engineer, Water Division 7, Colorado.

12. The use of water purchased under this Agreement shall comply fully with the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321, et seq.) prior to the approval of this Agreement by the United States.

13. The water purchased under this Agreement shall be binding upon Buyer's successors in interest.

14. No guarantee is made by Reclamation or the District as to the quality of Contracted Water released under this Agreement.

15. Any notice to Buyer provided for in this Agreement shall be in writing and shall be given and be effective upon (1) hand delivery to Buyer or (2) mailing such notice by first-class U.S. mail, addressed to Buyer at the Buyer's address stated on the first page of this Agreement, or to such other address as Buyer may designate by notice to the District. Any notice to the District shall be in writing and shall be given and be effective upon (1) hand delivery to the District's president or (2) by mailing such notice by first-class U.S. mail to the President, Florida Water Conservancy District, 1523 County Road 243, Durango, Colorado 81301, with a copy to P.O. Box 1157, Durango, Colorado 81302.

16. This Agreement is subject to approval by the United States. Upon execution by all parties, and subject to timely payment by Buyer, the District will record this Agreement in the records of the La Plata County, Colorado, Office of Clerk and Recorder.
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

Attest:  

[Signature]
Secretary

FLORIDA WATER CONSERVANCY DISTRICT

[Signature]
Philip S. Craig, President

Owner

[Signature]
Troy R. Hall

Approved:

[Signature]
Office of the Regional Solicitor

UNITED STATES OF AMERICA

[Signature]
Regional Director
Upper Colorado Region
Bureau of Reclamation

List of Attachments: Exhibit A – Decree, Plan for Augmentation, Substitute Water Supply Plan and/or other document
Exhibit A to
THIRD-PARTY AGREEMENT
FOR PURCHASE OF FLO RIDA PROJECT STORAGE WATER
FOR LONG-TERM WATER SERVICE

Applicant/Owner: Troy R. Hall

Property: Section: 36 Township: 36 Range: 8, Assessor Parcel No. 559536301065, Account No. R434925, Lot 2 R Canoe/Silver Spruce Lot 10 BA Project 2013 – 0198 per Plt 1078213 (Rec 1085885)
Section: 36 Township: 36 Range: 8, Assessor Parcel No. 559536301008, Account No. R010902, Lot 2 Category 1 – Project 83 – 62 Amended Plat 12194 CR 240
Section: 36 Township: 36 Range: 8, Assessor Parcel No. 559536301012, Account No. R434134 Camp Silver Spruce Lots A – E Category 1 Lot 3 Parcel 3R per PLT 1049328

Applicant is purchasing 5.5 Acre Feet of water for wildlife, fire protection uses and the irrigation of up to 50.8 acres of land on the aforesaid Properties.
Water Reservation Agreement

This Agreement is made this 14 day of MARCH, 2019, by and between the Florida Water Conservancy District (FWCD) and Troy R. Hall.

WHEREAS, FWCD has decreed to it the use of up to 114 acre feet of water stored in Lemon Reservoir for use in plans of augmentation (Order Amending Decree, Case Number W-1689-7: through W-1695-77, Water Court Division 7); and

WHEREAS, FWCD is leasing said decreed water pursuant to long term water service agreements with water users for use in plans of augmentation and substitute water supply plans; and

WHEREAS, Applicant has demonstrated to FWCD a need to lease 1.5 acre feet of water from FWCD to replace Applicant’s stream depletions from the Florida River; and

WHEREAS, Applicant intends to use diligent efforts to complete a plan of augmentation or substitute water supply plan for use of this water within the time period set forth by this Agreement.

NOW THEREFORE, for consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. FWCD will reserve to Applicant 1.5 acre feet of water per year for release to the Florida River, subject to Applicant’s entering a long term water service contract for the release from Lemon Dam of up to 1.5 acre feet of water annually as decreed in Order Amending Decree, Case Number W-1689-77 through W-1695-77, Water Court Division 7, as amended, to replace Applicant’s Florida River depletions as set forth in a plan of augmentation or substitute water supply plan. The right to lease water will be subject to the terms and conditions of a Third Party Agreement for Purchase of Florida Project Storage Water for Long-Term Water Service, by and between Applicant, FWCD, and the United State Bureau of Reclamation.

2. Applicant will pay sum of $600.00 as consideration for this reservation.

3. This reservation will expire one year from the date first set forth above.

4. If applicant desires an additional one year reservation, Applicant shall pay the additional sum of $600.00 on or before the expiration date, together with a letter of intent to renew this agreement for one additional year. The additional one year reservation will expire two years from the date first set forth above.

5. If applicant desires additional extensions beyond the two years set forth herein, Applicant must petition FWCD for an additional extension of its reservation, which may be approved or denied in the discretion of FWCD.
6. This Agreement does not confer any water rights on Applicant, nor is Applicant eligible for release of water from Lemon Reservoir by entering this Agreement. This Agreement is only for the reservation of an increment of water that may be leased pursuant to a long term water service agreement with FWCD and approved by the United States of America Bureau of Reclamation (BOR). No water will be released from Lemon Reservoir for the benefit of Applicant unless Applicant, FWCD, and BOR execute a "Third-Party Agreement for Purchase of Florida Project Storage Water for Long-Term Water Service", and pays all sums due thereunder. Inasmuch as BOR is not a party to this reservation agreement, FWCD asserts that BOR has not approved release of project water to augment the purposes set forth in Applicants' reservation request, and BOR may approve or disapprove of any water service agreements submitted, whether or not Applicant has a reservation agreement.

7. FWCD reserves the right to file a statement of opposition or other objection to any water rights application or substitute water supply plan filed by applicant. Whether or not FWCD is a party to Applicant's water rights case(s), Applicant must obtain approval for any decree or substitute water supply plan prior to approval by the Court and/or State Engineer. If approval is not obtained, FWCD will not enter into a long term water service agreement with Applicant.

8. If Applicant utilizes an engineer and attorney other than the engineer and attorney utilized by FWCD for the preparation and filing of its augmentation or substitute water supply plan, Applicant shall pay all attorney's fees and engineering costs incurred by FWCD in reviewing or opposing any plan of augmentation and/or substitute water supply plan that contemplates the use of FWCD's water right. Applicant shall pay a deposit towards FWCD's costs in the amount of $1,000.00.

9. All decrees expressing an intention to utilize FWCD water as described above for augmentation purposes shall contain the following provision: Within thirty days of execution of this Decree by the Court, Applicant shall deliver to the FWCD a completed and signed Third Party Agreement for Purchase of Florida Project Storage Water for Long Term Water Service ("Third Party Contract") together with the first year payment. This Decree is expressly contingent on the BOR, FWCD, and Applicant entering into a Third Party Contract. Applicant shall provide a fully executed Third Party Contract to the Division Engineer within six months of the entry of Decree. If Applicant shall fail to provide the Third Party Contract, the Division Engineer shall notify the Court, and this matter shall set on the docket for a compliance review.
### Exhibit D - Pond Evaporation Draft Accounting

**Depletions and Augmentation Requirements**

**Troy Hall Augmentation Plan Depletions for 114 AF Pool**

**Admin No. of Troy Hall Ponds: __________**

<table>
<thead>
<tr>
<th>Month</th>
<th>Gross Pond Evaporation</th>
<th>Lagged Pond Evaporation - Total Depletions</th>
<th>Days of Administration</th>
<th>Augmentation Releases</th>
</tr>
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<tbody>
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<tr>
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**Notes:**

1. Gross pond evaporation for Ponds I, II and III, for a total surface area of 0.3 acres. From SEO's Guidelines (2/28/95) for sites with elevation above 6,500 ft and per annual values from NOAA Technical Report NWS 33.

2. Column (1) lagged in Glover analysis using the following parameters: 26,000 gpd/ft transmissivity, 0.2 specific yield, 207 feet average distance from ponds to stream, and 509 feet average distance from no flow boundary to stream.

3. Equals # of days of month Hall Ponds are Out of Priority / total # of days of month, expressed as a percentage. Percentages to be entered based on recorded administration.

4. Equals Column (2) x Column (3) x transit loss rate of 0.625 percent per mile x 3.46 miles from Lemon Dam to Troy Hall Property.
<table>
<thead>
<tr>
<th>Month</th>
<th>Total Hall Ditch Diversions</th>
<th>Days Out of Priority During Administration</th>
<th>Lemon Reservoir Water Diverted</th>
<th>Lemon Reservoir Releases</th>
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<td></td>
<td>AF</td>
<td>% of Month</td>
<td>AF</td>
<td>AF</td>
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<td>January</td>
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</table>

Notes:
1. Recorded Hall Ditch Diversions in acre feet
2. Equals # of days of month Hall Ditch is Out of Priority / total # of days of month, expressed as a percentage. Percentages to be entered based on recorded administration.
3. Equals Column (1) x Column (2)
4. Equals Column (3) x transit loss rate of 0.625 percent per mile x 3.46 miles from Lemon Dam to Troy Hall Property.