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**CITY COUNCIL AGENDA
WEDNESDAY, MARCH 6, 2024
250 NORTH 5TH STREET - AUDITORIUM
5:30 PM – REGULAR MEETING**

Call to Order, Pledge of Allegiance, Moment of Silence

Proclamations

Proclaiming March 2024 as Women's History Month

Proclaiming March 2024 as American Red Cross Month in the City of Grand Junction

Public Comments

Individuals may comment regarding items scheduled on the Consent Agenda and items not specifically scheduled on the agenda. This time may be used to address City Council about items that were discussed at a previous City Council Workshop.

The public has four options to provide Public Comments: 1) in person during the meeting, 2) virtually during the meeting (registration required), 3) via phone by leaving a message at 970-244-1504 until noon on Wednesday, March 6, 2024 or 4) submitting comments [online](#) until noon on Wednesday, March 6, 2024 by completing this form. Please reference the agenda item and all comments will be forwarded to City Council.

City Manager Report

Boards and Commission Liaison Reports

CONSENT AGENDA

The Consent Agenda includes items that are considered routine and will be approved by a single motion. Items on the Consent Agenda will not be discussed by City Council, unless an item is removed for individual consideration.

1. Approval of Minutes

- a. Minutes of the February 21, 2024 Regular Meeting

2. Set Public Hearings

- a. Legislative
 - i. Introduction of an Ordinance Amending Title 21 Zoning and Development Code to Modify and Clarify Various Provisions Relating to Withdrawn Applications, Public Notice Requirements, Planned Developments, Adding a Use for Public Parking, Accessory Dwelling Unit (ADU) Standards, Drive-Through Facility Standards, and Fence Standards; Introduction of an Ordinance Amending Title 25 24 Road Corridor Design Standards Regarding Alternate Streets Requests for Widths of Pedestrian Walks; Introduction of an Ordinance Amending Title 22, Title 23, Title 24, Title 25, Title 26, and Title 27 to Update Zone District Titles to Reflect Revisions in the Adoption of the 2023 Zoning & Development Code and Setting a Public Hearing for March 20, 2024
- b. Quasi-judicial
 - i. Introduction of an Ordinance Zoning Approximately 4.06 Acres from R-8 (Residential 8) to MU-2 (Mixed Use) located at 640 24 ½ Road and Setting a Public Hearing for March 20, 2024

3. Procurements

- a. Purchase of Side Load Refuse Trucks
- b. Construction Contract for Roof Replacements at City Hall and City Offices
- c. Approval of a Contract with Citadel Security to Provide Security Services

4. Resolutions

- a. A Resolution Repealing and Rescinding the Corridor Infill Incentive Established by Resolution 74-22
- b. A Resolution Authorizing and Confirming the Sale of Real Property Located at 2601 Dos Rios Drive, Grand Junction, Colorado

REGULAR AGENDA

If any item is removed from the Consent Agenda by City Council, it will be considered here.

5. Public Hearings

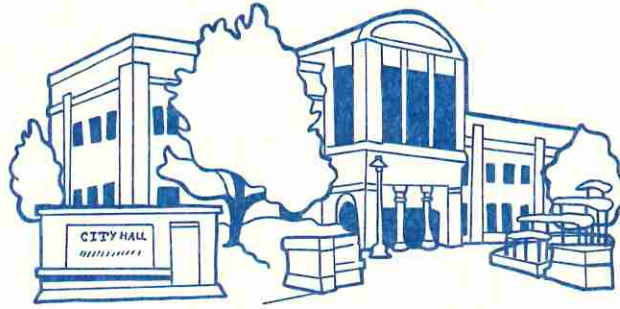
- a. Legislative
 - i. An Ordinance Authorizing a License Agreement for the Sale of Naming Rights at the Community Recreation Center Pools
 - ii. An Ordinance Authorizing a Lease Agreement with a Therapy Provider at the Community Recreation Center
 - iii. Discussion and Possible Action Regarding School District 51 Impact Fees
 - iv. Discussion and Possible Action Regarding Interim Housing Code Next Steps

6. Non-Scheduled Comments

This is the opportunity for individuals to speak to City Council about items on tonight's agenda and time may be used to address City Council about items that were discussed at a previous City Council Workshop.

7. Other Business

8. Adjournment



City of Grand Junction, State of Colorado

Proclamation

- Whereas,** Women’s History Month provides an opportunity to honor the generations of trailblazing women and girls who have helped build our Nation, shape our progress, and strengthen our character as a people; and
- Whereas,** women representing all backgrounds have made historic and critical contributions to the growth and strength of our country in countless ways and fields, including economics, arts and culture, science, sports, business, government, and society both inside and outside the home and through the labor force and volunteering; and
- Whereas,** throughout history despite hardship, exclusion, and discrimination, women have strived and sacrificed for equity and equality in communities across the country; and
- Whereas,** women were and continue to be instrumental in the establishment of philanthropic and cultural institutions across our country; and
- Whereas,** women have served our country courageously in all branches of the military with some having given their lives as the ultimate sacrifice; and
- Whereas,** women and girls continue to lead groundbreaking civil rights movements for social justice and freedom, so that everyone can realize the full promise of America; and
- Whereas,** throughout the history of Grand Junction, women have enriched this community and improved the quality of life for many.

NOW, THEREFORE, I, Anna Stout, by the power vested in me as Mayor of the City of Grand Junction, do hereby proclaim March 2024 as

“Women’s History Month”

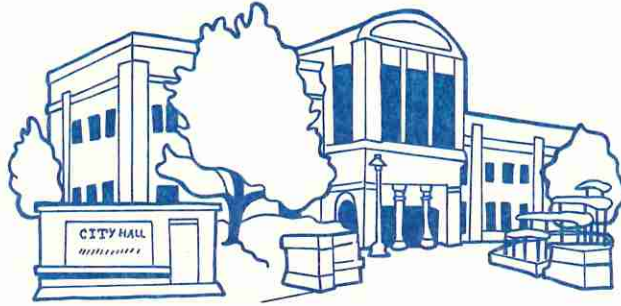
in the City of Grand Junction and urge all community members to reflect on the achievements of women across the centuries and pay tribute to the pioneers who paved the way.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official Seal of the City of Grand Junction this 6th day of March 2024.

A handwritten signature in black ink, appearing to read "Anna Stout".

Mayor



City of Grand Junction, State of Colorado

Proclamation

Whereas, during American Red Cross Month in March, we celebrate the humanitarian spirit of the City of Grand Junction and reaffirm our commitment to help ensure no one faces a crisis alone; and

Whereas, the heart of our community is exemplified by the caring people of Grand Junction, whose simple acts of kindness through the Red Cross provide help and hope in people's most difficult moments by continuing the lifesaving legacy of Clara Barton, who founded the organization more than 140 years ago to prevent and alleviate human suffering; and

Whereas, every day, these ordinary individuals lend a helping hand to make an extraordinary difference for neighbors in need — whether it's providing emergency shelter, food and comfort for families displaced by home fires and other disasters; supporting military members and veterans, along with their families and caregivers through the unique challenges of service or using vital skills like first aid and CPR to help others survive medical emergencies; and

Whereas, their support, volunteerism and generous donations are critical to our community's resilience. We hereby recognize this month of March in honor of all those who fulfill Clara Barton's noble words, "You must never think of anything except the need and how to meet it," and ask everyone to join in this commitment.

NOW, THEREFORE, I, Anna Stout, by the power vested in me as Mayor of the City of Grand Junction, do hereby proclaim March 2024 as

"American Red Cross Month"

in the City of Grand Junction and encourage all citizens of Grand Junction to reach out and support its humanitarian mission.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official Seal of the City of Grand Junction this 6th day of March 2024.

A handwritten signature in black ink, appearing to read "Anna Stout".

Mayor

Grand Junction City Council
Minutes of the Regular Meeting
February 21, 2024

Call to Order, Pledge of Allegiance, Moment of Silence

The City Council of the City of Grand Junction convened into regular session on the 21st day of February at 5:30 p.m. Those present were Councilmembers Scott Beilfuss, Cody Kennedy, Jason Nguyen, Randall Reitz, Dennis Simpson, Council President Pro Tem Abe Herman, and Council President Anna Stout.

Also present were City Manager Greg Caton, City Attorney John Shaver, Parks and Recreation Director Ken Sherbenou, Police Chief Matt Smith, Senior Planner Daniella Acosta Stine, Planning Supervisor Niki Galehouse, City Clerk Amy Phillips, and Deputy City Clerks Selestina Sandoval and Krystle Koehler.

Council President Stout called the meeting to order and led the Pledge of Allegiance, followed by a moment of silence.

Proclamation

Proclaiming February 24, 2024 as National TRIO Day in the City of Grand Junction

Council President Anna Stout read the proclamation, and Paige Cadman, Director of TRIO Student Support Services Program, accepted the proclamation.

Appointments

To the Planning Commission/Zoning Board of Appeals

Council President Pro Tem Herman moved, and Councilmember Nguyen seconded to appoint Orin Zyvan to a partial term ending October 31, 2026 and Ian Moore to a partial term ending October 31, 2025. Motion carried by unanimous voice vote.

To the Downtown Development Authority Business Improvement District

Councilmember Kennedy moved, and Council President Pro Tem Herman seconded to reappoint Cole Hanson and appoint Faith Rodriguez to full terms ending June 30, 2028. Motion carried by unanimous voice vote.

To the Horizon Drive Association Business Improvement District

Councilmember Simpson moved, and Councilmember Kennedy seconded to reappoint Brian Burford and Kevin Harrison to full terms ending April 30, 2027. Motion carried by unanimous voice vote.

Public Comments

Glen Stout expressed his concern regarding the proposed Lake Road replacement lift station.

City Manager Report

City Manager Greg Caton gave updated information regarding the bond issuance for the Persigo Wastewater Treatment Plant and the Community Recreation Center; both have now been issued. He also invited the community to join him and Utilities Director Randi Kim for coffee on Thursday, February 22, 2024, at 10 a.m. at Main Street Bagels.

Board and Commission Liaison Reports

Councilmember Nguyen stated One Riverfront will hold an event on February 27th, from 10am to 12pm where the design engineer will look at options for trail work that will be done on the riverfront trail. He also shared Grand Valley Transit will be fare free on March 5th for Presidential Primary Election Day to promote participation in the election.

Councilmember Simpson stated the Horizon Drive Business Improvement District Executive Director position has now been filled.

Councilmember Kennedy shared the Grand Junction Economic Partnership honored City Manager Greg Caton.

Councilmember Reitz shared that January 2024 had the busiest flight history for any January at the Grand Junction Regional Airport, as 18,000 passengers flew in or out of Grand Junction, and he also shared that he and Councilmember Kennedy volunteered to be part of the subcommittee that is helping to plan the proposed I-70 interchange bond measure for November.

Council President Stout gave updates regarding the Colorado Municipal League Legislative Workshop.

CONSENT AGENDA

1. **Approval of Minutes**
 - a. Summary of the February 5, 2024 Workshop
 - b. Minutes of the February 7, 2024 Regular Meeting - **Moved to Regular Agenda**

2. Set Public Hearings

a. Quasi-judicial

- i. A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, and Setting a Hearing on Such Annexation, Exercising Land Use Control, and Introducing Proposed Annexation Ordinance for the Fire Station No.7 Annexation of 3.744 Acres, Located at 2351 H Road, and Setting a Public Hearing for April 3, 2024

3. Continue Public Hearings

a. Quasi-judicial

- i. An Ordinance Rezoning 7.11 Acres from R-4 (Residential - 4 du/ac) to R-24 (Residential – 24 du/ac), Located at 2651 Stacy Drive - **Request to be Continued to March 20, 2024**

4. Procurements

- a. Construction Contract for Reconstruction of Yucatan Court and Summer Hill Court
- b. Authorization for an On-Call Contract for Professional Right-of-Way Acquisition Services
- c. Purchase of Parking Meters and Kiosks
- d. Construction Contract for 30 Road Overlay
- e. Contract with Winn Marion for Electric Vehicle Supply Equipment (EVSE) under the Colorado State Price Agreement

5. Resolutions

- a. A Resolution Authorizing a DOLA Strong Communities Infrastructure Grant Program Application
- b. A Resolution Confirming the School Land Dedication Fee for a Period of 180 Days – **Moved to Regular Agenda**

Councilmember Reitz moved, and Councilmember Nguyen seconded to adopt Consent Agenda Items 1 - 5, excluding items 1.b. and 5.b. Motion carried by unanimous voice vote.

Regular Agenda

Minutes of the February 7, 2024 Regular Meeting

Council President Pro Tem Herman removed this item to correct a couple items in the minutes.

These items didn't reflect the voting outcomes:

- 1) Authorization for an On-Call Contract for Professional Geotechnical Engineering Services: Voting outcome was 5-1 with Councilmember Simpson voting No, this motion was carried by voice vote.
- 2) A Resolution Establishing EV Vehicle Parking Rates: Voting outcome was 6-0, this motion was carried by voice vote.
- 3) A Resolution Approving ARPA Funding to Colorado Mesa University Foundation for the Master of Social Work Student Loan Repayment Program : The minutes reflected this item was passed unanimously, when in fact it was not. Voting outcome was 5-1, with Councilmember Beilfuss voting No, motion was carried by voice vote.

Council President Pro Tem Herman moved, and Councilmember Nugyen seconded to approve the Minutes of the February 7, 2024 Regular Meeting with corrections. Motion carried by unanimous voice vote.

A Resolution Confirming the School Land Dedication Fee for a Period of 180 Days

With this Resolution, the City Council will confirm the current school land dedication fee of \$920 per lot; however, because of the ongoing reconsideration of City impact fees, the Resolution sets and confirms the fee on a temporary basis. The fee, unless extended and/or amended by further action of the Council, shall continue for a period of 180 days from the date of this Resolution.

City Manager Greg Caton and City Attorney John Shaver were available for questions.

Council discussed not collecting the fee, the need for the fee due to closing of school's verses building schools, suspending the fee for 180 days, collecting the fees on behalf of the School District, proposed having the school collect the fee themselves. There was a consensus to reduce the number of days to 30 in anticipation of a March 6th presentation by the School District.

Councilmember Kennedy moved, and Councilmember Simpson seconded to adopt Resolution No. 13-24, a resolution confirming the school land dedication fee for a period of 30 days as provided. Motion carried by unanimous voice vote.

Introduction of an Ordinance Authorizing a License Agreement for the Sale of Naming Rights at the Community Recreation Center Pools

The proposed license agreement would enable naming of the Community Recreation Center Pools in exchange for \$3,000,000 from Intermountain Health dba St. Mary's Hospital.

Parks and Recreation Director Ken Sherbenou presented this item.

Council discussed the contribution and how the square footage would be impacted without the contribution. Councilmember Reitz stated he would abstain from voting as he is employed by St. Mary's Hospital.

Public comment opened at 6:38 pm.

There were no public comments.

Public comment closed at 6:38pm.

Council President Pro Tem Herman moved, and Councilmember Kennedy seconded to introduce an ordinance approving the license agreement for the sale of naming rights of the Grand Junction Community Recreation Center pools, authorize publication of the ordinance in pamphlet form, and setting a public hearing for March 6, 2024. Motion carried by roll call vote 6-0, with Councilmember Reitz abstaining.

Introduction of an Ordinance Authorizing a Lease Agreement with a Therapy Provider at the Community Recreation Center

The proposed lease agreement would enable a 10-year initial lease term with three subsequent five-year extensions for a total of 25 years for a built-to-suit 2900 square foot therapy space in the Community Recreation Center (CRC). This space would be operated by St. Mary's Hospital/Intermountain Health. Annual rent and operating expenses would be paid to the City starting at \$168,000 per year with an annual 2.5 percent escalator. St. Mary's would also contribute \$1,554,000 to help with the capital construction cost of adding their therapy space. Patients and their therapists would have access to the drop-in areas of the CRC, including the fitness/weight area, walking track, and therapy pool. This addition is expected to increase the overall service provided by the CRC and generate a higher-cost recovery.

Parks and Recreation Director Ken Sherbenou presented this item.

Public comment opened at 6:48 pm.

There were no public comments.

Public comment closed at 6:48pm.

Councilmember Nguyen moved, and Council President Pro Tem Herman seconded to introduce an ordinance approving the lease agreement with a Therapy Provider at the Grand Junction Community Recreation Center, authorizing publication of the ordinance in pamphlet form and setting a public hearing for March 6, 2024. Motion carried by voice vote 6-0, with Councilmember Reitz abstaining.

Council took a break at 6:40 pm and resumed at 6:51 pm.

An Ordinance Extending the Skilled Gaming Moratorium

An extended temporary moratorium disallowing new skilled gaming businesses will allow time for the City Attorney's Office, the Grand Junction Police Department, and the

City's Community Development Department to continue to review skilled gaming and allow the City an opportunity to evaluate potential regulation, licensure, and other avenues, including coordination with the state, to better limit the impact these businesses are having on the community. By and with the adoption of Ordinance 5190, the City amended the Zoning and Development Code to define *Skilled Gaming as Adult Entertainment* and define *Gaming Arcade* (aka skilled gaming business) and the various machines, games and devices that contribute to the undesirable outcomes of the operation of those business in the City; however, further amendments, such as buffering, zoning, and permitting need to be considered.

City Attorney John Shaver presented this item.

Council commented that they appreciated staff and the Police Department for all the work they have done, and asked if there was any conversation with the Colorado Gaming Commission Enforcement and what the next steps would be over the next year, to find a long-term solution.

The public hearing opened at 7:00 pm.

There were no public comments.

The public hearing closed at 7:00pm.

Councilmember Kennedy moved, and Councilmember Simpson seconded to adopt Ordinance No. 5199, an ordinance to extend the moratorium on skilled gaming, on second reading and final passage and authorize final publication in pamphlet form. Motion carried by unanimous roll call vote.

An Ordinance Amending the Planned Development Zoning and Outline Development Plan (ODP) for the Riverfront at Dos Rios Located on the Northeast Bank of the Colorado River Between Highway 50 and Hale Avenue

Applicants, DR land LLC, and Buena Vida HQ, LLC, and the City of Grand Junction, requested approval of an amended Planned Development (PD) zoning ordinance and Outline Development Plan (ODP) to establish a phasing schedule for the development, introduce new uses, expand existing uses to other pods in which they are not currently permitted, and incorporate additional flexibility for some parking standards in the Mixed-Use pods.

In April 2019, the City approved Ordinance 4849 for the ODP that established the uses, standards, and general configuration of the proposed Riverfront at Dos Rios mixed use development on approximately 58.8 acres, located on the northeast bank of the Colorado River between Highway 50 and Hale Avenue. To date, the PD has undergone three amendments. In 2020, the City approved Ordinance 4928 establishing additional industrial and warehousing uses in the Light Industrial/Commercial pods, incorporating approximately 8.4 acres of property into the ODP, and adding an access point off Riverside Parkway. The PD was further amended in 2021 by Ordinance 4982 to include

approximately 0.4 acres of mixed-use to the development. The third amendment was approved by Ordinance 5061 in 2022, which incorporated 2.0 acres of property into the development, clarified parking and architectural standards, and changed the default zone for approximately 7.5 acres of industrial/commercial property to mixed use.

Senior Planner Daniella Acosta, and Director of Development, with May Riegler Properties, Tess Williams presented this item.

Council took a break at 7:15 pm and resumed at 7:20 pm.

Council discussed drive-thrus now being permitted and concerns with the development being over parked.

The public hearing opened at 7:37 pm.

There were no public comments.

The public hearing closed at 7:37 pm.

Council President Pro Tem Herman moved, and Councilmember Nguyen seconded to adopt Ordinance No. 5201, an ordinance for an amendment to the Planned Development (PD) Zoning and Outline Development Plan (ODP) for the Riverfront at Dos Rios Development, located on the northeast bank of the Colorado River between Highway 50 and Hale Avenue on final passage and ordered final publication in pamphlet form. Motion carried by unanimous roll call vote.

An Ordinance Rezoning 17.37 Acres from R-1 (Residential – 1 du/ac) to R-5 (Residential – 5.5 du/ac) Located at 2428 H Road

Applicant, Vista 5, LLP requested a rezone of 17.37 acres from R-1 (Residential – 1 du/ac) to R-5 (Residential – 5.5 du/ac) located at 2428 H Road. The requested R-5 zone district would be consistent with the Comprehensive Plan Land Use Map designation of Residential Low if approved.

Planning Supervisor Nikki Galehouse and applicant representative Ivan Geer from River City Consultants presented this item.

Council took a break at 7:58 pm and resumed at 8:11 pm.

The public hearing opened at 8:13 pm.

Dan Conwell, Bob Fuoco, Sarah Marshall, Glen Bot, Joleen Multon, Jim Marshall, Tyler Mondy, Shilo White, Marcus Costopoulos, Brooke Birch, Patrick Page, Dave Zolner, Andrew Bajorek, Chad Island, Richard Canel, and Diane Davis, spoke in opposition.

Ron Abeloe and Cristi Reece were in support of the ordinance.

Ashley Rowley, Kathryn Basinger, Kent Beesley, Gerald Dillon expressed concern via email and were also in opposition.

The public hearing closed at 9:03 pm.

Conversation ensued regarding density, visiting the property, growing as a community, systems of checks and balances, the need for housing, the property's proximity to a hospital and their staff's need for housing.

Councilmember Nguyen moved, and Councilmember Simpson seconded to adopt Ordinance No. 5202, an ordinance rezoning 17.37 acres located at 2428 H Road from R-1 (Residential – 1 du/ac) to R-5 (Residential – 5.5 du/ac) on final passage and ordered final publication in pamphlet form. Motion carried by roll call vote 6-1, with Councilmember Kennedy voting No.

A Resolution Updating City Park Rules

The Parks and Recreation department updates park rules periodically. This effort also involves re-designing park rules, signs displaying for a more effective presentation. With the redesign, a few rule changes are proposed. These changes are in the spirit of acknowledging that the parks and recreation system is growing, and, with that growth, the system is more susceptible to negative behavior in the parks, including increased vandalism. As such, after a strong public engagement, staff proposed changes to the rules and the rule's presentation signs. The updated rules are proposed to help make the parks safer and more attractive to the entire community.

Parks and Recreation Director Ken Sherbenou presented this item.

Conversation ensued regarding challenges of homelessness in the valley, the resource center as an alternative that provides a safe place, access to resource providers, parks already prohibit overnight camping, expectations of how public parks are to be used in the daytime, keeping parks useable and safe, find a camping solution, and the need for a broad spectrum on housing as a solution.

Council took a break at 9:37 pm and resumed at 9:46 pm.

The public comment opened at 10:25 pm.

Stefania Vasquez, Bruce Hands, Jayde Beachtrum, Eric Niederkruger, Zach Drake, Li Peterson, Becca Kulsa, Nadia Borges, and Jan Wellin spoke in opposition of the ordinance.

The public comment closed at 10:47 pm.

City Manager Greg Caton addressed the homeless concerns by recapping the funding for affordable housing including 40 units just west of Whitman Park, authorizing Grand Junction Housing Authority for an additional 54 units near Community Hospital and the availability of supporting services that are offered by the Resource Center. He stated park redevelopment and park rules were about keeping parks safe for all community members.

Councilmember Simpson moved, and Councilmember Nguyen seconded to deny Resolution No. 14-24, a resolution updating the park rules for the City's 35 developed parks. Motion carried by roll call vote, 5-2 with Council President Pro Tem Herman and Council President Stout voting No.

Non-Scheduled Comments

Cliff Revard commended Council for taking the time to listen to the feedback they received from the community.

Other Business

There was none.

Adjournment

Meeting adjourned at 10:58 pm.

Amy Phillips, CMC
City Clerk





Grand Junction City Council

Regular Session

Item #2.a.i.

Meeting Date: March 6, 2024
Presented By: Niki Galehouse, Planning Supervisor
Department: Community Development
Submitted By: Niki Galehouse, Planning Supervisor

Information

SUBJECT:

Introduction of an Ordinance Amending Title 21 Zoning and Development Code to Modify and Clarify Various Provisions Relating to Withdrawn Applications, Public Notice Requirements, Planned Developments, Adding a Use for Public Parking, Accessory Dwelling Unit (ADU) Standards, Drive-Through Facility Standards, and Fence Standards; Introduction of an Ordinance Amending Title 25 24 Road Corridor Design Standards Regarding Alternate Streets Requests for Widths of Pedestrian Walks; Introduction of an Ordinance Amending Title 22, Title 23, Title 24, Title 25, Title 26, and Title 27 to Update Zone District Titles to Reflect Revisions in the Adoption of the 2023 Zoning & Development Code and Setting a Public Hearing for March 20, 2024

RECOMMENDATION:

Planning Commission heard this item at the February 13, 2024 meeting and voted (5 - 0) to recommend approval of all three ordinances. The motion to recommend approval of the ordinance amending Title 25 included an amendment on the drive-through facility standards, Section E, that all revisions be omitted except the strikethrough of façade, the addition of designated front, and the addition of, “pursuant to Section 21.14.010(C)(iii).”

EXECUTIVE SUMMARY:

When the Zoning & Development Code was repealed and replaced on December 20, 2023, it was anticipated that there would be necessary revisions to provide clarity and alleviate practical issues with implementation. The staff has identified several items that were amended, which inadvertently conflict with standard practice or could use additional clarification. The proposed amendments address eight sections of the Code and add applicable definitions as needed. In addition, there is an amendment proposed that updates all references to legacy zone districts to new zone districts as adopted in the 2023 Zoning & Development Code.

BACKGROUND OR DETAILED INFORMATION:

BACKGROUND

The City contracted with Clarion Associates in December 2021 to update the City's Zoning and Development Code with the intent of updating regulations to better reflect the key principles and policies described in the 2020 One Grand Junction Comprehensive Plan, achieve a higher level of regulatory efficiency, consistency, and simplicity, and identify constraints and opportunities for affordable and attainable housing, consistent with those identified in the City's recently adopted Housing Strategies. When the Zoning & Development Code was repealed and replaced on December 20, 2023, it was anticipated that there would be necessary revisions to provide clarity and alleviate practical issues with implementation. Staff has identified several items that were amended, which inadvertently conflict with standard practice or could use additional clarification. The proposed amendments address eight sections of the Code and add applicable definitions as needed, outlined in the following sections.

GJMC 21.02.030(f)(1) Withdrawn Applications

The 2023 Zoning & Development Code revised language to disallow the withdrawal of an application after public notice has been published. The Code now requires Planning Commission or City Council authority to approve such a request. This language is believed to be an oversight, as it also includes a reference to 'Board of Adjustment,' which does not exist in Grand Junction. Staff appreciates the additional clarity provided by the subsection (i) of the new language but has revised this to reflect the previous code language and practice regarding withdrawal of applications.

21.02.030(g)(3) Public Notice

The public notice language in the 2023 Zoning and Development Code provides general information for content that significantly exceeds the standard of what has been put on property signs historically. Among other things, an applicant's address, email, and phone number now must be posted on property signs. Where a representative is involved, this may not be cause for concern, but often, an applicant is a private property owner working without a representative. Asking them to put their personal information in the paper and on postcards going out to neighbors seems excessive. Accordingly, the requirements for posting an applicant's address, email, and phone number are being eliminated.

The next portion of the revisions to this section brings the property sign posting language requirements back to what is currently included and has been demonstrated to be effective.

The final portion of the revisions separates the procedural requirements for mailed notice and property sign postings for administrative applications and those that require a public hearing. The previous code language and what has been included in the revised code refer to the public hearing for timing requirements. These notices are also given for administrative applications, so the proposed revisions provide applicable procedures for these types of submittals to ensure clear standards. The revisions also now require an applicant to submit proof that a sign has been posted at least 15

calendar days prior to any approval being granted for an administrative approval or prior to a hearing being scheduled for a hearing item.

GJMC 21.02.050(i) Planned Development (Repeal of 21.03.0100)

The Planned Development standards are located in two different locations within the code. The proposed revisions consolidate these into one location.

In addition, some of the language regarding interpretation and lapsed PDs, in light of the transition of zone districts in the new code, was unclear. The proposed revisions are designed to clarify how the PD provisions are treated where legacy zone districts are referred to.

GJMC 21.04.020(e) Public Parking, Use Table

There is a need to establish clear use parameters around public parking, whether for surface lots or parking structures. This conversation was brought up briefly during conversations with the Code Committee, but these were sidelined to allow for discussion to focus on commercial parking lots in the downtown area. Nearing adoption, staff realized that the issue of public parking was not resolved. The proposed revisions add a use category to allow for this as well as an associated definition.

GJMC 21.04.040(e)(1)(i) Accessory Dwelling Unit (ADU) Standards

The proposed revisions to the ADU standards address an issue raised whereby the current regulations are clear that there may not be two detached ADUs, but are unclear about whether there can be two attached ADUs. The revision adds the phrase 'at least' to the clause requiring an ADU to be attached to the principal dwelling unit for there to be two ADUs on a property, indicating that both may be attached. Subsections a. and b. have also been combined to reduce redundancy.

GJMC 21.04.040(e)(2)(i) Drive-Through Facility Standards

It was raised as a concern nearing code adoption that the language surrounding the location of drive-throughs on a site with multiple frontages was unclear. The adopted code defines façade as "the front exterior wall of a building," and regulations in Section 21.14.010(c), Lot and Site Measurements, allow for flexibility where there are multiple frontages: "When a lot fronts on more than one public street, one side shall be designated by the property owner or applicant as the front. This will be used for the purposes of determining setbacks, street orientation, and other similar measurements. Where a lot abuts more than two public streets, the applicant and Director will determine location of front and identification of other sides for setback purposes based on existing or anticipated site context" (emphasis added). The proposed revision clarifies this language for ease of use.

GJMC 21.05.090 Fences

Fence standards are being reviewed for several different components. First, it has come to staff's attention recently that there are no material standards within the downtown core, as defined in Chapter 24, and at the request of the Downtown Development Authority, this revision adds in these standards.

Second, there has been some confusion over the provision in subsection (4) here surrounding the Director's approval for materials at security facilities. This revision seeks to provide clarity, which is related to the type of facilities that present some form of clear and present danger to the general public.

Definitions have been added to support these revisions.

24 Road Corridor Pedestrian Walk Standard

While many of the requirements of the 24 Road Corridor are intended to be very specific and not allow flexibility, the standard requiring pedestrian walks that include a bicycle lane to be 10 feet or wider has come up as an issue on a recent development project for affordable housing. The project proposed an 8-foot multiuse path, which in other situations could be approved with an Alternate Streets Request. This revision allows the same flexibility in the 24 Road Corridor overlay.

Overlay Cleanup

This amendment updates all references to legacy zone districts to new zone districts as adopted in the 2023 Zoning & Development Code within the overlay districts, Titles 22 through 27.

NOTIFICATION REQUIREMENTS

Notice was completed as required by Section 21.02.030(g). Notice of the public hearing was published on February 4, 2024, in the Grand Junction Daily Sentinel. An online hearing with an opportunity for public comment was held between February 6 and February 12, 2024, through the GJSpeaks platform.

ANALYSIS

The criteria for review are set forth in Section 21.02.050(d) of the Zoning and Development Code, which provides that the City may approve an amendment to the text of the Code if the applicant can demonstrate evidence proving each of the following criteria:

(A) Consistency with Comprehensive Plan

The proposed Code Text Amendment is generally consistent with applicable provisions of the Comprehensive Plan.

The proposed amendments to the 2023 Zoning & Development Code, Title 25, and the revisions to the overlay districts are generally consistent with the Comprehensive Plan. Plan Principle 11 seeks to create effective government through Strategy 3.c., which encourages the evaluation of existing practices and systems to find opportunities for improvement of outcomes. The proposed revisions are the result of a constant evaluation of existing practices and regulations and seek to provide resolution and excellent customer service. Staff finds this criterion has been met.

(B) Consistency with Zoning and Development Code Standards

The proposed Code Text Amendment is consistent with and does not conflict with or contradict other provisions of this Code.

The proposed amendments to the 2023 Zoning & Development Code, Title 25, and the revisions to the overlay districts are consistent with the rest of the provisions in the Code and do not create any conflicts with other provisions in the Code. Staff finds this criterion has been met.

(C) Specific Reasons

The proposed Code Text Amendment shall meet at least one of the following specific reasons:

The proposed amendments to the 2023 Zoning & Development Code, Title 25, and the revisions to the overlay districts all meet specific reasons identified in this criterion for review. Each amendment is identified with its appropriate reason below.

- a. To address trends in development or regulatory practices;
Public Parking, Use Table: The addition of the Public Parking use category **responds to a practice** whereby public entities provide parking facilities in strategic locations to respond to areas of high demand and allow for highest and best use of valuable land. This use category allows this to fall cleanly into the use category without any need to interpret how this use is permitted.

- b. To expand, modify, or add requirements for development in general or to address specific development issues;
Accessory Dwelling Unit (ADU) Standards: The amendment to the ADU standards **modifies requirements** to address a specific development issue that has been raised regarding the interpretation of how many attached accessory dwelling units are permitted, providing clarity for the general user.

Drive-Through Facility Standards: During the adoption of the 2023 Zoning & Development Code, it became clear that the language in this section of the Code was difficult to understand and that multiple sections of Code had to be visited to get a full picture of the correct interpretation. This amendment **modifies requirements** in the language to provide clarity.
Fences: The amendment to the fence standards modifies requirements to address a specific development issue regarding the lack of design standards for fencing within the Downtown Core.
24 Road Corridor Pedestrian Walk Standards: The amendment to the 24 Road Corridor **modifies requirements** to allow for flexibility within a district that does not currently allow for an alternate process, which is otherwise allowed Citywide.

- c. To add, modify or expand zone districts; or

- d. To clarify or modify procedures for processing development applications.
Withdrawn Applications: This code provision is being amended to **modify procedures** for processing applications that were inadvertently added to the City of Grand Junction Code but not aligned with current or desired practice.

Public Notice Requirements: The amendments to the public notice requirements **clarify and modify procedures** to allow for a logical application of notice practice. They remove the requirement for an applicant’s personal information to be posted broadly and consolidate the information required to be provided on posted property signs.

Planned Developments: The amendments to the Planned Development sections of the Code **clarify requirements**, consolidating them into one location to provide for a more user-friendly document. Within the revisions several provisions are clarified further for how they are applicable with the adoption of the 2023 Zoning & Development Code.

Overlay Cleanup: The amendments to the overlay districts **clarify requirements**, removing any references to legacy districts that no longer exist.

Staff finds this criterion has been met.

RECOMMENDATION AND FINDINGS OF FACT

After reviewing the proposed amendments, the following findings of fact have been made:

1. In accordance with Section 21.02.050(d) of the Grand Junction Zoning and Development Code, the proposed text amendments to Title 21 are consistent with the Comprehensive Plan and the Zoning & Development Code Standards and meet at least one of the specific reasons outlined.
2. In accordance with Section 21.02.050(d) of the Grand Junction Zoning and Development Code, the proposed text amendment to Title 25 is consistent with the Comprehensive Plan and the Zoning & Development Code Standards and meet at least one of the specific reasons outlined.
3. In accordance with Section 21.02.050(d) of the Grand Junction Zoning and Development Code, the proposed text amendments to Title 22, Title 23, Title 24, Title 25, Title 26, and Title 27 are consistent with the Comprehensive Plan and the Zoning & Development Code Standards and meet at least one of the specific reasons outlined.

The Planning Commission heard this item at the February 13, 2024, meeting and voted (5 - 0) to recommend approval of all three ordinances. The motion to recommend approval of the ordinance amending Title 25 included an amendment on the drive-through facility standards, Section E, that all revisions be omitted except the strikethrough of façade, the addition of designated front, and the addition of “pursuant to Section 21.14.010(C)(iii).

FISCAL IMPACT:

There is no fiscal impact associated with this request.

SUGGESTED MOTION:

I move to introduce an ordinance amending Title 21 Zoning and Development Code of the Grand Junction Municipal Code, and set a public hearing for March 20, 2024.

I move to introduce an ordinance amending Title 25 Zoning and Development Code of the Grand Junction Municipal Code, and set a public hearing for March 20, 2024.

I move to introduce an ordinance amending Title 22, Title 23, Title 24, Title 25, Title 26, and Title 27 Zoning and Development Code of the Grand Junction Municipal Code, and set a public hearing for March 20, 2024.

Attachments

1. Planning Commission Minutes - 2024 - February 13 - DRAFT
2. ZDC (Title 21) Amendments Q1 Draft Ordinance
3. Title 25 Amendment Draft Ordinance
4. Zone District Reference in Overlays Cleanup Draft Ordinance

GRAND JUNCTION PLANNING COMMISSION
February 13, 2024, 5:30 PM
MINUTES

The meeting of the Planning Commission was called to order at 5:33 p.m. by Chairman Scissors.

Those present were Planning Commissioners; Shanon Secrest, Melanie Duyvejonck, Sandra Weckerly, and Keith Ehlers.

Also present were Jamie Beard (City Attorney), Niki Galehouse (Planning Supervisor), Jessica Johnsen (Senior Planner), Madeline Robinson (Planning Technician), and Jacob Kaplan (Planning Technician).

There were 4 members of the public in attendance, and 0 virtually.

Commissioner Ehlers asked if there is a partnership between Grand Junction and Denver regarding the migrant population and how it impacts the Planning Commission's deliberations for planning and housing code items.

It was clarified that the GJ Mayor, Anna Stout, had already spoken to Denver's Mayor about this, and there was no formal proposal or plan at this time.

CONSENT AGENDA

1. Approval of Minutes

Minutes of Previous Meeting(s) from January 23, 2024.

REGULAR AGENDA

1. Carville Property Rezone

RZN-2023-482

Consider a request by Royce Carville, property owner, to zone 4.07 acres from R-8 (Residential – 8 du/ac) to MU-2 (Mixed Use) located at 640 24 ½ Road.

Staff Presentation

Jessica Johnsen, Senior Planner, introduced exhibits into the record and provided a presentation regarding the request.

Questions for staff

Public Hearing

The public comment period was opened at 5:00 p.m. on Tuesday, February 6, 2024, via www.GJSpeaks.org.

There were no public comments.

The public comment period was closed at 5:50 p.m. on February 13, 2024.

Discussion

Commissioner Weckerly asked for clarification on the zone designation that was being requested.

Motion and Vote

Commissioner Ehlers made the following motion “Mr. Chairman, on the Carville Property Rezone request from an R-8 (Residential 8 du/ac) zone district to an MU-2 (Mixed Use) zone district for the 4.06 acre property located at 640 24 ½ Road., City File Number RZN-2023-482, I move that the Planning Commission forward a recommendation of approval to City Council with the findings of fact as listed in this staff report.”

Commissioner Secrest seconded; motion passed 5-0.

2. Zoning & Development Code Amendments – Quarter 1 2024 **ZCA-2024-54**

Consider Amendments to Title 21 Zoning and Development Code to Modify and Clarify Various Provisions Relating to Withdrawn Applications, Public Notice Requirements, Planned Developments, Adding a Use for Public Parking, Junkyard or Salvage Yard Use Standards, Accessory Dwelling Unit (ADU) Standards, Drive-Through Facility Standards, and Fence Standards; Consider an Amendment to Title 25 24 Road Corridor Design Standards Regarding Alternate Streets Requests for Widths of Pedestrian Walks; Consider Amendments to Title 22, Title 23, Title 24, Title 25, Title 26, and Title 27 to Update Zone District Titles to Reflect Revisions in the Adoption of the 2023 Zoning & Development Code.

Staff Presentation

Niki Galehouse, Planning Supervisor, introduced exhibits into the record and provided a presentation regarding the request.

Questions for staff

Discussion ensued about the proposed limitations on allowed fence materials within the downtown core in regard to variance requests, impacts on residentially zoned lots, and the boundaries for the “Downtown Core”.

Additional context was requested on the revisions to the code language for drive thru windows. There were concerns about restricting the potential for developers to add drive thru windows for their developments.

Public Hearing

The public comment period was opened at 5:00 p.m. on Tuesday, February 6, 2024, 2024, via www.GJSpeaks.org.

There were no public comments.

The public comment period was closed at 6:22 p.m. on February 13, 2024.

Discussion

Motion and Vote

Commissioner Ehlers made the following motion “Mr. Chairman, on the request to amend Title 21 Zoning and Development Code of the Grand Junction Municipal Code, City file number ZCA-2024-54, I move that the Planning Commission forward a recommendation of approval to City Council with the findings of fact listed in the staff report, with an amendment on the drive-through facility standards, Section E, that all revisions be omitted except the strikethrough of façade, the addition of designated front, and the addition of “pursuant to Section 21.14.010(C)(iii).”

Commissioner Secrest seconded; motion passed 5-0.

Commissioner Ehlers made the following motion “Mr. Chairman, on the request to amend Title 25 Zoning and Development Code of the Grand Junction Municipal Code, City file number ZCA-2024-54, I move that the Planning Commission forward a recommendation of approval to City Council with the findings of fact listed in the staff report.”

Commissioner Secrest seconded; motion passed 5-0.

Commissioner Ehlers made the following motion “Mr. Chairman, on the request to amend Title 22, Title 23, Title 24, Title 25, Title 26, and Title 27 Zoning and Development Code of the Grand Junction Municipal Code, City file number ZCA-2024-54, I move that the Planning Commission forward a recommendation of approval to City Council with the findings of fact listed in the staff report.”

Commissioner Secrest seconded; motion passed 5-0.

OTHER BUSINESS

ADJOURNMENT

Commissioner Secrest moved to adjourn the meeting.

The vote to adjourn was 5-0.

The meeting adjourned at 6:27 p.m.

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS OF THE ZONING AND DEVELOPMENT CODE (TITLE 21 OF THE GRAND JUNCTION MUNICIPAL CODE) REGARDING WITHDRAWN APPLICATIONS, PUBLIC NOTICE REQUIREMENTS, PLANNED DEVELOPMENTS, ADDING A USE FOR PUBLIC PARKING, ACCESSORY DWELLING UNIT (ADU) STANDARDS, DRIVE-THROUGH FACILITY STANDARDS, AND FENCE STANDARDS

Recitals

The City Council desires to maintain effective zoning and development regulations that implement the vision and goals of the Comprehensive Plan while being flexible and responsive to the community's desires and market conditions and has directed that the Code be reviewed and amended as necessary.

When the Zoning & Development Code was repealed and replaced on December 20, 2023, it was anticipated that there would be necessary revisions to provide clarity and alleviate practical issues with implementation. Staff has identified several items that were amended which inadvertently conflict with standard practice or could use additional clarification. The amendments address seven different sections within the 2023 Zoning & Development Code.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of the proposed amendments.

After public notice and public hearing, the Grand Junction City Council finds that the amendments to the Zoning & Development Code implement the vision and goals of the Comprehensive Plan and that the amendments provided in this Ordinance are responsive to the community's desires, encourage orderly development of real property in the City, and otherwise advance and protect the public health, safety, and welfare of the City and its residents.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

The following sections of the zoning and development code (Title 21 of the Grand Junction Municipal Code) are amended as follows (deletions ~~struck through~~, added language underlined):

...

21.02.030 COMMONLY APPLICABLE PROCEDURES

...

(f) Complete Applications with Changed Status

(1) Withdrawn Application

(i) ~~Prior to Public Notice~~

(Ai) An applicant may withdraw an application by providing written notice to the Director of the applicant's intent to withdraw. After such withdrawal, no further City action on the application shall take place.

(ii) Fees will not be refunded for a withdrawn application.

(iii) For any application requiring a public hearing, the applicant may request in writing that the application be withdrawn before the hearing is opened. An applicant may ask to withdraw after the hearing is opened, but the decision-making body will decide whether or not to approve the request.

~~(Biv) A rezone application may be withdrawn at any time prior to the publication of the legal advertisement for the first public hearing. A withdrawn rezone application may be refiled after a 120-day waiting period.~~

~~(Cv) To re-initiate review, the applicant shall re-submit the application with a new application fee payment, and the application shall in all respects be treated as a new application for purposes of review and scheduling.~~

(ii) ~~Following Public Notice~~

~~(A) No application may be amended or modified after the legal advertising has been published.~~

~~(B) After legal notice for the Planning Commission or Board of Adjustment has been published, a request for withdrawal shall be submitted in writing to the Director at least 24 hours prior to the first or only public hearing.~~

~~(C) Once a Planning Commission meeting or hearing has been opened, the Planning Commission may allow withdrawal of an application by a majority vote of the members present.~~

~~(D) After the Planning Commission hearing or for any application that is decided by the City Council without Planning Commission review, a request for withdrawal shall be submitted to the Director and may only be submitted by the property owner or authorized agent, as listed on the application. The City Council shall have exclusive authority to act on any request for withdrawal after notice of the public hearing has been published.~~

...

(g) Public Notice and Public Hearing Requirements

...

(3) Public Notice

...

(iii) Content

~~(A) Required notices, except for property signs, whether by publication or written, shall meet the general requirements of notice provided by the City and provide the following information:~~

~~(A) a. Address or location of the property subject to the application and the name, address, email, and telephone number of the applicant or the applicant's agent;~~

~~(B) b. Date, time, and place of the public hearing;~~

~~(C) c. Description of the nature, scope, and purpose of the application or proposal including a description of the development plan and, where appropriate, the classification or change sought;~~

~~(D) d. Notification about where the public may view the application; and~~

~~(E) e. State that the public may appear at the public hearing.~~

~~(F) f. Contact information for arranging participation in the public hearings for individuals with hearing, speech, or vision impairment.~~

(B) Property signs shall include the following information:

a. Application Number

b. City website

c. City phone number

...

(vi) Mailed Notice

...

(C) All mailed notices must be sent at least 10 days before a public hearing or within 15 business days from receipt of a complete application for administrative applications.

...

(vii) Property Sign

(A) The City shall prepare and the applicant shall post signs giving notice of the application. At least one sign shall be posted on each street frontage of the property.

(B) For administrative applications, signs shall be posted as follows:

a. Each sign shall be posted within 15 business days from receipt of a complete application.

b. The applicant shall maintain the sign on the property until the project has received approval per 21.02.030(h)(2)(i) or has been withdrawn by the applicant.

c. The applicant shall be required to provide proof that the property sign has been posted for a minimum of 15 calendar days prior to issuance of any approval pursuant to GJMC 21.02.030(h).

~~(AC) For applications requiring a public hearing, The City shall prepare and the applicant shall post signs including the information described in GJMC 21.02.030(g)(3)(iii) signs shall be posted as follows:~~

~~a. At least one sign shall be posted on each street frontage of the property.~~

~~b_a. Each sign shall be posted at least 10 calendar days before the initial public hearing and remain posted until the day after the final hearing.~~

b. The applicant shall be required to provide proof that the property sign has been posted for a minimum of 15 calendar days prior to the scheduling of a public hearing.

~~(B) c. The applicant shall maintain the sign on the property until the day after the final public hearing. If the decision-making body continues the meeting or public hearing at which the application is being considered to a later date, or if the decision-making body decides to consider the application at any time other than that specified on the notification signs, the Director shall update the existing signs with the new date.~~

...

21.02.050 APPLICATIONS REQUIRING A PUBLIC HEARING

...

(i) Planned Development

(1) Purpose

The planned development (PD) district is intended to apply to mixed-use or unique single use projects to provide design flexibility not available through strict application and interpretation of the standards established in this Code. Modifications to applicable base zone districts may be permitted as ~~described in Chapter 21.03.0100 and the approved modifications are~~ and made applicable to the subject property through the PD rezoning process.

(2) Applicability

(i) PD zoning is applicable to parcels of 10 acres or greater.

(ii) PD zoning may not be used to provide a site-specific solution to a single issue that can be resolved through a more appropriate administrative means.

(3) Residential Density

PD zoning shall not be used to increase the density of the base zone districts. Rezoning is the appropriate process to request a density increase.

(2) Required Approvals

Planned Development applications are reviewed through a two-step process, both of which are described below:

(i) Outline Development Plan

(ii) Final Development Plan

(3) Outline Development Plan (ODP)

(i) Applicability

An outline development plan is required for all PD applications.

(ii) Purpose and Content

(A) The purpose of an ODP is to demonstrate conformance with the Comprehensive Plan, identify applicable base zone districts and requested adjustment to applicable standards, and coordination of improvements within and among individually platted parcels, sections, or phases of a development prior to the approval of a Final Plat.

(B) An ODP shall include a site plan that identifies the base zoning established for the entire property or for each phase designated for development.

(C) An applicant may file an ODP with a Final Development Plan (FDP) for all or a portion of the property, as determined by the Director at the Pre-Application Meeting.

(iii) Review Procedures

Applications for ODP shall meet the common review procedures for major development applications in GJMC 21.02.050(b) with the following modifications:

(A) Site plan review and approval (pursuant to GJMC 21.02.040(k)) can occur either before or after the approval of ODP by the City Council. In either case, the applicant shall submit a site sketch, as described in the Submittal Standards for Improvements and Development (SSID) manual, showing sufficient detail to enable the Planning Commission and City Council to review and make findings on the ODP review criteria.

(B) The Planning Commission or City Council can request additional information from the applicant if it deems the site sketch is insufficient to enable it to make a on the criteria. In any subsequent site plan review, the Director shall ensure and determine that all mitigating/enhancing site features approved or made conditions of approval by the City Council are depicted on the approved site plan.

(C) An applicant may file an ODP with a final development plan for all or a portion of the property, as determined by the Director at the Pre-Application Meeting.

(iv) Public Notice and Public Hearing Requirements

The ODP application shall be scheduled for public hearings before the Planning Commission and City Council and shall be noticed pursuant to GJMC 21.02.030(g).

(v) Review Criteria for ODP

The Planning Commission shall review and recommend, and the City Council shall review and decide on an ODP based on demonstrated conformance with all of the following criteria:

(A) The Comprehensive Plan, Grand Junction Circulation Plan and other adopted plans and policies;

(B) The applicable corridor guidelines and other overlay districts in GJMC Titles 23, 24 and 25;

(C) The rezoning criteria provided in GJMC 21.02.050(d);

(D) The ODP ~~meets the planned development requirements of GJMC 21.03.0100 and~~ specifically shows the following requirements of a planned development:

a. Adequate public services and facilities shall be provided concurrent with the projected impacts of the development;

b. Adequate circulation and access shall be provided to serve all development pods/areas to be developed;

c. Appropriate screening and buffering of adjacent property, uses, and structures shall be provided;

d. An appropriate range of density for the entire property or for each development pod/area to be developed;

e. An appropriate set of base zone district standards for the entire property or for each development pod/area to be developed; ~~and~~

f. An appropriate phasing or development schedule for the entire property or for each development pod/area to be developed;

g. Any requested adjustments to the standards of the base zone district(s) and/or other applicable standards such as landscaping, uses, or parking shall be identified both by location on the site plan and in an accompanying narrative summary; and

h. An appropriate community benefit shall be described through the application narrative, which incorporates at least one of the following:

1. The PD protects, preserves, and/or manages areas of significant natural resources beyond the requirements of the base zoning regulations;

2. The general arrangement of proposed uses in the PD better integrates future development into the surrounding neighborhood, either through more compatible street layout, architectural styles, and housing types, or by providing better transitions between the surrounding neighborhood and the PD with compatible development or open space buffers;

3. Areas of open space, their intended levels of use, and their relationship to other proposed uses in the PD provide enhanced opportunities for community gathering areas;

4. The PD features outstanding site design and construction, such as best management practices for on-site storm water management, green building materials, and/or water and energy efficiency;

5. Site design in the PD will create a diverse neighborhood with a mix of housing choices; or

6. The PD features enhanced opportunities for walkability or transit ridership, including separated parking bays, off street walking paths, shorter pedestrian routes than vehicular routes, linkages to or other provisions for bus stops, etc.

(vi) Creation of Overlay Zone District

The PD zone district creates an overlay district that reflects adjustments made to applicable base zone districts as stated in the PD zoning ordinance. Where the PD is silent as to a development term or requirement, the requirements of the applicable base zone district or this Code shall apply.

(vi) Post-Decision Actions

(A) Modification or Amendment

The ODP amendment process is provided in GJMC 21.02.050(i)(5).

(B) Lapsing and Extension of Approvals

a. The effective period of the ODP/phasing schedule shall be determined concurrently with ODP approval.

b. The ODP/phasing schedule shall be subject to the validity provisions GJMC 21.02.050(i)(7).

c. The ODP/phasing schedule may be extended by the City Council per GJMC 21.02.050(i)(8).

(4) Final Development Plan (FDP)

(i) Applicability

(A) Following approval of an ODP, a subsequent final development plan approval shall be required before any development activity occurs. The plan and the plat ensure consistency with the approved ODP and specific development and construction requirements of various adopted codes.

(B) Unless specified otherwise at the time of ODP approval, if the form of ODP approval was a subdivision plan, a Final Plat may be approved and recorded prior to FDP approval for individual lots.

(ii) Review Procedures

(A) Applications for a Final Development Plan shall meet the common review procedures for administrative applications in GJMC 21.02.040(b), with the following modifications:

(B) A portion of the land area within the approved ODP may be approved for FDP.

(iii) Public Notice and Public Hearing Requirements

Notice of a Final Development Plan is not required unless the Planning Commission elects to take final action. In such instances, notice shall be provided in the same manner and form as is required with an ODP.

(iv) Review Criteria

The Director, or the Planning Commission if applicable, shall review and decide on the application for FDP in light of the following additional criteria:

- (A) The approved ODP, if applicable;
- (B) The approved PD rezoning ordinance, if applicable;
- (C) The Submittal Standards for Improvements and Development, Transportation Engineering Design Standards (GJMC Title 29), and Stormwater Management Manual (GJMC Title 28) manuals and all other applicable development and construction codes, ordinances, and policies;
- (D) The applicable site plan review criteria in GJMC 21.02.040(k); and
- (E) The applicable Final Plat review criteria in GJMC 21.02.040(l)(5).

(v) Post-Decision Actions

(A) Improvements and Recordation

- a. The Final Plat shall be recorded pursuant to GJMC 21.02.040(l)(5)(ii)(F)b.
- b. Except as provided herein, before the plan and plat are recorded by the Director, all applicants shall be required to complete, to the satisfaction of the Director, all street, sanitary, and other public improvements, as well as lot improvements on the individual lots of the subdivision as required by this Code. The required improvements shall be those specified in the approved Construction Plans as per GJMC 21.05.020(c); or
- c. As a condition of final plan and plat approval, the City shall require the applicant to enter into a development improvements agreement and post a guarantee for the completion of all required improvements as per GJMC 21.05.020(c)(2).

(B) Contractual Agreement

- a. Approval of a PD allows the development and use of a parcel of land under certain, specific conditions. Conditions of approval shall be filed with the Director in the review process.
- b. No use of the parcel, nor construction, modification, or alteration of any use or structures within a PD project shall be permitted unless such construction,

modification or use complies with the terms and conditions of an approved final development plan.

c. Each subsequent owner and entity created by the developer, such as property owners' associations or an architectural review committee, shall comply with the terms and conditions of approval. The developer shall set forth the conditions of approval within covenants. Such covenants shall be recorded with the final approved plan and plat.

(C) Transfer of Ownership

No person shall sell, convey, or transfer ownership of any property or any portion thereof within a PD zone until such person has informed the buyer of the property's status with respect to the PD process and conditions of approval. The City shall bear no liability for misrepresentation of terms and conditions of an existing approval.

(D) Planned Development Zone Designation

The Director shall designate each approved PD on the Official Zoning Map.

(5) Amendment to Approved Plans

(i) Planned Development Rezoning Ordinance

The use, density, dimensional, and base zone district standards contained in an approved PD rezoning ordinance may be amended only as follows, unless specified otherwise in the rezoning ordinance:

(A) No use may be established that is not permitted in the PD without amending the rezoning ordinance through the rezoning process. Uses may be transferred between development pods/areas to be developed through an amendment to the ODP provided the overall density for the entire PD is not exceeded;

(B) The maximum and minimum density for the entire PD shall not be exceeded without amending the rezoning ordinance through the rezoning process. Density/intensity may be transferred between development pods/areas to be developed unless explicitly prohibited by the ODP approval; and

(C) The dimensional and base zone district standards may not be amended for the PD or a development pod/area to be developed without amending the PD rezoning ordinance through the rezoning process.

(ii) Outline Development Plan

The approved Outline Development Plan may be amended only by the same process by which it was approved, except for minor amendments. Unless the adopted PD rezoning ordinance provides otherwise, the approved Outline Development Plan may be amended as follows:

(A) Minor Amendments

a. Permitted Amendments

The Director may approve the following amendments for individual lots within the area covered by an outline development plan provided all standards in the adopted PD rezoning ordinance are met:

1. Decreases in density so long as the character of the site is maintained;
2. Changes in dimensional standards of up to 10 percent so long as the character of the site is maintained;
3. Changes in the location and type of landscaping and/or screening so long as the character and intent of the original design are maintained;
4. Changes in the orientation or location of parking areas and vehicular and pedestrian circulation areas so long as the effectiveness and character of the overall site circulation, parking and parking lot screening are maintained;
5. The reorientation, but not complete relocation, of major structures so long as the character of the site is maintained; and
6. Simple subdivision.

b. Minor Amendment Review Process

Minor amendments shall be reviewed and decided on by the Director based on the review criteria that the amendment shall not represent a significant change in any of the agreed upon deviations from the default standards.

(B) Major Amendments.

All other amendments to the ODP shall be reviewed by the Director and Planning Commission using the same process and criteria used for ODP review and approval. Final decision shall be made by City Council.

(6) Planned Developments Approved Under Prior Codes

(i) Intent

The City's intent is to continue to allow the development PDs approved under prior codes, determining that they remain valid under this Code subject to the lapse provisions of GJMC 21.02.050(i)(7). To give effect to this intent, interpretation may be required to fully describe applicable terms and requirements and to avoid the continuance of shell PDs that cannot be fully implemented or developed.

(ii) Interpretation

PDs approved under prior codes shall be interpreted as follows:

(A) Planned Developments that predate this Code shall be narrowly interpreted and are limited to the specified terms of approval.

~~(B) Planned Developments that refer to zone districts not included in this Code shall be interpreted or applied according to the 2010 Code (or earlier) requirements. The base~~

zone district of an active Planned Development shall be interpreted and applied according to the code (2010 or earlier) under which it was adopted.

(C) If the Planned Development approval is silent as to a term or requirement, the most closely similar provision of this 2023 Code shall be applied. For example, if a Planned Development does not specify a process for amendment, the process for amending Planned Development approvals in GJMC 21.02.050(i)(5) will be used.

(D) Where a base zone district(s) was not specified in the Planned Development approval, the Director shall interpret and apply a zone district(s) from this Code that most closely reflects the PD's dimensional and use standards.

(E) Where this Code changes a generally applicable standard, such as updates to ADU or outdoor lighting standards, the updated generally applicable standards are also applicable to approved PDs unless the PD was approved with a specific standard(s) regulating the same topic.

(7) Lapse of Plan

If a single-phase Planned Development is less than 75 percent completed, as measured in terms of residential unit count or approved total mixed-use or nonresidential structure footprint, or a multiphase Planned Development is less than 75 percent complete in terms of residential unit count, total structure footprint, or total phases, as specified in the ODP approval, as of the end date of the approved development schedule, a lapse of the ODP as applied to the incomplete lots or parcels shall be deemed to have occurred.

(i) If the PD was approved with base zone districts, future development may proceed in compliance with the requirements of the base zone districts and this Code, but any approved PD modifications shall be lapsed.

(A) If the PD was approved with a base zone district that is identified as a legacy zone district in Table 21.03-1, the requirements shall be in accordance with those of the updated zone district identified in the Table.

(ii) If the PD was not approved with base zone districts, the Director may determine the appropriate base zone districts and future development may proceed in compliance with the requirements of the base zone districts.

(8) Development Schedule Extension

(i) An applicant may request an extension of the development schedule as follows:

(A) The Director may extend the schedule one time for up to one year.

(B) The applicant may request a PD development schedule review from the City Council at any point prior to the end date of the schedule.

(ii) The Director may extend the development schedule timeframe for up to three years in the event of any of the following:

- (A) A national or regional economic recession,
- (B) A national or regional health emergency, or
- (C) National or regional events in or outside of the United States that impact the general price or availability of labor or materials by more than 20 percent.

(iii) The maximum allowed cumulative extension period is five years. Any PD that has not been completed within this extension timeframe may be resubmitted as a new application or shall be subject to GJMC 21.02.050(i)(7), above.

...

21.03.0100 — PLANNED DEVELOPMENT

(a) Purpose and Community Benefits

The planned development (PD) district is intended to apply to mixed-use or unique single-use projects to provide design flexibility not available through strict application and interpretation of the standards established in GJMC Chapter 21.05. The purpose of the PD overlay zone is to provide design flexibility that promotes the goals and strategies of the Comprehensive Plan and that incorporates at least one of the following community benefits:

- (1) The PD protects, preserves, and/or manages areas of significant natural resources beyond the requirements of the base zoning regulations;
- (2) The general arrangement of proposed uses in the PD better integrates future development into the surrounding neighborhood, either through more compatible street layout, architectural styles, and housing types, or by providing better transitions between the surrounding neighborhood and the PD with compatible development or open space buffers;
- (3) Areas of open space, their intended levels of use, and their relationship to other proposed uses in the PD provide enhanced opportunities for community gathering areas;
- (4) The PD features outstanding site design and construction; such as; best management practices for on-site storm water management, green building materials, and/or water and energy efficiency;
- (5) Site design in the PD will create a diverse neighborhood with a mix of housing choices; or
- (6) The PD features enhanced opportunities for walkability or transit ridership, including separated parking bays, off-street walking paths, shorter pedestrian routes than vehicular routes, linkages to or other provisions for bus stops, etc.

(b) Applicability

- (1) PD zoning is applicable to parcels of 10 acres or greater.
- (2) PD zoning may not be used to provide a site-specific solution to a single issue that can be resolved through a more appropriate administrative means.

(c) Creation of Overlay Zone District

The PD zone district creates an overlay district that reflects adjustments made to applicable base zone districts as stated in the PD zoning ordinance. Where the PD is silent as to a development term or requirement, the requirements of the applicable base zone district or this Code shall apply.

(d) Customization

(1) Modifications to Base Zone Districts

(i) A PD overlay is established through the identification of applicable base zone district(s) that are modified according to specific adjustments approved through the PD review and approval process.

(ii) Requested adjustments to the standards of the base zone district(s) and/or other applicable standards such as landscaping, uses, or parking shall be identified both by location on the site plan and in an accompanying narrative summary.

(2) Residential Density

A PD shall not be used to increase the density of the base zone districts. Rezoning is the appropriate process to request a density increase.

(3) Community Benefit

All PD projects are required to provide a community benefit. The application narrative shall also describe the community benefits provided through PD approval, based on the list of community benefits described above.

...

21.04.020 PRINCIPAL USE TABLE

...

(e) Use Table

Table 21.04-1: Principal Use Table A= Allowed Use C= Conditional Use For accessory use regulations, see Table 21.04-2 in Section 21.04.040											
Zone Districts	..	MU-1	MU-2	MU-3	CG	IO-R	I-1	I-2	P-1	P-2	..
...	...										
Community and Cultural Facilities											
Parking, Public	...	A	A	A	A	A	A	A	A	A	
...											

...

21.04.040 ACCESSORY USES AND STRUCTURES

...

(e) Accessory Use-Specific Standards

(1) Residential Uses

(i) Accessory Dwelling Unit

...

(A) Maximum Number of ADUs

a. A lot with one single-family detached dwelling or a single-family attached dwelling with two units in the structure may have two ADUs if at least one of the ADUs is attached to the principal dwelling unit (e.g., attic, basement, carriage house, etc.).

~~b. A single-family attached dwelling unit with two units may have two ADUs if one of the ADUs is attached to the principal dwelling unit (e.g., attic, basement, carriage house, etc.).~~

~~eb. A duplex dwelling unit may have no more than one ADU on the lot.~~

...

(2) Commercial Uses

(i) Drive-Through Facility

...

~~(E) Where d Drive-through windows, or drive-up facilities, including but not limited to menu boards, or speaker boxes, and drive-through lanes are allowed, they shall not be located between the façade designated front of the building pursuant to Section 21.14.010(c)(iii) and the adjacent public right-of-way.~~

...

21.05.090 FENCES

...

(c) Fence Materials.

(1) Fences and walls shall be constructed of materials approved by the Director.

(2) Acceptable materials include wire, wrought iron, plastic, wood, and other materials with a similar look.

(i) Fences within the Downtown Core shall only be wrought iron, PVC vinyl, or wood.

(3) Unacceptable materials that are visible include glass, tires, razor wire and concertina wire, or unconventional salvaged materials or similar materials. Electric fencing shall be allowed to contain large animals.

(4) The Director may approve materials for security facilities or critical facilities.

...

21.14.020 DEFINITIONS

...

Critical Facility

A structure or other improvement that, because of its function, size, service area, or uniqueness, has the potential to cause serious bodily harm, extensive property damage, or disruption of vital socioeconomic activities if it is destroyed or damaged or if its functionality is impaired.

...

Parking, Public

A municipal site which does not fall within the boundaries of a street and which is reserved for the benefit of and accessible to the general public exclusively for the parking of vehicles, with or without payment.

...

Secure Facility

A county, city and county, or municipal jail or a nonstate-owned prison facility, or similar operation.

...

INTRODUCED on first reading this 21st day of February 2024 and ordered published in pamphlet form.

ADOPTED on second reading this 6th day of March 2024 and ordered published in pamphlet form.

ATTEST:

Anna M. Stout
President of the City Council

Amy Phillips
City Clerk

1
2 **CITY OF GRAND JUNCTION, COLORADO**

3 **ORDINANCE NO. _____**

4 **AN ORDINANCE AMENDING TITLE 25 24 ROAD CORRIDOR DESIGN STANDARDS**
5 **REGARDING ALTERNATE STREETS REQUESTS FOR WIDTHS OF PEDESTRIAN**
6 **WALKS**

7 Recitals

8 The City Council desires to maintain effective zoning and development regulations that
9 implement the vision and goals of the Comprehensive Plan while being flexible and
10 responsive to the community's desires and market conditions and has directed that the
11 Code be reviewed and amended as necessary.

12 One such amendment is necessary which fell outside the scope of the adoption of the
13 2023 Zoning & Development Code. While many of the requirements of the 24 Road
14 Corridor are intended to be very specific and not allow flexibility, the standard requiring
15 pedestrian walks that include a bicycle lane to be 10 feet or wider has come as an issue
16 that could be resolved through existing standard practices. This amendment allows for
17 flexibility in design requirements within the 24 Road Corridor through the use of an
18 Alternate Streets Request, an established, routine process that is available in all other
19 areas of the City.

20 After public notice and public hearing as required by the Grand Junction Zoning and
21 Development Code, the Grand Junction Planning Commission recommended approval
22 of the proposed amendments.

23 After public notice and public hearing, the Grand Junction City Council finds that the
24 amendment to Title 25 implements the vision and goals of the Comprehensive Plan and
25 that the amendment provided in this Ordinance is responsive to the community's desires,
26 encourages orderly development of real property in the City, and otherwise advances and
27 protects the public health, safety, and welfare of the City and its residents.

28 **NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF**
29 **GRAND JUNCTION THAT:**

30 **The following sections of the zoning and development code (Title 21 of the Grand**
31 **Junction Municipal Code) be amended as follows (deletions struck through, added**
32 **language underlined):**

33 ...

34 [25.02.110 Sidewalks \(24 Road Corridor\)](#)

35 ...

36 (e) Pedestrian walks incorporating bicycle lanes shall be not less than 10 feet in width, unless otherwise
37 approved by an Alternate Streets Request.

38 ...

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40 **INTRODUCED** on first reading this 21st day of February 2024 and ordered published in
41 pamphlet form.

42 **ADOPTED** on second reading this 6th day of March 2024 and ordered published in pamphlet
43 form.

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45 ATTEST:

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Anna M. Stout

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President of the City Council

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51 Amy Phillips

52 City Clerk

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CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. _____

AN ORDINANCE TO UPDATE ZONE DISTRICTS TO REFLECT REVISIONS IN THE ADOPTION OF THE 2023 ZONING & DEVELOPMENT CODE BY AMENDING TITLE 22, TITLE 23, TITLE 24, TITLE 25, TITLE 26, AND TITLE 27.

Recitals

The City Council desires to maintain effective zoning and development regulations that implement the vision and goals of the Comprehensive Plan while being flexible and responsive to the community's desires and market conditions and has directed that the Code be reviewed and amended as necessary.

When the Zoning & Development Code was repealed and replaced on December 20, 2023, it was anticipated that there would be necessary revisions to provide clarity and alleviate practical issues with implementation. As part of this adoption, a new list of Zone Districts has been established which implements the Comprehensive Plan, expands opportunities for a wider mix of uses, and consolidates existing districts based on similarities. The implementation of the Zoning and Development Code update necessitates that the legacy districts be retired or transitioned with the updated district titles. This amendment updates all references to legacy zone districts to new zone districts as adopted in the 2023 Zoning & Development Code.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of the proposed amendments.

After public notice and public hearing, the Grand Junction City Council finds that the amendment to Title 25 implements the vision and goals of the Comprehensive Plan and that the amendment provided in this Ordinance is responsive to the community's desires, encourages orderly development of real property in the City, and otherwise advances and protects the public health, safety, and welfare of the City and its residents.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

Any references within Title 22, Title 23, Title 24, Title 25, Title, 26, and Title 27 to a Legacy District as identified in Table 21.03-1 below be replaced with the appropriate Updated District Title as identified in the same table.

Table 21.03-1: Zone Districts Summary		
Legacy Districts	Updated District Titles	Section
Residential		

Table 21. Error! No text of specified style in document.-1: Zone Districts Summary		
Legacy Districts	Updated District Titles	Section
R-R: Residential – Rural	Residential – Rural, R-R	Error! Reference source not found.
R-E: Residential – Estate	Residential – Estate Retired, R-ER	Error! Reference source not found.
R-1: Residential – 1	Residential 1 Retired, R-1R	Error! Reference source not found.
R-2: Residential – 2	Residential 2 Retired, R-2R	Error! Reference source not found.
R-4: Residential – 4	Residential Low 4, RL-4	Error! Reference source not found.
R-5: Residential – 5	Residential Low 5, RL-5	Error! Reference source not found.
R-8: Residential – 8	Residential Medium 8, RM-8	Error! Reference source not found.
R-12: Residential – 12	Residential Medium 12, RM-12	Error! Reference source not found.
R-16: Residential – 16	Residential High 16, RH-16	Error! Reference source not found.
R-24: Residential – 24	Residential High 24, RH-24	Error! Reference source not found.
Mixed-Use Commercial		
R-O: Residential – Office	Mixed-Use Neighborhood, MU-1	Error! Reference source not found.
B-1: Neighborhood Business	[Combined with R-O into MU-1]	
B-2: Downtown Business	Mixed-Use Downtown, MU-3	Error! Reference source not found.
M-U: Mixed Use	Mixed-Use Light Commercial, MU-2	Error! Reference source not found.

Table 21. Error! No text of specified style in document.-1: Zone Districts Summary		
Legacy Districts	Updated District Titles	Section
C-1: Light Commercial	[Combined with M-U into MU-2]	
BP: Business Park Mixed-Use	[Combined with M-U into MU-2]	
C-2 General Commercial	Commercial General, CG	Error! Reference source not found.
MXR: Mixed Use Residential	[Combined with Residential Districts]	
MXG: Mixed Use General	[Combined with closest MU district]	
MXS: Mixed Use Shopfront	[Combined with closest MU district]	
MXOC: Mixed Use Opportunity Corridor	[Combined with MU-2]	
Industrial		
I-O: Industrial/Office Park	Industrial/Office Park Retired, I-OR	Error! Reference source not found.
I-1: Light Industrial	Industrial Light, I-1	Error! Reference source not found.
I-2: General Industrial	Industrial General, I-2	Error! Reference source not found.
Public, Parks, and Open Space		
CSR: Community Services and Recreation (Parks and Open Space only)	Public Parks and Open Space, P-1	Error! Reference source not found.
CSR: Community Services and Recreation (Public, Civic and Institutional Facilities)	Public, Civic, and Institutional Campus, P-2	Error! Reference source not found.
Planned Development		
PD: Planned Development	Planned Development, PD	Error! Reference source not found.
Overlay		
AE: Airport Environs Overlay	Airport Environs Overlay, AE	Error! Reference source not found.
H Road/Northwest Area	H Road/Northwest Area	GJMC Title 22
North Avenue Overlay	North Avenue Overlay	GJMC Title 23
Greater Downtown Overlay	Greater Downtown Overlay	GJMC Title 24

Table 21. Error! No text of specified style in document.-1: Zone Districts Summary		
Legacy Districts	Updated District Titles	Section
24 Road Corridor Standards	24 Road Corridor Standards	GJMC Title 25
North Seventh Avenue Historic Residential District	North Seventh Avenue Historic Residential District	GJMC Title 26
Horizon Drive District Overlay	Horizon Drive District Overlay	GJMC Title 27

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INTRODUCED on first reading this 21st day of February 2024 and ordered published in pamphlet form.

ADOPTED on second reading this 6th day of March 2024 and ordered published in pamphlet form.

ATTEST:

Anna M. Stout
President of the City Council

Amy Phillips
City Clerk



Grand Junction City Council

Regular Session

Item #2.b.i.

Meeting Date: March 6, 2024
Presented By: Jessica Johnsen, Senior Planner
Department: Community Development
Submitted By: Jessica Johnsen, Senior Planner

Information

SUBJECT:

Introduction of an Ordinance Zoning Approximately 4.06 Acres from R-8 (Residential 8) to MU-2 (Mixed Use) located at 640 24 ½ Road and Setting a Public Hearing for March 20, 2024

RECOMMENDATION:

Planning Commission heard this item at the February 13, 2024 meeting and voted (5 to 0) to recommend approval of the request.

EXECUTIVE SUMMARY:

The Applicant, Royce Carville, is requesting a rezone to MU-2 (Mixed Use Light Commercial) for approximately 4.06 acres of land located at 640 24 ½ Road. The zone district of MU-2 is consistent with the Mixed-Use Land Use category of the Comprehensive Plan.

This application was filed and reviewed prior to the new Zoning and Development Code adoption and is being evaluated under the 2010 Zoning and Development Code. The zoning district names are updated as the new code is now effective.

BACKGROUND OR DETAILED INFORMATION:

BACKGROUND

The Applicant is requesting a zone district of MU-2 (Mixed Use Light Commercial). The property is currently zoned as RM-8 (Residential Medium 8). The proposed zone district of MU-2 is consistent with the Mixed-Use category of the Comprehensive Plan. The property owner is interested in preparing the property for future commercial development, which would be consistent with the scope and type of development envisioned by the Comprehensive Plan with a Mixed-Use land use designation.

Surrounding zoning is mostly RM-8 to the east and north, MU-2 (formerly C-1 & M-U) directly to the west across 24 ½ Road, and MU-2 (formerly M-U) directly to the south. The subject property has a land use designation of Mixed Use. The Applicant is now requesting a rezone to MU-2

If the rezone application is approved and a development is subsequently proposed, it would be required to go through a formal review process for any future development on the site, likely in the form of a Major Site Plan Review.

NOTIFICATION REQUIREMENTS

A Neighborhood Meeting regarding the proposed rezone request was held at the site location, 640 24 ½ RD. on April 21, 2023, in accordance with Section 21.02.080(e) of the Zoning and Development Code. Questions concerned the future development and the development process.

Notice was completed consistent with the provisions in Section 21.02.030(g) of the City's Zoning and Development Code. The subject property was posted with application signs on each street frontage on September 1, 2023, and an updated sign to meet 2023 Zoning & Development Code requirements was posted on February 1, 2024. Mailed notice of the public hearings before Planning Commission and City Council in the form of notification cards was sent to surrounding property owners within 500 feet of the subject property on February 2, 2024. The notice of the Planning Commission public hearing was published on February 4, 2024, in the Grand Junction Daily Sentinel. An online hearing with an opportunity for public comment was held between February 6 and February 12, 2024, through the GJSpeaks.org platform.

ANALYSIS

The criteria for review are set forth in Section 21.02.140(a) of the Zoning and Development Code, which provides that the City may rezone property if the proposed changes are consistent with the vision, goals, and policies of the Comprehensive Plan and if the proposal meets one or more of the following rezone criteria as identified:

- (1) Subsequent events have invalidated the original premises and findings; and/or
Upon adoption of the 2020 Comprehensive Plan, the property and vicinity received a land use designation of Mixed Use. Under the 2020 Comprehensive Plan, the current zoning of RM-8 (Residential Medium 8) is not supported to implement the Mixed-Use land use designation. While the property is permitted to retain its RM-8 zoning and develop according to RM-8 development standards, the requested MU-2 (Mixed Use) district implements the Mixed-Use land use designation. Therefore, staff finds this criterion is met.

- (2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or
The area east of 24 ½ Road has maintained the general character of medium-density residential, and a buffer of mixed-use zoning generally exists directly adjacent to 24 ½ Road south of this property. As 24 ½ Road has developed to the

west, it is primarily a non-residential development. As such, the 2020 Comprehensive Plan implements the lots directly east of 24 ½ Road as “Mixed Use” to provide a buffer of mixed-use zoning adjacent to residential. The new F ½ Road improvements and roundabout will help separate the residential area to the North from the nonresidential areas. Therefore, staff finds that this criterion is met.

(3) Public and community facilities are adequate to serve the type and scope of land use proposed and or

Ute Water and City sanitary sewer are available within the 24 ½ Road right-of-way to serve the property. Xcel Electric can serve the property.

Fire Station #3 is located approximately 1.5 miles to the southeast. Pomona Elementary School is approximately 1.5 miles to the southeast, and Community Hospital is approximately 1.3 miles to the northwest. Other commercial retail centers are directly south of this property and across 24 ½ Road to the south. The available public and community facilities are adequate to serve the commercial uses allowed within the Mixed-Use district as anticipated to be developed. Therefore, staff finds that this criterion is met.

(4) An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate that proposed land use; and/or

There are other properties within a half-mile radius of the subject property that implement the Mixed-Use land use designation, many of which are vacant properties that could support commercial uses for infill development. There is generally suitably designated land zoned to accommodate the proposed land use within the area and the broader community. Therefore, staff finds that this criterion is not met.

(5) The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.

Rezoning properties within the Mixed-Use land use designation from the RM-8 district to an implementing district supports the Comprehensive Plan goals of increasing mixed-use zoning and encouraging commercial development along 24 ½ Road. Additionally, developing businesses increases the availability of potential jobs and varying shopping, dining, and recreation options to residents. The proposed rezone benefits the community by applying development standards for mixed use on the subject property, and by supporting the incremental development of 24 ½ Road. Therefore, staff finds that this criterion is met.

In addition to the above criteria, the City may rezone the property if the proposed changes are consistent with the vision, goals, and policies of the Comprehensive Plan. The following provides an analysis of relevant sections of the Comprehensive Plan that support this request.

Implementing the Comprehensive Plan. The following narrative evaluates the proposed rezone to MU-2 (Mixed Use) under the principles, goals, and policies of the Comprehensive Plan:

- **Land Use Plan: Relationship to Existing Zoning**

Requests to rezone properties should be considered based on the Implementing Zone Districts assigned to each Land Use Designation. As a guide to future zoning changes, the Comprehensive Plan states that requests for zoning changes are required to implement the Comprehensive Plan. The 2020 Comprehensive Plan provides the subject property with a land use designation of Mixed Use. The proposed MU-2 zone district implements the Mixed-Use designation.

- **Plan Principle 3: Responsible and Managed Growth**

How We Will Get There

Encourage infill and redevelopment to leverage existing infrastructure.

Responsible and managed growth requires that growth occur where infrastructure already exists. Staff finds the request to be consistent with the following goals and policies of the Comprehensive Plan:

Where We are Today

The One Grand Junction Comprehensive Plan raises concerns about an increasing population that may be outpacing available services. The focus on growth has been infill and redevelopment that take advantage of existing infrastructure. Future growth will need to prioritize infill.

- **Plan Principle 3.1.b.: Intensification and Tiered Growth**

1. *Support the efficient use of existing public facilities and services by directing development to locations where it can meet and maintain the level of service targets as described in Chapter 3;*
2. *Servicing Growth. Prioritize development in the following locations (in order of priority). Periodically consider necessary updates to the Tiers.*

- i. *Tier 1: Urban Infill*

The subject property is located within the Tier 1 – Urban Infill tier as identified on the City’s Growth Plan. Rezoning to MU-2 creates opportunities for more mixed-use development and mixed uses in an area that the 2020 Comprehensive Plan identifies as a priority for infill. Development of parcels located within Tier 1 will provide development opportunities while minimizing the impact on infrastructure and City services. Rezoning to MU-2 will help direct any potential future mixed-use development to an area that has adequate public infrastructure and amenities to accommodate that growth.

RECOMMENDATION AND FINDINGS OF FACT

After reviewing the Carville Property Rezone, RZN-2023-482, rezoning one parcel totaling 4.06 acres from R-8 (Residential du/ac) to MU-2 (Mixed Use) for the property located at 640 24 ½ Road, the following findings of fact have been made:

1. The requested zone is consistent with the goals and policies of the Comprehensive Plan; and
2. In accordance with Section 21.02.140 of the Grand Junction Zoning and Development Code, one or more of the criteria has been met.

The Planning Commission heard this request at the February 13, 2024, meeting and recommended approval of the request.

FISCAL IMPACT:

There is no direct fiscal impact related to this request.

SUGGESTED MOTION:

I move to introduce an ordinance to rezone 4.06 acres from RM-8 (Residential Medium – 8 du/ac) to MU-2 (Mixed Use Light Commercial) located at 640 24 1/2 Road and set a public hearing for March 20, 2024.

Attachments

1. Exhibit 1 - Development Application
2. Exhibit 2 -Site Maps
3. Exhibit 3 - Planning Commission Minutes - 2024 - February 13 - DRAFT
4. ORD-Carville Zoning 20240229

Development Application

We, the undersigned, being the owner's of the property adjacent to or situated in the City of Grand Junction, Mesa County, State of Colorado, as described herein do petition this:

Petition For: Annexation/Zone of Annexation

Please fill in blanks below only for Zone of Annexation, Rezones, and Comprehensive Plan Amendments:

Existing Land Use Designation: _____ Existing Zoning: R8

Proposed Land Use Designation: _____ Proposed Zoning: MU

Property Information

Site Location: 640 24 1/2 Road Site Acreage: 30

Site Tax No(s): 2945-044-00-189 Site Zoning: R-8

Project Description:

Property Owner Information

Applicant Information

Representative Information

Name: Royce Carville

Name: _____

Name: Theresa Englbrecht

Street Address: 1875 Deer Park

Street Address: _____

Street Address: 1015 N. 7th St.

City/State/Zip: Grand Junction, CO
81507

City/State/Zip: _____

City/State/Zip: Grand Junction, CO
81501

Business Phone #: 970-985-0238

Business Phone #: _____

Business Phone #: 970-201-1899

E-Mail: rjcarville@bresnan.net

E-Mail: _____

E-Mail: theresa@brayandco.com

Fax #: _____

Fax #: _____

Fax #: _____

Contact Person: Royce

Contact Person: _____

Contact Person: Theresa

Contact Phone #: same

Contact Phone #: _____

Contact Phone #: same

NOTE: Legal property owner is owner of record on date of submittal.

We hereby acknowledge that we have familiarized ourselves with the rules and regulations with respect to the preparation of this submittal, that the foregoing information is true and complete to the best of our knowledge, and that we assume the responsibility to monitor the status of the application and the review comments. We recognize that we or our representative(s) must be present at all required hearings. In the event that the petitioner is not represented, the item may be dropped from the agenda and an additional fee may be charged to cover rescheduling expenses before it can again be placed on the agenda.

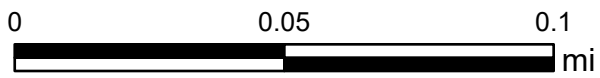
Signature of Person Completing the Application: [Signature]

Date: 7-24-23

Signature of Legal Property Owner: Royce J. Carville
Please print and sign

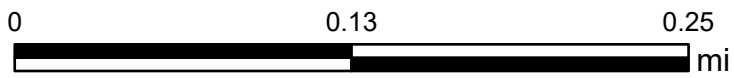
Date: 7/24/23

Site Map



Printed: 2/2/2024
1 inch equals 188 feet
Scale: 1:2,257
Packet Page 52

Zoning Map



Printed: 2/2/2024
1 inch equals 376 feet
Scale: 1:4,514
Packet Page 53

GRAND JUNCTION PLANNING COMMISSION
February 13, 2024, 5:30 PM
MINUTES

The meeting of the Planning Commission was called to order at 5:33 p.m. by Chairman Scissors.

Those present were Planning Commissioners; Shanon Secrest, Melanie Duyvejonck, Sandra Weckerly, and Keith Ehlers.

Also present were Jamie Beard (City Attorney), Niki Galehouse (Planning Supervisor), Jessica Johnsen (Senior Planner), Madeline Robinson (Planning Technician), and Jacob Kaplan (Planning Technician).

There were 4 members of the public in attendance, and 0 virtually.

Commissioner Ehlers asked if there is a partnership between Grand Junction and Denver regarding the migrant population and how it impacts the Planning Commission's deliberations for planning and housing code items.

It was clarified that the GJ Mayor, Anna Stout, had already spoken to Denver's Mayor about this, and there was no formal proposal or plan at this time.

CONSENT AGENDA

1. Approval of Minutes

Minutes of Previous Meeting(s) from January 23, 2024.

REGULAR AGENDA

1. Carville Property Rezone

RZN-2023-482

Consider a request by Royce Carville, property owner, to zone 4.07 acres from R-8 (Residential – 8 du/ac) to MU-2 (Mixed Use) located at 640 24 ½ Road.

Staff Presentation

Jessica Johnsen, Senior Planner, introduced exhibits into the record and provided a presentation regarding the request.

Questions for staff

Public Hearing

The public comment period was opened at 5:00 p.m. on Tuesday, February 6, 2024, via www.GJSpeaks.org.

There were no public comments.

The public comment period was closed at 5:50 p.m. on February 13, 2024.

Discussion

Commissioner Weckerly asked for clarification on the zone designation that was being requested.

Motion and Vote

Commissioner Ehlers made the following motion “Mr. Chairman, on the Carville Property Rezone request from an R-8 (Residential 8 du/ac) zone district to an MU-2 (Mixed Use) zone district for the 4.06 acre property located at 640 24 ½ Road., City File Number RZN-2023-482, I move that the Planning Commission forward a recommendation of approval to City Council with the findings of fact as listed in this staff report.”

Commissioner Secrest seconded; motion passed 5-0.

2. Zoning & Development Code Amendments – Quarter 1 2024 ZCA-2024-54

Consider Amendments to Title 21 Zoning and Development Code to Modify and Clarify Various Provisions Relating to Withdrawn Applications, Public Notice Requirements, Planned Developments, Adding a Use for Public Parking, Junkyard or Salvage Yard Use Standards, Accessory Dwelling Unit (ADU) Standards, Drive-Through Facility Standards, and Fence Standards; Consider an Amendment to Title 25 24 Road Corridor Design Standards Regarding Alternate Streets Requests for Widths of Pedestrian Walks; Consider Amendments to Title 22, Title 23, Title 24, Title 25, Title 26, and Title 27 to Update Zone District Titles to Reflect Revisions in the Adoption of the 2023 Zoning & Development Code.

Staff Presentation

Niki Galehouse, Planning Supervisor, introduced exhibits into the record and provided a presentation regarding the request.

Questions for staff

Discussion ensued about the proposed limitations on allowed fence materials within the downtown core in regard to variance requests, impacts on residentially zoned lots, and the boundaries for the “Downtown Core”.

Additional context was requested on the revisions to the code language for drive thru windows. There were concerns about restricting the potential for developers to add drive thru windows for their developments.

Public Hearing

The public comment period was opened at 5:00 p.m. on Tuesday, February 6, 2024, 2024, via www.GJSpeaks.org.

There were no public comments.

The public comment period was closed at 6:22 p.m. on February 13, 2024.

Discussion

Motion and Vote

Commissioner Ehlers made the following motion “Mr. Chairman, on the request to amend Title 21 Zoning and Development Code of the Grand Junction Municipal Code, City file number ZCA-2024-54, I move that the Planning Commission forward a recommendation of approval to City Council with the findings of fact listed in the staff report, with an amendment on the drive-through facility standards, Section E, that all revisions be omitted except the strikethrough of façade, the addition of designated front, and the addition of “pursuant to Section 21.14.010(C)(iii).”

Commissioner Secrest seconded; motion passed 5-0.

Commissioner Ehlers made the following motion “Mr. Chairman, on the request to amend Title 25 Zoning and Development Code of the Grand Junction Municipal Code, City file number ZCA-2024-54, I move that the Planning Commission forward a recommendation of approval to City Council with the findings of fact listed in the staff report.”

Commissioner Secrest seconded; motion passed 5-0.

Commissioner Ehlers made the following motion “Mr. Chairman, on the request to amend Title 22, Title 23, Title 24, Title 25, Title 26, and Title 27 Zoning and Development Code of the Grand Junction Municipal Code, City file number ZCA-2024-54, I move that the Planning Commission forward a recommendation of approval to City Council with the findings of fact listed in the staff report.”

Commissioner Secrest seconded; motion passed 5-0.

OTHER BUSINESS

ADJOURNMENT

Commissioner Secrest moved to adjourn the meeting.

The vote to adjourn was 5-0.

The meeting adjourned at 6:27 p.m.

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

AN ORDINANCE REZONING FROM R-8 (RESIDENTIAL - 8 DU/AC) TO MU-2 (MIXED USE) ZONE DISTRICT

**LOCATED AT 640 24 ½ ROAD
Tax Parcel No. 2945-044-00-189**

Recitals:

The property owner, Royce Carville, proposes a rezone from R-8 (Residential – 8 du/ac) to MU-2 (Mixed Use) 4.06-acres, located at 640 24 ½ Road (“Property”).

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended changing the zoning of the Property from R-8 (Residential – 8 du/ac) to MU-2 (Mixed Use) finding that the change conforms to and is consistent with the Land Use Map designation of Mixed Use of the 2020 One Grand Junction Comprehensive Plan, and the Comprehensive Plan’s Goals and Policies, and is generally compatible with land uses located in the surrounding area.

After public notice and public hearing, the Grand Junction City Council finds that rezoning from R-8 (Residential – 8 du/ac) to MU-2 (Mixed Use) for the Property, is consistent with the Comprehensive Plan and has met one or more criteria for a Comprehensive Plan amendment, the City Council also finds that the MU-2 (Mixed Use) zone district, is consistent and is in conformance with the Comprehensive Plan, and at least one of the criteria of §21.02.140 of the Grand Junction Zoning and Development Code.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

The Recitals are incorporated and in consideration thereof and the evidence in the record of the application and hearings thereon, the following property described property (“Property”) is and shall be duly and lawfully zoned MU-2 (Mixed Use) on the Grand Junction zoning map:

The Property is a parcel of land being a portion of the land as described in Reception Number 2353373 lying in the NW1/4 SE1/4 of Section 4, Township 1 South, Range 1 West of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado. The Property is comprised of 4.06 acres, more or less.

INTRODUCED on first reading this _____ day of _____ 2024 and ordered published in pamphlet form.

ADOPTED on second reading this ____ day of _____ 2024 and ordered published in pamphlet form.

Anna M. Stout
President of the City Council

ATTEST:

Amy Phillips
City Clerk

DRAFT



Grand Junction City Council

Regular Session

Item #3.a.

Meeting Date: March 6, 2024
Presented By: Jay Valentine, General Services Director
Department: General Services
Submitted By: Tim Barker

Information

SUBJECT:

Purchase of Side Load Refuse Trucks

RECOMMENDATION:

Staff recommends the purchase of three side load refuse trucks for the amount of \$1,223,447.10 from Nextran Truck Center.

EXECUTIVE SUMMARY:

The purchase of three side load refuse trucks will replace three existing units that have reached the end of their useful life cycle.

BACKGROUND OR DETAILED INFORMATION:

In October 2023, Fleet Services requested Sourcewell cooperative purchase quotes due to short chassis order windows that prevented us from issuing a formal IFB. Two quotes were received, with Nextran Truck Center being the lowest. The Nextran units are consistent and uniform, with our current fleet consisting of Mack Chassis with Lebric refuse bodies, which allows for redundancy of repairs, parts inventory, and operator familiarization.

This purchase will be a piggyback on Sourcewell, a national cooperative agreement. Cooperative agreements are beneficial as they combine the spending of multiple government agencies to provide cost-saving advantages and enhance overall procurement capabilities.

Per Section 1.1.3 Paragraph 3 of the Purchasing Manual, all solicitation documents shall remain confidential until the Purchasing Division awards the contract.

FISCAL IMPACT:

These units are included in the 2024 Adopted Budget for fleet replacements within the Fleet and Equipment Fund.

SUGGESTED MOTION:

I move to (approve/deny) the City Purchasing Division to issue a purchase order with Nextran Truck Center for the purchase of three side load refuse trucks for the amount of \$1,223,447.10 .

Attachments

None



Grand Junction City Council

Regular Session

Item #3.b.

Meeting Date: March 6, 2024
Presented By: Jay Valentine, General Services Director
Department: General Services
Submitted By: Kyle Coltrinari

Information

SUBJECT:

Construction Contract for Roof Replacements at City Hall and City Offices

RECOMMENDATION:

Authorize the City Purchasing and Facilities Divisions to enter into a construction contract with Up Top Roofing & Exteriors for the replacement of the roofs at City Hall and City Offices at 910 Main in the amount of \$349,677.00.

EXECUTIVE SUMMARY:

The City proposes to enter into a construction contract with Up Top Roofing & Exteriors for the replacement of the roofs at City Hall and City Offices at 910 Main, along with the addition of two inches of insulation to enhance energy efficiency. The total contract value is \$349,677. The roofs at each location have reached the recommended life cycle, necessitating replacements to ensure building integrity. Including additional insulation aligns with resource stewardship goals and will contribute to long-term energy savings.

BACKGROUND OR DETAILED INFORMATION:

The cost for replacing the roof at City Hall and adding two inches of insulation is \$282,459. Similarly, for City Offices at 910 Main, the cost for roof replacement and additional insulation totals \$67,218. The combined expenses for both projects amount to \$349,677. Each new roof will come with a 20-year material and labor warranty, ensuring quality and longevity.

The addition of insulation to each building aims to enhance energy efficiency, thereby reducing heating and cooling costs and minimizing environmental impact. This investment will improve the thermal performance of the buildings, resulting in decreased energy consumption and utility expenses over time. It reflects the City's

commitment to sustainability and responsible resource management.

A formal Invitation for Bids was issued via BidNet (an online site for government agencies to post solicitations), posted on the City's Purchasing website, sent to the Grand Junction Chamber of Commerce and the Western Colorado Contractors Association, and advertised in The Daily Sentinel. Nine companies submitted formal bids, which were found to be responsive and responsible in the following amounts.

Firm	Location	Bid Amount
Up Top Roofing	Englewood, CO	\$349,677.00
CRW, Inc.	Englewood, CO	\$388,772.00
Better Line Roofing	Keenesburg, CO	\$406,301.00
Full Curl Roofing	Grand Junction, CO	\$421,859.63
B & M Roofing of Colorado	Frederick, CO	\$465,959.00
Colorado Moisture Control	Denver, CO	\$480,900.00
Progressive Roofing	Arvada, CO	\$558,745.00
Lifetime Construction	Littleton, CO	\$586,400.00
Contract West Roofing	Salt Lake City, UT	\$605,600.00

If this contract is approved, the project is scheduled to begin in March 2023 and will take approximately 120 calendar days to complete.

Per Section 1.1.3 Paragraph 3 of the Purchasing Manual, all solicitation documents shall remain confidential until the Purchasing Division awards the contract.

FISCAL IMPACT:

The roof replacements at City Hall and City Offices at 910 Main are included in the 2024 adopted budget in the Facilities Internal Service Fund.

SUGGESTED MOTION:

I move to (authorize/not authorize) the City Purchasing Division to enter into a construction contract with Up Top Roofing & Exteriors for the replacement of the roofs at City Hall and City Offices at 910 Main in the amount of \$349,677.00.

Attachments

None



Grand Junction City Council

Regular Session

Item #3.c.

Meeting Date: March 6, 2024
Presented By: Ken Sherbenou, Parks and Recreation Director
Department: Parks and Recreation
Submitted By: Ken Sherbenou

Information

SUBJECT:

Approval of a Contract with Citadel Security to Provide Security Services

RECOMMENDATION:

Staff recommends entering into a contract with Citadel Security to provide security services to the City of Grand Junction in the not to exceed amount of \$195,503.00.

EXECUTIVE SUMMARY:

The City of Grand Junction contracts security for a variety of needs with the Police Department, the Fire Department, the Finance Department (Municipal Court) and the Parks and Recreation Department. This contract arrangement has served the City of Grand Junction for well over twenty years. It is the most efficient means of delivery of on-call security services to the community.

BACKGROUND OR DETAILED INFORMATION:

Security services are integral to supporting various City departments and lines of business. The Police Department relies on on-call security services to ensure a guard oversees individuals at hospitals and to secure crime scenes during extended investigations. It's important to note that the security services for the JUCO event are awarded separately. Additionally, the Fire Department utilizes security services for fire investigations, while the Finance Department relies on them to support Municipal Court operations. Although the Finance Department's use of security services has decreased recently, they are still deployed when the court security officer is unavailable. Furthermore, the Parks and Recreation Department utilizes security services for a range of needs, including overseeing programs and events, conducting overnight patrols in parks to ensure safety, deploying highly visible security officers and vehicles to deter crime and prevent vandalism, providing security at the Stadium and Canyon View, and managing the lockups of various parks and recreation facilities.

Parks and Recreation is the biggest user of security services. These services lock facilities and gates once operating hours have ended each night. Across the park system, the security provider is responsible for locking over 42 individual locks at the time of closing in 20 different parks. This service is also utilized for special events (Southwest Arbor Fest), events serving alcohol (in the Stadium Hospitality Suite & Barn), and softball leagues at Canyon View.

In the last three years, the department has increased its utilization of this contract to provide overnight patrol of parks. Increased vandalism of facilities and graffiti after park hours created a demand to keep parks patrolled throughout the night. The increased patrols have successfully limited this activity and improved staff response time to issues identified during the night.

A formal Request for Proposal for the Parks and Recreation Private Security and Lockup Services was distributed via BidNet Direct, reaching out to 101 suppliers, which resulted in approximately 29 plan takers. Additionally, a Secondary Vendor List included four (4) security agencies. The solicitation was sent to the Grand Junction Chamber of Commerce and the Western Colorado Contractors Association, advertised in The Daily Sentinel and posted on the City's Purchasing website. The City received three (3) proposals from the following firms:

- Citadel Security Group Grand Junction, CO
- Hydra Security Agency Grand Junction, CO
- Grand Valley Security Grand Junction, CO

The proposals received were evaluated by a committee based upon the criteria outlined in the solicitation. Key factors assessed included the agencies' comprehension of the scope of services required, experience, available resources, strategy & implementation plan, references, and fee rates. Following this evaluation, Citadel Security Group and Hydra Security Agency, were selected for in-person interviews.

After careful consideration and evaluation of the interview process, Citadel Security Group emerged as the most qualified firm with the capacity to fulfill all services required for the upcoming year. Citadel demonstrated excellence in several areas, including competitive pricing, sufficient staffing levels, and flexibility to adapt to evolving needs.

The initial contract term will cover the 2024 calendar year. Both the awarded Firm and Owner may mutually agree to renew the Contract for up to three (3) additional one (1) year periods, contingent upon successful performance and the City Council's appropriation of the fiscal year funding.

FISCAL IMPACT:

The funding of \$195,503 for security services is included in the 2024 Adopted Budget within the various departmental operating budgets.

SUGGESTED MOTION:

I move to approve a contract with Citadel Security to provide routine and on-call security services to the City of Grand Junction in the not to exceed amount of \$195,503.00.

Attachments

None



Grand Junction City Council

Regular Session

Item #4.a.

Meeting Date: March 6, 2024
Presented By: Tamra Allen, Community Development Director
Department: Community Development
Submitted By: Tamra Allen, Community Development Director

Information

SUBJECT:

A Resolution Repealing and Rescinding the Corridor Infill Incentive Established by Resolution 74-22

RECOMMENDATION:

Staff recommends adoption of the resolution.

EXECUTIVE SUMMARY:

With this Resolution, the City Council will repeal and rescind the previously adopted Resolution 74-22 establishing a Corridor Infill Incentive. The incentive is scheduled to expire on December 31, 2025, however it was not funded in the 2024 adopted budget.

BACKGROUND OR DETAILED INFORMATION:

In 2004, the City Council reviewed and approved an Infill/Redevelopment Implementation Program ("Program") by adopting policies, definitions, boundaries, criteria, and potential forms of City involvement as set forth in Resolution 87-04. That Resolution was subsequently amended by Resolutions 15-13, 93-19 and 03-20.

Since 2004, the City has recognized the importance and need to invest in, and support infill and redevelopment in and around the City's central core, all as recognized in various adopted planning documents, including but not limited to the 2020 One Grand Junction Comprehensive Plan, the Greater Downtown Plan, and the Downtown Development Authority's Plan of Development. To further the goals identified in those plans, the City adopted two incentives, including the Redevelopment Area, as amended by Resolution 03-20, and the Corridor Infill Incentive adopted by and with Resolution 74-22.

The Corridor Infill Incentive is set to expire on December 31, 2025; however, the incentive program was not funded in the adopted 2024 Budget.

FISCAL IMPACT:

The City Council has previously authorized disbursement of \$3,107,322 in incentives to two market rate housing projects and those authorizations will not be affected by this Resolution/the repeal and rescission of Resolution 74-22.

SUGGESTED MOTION:

I move to (adopt/deny) Resolution No. 16-24 Repealing and Rescinding The Corridor Infill Incentive Established by Resolution 74-22

Attachments

- 1. RES-Repealing Corridor Infill Incentive 02.16.2024

1 CITY OF GRAND JUNCTION, COLORADO
2 RESOLUTION NO. XX-24
3

4 A RESOLUTION REPEALING AND RESCINDING THE CORRIDOR INFILL INCENTIVE
5 ESTABLISHED BY RESOLUTION 74-22
6

7 **RECITALS:**
8

9 In 2004, the City Council reviewed and approved an *Infill/Redevelopment Implementation*
10 *Program* (“Program”) by adopting policies, definitions, boundaries, criteria, and potential forms
11 of City involvement as set forth in Resolution 87-04. That Resolution was subsequently
12 amended by Resolutions 15-13, 93-19 and 03-20.
13

14 Since 2004, the City has recognized the importance and need to invest in, and support infill and
15 redevelopment in and around the City’s central core all as recognized in various adopted
16 planning documents including but not limited to the 2020 *One Grand Junction Comprehensive*
17 *Plan*, the Greater Downtown Plan, and the Downtown Development Authority’s Plan of
18 Development. To further the goals identified in those plans, the City adopted two incentives
19 including the Redevelopment Area, as amended by Resolution 03-20, and the Corridor Infill
20 Incentive adopted by and with Resolution 74-22.
21

22 The Corridor Infill Incentive expires on December 31, 2025; however, the incentive program was
23 not funded in the adopted 2024 Budget. The City Council has committed to disburse
24 \$3,107,322 of incentives to two market rate housing projects and those commitments will not be
25 affected by this Resolution/the repeal and rescission of Resolution 74-22 concerning the Corridor
26 Infill Incentive.
27

28 BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND
29 JUNCTION, COLORADO:
30

31 That the Recitals are incorporated herein and in consideration thereof, together with full
32 consideration of the premises by the City Council, Resolution 74-22 is hereby repealed and
33 rescinded.
34

35
36 ADOPTED AND APPROVED THIS 6th day of March 2024.
37

38
39 ATTEST:

Anna M. Stout
President of the City Council

40
41
42
43 _____
44 Amy Phillips
45 City Clerk



Grand Junction City Council

Regular Session

Item #4.b.

Meeting Date: March 6, 2024
Presented By: John Shaver, City Attorney
Department: City Attorney
Submitted By: John Shaver

Information

SUBJECT:

A Resolution Authorizing and Confirming the Sale of Real Property Located at 2601 Dos Rios Drive, Grand Junction, Colorado

RECOMMENDATION:

Consider and approve Resolution authorizing and confirming the sale of the property located at 2601 Dos Rios Drive.

EXECUTIVE SUMMARY:

On April 7, 2021, the City Council approved Ordinance 4992 authorizing and confirming the sale of Lots 1,3,4,5,7,8 and 9 in the Dos Rios Subdivision pursuant to an Agreement by and between the City and the Purchaser. The proposed amendment (Seventh Amendment) relates to the sale of 2601 Dos Rios Drive ("Property") and is the subject of this item.

Additionally, the purchaser has asked that the City release its Repurchase Right relating to Lot 7.

By and with the approval of this Resolution, the City Council will authorize the sale of Lot 7 and the release of the City's Repurchase Right for that Lot. The Seventh Amendment to the Agreement is attached to the Resolution. The purchase price for Lot 7 is \$395,551.81.

The City Council Property Committee has considered and recommended the proposed sale.

BACKGROUND OR DETAILED INFORMATION:

With the approval of the Resolution the City-owned property at 2601 Dos Rios Drive (Property) will be sold, in accordance with the Seventh Amendment to the previously approved sales agreement to DR Lot 7 LLC by special warranty deed for a price of three hundred ninety-five thousand five hundred fifty dollars and eighty-one cents (\$395,551.81). The City Council previously found in Ordinance 4992 that the property had not been held or used as a park or for park or governmental purposes and that finding remains true. Therefore, the sale of the Property does not require a vote and is within the discretion of the City Council.

Furthermore, with the approval of the Resolution, the City will authorize the release, in a form approved by the City Attorney, of the City's Repurchase Right of Lot 7.

FISCAL IMPACT:

The revenue from the sale of this property is included in the 2024 Budget in the Sales Tax Capital Improvement Fund.

SUGGESTED MOTION:

I move to (adopt/deny) Resolution No.17-24 a resolution authorizing and confirming the sale of the property located at 2601 Dos Rios Drive, Grand Junction, Colorado.

Attachments

- 1. AGR-SEVENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT20240226
- 2. AGR-Repurchase Right Release and Termination Lot 7 20240226 clean
- 3. RES-2601 Dos Rios Drive 20240226

SEVENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

This Seventh Amendment to Purchase and Sale Agreement (“Seventh Amendment”) amends the PURCHASE AND SALE AGREEMENT dated September 30, 2020 (as previously amended) (“PSA”) between the City of Grand Junction, a Colorado home-rule municipal corporation (together with its successors and assigns “Seller”), and DR LAND LLC (f/k/a DR DEVCO LLC) a Colorado limited liability company (together with its successors and assigns “Purchaser”), as amended, and relating to the purchase and sale of the Property together with the improvements and appurtenances as described in the PSA.

(1) **Effective Date.** The Effective Date of this Seventh Amendment shall be the date of its mutual execution by the Parties below.

(2) **Partial Acquisition in Multiple Closings Allowed.** The Property, pursuant to the PSA, as amended, is to be acquired in parts in at least two closings, but with more than two closings on portions of the Property is allowed. Seller and Purchaser desire to schedule a closing for that portion of the Property legally described as follows: in Paragraph 3 below and for the consideration set forth in Paragraph 4 below:

Lot 7 of the Riverfront at Dos Rios Filing Three, according to the plat thereof filed for record September 16, 2020, under Reception No. 2942736 in the Mesa County land records (“Lot 7”) together with all appurtenances and improvements therein and thereon.

(3) **Lot 7 Closing Date.** The closing shall occur on or before March 25, 2024 (“Closing Date”) at a time and place designated by the Title Company. At Closing the City shall tender a Special Warranty Deed in the form of Exhibit D to the PSA, with the following exception: Exception 3.5, relating to the Declaration of Repurchase Right, shall be deleted; see (5) below.

(4) **Purchase Price.** As set forth in the Third Amendment to the Purchase and Sale Agreement, the total purchase price for the property is \$4,259,982.00. Of that amount, \$1,842,435.54 was paid by the Purchaser to the Seller at the closing on the Part I land leaving a balance of \$2,417,546.46 to be paid for the Part II land. As set forth in the Sixth Amendment to the Purchase and Sale Agreement, \$100,000 was paid by the Purchaser to the Seller for the conveyance of Lot 6A and B. The purchase price of Lot 7 shall be **Three Hundred Ninety-Five, Five Hundred Fifty-one and 00/100 Dollars (\$395,551.81)**

The balance of the purchase price for the remaining Part II land (after the closing on Lot 7) will be \$1,921,994.65, which is equal to the Part II Purchase Price less \$495,551.81. The remaining Part II Land to be acquired and transferred after the Lot 7 closing is Lot 1 and Lot 5, Riverfront at Dos Rios Filing Three.

(5) **Release of Repurchase Right.** Seller shall, at Closing, release the repurchase right relating to Lot 7, as that right is set forth in that certain instrument recorded on June 11, 2021, under Reception No. 2985241 in the Mesa County land records, to enable the Purchaser to obtain construction funding for commercial improvements to Lot 7, which will occur promptly after the closing on Lot 7.

(6) **Assignment by Buyer.** Lot 7 will be conveyed to and acquired by the following named affiliate of DR Land LLC, **DR Lot 7 LLC**, a Colorado limited liability company.

No other provisions of the PSA are modified or amended hereby.

IN WITNESS WHEREOF, the Parties have caused this Seventh Amendment to be executed effective as of the date last signed by a party below.

SELLER:

CITY OF GRAND JUNCTION, a Colorado home rule municipal corporation

By: _____ Date: _____
Greg Caton, City Manager

PURCHASER:

DR LAND LLC, a Colorado limited liability company

By: _____ Date: _____
Kevin Riegler, Manager

ASSIGNEE:

DR LOT & LLC, a _____ limited liability company

By: _____ Date: _____
____, Manager

PARTIAL RELEASE AND TERMINATION OF REPURCHASE AGREEMENT

This Partial Release and Termination of Repurchase Agreement (“**Agreement**”) dated this _____ day of March 2024 (the “**Effective Date**”), is by and between CITY OF GRAND JUNCTION, a Colorado home-rule municipal corporation (the “**City**”), DR LOT 7 LLC, a _____ limited liability company (“**Owner**”). Collectively the City and the Owner may be referred to as the Parties.

RECITALS

A. Owner purchased the following real property from the City:

LOT 7 OF RIVERFRONT AT DOS RIOS FILING 3,
COUNTY OF MESA, STATE OF COLORADO

(the “**Property**”). Pursuant to that certain Declaration of Repurchase Right dated June 9, 2021, and recorded on June 11, 2021, in the real property records of Mesa County, Colorado as Reception No. 2985241 (“**Repurchase Agreement**”), the City reserved the right to repurchase the Property under certain conditions, as described in the Repurchase Agreement.

B. The Parties wish to terminate the rights the City has or may have to repurchase the Property or to exercise a right of first offer for the Property under the Repurchase Agreement, effective as of the Effective Date, in accordance with the terms and provisions set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals, which are expressly incorporated herein, the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Partial Termination and Release of Repurchase Right. Subject to the terms and provisions of this Agreement, effective as of the Effective Date, any and all rights that the City may have to repurchase the Property or to exercise a right of first offer for the Property under the Repurchase Agreement is hereby released, terminated and of no further force and effect and the Repurchase Agreement shall no longer constitute a covenant running with the land as to the Property.

2. Further Assurances. The Parties agree to cooperate, sign, and deliver this Agreement and such other and further documents, if any, as may be reasonably required, necessary or appropriate to effectuate the terms, conditions and transactions contemplated by this Agreement.

3. Miscellaneous. This Agreement constitutes the entire agreement between the Parties relating to the release and termination of the Repurchase Agreement with respect to the Property and may not be modified except by a document in writing signed by the Parties. This Agreement will be governed by and construed in accordance with the Colorado law. In the event of any action or suit between the Parties hereto for any breach, any threatened breach or for the enforcement of this Agreement the prevailing party in such action or dispute, whether by final

judgment or out-of-court settlement, will recover from the other party, all costs and expenses of suit, including reasonable attorneys' fees. This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which taken together will constitute one and the same document. The Parties waive their right to a trial by jury in any dispute arising from the enforcement or interpretation of this Agreement.

4. This Agreement shall be recorded in the real estate records of the Mesa County Clerk and Recorder and shall run with the Property and shall inure to the benefit of the Owner and its successor(s) and assign(s).

IN WITNESS HEREOF, the Parties hereto have executed or caused to be executed this Agreement as of the day and year first above written.

OWNER:

By: _____

Printed Name: _____ Title _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing was acknowledged before me this ____ day of _____, 2024, by _____ as _____ of DR LOT 7 LLC, a _____ limited liability company.

Witness my hand and official seal.
My commission expires: _____

Notary Public

CITY:

By: _____

Printed Name: _____ Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing was acknowledged before me this ____ day of _____, 2024 by _____, as _____ of the CITY OF GRAND JUNCTION, a Colorado home-rule municipal corporation.

Witness my hand and official seal.
My commission expires: _____

Notary Public

RESOLUTION NO. __24

A RESOLUTION AUTHORIZING AND CONFIRMING THE SALE OF REAL PROPERTY LOCATED
AT 2601 DOS RIOS DRIVE GRAND JUNCTION, COLORADO

RECITALS:

On April 7, 2021, the City Council approved Ordinance 4992 authorizing and confirming the sale of Lots 1,3,4,5,7,8 and 9 in the Dos Rios Subdivision pursuant to an Agreement by and between the City and the Purchaser. Ordinance 4992, the Agreement, and the subsequent amendments to the Agreement, together with the amendment (Seventh Amendment) relating to the sale of 2601 Dos Rios Drive ("Property") are hereby ratified and confirmed.

Additionally, the Purchaser has asked that the City release its Repurchase Right relating to Lot 7. By and with the approval of this Resolution the City Council does authorize the release of Lot 7, in a form approved by the City Attorney, of the City's Repurchase Right. The Seventh Amendment to the Agreement is attached to and incorporated by this reference as if fully set forth. The contracted purchase price is \$395,551.81.

The City Council Property Committee has considered and recommends the proposed sale.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO, THAT:

1. The foregoing Recitals are incorporated herein and in consideration of the same the City-owned property located at 2601 Dos Rios Drive (Property) will be sold, in accordance with the Seventh Amendment to the Agreement to DR Lot 7 LLC by special warranty deed for a price of three hundred ninety-five thousand five hundred fifty dollars and eighty-one cents (\$395,551.81).
2. The City Council's finding in Ordinance 4992 that the Property was not then nor ever been held or used as a park or for park or governmental purposes remains true now. Therefore, the sale of the Property does not require a vote and is within the discretion of the City Council.
3. All actions heretofore taken by the officers, employees and agents of the City relating to the sale of the Property which are consistent with the provisions of Ordinance 4992 the Agreement and the Seventh Amendment to the Agreement for the sale of the Property, and this Resolution are hereby ratified, approved, and confirmed.
4. The City does hereby release authorize the release of the City's Repurchase Right of Lot 7, in a form approved by the City Attorney.

5. The officers, employees and agents of the City are hereby authorized and directed to take all actions necessary or appropriate to complete the sale of the Property. Specifically, City staff is directed to effectuate this Resolution and the Seventh Amendment to the Agreement, and the release of the City's Repurchase Right of Lot, including the execution and delivery of the deed, the release and such documents as are necessary to complete the transactions authorized hereby.

PASSED and ADOPTED this 6th of March 2024.

Anna M. Stout
President of the City Council

Attest:

Amy Phillips
City Clerk

DRAFT



Grand Junction City Council

Regular Session

Item #5.a.i.

Meeting Date: March 6, 2024
Presented By: Ken Sherbenou, Parks and Recreation Director
Department: Parks and Recreation
Submitted By: Ken Sherbenou

Information

SUBJECT:

An Ordinance Authorizing a License Agreement for the Sale of Naming Rights at the Community Recreation Center Pools

RECOMMENDATION:

Staff recommends that the City Council hold a public hearing, pass and adopt Ordinance on second reading and publish the Ordinance in pamphlet form. As provided in the record for this item, Ordinance authorizes and approves the License Agreement for the Sale of Naming Rights at the Grand Junction Community Recreation Center pools.

EXECUTIVE SUMMARY:

The proposed license agreement would enable naming of the Community Recreation Center Pools in exchange for \$3,000,000 from Intermountain Health dba St. Mary's. This item passed the first reading at the February 21, 2024, City Council meeting.

BACKGROUND OR DETAILED INFORMATION:

The City circulated a Request for Proposals on September 6, 2023, with the intention of identifying a partner to operate a physical therapy space within the Community Recreation Center (CRC). The RFP also requested a contribution for naming rights of the CRC pools.

Intermountain Health dba St. Mary's Regional Hospital submitted a detailed proposal. After negotiations with the City, their final offer includes \$3,000,000 for naming rights of the pools (signage to be placed at the entrance to the pools and will be only for the pool area), \$1,554,000 towards the capital costs of adding their 2,900 square foot space and \$168,000 per year with a 2.5 percent annual escalation for rent and operating costs. This capital contribution and the rent pertaining to their lease of the space will be further

discussed in the lease agreement with the therapy provider at the CRC, which is a separate agenda item on this March 6 City Council agenda. Over the 10-year period of the initial lease term, this constitutes a total contribution of \$6,436,000.

The agreement represents a significant financial benefit to the City. This is critical to funding the additional 19,000 square feet of building that the City Council supported at the December 4, 2023, workshop. There is also a substantial community health benefit. With an opportunity to enable more prevention and better health outcomes for patients recovering from knee replacements, hip replacements, and other major health events, St. Mary's is very excited about the chance to be at the CRC. In addition to the financial contributions discussed above, operating revenue from fees is expected to increase with the promotion of annual membership with therapy patients.

FISCAL IMPACT:

The revenue to the City for the naming rights of the CRC pools is \$3,000,000, which will serve as one of the funding sources for the construction costs of the Community Recreation Center.

SUGGESTED MOTION:

I move to (adopt/deny) Ordinance No. 5203, an ordinance approving the License Agreement for the sale of naming rights at the Grand Junction Community Recreation Center pools on final passage and order final publication in pamphlet form

Attachments

1. AGR-SMH Naming GJCRC Pools Final Clean 2.15.24 (2)
2. ORD-SMH Naming Rights 20240205 (3)

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (“License” or “Agreement”) is made and entered into as of the day of _____ (“Effective Date”) by and between the City of Grand Junction, a Colorado Home Rule Municipality, (“City”), and **St. Mary’s Hospital and Medical Center, Inc. d/b/a Intermountain Health St. Mary’s Regional Hospital** (“Licensee”), City and Licensee may be referred to herein as the “Parties” or in context individually as a “Party.”

RECITALS

WHEREAS, the City is intending to construct a community recreation center, located at 2844 Patterson Road, Grand Junction, Colorado 81506 (“GJCRC”), which construction is anticipated in 2024, and upon completion, the City will own, operate, and manage the GJCRC, which will include, without limitation, a leisure pool, lap pool and wellness pool within the GJCRC (collectively, the “Pools”) as well a physical rehabilitation clinic located in the GJCRC (“Therapy Clinic”); and

WHEREAS, in consideration for a lump sum fee paid by the Licensee to the City, the City Council desires to grant the Licensee a license to exclusively name the Pools, as jointly agreed to by the Parties, as well as other related ancillary benefits as set forth herein; and,

WHEREAS, the Parties will negotiate, and if mutually acceptable terms are established, enter into a separate agreement for the Licensee’s lease and use of the Therapy Clinic.

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, including the Recitals which are incorporated as substantive terms hereof, and other good and valuable consideration, the sufficiency of which are hereby acknowledged by the City and the Licensee, to support the making and the enforcement of this Agreement, the Parties hereby agree as follows:

1. Naming Rights for the Pools at GJCRC.

A. Naming Rights to the Pools. During the Term of this Agreement, the City grants to Licensee the exclusive license to name the Pools pursuant to the terms hereof (“Naming Rights”). As of the Effective Date, the name of the Pools for purposed of this Agreement will be "Intermountain Health St. Mary’s Regional Hospital Pools” (the “Name”), unless amended or changed by mutual written agreement of the Parties. Licensee shall be responsible for all costs and expenses that arise from such name change including, but not limited to, the Signage, Logos, or other licensed materials produced, altered, or procured in reliance on the Name being “Intermountain Health St. Mary’s Regional Hospital Pools.”

B. Marks. During the Term of this Agreement, Licensee may develop, at Licensee’s sole expense and in collaboration with the City, a graphic design incorporating the Name, which when used in connection with the “Intermountain Health Mark,” defined as Intermountain

Health's trademark, image, copyrighted material or other intellectual property, shall constitute and serve as a "Logo." The Name, Logo, and/or any stylized form or combination thereof may be referred to herein as the "Marks." Licensee shall at all times remain the owner of the Marks, including without limitation, the trademark and copyrights associated therewith, if any. Licensee grants the City a limited, non-exclusive, royalty free, non-transferable license to use the Marks only for purposes related to performance under this Agreement and subject to Licensee's prior approval who will respond within a reasonable period of time.

C. Signage. In connection to the Naming Rights granted to Licensee, City will add, at its own cost, signage containing the Name and Marks ("Signage") in accordance with a plan, including appearance/design, locations, square footage, and electrical needs for the Signage for City approval, which shall not be unreasonably withheld. Should Licensee require any subsequent modifications or additions to the Signage, any cost associated with such modification or addition shall be the sole responsibility of Licensee. The Signage shall not exceed three in number. The signage shall not exceed two (2) feet by five (5) feet. The Signage shall be smaller than GJCRC signage. Signage shall not include any wayfinding signage, which shall be the responsibility of the City at its sole discretion.

D. Promotion and Marketing. During the Term of this Agreement and in addition to the other rights granted by this Agreement, the City grants the Licensee the following rights:

- i. Advertising, Promotion, and Publicity. The City, prior to, during, and after opening the GJCRC, will advertise, promote, and publicize Licensee and the Marks and the Licensee's connection to the Pools through, at a minimum, the following channels:
 - (a) Digital marketing. The City, at its expense, will use digital marketing that displays the Name or Marks for the promotion of the Pools on its website, social media channels, and any email marketing, when referencing the Pools.
 - (b) Printed materials. City, at its expense, will cause the Logo to be incorporated and used in printed marketing, promotional, newsletters, and press materials that involve the Pools for the opening of the GJCRC.
 - (c) Community events. Each of the Parties will identify the Pools by the Name or Marks in written and oral references to the Pools for any events organized by the City and held at the GJCRC.
 - (d) Authorized terminology. Licensee has the exclusive right to use the following terminology in any advertising or publicity effort organized by the Licensee:
 1. Official / Proud Partner of the Community Recreation Center
 2. Official / Proud Health Partner of the Community Recreation

Center

3. Official / Proud Medical Partner of the Community Recreation Center
4. Founding Partner of the Community Recreation Center
5. Other designations as mutually agreed upon by the Parties

ii. Miscellaneous Promotional Opportunities.

- (a) Community Engagement Events. Licensee will be permitted, but not required, to be the presenting sponsor of at least one (1) community engagement event per year focusing on promoting health and wellness, to be held within the GJCRC in a place agreeable to the City. Community engagement events shall be planned and executed at the mutual agreement of the Parties and could include but are not limited to run/walk events, educational sessions, recreational sporting events, and mental health awareness and injury prevention seminars. Licensee and the City agree to mutually design and promote such community engagement events, including via email distributions, GJCRC newsletters, bulletin boards, and other available marketing channels. A community engagement event is defined as a publicly available event where residents can attend and participate. Prior to the event(s) the Parties will determine if the event(s) is(are) available to only paying patrons of the GJCRC or if available notwithstanding membership or daily admission status.
- (b) First Right of Refusal for Medical Support. In the event that any event that is hosted on the GJCRC campus requires first aid stations or the presence of a medical provider, Licensee shall have first right of refusal to provide such services. The City shall provide at least ninety (90) days advance written notice to Licensee of any such opportunities. This stipulation does not apply to City staff that may be present such as staff of the Grand Junction Fire Department or the lifeguard staff of the GJCRC.
- (c) Fifty (50) day passes to the GJCRC each year. Each day pass will be valid for a single day visit to the GJCRC.
- (d) A dedicated display of at least 11” by 17” in size within the main entrance of the GJCRC to promote general health and wellness tips.

iii. Exclusivity. Licensee shall have the exclusive right in the healthcare category to use the Name and Marks in joint community events held at the GJCRC.

Healthcare category is defined as entities working generally in the field of healthcare.

2. Payment and Costs.

- A. Naming Rights Fee. In consideration for the Naming Rights and associated benefits set forth in Section 1 of this Agreement, Licensee will pay City Three Million and 00/100 Dollars (\$3,000,000.00) (“Fee”) for the Initial Naming Rights Term, as defined herein, with 50% of the Fee paid by March 30, 2024 and the remaining fifty percent (50%) of the Fee paid by June 1, 2025.
- B. Costs and Expenses. Licensee shall pay for all costs and expenses associated with development of the Marks and shall pay for all costs and expenses associated with the initial and ongoing preparation, installation, and maintenance of its Signage. All Signage must be approved in writing by the City in advance prior of erection of any Sign(s). Any sign must be smaller and less prominent than any City signs. Additional language on the Signage plan is described above.

3. Term and Termination.

- A. Term. This Agreement shall commence on the Effective Date and continue through March 6, 2074, so long as the City is still operating the GJCRC (“Initial Naming Rights Term”), unless extended or earlier terminated as provided herein. The Licensee shall have the option to extend the Initial Naming Rights Term for an additional fifty (50) year term (“Renewal Naming Rights Term”) (collectively, the Initial Naming Rights Term and each additional Renewal Naming Right Term shall be the “Term”). A Renewal Naming Rights Term(s), if any, will be subject to negotiation and mutual agreement by and between the Parties upon the expiration of the Initial Naming Rights Term.
- B. Termination.
 - i. Without Cause. Licensee may, at its sole option, terminate this Agreement at any time without cause by providing at least one hundred twenty (120) days’ notice to City.
 - ii. In the instance that the City closes the GJCRC, which decision is solely in its discretion, this License shall terminate, without claim for payment or right of offset of any portion of the Fee, whether closure is in the Initial or the Renewal Naming Rights Term.
 - iii. Default. Any of the following events shall constitute an event of default

(“Default”) by the acting or relevant party (“Defaulting Party”):

- a. Failure to cure any material breach of this Agreement within sixty (60) days after receipt of written notice to the Defaulting Party.
 - b. A breach of any representation, obligation, or warranty in this Agreement.
 - c. A Party becomes insolvent.
- iv. Termination and Remedies. In the event of a Default, the non-defaulting Party may terminate this Agreement upon written notice to the Defaulting Party.

4. Notice. Any notice, demand, or other communication required or permitted to be given by any provision of this License shall be given in writing, delivered personally, or sent by certified or registered mail, postage prepaid and return receipt requested, or by overnight courier, with shipping charges prepaid, addressed as follows:

To the City:

City of **GRAND JUNCTION**
Attn: City Manager
250 North 5th Street

Grand Junction, CO. 81501
Ph: (970) 244-1501

With a copy to:

City of **GRAND JUNCTION**
Attn: City Attorney
250 North 5th Street
Grand Junction, CO. 81501
Ph: (970) 244-1501

To Licensee:

Chief Executive Officer
2635 N. 7th Street
Grand Junction, CO 81501

With a copy to:

IMH
Legal Department
500 Eldorado Blvd., Ste 4300
Broomfield, CO 80021

All notices, demands, requests or other communications shall be effective upon such personal delivery, or one (1) business day after being deposited with Federal Express or other nationally recognized overnight air courier service, or three (3) business days after deposit in the United States mail. By giving the other party thereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

5. No Continuing Obligation. In no event shall this Agreement create a long-term funding obligation; any City funding is and will be subject to annual appropriation by the City Council in its discretion.

6. Assignment. Licensee shall not in any manner transfer or assign or attempt to transfer or assign this Agreement or any aspect of it, without the prior written consent of the City, and any attempt to do so without the City's prior written consent shall be null and void and confer no rights on third persons. The City may in its sole discretion refuse to consent to an assignment(s).

7. Binding Effect. This License shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

8. Governing Law. This License shall be governed by and construed in accordance with the laws of the State of Colorado. The Parties agree that venue for any dispute regarding this License shall be proper in Mesa County, Colorado.

9. Attorneys' Fees. In the event either Party to this License commences an action to enforce any of the provisions hereof, the prevailing Party in such action shall recover from the other Party.

10. Relationship of the Parties. Nothing contained in this Agreement shall be deemed or construed by the Parties hereto or by any third person to create the relationship of employer and employee, principal, and agent, or of a partnership or joint venture, or of any association between Licensee and the City.

11. Headings for Convenience Only. The headings, captions and titles contained herein are intended for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any provision of this License.

12. Modification. This License and its attached exhibits set forth the entire understanding and agreement between the Parties hereto with respect to the Premises. Except as otherwise provided herein, this License may be modified, amended, changed, or terminated, in whole or in part, only by an agreement in writing and duly authorized and executed by the Parties hereto.

13. Severability. In case any one or more of the provisions contained herein for any reason shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this License, but this License shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

14. Survival. Unless provided for otherwise, all rights and obligations of the Parties herein described and agreed to be performed, or which by the nature thereof are or would be required to be performed, regardless of termination of this License or subsequent to the term of the License shall survive any termination of this License or the term of the license.

IN WITNESS WHEREOF, the Parties have executed this License, intending it to be effective as of the date first set forth above.

CITY

City of Grand Junction, a Colorado Home Rule Municipality

By: _____
Anna Stout, President of City Council

Date: _____

ATTEST:

By: _____
Amy Phillips, City Clerk

LICENSEE

**St. Mary's Hospital & Medical Center Inc. d/b/a
Intermountain Health St. Mary's Regional Hospital**

By: _____
Bryan Johnson, President

Date: _____

ORDINANCE NO. _____

AN ORDINANCE APPROVING AN AGREEMENT FOR THE SALE OF THE NAMING RIGHTS OF THE AQUATIC AREA WITHIN THE TO BE CONSTRUCTED COMMUNITY RECREATION CENTER AT MATCHETT PARK (CRC) TO INTERMOUNTAIN HEALTH DBA ST. MARY’S HOSPITAL

Recitals:

The City of Grand Junction (City) and Intermountain Health dba St. Mary’s Hospital (SMH) have agreed to certain terms and conditions by which the City will sell the naming rights to the aquatic area of the to be constructed Community Recreation Center at Matchett Park. Those terms and conditions have been reduced to an agreement (Agreement) by and between the City and SMH.

The primary term of the Lease shall be fifty years, with SMH having a fifty-year renewal option.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO AS FOLLOWS:

1. Approval. The sale of the naming rights to Intermountain Health dba St. Mary’s Hospital (Agreement) in the form attached as Exhibit 1 is hereby approved. The City Manager is hereby authorized to execute the Agreement by and on behalf of the City.
2. Severability. If any part or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.
3. Safety Clause. The City Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relation to the legislative object sought to be obtained.

INTRODUCED AND ADOPTED on first reading this 21st day of February 2024 by the City Council of the City of Grand Junction, Colorado and order published in pamphlet form.

PASSED AND APPROVED this ___ day of ___ 2024 by the City Council of the City of Grand Junction, Colorado and order published in pamphlet form.

Anna M. Stout
President of the City Council

Attest:

Amy Phillips
City Clerk



Grand Junction City Council

Regular Session

Item #5.a.ii.

Meeting Date: March 6, 2024
Presented By: Ken Sherbenou, Parks and Recreation Director
Department: Parks and Recreation
Submitted By: Ken Sherbenou

Information

SUBJECT:

An Ordinance Authorizing a Lease Agreement with a Therapy Provider at the Community Recreation Center

RECOMMENDATION:

Staff recommends that the City Council hold a public hearing, pass and adopt Ordinance on second reading and publish the Ordinance in pamphlet form. As provided in the record for this item, Ordinance authorizes and approves a Lease Agreement with a therapy provider at the Grand Junction Community Recreation Center.

EXECUTIVE SUMMARY:

The proposed lease agreement would enable a 10-year initial lease term with three subsequent five-year extensions for a total of 25 years for a built-to-suit 2900 square foot therapy space in the Community Recreation Center. This space would be operated by Intermountain Health St. Mary's Regional Hospital. Annual rent and operating expenses would be paid to the City starting at \$168,000 per year with an annual 2.5 percent escalator. St. Mary's would also contribute \$1,554,000 to help with the capital construction cost of adding the therapy space. Patients would have access to the drop-in areas of the CRC with their therapists, including the fitness/weight area, walking track, and therapy pool. This activity is expected to increase the overall service provided by the CRC and help achieve high-cost recovery (which is operational revenue divided by operational expense).

BACKGROUND OR DETAILED INFORMATION:

The City circulated a Request for Proposals on September 6, 2023, with the intention of identifying a partner to operate a physical therapy space within the Community Recreation Center (CRC). The RFP also requested a contribution for naming rights of the CRC pools.

Intermountain Health dba St. Mary's Regional Hospital submitted a detailed proposal. After negotiations with the City, their final offer includes \$3,000,000 for naming rights of the pools (signage to be placed at the pool entrance and will be only for the pool area). The naming rights terms are defined in the Ordinance Authorizing a License Agreement for the Sale of naming rights of the CRC pools, which is also on the March 6, 2024, City Council agenda.

Both the license agreement and the lease agreement represent a significant financial benefit to the City. This is critical to funding the additional 19,000 square feet of building that the City Council supported at the December 4, 2023 workshop. There is also a substantial community health benefit. With an opportunity to enable more prevention and better health outcomes for patients recovering from knee replacements, hip replacements, and other major health events, St. Mary's is very excited about the chance to be at the CRC. In addition to the financial contributions discussed above, operating revenue from fees is expected to increase with the promotion of annual membership with therapy patients.

FISCAL IMPACT:

In addition to the naming rights contribution of \$3,000,000 addressed in the separate license agreement with Intermountain Health St. Mary's Regional Hospital also on this March 6 agenda, Intermountain Health St. Mary's will contribute \$1,554,000 towards the capital costs of adding their 2,900 square foot therapy space and \$168,000 per year with a 2.5 percent annual escalation for rent and operating costs. Over the 10-year period of the initial lease term, this constitutes a total contribution of \$6,436,000.

SUGGESTED MOTION:

I move to (adopt/deny) Ordinance No. 5204, an ordinance authorizing entering into the Lease Agreement as proposed with Intermountain Health St. Mary's Regional Hospital for Therapy Space at the Grand Junction Community Recreation Center, on final passage and order final publication in pamphlet form.

Attachments

1. SCL Patterson Lease - clean copy (2.15.24) final
2. ORD-SMH Therapy Space Lease 20240205 final from John on 2 15 24



LEASE AGREEMENT

between

City of Grand Junction
as “**Landlord**”

and

SCL Health Medical Group – Grand Junction, LLC, a Colorado limited liability company as “**Tenant**”

for

Dedicated Therapy Space within the Grand Junction Community Recreation Center

2844 Patterson Road, Grand Junction, CO

Lease Summary

This Lease Summary (the “**Lease Summary**”) is made a part of the attached Lease. Each reference in the Lease to any term of this Lease Summary will have the meaning as set forth in the Lease.

- Landlord:** City of Grand Junction, with an address of 250 N 5th Street, Grand Junction, CO.
- Tenant:** SCL Health Medical Group – Grand Junction, LLC, a Colorado limited liability company, with an address of 36 South State Street, 21st Floor, Salt Lake City, UT 84111.
- Premises:** Dedicated Therapy Space of the Building, consisting of approximately +/- 2,900 rentable square feet (“**RSF**”). This space will be inside of the Grand Junction Community Recreation Center, which is referred to as the Building.
- Building:** The building owned by Landlord and located at 2844 Patterson Road, Grand Junction, CO.
- Property:** The real property owned by Landlord whereupon the Building and Premises are located.
- Commencement Date:** The earlier of (i) the date Landlord Substantially Completes Landlord’s Work (as such terms are defined in **Exhibit C**), or (ii) the date that the Tenant receives a certificate of occupancy for the Premises and is able to commence business operations therein.
- Initial Term:** 10 years, beginning on the Commencement Date.
- Expiration Date:** The date that is 10 years following the Commencement Date, unless sooner terminated or extended as set forth in this Lease.
- Extension Options:** Three 5-year options.

Base Rent:

Period	Yearly Base Rent	Monthly Base Rent	Rate/RSF/Year
Months 1-12	\$118,000.00	\$9,833.33	\$40.69
Months 13-24	\$120,950.00	\$10,079.17	\$41.71
Months 25-36	\$123,973.75	\$10,331.15	\$42.75
Months 37-48	\$127,073.09	\$10,589.42	\$43.82
Months 49-60	\$130,249.92	\$10,854.16	\$44.91
Months 61-72	\$133,506.17	\$11,125.51	\$46.04
Months 73-84	\$136,843.82	\$11,403.65	\$47.19
Months 85-96	\$140,264.92	\$11,688.74	\$48.37
Months 97-108	\$143,771.54	\$11,980.96	\$49.58
Months 109-120	\$147,365.83	\$12,280.49	\$50.82

Annual Rent Escalation: 2.5%.

- Operating Expenses:** \$50,000.00 per year with 2.5% annual escalations.
- Parking:** Tenant, at no additional cost, has a license on a first-come, first-served basis to use any non-reserved parking spaces serving the Property at no cost to Tenant together with an exclusive right to use five (5) reserved parking spaces associated with the Building.
- Security Deposit:** None.
- Work Letter:** Attached as **Exhibit C**.
- Advance Payment:** \$0.00 (provided that Landlord has completed Tenant’s vendor packet within 2 days of Lease execution, due within ten (10) days of mutual execution of the Lease, which amount is equal to, and applicable to, the first month’s installment of Base Rent).

Permitted Use: For the operation of a therapy clinic (including physical therapy, occupational therapy, speech therapy, sports medicine, and primary care medical services) and any medical use, general office and other lawful activities normally incidental thereto.

Landlord Broker: None.

Tenant Broker: CBRE, Inc.

Exhibits:

- Exhibit A** – Depiction of Premises and Property
- Exhibit B** – Acceptance of Occupancy Agreement
- Exhibit C** – Work Letter
- Exhibit D** – Lease Term Extension Rider
- Exhibit E** – Form of SNDA
- Exhibit F** – Form of Estoppel

LEASE AGREEMENT

Landlord and Tenant enter this Lease Agreement (the “**Lease**”) on [REDACTED], 2024 (“**Effective Date**”).

1. **Premises.** Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord, on an exclusive basis, and as more particularly described on **Exhibit A** incorporated herein by reference, together with the right to use of the Common Areas, as defined in **Section 10**, on the terms and subject to the conditions of this Lease. The parties agree that in this Lease any statement of RSF of the Premises, or any statement of RSF of the Building, are approximations and that such approximations are reasonable and are not subject to revision (nor will there be any adjustment to the annual or monthly installments of Base Rent, or any other provision of this Lease). The sole exceptions to the preceding sentence being that, if the Premises are physically expanded or contracted by reason of a subsequent agreement between Landlord and Tenant, or if the RSF of the Building is physically and permanently altered as the result of a casualty or Landlord’s construction of additional rentable area, the Tenant’s Share will be appropriately revised.
2. **Term.**
 - (a) **Initial Term.** The term will commence on the Commencement Date and, unless sooner terminated or extended by the parties, will expire on the Expiration Date (the “**Term**”). “**Lease Year**” shall mean that twelve (12) month period beginning on the Commencement Date and each consecutive twelve (12) month period thereafter. Landlord will deliver possession of the Premises to Tenant on the Commencement Date unless otherwise provided herein.
 - (b) **Estimated Possession Date; Delay in Delivery.** Landlord shall deliver possession of the Premises to Tenant with Landlord’s Work Substantially Complete on or before May 1, 2026 (the “**Estimated Possession Date**”). As of the Possession Date (defined below), Landlord represents and warrants that the Premises, Building and all Building Systems (defined in **Section 10**) will be (i) in good working order and condition (and structurally sound with the roof and roof membrane in watertight condition); (ii) in compliance with all Laws (defined in **Section 6**), codes, rules and regulations, including without limitation, the Americans with Disabilities Act, and all laws relating to the presence or Hazardous Substances (defined in **Section 7**) on the Premises; (iii) free of latent and patent defects. If the Premises, Building or Building Systems (and any systems exclusively serving the Premises) do not comply with this warranty, Landlord agrees to perform, at its sole cost and expense, and not as Additional Rent (defined in **Section 3(c)**), all necessary work to bring the Premises, Building or Building Systems in compliance herewith. The date Landlord actually delivers the Premises in the condition required by this Lease will be referred to herein as the “**Possession Date**”. If the Possession Date has not occurred by the Estimated Possession Date (the “**Outside Possession Date**”) Tenant shall receive a day-for-day credit of Rent until the Possession Date actually occurs and Landlord will indemnify Tenant for all costs, losses, fees and expenses resulting from any delay to the Commencement Date unless due to a Tenant Delay (defined in **Exhibit C**). Promptly following the Commencement Date, the parties shall execute the form Acceptance of Occupancy Agreement attached as **Exhibit B** which shall conclusively establish the Commencement Date and expiration of the Term.
 - (c) **Early Access.** If permitted by the applicable regulatory authorities, Landlord shall give Tenant and Tenant’s agents and contractors reasonable access to the Premises beginning at least two (2) weeks prior to the Commencement Date to install Tenant’s furniture, trade fixtures and equipment and to otherwise ready the Premises for Tenant’s business operations. Landlord and Tenant shall coordinate and cooperate with each other so as to not interfere with the other’s work being performed in the Premises.

During such early access of the Premises, Tenant shall have no obligation to pay any Rent or any other amounts under this Lease.

- (d) Term Extension Rights. Tenant will have the right and option to extend the Term as set forth in the Lease Term Extension Rider attached as Exhibit D.

3. Rent.

- (a) Rent. Tenant shall pay to Landlord Rent (collectively referred to as “**Rent**”), at the times and in the manner provided below. All Rent shall be paid in lawful money of the United States of America. Rent is payable without prior demand, setoff or deduction whatsoever, and without any abatement except as expressly permitted herein or by applicable Law. In the event the Commencement Date does not fall on the first day of the month, Base Rent and Additional Rent (each defined below) shall be prorated for any partial month, and Tenant shall pay for such proration on the first day of the month following the Commencement Date. Full and timely payment of the Rent will include annual payment for Tenant’s patients to access the other areas of the Building on the day of the patient’s therapy appointment including access to the track, fitness spaces and pools. Notwithstanding anything in this Lease to the contrary, Tenant will not be required to pay any Rent until Tenant opens the Premises for business operations and a certificate of occupancy has been received.
- (b) Base Rent. Tenant shall pay to Landlord, via ACH the amounts set forth in the Lease Summary as Base Rent. Base Rent shall be payable in monthly installments as set forth in the Lease Summary, in advance on the first day of every month during the Term using Tenant’s designated electronic platform, unless an alternative payment method is agreed to in writing by both Tenant and Landlord. If Landlord fails to enroll for such automated payment within thirty (30) days after the Effective Date, Tenant may delay payments until Landlord completes enrollment. To obtain electronic payment enrollment forms, please contact (leaseadministration@imail.org). If the Commencement Date begins other than on the first day of the month, Tenant shall pay proportionate Base Rent at the same monthly rate set forth herein (also in advance) for such partial month, and thereafter Base Rent shall be due on the first day of every month.
- (c) Additional Rent. The term “**Additional Rent**” shall be defined to include the following: (i) costs of performance by Tenant of Tenant’s covenants under this Lease and all sums beyond Base Rent owed by Tenant pursuant to the terms of this Lease or otherwise arising in connection with Tenant’s use and occupancy of the Premises; (ii) costs of separately metered utilities or other separately billed services, including, without limitation, electricity, water and sewer that Tenant does not pay directly to the utility company; (iii) late charges, interest, attorney fees and costs, and reimbursements to Landlord for any sum advanced by Landlord to cure any default or discharge any obligation of Tenant hereunder; and (iv) in each calendar year after that in which the Commencement Date occurs, Operating Expenses in the amounts prescribed below. However, in no event shall Landlord be permitted to charge for more than 100% of the Operating Expenses actually incurred by Landlord such that Operating Expenses are not intended to operate as a profit mechanism.
- (d) Operating Expenses. Landlord is required to pay, directly or indirectly, all Operating Expenses of the Building. If in any calendar year falling wholly or partly within the Term (including any renewals hereof), Landlord pays or incurs any Operating Expenses, Tenant shall pay Tenant’s Share of the actual Operating Expenses as Additional Rent in accordance with the procedure described below. “**Operating Expenses**” means all operating expenses of any kind or nature which are actually incurred with respect to the operation and maintenance of the Building and Common Areas, including, but not limited to, custodial expenses, electricity, natural gas, trash/rubbish removal, recycling, public wireless internet, taxes, snow removal, landscaping, and general repair and maintenance of the Property. “**Tenant’s Share**” means \$50,000.00 per year for the first Lease Year. Tenant’s Share will increase by 2.5% each

Lease Year thereafter. There shall be no property management (or similar) fees charged to Tenant for the Term or any extension thereof.

- (e) Late Payments. Any amount not paid by Tenant when due may, at the Landlord's sole discretion, bear interest at the rate five percent (5%) per annum (such sum being the "**Interest Rate**") from the due date until paid in full. In addition, if Landlord has not received all Rent due from Tenant within five (5) days after the due date, Tenant, at Landlord's written request, shall pay to Landlord, as Additional Rent, a late payment charge equal to five percent (5%) of the overdue amount ("**Late Payment Charge**").

4. Use and Rules.

- (a) Rules. The Premises shall be used only for the Permitted Use during the Term of this Lease or any extension thereof. Tenant will observe all reasonable rules and regulations that Landlord may promulgate from time to time with respect to the Premises so long as those rules and regulations do not negatively impact or unreasonably restrict Tenant's use of the Premises. Landlord reserves the right from time to time to make reasonable modifications to its rules and regulations, which modifications will be binding on Tenant upon delivery of a copy of the modified rules and regulations to Tenant if the modifications do not negatively impact or unreasonably restrict Tenant's use of the Premises. Notwithstanding the forgoing, in the event of a conflict between any such rules and regulations and the other terms of this Lease, the other terms of this Lease shall prevail.
- (b) Exclusive Use. The following restrictions shall apply to the Property: (1) no person or entity may use any portion of the Property for any Prohibited Healthcare Use (defined below), except to the extent required by any applicable Law, and (2) no Prohibited Healthcare Provider (defined below) may purchase, lease, occupy, manage, or control (either directly or indirectly) any portion of the Property, except to the extent required by any applicable Law.
 - (i) "**Healthcare Services**" means diagnostic, therapeutic, rehabilitative, laboratory, respiratory therapy, physician therapy, or other medical or health-related services, whether office or clinical, whether in-patient or out-patient, by or under the supervision of physicians (or any affiliated provider), dentists, medical personnel, or other health care providers.
 - (ii) "**Prohibited Healthcare Use**" shall mean Healthcare Services that duplicate or compete with those provided by Tenant, including without limitation: (i) surgical services of any kind (inpatient or outpatient, including surgical centers); (ii) imaging services of any kind (inpatient or outpatient, including imaging centers and any radiology, radiographic, ultrasound, teleradiology, or x-ray services); (iii) birthing and cancer care services of any kind (inpatient or outpatient, including birthing centers); (iv) residential-care or other addiction-recovery or addiction treatment facilities (inpatient or outpatient); and (v) residential-care or other treatment facilities for troubled or "at-risk" youth (inpatient or outpatient).
 - (iii) "**Prohibited Healthcare Provider**" means, other than Tenant or any Tenant affiliate: (i) an acute care hospital provider or any subsidiary or affiliate of an acute care hospital provider; (ii) any organization or entity formed or existing for medically-related nonprofit or tax-exempt purposes; or (iii) a healthcare provider, physician, or physician group (or an entity controlled by a healthcare provider, physician, physician group), or any person engaged in, or any entity formed or existing for purposes of a Prohibited Healthcare Use.

5. Alterations.

- (a) Alterations by Landlord. Landlord may from time to time, make repairs, replacements, changes or additions to the structure, Building Systems, facilities and equipment in the Premises or Building, or to the interior or exterior of the Building, provided that such repairs, replacements, changes or additions do not adversely affect Tenant's rights or expenses under this Lease. Landlord shall use commercially reasonable efforts to complete such repairs, replacements, changes or additions in a prompt and efficient manner, and shall minimize any interference with Tenant's access or enjoyment of the Premises.
- (b) Alterations by Tenant. Tenant shall not make or allow any alterations, installations, additions or improvements (individually, an "**Alteration**" and collectively, "**Alterations**") in or to the Premises or the Building without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Tenant, without Landlord's consent, may install Alterations which are estimated to cost less than \$25,000.00, do not affect the Building's structural elements, and which are not visible from outside the Premises. Landlord's approval of plans for work performed by Landlord or Tenant shall create no responsibility or liability on the part of Landlord for their completeness, design, sufficiency or compliance with any local, state or federal Laws. All Alterations made to the Premises by Tenant, including without limitation, all walls and partitions, cabinets, plumbing, paneling, carpeting, draperies, and light fixtures, shall be deemed a part of the Premises and shall be surrendered with the Premises. Tenant shall not be required to remove any Alterations at the expiration or earlier termination of the Lease.
- (c) Contractors. All Alterations shall be performed in a good and workmanlike and first-class lien free manner, using new materials and in accordance with the plans and specifications submitted to and approved by Landlord as well as in accordance with all applicable local, state and federal Laws. All Alterations shall be performed by reputable and licensed contractors and subcontractors selected by Tenant, who shall perform and complete the proposed Alteration in a good and workmanlike lien free manner. All contractors and subcontractors performing the Alteration shall work in harmony with Landlord's contractors and subcontractors.
- (d) Liens. Tenant will keep the Premises and the Property free and clear of all liens arising out of any work performed, materials furnished or obligations incurred by Tenant. If any such lien attaches to the Premises or the Property, and Tenant does not cause the same to be released by payment, bonding or otherwise within thirty (30) days after the attachment thereof, Landlord, without waiving its rights and remedies hereunder, will have the right but not the obligation to cause the same to be released, and any sums expended by Landlord in connection therewith will be payable by Tenant within thirty (30) days of demand with interest thereon from the date of expenditure by Landlord of 10% per annum. The obligations of Tenant under this Section will survive the expiration or earlier termination of this Lease.
- (e) Trade Fixtures. Subject to the provisions of Section 6 and the foregoing provisions of this Section 5, Tenant may install and maintain any and all furnishings, fixtures, equipment, telecommunication, telephone, , or data lines, cables, wires, or conduits ("**Telecommunication Lines**"), antenna, or other equipment and related devices, associated with the transmission of data (either analog or digital) ("**Telecommunication Equipment**"), equipment and other trade fixtures in the Premises (collectively, "**Trade Fixtures**"). Landlord shall reasonably cooperate with Tenant's satellite or cable provider to ensure there is no delay in acquiring such services. Landlord shall use commercially reasonable efforts to ensure that any subsequent rooftop user does not impair Tenant's data transmission and reception and shall cooperate with Tenant in eliminating any interference caused by any other party using the roof. .
6. Compliance with Law. Both parties shall comply with any applicable local, state, and federal laws, ordinances, statutes, rules, regulations, executive orders, judgments, decrees, case law, and/or other determinations of an arbitrator or a court or other governmental authority, in each case applicable to or binding upon such person or any of its property or to which such person or any of its property is subject ("**Laws**") throughout the Term.

Landlord represents and warrants to Tenant that as of the Commencement Date the Premises, the Building and the parking areas are in compliance with all Laws, including, without limitation, applicable zoning Laws and with all applicable instruments affecting title to the Premises. Landlord further represents that it has received no notices or communications from any public authority having jurisdiction alleging violation of any Laws relating to the Premises, the Building, or the Common Areas and has received no notices alleging violation of any title instrument. Without limiting the generality of the foregoing, Landlord represents that (i) the use of the Premises and the Building and improvements thereon for the Permitted Use is permitted by and will not violate private restrictions or applicable Laws, including without limitation zoning Laws, and does not constitute a “non-conforming use” thereunder and (ii) the Premises, the Building, and Common Areas comply with all applicable Laws relating to handicapped accessibility, including, without limitation, the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. §§12101 et seq. (1990), as amended.

7. Medical Waste; Hazardous Substances.

- (a) Hazardous Substances. Tenant will not use or permit any Hazardous Substances (defined below) to be generated, brought onto, used, stored, or disposed of in or about the Premises, the Property or the Building by Tenant or its representatives, agents, employees or contractors (“**Tenant’s Representatives**”) or Tenant’s guests, customers, visitors, and invitees (“**Visitors**”) except for quantities of substances that are normally associated with the Permitted Use or which are otherwise approved in writing by Landlord. Tenant will use, store, transport and/or dispose of all such Hazardous Substances in strict compliance with all Environmental Laws (defined below), and will comply at all times during the Term with all Environmental Laws. “**Hazardous Substances**” means (i) any substance, the presence of which requires investigation, remediation, or other response or corrective action under Environmental Laws, (ii) any substance which is defined as a hazardous waste, hazardous substance, extremely hazardous substance, hazardous material, hazardous matter, hazardous chemical, toxic substance, toxic chemical, pollutant or contaminant, or other similar term, in or pursuant to Environmental Laws, or (iii) any asbestos or asbestos-containing material, PCBs or equipment or articles containing PCBs, petroleum, diesel fuel, gasoline or other petroleum hydrocarbons. “**Environmental Laws**” means all existing or hereafter enacted or amended federal, state or local laws, common law, statutes or regulations relating to Hazardous Substances.
- (b) Medical Waste. The removal, disposal, containment and destruction of all Medical Waste (as defined below) shall be the sole and singular responsibility of Tenant under all circumstances, and Medical Waste disposal shall not become the obligation of Landlord for any reason. Tenant shall contract for licensed and qualified services to handle and dispose of Medical Waste, which services shall comply with all applicable local, state and federal Laws. Tenant shall not permit undue accumulations of garbage, trash, rubbish or other refuse within the Premises and shall keep all refuse in proper containers until disposal of such refuse. Tenant shall not permit the mixing or disposal of any Medical Waste with the general office refuse and Landlord shall have no duty or obligation to remove any Medical Waste from the Premises. As used in this Lease, the term “**Medical Waste**” shall mean: (i) cultures and stocks of agents infectious to humans, and associated biologicals, including, but not limited to, cultures from medical laboratories, waste from the production of biologicals, discarded live and attenuated vaccines and culture dishes and devices used to transfer, inoculate and mix cultures; (ii) pathological wastes, including without limitation, tissue, organs and body fluids removed during medical procedures and specimens of body fluids and related containers; (iii) blood and body products such as discarded waste human blood and blood components (e.g. serum and plasma) and saturated material containing the same; (iv) medical devices or paraphernalia such as syringes, sutures, cotton swabs or pads, sponges, bandages, or wraps of any sort, or any other item which is utilized to treat any patient or other person for any medicinal, medical, diagnostic, or therapeutic reason or purpose; (v) any materials of any type or nature whatsoever that are radioactive to any degree, whether as the result of their manufacture, use, or application; (vi) any device, instrument or thing which has become infected, contaminated, diseased, or

otherwise exposed to harmful, contagious, or communicable organisms, bacteria, or other life form; and (vii) any virulent infectious wastes and materials, bandages, dressings, sharps, needles, syringes, lancets, human blood and blood products, bodily fluids, radioactive wastes, human tissues and any other medical wastes or by-products which pose risk of injury or disease to human beings.

- (c) Tenant Indemnity. Tenant shall indemnify, defend and hold Landlord harmless, from and against any and all claims, liabilities, penalties, fines, judgment, forfeitures, losses, costs (including clean-up costs) or expenses (including reasonable attorney's fees, consultant's fees and expert's fees) for the death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by (i) the presence after the Possession Date in, on, under or about the Premises of any Hazardous Substances caused by Tenant or its agents, servants, employees, guests, invitees or independent contractors; (ii) any discharge or release by Tenant or its agents, servants, employees, guests, invitees or independent contractors after the Possession Date in or from the Premises of any Hazardous Substances; (iii) Tenant's use, storage, transportation, generation, disposal, release or discharge after the Possession Date of Hazardous Substances to, in, on, under, about or from the Premises; or (iv) Tenant's failure to comply with any Environmental Laws.
- (d) Landlord Representations. Landlord represents and warrants to Tenant that (i) to the best of Landlord's knowledge, there is no Hazardous Substances in, on, under or about the Premises or Building or the land on which the Building is located, including without limitation asbestos or mold, and (ii) Landlord has received no notice from any governmental or private entity relating to Hazardous Substances in, on, under or about the Premises, Building or the land on which the Building is located. Landlord hereby covenants and agrees that if Tenant discovers mold at the Premises, Building or the land on which the Building is located attributable to the period on or prior to the Commencement Date or which has been caused by anything other than by the acts or omissions of Tenant or Tenant's agents, servants, employees, guests, invitees or independent contractors, Landlord shall, upon written notice from Tenant, promptly remediate the mold. If Landlord shall not commence such remediation within five (5) days following written notice from Tenant, and Tenant determines, in Tenant's sole discretion, that such remediation is necessary for the safety of Tenant's patients and employees, Tenant may, at its option, cause such remediation work to be performed, at Landlord's cost and expense. Upon the completion of the remediation work, Tenant shall furnish Landlord with a written statement of the cost of the remediation work, and Landlord shall reimburse Tenant for such cost of such remediation work within ten (10) days of Landlord's receipt of Tenant's statement. Should Landlord fail to reimburse Tenant within the ten (10) day period, then Tenant may, at its option, offset such amount against Rent. Notwithstanding the foregoing, in the event that the remediation work cannot be substantially completed or is not completed within sixty (60) days of Tenant's written notice of the mold to Landlord and Tenant, in Tenant's reasonable discretion, is unable to utilize the Premises, Tenant may elect, at its sole discretion to (i) terminate this Lease upon thirty (30) days' written notice to Landlord or (ii) receive two (2) days of Rent abatement for each day from the date Landlord received the mold notice until the date of substantial completion of the mold remediation.
- (e) Landlord Indemnity to the Extent Authorized by Law. Landlord shall indemnify, defend (by counsel reasonably acceptable to Tenant) and hold Tenant harmless, from and against any and all claims, liabilities, penalties, fines, judgment, forfeitures, losses, costs (including clean-up costs) or expenses (including reasonable attorney's fees, consultant's fees and expert's fees) for the death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by (a) the presence on or prior to the Commencement Date in, on, under or about the Premises, Building or the land on which the Building is located of any Hazardous Substances; (b) any discharge or release on or prior to the Commencement Date in or from the Premises or Building of any noxious or Hazardous Substances; (c) the use, storage, transportation, generation, disposal, release or discharge of Hazardous Substances by Landlord or its agents, servants, employees, guests, invitees, or

independent contractors to, in, on, under, about or from the Premises, Building or the land on which the Building is located; (d) Landlord's failure to comply with any Environmental Law; or (e) any Hazardous Substances to the extent not due to any act or omission of Tenant or its agents, servants, employees, guests, invitees or independent contractors. Landlord agrees to remediate, at Landlord's cost and expense, immediately upon receipt of notice from Tenant any condition described in (a) through (e) of the previous sentence. The indemnities set forth in this Section 7 shall survive termination or expiration of this Lease.

8. Common Areas.

- (a) License. Common Areas are defined below in section 10. Landlord grants Tenant a license, together with all other occupants of the Building and their agents, employees and invitees, to use the Common Areas during the Term, subject to all Laws, encumbrances and any covenants, conditions and restrictions applicable to the Property. Landlord, at Landlord's sole and exclusive discretion, may make commercially reasonable changes to the Common Areas so long as Landlord does not interfere with Tenant's business operations and so long as the Common Areas are continually operated in a manner commensurate with Comparable Buildings (defined in Section 9(a)). Landlord's rights regarding the Common Areas include, but are not limited to, the right to temporarily close any portion of the Common Areas: (1) for repairs, improvements or Alterations, (2) to discourage unauthorized use, or (3) to prevent dedication or prescriptive rights. Landlord will schedule and program all spaces within the Building, except the Premises, for recreation or community-related activities during the Term. Any programming in the Common Areas provided by the Tenant will be in accordance with the Landlord's normal scheduling process.
- (b) Maintenance. Subject to the terms and conditions of any encumbrances, Landlord will maintain and repair the Common Areas in a good, clean and presentable condition, with landscaped areas in a neat, thriving condition, reasonably free from ice and snow, adequately lighted when the Premises are open for business, and with proper facilities for drainage of surface water.

9. Maintenance and Repairs.

- (a) Landlord's Maintenance Obligations; Annual Closure. Landlord, at Landlord's sole cost and expense, shall maintain and repair the Building (including the Premises of the Therapy Space) in a safe and sanitary condition, reasonably comparable to medical buildings of similar design, age, size and location in the Grand Junction, CO market ("**Comparable Buildings**"), and in compliance with all Laws. Furthermore, Landlord shall, at its sole cost and expense, maintain and keep in good order and repair and promptly make any necessary replacements to the roof, roof membrane, roof covering and appurtenances, concrete slab, footings, foundation, all structural components, exterior walls, Common Areas, exterior doors and windows, flooring (including floor covering), and all Building Systems, including, but not limited to, all utility lines, sprinkler, HVAC, plumbing, and electrical systems of the Building. If Landlord performs any activity in the Building or the Common Areas potentially affecting Tenant or the Premises after the Commencement Date, Landlord will provide Tenant with reasonable prior notice of such activity. Tenant hereby requires, and Landlord acknowledges and agrees, that all entries by Landlord into the Premises must be accompanied by a representative of Tenant, except in emergency circumstances when it is not possible to have a Tenant representative present. Landlord reserves the right to close the Property for up to ten (10) consecutive dates once per year to allow for deep cleaning and maintenance (the "**Annual Closure**"). Landlord will provide Tenant with at least six (6) months' prior notice of the Annual Closure. During the Annual Closure, Tenant will have access to the Premises for deep cleaning and maintenance tasks, but the Premises must be closed to the public throughout the Annual Closure.

- (b) Tenant's Maintenance Obligations. Except for Landlord's obligations set forth above and except for any damage caused by the acts or negligence by Landlord or its agents, servants, employees, guests, invitees or contractors within the Premises, Tenant shall be responsible for any repair or maintenance occasioned by the negligence or willful misconduct of Tenant or Tenant's employees, agents or contractors. Any work on Tenant's signage or storefront that will require penetrations into the roof, exterior walls or concrete floor slabs shall not be commenced without the Landlord's prior consent, not to be unreasonably withheld, conditioned, or delayed.
- (c) Tenant's Self-Help. Notwithstanding the provisions of this Section 9, if Landlord shall not commence repairs or make necessary replacements within seven (7) days following written notice from Tenant that such repairs or replacements are necessary, or within three (3) days following written notice from Tenant of roof leaks or other water damage or leaks, then Tenant may, at its option, cause such Landlord's repairs or replacements to be made and shall furnish Landlord with a statement of the cost of such repairs or replacements upon substantial completion thereof. However, in the event of an emergency condition within the Premises that threatens to cause imminent harm to persons or property, Tenant shall only be required to give Landlord twenty-four (24) hours' notice under the circumstances before performing repairs or maintenance that Landlord is obligated to make. Landlord shall reimburse Tenant for the cost of such repairs or replacements plus a service charge to cover Tenant's expenses in an amount equal to ten percent (10%) of the cost of such repairs or replacements within ten (10) days of the date of the statement from Tenant setting forth the amount due; provided, however, should Landlord fail to reimburse Tenant within the ten (10) day period, then Tenant may, at its option, offset such amount against subsequent Rent due under this Lease.

10. Utilities and Services.

- (a) Description of Services. Landlord shall provide the Building (including the Premises) and all parking areas, access roads, driveways, entrances and exits, retaining walls, exterior facilities, landscaped areas, roads and pathways, common utility lines, storm water system, accommodation areas such as sidewalks, grass plots, ornamental planting, direction signs, and the like (collectively, the "**Common Areas**"), with all utilities, including water, sewage, electricity, gas and other utilities used in connection with the operation of the Building, as reasonably necessary for the uses permitted under this Lease (except to the extent any utilities are separately metered to the Premises, which Tenant shall directly obtain from the appropriate provider), all services, including but not limited to, janitorial and cleaning services (but for medical, hazardous, special and infectious waste removal including the maintenance and storage thereof which Tenant shall obtain directly from its provider), televisions satellite or cable service (but not any data, telephone, communication lines, hardware and related services which Tenant shall obtain directly from its provider), snow and ice removal, landscaping and maintenance as provided in Section 9(a) above. During normal business hours, Landlord shall supply (i) electrical services for lighting and equipment customarily used in a medical office facility, (ii) elevator service, if any (iii) hot and cold water for use in Building standard lavatories and building standard sinks in exam rooms and procedure rooms and (iv) a fire suppression system. Landlord shall supply the foregoing services and utilities in quantities consistent with Comparable Buildings. Tenant agrees to pay directly all separately metered utilities, if any, used by Tenant in the Premises. Tenant shall be solely responsible for and shall promptly pay all charges for telephone and other communication services.
- (b) Excess Use. Tenant shall have access to the Premises 24 hours a day, 7 days per week, and 52 weeks per year (other than the Annual Closure). However, public access will be limited to Normal Business Hours, and Tenant shall be responsible for charges associated with Tenant's Excess Usage. "**Excess Usage**" shall mean usage of Building services, including but not limited to utilities and HVAC, outside Normal Business Hours or in excess of the amount of such services that Landlord reasonably determines to be typical for the Building. "**Normal Business Hours**" means 5:45 a.m. to 8:00 p.m. Monday through

Friday, 8:00 a.m. to 6:00 p.m. Saturday, 10:00 a.m. to 4:00 p.m. Sundays, excluding federal holidays which for purposes of this Lease shall mean New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. If the use of equipment outside Normal Business Hours, or the anticipated use of the Premises, will result in Excess Usage on a sustained basis, then Landlord may install, at Tenant's expense, such special equipment as may reasonably be required to accommodate or monitor such Excess Usage. With respect to Excess Usage that is not measured by a submeter (such as, for example, use of HVAC outside Normal Business Hours) Tenant shall pay Landlord an hourly fee in such amount as Landlord shall reasonably charge from time to time, which hourly fee shall be based on the estimated costs to Landlord of providing for such Excess Usage. Tenant shall pay for all Excess Usage during the Term, as invoiced by Landlord from time to time. All invoices for Excess Usage shall be due and payable within thirty (30) days from receipt. If Landlord furnishes Tenant with services or utilities in quantities in excess of those normally provided in the Building by Landlord, Tenant shall pay Landlord Additional Rent for such additional usage, at rates established by Landlord from time to time. Such amount shall be paid by Tenant within ten (10) days after receipt of a statement from Landlord for such services. Tenant shall pay for installation, maintenance and operation of a "check meter" on the Premises to ascertain its consumption of electricity if Landlord so requests, and will pay charges for the actual consumption shown thereon at Landlord's cost, within ten (10) days after receipt of a statement from Landlord.

- (c) Interruption of Services. Landlord may temporarily discontinue any services at such times as may be necessary or advisable for purposes of maintenance, repair, replacement, testing or examination. Landlord shall provide Tenant as much advance notice of service interruptions as is reasonably possible under the circumstances, and shall use reasonable efforts to both minimize disruption caused by scheduled service interruptions and where practicable to cause such scheduled service interruptions to occur outside of Normal Business Hours. If Landlord discontinues or is unable to provide the services which it is obligated to provide hereunder for reasons within Landlord's control, and the interruption of such services renders the Premises uninhabitable or unusable for the Permitted Use for a period of five (5) or more consecutive business days, the Base Rent shall be completely abated from the start of Tenant's inability to use such services and thereafter until the services are restored. Landlord shall not be required to supply backup or emergency power for Building Systems or Tenant's equipment. "**Building Systems**" means heating, ventilation, air conditioning, fire protection and life safety systems, power panels, electrical distribution systems, plumbing, gas distribution systems, lighting fixtures, and telecommunications wiring, conduit and equipment, other than those that serve the Premises exclusively and no other portion of the Building.
- (d) Emergency. If Landlord is unable or unwilling to take action which it is obligated to take under this Section 10 where an emergency has occurred with respect to the Premises, then Tenant may take such action as is reasonably necessary to protect the Premises and persons or property in the Premises and the Landlord shall, within fifteen (15) days after written notice thereof from Tenant reimburse Tenant for its reasonable out-of-pocket expenses incurred in curing such emergency; provided, however, should Landlord fail to reimburse Tenant within the fifteen (15) day period, the Tenant may, at its option, offset such amount against Rent due under this Lease.

11. Indemnification.

- (a) Indemnification. Tenant agrees to indemnify, hold harmless, and defend (collectively "indemnify" or "indemnification" or similar term as the context so requires) the Landlord and their respective officers, directors, representatives, agents, employees, and contractors from and against any and all damages, demands, costs, fines, penalties, losses, liabilities, claims, causes of action, government action/assessments, proceedings, lawsuits, and expenses, including reasonable attorneys' fees, costs and expenses reasonably incurred by the Landlord only in connection with, related to, or arising out of the

act or neglect of the Tenant, or its agents, servants or employees. This indemnification obligation does not pertain to any claim resulting from the negligent action or omission of the Landlord. Landlord shall indemnify, hold harmless, and defend Tenant and their respective officers, directors, representatives, agents, employees and contractors from and against any and all damages, demands, costs, fines, penalties, losses, liabilities, claims, causes of action, government action/assessments, proceedings, lawsuits, and expenses, including reasonable attorneys' fees, costs and expenses reasonably incurred by the Tenant only in connection with, related to, or arising out of the act or neglect of the Landlord, or its agents, servants or employees. This indemnification obligation does not pertain to any claim resulting from the negligent action or omission of the Tenant. Nothing in the Agreement shall be construed as waiving Landlord's use/protections of the Colorado Governmental Immunity Act.

- (b) The indemnities in this clause shall survive the expiration or earlier termination of the Lease.
- (c) Miscellaneous. The obligations of the parties under this Section 11: (i) are independent of, and will not be limited by, each other or any insurance obligations set forth in this Lease or comparative negligence statutes or principles or damages or benefits payable under workers compensation or other employee benefit acts, and (ii) will survive the expiration or earlier termination of this Lease until such time as all related Claims against the benefited parties are fully and finally barred by applicable Laws. All applicable Laws affecting the validity or enforceability of any portion of the waivers, releases and indemnities contained in this Section 11 are made a part of this Section 11, and will operate to amend such obligations to the minimum extent necessary to bring the provisions into conformity with applicable Laws and cause the provisions, as modified, to continue in full force and effect.

12. Insurance.

(a) Tenant's Insurance.

- (i) Tenant will maintain in full force throughout the Term, the following minimum insurance coverage:
 - (1) Commercial general liability insurance providing coverage on an occurrence basis with limits of not less than One Million Dollars (\$1,000,000.00) each occurrence for bodily injury and property damage combined, Three Million Dollars (\$3,000,000.00) annual general aggregate.
 - (2) Property insurance on an "all-perils" basis covering Tenant's equipment, furniture, furnishings and personal property from time to time installed or placed in, on or upon the Premises, by or for Tenant (to the extent not covered under any property insurance maintained with respect to the Building by Landlord), in an amount not less than the actual cash value.
 - (3) Workers' Compensation Insurance as required by Law for all of its employees who work at or visit the Premises and Employers Liability Insurance
 - (4) Tenant shall ensure that its contractors will carry appropriate insurance coverage to cover any risks related to the contractor's acts, errors, and omissions in performing the work.
- (ii) Notwithstanding anything to the contrary in this Lease, Tenant may, at its option, satisfy all or any part of the insurance requirements in this Lease through Tenant's self-insurance and risk management program. Any insurance requirements in this Lease are hereby deemed modified as

applicable and to the extent reasonably required in order to comply with such self-insurance practices and applicable Laws and regulations.

- (b) Landlord's Insurance. During the Term, Landlord shall procure and maintain in full force and effect with respect to the Building, Common Areas and the land on which the Building is located (i) a policy or policies of property insurance (including, to the extent required, sprinkler leakage, vandalism and malicious mischief coverage, and any other endorsements required by the holder of any fee or leasehold mortgage and earthquake, terrorism and flood insurance to the extent Landlord reasonably deems prudent and/or to the extent required by any mortgagee) for full replacement value at the time of the loss, but in no event less than coverage as is required to avoid coinsurance provisions; (ii) a policy of commercial liability insurance in a minimum amount of \$1,000,000.00 per claim and \$3,000,000.00 in the aggregate for both bodily injury and property damage insuring Landlord's activities with respect to the Premises and the Building for loss, damage or liability for personal injury or death of any person or loss or damage to property occurring in, upon or about the Premises or the Building; and (iii) Worker's compensation insurance in compliance with statutory and federal Laws and requirements of hiring and working states with Employers Liability coverage with limits of One Million Dollars (\$1,000,000.00) Bodily Injury by Accident (each accident), by Disease (each employee) and by Disease (policy limit). The minimum limits of policies of insurance required of Landlord under this Lease in no event limits the liability of Landlord under this Lease. All insurance policies must be issued by an insurance company having jurisdictional authority with an A.M. Best rating of not less than A-, VII. Landlord must deliver certificates of insurance to Tenant on or before the Commencement Date and annually thereafter within fifteen (15) days after the renewal or replacement of such policies. If Landlord fails to procure insurance, or to deliver certificates of insurance, then Tenant may, at its option, procure insurance policies for the account of Landlord, but only for the period of non-compliance, and the cost thereof must be paid by Landlord to Tenant within thirty (30) days after delivery of evidence of the cost of the policy.
- (c) Property Insurance - Waiver of Subrogation. Landlord and Tenant each waive any right of recovery against the other(s) and the partners, members, shareholders, officers, directors and authorized representatives of the other for any loss or damage that is covered by any policy of property insurance maintained by either party (or required by this Lease to be maintained) with respect to the Premises or the Building or any operation therein. If any such policy of insurance relating to this Lease or to the Premises or the Building does not permit the foregoing waiver or if the coverage under any such policy would be invalidated as a result of such waiver, the party maintaining such policy will obtain from the insurer under such policy a waiver of all right of recovery by way of subrogation against either party in connection with any claim, loss or damage covered by such policy.]

13. Damage or Destruction.

- (a) Landlord's Duty to Repair.
- (i) If all or a substantial part of the Premises are rendered untenantable or inaccessible by damage to any part of the Property from fire or other casualty then, unless either party is entitled to and elects to terminate this Lease pursuant to Section 13(c) and Section 13(d), Landlord will, at its expense, use commercially reasonable efforts to repair and restore the Premises and/or the Building, as the case may be, to substantially their former condition to the extent permitted by then applicable Laws.
- (ii) If Landlord is required or elects to repair damage to the Premises and/or the Building, this Lease will continue in effect. If Tenant is prevented from using any portion of the Premises by reason of such damage or its repair or due to damage to any fixtures or equipment within the Premises,

Rent will abate during the period Tenant is unable to use the Premises commencing on the date of damage and continuing until restoration is complete.

- (b) Tenant's Duty to Repair. If any Alterations, Improvements, Trade Fixtures or Tenant's goods, inventory or personal property is damaged or destroyed, Tenant will repair and/or replace such damaged items as soon as possible after the restoration of the Premises, and will comply with all applicable Laws.
- (c) Landlord's Right to Terminate. Landlord may elect to terminate this Lease following damage by fire or other casualty under the following circumstances:
 - (i) If, in the reasonable judgment of Landlord, the Premises and the Building cannot be substantially repaired and restored under applicable Laws within 180 days from the date of the casualty; or
 - (ii) If the fire or other casualty occurs during the last year of the Term.

If any of the circumstances described in subsections (i) or (ii) of this Section 13(c) occur or arise, Landlord will notify Tenant in writing of that fact within thirty (30) days after the date of the casualty and in such notice Landlord will also advise Tenant whether Landlord has elected to terminate this Lease as provided above; provided, however, Landlord will provide such notice to Tenant within sixty (60) days if the damage to the Building is not structural in nature and concerns less than 25% of the Building. If Landlord elects not to terminate this Lease, Landlord will specify in such notice the estimated completion date of the restoration of the Premises and/or the Building. Tenant acknowledges and agrees that any estimate of the completion date to repair and restore the Premises and Building are an estimate subject to force majeure.

- (d) Tenant's Right to Terminate. If all or a substantial part of the Premises are rendered untenable or inaccessible by damage to all or any part of the Property from fire or other casualty, then Tenant may elect to terminate this Lease under the following circumstances:
 - (i) Where Landlord fails to commence the required repairs within sixty (60) days after the date of the casualty, in which event Tenant may elect to terminate this Lease upon notice to Landlord given within ten (10) days after such 60-day period; or
 - (ii) If the estimated completion date of the restoration of the Premises is in excess of 180 days from the date of the casualty unless otherwise agreed to by the parties, in which event Tenant may elect to terminate this Lease by giving Landlord notice of such election to terminate within ten (10) days after Landlord's notice to Tenant pursuant to Section 13(c).
14. Condemnation. If the Premises, or any portion thereof, are taken by condemnation (including, without limitation, a permanent taking or a voluntary sale under the threat of condemnation), this Lease will terminate as of the earlier of the date that title to the property taken is vested in the public or quasi-public authority, private corporation or individual having the power of condemnation (the "**Condemnor**") or the date the Condemnor has the right to possession of the property being condemned (the "**Date of Condemnation**") as to that portion of the Premises that is taken. If the portion of the Premises remaining after the condemnation is unsuitable for Tenant's continued use as reasonably determined by Tenant, then Tenant may terminate this Lease upon 30 days' written notice to Landlord after the Date of Condemnation. If the entire Premises is not taken and the Lease is not terminated by Tenant as provided in this Lease, this Lease will remain in effect and Landlord will diligently proceed to repair and restore the Premises; provided, however, that Landlord's obligations to so repair and restore will be limited to the amount of any compensation, sums, or anything of value awarded, paid or received on a total or partial condemnation (collectively, "**Award**") received by Landlord. Landlord will not be obligated to repair or replace any Alterations, Improvements, Trade Fixtures, or Tenant's goods, inventory or personal property. From and after the Date of Condemnation, Tenant will not

be obligated to pay any Rent applicable to such portion of the Premises taken based upon the percentage of RSF in the Premises so taken from and after the Date of Condemnation. Tenant may pursue an award for Tenant's moving costs and other costs incurred from any such condemnation.

15. Assignment and Subletting.

- (a) Transfer by Tenant. Except for a Permitted Transfer (as defined below), Tenant shall not assign this Lease, or sublet the Premises, or any part thereof, without Landlord's prior written consent which consent shall not be unreasonably withheld, conditioned or delayed. Any denial by Landlord of such sublease or assignment by Tenant must be predicated upon a commercially reasonable basis for such denial. Prior to any sublease or assignment, Tenant shall first notify Landlord in writing of its election to sublease all or a portion of the Premises or to assign this Lease or any interest hereunder. At any time within ten (10) days after service of such notice, Landlord shall notify Tenant that it consents or refuses to consent to the sublease or assignment. A failure by Landlord to respond within such 10-day period shall be deemed to be a consent. Notwithstanding the foregoing, Tenant may assign, sublet or otherwise transfer (by operation of law or otherwise) this Lease or any of its rights hereunder without Landlord's consent to: (i) any person, corporation, partnership or other entity which acquires all or substantially all of the business or assets of Tenant or equity in Tenant; (ii) any person, corporation, partnership or other entity which controls, is controlled by or is under common control with Tenant; (iii) any affiliate (within the meaning of such term as set forth in Rule 501 of Regulation D under the Federal Securities Act of 1933, as amended) of Tenant; or (iv) any physician, person, corporation, partnership or other entity subleasing a portion of the Premises for purposes consistent with Tenant's Permitted Use (each a "**Permitted Transfer**"). No assignment, sublease or other transfer, in whole or in part, of any Tenant's rights or obligations under this Lease (other than a Permitted Transfer) shall release Tenant hereunder and Tenant shall remain responsible for performing Tenant's obligations hereunder should Tenant's assignee, subtenant or transferee fail to perform any such obligations, unless specifically provided otherwise by Landlord in writing.
- (b) Sale of Building / Transfer by Landlord. Upon Landlord's transfer of interest in the Building and the Premises (the "**Sale**"), Landlord shall be released from all liability to Tenant and Tenant's successors and assigns arising from this Lease because of any act, occurrence or omission of Landlord occurring after such Sale, and Tenant shall look solely to Landlord's successor in connection with the same; provided, however, that Landlord shall not be released from liability to Tenant and Tenant's successors and assigns from its obligations under this Lease because of any act, occurrence or omission of Landlord occurring prior to such Sale or for any offsets due Tenant under this Lease in the event the successor in interest is a mortgagee which has not assumed liability for offsets, unless such liability is expressly assumed by Landlord's successor-in-interest in the Building and Premises. Within 30 days prior to the effective date of a Sale, Landlord shall notify Tenant whether Landlord's successor-in-interest and assignee to this Lease would or would not be a Referral Source as described in Section 23 below.

16. Default and Remedies.

- (a) Tenant Default. The following shall constitute an event of default (an "**Event of Default**") of Tenant hereunder: (i) Tenant's failure to perform or observe any obligation or covenant of Tenant hereunder for a period of thirty (30) days after notice, except that if such obligation cannot reasonably be performed within such period, Tenant shall not be in default if it shall commence such performance within such period and shall thereafter pursue the same with diligence to completion within such time as is reasonably necessary to cure such default; (ii) If this Lease or the Premises or any part thereof shall be taken upon execution or by other process of law directed against Tenant, or shall be taken upon or subject to any attachment at the instance of any creditor of or claimant against Tenant, and such attachment shall not be discharged or disposed of within sixty (60) days after the levy thereof; and (iii) If Tenant shall (a)

make an assignment of all or a substantial part of its property for the benefit of creditors, (b) a receiver is appointed for Tenant and such receiver is not dismissed within sixty (60) days of its appointment; or (c) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization under any bankruptcy or insolvency law or an arrangement with creditors, or take advantage of any insolvency law or file an answer admitting the material allegations of a petition filed against Tenant (or such guarantor) in any bankruptcy, reorganization or insolvency proceedings (provided Tenant shall have ninety (90) calendar days to stay any involuntary proceeding).

- (b) Landlord's Remedies. In case of an Event of Default, Landlord shall have the following rights and remedies, in addition to all other remedies at law or equity:
- (i) Landlord shall have the right to terminate this Lease upon written notice to Tenant and Tenant shall pay Landlord's commercially reasonable estimate of the aggregate expenses of reletting the Premises (which expenses shall include, without limitation, brokerage fees, leasing commissions and tenant concessions incurred or estimated to be incurred by Landlord and costs of removing and storing Tenant's or any other occupant's property, repairing, altering, remodeling or otherwise putting the Premises into condition acceptable to a new tenant or tenants, and all reasonable expenses incurred by Landlord in pursuing its remedies, including reasonable attorneys' fees and court costs (collectively, "**Reletting Costs**")); or
 - (ii) Proceed for past due installments of Rent, reserving its right to proceed to collect the remaining installments when due; or
 - (iii) If Tenant shall default in making any payment required to be made by Tenant or shall default in performing any other obligations of Tenant hereunder, Landlord may, but shall not be obligated to, make such payment or, on behalf of Tenant, expend such sum as may be necessary to perform such obligation (other than payments of Base Rent). All sums so expended by Landlord, with interest thereon at the Interest Rate from the date of such expenditure shall be Additional Rent, and shall be repaid by Tenant to Landlord on demand. No such payment of expenditure by Landlord shall be deemed a waiver of Tenant's default nor shall it affect any other remedy of Landlord by reason of such default; or

Declare the rights of Tenant under this Lease terminated and, thereafter, recover possession of the Premises through legal process.

- (c) Landlord's Default and Tenant's Remedies. Subject to the terms and provisions below, and in addition to any other remedy expressly available to Tenant pursuant to this Lease or at law or in equity, should Landlord fail to perform any term or covenant under this Lease or any other existing agreement between Landlord and Tenant, its parent company, subsidiaries or affiliates (each and any such failure, a "**Landlord Default**") and if any such Landlord Default is not cured and continues for thirty (30) days (unless a shorter notice and cure period is expressly provided herein, in which case such shorter period shall govern) following written notice by Tenant to Landlord of such Landlord Default (unless such default is not reasonably capable of being cured within such expressed period and Landlord is diligently prosecuting such cure to completion), then Tenant shall have the option, (at Tenant's sole discretion), of (i) terminating this Lease, (ii) abating or withholding Rent, or (iii) remedying such Landlord Default and, in connection therewith, incurring expenses for the account of Landlord. Any and all such sums expended or obligations incurred by Tenant in connection therewith shall be paid by Landlord to Tenant upon demand, and if Landlord fails to immediately reimburse and pay same to Tenant, Tenant may, in addition to any other right or remedy that Tenant may have under this Lease, deduct such amount (together with interest thereon at the maximum rate permitted by applicable Law from the date of any such expenditure by Tenant until the date of repayment thereof by Landlord to Tenant) from subsequent

installments of Rent that from time to time become due and payable by Tenant to Landlord hereunder. In all events Tenant shall have the right to remedy any Landlord Default without prior notice in the event of an emergency (so long as Tenant gives notice within a reasonable period of time thereafter) and invoice Landlord and abate Rent in the manner set forth in the preceding sentences of this Section 16(c).

- (d) Waiver of Liens. Notwithstanding any provision contained herein to the contrary, Landlord shall not have and hereby waives any statutory, constitutional or other liens, security interests or claims against the assets or property of Tenant, and Tenant may remove such items from the Premises at any time.
 - (e) Remedies Cumulative. Each right and remedy in this Lease will be cumulative and will be in addition to every other right or remedy in this Lease or existing at law or in equity or by statute or otherwise, including, without limitation, suits for injunctive relief and specific performance. The exercise or beginning of the exercise by a party of any right or remedy will not preclude the simultaneous or later exercise by a party of any other rights or remedies. All rights and remedies hereunder are cumulative and nonexclusive.
 - (f) Waiver of Certain Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS LEASE, LANDLORD AND TENANT RELEASE EACH OTHER FROM ALL CLAIMS FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES EVEN IF SUCH DAMAGES ARE CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR STRICT LIABILITY OF THE RELEASED PARTY.
17. Waiver. No failure by either party to enforce or exercise any right under this Lease will constitute a waiver. Landlord's or Tenant's consent to or approval of any act requiring Landlord's or Tenant's consent or approval will not be deemed to waive or render unnecessary Landlord's or Tenant's consent to or approval of any subsequent act.
18. Entry, Inspection and Closure. Upon 48 hours' prior notice to Tenant (and without notice in emergencies), Landlord and its authorized representatives may enter the Premises at all reasonable times to perform any maintenance, repair or structural enhancement of the Premises or the Building that Landlord has the right or obligation to perform. Landlord will conduct its activities under this Section in a manner that will minimize inconvenience to Tenant.
19. Surrender and Holding Over.
- (a) Surrender. Upon the expiration of the Term or termination of this Lease for any other reason, Tenant will surrender the Premises to Landlord broom-clean and in good condition, except for reasonable wear and tear, damage from casualty or condemnation and any changes resulting from approved Alterations.
 - (b) Holding Over. Upon the expiration or earlier termination of this Lease, Tenant shall surrender possession of the Premises to Landlord pursuant to Section 19(a) hereof. If Tenant holds over after the expiration of the Term by lapse of time, with or without Landlord's consent, then Tenant shall be deemed to be a tenant from month-to-month, at a monthly Base Rent equal to the monthly Base Rent for the final month of such Term, and otherwise subject to all of the provisions and conditions of this Lease, including, but not limited to, those providing for Additional Rent. Either party may terminate such tenancy at the end of any month by giving at least thirty (30) days' prior written notice of such termination to the other party. In no event shall Tenant be liable for damages for any such holding over.
20. Encumbrances.

- (a) Subordination. Unless otherwise elected in writing by a mortgagee, this Lease is and shall be subject and subordinate to all deeds of trust, mortgages or other encumbrances now or hereafter encumbering the Building, (even if it encumbers other property as well) and all renewals, replacements, modifications, consolidations and extensions thereof. Such subordination shall automatically be effective without any action or notice by such mortgagee to Tenant provided the mortgagee recognizes the validity of this Lease and the mortgagee agrees that, notwithstanding any default by Landlord with respect to said mortgage or any termination or foreclosure thereof, Tenant's possession and right of use under this Lease and the rights of Tenant under this Lease in and to the Premises shall not be disturbed by such mortgagee unless and until an Event of Default shall have occurred hereunder. Notwithstanding such automatic subordination, Tenant covenants to execute and deliver, within thirty (30) days following request from Landlord, such commercially reasonable instrument or instruments of further assurance subordinating or evidencing the subordination of this Lease to any such deed of trust or mortgage as may be requested by Landlord or by any such beneficiary or mortgagee or proposed beneficiary or mortgagee, a form substantially similar to Exhibit E of this Lease.
- (b) Attornment. In the event any proceedings are brought for default under any ground or underlying lease or for the foreclosure of any mortgage, deed of trust, or other encumbrance to which this Lease is subject and subordinate, Tenant shall, upon request of the party succeeding to the interest of Landlord as a result of such proceedings, automatically attorn to and become Tenant of such successor-in-interest without change in the terms of this Lease. Tenant shall within thirty (30) days of request, execute and deliver any commercially reasonable instruments confirming such attornment.
- (c) Non-Disturbance. With respect to encumbrances entered into by Landlord after the execution of this Lease, Landlord will use commercially reasonable, good faith efforts to receive a non-disturbance agreement from any mortgagee at no cost to Tenant.
21. Estoppel Certificates. Each of Landlord and Tenant agrees at any time and from time to time upon not less than fifteen (15) business days' prior written request by the other to execute, acknowledge and deliver to the other an estoppel certificate certifying that (i) this Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications), (ii) the dates to which Base Rent and other charges have been paid in advance, if any, and (iii) current defaults of Landlord or Tenant hereunder, if any, (and if there are no defaults a statement to that effect), it being intended that any such estoppel certificate delivered pursuant to this Section 21 may be relied upon by any prospective purchaser of the Premises or any lienholder or assignee of any mortgage upon the fee or leasehold of the Premises or by any prospective assignee of this Lease or subtenant of the whole or any portion of the Premises and/or by other party interested in the Premises or any part thereof. Such estoppel shall be in form substantially similar to Exhibit F of this Lease.
22. Notices. All communications, consents, and other notices provided for in this Lease will be in writing and will be effective on the date sent by receipted hand delivery, confirmed facsimile or e-mail, nationally-recognized, overnight courier, or registered or certified mail, return receipt requested, postage prepaid, and addressed as set forth in the Lease Summary. Notices delivered personally will be effective immediately upon receipt (or refusal of delivery or receipt); notices sent by independent messenger or courier service will be effective one (1) day after acceptance by the independent service for delivery; notices sent by mail in accordance with this Section 22 will be effective 3 days after mailing. Either party may change its address for notices hereunder by a notice to the other party complying with this Section 22.
23. Regulatory Compliance.
- (a) Referral Source. Landlord represents and warrants to Tenant that Landlord is not a "referring physician" or a "referral source" as to Tenant for services paid for by Medicare or a state health care program, as

the terms are defined under any federal or state health care anti-referral or anti-kickback, regulation, interpretation or opinion (“**Referral Source**”). Landlord covenants, during the Term, it will not knowingly (i) take any action that would cause it to become a Referral Source as to Tenant, or (ii) sell, exchange or transfer the Premises to any individual or entity who is a Referral Source as to Tenant without complying with all other provisions of this Lease.

- (b) Excluded Provider. Each party represents and warrants that: (i) it is not currently excluded from participation in any federal health care program, as defined under 42 U.S.C. Section 1320a-7b; (ii) it is not currently excluded, debarred, suspended, or otherwise ineligible to participate in federal procurement and non-procurement programs; or (iii) it has not been convicted of a criminal offense that falls within the scope of 42 U.S.C. Section 1320a-7(a), but has not yet been excluded, debarred, suspended or otherwise declared ineligible (each, an “**Exclusion**”), and agrees to notify the other party within two business days of learning of any such Exclusion or any basis therefore. In the event of learning of such Exclusion, either party shall have the right to immediately terminate this Lease without further liability. Landlord agrees that Tenant may screen Landlord against applicable Exclusion databases on an annual basis. Sections 23(c) – 23(d) shall only apply if the Landlord is a referral source as defined by 42 C.F.R. Section 411.351 upon the Commencement Date, or becomes one during the Term of the Lease.
- (c) Violation of Laws. Landlord and Tenant agree that this Lease is intended to comply with all local, state and federal laws, including, but not limited to the Anti-Kickback Statute (42 U.S.C. Section 1320a-7b(b)) and the regulations promulgated thereunder, and the Ethics in Patient Referrals Act (42 U.S.C. Section 1395nn) (also known as “**Stark**”) and the regulations promulgated thereunder (collectively, the “**Health Care Laws**”). If Tenant believes, in good faith, that performance hereunder is, or presents a risk that it would result, in violation of the Health Care Laws or any other local, state and federal laws or if Tenant, in good faith, determines that performance hereunder is, or presents a risk that may be, inconsistent with Tenant’s tax-exempt status, the parties shall negotiate in good faith to revise this Lease in order to comply with the local, state and federal laws or maintenance of tax-exempt status, as the case may be. If the parties, in good faith, are unable to agree on any such amendment, or if it is not possible to amend the Lease to comply with the Health Care Laws, then Tenant may terminate this Lease by written notice to Landlord, which termination shall be effective on the date set forth in such notice.
- (d) Lease Terms. Landlord and Tenant each represent and warrant as follows:
- (i) Size of Premises. The size of the Premises does not exceed the amount of space which is reasonable and necessary for Tenant’s legitimate business purposes;
- (ii) Tenant’s Share. Tenant’s Share does not exceed Tenant’s pro-rata share of expenses for the Premises and Common Areas based upon the total square feet of the Building;
- (iii) Rental Charges. The Base Rent and other rental charges are (i) set in advance; (ii) are consistent with fair market value; (iii) do not take into account the volume or value of any referrals or other business generated between the parties, nor do they include any additional charges attributable to the proximity or convenience of Tenant or Landlord, as the case may be, as a potential referral source; and (iii) are commercially reasonable even if no referrals were made between Tenant and Landlord or their respective affiliates; and
- (iv) Exclusive Use of Premises. Tenant is to have exclusive use and possession of the Premises while this Lease is in effect, and that the Premises may not be shared with or used by Landlord or any person or entity related to Landlord; provided, nothing in this Section 23 shall be construed to limit Landlord’s obligation, or diminish Landlord’s ability, to provide services in accordance with the terms of this Lease, including services that by their nature require access to the Premises, or

to preclude Landlord's entry into the Premises for other purposes in accordance with the terms of this Lease.

- (e) Privacy Laws. Tenant agrees to reasonably safeguard "protected health information" as defined by the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Subparts A and E of Part 164 (the "**Privacy Standards**"), as promulgated by the Department of Health and Human Services pursuant to the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 ("**PHI**") from any intentional or unintentional disclosure in violation of the Privacy Standards by implementing appropriate administrative, technical and physical safeguards to protect the privacy of PHI. Tenant further agrees to implement appropriate administrative, technical and physical safeguards to limit incidental disclosures of PHI, including disclosures to Landlord, its subcontractors and agents. The parties agree that neither Landlord nor its contractors, subcontractors or agents shall need access to, nor shall they use or disclose, any PHI of Tenant. However, in the event PHI is disclosed to Landlord, its, contractors, subcontractors or agents, regardless as to whether the disclosure is inadvertent or otherwise, Landlord agrees to take reasonable steps to maintain, and to require its contractors, subcontractors and agents to maintain, the privacy and confidentiality of such PHI. The parties agree that the foregoing does not create, and is not intended to create, a "business associate" relationship between the parties as that term is defined by the Privacy Standards.
- (f) Executive Order. Each party represents and warrants to the other that (i) the representing party is not listed on the Specially Designated Nationals and Blocked Person List maintained by the Office of Foreign Asset Control, Department of the Treasury ("**OFAC**"), pursuant to the requirements of Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) (the "**Order**") or on any other lists of terrorist or terrorist organizations ("**Lists**") issued pursuant to the rules and regulations of OFAC or in any other enabling legislation or other Executive Orders in respect thereof (the Order and such other rules, regulations, legislation or orders are collectively called the "**Orders**"); (ii) the representing party is not and will not be engaged in any activities prohibited in the Orders; (iii) the representing party has not been convicted or pleaded *nolo contendere* to charges related to activity prohibited in the Orders; (iv) the representing party will not permit the Premises to be used for activities prohibited in the Orders nor permit the Premises to be occupied by any person on such Lists; and (v) the representing party has not pleaded *nolo contendere* to, or been convicted, indicted, arraigned, or custodially detained on, charges involving money laundering, predicate crimes to money laundering, or any violation of any Anti-Money Laundering Laws.
- (g) ERISA. Tenant and Landlord each represents and warrants that it is not and is not acting on behalf of (i) an "employee benefit plan" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), (ii) a "plan" within the meaning of Section 4975 of the Internal Revenue Code of 1986, as amended or (iii) an entity deemed to hold "plan assets" within the meaning of 29 C.F.R. § 2510.3-101 of any such employee benefit plan or plans.
- (h) Cooperation with Tenant's Cost Reporting Responsibilities. Landlord's full cooperation with applicable authorities in connection with cost reporting is essential for Tenant's continued operation of its business. Therefore, Landlord agrees to provide to Tenant, within thirty (30) days of Tenant's request, any and all information that is reasonably necessary for Tenant to fulfill its cost reporting requirements to such applicable authorities.

24. Title and Parking.

- (a) Title. Landlord hereby represents to Tenant that Landlord is the owner in fee simple of the Building, including the Premises and all improvements thereon and has the right and authority to enter into this Lease. Landlord hereby represents to Tenant that no covenants, restrictions, liens or other encumbrances

affecting the real property upon which the Building is constructed interfere with or adversely affect Tenant's Permitted Use of the Premises.

- (b) Parking. Tenant will have the right to use, commencing on the Commencement Date, up to the number of parking spaces set forth in the Lease Summary. Tenant will not be required to pay for the use of such parking. All reserved parking spaces will be in a mutually agreeable location not less than 300 feet from the main entry to the Premises. Landlord will provide signage for Tenant's reserved spaces in a mutually agreeable format at no cost to Tenant as a part of Landlord's Work.
25. Signage. Except for wall and office decorations, Tenant shall not paint, display, or affix any advertisement, sign, notice, lettering, or directions on the exterior of the Premises, or in the interior of the Premises which is visible from the outside of the Premises without Landlord's prior written consent or approval, which shall not be unreasonably withheld, conditioned or delayed. Prior to the Commencement Date, Landlord, at its cost and expense, shall install Tenant's name in the Building directory and at the entry to Tenant's suite. Tenant will be permitted to install signage on the exterior of the Building on the East side, subject to applicable Laws and Landlord's prior approval, which will not be unreasonably conditioned, withheld or delayed.
26. Attorneys' Fees. In any litigation or other proceeding relating to the breach of this Lease, the prevailing party will be entitled to recover its out-of-pocket costs and reasonable attorneys' fees.
27. Force Majeure. Any prevention, delay or stoppage ("**Force Majeure Delay**") caused by any reason beyond the reasonable control of a party, including, but not limited to, on-site casualty, strike, lockouts, labor disputes, governmental restriction or Laws adopted after the Effective Date, or failure of any governmental or quasi-governmental agency to issue any permits or licenses required hereunder, fire, earthquake, war, civil commotion, insurrection, riot, mob violence, sabotage, strike or lock-out or failure or disruption of utility services beyond the reasonable control by the party obligated to perform (each an "**Event of Force Majeure**" and collectively referred to as "**Events of Force Majeure**"), shall excuse the performance by such party for the amount of time the performing party is delayed in performing such obligation by any Event of Force Majeure; provided, however, in no event shall the financial inability of the performing party to perform its obligations under this Lease be deemed a Force Majeure Delay.
28. Quiet Possession. Subject to the terms of this Lease, Tenant will have the quiet possession of the Premises throughout the Term as against any persons or entities lawfully claiming by, through or under Landlord.
29. Rules and Regulations. Tenant will be bound by and will comply with reasonable rules promulgated by Landlord and provided in advance to Tenant. In the event of a conflict between any such rules and regulations and the other terms of this Lease, the other terms of this Lease shall prevail. Landlord shall enforce any such rules and regulations uniformly across the tenants of the Property in a nondiscriminatory manner.
30. Broker Fees and Similar Payments. Except as otherwise disclosed in the Lease Summary, Landlord and Tenant represent, on their own behalf, that neither Landlord nor Tenant has made any agreement to pay any brokerage fee, commission or similar payment in connection with the transaction contemplated by this Lease. Each of them will indemnify the other against and hold the other harmless from any claims for fees or commissions from anyone with whom either of them has consulted or negotiated with regard to the Lease, except the brokers listed in the Lease Summary. Tenant will pay any fees or commissions due to Tenant's broker pursuant to a separate agreement between Tenant and such brokers.
31. Miscellaneous.

- (a) This Lease contains the entire agreement and understanding between the parties relating to the subject matter of this Lease. The parties may amend this Lease only in a written document signed by both parties. No failure by either party to enforce or exercise any right under this Lease will constitute a waiver.
- (b) Unless otherwise expressly stated herein, whenever Landlord's consent is required under this Lease, such consent shall not be unreasonably withheld, conditioned or delayed, and Landlord's reasonable satisfaction shall be sufficient for any matters under this Lease.
- (c) Landlord and Tenant have the right, power, legal capacity, authority, and means to enter into and perform this Lease (as well as the documents referenced in this Lease) and, further, any individual(s) signing on behalf of such party have been duly authorized to do so.
- (d) The parties may sign this Lease in any number of counterparts, each of which when signed and delivered will be deemed an original, and all of which together will constitute one and the same instrument. The parties may sign and deliver this Lease by facsimile or other electronic means, such as e-mail. The exhibits attached to this Lease are incorporated by this reference.
- (e) If a provision of this Lease is invalid or unenforceable, then the remainder of this Lease will remain in full force and effect.
- (f) Colorado laws, excluding its conflict-of-law provisions, govern this Lease, and both parties submit to the exclusive jurisdiction of state and federal courts Colorado.
- (g) EACH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ALL RIGHTS IT MAY HAVE TO DEMAND TRIAL BY JURY FOR ANY ACTION OR PROCEEDING RELATED TO THIS LEASE.
- (h) Except as reasonably necessary to effect the transactions described in this Lease, including disclosure to third-party legal counsel and consultants, accountants, and advisors of Landlord or Tenant, as the case may be, the terms and conditions of this Lease are confidential and may not be disclosed to any person or entity without the prior written consent of the other party; provided that any inadvertent disclosure will not result in liability so long as the disclosing party takes reasonable steps, after the disclosure, to advise the recipient of the disclosure of the confidential nature of the disclosed information. The confidentiality obligations of this Lease are perpetual and survive this Lease's termination.

[Signatures on Following Page(s)]



DATED to be effective as of the date first written above.

LANDLORD:

City of Grand Junction

By: _____
Print Name: Anna Stout
Title: President of the City Council

Attest: _____
Printed Name: Amy Phillips
Title: City Clerk, City of Grand Junction

TENANT:

SCL Health Medical Group – Grand Junction, LLC, a
Colorado limited liability company

By: _____
Print Name: _____
Title: _____

Exhibit A

Depiction of the Premises and Property

See Attachment I and Attachment II

Exhibit B

Acceptance of Occupancy Agreement

TENANT: _____

LANDLORD: _____

BUILDING: _____

PREMISES: _____

EFFECTIVE DATE OF LEASE: _____

This Acceptance of Occupancy Agreement is executed by Tenant and Landlord pursuant to the provisions of the Lease referenced above. All terms capitalized but not defined herein shall have the respective meanings ascribed to them in the Lease.

1. Subject to Landlord’s representations and warranties in the Lease, Tenant acknowledges that it has inspected the Premises and finds same to be substantially complete and now suitable for Tenant’s permitted use. Tenant and Landlord hereby agree that all work done to the Premises is acceptable and that only work remaining to be done to the Premises, all of which is of a minor nature, is as follows (collectively, the “**Punch List**”):

Such Punch List is the responsibility of the [Tenant/Landlord] to complete. Said party hereby agrees to promptly undertake the completion of same. Tenant agrees that such work may be completed after it has taken occupancy, and the Term of the Lease has commenced or is to commence on the Commencement Date set forth in the Lease.

2. Tenant and Landlord hereby agree that the actual Commencement Date shall be _____ and that the Rent shall commence as of such date, and the Term shall expire on _____.

LANDLORD:

By: _____
 Print Name: _____
 Title: _____

TENANT:

By: _____
 Print Name: _____
 Title: _____

Exhibit C

Work Letter

This Work Letter Agreement (the “**Work Letter**”) sets forth the rights and obligations of the parties with respect to Landlord’s new build-to-suit construction of Premises (“**Landlord’s Work**”). The capitalized terms used herein shall have the same meanings as in the Lease, except as otherwise provided or defined herein. Landlord’s Work shall be performed at Landlord’s sole cost and expense (subject to Tenant’s Contribution, as defined below), in a good and workmanlike manner and in accordance with all applicable Laws. Landlord’s Work shall consist of: (i) the Base Building Work and (ii) the Premises Work.

1. Base Building Work and Premises Work. Landlord shall perform, or cause to be performed, construction of the Building shell and other improvements (or otherwise are required to obtain a permanent or temporary certificate of occupancy, or other applicable certification by the City of Grand Junction for Building shell completion) for the Building shell, in accordance with Attachment I of this Work Letter (the “**Base Building Work**”). Landlord shall also perform, or cause to be performed, the Premises Work in accordance with Attachment II of this Work Letter (the “**Premises Work**”). All of Landlord’s Work shall be completed in accordance with the Final Drawings (as determined and defined in Section 2 below)

2. Final Drawings. Landlord and Tenant each acknowledge their approval of Attachment II of this Lease (the “**Test-Fit**”). Landlord will cause its architect and engineer to prepare architectural and engineering plans and specifications (the “**Plans**”) for the Premises Work based upon the Test-Fit and shall present the Plans to Tenant for approval. Tenant shall notify Landlord within ten (10) business days after receipt of the Plans of its approval or disapproval thereof. If Tenant disapproves the Plans, Landlord shall revise the Plans and resubmit to Tenant for approval within five (5) business days after receipt of Tenant’s disapproval. This process shall continue until Landlord and Tenant mutually agree upon the Plans. The Plans, as revised (if revised), once they have been approved by Tenant, shall be the “**Final Drawings**”. Following approval of the Final Drawings, Landlord shall begin and diligently pursue completion of construction of Landlord’s Work in strict accordance with the Final Drawings.

3. Substantial Completion of Landlord’s Work. Landlord will notify Tenant when Landlord considers the Premises Work Substantially Complete (subject to minor punch-list items). The terms “**Substantial Completion**”, “**Substantially Complete**” and like variations thereof mean that (a) Landlord’s Work is complete, except for minor, insubstantial items or adjustments of work, i.e., punch-list items, which will not adversely affect Tenant’s use or occupancy of the Premises, and (b) Landlord has obtained all required permits and approvals from all applicable governmental authorities in connection with Landlord’s Work and that the Premises may be legally used and occupied by Tenant for the Permitted Use. Landlord’s representative and Tenant’s representative shall, within thirty (30) days thereafter, conduct a walk-through of the Premises and identify any necessary touch-up work, repairs and minor completion items that are necessary for final completion of Landlord’s Work. Landlord shall complete all punch-list items within thirty (30) days after agreement thereon. Landlord shall use commercially reasonable efforts to avoid interference with Tenant’s business during the performance of the punch-list items. Within said 30-day period, Landlord shall furnish to Tenant: (i) a coordinated set of “as built” drawings with regard to the Premises Work, (ii) instruction and operating manuals on all equipment and systems furnished to Tenant for Tenant’s use in the Premises, (iii) copies of all guarantees and warranties on equipment and materials furnished by all manufacturers and suppliers (Landlord hereby agreeing that all guarantees or warranties of equipment or materials furnished to Landlord shall be deemed to run to the benefit of Tenant) and (iv) copies of all related manufacturer’s instructions, related maintenance manuals, replacement lists, detailed drawings and any technical requirements necessary to operate and maintain such equipment and materials or needed to maintain the effectiveness of any warranties. If Landlord fails to complete the punch-list items in said 30-day period, Tenant may complete the same and offset Rent for Tenant’s out-of-pocket costs for such work.

4. Tenant's Contribution. Landlord's Work will be completed at Landlord's sole cost and expense. However, Tenant will reimburse Landlord \$1,554,000.00 ("**Tenant's Contribution**"). Tenant will submit Tenant's Contribution to Landlord no later than January 1, 2025. However, Tenant will not be required to submit Tenant's Contribution unless and until Landlord first submits the following to Tenant: (a) invoices for all work performed or materials supplied or pre-purchased which are intended to be paid by such disbursement, such invoices containing sufficient detail to enable Tenant to determine whether all work and materials included in such invoice have been completed or provided; and (b) certification by Landlord's contractor, certifying that all work and materials included in each request for disbursement have been completed in a good and workmanlike manner and in accordance with the Final Drawings; together with copies of partial or conditional lien waivers covering all work performed through the dates covered by such disbursement from Landlord's contractor; and unconditional lien waivers covering all work performed through the previous disbursement from any other parties who have served notices to Landlord with respect to the Premises.

5. Progress Reports. Landlord shall keep Tenant's representative informed of the progress and the estimated completion date for Landlord's Work. Landlord shall provide Tenant an update of the timeline for completion and any delays (including cause and timeline) at least once a month until Substantial Completion of Landlord's Work. The current construction timeline for Landlord's Work is included in this Exhibit as Attachment III. Tenant will have the right to hire its own project manager and Landlord shall coordinate the design development of the Plans and Final Drawings to complete the design of the Premises with such project manager. Tenant's construction consultants and shall also have access to Landlord's Work meetings and activities, in an oversight capacity, on behalf of Tenant.

6. Change Requests. No material changes or revisions to the Final Drawings may be made by either Landlord or Tenant unless approved in writing by both parties. Upon Tenant's request and submission by Tenant (at Tenant's sole cost and expense) of the necessary information and/or plans and specifications for any changes or revisions to the Final Drawings ("**Change Request(s)**") and Landlord's approval of such Change Request(s), which approval Landlord agrees will not be unreasonably withheld, delayed or conditioned, Landlord will perform the additional work associated with the approved Change Request(s), at Tenant's sole cost and expense. Landlord will include an estimate of any increase to the cost of Landlord's Work with Landlord's approval of the Change Request. If the Change Request will result in an increase to the cost of Landlord's Work, Tenant may value-engineer the Change Request to minimize such costs or withdraw its Change Request.

7. Tenant Delay. "**Tenant Delay**" means a delay in causing Landlord's Work to be Substantially Completed directly attributable to any of the following: (i) Tenant's failure to furnish any information, document or approval required to be furnished by Tenant to Landlord pursuant to this Exhibit on or before the applicable deadline set forth herein, or (ii) all other delays caused by Tenant which actually delay the completion of Landlord's Work. Each day of any such delays will correspond to one (1) day of Tenant Delay. Notwithstanding the forgoing, no such delay shall constitute a Tenant Delay unless Landlord has notified Tenant of such failure and Tenant has not cured such failure within two (2) business days after receipt of such notice.

8. Miscellaneous.

A. If any lack of compliance with applicable Laws with regard to the Property, Premises or its systems or any part thereof arises during construction and will delay or impact the construction of the Base Building Work or the Premises Work, in a material adverse way, Landlord shall promptly correct the same, at Landlord's sole expense.

B. In the performance of its obligations under this Work Letter, Landlord covenants that it shall be responsible for all labor, supervision, materials, fixtures, special facilities, built-ins, equipment, tools, supplies, taxes, occupancy permit and related inspections, and other property and services necessary to timely and properly produce all work and completed construction required or reasonably inferable from the Plans, and all work, services and

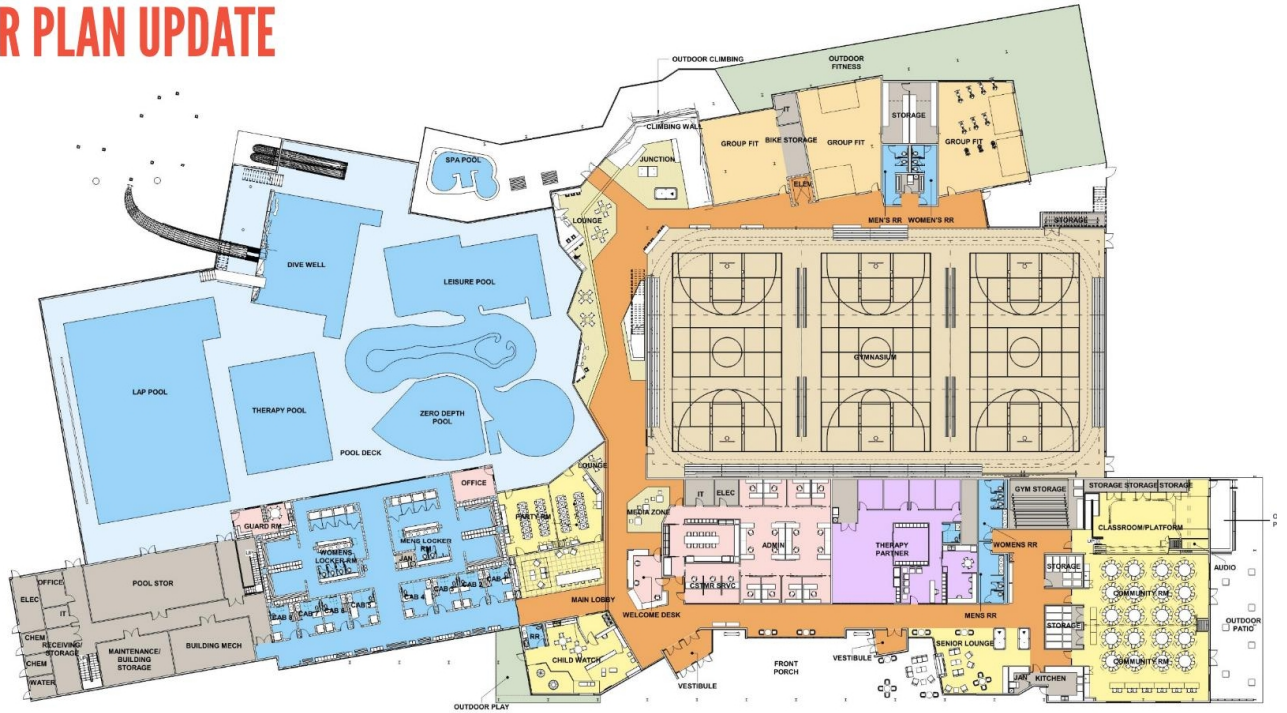
materials necessary to produce fully connected, complete, operational and functional systems and finishes in the Premises.

C. Landlord hereby represents, warrants and covenants to Tenant, that (i) no material deviations or changes shall have been made in connection with the Final Drawings without the prior written consent of Tenant; (ii) all of Landlord's Work shall have been completed using first quality workmanship and materials of good quality; and (iii) all of Landlord's Work shall be free from defects and deficiencies in materials and workmanship and are guaranteed against all defects and deficiencies and not to fail under ordinary usage. Any breach of the foregoing representations, warranties and covenants shall be promptly corrected and/or replaced, as the case may be, and fully remedied by Landlord, at Landlord's sole cost.

D. Prior to the Commencement Date, Tenant shall be allowed access to the Premises for the purposes of designing the Leasehold Improvement Work and inspecting the Landlord Work. In addition, prior to the Commencement Date, Tenant shall be allowed access to the Premises in order that Tenant may do other work as may be required by Tenant to make the Premises ready for Tenant's use and occupancy, such as the installation of telephones, computers, furniture, voice, trade fixtures, network closet, wireless access points, and medical equipment, equipment. Tenant agrees that any such entry into the Premises shall be deemed to be under all of the terms, covenants and provisions of the Lease, except as to the covenant to pay any Rent or any charges for utilities or services or other similar charges and, in any event, only to the extent such terms, covenants and provisions are applicable to Tenant's specific conduct during its access. Prior to such entry by Tenant or its contractors hereunder, Tenant shall have provided, and caused its applicable contractor to have provided, Landlord certificates of insurance evidencing the insurance Tenant is required to carry under the Lease.

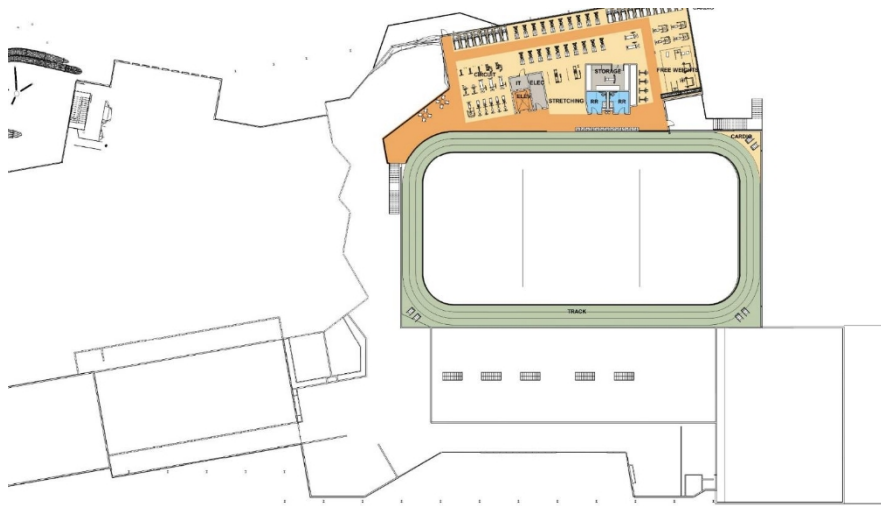
Attachment I
Base Building Work

FLOOR PLAN UPDATE



MAIN FLOOR PLAN

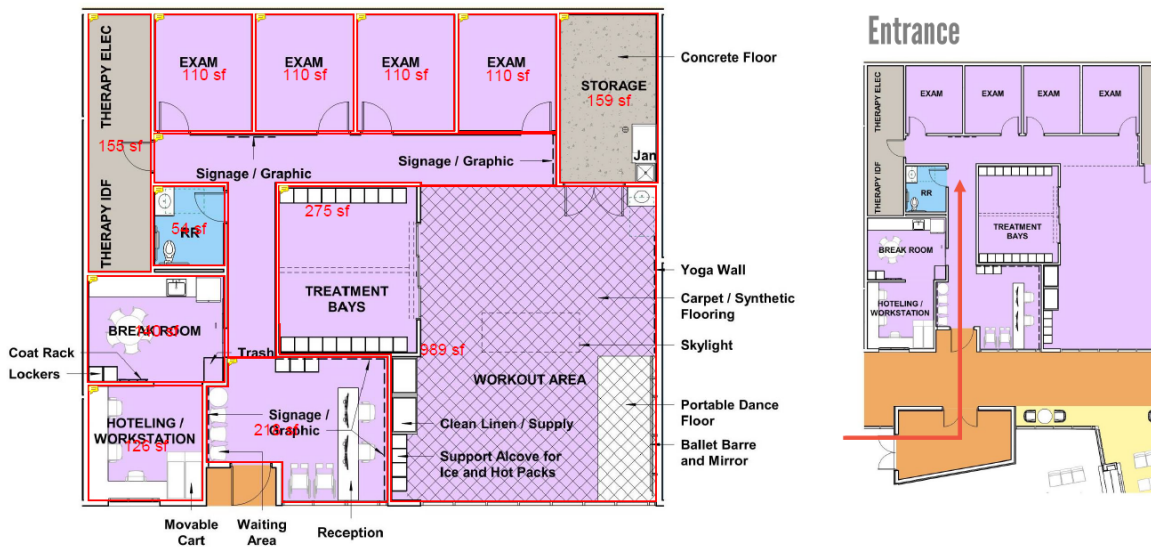
Lower Level



MEZZANINE FLOOR PLAN

**Attachment II
Premises Work**

PHYSICAL THERAPY



First Option Term:

Period	Yearly Base Rent	Monthly Base Rent	Rate/RSF/Year
Months 1-12	\$52.09	\$151,049.98	\$12,587.50
Months 13-24	\$53.39	\$154,826.23	\$12,902.19
Months 25-36	\$54.72	\$158,696.88	\$13,224.74
Months 37-48	\$56.09	\$162,664.30	\$13,555.36
Months 49-60	\$57.49	\$166,730.91	\$13,894.24

Second Option Term:

Period	Yearly Base Rent	Monthly Base Rent	Rate/RSF/Year
Months 1-12	\$58.93	\$170,899.18	\$14,241.60
Months 13-24	\$60.40	\$175,171.66	\$14,597.64
Months 25-36	\$61.91	\$179,550.95	\$14,962.58
Months 37-48	\$63.46	\$184,039.73	\$15,336.64
Months 49-60	\$65.05	\$188,640.72	\$15,720.06

Third Option Term:

Period	Yearly Base Rent	Monthly Base Rent	Rate/RSF/Year
Months 1-12	\$66.67	\$193,356.74	\$16,113.06
Months 13-24	\$68.34	\$198,190.66	\$16,515.89
Months 25-36	\$70.05	\$203,145.42	\$16,928.79
Months 37-48	\$71.80	\$208,224.06	\$17,352.01
Months 49-60	\$73.60	\$213,429.66	\$17,785.81

4. Prior to the commencement of each Option Term, if exercised, the parties shall execute an amendment to the Lease, which at a minimum must detail the extension of the Term.

Exhibit G

Form of SNDA

SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT AGREEMENT (this "Agreement") is entered into as of _____, 20__ (the "Effective Date"), between _____ (the "Mortgagee"), and _____ (the "Tenant").

WHEREAS, by Lease dated _____, _____ (hereinafter called the "Lease"), _____ (hereinafter called "Landlord") has leased to Tenant and Tenant has rented from Landlord the approximately _____ rentable square feet of leased premises ("Tenant's Premises") located within the _____ as more fully described on Exhibit A attached hereto and made a part hereof (such real property, including all buildings, improvements, structures and fixtures located thereon, "Landlord's Premises").

WHEREAS, Mortgagee has made a loan to Landlord in the original principal amount of \$_____ (the "Loan"); and

WHEREAS, To secure the Loan, Landlord has encumbered Landlord's Premises by entering into that certain Deed of Trust and Security Agreement dated _____, in favor of Mortgagee (as amended, increased, renewed, extended, spread, consolidated, severed, restated, or otherwise changed from time to time, the "Mortgage") recorded on _____, under Clerk's File No. _____, in the Official Public Records of Real Property of the County of _____, State of _____ (the "Land Records").

WHEREAS, Tenant desires that Mortgagee recognize Tenant's rights under the Lease in the event of foreclosure of Mortgagee's lien, and Tenant is willing to agree to attorn to the purchaser at such foreclosure if Mortgagee will recognize Tenant's right of possession under the Lease.

NOW, THEREFORE, for and in consideration of their respective covenants herein made and the receipt of other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Definitions.

The following terms shall have the following meanings for purposes of this Agreement.

1.1 *Foreclosure Event.* A "Foreclosure Event" means: (a) foreclosure under the Mortgage; (b) any other exercise by Mortgagee of rights and remedies (whether under the Mortgage or under applicable law, including bankruptcy law) as holder of the Loan and/or the Mortgage, as a result of which Successor Landlord becomes owner of Landlord's Premises; or (c) delivery by Landlord to Mortgagee (or its designee or nominee) of a deed or other conveyance of Landlord's interest in Landlord's Premises in lieu of any of the foregoing.

1.2 *Former Landlord.* A "Former Landlord" means Landlord and any other party that was landlord under the Lease at any time before the occurrence of any attornment under this Agreement.

1.3 *Offset Right.* An "Offset Right" means any right or alleged right of Tenant to any offset, defense (other than one arising from actual payment and performance, which payment and performance would bind a Successor Landlord pursuant to this Agreement), claim, counterclaim, reduction, deduction, or abatement against Tenant's payment of Rent or performance of Tenant's other obligations under the Lease, arising (whether under the Lease or other applicable law) from Landlord's breach or default under the Lease.

1.4. *Rent.* The "Rent" means any fixed rent, base rent or additional rent under the Lease.

1.5 *Successor Landlord.* A “Successor Landlord” means any party that becomes owner of Landlord’s Premises as the result of a Foreclosure Event.

1.6 *Termination Right.* A “Termination Right” means any right of Tenant to cancel or terminate the Lease or to claim a partial or total eviction arising (whether under the Lease or under applicable law) from Landlord’s breach or default under the Lease.

2. Subordination.

The Lease shall be, and shall at all times remain, subject and subordinate to the Mortgage, the lien imposed by the Mortgage, and all advances made under the Mortgage.

3. Non-disturbance, Recognition and Attornment.

3.1 *No Exercise of Mortgage Remedies Against Tenant.* So long as the Lease has not been terminated on account of Tenant’s default that has continued beyond applicable cure periods (an “Event of Default”), Mortgagee shall not name or join Tenant as a defendant in any exercise of Mortgagee’s rights and remedies arising upon a default under the Mortgage unless applicable law requires Tenant to be made a party thereto as a condition to proceeding against Landlord or prosecuting such rights and remedies. In the latter case, Mortgagee may join Tenant as a defendant in such action only for such purpose and not to terminate the Lease or otherwise adversely affect Tenant’s rights under the Lease or this Agreement in such action. If Mortgagee joins Tenant in such action, Landlord, by executing the Consent hereinafter set forth, agrees to indemnify, defend and hold Tenant harmless from and against any loss, cost or expense incurred or suffered by Tenant, including without limitation, legal fees, in being a party to or arising from such action.

3.2 *Non-disturbance and Attornment.* If the Lease has not been terminated on account of an Event of Default by Tenant, then, when Successor Landlord takes title to Landlord’s Premises: (a) Successor Landlord shall not terminate or disturb Tenant’s possession or quiet enjoyment of Tenant’s Premises under the Lease, except in accordance with the terms of the Lease; (b) Successor Landlord shall be bound to Tenant under all the terms and conditions of the Lease; (c) Tenant shall recognize and attorn to Successor Landlord as Tenant’s direct landlord under the Lease as affected by this Agreement; and (d) the Lease shall continue in full force and effect as a direct lease, in accordance with its terms, between Successor Landlord and Tenant.

3.3 *Further Documentation.* The provisions of Section 3 shall be effective and self-operative without any need for Successor Landlord or Tenant to execute any further documents. Tenant and Successor Landlord shall, however, confirm the provisions of Section 3 writing within ten (10) days following request by either of them.

3.4 *Consent to Lease.* Mortgagee hereby consents to the Lease and all of the terms and conditions thereof.

4. Protection of Successor Landlord.

Notwithstanding anything to the contrary in the Lease or the Mortgage, Successor Landlord shall not be liable for or bound by any of the following matters:

4.1 *Prepayments.* Any payment of Rent that Tenant may have made to Former Landlord more than thirty days before the date such Rent was first due and payable under the Lease with respect to any period after the date of attornment (unless such payments were actually delivered to Mortgagee) other than, and only to the extent that, the Lease expressly required such a prepayment.

4.2 *Payment; Security Deposit.* Any obligation: (a) to pay Tenant any sum(s) that any Former Landlord owed to Tenant or (b) with respect to any security deposited with Former Landlord, unless such security was actually delivered to Mortgagee.

4.3 *Modification, Amendment, or Waiver.* Any modification or amendment of the Lease, or any waiver of any terms of the Lease, made after Tenant was provided notice of the existence of Mortgagee, made without Mortgagee's written consent which has the effect of reducing the Term of the Lease or reducing the amount of Rent or additional rent payable under the Lease; provided that Mortgagee must respond to any request for consent to any requested amendment or modification within ten (10) business days of receipt, and further provided that Mortgagee's failure to respond within such ten (10) business day period shall constitute Mortgagee's consent.

5. Mortgagee's Right to Cure.

5.1 *Notice to Mortgagee.* Notwithstanding anything to the contrary in the Lease or this Agreement, before exercising any Termination Right or Offset Right, Tenant shall provide Mortgagee with notice of the breach or default by Landlord giving rise to same (the "Default Notice").

5.2 *Mortgagee's Cure Period.* After Mortgagee receives a Default Notice, Mortgagee shall have the period granted to Landlord under the Lease in which to cure the breach or default by Landlord. Mortgagee shall have no obligation to cure (and shall have no liability or obligation for not curing) any breach or default by Landlord. The foregoing shall not limit Tenant's right to exercise self-help remedies to cure a default by Landlord under the Lease if permitted by the Lease or if necessary to prevent imminent danger of damage or injury to persons or property or if necessary to permit the full use and occupancy by Tenant of the Tenant's Premises.

6. Miscellaneous.

6.1 *Notices.* All notices or other communications required or permitted under this Agreement shall be in writing and given by certified mail (return receipt requested) or by nationally recognized overnight courier service that regularly maintains records of items delivered. Notices shall be effective the next business day after being sent by overnight courier service, and three business days after being sent by certified mail (return receipt requested). Unless and until notice of a change of address is given under this Agreement, notices or other communications shall be given to Mortgagee and Tenant, respectively, at the following address:

Mortgagee:

Attn: _____

With a copy to:

Attn: _____

6.2 *Successors and Assigns.* This Agreement shall bind and benefit the parties their successors and assigns, any Successor Landlord, and its successors and assigns.

6.3 *Entire Agreement.* This Agreement constitutes the entire agreement between Mortgagee and Tenant regarding the subordination of the Lease to the Mortgage and the rights and obligations of Tenant and Mortgagee as to the subject matter of this Agreement.

6.4 *Interaction with Lease and with Mortgage.* If this Agreement conflicts with the Lease, then this Agreement shall govern as between the parties and any Successor Landlord, including upon any attornment pursuant to this Agreement. This Agreement supersedes, and constitutes full compliance with, any provisions in the Lease that provide for subordination of the Lease to, or for delivery of non-disturbance agreements by the holder of the Mortgage. Mortgagee confirms that Mortgagee has consented to Landlord's entering into the Lease.

6.5 *Mortgagee's Rights and Obligations.* Except as expressly provided for in this Agreement, Mortgagee shall have no obligation to Tenant with respect to the Lease.

6.6 *Interpretation; Governing Law.* The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the internal laws of the State where the Premises is located, including its principles of conflict of laws.

6.7 *Amendments.* This Agreement may be amended, discharged or terminated, or any of its provisions waived, only by a written instrument executed by the party to be charged.

6.8 *Execution.* This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

6.9 *Representations.* The parties represent that they each have full authority to enter into this Agreement. Mortgagee agrees to keep a copy of this Agreement in its permanent mortgage records with respect to the Loan.

[Signatures on the next page]

TENANT:

a _____

By: _____

Print Name: _____

Title: _____

Date: _____

STATE OF _____)

) SS

COUNTY OF _____)

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that _____ the _____ of _____, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said _____, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, 20__.

Notary Public

My Commission Expires: _____

EXHIBIT A TO SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENMENT AGREEMENT

Tenant's Premises

Exhibit H

Form of Estoppel

ESTOPPEL CERTIFICATE

THIS ESTOPPEL CERTIFICATE is made as of the ____ day of _____, 20__ by _____ in connection with that certain Lease Agreement dated _____ by and between _____, as Tenant and _____, as Landlord (the "Lease") for the premises located at _____ (the "Premises").

[Landlord/Tenant] hereby certifies to the best of [Landlord's/Tenant's] knowledge to _____ as follows:

1. The Lease consists of the following documents: [list documents]. There are no other oral or written agreements or understandings between Landlord and Tenant relating to the Premises.
2. To [Landlord's/Tenant's] knowledge and belief, the information set forth below is true and correct as of the date hereof:
 - (a) Approximate square footage of the Premises: _____ rentable square feet
 - (b) Monthly installment of Rent as of the date hereof: \$ _____
 - (c) Commencement Date: _____
 - (d) Expiration Date: _____
 - (e) Security deposit: _____
 - (f) Prepaid rent in the amount of: _____
 - (g) Renewal Options: _____
3. As of the date hereof, the Lease is in full force and effect.
4. To the best of [Tenant's/Landlord's] actual knowledge and belief, without inquiry or investigation, there exists no default, no facts or circumstances exist that, with the passage of time or giving of notice, will or could constitute a default, event of default, or breach on the part of either Tenant or Landlord except _____.
5. No rent has been or will be paid more than 30 days in advance.
6. All legal notices to Tenant shall be sent to: _____,
With a concurrent copy to: _____.

IN WITNESS WHEREOF, [Tenant/Landlord] has executed this Estoppel Certificate as of the date first above written.

[LANDLORD/TENANT];
[LANDLORD/TENANT ENTITY],
a _____

By: _____
Print Name: _____
Title: _____

ORDINANCE NO. _____

AN ORDINANCE APPROVING A LEASE WITHIN THE TO BE CONSTRUCTED
COMMUNITY RECREATION CENTER AT MATCHETT PARK (CRC) FOR THERAPY
SPACE FOR INTERMOUNTAIN HEALTH DBA ST. MARY'S HOSPITAL

Recitals:

The City of Grand Junction (City) and Intermountain Health dba St. Mary's Hospital (SMH) have agreed to certain terms and conditions by which the City will lease approximately 2900 square feet in the to be constructed Community Recreation Center at Matchett Park to SMH.

Those terms and conditions have been reduced to an agreement (Lease) by and between the City and SMH. The initial term of the Lease shall be ten years, with consideration for a renewed lease thereafter, all as provided in the Lease.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO AS FOLLOWS:

1. *Approval.* The Lease agreement for approximately 2900 square feet of the to be constructed Community Recreation Center at Matchett Park to Intermountain Health dba St. Mary's Hospital, in the form attached as Exhibit 1 is hereby approved. The City Manager is hereby authorized to execute the Lease by and on behalf of the City of Grand Junction, Colorado.

2. *Severability.* If any part or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

3. *Safety Clause.* The City Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relation to the legislative object sought to be obtained.

INTRODUCED AND ADOPTED on first reading this 21st day of February 2024 by the City Council of the City of Grand Junction, Colorado and order published in pamphlet form.

PASSED AND APPROVED on second reading this ___ day of ___ 2024 by the City Council of the City of Grand Junction, Colorado and order published in pamphlet form.

Anna M. Stout, President of the City Council

Attest:

Amy Phillips, City Clerk

DRAFT



Grand Junction City Council

Regular Session

Item #5.a.iii.

Meeting Date: March 6, 2024

Presented By: Greg Caton, City Manager, John Shaver, City Attorney, Jennifer Tomaszewski, Finance Director

Department: City Manager's Office

Submitted By: Jennifer Tomaszewski, Finance Director

Information

SUBJECT:

Discussion and Possible Action Regarding School District 51 Impact Fees

RECOMMENDATION:

To receive the presentation by representatives from Mesa County School District 51 and provide direction to City staff.

EXECUTIVE SUMMARY:

Representatives from Mesa County Valley School District 51 (D51) will present a report regarding School Land Dedication Fees (SLD) collected by the City on behalf of D51. D51 sent the attached letter in support of its request for the disbursement of funds and as information for its report.

BACKGROUND OR DETAILED INFORMATION:

Since the City Council's adoption of Ordinance 2886 in 1996, the City has collected the SLD Fee during the land use permitting process on behalf of D51. The SLD fee was established to be used by the District, in accordance with the formula established in the Ordinance. *Such fees shall be expended by the school district to acquire additional real property for expansion of school facilities and construction of new school facilities necessitated by new residential development in the school district, or to reimburse the school district for sums expended to acquire such property. (GJMC 21.02.070(b)(2)(i)).*

In 1996, D51 and the City entered into an Intergovernmental Agreement (IGA) relating to the SLD fee. The IGA provides that D51 will indemnify the City; however, the IGA/the indemnification has not been affirmed by the District since 1996. By its terms, the IGA is automatically renewed and extended by the City upon renewal or extension of the terms of the SLD fee, which occurred with the Council's passage of Ordinance 5190.

From approximately 1996 to 2018, Mesa County, Fruita, Palisade, and Grand Junction annually disbursed SLD fees to D51 to reimburse it for qualifying purchases. Until recently, the District had not requested disbursement of the SLD fees. At present, the City has approximately \$3.5 million in SLD fees collected on behalf of District 51.

On February 2, 2024, D51 requested disbursement of the \$3.5 million in fees collected and held to date by the City, and will provide a presentation of that request to Council. The Grand Junction Municipal Code states (in relevant part):

"(4) Such request for disbursement shall be in writing, set forth the amount of funds needed, and contain a brief description of the purposes for which the funds will be used.

(5) Such request shall be heard at a regular meeting of the City Council held within thirty (30) days after it is filed, at which time the School District, through its authorized representative, shall demonstrate to the City Council a need for the moneys requested to expend for the purposes authorized by the Code as amended hereby. Such demonstration shall be deemed sufficient if it is shown that the request is in furtherance of an existing capital improvement or site acquisition plan duly adopted by the Board of Education and has been included and relied upon in its budget for the fiscal year in which the moneys are to be expended.

Upon the City Council's approval, which shall not be unreasonably withheld, the requested funds shall be transferred to the School District's Capital Project's Fund."

This March 6 meeting was the earliest that City staff were able to coordinate with the D51 for the presentation.

FISCAL IMPACT:

This fee is collected on behalf of D51. The City withholds three percent to reimburse for administrative costs, which historically average approximately \$10,000 to \$20,000 per year; then the remainder is disbursed to D51 per the Ordinance.

SUGGESTED MOTION:

I move to approve/not approve the requested disbursement made by the Mesa County Valley School District 51 in its February 2, 2024 request.

Attachments

1. City of GJ SLD Request
2. IGA CITY OF GJ AND MC SCHOOL DIST 51 (1)

Feb 2, 2024

City of Grand Junction

Attn: Jennifer Tomaszewski, Finance Director

Please consider this letter our formal request for the disbursement of accumulated School Land Dedication fees and earned interest currently held in the SLD Fee Trust Fund. These fees were to be “expended only to acquire real property or interest in real property reasonably needed for development of expansion of school sites and facilities within the District or to reimburse the District for sums previously expended to acquire such property or interests.” School District 51 is requesting the accumulated fees for costs related to the R5/Summit building located at 455 N. 22nd Street, Grand Junction, CO 81501.

Rationale:

While enrollment in D51 may be currently declining due to factors outside of our control, this is a newer issue. Enrollment in D51 was growing until the 2019-20 school year. As enrollment was rising, the needs of students were increasing, as well. In 2008, District 51 recognized the need to replace the R-5 school building to accommodate an increase in students requiring an alternative learning environment. The Lowell Building that was housing the R-5 school at the time was not adequate. The R-5 program is an alternative high school where students engage in hands-on, project based learning. Programs like the aquaponics program, bike tech, etc, required a different space. Demand for the services at R-5 were increasing as student enrollment was increasing. At the same time, demand for students with behavioral needs that couldn't be facilitated in the neighborhood school setting, and an increase in the amount of students needing therapeutic day services, presented an opportunity to build a new R-5 facility along with the Summit program that provides district-wide services for students with behavioral needs and the TDP program. D51 was leasing The Opportunity Center prior to the building of the R-5/Summit/TDP facility.

In 2008, D51 purchased the land for the R-5/Summit/TDP program to accommodate the growth in student enrollment and student need at the time. The land was purchased and an existing building on the property was demolished for a total cost of \$1,614,097. The new building opened for the 2016-17 school year and was completed, at the time, for a cost of \$8,996,864. The total for land, prep work and building equaled \$10,610,961. D51 funded the land and building of the school through capital dollars and COP's. The breakdown is below, and D51 is continuing to pay down this COP. Those payments will continue through 2035. SLD fees collected qualify to pay towards this outstanding debt, and releasing them would go to paying them down.

Costs:

Land Purchase and Demo of Building Previously on Property: \$1,614,097.23

R5/Summit Building: \$8,996,864.16

Total Capitalized Cost: \$10,610,961.39

Breakout of Financing:

Paid by District at time of expense: \$3,110,961.39
Certificates of Participation Proceeds: \$7,500,000.00

Certificates of Participation Payments to Date (Thru 12/2023):

May 2016: \$189,026.67
November 2016: \$347,909.38
May 2017: \$130,759.38
November 2017: \$405,759.38
May 2018: \$126,634.38
November 2018: \$406,634.38
May 2019: \$122,434.38
November 2019: \$412,434.38
May 2020: \$118,084.38
November 2020: \$418,084.38
June 2021: \$82,059.61
December 2021: \$69,673.25
June 2022: \$69,673.25
December 2022: \$444,673.25
June 2023: \$65,379.50
December 2023: \$445,379.50
\$3,854,599.45

Total Paid by District to Date (Thru 12/2023): \$6,965,560.84

Annual payments of ~\$510k thru December 2035 for remainder of COP repayment per refunding debt schedule. Current remaining principal balance is \$5,330,000.

The debt schedules are enclosed:

Original Debt Schedule for Series 2015 Certificates of Participation
Refunding Debt Schedule for Series 2020 Certificates of Participation

Thank you for your consideration.

Sincerely,



Melanie Trujillo
Chief Financial Officer

EXHIBIT C

BASE RENTALS SCHEDULE (1)

<u>Date</u>	<u>Base Rentals Principal Component</u>	<u>Base Rentals Interest Component</u>	<u>Total Base Rentals</u>	<u>Annual (calendar year) Base Rentals</u>	<u>Annual (fiscal year) Base Rentals</u>
05/15/2016	\$ --	\$189,026.67	\$189,026.67	\$ --	\$189,026.67
11/15/2016	215,000	132,909.38	347,909.38	536,936.05	--
05/15/2017	--	130,759.38	130,759.38	--	478,668.76
11/15/2017	275,000	130,759.38	405,759.38	536,518.76	--
05/15/2018	--	126,634.38	126,634.38	--	532,393.76
11/15/2018	280,000	126,634.38	406,634.38	533,268.76	--
05/15/2019	--	122,434.38	122,434.38	--	529,068.76
11/15/2019	290,000	122,434.38	412,434.38	534,868.76	--
05/15/2020	--	118,084.38	118,084.38	--	530,518.76
11/15/2020	300,000	118,084.38	418,084.38	536,168.76	--
05/15/2021	--	113,584.38	113,584.38	--	531,668.76
11/15/2021	310,000	113,584.38	423,584.38	537,168.76	--
05/15/2022	--	108,934.38	108,934.38	--	532,518.76
11/15/2022	320,000	108,934.38	428,934.38	537,868.76	--
05/15/2023	--	104,134.38	104,134.38	--	533,068.76
11/15/2023	325,000	104,134.38	429,134.38	533,268.76	--
05/15/2024	--	99,259.38	99,259.38	--	528,393.76
11/15/2024	335,000	99,259.38	434,259.38	533,518.76	--
05/15/2025	--	92,559.38	92,559.38	--	526,818.76
11/15/2025	350,000	92,559.38	442,559.38	535,118.76	--
05/15/2026	--	85,559.38	85,559.38	--	528,118.76
11/15/2026	365,000	85,559.38	450,559.38	536,118.76	--
05/15/2027	--	78,259.38	78,259.38	--	528,818.76
11/15/2027	380,000	78,259.38	458,259.38	536,518.76	--
05/15/2028	--	70,659.38	70,659.38	--	528,918.76
11/15/2028	395,000	70,659.38	465,659.38	536,318.76	--
05/15/2029	--	62,759.38	62,759.38	--	528,418.76
11/15/2029	410,000	62,759.38	472,759.38	535,518.76	--
05/15/2030	--	56,096.88	56,096.88	--	528,856.26
11/15/2030	425,000	56,096.88	481,096.88	537,193.76	--
05/15/2031	--	48,925.00	48,925.00	--	530,021.88
11/15/2031	440,000	48,925.00	488,925.00	537,850.00	--
05/15/2032	--	41,225.00	41,225.00	--	530,150.00
11/15/2032	455,000	41,225.00	496,225.00	537,450.00	--
05/15/2033	--	31,556.25	31,556.25	--	527,781.25
11/15/2033	475,000	31,556.25	506,556.25	538,112.50	--
05/15/2034	--	21,462.50	21,462.50	--	528,018.75
11/15/2034	495,000	21,462.50	516,462.50	537,925.00	--
05/15/2035	--	10,943.75	10,943.75	--	527,406.25
11/15/2035	515,000	10,943.75	525,943.75	536,887.50	--
05/15/2036	--	--	--	--	525,943.75
TOTAL	\$7,355,000	\$3,369,598.69	\$10,724,598.69	\$10,724,598.69	\$10,724,598.69

FOOTNOTE ON FOLLOWING PAGE

BOND DEBT SERVICE

Mesa County Valley School District No. 51
 Private Placement Certificates of Participation, Series 2020
 Current Refunding of Series 2015 COPs
 Private Placement With Vectra Bank @ 2.29% Fixed
 Assumes District Provides 12-1-2020 Payment as Source of Funds on Closing Date
 October 15, 2020 Final Numbers

Period Ending	Principal	Coupon	Interest	Debt Service	Bond Balance	Total Bond Value
10/29/2020					6,085,000.00	6,085,000.00
06/01/2021			82,059.61	82,059.61	6,085,000.00	6,085,000.00
12/01/2021			69,673.25	69,673.25	6,085,000.00	6,085,000.00
06/01/2022			69,673.25	69,673.25	6,085,000.00	6,085,000.00
12/01/2022	375,000.00	2.290%	69,673.25	444,673.25	5,710,000.00	5,710,000.00
06/01/2023			65,379.50	65,379.50	5,710,000.00	5,710,000.00
12/01/2023	380,000.00	2.290%	65,379.50	445,379.50	5,330,000.00	5,330,000.00
06/01/2024			61,028.50	61,028.50	5,330,000.00	5,330,000.00
12/01/2024	390,000.00	2.290%	61,028.50	451,028.50	4,940,000.00	4,940,000.00
06/01/2025			56,563.00	56,563.00	4,940,000.00	4,940,000.00
12/01/2025	400,000.00	2.290%	56,563.00	456,563.00	4,540,000.00	4,540,000.00
06/01/2026			51,983.00	51,983.00	4,540,000.00	4,540,000.00
12/01/2026	410,000.00	2.290%	51,983.00	461,983.00	4,130,000.00	4,130,000.00
06/01/2027			47,288.50	47,288.50	4,130,000.00	4,130,000.00
12/01/2027	420,000.00	2.290%	47,288.50	467,288.50	3,710,000.00	3,710,000.00
06/01/2028			42,479.50	42,479.50	3,710,000.00	3,710,000.00
12/01/2028	430,000.00	2.290%	42,479.50	472,479.50	3,280,000.00	3,280,000.00
06/01/2029			37,556.00	37,556.00	3,280,000.00	3,280,000.00
12/01/2029	435,000.00	2.290%	37,556.00	472,556.00	2,845,000.00	2,845,000.00
06/01/2030			32,575.25	32,575.25	2,845,000.00	2,845,000.00
12/01/2030	445,000.00	2.290%	32,575.25	477,575.25	2,400,000.00	2,400,000.00
06/01/2031			27,480.00	27,480.00	2,400,000.00	2,400,000.00
12/01/2031	460,000.00	2.290%	27,480.00	487,480.00	1,940,000.00	1,940,000.00
06/01/2032			22,213.00	22,213.00	1,940,000.00	1,940,000.00
12/01/2032	470,000.00	2.290%	22,213.00	492,213.00	1,470,000.00	1,470,000.00
06/01/2033			16,831.50	16,831.50	1,470,000.00	1,470,000.00
12/01/2033	480,000.00	2.290%	16,831.50	496,831.50	990,000.00	990,000.00
06/01/2034			11,335.50	11,335.50	990,000.00	990,000.00
12/01/2034	490,000.00	2.290%	11,335.50	501,335.50	500,000.00	500,000.00
06/01/2035			5,725.00	5,725.00	500,000.00	500,000.00
12/01/2035	500,000.00	2.290%	5,725.00	505,725.00		
	6,085,000.00		1,247,955.86	7,332,955.86		

FEB 23 1996

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made and entered into this 20th day of February, 1996, between the CITY COUNCIL OF THE CITY OF GRAND JUNCTION, hereinafter referred to as the "City," and MESA COUNTY VALLEY SCHOOL DISTRICT NO. 51, hereinafter referred to as the "District."

RECITALS

WHEREAS, the Colorado Constitution, in Article XIV, Section 18, permits political subdivisions of the state to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs, the imposition of taxes, or the incurring of debt; and

WHEREAS, Section 29-1-203, C.R.S., authorizes cities and school districts, as political subdivisions of the state, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each; and

WHEREAS, Section 22-32-122(1), C.R.S., grants to school districts the power to contract with a city for the performance of any service, activity, or undertaking which any school district may be authorized by law to perform or undertake; and

WHEREAS, Article XI, Section 7, of the Colorado Constitution permits the state or any political subdivision of the state to give direct or indirect financial support to any political subdivision of the state as may be authorized by statute; and

WHEREAS, Section 22-32-110(1)(y), C.R.S., authorizes the board of education of a school district to accept gifts, donations, or grants of any kind; and

WHEREAS, on January 17, 1996, the City enacted the School Land Dedication Fee Ordinance of the City of Grand Junction ("Ordinance"), which adopts and implements amendments to the City of Grand Junction Zoning and Development Code (Code) to provide for school land dedications and the collection of fees in lieu of school land dedication (SLD Fees) in trust for the benefit of the District; and

WHEREAS, the District's board of education has made a formal request to the City for school land dedications or SLD Fees pursuant to the Code as amended; and

WHEREAS, the City and the District desire to enter into an agreement regarding the implementation and administration of such dedications and SLD Fees pursuant to the Ordinance and Code amendments; and

WHEREAS, the parties intend that the SLD Fees will be the District's revenue only, and wish to ensure that the City not sustain any loss in the event any SLD Fees are alleged or determined to be includable in the City's "fiscal year spending" under Article X, Section 20 of the Colorado Constitution (referred to herein as "Amendment 1");

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the parties agree as follows:

1. School Land Dedications.

(A) In the event that the District determines that any proposed development includes within it land which is necessary for implementing a school plan, the District shall include such determination in its written recommendations regarding the concept plan, preliminary subdivision plan or plat for such development, or other official development plan, whichever is the first development permit application step referred by the City to the District for review and recommendations. Upon receipt of such recommendations and determination, the City shall require dedication of suitable school lands within such development to the District as a condition of subdivision approval in accordance with the Code.

(B) The parties agree that for all school land dedications required or permitted in accordance with Code sections 5-4-6.5 or 5-4-6.5(B)(3), respectively, the City shall, prior to recording of the final subdivision plat, require the development permit holder or applicant to convey the property to be dedicated directly to the District by deed in a form acceptable to the District, and the City, upon such conveyance, shall have no legal or equitable interest in or title to such property.

2. Collection of SLD Fees. The City agrees to collect SLD Fees in the form of cash payments, pursuant to and in the manner provided by Section 5-4-6.5(A) and (B) of the Code, commencing on the effective date of this Agreement, and continuing so long as the Ordinance is in effect, or until this Agreement is terminated as provided in Paragraph 10 below. It is understood and agreed that the Code provisions requiring payment of SLD Fees shall apply to all residential building permit applications submitted on or after said effective date with respect to all existing residential developments (or mixed use developments containing a residential development component) within the boundaries of the District, except those residential developments or portions thereof for which a final subdivision plat was recorded in the office of the Mesa County Clerk and Recorder before the effective date of this Agreement.

3. Trust Fund Creation. The City shall establish, as a separate account apart from all other funds of the City, a Mesa County Valley School District No. 51 SLD Fee Trust Fund (referred to herein as the "Trust Fund"). The Trust Fund shall be governed by the provisions of this Agreement, but in the event of any conflict between the terms contained in this Agreement and the Code, the latter shall be controlling. All SLD Fees collected by the City pursuant to the Code and this Agreement with respect to residential developments (or mixed use developments containing a residential development component) within the boundaries of the District shall be properly identified and promptly deposited into the Trust Fund. The District shall account for the funds so deposited as revenue of the District pursuant to Article X, Section 20 of the Colorado Constitution.

4. Management of Trust Fund. The City Council (Council) of the City shall maintain and manage the Trust Fund, as trustee, for the exclusive use and benefit of the District. All funds in the Trust Fund shall be invested or deposited in conformity with the City's Revised Investment Policy as adopted by the Council in Resolution 70-95 on July 19, 1995, and in a manner which will accomplish the following objectives: to insure the safety of the funds, to insure that the funds are available for disbursement to the District within thirty (30) days following the filing of a request pursuant to paragraph 6(C) of this Agreement, and to earn a rate of return on the funds in the Trust Fund available for investment which is the same as the rate of return earned on investments of other City funds. So long as the other requirements of this Paragraph and Paragraph 3 are met, funds in the Trust Fund may be pooled or co-mingled with other City funds for investment purposes. Subject to the requirements of part 7 of article 75 of title 24, C.R.S., the Trust Fund may also be managed in combination with or as part of other SLD Fee trust funds established for the benefit of the District under provisions of comparable school site fee resolutions or ordinances adopted by Mesa County or other municipalities within Mesa County.

5. Ownership. The District shall at all times be beneficial owner of the funds in the Trust Fund, but the signature of the chief financial officer of the District, or designee, and the signature of the City Manager, or designee, shall be required for the withdrawal of monies from such fund.

6. Expenditure Of SLD Fees.

(A) The City shall not withdraw, refund or pay out funds from the Trust Fund for any purpose except as authorized in accordance with this Agreement or the Code as amended by Ordinance 28-86;

(B) Except for the amounts retained by the City to defray administrative expenses as provided in Paragraph 7 below, each SLD Fee collected by the City for the District pursuant to the Code, as amended, shall be expended only to acquire real property or interests in real property reasonably needed for development or expansion of school sites and facilities within the District or to reimburse the District for sums previously expended to acquire such property or interests. Any changes to District boundaries which would affect the expenditure of fees in lieu of land dedication must be reviewed by the Council prior to the implementation of such changes. Such fees shall not be used to pay general obligation bonds, or to compensate for costs incurred by the District in which the development is located for costs incurred to upgrade existing educational facilities, unless such fees are expended for the purpose of increasing the site or land area for such existing facilities.

(C) Upon the written request of the District, the City Manager shall promptly notify the District's Board of Education of the amount of fees in lieu of dedication received and deposited in the Trust Fund and the amount of interest earned thereon, as of the end of the month immediately preceding the month in which the request was made. Upon receipt of such notice, the District may file with the City Manager a request for disbursement to the District of all

or part of the fees, interest and earnings accumulated in the Trust Fund, less administrative fees owed to the City pursuant to Paragraph 7 below.

(D) The request for disbursement shall be in writing, set forth the amount of funds needed, and contain a brief description of the purposes for which the funds will be used.

(E) The request for disbursement shall be heard at a regular meeting of the Council held within thirty (30) days after it is filed, at which time the District, through its authorized representative, shall demonstrate to the Council a need for the funds requested. Such demonstration shall be deemed sufficient if it is shown that the request is in furtherance of an existing capital improvement or site acquisition plan duly adopted by the Board of Education of the District, that the requested funds will be expended for purposes authorized by the Code, and that such funds have been included and relied upon in the District's budget for the fiscal year in which they are to be expended. Upon the Council's approval, which shall not be unreasonably withheld, the Council shall cause the requested funds to be transferred to the District's Capital Projects Fund.

7. Administrative Fee. The City is authorized to pay itself an administrative fee, from funds collected pursuant to this Agreement, equal to three percent (3%) of each SLD Fee collected, or the City's actual cost to collect such SLD Fees, whichever is greater. The parties agree that such payment shall be reasonable compensation to the City for its administrative and overhead expenses and other costs in collecting SLD Fees, and for its management of the Trust Fund pursuant to this Agreement.

8. Annual Report, Accounting, and Audit.

(A) The District shall submit an annual report to the Council describing its expenditure of SLD Fees during the preceding fiscal year. This report shall include:

(1) A review of the assumptions and data upon which the SLD Fee methodology is based, including assessed value, student generation ratios, and attendance area boundaries;

(2) Alternative revenue sources for funding acquisition of new school sites made necessary by new development;

(3) Any new capacity enhancement policies or procedures adopted by the District, including any update or amendment of the District's site acquisition and facilities plan; and

(4) Any recommended modifications to the methodology used in setting the amount of the SLD Fee.

This report shall be submitted on or before March 31.

(B) The City shall cause an audit to be performed annually of the SLD Fees collected and expended. The audit shall be conducted as part of the City's general annual audit, and in accordance with generally accepted accounting principles for governmental entities. At the City's request, the District shall pay, out of funds available in the District's general fund, for the incremental cost to the City of conducting the SLD Fee audit pursuant to this subparagraph.

(C) At any time deemed necessary, the Council may request an accounting from the chief financial officer of the District concerning the expenditure of the SLD Fees paid to the District.

9. Agency and Succession.

(A) The Council may, with the written consent of the District which shall not be unreasonably withheld, enter into an agreement with the Board of County Commissioners of Mesa County (Board) appointing or designating Mesa County as its agent for collection of the SLD Fees and managing the Trust Fund pursuant to this Agreement. Such agreement may provide for payments to or sharing with Mesa County of all or part of the administrative fees provided for in Paragraph 7 above, but in no event shall administrative fees in excess of the maximum allowed under said paragraph be paid from funds on hand in the Trust Fund.

(B) The City may resign as trustee of the Trust Fund by giving sixty (60) days' written notice to the District effective at the end of sixty (60) days. In the event the Council gives such notice, the parties shall jointly select and appoint a successor managing agent within such sixty (60) day period. If no agreement is reached regarding the appointment of a successor managing agent within such sixty day period, or if such successor shall not accept or agree to be bound by the terms of this Agreement, then the Chief Judge of the District Court in and for the County of Mesa, State of Colorado shall appoint by a writing a successor managing agent following a hearing at which either party may appear and present such evidence and argument as the Court may deem relevant. The Council shall in all cases continue to act as managing agent of the Trust Fund until its successor has been duly appointed by a writing and has accepted and agreed to be bound by the terms of this Agreement. Upon such appointment and acceptance, all SLD Fees collected by the City shall be promptly remitted to the successor managing agent.

10. Term.

(A) This Agreement shall be effective upon the date this Agreement is fully executed by the parties, and unless sooner terminated pursuant to subparagraph (B) of this paragraph, shall remain in force and effect so long as the Ordinance shall remain in force and effect, and shall be automatically renewed or extended upon the Council's renewal or extension of such Ordinance.

(B) Either party shall have the right to terminate this Agreement upon sixty (60) days advance written notice to the other party of the occurrence of any one of the following:

(1) The other party's violation of this Agreement or failure to discharge any of its duties or obligations imposed upon it by this Agreement, if such party has not cured the violation, or undertaken all reasonable efforts necessary to cure the violation, within thirty (30) days after written notice was given to such party of the specific breach or failure;

(2) Any material change, alteration, amendment or repeal of or to section 30-28-133, C.R.S., the Ordinance, or any section of the Code applicable to school land dedications or SLD Fees;

(3) Any other occurrence or change in the law or circumstances which substantially defeats or frustrates the purposes and objects of this Agreement or the reasonable expectations of the parties hereunder, or which renders the expenses of administration in continuing the Trust Fund to be greater than the Trust Fund assets warrant, or which renders this Agreement unnecessary; or

(4) The District's withdrawal of its request to the City for school land dedications and SLD Fees.

(C) Anything in this Agreement notwithstanding, the provisions hereof relating to the administration of and disbursements from the Trust Fund, including, but not limited to, paragraphs 3, 4, 5 and 6 above, shall survive any termination or expiration of this Agreement with respect to all SLD Fees collected or paid into the Trust Fund prior to the date of such termination or expiration, and shall remain in full force and effect until all such funds, including any interest or earnings thereon, have been distributed to the District or are refunded in accordance with this Agreement and the Code.

11. Reports. The City shall issue periodic reports to the District showing all the receipts, disbursements and distributions during the period and assets then held by or in the Trust Fund, which reports shall be rendered not less frequently than annually. The records of City with respect to SLD Fees and the Trust Fund shall be open at all reasonable times to the inspection of the District and its authorized representatives.

12. Indemnification. The District shall indemnify and hold harmless the City and its officers and employees from and against any and all claims, actions or suits to compel a refund of SLD Fees on the ground that the City has collected, kept or spent such fees in violation of the revenue and spending limitations set forth in Section 20(7) of Amendment 1, but such indemnification shall be limited to the following:

(A) the amount of SLD Fees actually received by the District from or through the City which is determined to have been collected, kept or spent in violation of Section 20(7) of Amendment 1;

(B) the amount of interest owed pursuant to Section 20(1) of Amendment 1 on SLD Fees determined to have been collected, kept or spent in violation of Section 20(7) of said Amendment 1;

(C) any amount of SLD Fees collected by the City and held in trust for the District and not actually received by the District which are determined to have been collected, kept or spent in violation of Section 20(7) of said Amendment 1, to the extent that the City is unable to refund such SLD Fees because of the District's failure or refusal to absolve or release the City of and from the City's trust obligations to deliver such fees to the District; and

(D) the amount of any costs and attorneys' fees awarded to the plaintiffs pursuant to Section 20(1) of Amendment 1 in connection with such action or suit.

In the event the City is compelled by a final judgment of a court of competent jurisdiction, after exhaustion of all judicial remedies, to refund any excess SLD Fees under Section 20(7) of Amendment 1, the City shall consult with the District and shall devise a reasonable method of refunding such excess in the next succeeding fiscal year unless voters approve a revenue change as an offset. The City shall at all times exercise best efforts in good faith to mitigate the financial impact of such refunding so as to reduce the District's indemnification obligations under this Paragraph 12. Such efforts may include, but shall not be limited to, referral of revenue changes for voter approval, refunding SLD Fees in the Trust Fund not yet disbursed to the District, or issuing or establishing temporary SLD Fee reductions or credits. The City shall, at the District's request, seek voter approval of a revenue change to permit collection and/or retention of SLD Fees for the District, and the District shall be responsible for and pay the actual costs of the election, regardless of the outcome, but such payment obligation shall not include the usual costs of maintaining the office of the City Clerk, such as overhead costs and personal services costs of permanent employees, unless such costs are shown to be directly attributable to conducting the election regarding the revenue change. If approval of such revenue change is sought at a coordinated election, the cost of the election shall be shared pursuant to section 1-7-116, C.R.S.

13. Defense Costs. In the event the City, its officers or employees is named as a defendant in any legal action to which the District's duty to indemnify under Paragraph 12 above may apply, the following provisions shall govern:

(A) The District shall provide for and direct the defense of said action, including the prosecution or defense of any appeal, and any costs and fees incurred in connection with such defense, including the cost of any supersedeas bond, shall be borne by the District. In the event the District deems it necessary or appropriate to select and employ additional special counsel or experts to assist in the defense of said action, the reasonable attorneys' fees,

consultant or expert fees, costs, and expenses incurred for said additional joint counsel and experts shall be paid by the District.

(B) The City shall cause its officers, employees and agents, including the City Attorney, to cooperate in the defense of the action as requested by the District, and any costs or fees incurred for their time or assistance in connection therewith shall be borne by the City.

(C) The City shall not compromise or settle said action without the written consent of the District.

14. Cash Reserve Requirement. The District shall at all times keep on hand cash reserves not dedicated or pledged for any other purpose in an amount sufficient to cover any indemnity amount contemplated by subparagraph 12(A) above together with a reasonable estimate of any indemnity amount contemplated by subparagraphs 12(B), 12(C), 12(D) and 13(A) above.

15. No Limitation of Authority. No provision or term of this Agreement is intended or shall be construed to be a restriction upon or limitation of the City's powers or authority to require school land dedications or payments of money in lieu thereof pursuant to section 30-28-133, C.R.S. or other applicable law.

16. No Third Party Beneficiaries. The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the City and the District, and nothing contained in this Agreement shall give any third person any claim or right of action to enforce this Agreement. It is the express intention of the City and the District that any other person, organization or entity receiving any benefits from this Agreement shall be deemed to be incidental beneficiaries only.

17. No Waiver of Immunity. Nothing contained in this Agreement shall be construed as a waiver by the City or the District of any immunity from suit under the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*

18. Interpretation.

(A) Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

(B) The captions are inserted in this Agreement for convenience only and in no way define, limit, or describe the scope or intent of this Agreement, or any provisions hereof, nor in any way affect the interpretation of this Agreement.

19. Integration. This Agreement constitutes the entire agreement of the parties, and there are no representations, inducements or other provisions other than those expressed herein. No alterations, deletions, amendments, changes or modifications to this Agreement shall be valid unless they are contained in an

instrument which is executed by all the parties with the same formality as this Agreement.

20. Notices. Any notice required to be given pursuant to this Agreement shall be in writing and shall be sent by certified mail, return receipt requested, postage prepaid, to the respective addresses below, or at such other address as City or District may specify from time to time by written notice to the other given in accordance herewith:

District:

George Straface, Superintendent
Mesa County Valley School District No. 51
2115 Grand Avenue
Grand Junction, Colorado 81501

City:

Mark Achen, City Manager
City of Grand Junction
250 North Fifth Street
Grand Junction, Colorado 81501
(with copy to: Dan E. Wilson, City Attorney)

21. Severability. The invalidity or unenforceability of any term or provision of this Agreement shall not, unless otherwise specified herein, affect the validity or enforceability of any other term or provision.

22. Choice of Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for all actions connection herewith shall be in Mesa County, State of Colorado.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first written above.

MESA COUNTY VALLEY SCHOOL
DISTRICT NO. 51

CITY COUNCIL OF THE CITY OF
GRAND JUNCTION, COLORADO

By Debbie Johns
Debbie Johns
President, Board of Education

By Linda Afman
Ron Martin, Mayor Pro Tem
Linda Afman

ATTEST:

Mary K. Kalenian
Mary Kalenian



Stephanie Nye
Stephanie Nye



Grand Junction City Council

Regular Session

Item #5.a.iv.

Meeting Date: March 6, 2024

Presented By: Tamra Allen, Community Development Director, Niki Galehouse, Planning Supervisor

Department: Community Development

Submitted By: Niki Galehouse, Planning Supervisor

Information

SUBJECT:

Discussion and Possible Action Regarding Interim Housing Code Next Steps

RECOMMENDATION:

Staff recommends the Council direct staff whether to schedule an additional workshop after conducting additional public outreach on the topic of Interim Housing prior to scheduling the item for consideration at public hearings.

EXECUTIVE SUMMARY:

An update on Interim Housing was presented at the March 4, City Council workshop. Direction was provided to conduct additional public outreach and engagement on the topic prior to scheduling public hearings on the proposed Code text amendment. Staff requested direction from Council as to the desire of City Council to schedule an additional City Council workshop on Interim Housing after the conclusion of additional outreach and engagement and after the working group's recommendation had been completed. In absence of direction at the workshop, this request for direction was scheduled to be discussed at a regular meeting.

Interim Housing has been identified by the Unhoused Needs Assessment, the 2023 Zoning & Development Code (ZDC) Committee, and City Council as a land use that should be explored. Since the adoption of the 2023 ZDC, staff has been working with a consultant and a working group to identify the needs within the City and develop regulations to address the use within the City.

BACKGROUND OR DETAILED INFORMATION:

As part of the Unhoused Needs Assessment, the community has identified that interim housing in the form of temporary shelter may serve as an important part of the housing

continuum and is generally not a land use or structure allowed under today's Zoning and Development Code.

It is important to note that "transitional housing" has evolved as a term to identify the programmatic goals and supportive services designed to act as a bridge between temporary and permanent housing. This term is not generally related to a specific housing type and can include anything from typical "brick and mortar" multi-family housing facilities to safe camping areas. The term "interim housing" is now being utilized by many government agencies and the housing sector to identify shelter types like sanctioned camping, safe parking, and temporary shelters that often are not permanent facilities and that often either don't meet or are not required to meet building codes for permanent residential use. Interim housing may or may not have transitional programmatic services. Due to the evolution of terminology and because "brick and mortar" facilities are already allowed under the City's Zoning and Development Code, the City will be using the term "interim housing."

During the adoption of the 2023 Zoning & Development Code, the Development Code Committee identified that the topic of interim housing warranted more extensive community input and discussion for more detailed recommendations to be made. At the City Council Workshop on December 4, 2023, City Council agreed that interim housing be considered urgently. As such, staff contracted with Clarion Associates ("Clarion") to facilitate the process and provide recommendations. Clarion has experience in developing regulations on this subject with other communities.

Staff and Clarion recommended a working group be formed to provide direct input and offer insight into Grand Junction's needs and preferences in addressing this topic. Members of the working group have been playing a critical role in discussing and developing any land use changes that may result, serving as a sounding board that reflects a diverse set of perspectives. This group comprises 20 members, varying from nonprofit, financial, development, and community backgrounds.

Since January 16, 2024, the Interim Housing Work Group has met 5 times to undertake this work. Discussions began with understanding the issue and reviewing five case study communities to see their best practices and sample other jurisdictional code language. From there, the group started working on regulations by working through issues related to:

- Definitions
- Zone district appropriateness
- Buffers
- Transportation to support services
- Permitted shelter types
- Setbacks and internal spacing
- Screening
- Sanitary facilities and waste disposal
- Site amenities

- Vehicle parking and bicycle storage
- Occupancy limits
- Operational entities and on-site management
- Management plan; and
- Procedure for approval.

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FISCAL IMPACT:

There is no fiscal impact related to this item.

SUGGESTED MOTION:

I move to direct staff (to/not to) schedule Interim Housing for a future City Council workshop after completion of the working group's recommendation and conclusion of additional public outreach.

Attachments

None