

RESOLUTION NO. 53-26

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT REGARDING THE CONSTRUCTION AND LONG-TERM MAINTENANCE OF THE NEW DETENTION FACILITY AT OR NEAR 600 281/4 ROAD

RECITALS.

Mesa County purchased Faith Heights Church in 2023. The frontage parcel to the Church property has a car wash, owned by VIA Real Estate, LLC and a proposed Starbucks, owned by PSBX Cache, LLC on the vacant portion of the site at the NE corner of Patterson and 28 1/4. The proposed location for the Starbucks is currently the stormwater detention for the Church property.

Future expansion of the northern portion of the Church property will require a new detention basin which could also serve a portion of Matchett Park.

The City and County have discussed the construction of a regional detention basin to serve Mesa County's current and future needs, the proposed Starbucks, the carwash, and Matchett Park.

By and with this Resolution the City Council authorizes the City Manager to negotiate and sign an agreement regarding the construction and long-term maintenance of the new detention facility. The negotiations thus far, which will inform the agreement, have been that the City, the carwash, and Starbucks will contribute to the cost of construction while Mesa County will set aside land for the basin. The City will provide maintenance of the basin and will be reimbursed proportionately by the carwash, Starbucks and successor to Mesa County. The City Council's authorization assumes and requires that the City Manager, the City Attorney, and the Engineering and Transportation Director deem the agreement to be complete and, in the City's best interests.

NOW, THEREFORE, BE IT RESOLVED THAT:

In consideration of the foregoing Recitals, the City Manager and City Attorney are each hereby authorized, individually or jointly, to negotiate, approve, and execute such modifications, amendments, and revisions to the Contract as either officer deems necessary or appropriate to serve the best interests of the City, provided that no such modification shall constitute a substantial change from the material terms of the Contract presented to and approved by City Council.

Dated the 17th day of June 2026.



Laurel Lutz
President of the City Council



ATTEST:



Selestina Sandoval
City Clerk

CONSTRUCTION AND COST SHARE AGREEMENT

This Construction and Cost Share Agreement (“Agreement”) is entered into as of _____, 2026, by and among the City of Grand Junction, a Colorado municipal corporation (“City”); Mesa County, Colorado, a Colorado statutory county (“County”); PSBX Cache, LLC, a Colorado limited liability company (“PSBX”); and VIA Real Estate, LLC, a Wyoming limited liability company (“VIA”) (each, a “Party” and collectively, the “Parties”).

The Parties agree as follows:

1. **Project.** The Parties desire to construct a Project consisting of that certain stormwater Detention Pond and supporting infrastructure as described in the *Final Drainage Report for Starbucks Coffee and Drive Thru*, those certain *Stormwater Management Covenants* the Parties intend to enter into with respect to the Property subject of the *Covenants*, and the *Final Construction Plans* for the Detention Pond and infrastructure. Reference is hereby made to the *Drainage Report and Covenants*, and the *Final Construction Plans* are incorporated into this Agreement by this reference. Capitalized terms not newly introduced and defined in this Agreement have the same meanings as in the *Covenants*.

2. **Constructing Party.** The Parties designate PSBX as the Constructing Party for the Project. The Constructing Party is obligated, in consultation with the other Parties, to retain contractors and consultants necessary to complete the Project. The Constructing Party will have the right to coordinate, schedule, supervise, and administer the Project, subject to the terms of this Agreement.

3. **Cost Sharing.** Responsibility for the cost to construct the Project will be proportionally shared amongst the City, PSBX, and VIA. The total cost to complete the Project is estimated to be \$283,500.00, which the City, PSBX, and VIA will proportionally share in the following percentages:

City:	63.0%
PSBX:	16.0%
VIA:	21.0%

PSBX, as the Constructing Party, shall timely present invoices received with respect to Project construction to City and VIA, along with any supporting documentation. City and VIA will then have ten (10) business days to either dispute in writing a proposed reimbursement item or cost, or to reimburse PSBX their proportionate share of the invoiced costs. If either Party fails to submit a dispute in writing within ten (10) business days, such invoice will be deemed approved by such Party and their right to dispute such invoice, waived. Disputes regarding a reimbursement item or cost shall be settled pursuant to the dispute resolution provisions of this Agreement. In the event the cost to complete the Project exceeds estimated amount stated above, City, PSBX, and VIA will each be jointly responsible for any additional expense in accordance with the proportional cost share stated in this paragraph.

4. **Project Location; Easements.** The Detention Pond and much of the supporting infrastructure is contemplated to be located on the County Parcel, as detailed in the *Drainage Report, Covenants*, and *Final Construction Plans*. County hereby grants to the Constructing Party, its contractors, subcontractors, employees, agents, consultants, and invitees a temporary non-exclusive construction easement over those portions of the County Parcel reasonably necessary for construction of the Project, including the areas as

may be shown on a site plan or written description approved by the County, which site plan or written description, if any, is incorporated in this Agreement by this reference (the "Easement Area"). Areas in the near vicinity of the Detention Pond, the supporting infrastructure, the construction access routes, or within any limits of disturbance or plans approved for the Project are hereby declared to be within the Easement Area. The easement includes rights for ingress and egress, equipment access, material staging, grading, excavation, restoration work, installation, maintenance, and use of any construction access routes. The easement shall commence on the date construction of the Project begins and will terminate upon the County's provision of notice to PSBX that all restoration of the County Parcel required under this Agreement has been satisfactorily completed. The Constructing Party will confine construction activities to the Easement Area and any other limits of disturbance which may be approved, and will use commercially reasonable efforts to minimize interference with the County's use of the County Parcel.

5. **Restoration.** The Constructing Party shall cause the Easement Area and any other areas disturbed on the County Parcel to be restored to substantially the same condition existing immediately prior to construction of the Project. Such restoration will include removal of temporary facilities, equipment, and materials, and repair of damage to pavement, landscaping, fencing, irrigation, and other improvements in the Easement Area or on the County Parcel caused by construction activities. Reasonable wear, approved Project or other modifications to the County Parcel, and final grading and stabilization impacts are excepted from the restoration obligations. County will provide written notice to PSBX when all restoration tasks deemed necessary by County have been completed to the satisfaction of County as soon as practicable after satisfactory completion.

6. **Compliance.** PSBX, as the Constructing Party, and all of its contractors pursuant to contractual terms with PSBX, will comply with all applicable laws, permits, covenants, and related approvals applicable to construction of the Project, including but not limited to construction stormwater compliance. PSBX will be responsible for obtaining and maintaining any needed permits not already obtained, implementation of site or other controls required by applicable laws and permits, completion of all regulatory reporting required in connection with Project construction, correction of deficiencies cited by regulatory authorities, and all other obligations typically undertaken by parties constructing stormwater facilities or similar improvements. Each other Party is participating only as a cost-sharing participant and will not be deemed an operator, permittee, contractor, or other similar role for purposes of regulatory compliance with respect to Project construction. Notwithstanding the foregoing, and without assuming any regulatory role or responsibility, each other Party agrees to cooperate with respect to PSBX and its contractors maintaining legal compliance, and to contribute financially in equal shares toward the reasonable costs of cure of regulatory deficiencies or defense of regulatory-based legal actions arising from Project construction; provided, however, that PSBX will first look to indemnification by its general contractor before seeking financial contributions by the other Parties. The aggregate financial contributions of City, County, and VIA under this paragraph shall not exceed \$28,350.00, with each of City, County, and VIA individually liable for no more than \$9,450.00 of such aggregate amount. If City, County, and VIA agree that the regulatory matter was caused by the willful or wanton conduct of PSBX or its contractor, none of City, County, or VIA shall be obligated to contribute to the costs of cure or defense of that matter. Any financial obligation of City or County under this paragraph is subject to appropriation of funds for such purpose by the applicable governing body, and neither City nor County waives any defense, immunity, or limitation available under the Colorado Governmental Immunity Act or applicable law.

7. **Contractor Insurance; Indemnification.** The Constructing Party shall require its contractor to maintain commercially reasonable insurance, which requirement the Parties believe is minimally satisfied by the following minimal coverage limits: Commercial General Liability Insurance of not less than \$1,000,000 per occurrence; Workers' Compensation Insurance as required by law; Automobile Liability Insurance of not less than \$1,000,000 combined single limit. Upon request, the Constructing Party shall cause certificates of insurance to be provided to the other Parties. To the extent commercially available, the Constructing Party will require its contractor to name the non-constructing Parties as additional insureds on the contractor's commercial general liability policy and indemnify the non-constructing Parties for liabilities arising out of construction of the Project.

8. **Construction Deemed a "Public Work".** The Parties deem construction of the Project to be construction of a "public work" due to the use of public funds to cover the cost of construction in part. As a result, certain special statutory requirements must be satisfied by the general contractor retained by the Constructing Party. These include or may include, pending Project construction costs exceeding applicable threshold cost amounts, the requirements codified in Colorado Revised Statutes sections 8-17-101 to -107; 24-91-103; 24-91-103.5; and 38-26-101 to -110. The Constructing Party is responsible for ensuring the general contractor's compliance with "public works" requirements, whether or not identified in this paragraph.

9. **Dispute Resolution.** In the event of a dispute under this Agreement that cannot be resolved by negotiation, such dispute shall be submitted to mediation before proceeding with any litigation. The Parties shall share the cost of the mediation proceedings equally. The substantially prevailing Party(ies) in any litigation shall be entitled to receive from the non-substantially prevailing Party(ies) their reasonable attorneys' and related fees and costs.

10. **Miscellaneous.**

10.1. **Entire Agreement.** This Agreement supersedes all other negotiations, representations, or agreements between the Parties, whether written or oral, on the subject matter of this Agreement, and constitutes the entire integrated agreement between the Parties.

10.2. **Notices.** All notices and communications required or regarding this Agreement shall be effective only upon receipt or refusal of receipt by the other Parties. Any notice may be delivered in electronic form, including but not limited to email. To the extent notice is delivered by email, a Party's receipt of the same shall be confirmed through a responsive email or other written communication. The Parties shall supply one another with the names and contact information, including email address and phone number, of persons to receive notices under this Agreement, and shall update such information with the other Parties as soon as reasonably practicable after any change in such information.

10.3. **Assignment.** The Parties' rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior written consent of the other Parties. Any attempt at assignment or transfer without such consent shall be void.

10.4. **Relationship of Parties.** Nothing in this Agreement shall be deemed or construed to create a partnership, joint venture, agency, or employment relationship between the Parties. No Party shall have

the authority to bind or obligate any other Party in any manner not expressly provided for in this Agreement.

10.5. **Third-Party Rights.** Nothing in this Agreement, whether express or implied, is intended to confer any right or remedy upon any person or entity other than the Parties. The Agreement is solely for the benefit of the Parties. No third party shall have any right to rely upon or enforce any term or provision of this Agreement, except as may otherwise be provided by this Agreement.

10.6. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any action shall exclusively lie in Mesa County, Colorado. The Parties waive their right to bring or remove an action to federal court, and to trial by jury.

10.7. **Waiver.** No waiver of any provision of this Agreement shall be effective unless made in writing and signed by the waiving Party. No course of dealing or delay in exercising any right shall operate as a waiver or abandonment of such right.

10.8. **Interpretation.** All provisions of this Agreement shall be interpreted according to their fair meaning and shall not be strictly construed against any Party.

10.9. **Severability.** If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

10.10. **Headings.** The paragraph or other headings of this Agreement are for reference purposes only and shall not affect the meaning or interpretation of any provision of this Agreement.

10.11. **Authority to Sign.** Each individual signing this Agreement represents and warrants that they have full authority to enter into this Agreement and to bind the entity on whose behalf they are signing.

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

10.13. **Survival of Terms.** Notwithstanding any expiration or termination of this Agreement, any provision of this Agreement that imposes an obligation on a Party after termination or expiration of the Agreement shall survive and shall be enforceable by the other Parties.

[SIGNATURES FOLLOW]

CITY:

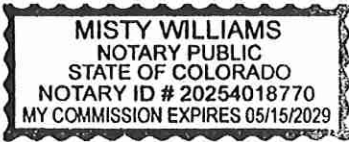
CITY OF GRAND JUNCTION, COLORADO, A
COLORADO MUNICIPAL CORPORATION

By: Kimberly K. Bullen

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing Construction Agreement was acknowledged before me this 22nd day of June, 2026, by Kimberly K. Bullen as Deputy City Mgr. of the City of Grand Junction, Colorado, a Colorado municipal corporation.

Witness my hand and official seal.



Misty Williams
Notary Public

[ADDITIONAL SIGNATURES FOLLOW]

COUNTY:

MESA COUNTY, COLORADO,
A COLORADO STATUTORY COUNTY

By: _____
JJ Fletcher, Chair
Mesa County Board of County
Commissioners

ATTEST:

By: _____
Bobbie Gross, Mesa County Clerk and
Recorder

[ADDITIONAL SIGNATURES FOLLOW]

PSBX:

PSBX CACHE, LLC,
A COLORADO LIMITED LIABILITY COMPANY

By: _____
Sid Squirrell, Manager

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing Construction Agreement was acknowledged before me this _____ day of _____, 2026, by Sid Squirrell as Manager of PSBX Cache, LLC, a Colorado limited liability company.

Witness my hand and official seal.

Notary Public

[ADDITIONAL SIGNATURES FOLLOW]

VIA:

VIA REAL ESTATE, LLC,
A WYOMING LIMITED LIABILITY COMPANY

By: _____
Derrick Merchant, Manager

STATE OF TEXAS)
) ss.
COUNTY OF LUBBOCK)

The foregoing Construction Agreement was acknowledged before me this _____ day of _____, 2026, by Derrick Merchant as Manager of VIA Real Estate, LLC, a Wyoming limited liability company.

Witness my hand and official seal.

Notary Public