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**CITY COUNCIL AGENDA  
WEDNESDAY, OCTOBER 18, 2017  
250 NORTH 5<sup>TH</sup> STREET  
5:15 PM – PRE-MEETING – ADMINISTRATION CONFERENCE ROOM  
6:00 PM – REGULAR MEETING – CITY HALL AUDITORIUM**

*To become the most livable community west of the Rockies by 2025*

**Call to Order, Pledge of Allegiance, Invocation**

First Councilor Dale Rooks, The Church of Jesus Christ of Latter-day Saints, Fruita  
2nd Ward

(The invocation is offered for the use and benefit of the City Council. The invocation is intended to solemnize the occasion of the meeting, express confidence in the future, and encourage recognition of what is worthy of appreciation in our society. During the invocation you may choose to sit, stand, or leave the room.)

**Proclamations**

Proclaiming October 2017 as "National Homeless Awareness Month" in the City of Grand Junction

**Appointments**

Appointment to the Grand Junction Housing Authority

Appointments to the Planning Commission

Appointments to the Parks & Recreation Advisory Board

Appointment to the Downtown Development Authority/Downtown Grand Junction  
Business Improvement District Boards

**Citizen Comments**

**Council Reports**

REVISED

**Consent Agenda****1. Approval of Minutes**

- a. Summary of the October 2, 2017 Workshop
- b. Minutes of the October 4, 2017 Special Session
- c. Minutes of the October 4, 2017 Regular Meeting

**2. Set Public Hearing**

- a. Quasi-judicial
  - i. Introduction of a Proposed Ordinance Approving an Outline Development Plan (ODP) and a Rezone to Planned Development (PD) with an R-2 (Residential - 2 du/ac) Default Zone District for Weeminuche Subdivision Located between 26 & 26 1/2 Roads, South of H 3/4 Road, and Setting a Hearing for November 1, 2017
  - ii. Introduction of a Proposed Ordinance Zoning the Holder Annexation, Located at 3040 E Road, and Setting a Hearing for November 1, 2017
  - iii. Introduction of a Proposed Ordinance Approving the Downtown Development Authority Tax Increment Debt Financing and Setting a Public Hearing for November 1, 2017

**3. Contracts**

- a. 2017 Community Development Block Grant Subrecipient Agreement between St. Mary's Hospital Foundation Gray Gourmet Program, Karis, Inc., HomewardBound of the Grand Valley, Marillac Clinic, Grand Valley Catholic Outreach, and Housing Resources of Western Colorado and the City of Grand Junction

**4. Resolution**

- a. New Outdoor Dining Lease for The Goat and Clover Tavern, LLC Located at 336 Main Street, Suite 104

**Regular Agenda**

*If any item is removed from the Consent Agenda, it will be heard here*

**5. Other Action Items**

- a. Discussion and Possible Direction Regarding North Avenue/University Boulevard and CMU 20000

**6. Public Hearing**

- a. Quasi-judicial
  - i. Ordinance Vacating Right-of-Way and Easements Located in the Jarvis Subdivision Plat

**7. Non-Scheduled Citizens & Visitors**

**8. Other Business**

**9. Adjournment**



**Grand Junction City Council**

**Regular Session**

**Item #**

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**Meeting Date:** October 18, 2017

**Presented By:** City Council

**Department:** City Clerk

**Submitted By:** Wanda Winkelmann, City Clerk

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**Information**

**SUBJECT:**

Proclaiming October 2017 as "National Homeless Awareness Month" in the City of Grand Junction

**RECOMMENDATION:**

Read and present proclamation.

**EXECUTIVE SUMMARY:**

N/A

**BACKGROUND OR DETAILED INFORMATION:**

N/A

**FISCAL IMPACT:**

N/A

**SUGGESTED MOTION:**

N/A

**Attachments**

1. Proclamation - National Homeless Awareness Month



# Grand Junction

State of Colorado

## PROCLAMATION

*WHEREAS, at this time of year the temperature drops, forcing people without homes to risk living in the elements; and*

*WHEREAS, our aim is to shine the light on the issue of homelessness by creating awareness of this issue affecting so many men, women, children and veterans. We believe this issue doesn't just affect the homeless, but the community as a whole; and*

*WHEREAS, during National Homeless Awareness Month we can educate our community about who the homeless are, the problems that the homeless face, and how we can work together to find effective solutions to this problem; and*

*WHEREAS, participating in Homelessness Awareness Month not only raises awareness and promotes ending poverty in our community; it also strengthens the national movement to end homelessness. Bringing attention to the plight of the homeless can foster greater understanding and solidarity, and inspire others to take action; and*

*WHEREAS, during this month, everyone can participate by helping to raise awareness for the homeless in their community. Grassroots campaigns and fundraisers work at the local level, while taking advantage of the increased publicity and solidarity a national platform provides.*

*NOW, THEREFORE, I, J. Merrick Taggart, by the power vested in me as Mayor of the City of Grand Junction, do hereby proclaim the month of October 2017 as*

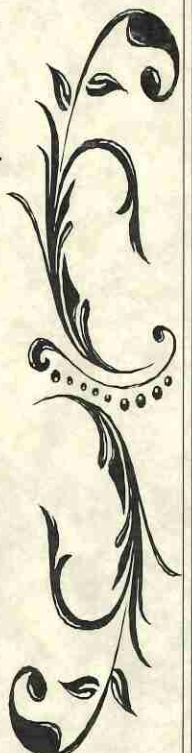
*"NATIONAL HOMELESS AWARENESS MONTH"*

*in the City of Grand Junction and encourage all members of the community to become educated about homeless issues, and to celebrate and support local good works.*

*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official Seal of the City of Grand Junction this 18<sup>th</sup> day of October 2017.*



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Mayor





## Grand Junction City Council

### Regular Session

Item #

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**Meeting Date:** October 18, 2017

**Presented By:** City Council

**Department:** City Clerk

**Submitted By:** Wanda Winkelmann, City Clerk

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### **Information**

#### **SUBJECT:**

Appointment to the Grand Junction Housing Authority

#### **RECOMMENDATION:**

Appoint applicant recommended by the interview committee.

#### **EXECUTIVE SUMMARY:**

The interview committee interviewed three applicants on October 11, 2017.

#### **BACKGROUND OR DETAILED INFORMATION:**

There is one vacancy on the Grand Junction Housing Authority.

#### **FISCAL IMPACT:**

N/A

#### **SUGGESTED MOTION:**

I move to (appoint/not appoint) the interview committee's recommendation to the Grand Junction Housing Authority for a five year term ending October, 2022.

### **Attachments**

None



## Grand Junction City Council

### Regular Session

Item #

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**Meeting Date:** October 18, 2017

**Presented By:** City Council

**Department:** City Clerk

**Submitted By:** Wanda Winkelmann, City Clerk

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### **Information**

#### **SUBJECT:**

Appointments to the Planning Commission

#### **RECOMMENDATION:**

Appoint applicants recommended by the interview committee.

#### **EXECUTIVE SUMMARY:**

The interview committee interviewed five applicants on October 9, 2017.

#### **BACKGROUND OR DETAILED INFORMATION:**

There are four vacancies on the Planning Commission.

#### **FISCAL IMPACT:**

N/A

#### **SUGGESTED MOTION:**

I move to (appoint/not appoint) the interview committee's recommendations to the Planning Commission for four year terms ending October, 2021.

### **Attachments**

None



## Grand Junction City Council

### Regular Session

Item #

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**Meeting Date:** October 18, 2017

**Presented By:** City Council

**Department:** City Clerk

**Submitted By:** Wanda Winkelmann, City Clerk

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### **Information**

#### **SUBJECT:**

Appointments to the Parks & Recreation Advisory Board

#### **RECOMMENDATION:**

Appoint applicants recommended by the interview committee.

#### **EXECUTIVE SUMMARY:**

The interview committee interviewed five applicants on October 11, 2017.

#### **BACKGROUND OR DETAILED INFORMATION:**

There are two vacancies on the Parks & Recreation Advisory Board.

#### **FISCAL IMPACT:**

N/A

#### **SUGGESTED MOTION:**

I move to (appoint/not appoint) the interview committee's recommendations to the Parks & Recreation Advisory Board for three year terms ending October, 2020.

### **Attachments**

None





## Grand Junction City Council

### Regular Session

Item #

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**Meeting Date:** October 18, 2017

**Presented By:** City Council

**Department:** City Clerk

**Submitted By:** Wanda Winkelmann, City Clerk

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### **Information**

#### **SUBJECT:**

Appointment to the Downtown Development Authority/Downtown Grand Junction Business Improvement District Boards

#### **RECOMMENDATION:**

Appoint applicant recommended by the Downtown Development Authority/Downtown Grand Junction Business Improvement District Boards.

#### **EXECUTIVE SUMMARY:**

There is one vacancy on the Downtown Development Authority/Downtown Grand Junction Business Improvement District Boards due to a recent resignation.

#### **BACKGROUND OR DETAILED INFORMATION:**

Back in May, the City Council interview committee interviewed applicants for the Downtown Development Authority/Downtown Grand Junction Business Improvement District Boards. At that time, the interview committee requested that two applications remain on file in the event of a future opening.

#### **FISCAL IMPACT:**

N/A

#### **SUGGESTED MOTION:**

I move to (appoint/not appoint) the DDA/BID Board's recommendation to the Downtown Development Authority/Downtown Grand Junction Business Improvement District Boards for a partial term ending June, 2018.

**Attachments**

None

## **GRAND JUNCTION CITY COUNCIL WORKSHOP SUMMARY**

### **October 2, 2017 – Noticed Agenda Attached**

Meeting Convened: 4:00 p.m. in the City Hall Auditorium

Meeting Adjourned: 7:35 p.m.

City Council Members present: Councilmembers Boeschstein, McArthur, Norris, and President of the Council Taggart. Councilmembers Kennedy attended the meeting via telephone and “Go to Meeting”. Councilmembers Traylor Smith and Wortmann were absent.

Staff present: Caton, Shaver, LeBlanc, Romero, Valentine, Longenecker, Caskey, Allen, McInnis, Prall, Tonello, Schoeber, Bowman, Watkins, Camper, Nordine, Zen, Creasy, and Kemp.

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President of the Council Taggart called the meeting to order.

#### Agenda Topic 1. Discussion Topics

City Manager Caton reviewed the contents of the budget books handed out to Council which included the Transmittal Letter. City Manager Caton then reviewed the budget timeline, overview, and highlights, noting the Strategic Plan guided the budget development process by helping to align resources with goals. City Manager Caton added fee increases discussed earlier in the year will go into effect January 1, 2018, there will be no increase in wastewater rates, and Transportation Capacity Payments (TCP) will be discussed at the October 16<sup>th</sup> Workshop under Capital.

Councilmember McArthur asked what the Riverside Parkway Fund balance is currently. City Manager Caton said the balance is \$6 million.

Councilmember Boeschstein asked how TABOR affected the 2018 budget process. Finance Director Jodi Romero explained sales tax would have to significantly increase before it would impact the City’s TABOR excess and it has not.

Presenters listed in budget presentation order: Police Chief John Camper; Fire Chief Ken Watkins; Parks & Recreation Director Rob Schoeber; Interim Public Works Director Trent Prall; and Interim Utility Director Dan Tonello.

City Manager Caton noted many departments have “phase in” steps that will lead to the completion of large projects in future years (such as the north area fire station) which make them more financially feasible and about 50 % of the Spring Clean-up program cost has been captured in the Solid Waste Fund.

There was discussion regarding Regional Communication Center funding alternatives if Mesa County’s safety ballot measure does not pass, how smaller fire districts will cope with reduced City coverage and funding, how an ambulance-only station would coordinate with fire trucks if needed, why the Airport Authority is not able to afford a joint north area fire station (funds for the next few years are dedicated to the runway), how profitable Las Colonias Amphitheater has been (report due after year end), how the Grand Valley Transit service has helped elevate parking at the Las Colonias events, if and when the 5.2.1. Drainage District will have its own staff, rather than utilize City employees, percentage of fleet vehicles that are CNG (compressed natural gas), what measures could be taken to reduce the cost of street lighting, and if drilling wells have been established in the City’s watershed areas.

Agenda Topic 2. Next Workshop Topics

October 16<sup>th</sup>

Budget: Grand Junction Downtown Business Improvement District, Horizon Drive Association Business Improvement District, Economic Development, Capital

October 30<sup>th</sup>

Budget: Downtown Development Authority

Other Business

There was none.

Adjournment

With no further business the meeting was adjourned.





**GRAND JUNCTION CITY COUNCIL  
MONDAY, OCTOBER 2, 2017**

**WORKSHOP, 4:00 P.M.  
CITY HALL AUDITORIUM  
250 N. 5<sup>TH</sup> STREET**

*To become the most livable community west of the Rockies by 2025*

**1. Discussion Topics**

- a. Budget Overview and Major Operating Department Presentations:  
Police Department, Fire Department, Parks & Recreation, Public  
Works, Utilities

**2. Next Workshop Topics**

- a. Budget: Downtown Development Authority, Grand Junction  
Downtown Business Improvement District, Horizon Drive  
Association Business Improvement District, Economic  
Development, Capital

**3. Other Business**

## **GRAND JUNCTION CITY COUNCIL**

### **SPECIAL SESSION MINUTES**

**OCTOBER 4, 2017**

The City Council of the City of Grand Junction, Colorado met in Special Session on Wednesday, October 4, 2017 at 5:00 p.m. in the Administration Conference Room, 2<sup>nd</sup> Floor, City Hall, 250 N. 5<sup>th</sup> Street. Those present were Councilmembers Bennett Boeschstein, Chris Kennedy, Duncan McArthur, Phyllis Norris, Duke Wortmann, and President of the Council Rick Taggart. Councilmember Barbara Traylor Smith was absent.

Staff present for the Executive Session were City Manager Caton, City Attorney Shaver, and Police Chief Camper.

Councilmember Boeschstein moved to go into Executive Session to discuss matters pursuant to C.R.S. 24-6-402(4)(b) to receive legal advice regarding Federal District Court Action 17 cv 01942 and the possible defense and indemnification of a Grand Junction Police Department Officer named in that action, and will not be returning to open session. Councilmember McArthur seconded the motion. Motion carried.

The City Council convened into Executive Session at 5:01 p.m.

Councilmember Kennedy moved to adjourn. Councilmember Boeschstein seconded. Motion carried.

The meeting adjourned at 5:26 p.m.

Wanda Winkelmann  
City Clerk

**GRAND JUNCTION CITY COUNCIL  
MINUTES OF THE REGULAR MEETING  
October 4, 2017**

The City Council of the City of Grand Junction convened into regular session on the 4<sup>th</sup> day of October 2017 at 6:00 p.m. Those present were Councilmembers Bennett Boeschstein, Chris Kennedy, Phyllis Norris, Duncan McArthur, Duke Wortmann, and Council President Rick Taggart. Absent was Councilmember Barbara Traylor Smith. Also present were City Manager Greg Caton, City Attorney John Shaver, and Deputy City Clerk Juanita Peterson.

Council President Taggart called the meeting to order. Council President Taggart led the Pledge of Alliance which was followed by the invocation by Pastor David Crowley, The Gathering.

**Proclamations**

**Proclaiming October 1 - 7, 2017 as "Western Colorado Council Boy Scouts of America 75th Anniversary Week" in the City of Grand Junction**

Councilmember Duncan McArthur read the proclamation. Mark Switzer, Council Executive of the Western Colorado Council Boy Scouts of America, was present to accept the proclamation. Mr. Switzer gave the history of the organization and thanked Council for the proclamation.

**Proclaiming October 7, 2017 as "Community Streets Day" in the City of Grand Junction**

Councilmember Boeschstein read the proclamation. Urban Trails Committee Vice-Chair David Lehmann was present to accept the proclamation. Mr. Lehmann gave the history of the event and thanked Council for the proclamation.

**Proclaiming October 8 - 14, 2017 as "Fire Prevention Week" in the City of Grand Junction**

Councilmember Norris read the proclamation. Gus Hendricks, Fire Training Chief, and Community Outreach Specialists, Ellis Thompson-Ellis, and Dirk Clingman were present to accept the proclamation. Mr. Hendricks gave the history of the event and thanked Council for the proclamation.

**Proclaiming October as "Conflict Resolution Month" in the City of Grand Junction**

Councilmember Kennedy read the proclamation. Annette Ferriole from Peacemaking Resources was present to accept the proclamation. Ms. Ferriole gave the history of the event and thanked Council for the proclamation.

**Citizens Comments**

Bruce Lomiller, 3032 North 15<sup>th</sup> St., Apt #1204, spoke about homeless camps, night patrol funding, the Las Vegas shooting and the importance of reporting suspicious activity.

Zora Moore, 365 Vista Valley Drive, Fruita, North Avenue business owner, spoke against the North Avenue name change. She spoke of the costs, the labor involved, and asked who benefits from it. She instead proposed cleaning up North Avenue.

Mackenzie Dodge, 275 Mountain View Street, spoke against the North Avenue name change. Ms. Dodge stated her desire was to see the original petition presented to Council for the name change to University Boulevard.

Leanne Leftler-Foot, 116 E. Alco Drive, business owner of Martin Mortuary, spoke against the North Avenue name change. Ms. Leftler-Foot spoke of the impact on her business the name change would have, specifically regarding the 804 “death trusts” that they hold that would need to be changed.

Rick Sartaine, 2630 Bookcliff Avenue, spoke against the North Avenue name change. Mr. Sartaine spoke of the recession in Grand Junction and the financial impact on businesses. He addressed the cost involved in labor to execute the name change and does not believe it will benefit the community.

Melody Fraser, 527 ½ 32 1/8 Road, owner of the Mail Suite, spoke against the North Avenue name change. Ms. Fraser spoke of how the name change will negatively impact her business.

**Council Reports**

Councilmember Norris, attended the meetings that she has been assigned to. She thanked the citizens for attending this meeting, spoke and she expressed her appreciation for their involvement.

Councilmember Kennedy said the highlight of the last two weeks was attending Regional Broadband Conferences across the state. Successes and processes were shared and private businesses also attended and spoke of partnering to continue to move the initiative forward.

Councilmember McArthur said that October is breast cancer awareness month, and that he wore his pink shirt in support of Delaney Clements, a young lady who lost her battle to cancer last year, and for everyone fighting their own battle with cancer. On

September 21<sup>st</sup> he attended the Homeless Coalition meeting, on September 28<sup>th</sup> he attended the GOCO Lottery Fund's 25<sup>th</sup> Celebration (they have supported over 29 projects and \$2 billion over the last 25 years in Mesa County), on October 3<sup>rd</sup> he attended the Parks Improvement Advisory Board meeting and on October 4<sup>th</sup> he attended the Associated Members for Growth and Development meeting (discussed issues with 3A and 3B). Councilmember McArthur addressed the petition efforts being done against the North Avenue name change and how he found it gratifying to see the community come together in their efforts.

Councilmember Wortmann expressed that he is appreciative of the boundaries that our citizens are crossing in putting forth the petition against the North Avenue name change. He thanked the citizens for attending the meeting and expressing their passion.

Councilmember Boeschstein thanked everyone who attended the meeting to speak on the North Avenue name change. He assured that they are looking at this issue. He passed around a booklet from the Business Incubator Center and spoke of how they offer help to small businesses. Councilmember Boeschstein mentioned the grant award received for the trail linking the Riverfront Trail to the Monument along Monument Road and how it will be a wonderful project. He invited the public to attend a course offered by Colorado Mesa University on Saturday, Economics of our Water.

Council President Taggart took time to address the Retiree Health Program. He explained the program was self-funded by City employees. Since its inception, the monies being collected cannot keep up with inflation of health care issues and the program is not able to support itself. He said City staff is working to develop a strategy to protect the program for the retirees. He spoke of his opportunity to work with the Dual Immersion Elementary School and how they took a field trip to City Hall to ask him questions about our government. Council President Taggart expressed how impressed he was with their questions and how insightful they were. He also got to speak to East Middle School of the importance of Bike and Walk to School Day and how the City has worked hard to increase the safety of the routes available to the community.

### **Consent Agenda**

Councilmember Boeschstein moved to adopt the Consent Agenda Items #1 through #4. Councilmember Kennedy seconded the motion. Motion carried by roll call vote.

### **Consent Agenda**

#### **1. Approval of Minutes**

- a. Summary of the September 18, 2017 Workshop
- b. Minutes of the September 20, 2017 Special Session
- c. Minutes of the September 20, 2017 Regular Meeting

## **2. Set Public Hearing**

- a. Quasi-judicial
  - i. Ordinance Vacating Right-of-Way and Easements Located in the Jarvis Subdivision Plat and Set a Public Hearing for October 18, 2017

## **3. Contract**

- a. Contract Kannah Creek Intake Rehabilitation

## **4. Resolution**

- a. A Resolution Amending Resolution No. 2617 Appointing and Assigning City Councilmembers to Represent the City on Various Boards, Committees, Commissions, Authorities, and Organizations

### **Public Hearing Amending the Downtown Development Authority Plan of Development to Include the Las Colonias Business Park**

The Plan of Development for the Downtown Development Authority (DDA) was originally adopted in 1981 and needs to be updated to address the recent development opportunities along the Riverfront corridor. The Plan of Development identifies public improvements to the Las Colonias area including providing parks and other public improvements such as streetscape improvements and parking, but does not explicitly identify the proposed business-related improvements. The proposed amendment to the Plan of Development would identify the Las Colonias Business Park as a project under Section VII of the Plan of Development.

Pursuant to C.R.S. 31-25-807(4)(b), prior to its approval of a plan of development, the governing body shall submit such plan to the planning board of the municipality, if any, for review and recommendations. The planning board shall submit its written recommendations with respect to the proposed plan of development to the governing body within thirty days after receipt of the plan for review.

The public hearing opened at 7:18 p.m.

Kathy Portner, Community Services Manager, presented this item along with the history of this DDA and the projects that have taken place in the DDA. She explained that the proposed amendment would add Las Colonias park to the DDA Plan of Development as a specific project, providing public improvements to the riverfront corridor, and help spur private investment in the area which aligns with the goals and objectives of the plan of development.

Councilmember Kennedy asked how many other park properties fall under the DDA footprint. Ms. Portner answered that there are two parks, Whitman Park and Emerson Park. He asked if adding the park will increase the amount of funds paid to the DDA annually. City Manager Caton said no, because it is already within the boundaries and will actually bring in additional dollars because of the private investment potential.

Councilmember Norris asked if the County also pays a fee to the DDA since they own a lot of property in that area. City Manager Caton said no. Councilmember Norris lauded the DDA for the life they have brought downtown to the businesses and to that area.

Councilmember McArthur asked if the new business that will come into that area are automatically under the DDA and subject to the taxation and City Manager Caton answered that yes, they will be, and that this is a significant step forward in increasing the DDA's revenue.

The public hearing closed at 7:24 p.m.

Councilmember Kennedy moved to approve Ordinance No. 4765 An Ordinance Amending Sections of the Zoning and Development Code (Title 21 of the Grand Junction Municipal Code) Regarding Zoning Board of Appeals Memberships on final publication and ordered final publication in pamphlet form. Councilmember McArthur seconded the motion. Motion carried by roll call vote.

**Public Hearing – Ordinance Amending Section 21.02.030 of the Zoning and Development Code Regarding Zoning Board of Appeals Membership and a Resolution Adopting Bylaws for the Zoning Board of Appeals**

Due to the infrequency of meetings and a historic lack of interest in serving on this Board, staff is proposing to amend Section 21.02.030 of the Zoning and Development Code to reduce the number of members of the Zoning Board of Appeals (ZBOA) from five members to three members. To avoid the challenge of finding new members, the three members are proposed to be comprised of the Chairman of the Planning Commission and the two designated Planning Commission alternates.

The public hearing opened at 7:25 p.m.

Kathy Portner, Community Services Manager, presented this item.

Councilmember Kennedy asked how long the board has been serving with three members versus the full five. Ms. Portner answered it has only been 4-5 months, but this change was being considered previous to that time. Councilmember Kennedy expressed his concern in taking away these two at large positions. Ms. Portner addressed his concern in that the Planning Commission and Zoning Board of Appeals have many similarities and the Planning Commission has members to cover the diversity as appointed by City Council.

Councilmember Norris asked about the overlap in the Planning Commission and Zoning Board of Appeals given the alternates and the role they play on each board. Ms. Portner said they act as two separate and distinct entities with no overlap. Councilmember Norris asked if the City has a lot of growth, and potential for more appeals, would this three-member board still work. Ms. Portner said that the cases that are heard by the Zoning Board of Appeals are few and far between; the bar is set high. Staff works with applicants to find other solutions in lieu of variances. She also said there are many other options that have been added to allow applicants the flexibility to find a solution other than a variance.

Councilmember Wortmann thanked Ms. Portner for efficiencies that are shrinking government and how that is a very good thing.

The public hearing closed at 7:33 p.m.

Councilmember Wortmann moved to adopt Resolution No. 57-17 A Resolution Adopting Bylaws for the Zoning Board of Appeals and Approve Ordinance No. 4766 An Ordinance Amending Sections of the Zoning and Development Code (Title 21 of the Grand Junction Municipal Code) Regarding Zoning Board of Appeals Memberships on final passage and ordered final publication in pamphlet form. Councilmember Boeschstein seconded the motion. Motion carried by roll call vote.

**Public Hearing Ordinance Rezoning the Proposed Fossil Trace to R-2 (Residential 2 DU/AC), Located at 465 Meadows Way**

The Applicant, Fossil Trace Holdings LLC, is requesting a rezone of Lot 3, Rump Subdivision (8.41 +/- acres), located at 465 Meadows Way, from the R-R (Residential - Rural) to the R-2 (Residential - 2 du/ac) zone district for the purpose of future subdivision. The Future Land Use Map designates the property as Estate and identifies the property on the Blended Residential Land Use Map as Residential Low. The



Residential Low designation within the Blended Map allows for the application of the R-R, R-E, R-1, R-2, R-4 or R-5 to implement the Estate future land use category. As a result, the Blended Map provides for an allowable density of up to five dwelling units per acre which is consistent with the Applicant's request to zone this property R-2.

After this zoning request, should the Applicant choose to move forward with the development of the property, the subdivision would be subject to an administrative review.

Mayor Taggart introduced Kevin Bray, who had students from CMU, Success in Real Estate course with the topic of Planning and Development to the meeting that night for live observation.

The public hearing opened at 7:36 p.m.

Scott Peterson, Senior Planner, presented this item. He reviewed the location, site, current zoning, and the history of the property. He stated that a neighborhood meeting was held in May in which sixteen citizens and the applicant attended. He said concerns were expressed at that time on drainage and traffic.

Councilmember Boeschstein asked why the area had been originally shown as an RR zoning when the Comprehensive Plan had been adopted. Mr. Peterson said that was the state designation and nothing had been proposed for development at that time so that was the most appropriate zoning. Councilmember Boeschstein asked why the low-density designation and Mr. Peterson answered that it may have been because a good portion of the property cannot be developed due to the wetlands designation.

Councilmember Kennedy asked about the Home Owners Association Tract for Peregrine Estates. Mr. Peterson said this area is owned by the HOA and is not developable, it is open space.

Councilmember Boeschstein asked about geotechnical reports. Mr. Peterson said that would come later when a subdivision application is submitted.

Council President Taggart asked how Peregrine Estates and Monument Meadows subdivision is zoned. Mr. Peterson showed on the map that Peregrine is R-2 and Monument Meadows is RF-2.

Kevin Bray, 350 Shadow Lake Road, spoke about the feedback received and how it focused on drainage, soils, traffic, wetlands and privacy issues. He said he looks

forward to addressing these through the neighborhood meetings throughout the process.

Tim Donovan, 457 Feather Court, asked to present an overall summary of their concerns opposing the rezoning.

Council President Taggart asked City Attorney Shaver to clarify the rezoning issues to be considered before Mr. Donovan presented his presentation. City Attorney Shaver clarified the items to be considered – subsequent events that have invalidated the original premise and or findings relative to the zone, character, and/or condition of the area has changed so that the amendment is consistent with the Comprehensive Plan. Public and community facilities are adequate to serve the type and scope of land use proposed, an inadequate supply of land that is suitably designated land available in the community to accommodate the proposed land use and lastly, the area as defined by City Council will derive benefits from the proposed amendment.

Mr. Donovan then continued with his presentation. His concerns were: safety with proposed entrance off Meadows Way, disturbance of wetlands, cluster of surrounding neighborhoods, and uncertainty of the type of houses to be built.

Gerald Safe, 2162 Peregrine Court, spoke against the rezoning. Mr. Safe also addressed traffic and drainage concerns.

Janie Wilding, 2172 Peregrine Court, spoke against the rezoning. Her concerns were with the number of potential homes due to the cluster provision and the potential unintended consequences to her own home.

John Cassidy, 2174 Peregrine Estates, spoke against the rezoning. Mr. Cassidy addressed the safety concerns with the rezoning due to traffic. He stated that he understood that even if the rezoning is approved the development may not be, but he felt that this decision cannot be made in isolation, but instead made looking at the overall picture.

Chris Taggart, 452 Feather Court, spoke against the rezoning. His concern was with the cluster development and the amount of traffic that it will bring to the neighborhood. He has two small children and believes this would make the area unsafe for them and the other small children of the neighborhood.

Sam Sterling, 2161 Peregrine Court, spoke against the rezoning. Mr. Sterling doesn't believe that the potential houses to be put in would match the character of the surrounding houses and community.

Kim Gage, 460 Feather Court, spoke against the rezoning. Ms. Gage's concern was mainly with the cluster provision which may result in 14 homes in only a few acres. She also echoed the safety issues and drainage issues.

Andrew Smith, 2175 Peregrine Court, spoke in opposition of the rezoning. Mr. Smith believed that the wetlands were not accurately depicted on the maps presented and stated that if they had been the access to the property, this would not be considered.

Kara Thunderburk, 2170 Peregrine Court, spoke against the rezoning. Ms. Thunderburk spoke of her own experiences with her home and the need to put in french drains and landscaping to deal with the excess sitting water.

Tisha Cassidy, 2174 Peregrine Court, spoke against the rezoning. Ms. Cassidy spoke of the unintended consequences of passing the rezoning.

Cindy Wilbur, 458 Feather Court, asked to be put on record of being opposed to the rezoning.

Jean DeBerry, 455 Feather Court, agrees with everything the neighborhood has said and wanted to go on the record as being strongly opposed to the rezoning.

Mr. Donovan, 457 Feather Court, read letters from Tony Walters, 2164 Peregrine Court, and Pamala Williams, 454 Feather Court, who oppose the rezoning.

The public hearing closed at 8:32 p.m.

Councilmember Norris asked if the Meadows Way and Broadway are City Roads or County Roads. Mr. Dorris said they were City Roads. She asked about the cluster provision and if it is normal in a zoning change. Mr. Peterson said the cluster provision has nothing to do with the zoning change, but would be taken into consideration in the planning phase.

Council President Taggart asked for clarification on the cluster provision and why it isn't a zoning component. City Attorney Shaver clarified that the provision is a design component and that is why it isn't incorporated in the zoning phase. The rezoning only takes into consideration the assumed dwellings per acre per gross acre.

Councilmember Norris asked if there is a better zone for this property and Mr. Peterson said R-2 is what the applicant has requested.

Councilmember Boeschstein has asked himself if there is a reason to change the zoning and answered that he didn't feel there was and stated he would vote no on this ordinance.

Councilmember Kennedy asked when the last time the flood plain was updated. Mr. Dorris answered that there is not an established flood plain in Limekiln Gulch. He described the data on the flooding was based on observations made and recorded in the seventies and eighties.

Councilmember McArthur stated that the clustering provision is part of the plans and to arbitrarily change them is not an option; if they want to do that they need to amend the ordinances and the design standards. Most of the issues brought forth at the meeting were on the design standards of this project that need to be met during the development process. He spoke to the benefits of the cluster provision. He said they will still have to meet the traffic standards and the soil and drainage issues at the correct phase.

Council President Taggart said that he is not educated enough to vote on the ordinance at this Council meeting; he would like more information. He spoke of the cluster provision and how that would play out on this property.

Councilmember Kennedy said he felt the cluster provision was a design and development issue and not a rezoning issue.

Councilmember Boeschstein moved to deny Ordinance No. 4767 - An Ordinance Rezoning the Proposed Fossil Trace to R-2 (Residential - 2 DU/AC), Located at 465 Meadows Way. Councilmember Norris seconded the motion. The motion passed 4-2 with Councilmembers McArthur and Kennedy voting NO.

**Public Hearing Ordinance Rezoning Property at 382 and 384 High Ridge Drive from PD to R-2 (Residential - 2 Dwelling Units Per Acre)**

The Community Development Director is initiating a rezone of a lapsed Planned Development (PD) for the Ridges Mesa Planned Development because the PD has not been completed in accordance with the approved development schedule.

The public hearing opened at 9:02 p.m.

Kathy Portner, Community Services Manager, presented this item. She reviewed the location, site, and current zoning. The planned development was getting close to the lapse time to move forward with that plan, so they are requesting it be rezoned. If it lapses, the property would revert back to the previous zoning.

Councilmember Kennedy asked why. Ms. Portner explained that the developer doesn't want to move forward with the Planned Development that has already been approved. They want the land to be rezoned to R-2 so that they can propose a new development before it lapses in 2017 and must go back to a Planned Development zone which would mean the developer must come back to Council.

The public hearing closed at 9:06 p.m.

Councilmember Kennedy moved to approve Ordinance No. 4768 An Ordinance Rezoning Properties at 382 and 384 High Ridge Drive from PD (Planned Development) to R-2 (Residential - 2 Dwelling Units Per Acre) on final passage and ordered final publication in pamphlet form. Councilmember Boeschstein seconded the motion. Motion carried by roll call vote.

**Public Hearing Ordinance Rezoning Properties Located at 703 23 2/10 Road and 2350 G Road from I-2 to (General Industrial) to I-1 (Light Industrial)**

The Applicants are requesting approval to rezone two properties, located at 703 23-2/10 Road and 2350 G Road, from I-2 (General Industrial) to the I-1 (Light Industrial) zone district. The property located at 703 23-2/10 Road is 1.3 acres in size and currently has a vacant office building on it. The second property located at 2350 G Road is 1.9 acres and is developed with an office building that is also currently vacant. The property owners are seeking the rezone to allow for more flexibility in the types of non-industrial uses that could occupy the existing office structures on the properties.

The public hearing opened at 9:15 p.m.

Kristen Ashbeck, Senior Planner, presented this item. She reviewed the location, site, and current zoning, and described the history of the buildings on the property. Ms. Ashbeck said the I-1 would allow for general office use of the buildings that have not been used for years that the current zoning would not allow. The rezoning is compatible with the surrounding zones.

The public hearing closed at 9:21 p.m.

Councilmember McArthur commented on the location of one of the properties and the surrounding businesses and how they are heavy industrial. He said it seems like an office building may be out of place but didn't see how making it more inconsistent would create any type of a problem.

Councilmember McArthur moved to approve Ordinance No. 4769 An Ordinance Rezoning Properties Located at 703 23 2/10 Road and 2350 G Road from I-2 (General Industrial) to I-1 (Light Industrial) on final passage and ordered final publication in pamphlet form. Councilmember Wortmann seconded the motion. Motion carried by roll call vote.

**Resolution Authorizing the Defense and Indemnification of a Grand Junction Police Officer**

A Federal District Court action has been filed alleging violation of a citizen's rights by an employee of the Grand Junction Police Department. The lawsuit alleges misconduct in controlling and arresting a person reported to have assaulted an emergency medical

services provider and allegedly obstructed and resisted officers as the suspect was being placed into custody.

City Attorney John Shaver presented this item.

Councilmember Kennedy commented on the importance to support the City's law enforcement officers.

Councilmember Kennedy moved to adopt Resolution No. 58-17 - A Resolution Acknowledging Defense of Corporal Tyler Simonson in Civil Action No. 17 cv 01942. Councilmember Wortmann seconded the motion. Motion carried by roll call vote.

### **Broadband Capital Funding & Presentations by Current Broadband Service Providers**

As part of the City Council's Economic Development Plan, communication and technology infrastructure was identified as an essential tool for the development of commerce and industry leading to long-term economic competitiveness for the City of Grand Junction. The Broadband Capital Fund was developed as a funding source for aiding in the development of high-speed fiber optic broadband expansion projects.

City Manager Greg Caton presented this item. The purpose is to foster the growth of broadband, to open it to all service providers, and for the repayment of money available for future projects. The eligibility is that the company must: be within City limits, offer fiber optics, at minimum be capable of symmetrical speed of 100/100 Mbps, have the ability to repay within 3 years, or as approved by City Council, and applications are submitted by the broadband service provider. The evaluation criteria and award process is that the business demonstrate a need or demand for the broadband, must demonstrate an economic development opportunity, the project should begin within 3 months and be completed within 12 months, must improve broadband services to end-users, preference is given to the retention or creation of local jobs, projects less than \$10,000 that meet eligibility requirements are approved by Administration (assuming available budget) and projects greater than \$10,000 or longer term will be presented and approved by City Council.

Guy Gunther, Vice President of Operations for Colorado with CenturyLink, was present to answer questions and briefly give updates. Mr. Gunther stated that they would like to partner with the City to promote, presell the service and to help with the funding. They just launched this same proposal in Orange Beach, Alabama where the City put forth \$1 million and CenturyLink put forth \$22 million. Mr. Gunther said the \$100,000 funding the Council has proposed, won't come close to meeting the goals that Council has outlined. He stated that the issue is not money for infrastructure, but getting the return

on their investment through the participation from the City to grow the demand in the community. He outlined that in Orange Beach they decided they needed 33% penetration in order to go forward and start building. Given that information he recommended that the City use the proposed budget in marketing the service to drive the demand necessary to move forward with the project.

Don Liam, Government Affairs Senior Manager for Colorado with Charter, was present to update Council on what they offer. Mr. Liam outlined their proposed services. A basic offering would have download speeds of up to 100 Megabytes per second (Mbps) and upload speeds of up to 10 Mbps. A premium residential service would offer download speeds of up to 300 Mbps and upload speeds of 20 Mbps. These offerings will be available to all Grand Junction residential customers within the Charter Footprint and would offer the same level of service as major markets such as Dallas, Los Angeles, and New York. The offerings would be comparable for Small Businesses.

Councilmember Kennedy addressed the incumbents about the proposed program and affirmed that it doesn't fit into their traditional business model and the money the City is proposing is a drop in the bucket compared to the overall cost involved in providing the service. He stated that although he appreciated the work that went into this creative solution, it is too little and does not do enough to benefit large providers like Charter and CenturyLink. He said that from his perspective, they have a lot more work to do to find a feasible solution for Broadband.

Councilmember Norris said the City has come a long way from when Council started the process to offer broadband. She addressed the incumbents and thanked them for stepping up and said they will have to continue to step up and offer services to a growing market or the smaller providers may get a foothold. She is looking forward to more growth in the process.

Councilmember McArthur said the capital funding proposal isn't about the larger providers using the money, but it is about getting local small businesses using this funding to gain service to their business. He said it was the providers job to build the infrastructure because it is their business and in turn as our market continues to grow they will see the return on their investment.

City Manager Caton said that both incumbents have shown interest in utilizing the program.

Council President Taggart reiterated that the program was initiated with the small business in mind, not the carrier. The money was intended to cut the bill to businesses in half to allow them access to the service. He said that the residential offering from

Charter is significant and thanked them for that. He expressed his concern with the term “marketing” and their role in governments promoting a business.

Councilmember Boeschstein appreciated the City Manager and staff for their efforts.

Councilmember Kennedy wanted to clarify that businesses do not have an opportunity to use this money, only the providers.

City Manager Caton said that this is for the up-front costs to help businesses get broadband. The providers would apply the \$10,000 towards the cost charged to the business to fill the broadband gap.

Councilmember Boeschstein moved to authorize the City Manager to create the Broadband Capital Funding. Councilmember Norris seconded the motion. Motion carried by roll call vote.

#### **Non-Scheduled Citizens & Visitors**

There were none.

#### **Other Business**

There was none.

#### **Adjournment**

The meeting adjourned at 10:04 p.m.

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Juanita Peterson, MMC  
Deputy City Clerk





## Grand Junction City Council

### Regular Session

Item #2.a.i.

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**Meeting Date:** October 18, 2017

**Presented By:** Scott D. Peterson, Senior Planner

**Department:** Community Development

**Submitted By:** Scott D. Peterson, Senior Planner

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### **Information**

#### **SUBJECT:**

Introduction of a Proposed Ordinance Approving an Outline Development Plan (ODP) and a Rezone to Planned Development (PD) with an R-2 (Residential - 2 du/ac) Default Zone District for Weeminuche Subdivision Located between 26 & 26 1/2 Roads, South of H 3/4 Road, and Setting a Hearing for November 1, 2017

#### **RECOMMENDATION:**

Planning Commission heard this item at its September 26, 2017 meeting and forwarded a recommendation of denial to City Council (2 – 4).

An affirmative vote of five members of the City Council is required to approve rezones recommended for denial by the Planning Commission in accordance with Section 21.02.210 (e) of the Zoning and Development Code.

#### **EXECUTIVE SUMMARY:**

The Applicant, 26 Road LLC, is requesting a rezone to Planned Development (PD) with an R-2 (Residential – 2 du/ac) default zone district as well as the approval of an Outline Development Plan (ODP) for Weeminuche Subdivision. The proposed plan will develop a 303 lot, single-family residential subdivision on 151.18 +/- acres. The ODP establishes specific performance standards that the development will be required to meet and conform with through each and every development phase, as authorized by Section 21.02.150 (b) of the Zoning and Development Code. The project is located between 26 & 26 1/2 Roads, south of H 3/4 Road. The Applicant is proposing to provide significant trails, open space and play areas as a long-term public benefit.

## **BACKGROUND OR DETAILED INFORMATION:**

The Zoning and Development Code (“Code”) sets the purpose of a Planned Development zone. PDs are intended to be used for unique single-use projects where design flexibility is desired and is not available through application of the standards established in Chapter 21.03 GJMC. PD zoning should be used when long-term community benefits will be derived and the vision, goals and policies of the Comprehensive Plan can be achieved. In this case, the following long-term community benefits are derived; such as over 33 acres of open space, including expansive buffered landscape tracts adjacent to major roadways and an integrated trail system of hard and soft surface trails, picnic shelters and play areas.

The subject property is currently vacant unplatted land located between 26 & 26 ½ Roads, south of H ¾ Road and is currently zoned PD with a default zone of R-4 (Residential – 4 du/ac). A previous ODP for this property was approved in January, 2008 by the City Council for a 362 dwelling units/lots project; however, that plan lapsed. The property owner now wishes to apply for a new Planned Development zone district with a default zone of R-2 (Residential – 2 du/ac) and lower the number of dwelling units/lots proposed to 303.

The property was annexed in 1995; however, prior to annexation, a formal agreement between the City of Grand Junction and the previous property owner (known as the Saccomanno Girls Trust) specified that zoning of the property shall not be more than two (2) dwelling units to the acre. The City Council in 1995 annexed and zoned the property PR (Planned Residential), with a density equivalent to RSF-2 (Residential Single Family – 2 du/ac) and a requirement that higher density be located towards the eastern edge and lower density locate towards the western edge of the property.

The subject property retained the PR/PD zoning until 2007 when a new ODP application was submitted and ultimately approved by City Council in January 2008 to rezone the property to PD with a default zone of R-4 (Residential – 4 du/ac) and which ultimately allowed more density on the property, 362 dwelling units/lots total. The approved lot layout included higher density located towards the eastern edge and lower density located towards the western edge of the property.

The proposed PD zone of for the development of 303 lots is consistent with the Comprehensive Plan Future Land Use designation of Residential Medium Low (2 - 4 du/ac) and the density prescribed in the original Saccomanno Girls Trust agreement from 1994/1995. The Applicant’s original request to the City in March 2017 was to move forward with a new ODP request for 389 +/- lots with a default zone of R-4 (Residential – 4 du/ac). However, after feedback from the Neighborhood Meeting, the Applicant has scaled back significantly the ODP request to develop 303 single-family detached lots with a default zone of R-2.

#### Establishment of Uses:

Allowed land uses will be the same as those permitted in the R-2 zone district.

#### Density:

The proposed density for the Weeminuche Subdivision is 2 dwelling units per acre. The Comprehensive Plan Future Land Use Map designates this property as Residential Medium Low (2 – 4 du/ac). The Applicant is requesting a default zone of R-2, which has no minimum density and allows up to a maximum density of 2 dwelling units/acre. This density is at the bottom of the range prescribed by the Comprehensive Plan for density in this area.

#### Access:

The proposed subdivision will take access from 26 Road in two locations and from 26 ½ Road in two locations. One access point is proposed from H ¾ Road along with a separate street connection with the existing Freedom Heights subdivision to the south (Liberty Lane). Center left turn lanes in the two entrance locations within 26 ½ Road will be constructed as part of the subdivision development. Internal streets and private shared driveways will be constructed per the Code.

#### Open Space and Pedestrian Amenities:

The ODP provides over 33 acres of open space (21% of the total acreage of the property). Some of this open space acreage will be tracts held by a homeowner's association (HOA) for purposes of landscaping and respective utility companies such as Grand Valley Water User's Association for retention of their existing drainage infrastructure. With Council approval, the City would be dedicated the area encompassing Leach Creek. The HOA tracts will be landscaped along with the construction and development of hard and soft surface trails within the subdivision which will provide an integrated bicycle and pedestrian system. When fully developed, the Weeminuche subdivision will provide over 14,500 linear feet (2.74 miles) of hard and soft surface trails open for public use.

Within the proposed City of Grand Junction-owned tract adjacent to Leach Creek at the southeast corner of the property, a 10-foot-wide concrete trail will be constructed and will connect with the existing 10-foot-wide concrete trail located within the Freedom Heights Subdivision as required as part of the Urban Trails Master Plan. Also, in-lieu of constructing the minimum of 5 foot wide sidewalks adjacent to 26, 26 ½ and H ¾ Road, the Applicant is proposing to construct an 8-foot wide trail within a public pedestrian easement within a 69 foot to 115-foot-wide landscape buffer HOA tract of land adjacent to 26 Road, a 30-foot wide HOA tract of land adjacent to H ¾ Road and a 40-foot wide tract of land adjacent to 26 ½ Road. A small pocket park with an irrigation pond, play area and picnic shelter will also be located in the center of the development and will be improved with an 8-foot wide gravel walking trail around the perimeter of the pond.

As identified, the amount of developed open space slightly exceeds Code requirements for Cluster Developments. However, the Applicant pursued a PD and an outline development plan instead of a subdivision with Cluster Development. In addition, the public trails being proposed, other than the Leach Creek trail, are not required by Code and serve as a long-term community benefit for the Planned Development.

All pedestrian trails will be constructed with each individual phase and appropriate public pedestrian easements will be dedicated at that time.

#### Phasing:

The Applicant's proposed Plan provides for seven (7) phases of development. Each phase is proposed to be developed within 2 -3 years to account for construction and full market absorption before the next filing will begin. The following phasing schedule is proposed (approval of final plat):

Filing One (31 Lots): By December 31, 2018  
Filing Two (39 Lots): By December 31, 2020  
Filing Three (46 Lots): By December 31, 2023  
Filing Four (36 Lots): By December 31, 2026  
Filing Five (43 Lots): By December 31, 2029  
Filing Six (25 Lots): By December 31, 2032  
Filing Seven (83 Lots): By December 31, 2035

The seven phases are proposed to be completed with the filing of the Phase 7 plat by December 31, 2035; a 17-year phasing and development schedule. Specific phases of the project can found in the attached maps. Pursuant to Section 21.02.150 (B) (4) (iii) Validity, the effective period of the ODP/phasing schedule shall be determined concurrent with ODP approval. However, the phasing schedule is limited to a period of performance between one year but not more than 10 years in accordance with Section 21.02. 080.(n)(2)(i). The schedule as proposed exceeds this 10-year period by 7 years. City Staff recommends a 10-year phasing plan in accordance with this section of the Code.

The Applicant continues to request a development schedule as outlined above. The Applicant has provided specific rationale for reasons related to this timeframe including the significant size ("three times the size of an average subdivision in the Grand Valley") and the "reasonable expectations for market absorption" of their product. In addition, the Applicant provides that the inclusion of all of the property in a single ODP allows for the developer to master plan the entire site (instead of piecemeal) and will provide "predictability and assurances to the neighborhood" as to the density, design and development of infrastructure related to the overall development.

Should the City Council not consider the Applicant's request for a 17-year phasing schedule, the Applicant has provided that a development and phasing schedule should provide for Filing One to commence on or before December 31, 2018, with the last filing to be recorded 10 years from the date of approval. Staff has included this alternative phasing plan in the recommended findings.

#### Cluster Provisions:

The Applicant is interested in developing the Weeminuche Subdivision as a residential single-family detached subdivision to meet the R-2 zone district densities and proposes to utilize the cluster provisions of the Code to preserve and incorporate open space areas of the property. The amount of open space proposed (33 acres) would allow for minimum lot size of 10,050 sq. ft. in accordance with the Cluster Development provisions of Section 21.03.060 (c)(2). As proposed, each lot exceeds these minimum requirements. The cluster development provisions allow the applicant to utilize the bulk requirements (building setbacks, minimum lot width, lot coverage, etc.), of the zoning district which has the closest lot size, which, in this case, is the R-4 (Residential – 4 du/ac) zone district.

#### Subdivision Signage:

The Applicant is proposing to have two subdivision signs located at each of the six subdivision entrances (12 signs total). Subdivision signage will be placed in an HOA tract that abuts the public right-of-way and will not exceed 8' in height and will each be 16 sq. ft. Requested number of signs, square footage and sign height are all in conformance with Section 21.02.150 (b) of the Zoning and Development Code.

#### Long-Term Community Benefit:

The intent and purpose of the PD zone is to provide flexibility not available through strict application and interpretation of the standards established in Section 21.03.040 of the Zoning and Development Code. The Zoning and Development Code also states that PD zoning should be used only when long-term community benefits, which may be achieved through high quality planned development, will be derived. As defined by the Code, long-term benefits include, but are not limited to:

1. More effective infrastructure;
2. Reduced traffic demands;
3. A greater quality and quantity of public and/or private open space;
4. Other recreational amenities;
5. Needed housing types and/or mix;
6. Innovative designs;
7. Protection and/or preservation of natural resources, habitat areas and natural features; and/or Public art.

In review of the ODP, staff found the proposed residential development met the

following long-term community benefits, corresponding to the list above:

#3 Greater quality and quantity of public and/or private open space. The Applicant is proposing over 33 acres of open space (21% of the total acreage of the property), which will be owned and maintained by a homeowners' association and respective utility companies such as Grand Valley Water User's Association and the City of Grand Junction. Trails will be constructed by the developer(s) and maintained by the HOA for the benefit and use of the public. The HOA tracts will be landscaped along with the construction and development of hard and soft surface trails within the subdivision and will provide an integrated bicycle and pedestrian system. When fully developed, the Weeminuche subdivision will provide over 14,500 linear feet of paved and soft surface trails (2.74 miles). All trails will be dedicated for general public use and, other than the Leach Creek trail, the proposed trails are not required by Code and serve as a long-term community benefit for the Planned Development. All pedestrian trails and passive recreational areas will be constructed with each individual phase and appropriate public pedestrian easements will be dedicated at that time.

#7 In addition, the proposed development preserves environmentally sensitive areas (Leach Creek) and proposes both active and passive recreational areas throughout the development that includes trails, picnic shelters and play areas within HOA tracts.

#### Default Zone:

The Applicant is proposing an R-2 zone district as the default zone. In addition, the Applicant plans on developing the site utilizing the City's Cluster Development provision (Section 21.03.060). The cluster provisions of the Zoning and Development Code allow the Applicant to utilize the bulk requirements (building setbacks, minimum lot width, lot coverage, etc.), of the zoning district which has the closest lot size to the proposed lot size of the overall development, which, in this case, is the R-4 (Residential – 4 du/ac) zone district. Despite being able to use the R-4 bulk standards, the development is still required to meet the R-2 zone district densities. Apply the formula set by the Code, the Applicant will be able to develop lots with a minimum lot size of 10,050 square feet (instead of 15,000 square feet) and use the R-4 bulk standards as follows:

Front yard setback (Principal/Accessory): 20 feet/25 feet.

Side yard setback (Principal/Accessory): 7 feet/3 feet.

Rear yard setback (Principal/Accessory): 25 feet/5 feet.

Minimum Lot Width: 70 feet.

Maximum building height: 40 feet.

Maximum Lot Coverage: 50%.

Minimum Lot Area: 10,050 sq. ft.

The Code also allows for the reduction of setback for lots abutting open space as

provided in Section 21.030.030 (d) (5).

#### Deviations:

The R-2 zone district will be the default zone, however because the Applicant intends to utilize the Cluster Development provision of the Code, the R-4 bulk standards will apply. No deviations are being requested from the R-4 bulk standards by the Applicant as part of the ODP application. Proposed residential development will meet or exceed all other Zoning Code requirements as identified.

#### Drainage:

As part of the subdivision development, the Applicant will be relocating the existing Corchoran Wash at the northwest corner of the development. The existing drainage channel will be piped underground in an anticipated 30" to 36" pipe and rerouted along the H  $\frac{3}{4}$  Road and 26 Road rights-of-way and reconnected downstream. Applicant has obtained approval for this relocation from Grand Valley Water Users Association which maintains the wash. The Applicant's engineer has also provided information stating that drainage will not damage or impact existing drainage patterns either upstream or downstream with this proposed relocation.

#### Vehicle Traffic Demand:

The traffic impact study that was completed by the Applicant and reviewed by the City identifies specific street improvements that, if implemented, would successfully mitigate the traffic impacts of the project. The necessary increase in vehicle capacity could be accomplished through intersection improvements and street widenings for turn lanes. There are two intersections along G Road, at 26 Road and 26  $\frac{1}{2}$  Road, and three intersections along H Road, at 26 Road, 26  $\frac{1}{2}$  Road, and 27 Road, that would warrant improvements by the time the project is at full build out. The recommended intersection improvements vary with location but include widening for additional turn lanes, new four-way stop controlled intersections or traffic signals or roundabouts. Construction of new left turn lanes into the proposed ODP/Subdivision's access points from 26  $\frac{1}{2}$  Road are also included in the recommended improvements. These left turn lanes will be built with the project by the Applicant and, consistent with City policy, will receive a credit against the fees due for their required Transportation Capacity Payment. Improvements to the intersection of 26  $\frac{1}{2}$  and G are in the City's proposed 5-year Capital Improvement Plan and are currently planned for construction in 2021. In addition, 26  $\frac{1}{2}$  and G is proposed for construction in 2022. 26 Road and H Road as well as 26  $\frac{1}{2}$  and H Road will require future 4-way intersection signage and will be installed upon traffic warrants.

#### Active Transportation Demand (Pedestrians and Bicycles):

Improvements to accommodate active transportation modes including pedestrians and bicyclists, have also been recommended in the traffic impact study. Trails and sidewalks are proposed to be included in the ODP design throughout the interior and

on the perimeter of the project. Similar to vehicular traffic, the project will also generate demand for active transportation improvements off-site. The traffic impact study identifies improvements that could be implemented to accommodate those active transportation demands. One recommended improvement is the widening of 26 Road and 26 ½ Road to accommodate on-street bike lanes. Additionally, the bridge structures on 26 Road and 26 ½ Road crossing I-70, which are owned by the Colorado Department of Transportation (CDOT), are only wide enough for the two existing travel lanes. Despite this infrastructure limitation, these bridges and roadways see a significant amount of bike traffic that appears to be predominately recreationally oriented. While the existing structures can accommodate future project generated and background vehicular traffic demand, they are currently not designed to accommodate current or future increases in pedestrian and bicycle traffic.

The need for active transportation improvements was previously identified, prior to this project being considered. The Grand Valley 2040 Regional Transportation plan update lists the 1st Street/26 Road corridor as a “Tier 1 Priority Active Transportation Corridor”. The plan update explains, “Tier 1 alternatives represent a menu of potential project options that will be considered by the Grand Valley Regional Transportation Committee and local government partners as funding becomes available.” The plan further states that potential projects on this corridor would focus on development of bike lanes in each direction. Although these corridor improvements are on the priority list, these improvements related to bicycle and pedestrian improvements are neither on CDOT’s or the City’s list for funding through their capital improvement plans at this time.

A potential improvement that would accommodate active transportation demand beyond the project’s limits would be to develop an off-street trail network. A trail constructed, over time, that follows the Leach Creek natural drainage could provide a north-south connection. The Applicant is proposing to develop their section of the Leach Creek trail system that will tie into the existing trail that was recently developed through the Freedom Heights subdivision to the south.

#### Transportation System Improvements:

The transportation improvements identified in the traffic impact study will be warranted over time due to a combination of the project- generated traffic as well as increasing traffic volumes anticipated to occur with or without the project. As is the case with most projects, the Transportation Capacity Payment fees collected from the project will cover only a portion of the construction cost of the improvements recommended in the traffic impact study.

#### Neighborhood Meeting:

A Neighborhood Meeting regarding the proposed Outline Development Plan (ODP) was held on March 30, 2017. The Applicant’s representative and City Planning staff



were in attendance along with over 50 citizens. Comments and concerns expressed by the attendees centered on the proposed density of the development (proposed to be an R-4 density at the time of the Neighborhood Meeting), increased traffic, road networks and capacity, sewer availability, open space, proximity to the airport, nighttime lighting and drainage concerns. Since the Neighborhood Meeting, City staff has received numerous inquiries regarding the proposed subdivision requesting more information along with six official emails or letters commenting on the proposed development, which are attached for review.

## ANALYSIS

Pursuant to Section 21.02.150 (b) of the Grand Junction Zoning and Development Code, requests for an Outline Development Plan (ODP) shall demonstrate conformance with all of the following:

a) The Comprehensive Plan, Grand Valley Circulation Plan and other adopted plans and policies;

The proposed Outline Development Plan complies with the Comprehensive Plan, specifically, Goals 3, 5 & 8, as provided below. Regarding the Future Land Use Map, the proposed development is within the residential density range of the Residential Medium Low (2 – 4 du/ac) category as identified on the Future Land Use Map. This Outline Development Plan request is consistent with the following vision, goals and/or policies of the Comprehensive Plan:

Goal 3: The Comprehensive Plan will create ordered and balanced growth and spread future growth throughout the community.

Goal 5: To provide a broader mix of housing types in the community to meet the needs of a variety of incomes, family types and life stages.

Policy C: Increasing the capacity of housing developers to meet housing demand.

Goal 8: Create attractive public spaces and enhance the visual appeal of the community through quality development.

Policy A: Design streets and walkways as attractive public spaces.

No changes to the existing Grand Valley Circulation Plan or street network are proposed. As proposed, the application is in conformance with the Grand Valley Circulation Plan and other applicable adopted plans and policies.

In-lieu of constructing the minimum of 5 foot wide sidewalks adjacent to 26, 26 ½ and H

$\frac{3}{4}$  Road, the Applicant is proposing to construct an 8' wide trail within a public pedestrian easement within a 69 foot to 115-foot-wide landscape buffer HOA tract of land adjacent to 26 Road, a 30-foot-wide HOA tract of land adjacent to H  $\frac{3}{4}$  Road and a 40-foot-wide tract of land adjacent to 26  $\frac{1}{2}$  Road. All HOA tracts of land will be fully landscaped and will provide an attractive landscape corridor along these road frontages.

b) The rezoning criteria provided in Section 21.02.140 (a) of the Grand Junction Zoning and Development Code.

(1) Subsequent events have invalidated the original premises and findings; and/or

A previously adopted PD has lapsed therefore invalidating the premises for the PD that was previously approved. It is required that the property now be rezoned. Staff finds this criterion has been met.

(2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or

The character and/or condition of the area has seen increased growth and development since the time of the previous approved Planned Development for the property in 2008. A new single-family residential subdivision, Freedom Heights, has been developed to the south that will be developed at a density of 0.88 dwelling units to the acre while larger lot single-family homes have been constructed to the west in the County. The Summer Hill Subdivision further to the east has added additional filings in 2015 and 2016 at a density of 2.31 dwelling units to the acre overall for the subdivision. Additionally, the existing Grand Vista Subdivision to the east has an overall residential density of 2.90 dwelling units to the acre. The Paradise Hills Subdivision directly abutting the property to the east is zoned R-4. The Applicant is requesting to develop a residential subdivision as a Planned Development at 2.0 dwelling units per acre which is within the allowable density range as identified with the Comprehensive Plan Future Land Use Map designation of Residential Medium Low (2 – 4 du/ac). The request for rezone is consistent with the Comprehensive Plan, therefore, staff finds that this criterion has been met.

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

Existing public and community facilities and services are available to the property and are sufficient to serve the single-family residential land uses allowed in the PD zone district. Ute Water is located within the 26, 26  $\frac{1}{2}$  and H  $\frac{3}{4}$  Road rights-of-way and City sanitary sewer is presently stubbed to the property from the adjacent Freedom Heights Subdivision to the south. The property can also be served by Grand Valley Power

electric and Xcel Energy natural gas. Located within the vicinity and along Horizon Drive are commercial centers that include general offices, grocery store, banks, restaurants, convenience stores and car wash, etc. St. Mary's Hospital is located a little over two miles directly to the south on 26 ½ Road. The public and community facilities are adequate to serve the type and scope of the residential land use proposed, therefore, staff finds this criterion has been met.

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

The Weeminuche property is a large acreage, undeveloped parcel of land that is adjacent to all existing utility infrastructure and is ready for development without the need to assemble adjacent parcels of land. The Applicant is requesting to develop a residential subdivision within an existing residential zone, as a Planned Development that provides additional long-term community benefits that would not otherwise be required under conventional zoning, such as an integrated bicycle and pedestrian system of hard and soft surface trails located within HOA tracts of land. This property is proposed to be zoned PD to allow for design flexibility and long-term community benefits. Because PD is a zone category based on specific design and is applied on a case-by-case basis, staff finds this criterion is not applicable to this request, and, therefore this criterion has not been met.

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

The community will derive benefits from the zoning of PD by the proposed development providing an extensive amount of open space and trail systems, both internally and externally. An internal trail that bisects the subdivision will provide a convenient off-street connection between 26 and 26 ½ Roads. A detached trail will also be constructed around the perimeter of the subdivision that will be located within a large HOA tract of land that separates the trail from the road rights-of-way. The proposed subdivision will reduce traffic demands in the area from what could have been developed on the property under the previous approved ODP from 2008 that was approved to develop 362 lots. A proposed 10-foot wide concrete trail will be constructed adjacent to Leach Creek that will connect to the existing trail that was constructed as part of the Freedom Heights residential subdivision to the south. The proposed subdivision also includes both active and passive recreational areas throughout the development that includes HOA tracts that will include picnic shelters and play areas. Staff, finds this criterion has been met.

c) The planned development requirements of Section 21.05.040 (f) of the Zoning and Development Code;

(1) Setback Standards. Principal structure setbacks shall not be less than the minimum setbacks for the default zone unless the applicant can demonstrate that:

Reduced building setbacks less than the minimum setbacks for the default zone are not proposed. This criterion has been met.

(2) Open Space. All residential planned developments shall comply with the minimum open space standards established in the open space requirements of the default zone.

In a traditional subdivision, the minimum open space requirement for a residential project is 10% however the City regularly accepts an in lieu fee payment for this 10%. For projects utilizing the Cluster Development provision, the minimum requirement for open space is 20%. The Applicant is proposing over 33 acres of open space for a total of 21% of the total acreage of the property. The Applicant has exceeded this minimum standard and therefore has met this criterion. Portions of this open space acreage will be developed as tracts of land and will be dedicated to City of Grand Junction, the homeowner's association (HOA) and respective utility companies such as Grand Valley Water User's Association. The HOA tracts will be landscaped along with the construction and development of hard and soft surface trails both internally and externally to the subdivision which will provide an integrated bicycle and pedestrian system. When fully developed, the Weeminuche subdivision will provide over 14,500 linear feet (2.74 miles) of hard and soft surface trails.

(3) Fencing/Screening. Fencing shall comply with GJMC 21.04.040(i).

Fencing will be provided around the perimeter of the subdivision and in the open space areas. Fence materials will vary depending on the location of the fence but will include one of three types of materials; vinyl, composite or split rail and will comply with all applicable requirements of the Code meeting this criterion.

(4) Landscaping. Landscaping shall meet or exceed the requirements of GJMC 21.06.040.

Landscaping is being provided in all open space tracts and will meet or exceed the requirements of the Code therefore meeting this criterion. Section 21.06.040(g)(5) of the Zoning and Development Code requires a 14-foot wide landscape buffer outside a perimeter enclosure adjacent to arterial and collector streets. The proposed width of the perimeter HOA tracts are 69 feet to 115 feet adjacent to 26 Road, 30 feet adjacent to H  $\frac{3}{4}$  Road and 40 feet adjacent to 26  $\frac{1}{2}$  Road. All tracts will include pedestrian amenities (trails), fencing, trees, shrubs and ground cover. A small pocket park with an irrigation pond, play area and picnic shelter will also be located in the center of the development and will be improved with an 8-foot-wide gravel walking trail around the perimeter of the pond.

(5) Parking. Off-street parking shall be provided in accordance with GJMC 21.06.050.

Off-street parking will be applied in accordance with the Zoning and Development Code for single-family residential development therefore meeting this criterion.

(6) Street Development Standards. Streets, alleys and easements shall be designed and constructed in accordance with TEDS (GJMC Title 29) and applicable portions of GJMC 21.06.060.

All proposed streets and easements will be designed in accordance with the TEDS Manual and the Code therefore meeting this criterion.

d) The applicable corridor guidelines and other overlay districts.

There are no corridor guidelines that are applicable for this development. The property is however, located within the Airport Area of Influence and the Applicant will file an Avigation Easement at the time of Final Plan recording. Staff finds this criterion will be met with the filing of an avigation easement.

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

Existing public and community facilities and services are available to the property and are sufficient to serve the single-family residential land uses allowed in the PD zone district. Ute Water is located within the 26, 26 ½ and H ¾ Road rights-of-way and City sanitary sewer is presently stubbed to the property from the adjacent Freedom Heights Subdivision to the south. The property can also be served by Grand Valley Power electric and Xcel Energy natural gas. Located within the vicinity and along Horizon Drive are commercial centers that include general offices, grocery store, banks, restaurants, convenience stores and car wash, etc. St. Mary's Hospital is located a little over 2 miles directly to the south on 26 ½ Road. Staff has found that adequate public services and facilities exist or will be provided, therefore finding this criterion has been met.

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

The proposed subdivision will take access from 26 Road in two locations and from 26 ½ Road in two locations. One access point is proposed from H ¾ Road along with a separate street connection with the existing Freedom Heights Subdivision to the south (Liberty Lane). Center left turn lanes in the two entrance locations within 26 ½ Road will be constructed as part of the subdivision development. Internal streets and private

shared driveways will be constructed per City Code requirements for residential streets. The ODP is consistent with the City's adopted Circulation Plan for this area and provides adequate circulation and access therefore this criterion has been met.

g) Appropriate screening and buffering of adjacent property and uses shall be provided;

The Applicant is proposing to construct an 8-foot wide trail within a public pedestrian easement within all HOA tracts surrounding the subdivision. The width of these HOA tracts will be 69 feet to 115 feet adjacent to 26 Road, 30 foot wide adjacent to H  $\frac{3}{4}$  Road and 40-foot wide adjacent to 26  $\frac{1}{2}$  Road. As a comparison, under a straight zone subdivision development, the minimum landscaping width requirement would be 14 feet adjacent to these street frontages. All HOA tracts will be landscaped. Fencing will be provided around the perimeter of the subdivision and in the open space areas. Fence materials will vary depending on the location of the fence but will include one of three types of materials; vinyl, composite or split rail. Staff has found appropriate screening and buffering shall be provided and therefore this criterion has been met.

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

The proposed density for Weeminuche Subdivision is 2 dwelling units/acre, which is at the low end but within the Future Land Use Map residential density requirements of the Residential Medium Low (2 – 4 du/ac) designation. Therefore, staff finds the density range for the development to be appropriate and compliant with this criterion.

i) An appropriate set of "default" or minimum standards for the entire property or for each development pod/area to be developed.

The Applicant is proposing an R-2 default zone district for establishing density and the R-4 zone for bulk standards, with no deviations from the codified minimum standards. All other minimum standards associated with the Zoning and Development Code have been met or exceeded. The cluster provisions of the Zoning and Development Code allow the Applicant to utilize the bulk requirements (building setbacks, minimum lot width, lot coverage, etc.), of the zoning district which has the closest lot size to the proposed lot size of the overall development, which, in this case, is the R-4 (Residential – 4 du/ac) zone district, while still meeting the R-2 zone district densities.

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

The Applicant is proposing to develop this subdivision in seven phases, with full completion by December 31, 2035. Each filing will be allotted 2 -3 years for approval to account for construction and full market absorption before the next filing will begin.

However, the phasing schedule is limited to a period of performance between one year but not more than 10 years in accordance with Section 21.02. 080.(n)(2)(i). The schedule as proposed exceeds this 10-year period by 7 years. City Staff recommends a 10-year phasing plan in accordance with this section of the Code. With the implementation of a 10-year phasing plan, staff finds this to be an appropriate phasing schedule that is consistent with the Zoning and Development Code.

**FISCAL IMPACT:**

This land use action does not have any direct fiscal impact. Subsequent actions such as future subdivision development and related construction will have fiscal impact related to the associated road and utility infrastructure installation and future maintenance costs, as well as revenue from applicable property and sales taxes.

**SUGGESTED MOTION:**

I move to introduce Ordinance \_\_\_\_\_ an Ordinance Approving a Rezone to Planned Development (PD) with an R-2 (Residential – 2 du/ac) default zone district and an Outline Development Plan to develop a 303 single-family residential subdivision and Set a Hearing for November 1, 2017.

**Attachments**

1. Applicant's General Project Report
2. Planning Commission Staff Report
3. Site Location, Zoning and Outline Development Plan Maps
4. Public Correspondence Recieved
5. Applicant's Letter to City Council
6. Ordinance

**General Project Report  
For  
Weeminuche Subdivision  
Outline Development Plan (ODP) Rezone  
Grand Junction, CO**

Date: May 12, 2017  
Revised June 29, 2017

Prepared by: Robert W. Jones II, P.E.  
Vortex Engineering and Architecture, Inc.  
2394 Patterson Road, Suite 201  
Grand Junction, CO 81505  
970-245-9051  
VEI# F17-006

Submitted to: City of Grand Junction  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501

Type of Design: Rezone from PD (Planned Development with R4 default)  
to PD (Planned Development with R2 default)

Owner: 26 Road LLC  
710 S. 15<sup>th</sup> Street  
Grand Junction, CO 81501-4612

Property Address: Between 26 Road, H  $\frac{3}{4}$  Road, 26  $\frac{1}{2}$  Road  
Grand Junction, CO 81506

Tax Schedule No: 2701-262-00-585



## **1. Project Intent**

This request is made to rezone approximately 151 acres from PD (Planned Development with R4 default zone) to PD (Planned Development with R2 default zone) for the proposed Weeminuche Subdivision Outline Development Plan (ODP), which supports the Comprehensive Plan's goal for ordered and balanced growth. The owner's intent is to rezone the subject property in anticipation of future residential development substantially similar to the previously approved Preliminary Plan for Weeminuche Estates subdivision.

## **2. Project Background and Description**

The site is located north of H Road, between 26 Road and 26 ½ Road. The subject property was annexed into the City of Grand Junction on April 5, 1995 as part of the Pamona Park Annexation by Ordinance No. 2825. Prior to annexation, a formal agreement between the City of Grand Junction and Carol Ann Murphy, Lenna Marie Watson and Linda Marie Siedow (signing on behalf of the Saccomanno Girls Trust) was executed on August 19, 1994. The agreement, known as the Saccomanno Girls Trust Annexation Agreement, specified that zoning, which results in a density of not more than two units per acre, be adopted by the City for the subject property after annexation.

The City subsequently adopted Ordinance No. 2842 on May 3, 1995, which adopted the following zoning for the subject property: PR (with a density equivalent to RSF-2) and with a requirement that higher density locate towards the eastern edge and lower density locate towards the western edge of the property.

The subject property retained the PR zoning until a request to rezone was submitted by the applicant as part of the Weeminuche Estates development application. The subject property was rezoned from PR (with a density equivalent to RSF-2) and with a requirement that higher density locate towards the eastern edge and lower density locate towards the western edge of the property to PD (Planned Development with a default R4 zone) for the development of 362 dwelling units for the Weeminuche Estates Subdivision by Ordinance No. 4174 on January 16, 2008.

Initial zoning of the subject property took place prior to the adoption of the Comprehensive Plan. The Comprehensive Plan, a joint land use plan adopted by the City of Grand Junction and Mesa County government, was based on extensive public input. The Comprehensive Plan is a regional plan not only for the current city limits but also for the immediate vicinity of Grand Junction that may eventually be developed at urban densities. The planning process for the Comprehensive Plan was well underway during the time that the subject property was rezoned to PD (with R4 default zone) and likely informed the discussion about needed housing in the Grand Junction market.

The Comprehensive Plan assumes that most built neighborhoods will continue to exist as they do today. These are "areas of stability." The land uses for the "areas of stability" remain virtually the same as they were in the previous City and County plans. On the Future Land Use map, most new growth will occur in "areas subject to change," which include: areas near and within Centers (shown on the

Future Land Use map), vacant and undeveloped land, and underutilized land. These areas are not likely to remain as they are today. The vacant land will eventually be developed. (See Attachment A)

The subject property is identified by the Comprehensive Plan as an “area of change” which anticipates new growth and development for properties located near and within Village and Neighborhood Centers as shown on the Future Land Use Map. A Neighborhood Center is anticipated at the intersection of H and 26 ½ Roads. Future residential development of the subject property will provide needed housing and will support the anticipated Neighborhood Center.

#### Request to rezone to Planned Development (with R2 default zone)

The applicant originally wanted to simplify the development process by rezoning the subject property to a straight zone and submitted an application requesting a rezone from PD (with R4 default) to the R4 (Residential, 2-4 du/ac) zone district. A Neighborhood Meeting was held with area residents who expressed concern about the density range allowed by the R4 district and the impacts of the proposed number of lots in the Weeminuche Subdivision.

The applicant was contacted by City staff after the Neighborhood Meeting with a request to discuss the proposed rezone to R4. After the meeting the applicant determined that the request to rezone would be amended to rezone from PD (with R4 default) to PD (with R2 default). The default R2 zone (Residential, 2 du/ac) will limit the density to two dwelling units per acre, which is consistent with the Residential Medium Low land use classification of the Comprehensive Plan, and with the 1994 Saccomanno Girls Trust Annexation Agreement.

The proposed rezone will utilize the bulk standards from the R4 default zone district due to the use of the clustering provisions allowed in the code. The previously requested deviations are no longer necessary. Allowed uses will be the same as those permitted in the R2 zone district. Other development standards, such as those regarding fencing and accessory uses, shall be as permitted by the R2 zone district and the Zoning and Development Code.

#### Design and Community Benefit

The proposed Weeminuche Subdivision Outline Development Plan (ODP) is a single family development with 303 lots that will be developed in seven phases. Development of the subject property will take place over an extended period of time given the size of the property and the current absorption rate of the housing market.

Planned development zoning should be used when long-term community benefits will be derived and the vision, goals and policies of the Comprehensive Plan can be achieved. Section 21.06.020(b), Open Space Dedication of the Zoning and Development Code requires subdivisions with 10 or more lots to dedicate 10% open space. The Weeminuche Subdivision has reserved 32.83 acres amounting to 21.7% open space in both active and passive areas throughout the development. The open space will be landscaped and provide a welcoming environment to enjoy the outdoor areas.

Hard and soft surface trails will be strategically constructed internally and externally to the subdivision and will provide an integrated bicycle and pedestrian system. A 10 foot concrete trail constructed on the north side of Leach Creek will provide a safe, off-street pedestrian path from 26 ½ Road into the development and will complete a partially constructed trail in the Freedom Heights development.

A small pocket park with an irrigation pond will be located in the center of the development and will be improved with a walking trail around the perimeter of the pond. When fully constructed, the Weeminuche Subdivision will provide over 4,000 linear feet of hard and soft surface trails. A greater quantity and quality of open space and trails than what is generally required by Code is being incorporated into the development as a community benefit.

#### Utilization of the R4 Bulk Standards

The project will utilize the R4 Bulk Standards for development based on the use of the clustering provisions allowed in the Zoning and Development Code. Allowed uses will be the same as those permitted in the R2 zone district. Other development standards, such as those regarding fencing and accessory uses, shall be as permitted by the Zoning and Development Code.

The requested minimum lot size has been calculated using the formula provided in Sec. 21.03.060, Cluster Developments, which equated to a minimum lot size of 10,120 square feet. Smaller lot sizes will allow the preservation of 32.83 acres of open space in the Weeminuche Subdivision. Lots will generally be 10,500 square feet; however, there may be a small number of lots that are slightly smaller based on design constraints. All lots shall meet the 10,120 square foot minimum lot size.

Smaller lot sizes require smaller or reduced building setbacks allowed in the R4 Bulk Standards. Side lots will require smaller setbacks to accommodate narrower lots. In general, all lots will need a smaller rear setback to have a reasonable back yard, but shallow lots that back up to open space areas such as along Leach Creek have limited area available for use in the rear.

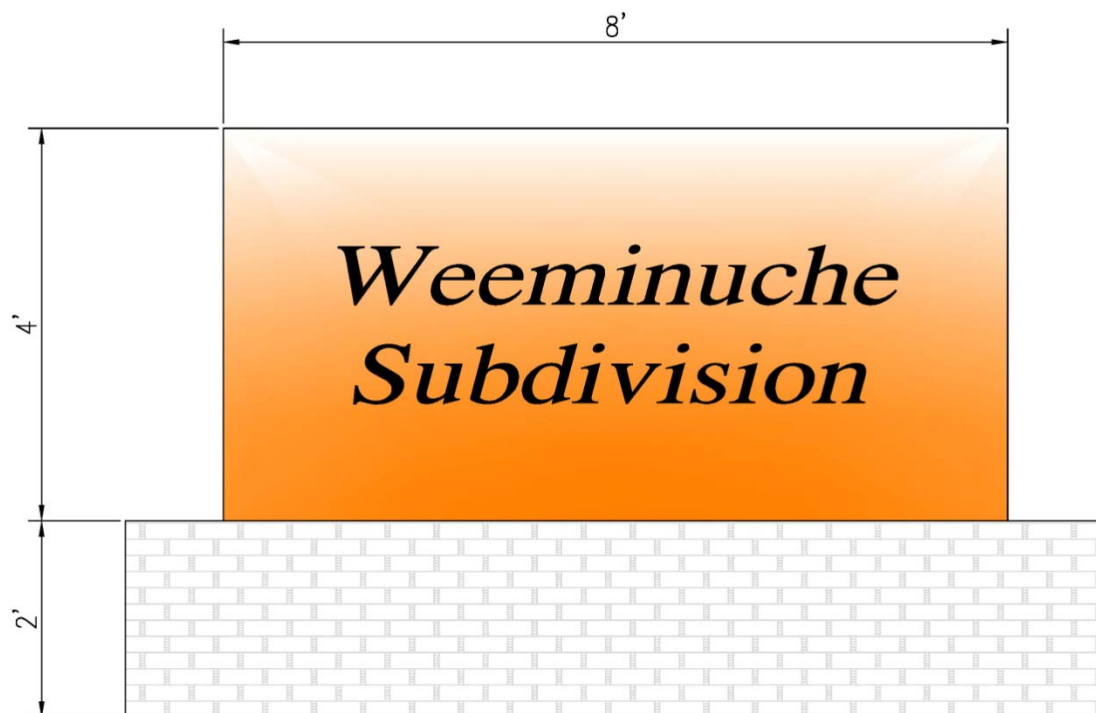
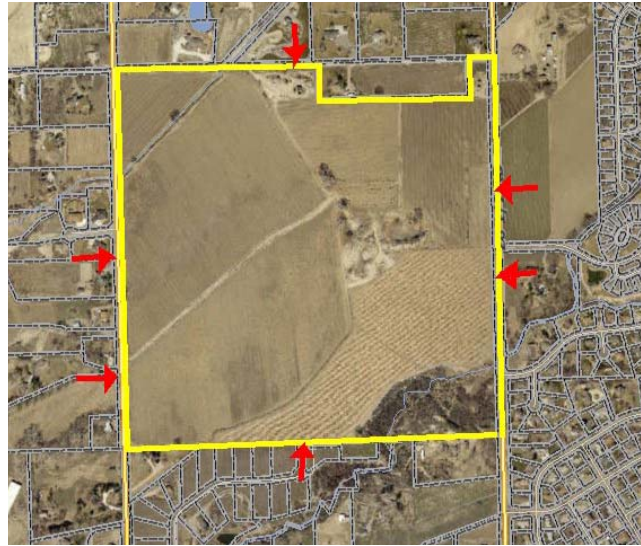
Likewise, due to smaller lot size based on clustering, an increase in the maximum lot coverage offered by the R4 Bulk Standards will be utilized.

#### Signage

The applicant is proposing signage as permitted by Sec. 21.06.070(7), Signs, Planned Development, which states:

- (ii) One permanent monument sign up to 32 square feet in area is allowed at a multifamily apartment/condominium building/complex and on each common area parcel that abuts a public right-of-way; for purposes of this subsection, "common area parcel" means a parcel that is owned by a homeowners' association for the benefit of all lot owners in a planned community, common interest community or condominium.

The proposed signs will be located at the six points of entry to the subdivision and will be externally illuminated with lighting directed to the sign face. See proposed signage locations on the map below marked by the red arrows. Final design of proposed signage will be included with Final Plat and Plans for each filing.



#### Fencing

Fencing will be installed by the applicant around the perimeter of the subdivision and in the open space areas. Materials will vary depending on the location of the fence but will include one of three types of fencing materials: vinyl, composite or split rail. Perimeter fencing will be constructed of either vinyl or composite fencing at a height not to exceed six feet. Generally, fencing in the open space areas will be split rail with 48 inch posts in areas where views and an open feel are intended to be protected. The applicant may construct a six foot privacy fence in areas where the open space backs up to individual lots. In all cases the applicant reserves the right to make a final determination on fencing materials. All fences shall meet the requirements of the Zoning and Development Code.

### Legal Description

The legal description of this site is:

A parcel of land situate in the S 1/2 NW 1/4 and the N 1/2 SW 1/4 of Section 26, Township 1 North, Range 1 West, City of Grand Junction, Mesa County, Colorado, being more particularly described as follows:

Beginning at the N 1/16 corner of said Section 26, the basis of bearing being N89°58'25"E along the north line of said S 1/2 NW 1/4 to the NW 1/16 corner of said Section 26;

thence N89°58'25"E a distance of 1317.20 feet to the NW 1/16 corner;

thence S00°00'28"W a distance of 40.00 feet to the south right-of-way line of H 3/4 Road as recorded in Book 2139 at Page 647;

thence N89°52'41"E a distance of 85.80 feet along said south line;

thence S00°15'15"E a distance of 208.66 feet;

thence N89°54'37"E a distance of 1043.64 feet;

thence N00°13'19"W a distance of 209.24 feet to said south right-of-way line;

thence N89°52'41"E a distance of 157.63 feet along said south line;

thence S00°02'15"W a distance of 1279.71 feet running parallel with and 30.00 feet west of the east line of said S 1/2 NW 1/4;

thence S00°01'38"W a distance of 659.87 feet running parallel with and 30.00 feet west of the east line of said N 1/2 SW 1/4;

thence S89°55'07"W a distance of 10.00 feet;

thence S00°01'38"W a distance of 634.65 feet running parallel with and 40.00 feet west of the east line of said N 1/2 SW 1/4;

thence along the northerly line of a boundary agreement as recorded in Book 4249 at Page 204 the following six courses:

1.) S85°55'46"W a distance of 246.52 feet; 2.) N00°01'56"E a distance of 15.00 feet

3.) S86°59'39"W a distance of 23.87 feet; 4.) S89°07'14"W a distance of 22.44 feet

5.) S88°22'07"W a distance of 196.46 feet; 6.) S13°27'26"W a distance of 16.70 feet to the south line of said N 1/2 SW 1/4;

thence S89°54'58"W a distance of 783.60 feet to the SW 1/16 corner of said Section 26;

thence S89°55'03"W a distance of 1316.04 feet to the S 1/16 corner of said Section 26;

thence N00°01'07"W a distance of 2639.94 feet to the point of beginning.

Said parcel contains 151.18 acres more or less.

### **3. Neighborhood Meeting**

A Neighborhood Meeting was held on Thursday, March 30, 2017 at 5:30 pm at the Canyon View Vineyard Church, located at 736 24 ½ Road, Grand Junction. The owner's representative provided an overview of the rezone request from PD to R4, as well as a presentation on the future single family residential subdivision known as the Weeminuche Subdivision. Scott Peterson, Senior Planner with the City of Grand Junction also attended the meeting to answer questions about the rezone and subdivision review and approval process. A list of all those attending the meeting is attached to the end of this

report (Attachment D), as well as the primary issues of concern that were discussed during the meeting.

The meeting was well attended by approximately 50 citizens, although not everyone signed the Attendance Sheets. Comments from citizens included questions about the zoning, density, trails/open space, traffic and parking, when construction would begin, sewer availability, proximity to the airport, status of the Corcoran Drain (Ditch E) and concerns about night lighting in the subdivision. Although a rezone to R4 was discussed during the meeting, the rezone request has been modified to the R2 zone as the default zone district. The R2 is less dense than the R4; therefore the applicant did not hold another Neighborhood Meeting prior to submittal of this application.

Public notice for this application will be provided in accordance with Sec. 21.02.080(g) of the Grand Junction Municipal Code, including posting the subject property on all public rights-of-way.

#### **4. Comprehensive Plan**

The Comprehensive Plan's Future Land Use Map shows the subject property as Residential Medium Low (RML, 2-4 du/ac). The property is identified by the Comprehensive Plan as an "area of change" which anticipates new growth and development for properties located near and within Village and Neighborhood Centers as shown on the Future Land Use Map. A Neighborhood Center is anticipated at the intersection of H and 26 ½ Roads which is just south of the subject property. Residential development of this property will provide needed housing and will support the anticipated Neighborhood Center. Residents of the Weeminuche Subdivision will be future patrons and/or employees for businesses located within the Neighborhood Center.

The subject property is located within the 201 Sewer Service Boundary and the Urban Development Boundary. Properties within these boundaries are expected to grow and develop with urban densities and services. (See Attachment B)

The applicant has requested a rezone from the current zoning of PD (Planned Development with R4 default zone) to R2 (Residential, 2 du/ac) for the Weeminuche Subdivision ODP. Both the current zoning and the requested rezone to PD (with R2 default zone) are consistent with, and support, the Comprehensive Plan designation of Residential Medium Low.

The proposed development meets a number of the goals and policies of the Comprehensive Plan:

**Goal 1, Policy D:** For development that requires municipal services, those services shall be provided by a municipality or district capable of providing municipal services.

**Goal 3:** The Comprehensive Plan will create ordered and balanced growth and spread future growth throughout the community.

**Goal 8:** Create attractive public spaces and enhance the visual appeal of the community through quality development.

**Goal 8, Policy A:** Design streets and walkways as attractive public spaces.

## **5. Zoning and Surrounding Areas**

The applicant is requesting a rezone from the current PD (with R4 default) to the PD (with R2 default) zone district. This request is consistent with, and supports, the Comprehensive Plan's Future Land Use Map classification of Residential Medium Low (RML, 2-4 du/ac).

Surrounding area zoning and land uses include:

- North – Mesa County PUD, AFT, RSF-4 with single family residential and agricultural uses
- South – City of Grand Junction R1 (Residential, 1 du/ac) with single family residential uses
- West – Mesa County AFT, with single family residential and agricultural uses
- East – Mesa County RSF-R, City of Grand Junction R4 (Residential, 2-4 du/ac) and R5 (Residential, 3-5 du/ac) with single family residential and agricultural uses

The subject property is an area of transition located between established neighborhoods developed at densities consistent with the R4 and R5 zone districts to the east, and property developed at a lower density in unincorporated Mesa County to the north and west. Properties located to the north and west are located outside of the Persigo 201 Boundary area for sewer service and are not expected to develop at urban densities or with urban services such as sewer. The area to the east has already developed at urban densities and with urban services such as sewer service and streets with sidewalks and street lighting.

The Weeminuche Subdivision will provide housing between these two areas with development at the low end of the density range allowed by the Residential Medium Low (RML, 2-4 du/ac) land use classification at two dwelling units per acre.

The proposed Weeminuche Subdivision ODP has been designed to comply with the provisions of Sec. 21.03, Zoning Districts; Sec. 21.04, Uses and Sec. 21.06, Development Standards of the Zoning and Development Code. Proposed deviations from the R2 default zone district have been identified in this report.

## **6. Airport Environs**

The subject property is located within the Airport Environs Area of Influence, Subdistrict A, which is defined in Sec. 21.07.030(d) (1) Airport Environs Subdistricts, as “an area surrounding the airport impacted or influenced by proximity of the airport, either by aircraft overflight, noise and/or vibrations.”

Because the property is within the Area of Influence, the site is governed by and shall comply with the following land use compatibility and use restrictions:

Sec. 21.07.030(f) (4), Land Use Compatibility

(4) Use Restriction. Notwithstanding any other provision of this code, no use may be made of land or water within any zone or subdistrict that creates or may create:

- (i) Interference with navigational signals or radio communication between the airport and aircraft;
- (ii) Difficulty for pilots to distinguish between airport lights and other lighting;

- (iii) Glare in the eyes of pilots using the airport;
- (iv) Impaired visibility in the vicinity of the airport;
- (v) A hazard or endanger landing, takeoff or maneuvering of aircraft.

In accordance with Sec.21.07.030 (g) Avigation Easement, new development located within the AE zone shall convey an avigation easement to the Grand Junction Regional Airport Authority in a form and with terms and conditions approved by the Director. The applicant will provide the required Avigation Easement if needed.

## **7. Utility Providers**

All required and necessary utilities shall be provided concurrent with development of the subject property. Utility providers for the Weeminuche Subdivision have the capacity and willingness to serve the development. Public facilities such as medical, schools, parks and public safety are available to serve development on this site.

Utility providers for the site are as follows:

Sewer: City of Grand Junction/Persigo  
Water: Ute Water  
Gas/Electric: Xcel/Grand Valley Power  
Cable: Spectrum

## **8. Soils and Drainage**

A Geotechnical Report was conducted by Lincoln Devore, Inc., and is included with this application. The topography of the site is gently rolling hillside with an overall gradient to the southeast into Leach Creek. A ridge bisects the site with a portion of the property sloping northwest to the Cocoran Drain and the other portion sloping southeast to Leach Creek.

The geologic materials found on this site consist of very thin to moderately thick unconsolidated, fine-grained soils that have been deposited on the erosional surface of the Mancos Shale Formation. The thin to moderately thick surface soils on this site consist of a series of silt, silty clay and sandy clay soils, which are a product of mud flow/debris flow features originating on the south-facing slopes of the Bookcliffs. The surface soils are an erosional product of the upper Mancos Shale and the Mount Garfield Formations, which are exposed on the slopes of the Bookcliffs.

There are five distinct soil types identified in the geotechnical report that are present on this site. Soil Type No. 1 is Lean Clay (LC); Soil Type No. 2 is Silty Clay (CL-ML); Soil Type No. 3 is Sandy Lean Clay, with gravels of Siltstone, Sandstone and Shale (CL); Soil Type No. 4 is Sandy Silt (ML); and Soil Type No. 5 is Lean Clay (CL). Please see the geotechnical report for more detailed information regarding the site and soils.



## **9. Wetlands and Floodplain**

Rare Earth Science, LLC conducted a Transaction Screen Process to evaluate the site for potential environmental hazards. No potential concerns per the American Society for Testing and Materials (ASTM E1528-06) were identified during the Transaction Screen Process. As part of their evaluation, Rare Earth Science contacted the Colorado Department of Public Health and Environment (CDPHE) and determined that the CDPHE had no records of previous radiation surveys or remedial activities for the subject property.

Rare Earth Science concluded that no further inquiry was needed at this site; however, they recommend the CDHPE be contacted for a mill-tailings survey prior to subdivision construction activities. The Transaction Screen Process report has been included with this application for review.

The subject property is predominantly in agricultural use with irrigated croplands with an open irrigation waste ditch in the northwest corner and a relatively undisturbed riparian area along Leach Creek in the southeast corner. Historically the site included a small man-made, irrigation fed pond used to water livestock. The pond has been removed as part of standard farming operations.

Rare Earth Science was asked to review the site and determine the potential for jurisdictional wetlands and/or waters. Based on their review, it was determined that the areas slated for development do not involve jurisdictional wetlands or waters of the U.S. as currently defined and regulated by the U.S. Army Corps of Engineers. Leach Creek and the associated wetlands are considered jurisdictional wetlands; however, there will be no development or encroachment in this area by the proposed subdivision. (Attachment C, Rare Earth Science, LLC letter dated May 26, 2006)

Although there will be no development activity or encroachment into the Leach Creek wetland area, ERO Resources has been asked to map the specific wetland area along Leach Creek to ensure that there will be no encroachment. The result of their work has been provided to the City. The results show an identified wetland area adjacent to the Leach Creek Bridge over 261/2 Rd. only. There is no construction activity planned in this area, thus no disturbance.

The 100-year floodplain for Leach Creek is delineated as required by the SSID manual.

## **10. Site Access and Traffic**

Urban residential streets will be utilized throughout the subdivision. A 14-foot multipurpose easement will be provided along street frontages. All streets will be constructed to current City standards and specifications.

There are six points of access proposed for the development which will provide interconnectivity and efficient traffic flow to, and within, the development. Filing #1 will be accessed by Country Lane from the Freedom Heights subdivision located on the southern property line. There are two points of access proposed from 26 Road as well as two points of access from 26 ½ Road. There is one point of access proposed from H ¾ Road on the northern property line.

The applicant has been working with City staff on access locations into the site to determine the optimal locations for spacing and sight distance. Because the right-of-way is not entirely located in, or controlled by the City of Grand Junction, an annexation is being conducted by the City to bring the entire subdivision frontage into the City's jurisdiction. The applicant will dedicate half of the right-of-way width, from the centerline of the roadway on 26 Road and 26 ½ Road, if needed. Both streets are classified as Urban Collector with a 60' right-of-way.

A traffic impact study is being conducted by TurnKey Consulting based on the current subdivision proposal. The study will include analysis for the intersections at H Road with 26 Road and 26 ½ Road, in addition to the intersections of G Road with 26 Road and 26 ½ Road to provide a regional understanding of the traffic impacts.

The proposed subdivision includes a soft surface pedestrian trail that bisects the subdivision which provides an off-street connection between 26 Road across the length of the subdivision to 26 ½ Road. A perimeter pedestrian trail is provided for the majority of the subdivision except in the area of Leach Creek where existing topography precludes construction of the trail along a portion of the southern 26 ½ Road street frontage. An off-street detached trail will be provided on the north side of Leach Creek in a tract that will be owned and maintained by the HOA. This trail will provide pedestrians access from the perimeter trails and internal streets of Weeminuche Subdivision to the Leach Creek area and into the Freedom Heights subdivision. The partially constructed trail along Leach Creek in the Freedom Heights subdivision will be completed as part of Weeminuche Subdivision, Filing One. During a meeting with City staff it was determined that the City would utilize TCP funds to reimburse the applicant for the cost to complete the trail along Leach Creek in the Freedom Heights subdivision.

## **11. Approval Criteria**

Section 21.02.150(b), **Outline Development Plan (ODP).**

(1) **Applicability.** An outline development plan is required. The purpose of an ODP is to demonstrate conformance with the Comprehensive Plan, and coordination of improvements within and among individually platted parcels, sections or phases of a development prior to the approval of a final plat. At ODP, zoning for the entire property or for each "pod" designated for development on the plan is established. This step is recommended for larger, more diverse projects that are expected to be developed over a long period of time. Through this process, the general pattern of development is established with a range of densities assigned to individual "pods" that will be the subject of future, more detailed planning.

(2) **Approval Criteria.** An ODP application shall demonstrate conformance with all of the following:

- (i) The Comprehensive Plan, Grand Valley Circulation Plan and other adopted plans and policies;

**Response:** The Weeminuche Subdivision Future Land Use classification is Residential Medium Low (RML, 2-4 du/ac). This land use classification is supported by the current zoning

of the property of PD (with R4 default zone) and the requested rezone to PD (with R2 default zone). The property is identified by the Comprehensive Plan as an “area of change” which anticipates new growth and development for properties located near and within Village and Neighborhood Centers as shown on the Future Land Use Map. A Neighborhood Center is anticipated at the intersection of H and 26 ½ Roads, located just south of the Weeminuche Subdivision site. Residential development of this property will provide needed housing and will support the anticipated Neighborhood Center. In addition, the proposed development supports several of the goals and policies of the Comprehensive Plan as noted earlier in this report.

The proposed development is designed to be compliant with the Grand Valley Circulation Plan. Specifically the development meets Sec. 31.08.020(d) which states: “Subdivisions and other development shall be designed to continue or create an integrated system of streets and trails that provide for efficient movement of pedestrians, bicycles, and automobiles to and from adjacent development.” Sidewalks and various detached pedestrian trails have been included in the design to meet the needs of an integrated system of streets and trails with convenient interconnectivity between streets and adjacent development. When fully constructed the Weeminuche Subdivision will provide over 4,000 linear feet of hard and soft surface trails.

Because interconnectivity and providing a safe, pleasant pedestrian experience is a priority for the applicant, multiple trails have been incorporated into the development including a trail along Leach Creek. Freedom Heights Subdivision partially constructed a trail along a portion of Leach Creek. Weeminuche will complete the trail to provide one pedestrian facility along the creek. The improved, pedestrian trail along Leach Creek supports the Urban Trails Master Plan.

**This criterion has been MET.**

(ii) The rezoning criteria provided in GJMC 21.02.140;

Section 21.02.140(a), **Code amendment and rezoning, Approval Criteria.** In order to maintain internal consistency between this code and the zoning maps, map amendments must only occur if:

(1) Subsequent events have invalidated the original premises and findings; and/or

**Response:** The subject property was zoned PD and completed the Preliminary Plan review process with City Council granting approval of the plans on January 29, 2008. Both the PD zone and the Preliminary Plans were found to be consistent with the Comprehensive Plan’s Future Land Use Map and the Zoning and Development Code. At the time of approval, the local and national economy slowed and there was no longer a market or available financing for the construction and sale of single family homes. The developer postponed development hoping that the market would improve. Unfortunately, approval of the Preliminary Plans and the phasing schedule expired during the time the local market improved enough for development to proceed. The

original premise and findings which led to the approval of the PD zone and Preliminary Plans have not been invalidated. This criterion is not applicable.

**This criterion has been MET.**

(2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or

**Response:** The character and/or condition of the area have seen increased growth and development since the time of the PD zoning and approval of the Preliminary Plans on January 29, 2008. There has been an increase in the construction of single family homes to the west. A new single family subdivision known as Freedom Heights is currently under construction to the south. A stub street was provided by the Freedom Heights subdivision to the subject property in anticipation of future development. The Summer Hill Subdivision, located to the east, developed additional phases in 2015 and 2016.

The requested rezone to PD (with R2 default zone) will further the goals and policies of the Comprehensive Plan by providing for medium low density development in an area with shopping and services to support the new development. The proposed development will support the anticipated Neighborhood Center as shown on the Comprehensive Plan's Future Land Use Map.

**This criterion has been MET.**

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

**Response:** All required and necessary utilities shall be constructed concurrent with development of the subject property. Utility providers for the subject property have the capacity and willingness to serve future development. Public facilities such as medical facilities, schools, library and parks are adequate to serve the scope of anticipated residential development.

**This criterion has been MET.**

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

**Response:** There are very few vacant lots available for home construction within a mile of the subject property. Most neighborhoods are built out with the exception of the later phases of the Summer Hill subdivision. The nearest property with the potential to develop is located at the southeast corner of I-70 and 26 Road. There is an inadequate

supply of suitable designated land available in this part of the community, particularly in the area of the proposed Neighborhood Center at H Road and 26 ½ Road.

**This criterion has been MET.**

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

**Response:** The community will derive benefits from the rezone through the provision of twice the amount of open space required by the Zoning and Development Code. In addition, several pedestrian trails will be constructed for use by the public as well as residents of the Weeminuche Subdivision. An internal trail that bisects the subdivision will provide a convenient off-street connection between 26 Road and 26 ½ Road. Freedom Heights Subdivision, located to the south, partially constructed a trail along a portion of Leach Creek. Weeminuche Subdivision will complete the trail to provide one pedestrian facility along the creek which will provide a pleasant pedestrian experience away from busy streets. A detached trail will be constructed around the majority of the perimeter of the subdivision with rich landscaping creating a park-like setting for outdoor recreation.

**This criterion has been MET.**

(iii) The planned development requirements of Chapter 21.05 GJMC;

**Response:** The proposed Weeminuche Subdivision meets the following requirements for Planned Developments:

Sec. 21.05.010, Purpose: Planned development zoning should be used when long-term community benefits will be derived and the vision, goals and policies of the Comprehensive Plan can be achieved. The Weeminuche Subdivision has reserved 20%+ open space in both active and passive areas throughout the development. The open space will be landscaped with public trails internal and external to the development providing an integrated pedestrian system. A greater quantity and quality of open space is being incorporated into the development as a long term community benefit. The proposed development meets several of the goals and policies of the Comprehensive Plan as noted earlier in this report.

Sec. 21.05.020, Default Standards: The deviations from the R2 default zone have been noted in this report. The deviations are to utilize the R4 Bulk Standards based on the clustering provisions, and to achieve the density and design goals of the development.

Sec. 21.05.030, Establishment of Uses: Allowed uses will be the same as those permitted in the R2 zone district including accessory uses.

Sec. 21.05.040, Development Standards: The development standards, such as those regarding fencing, parking and accessory uses, shall be the same as those permitted by the R2 zone district.

Sec. 21.05.050, Planned Development Phases and Signage: An appropriate phasing schedule and proposed signage information have been included in this report.

**This criterion has been MET.**

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

**Response:** There are no corridor guidelines that are applicable to the Weeminuche Subdivision site. Title 23, North Avenue Overlay Zone; Title 24, Greater Downtown Overlay Zone; and Title 25, the 24 Road Corridor Design Standards do not apply to the proposed development, therefore this criterion is not applicable.

**This criterion has been MET.**

(v) Adequate public services and facilities shall be provided concurrent with the projected impacts of the development;

**Response:** The subject property is located within the 201 Sewer Service Boundary and the Urban Development Boundary. These areas are expected to grow and development with urban densities and services. All necessary and required utilities shall be provided concurrent with construction of the Weeminuche Subdivision. Utilities shall be installed to current City standards and specifications. Public facilities such as medical facilities, schools, library and parks are adequate to serve the scope of anticipated residential development.

**This criterion has been MET.**

(vi) Adequate circulation and access shall be provided to serve all development pods/areas to be developed;

**Response:** There are six points of access proposed for the development which will provide interconnectivity and efficient traffic flow to, and within, the development. Filing #1 will be accessed by Country Lane from the Freedom Heights subdivision located on the southern property line. There are two points of access proposed from 26 Road as well as two points of access from 26 ½ Road. There is one point of access proposed from H ¾ Road on the northern property line. In addition to street circulation of traffic, several trails will be constructed to provide pedestrian and bicycle circulation as well.

**This criterion has been MET.**

(vii) Appropriate screening and buffering of adjacent property and uses shall be provided;

**Response:** The HOA shall maintain a minimum 14-foot-wide street frontage landscape with appropriate trees and shrubs adjacent to the public rights-of-way; however, where detached walks are provided, a minimum street frontage landscape of five feet may be provided as permitted by Sec. 21.06.040(d)(6) of the Zoning and Development Code.

Fencing will be installed around the perimeter of the subdivision and in the open space areas. Materials will vary depending on the location of the fence but will include one of three types of fencing materials: vinyl, composite or split rail. Perimeter fencing will be constructed of either vinyl or composite fencing at a height not to exceed six feet. Fencing in the open space areas will be split rail with 48 inch posts in areas where views and an open feel are to be protected. The applicant may construct a six foot privacy fence in areas where the open space backs up to individual lots. In all cases the applicant reserves the right to make a final determination on fencing materials.

**This criterion has been MET.**

(viii) An appropriate range of density for the entire property or for each development pod/area to be developed;

**Response:** The default R2 zone (Residential, 2 du/ac) will limit the density to two dwelling units per acre, which is consistent with the Residential Medium Low land use classification of the Comprehensive Plan, and with the 1994 Saccomanno Girls Trust Annexation Agreement. The Weeminuche Subdivision is proposing a substantial reduction in density compared to the previous Preliminary Plan approved by City Council on January 16, 2008.

**This criterion has been MET.**

(ix) An appropriate set of “default” or minimum standards for the entire property or for each development pod/area to be developed;

**Response:** The deviations from the R2 default zone to the R4 Bulk Standards have been noted in this report which will apply to the entire property. Allowed uses will be the same as those permitted in the R2 zone district including accessory uses. Other development standards, such as those regarding fencing, parking and accessory uses, shall be the same as those permitted by the R2 zone district.

**This criterion has been MET.**

(x) An appropriate phasing or development schedule for the entire property or for each development pod/area to be developed; and

**Response:** Development of the subject property will take place over an extended period of time given the size of the property and the current absorption rate of the housing market. An

appropriate phasing schedule has been included in this report which is suitable for a large property of this nature to develop.

**This criterion has been MET.**

## **12. Development Schedule**

It is anticipated that the request to rezone will be reviewed and scheduled for Planning Commission recommendation to City Council in approximately 6-8 weeks. City Council consideration is anticipated to be scheduled the following month by July, 2017. A phasing schedule is necessary for larger, more diverse projects that are expected to be developed over a long period of time.

The Weeminuche Subdivision will be developed in seven filings. Each filing will be allotted 2-3 years for construction and full market absorption before the next filing will begin. The following phasing schedule is proposed:

<b><u>Filing</u></b>	<b><u>Submit Final Plans by no later than</u></b>	<b><u>Record Final Plat</u></b>
One	4 <sup>th</sup> Quarter, 2017	4 <sup>th</sup> Quarter, 2018
Two	2020	4 <sup>th</sup> Quarter, 2020
Three	2023	4 <sup>th</sup> Quarter, 2023
Four	2026	4 <sup>th</sup> Quarter, 2026
Five	2029	4 <sup>th</sup> Quarter, 2029
Six	2032	4 <sup>th</sup> Quarter, 2032
Seven	2035	4 <sup>th</sup> Quarter, 2035

Should market conditions show a dramatic change and a substantial reduction in the housing market absorption rate, the applicant requests that an automatic one-year extension to record the final plat be incorporated into the phasing schedule. This would allow a reasonable time to allow the housing market to recover. For example, the one-year extension for Filing Two to record the final plat would become the 4<sup>th</sup> Quarter, 2021. The date to submit final plans for subsequent filings would automatically be adjusted forward by one year to accommodate the revised phasing schedule. For example, the date to submit final plans for Filing Three would be adjusted to 2024.



### **13. Conclusion**

The request to rezone from PD (Planned Development with R4 default zone) to PD (Planned Development with R2 default) supports the Comprehensive Plan's Future Land Use Map classification of Residential Medium Low (2-4 du/ac) and the 1994 Saccomanno Girls Trust Annexation Agreement. The property is identified by the Comprehensive Plan as an "area of change" which anticipates new growth and development for properties located near and within Village and Neighborhood Centers as shown on the Future Land Use Map. The property is expected to develop in a residential manner consistent with the R2 zone allowable uses and density. Future development will provide needed housing and support the Neighborhood Center identified on the Comprehensive Plan's Future Land Use Map at the corner of H and 26 ½ Roads.

After demonstrating how the proposed Weeminuche Subdivision meets the design and development standards of the Zoning and Development Code, we respectfully request approval of the request to rezone to the Planned Development (with R2 default zone district) and the Outline Development Plan.

### **14. Limitations/Restrictions**

This report is a site-specific report and is applicable only for the client for whom our work was performed. The review and use of this report by City of Grand Junction, affiliates, and review agencies is fully permitted and requires no other form of authorization. Use of this report under other circumstances is not an appropriate application of this document. This report is a product of Vortex Engineering, Inc. and is to be taken in its entirety. Excerpts from this report when taken out of context may not convey the true intent of the report. It is the owner's and owner's agent's responsibility to read this report and become familiar with recommendations and findings contained herein. Should any discrepancies be found, they must be reported to the preparing engineer within 5 days.

The recommendations and findings outlined in this report are based on: 1) The site visit and discussion with the owner, 2) the site conditions disclosed at the specific time of the site investigation of reference, 3) various conversations with planners and utility companies, and 4) a general review of the zoning and transportation manuals. Vortex Engineering, Inc. assumes no liability for the accuracy or completeness of information furnished by the client or municipality/agency personnel. Site conditions are subject to external environmental effects and may change over time. Use of this report under different site conditions is inappropriate. If it becomes apparent that current site conditions vary from those reported, the design engineering should be contacted to develop any required report modifications. Vortex Engineering, Inc. is not responsible and accepts no liability for any variation of assumed information.

Vortex Engineering, Inc. represents this report has been prepared within the limits prescribed by the owner and in accordance with the current accepted practice of the civil engineering profession in the area. No warranty or representation either expressed or implied is included or intended in this report or in any of our contracts.

## ATTACHMENT "A"

# LOCATION MAP



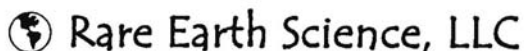


## ATTACHMENT “B”

### 201 Sewer Service Boundary Map (Black Area) Urban Development Boundary Map (Blue Area)



## ATTACHMENT "C"



Post Office Box 4523  
Grand Junction, Colorado 81502-4523  
phone 970/241-1762  
fax 970/241-1793  
*jim@rareearthscience.com*

May 26, 2006

Joe Carter  
Ciavonne, Roberts & Associates  
844 Grand Avenue  
Grand Junction, Colorado 81501-3425

**Re: Opinion on Non-Jurisdictional Wetlands & Waters of the U.S.  
Weminuche Subdivision**

Dear Joe:

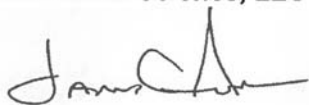
Rare Earth Science, LLC (Rare Earth) is presenting this letter to express our opinion about the potential for jurisdictional wetlands and/or waters of the U.S. at the proposed 151-acre Weminuche subdivision (hereafter, Site) located east of 26 Road and south of H $\frac{3}{4}$  Road in Grand Junction. Rare Earth performed two site visits in April & May 2006 to observe the local setting, topography, soil conditions, vegetation, and hydrology. The Site is predominantly in agricultural use with irrigated croplands, an open irrigation waste ditch in the northwest corner, and a small manmade pond (irrigation fed) in the east-central portion of the Site. A relatively undisturbed riparian area exists along Leach Creek in the southeast corner of the Site.

Based upon our review of USGS topographic maps, National Wetlands Inventory maps, historical aerial photographs, soil surveys and on-Site reconnaissance, it is our opinion that the areas slated for Site development do not involve jurisdictional wetlands or waters of the U.S., as currently defined and regulated by the U.S. Army Corps of Engineers (Corps). Leach Creek itself and the associated wetlands are considered jurisdictional; however, Site development is not expected to encroach in this area. Therefore, no further delineation or Corps permitting should be necessary prior to Site development activities.

Please contact me at 241-1762 if you require additional information.

Sincerely,

**Rare Earth Science, LLC**



James C. Armstrong  
Principal Environmental Scientist

cc: Janet Elliot (26 Road, LLC)



## ATTACHMENT “D”



March 31, 2017

City of Grand Junction  
Scott Peterson, Senior Planner  
Public Works & Planning Dept  
250 N 5<sup>th</sup> Street  
Grand Junction, CO 81501

Neighborhood Meeting - Rezone  
RE: Weeminuche Subdivision  
Date: Thursday, March 30, 2017  
Time: 5:40 – 6:50 p.m.  
Location: Canyon View Vineyard Church

Dear Mr. Peterson:

An opening introduction by Robert W. Jones II, Vortex Engineering, Inc., presented the following overview of the property.

The property being discussed tonight is between 26 Road, H  $\frac{3}{4}$  Road, 26  $\frac{1}{2}$  Road in the City of Grand Junction. The parcel is approximately 151 acres in size. The zoning is presently PD-Planned Development; the applicant is proposing to rezone the property to R4; the R4 zone allows for 4 homes per acre. The R4 designation is in line with the future land use classification identified in the Comprehensive Land Use Plan. The developer is proposing to construct approximately 400 single family detached homes. The subdivision is proposed to be built in 7 filings with the first filing located on the southeast side of the property. There will be detached concrete walking trails; an irrigation pond in the northeast corner; 3 detention basins; portions of the perimeter of the subdivision will include a landscaped buffer.

The following is a synopsis of the questions posed by the meeting attendees; the responses were provided by Robert W. Jones II unless otherwise noted.

**Q:** Who is the developer; what is the proposed lot & home size?

**A:** Alan Parkerson. The lot size will be 9 -10,000 s.f. The CCR's have not yet been drafted; homes will most likely be in the 2 – 3,000 s.f. range.

**Q:** When will the rezoning hearing be held; will everyone on tonight's sign in sheet be notified?

**A:** The hearing date will be set by the City and only those that fall within the neighboring notification area as defined by City ordinance will receive a notification; that will be the same residences that received a notification for this meeting.

**Q:** Why is there a need to develop these homes? Since 2008-2009 home sales have gone down, there are too many homes for sale. What is the timeline for completion of these homes?

**A:** The need is market driven; the developer believes that the market is there for this development. The first filing will most likely take 3-4 months to construct. Construction is phased by filings to limit the number of homes for sale at one time.

**Q:** This plan is different from the previous plan. How many additional homes are allowed to be built because walking trails are included in the plan?

A: None.

Q: When will construction start?

A: Perhaps in the 3<sup>rd</sup> or 4<sup>th</sup> quarter of this year.

Q: How much open space is there in this plan?

A: Approximately 25 acres of open space.

Q: Why does the subdivision have to go back through this process? What is the current zoning? Why is the developer changing the plan for types of residences from the previous plan? The other plan had more diversity in the design; it included larger lots and townhomes.

A: The original zone approval has expired. The current zoning is Planned Development, PD. The developer is applying for R4 which is the base zoning classification in the PD zone. The developer wants more consistency within the development; the minimum lot size in the current plan has increased from the previous plan. The Town Homes and duplexes have been eliminated.

Q: Can you get sewer to filing 6?

A: Yes, that portion of the development's sewer will come through Liberty Heights.

Q: I live in Grand Vista; we have been waiting 26 years for sidewalks? What guarantee is there that the sidewalks for this subdivision will be built?

A: Every new home constructed in Grand Junction must pay transportation impact fees.

Q: This development has too much density and does not fit in with the rural character of the area. The City promised planned development for this area during 1995 & 2007 hearings. This plan will bring in 400 houses and 2,000 more people. The plan for this area should be rescinded. There are 5 acre minimum lots on the south and west sides; to the north and east are large lots. We want existing property owner's rights protected. The City has violated the zoning by implementing the Comprehensive Plan. Does the developer pay for streets? Where does the money go? In lieu of transportation payments, the developer gets credits for off-site improvements.

A: The Comprehensive Plan, which is the City of Grand Junction and Mesa County's long range plan, designates this parcel of the density proposed. Future land use maps established by the City of Grand Junction slate the land for this use.

**Scott Peterson:** The 2010 Comprehensive Plan prepared by the City of Grand Junction and Mesa County identifies areas and zoning districts. This property is zoned as 2 -4 homes per acre. The applicant will pay \$2,500 per home in transportation fees; the money goes to pay for streets. The 2007 hearings for this property included a PD zoning designation with R4 density.

Q: Has the airport been consulted?

A: No. The development is not within the flight path; it is in the fringe zone.

**Q:** Will a new traffic study be required?

**Scott Peterson:** Yes; that will be a part of the Preliminary Plan review.

**Q:** Will there be pedestrian and bike trails with signs? When will the perimeter trails be completed? Will there be public access to Leach Creek?

**A:** Yes there will be concrete sidewalks and detached trails; I don't know about signage. The perimeter trails will be constructed with each subsequent filing. Yes there is and will be public access to Leach Creek; Liberty Heights is constructing a trail.

**Q:** Cell service is lousy in this area; will a cell tower be built?

**A:** No.

**Q:** Will there be an HOA?

**A:** Yes.

**Q:** What about a fire station?

**A:** No.

**Scott Peterson:** The City is looking at locations for a fire station on the north side but has not yet identified a location.

**Q:** Will there be on street parking?

**A:** Yes; the streets are 44' in R.O.W. width, this width provides for on street parking.

**Q:** What will be done to control and prevent mud and water from flowing off the site during construction?

**A:** The design documents will include stormwater management plans and erosion & sediment control plans. The developer is also required to file a permit with the State of Colorado Department of Public Health; the State permit requires inspection of erosion and sediment control measures at prescribed times during the construction process.

**Q:** What type of landscaping will the homes have? Will there be fencing around the subdivision?

**A:** Landscaping will most likely be a combination of grass and Xeriscaping. The HOA covenants will most likely cover landscaping and fencing and these will also be a City checklist item.

**Q:** Summer Hill has 5' setback, the homes are too close together. Will there be 2 story homes? Who will the builders be?

**A:** Two story homes are yet to be determined; that could be included in the Covenants. Homes will most likely all be built by the developer.

**Q:** Would you choose to live here? These homes do not fit here, they belong in Clifton

**A:** I have lived on 7,000 s.f. lots.

**Q:** Will there be any type of sound buffering?

**A:** There will extensive landscaping around portions of the perimeter. There will be rock retaining walls.



**Q:** What about the marshland? Why are there houses in that area? How much fill will be brought in?

**A:** It is unknown. Fill will be brought in for sewer service; the plans are not done, there could be ± 6' of fill brought in.

**Q:** Will homes be built on the ridge?

**A:** Yes.

**Q:** Will all of the questions asked tonight be addressed? Will we be notified of the next meetings? Is this property annexed into the City? What is the process?

**A:** The meeting minutes will be provided to the City.

**Scott Peterson:** Those living within 500' of the development will be notified when the developer submits an application, notification of hearings will be sent as well. There will be a Planning Commission hearing and a City Council hearing. The Planning Commission makes the recommendation to send the project to the City Council. There are 7 members on the Planning Commission and on the City Council. You can contact the Planning Department for a list of the members. Yes, the property is annexed into the City.

**Q:** Are the sidewalks walking trails? Will there be retaining walls on 26 Road? What are the access roads to the subdivision? Where does the access on the south go? Four points of egress is not enough; how many homes are there?

**A:** Yes, the sidewalks are concrete walking trails. There is the potential for retaining walls; the grading plan is not done. The access roads are H<sup>3</sup>/<sub>4</sub> Road; 26 Road and 26<sup>1</sup>/<sub>2</sub> Road. The southern access connects to Freedom Heights. Approximately 400 homes are proposed.

**Q:** What about light pollution?

**A:** Lights will be downward facing.

**Scott Peterson:** Lighting will be installed by Grand Valley Power and will be whatever their standard lighting is.

**Q:** Who paid for the sewer?

**A:** A combination of the developer for Freedom Heights and Parkerson.

**Q:** What is the intention for the southern border? That area is marshland.

**A:** It is open space.

**Q:** What happens to Corcoran Drain?

**A:** The Corcoran Drain is planned to go underground and will be piped.



**Q:** Our house values will fall by 25%. Can the Master Plan be changed? There is too much density; 80% of the surrounding property is acreage. Where is the protection for existing properties? The City is not protecting property owners; we were promised protection by the 2007 Planning Commission. Is this a done deal? It is hard for the City to resist the revenue generated by this development. This is the last signature property in the City; this is the last chance to do it right.

**Scott Peterson:** The 2010 Comprehensive Plan is what sets the density. Nothing is ever a done deal. I am here to gauge input; it is up to the Planning Commission and the City Council to approve this development. You can submit your comments to me and the City Council will look at them.

At 6:51 p.m. Robert Jones thanked those who attended and called the meeting to a close.

Upon your review of the meeting notes, should you have any questions or amendments, please do not hesitate to contact me at 970-245-9051.

Sincerely,

A handwritten signature in black ink that reads "Robert W. Jones II". The signature is fluid and cursive, with the first and last names being more prominent.

Robert W. Jones II, P.E.  
Vortex Engineering & Architecture, Inc.

Cc: File

**WEEMINIUCHE SUBDIVISION**  
Neighborhood Meeting Sign In Sheet

	Full Name (Printed)	Address	City	Zip
1	Su Joffrion	2658 I Rd	GT	81506
2	Bj Lester	2659 I Rd	GT	81506
3	John W Jan WARREN	2622 H Rd	GT	81506
4	Sandra Nesbitt	2616 H Rd.	GT	81506
5	Rick Warren	2622 H Rd	GT	81506
6	Barbara Hunter	875 SUMMER BEND CT	GT	81506
7	MATT MACASKILL	834 Bermuda Ct	GT	81506
8	Radunas	871 26 ROAD	GT	81506
9	Paul & JoAnn	852 Over Drive Rd	GT	81506
10	Cindy & David Hernandez	2648 H 3/4 Rd	GT	81506
11	Audrey Cuskey	26628 Summer Creek Ct	GT	81506
12	Donnamarie	2616 H 3/4 Rd.	GT	81506
13	Julie Pons	852 Grand Vista Way	GT	81506
14	Malia Green	2281 El Moro Ct.	GT	81507
15	Heather & Cindy Kemper	819 26 1/2 Rd	GT	81506
16	Jana Monica Pederson	856 Grand Vista Way	GT	81506

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**WEEMINIUCHE SUBDIVISION**  
Neighborhood Meeting Sign In Sheet

	Full Name (Printed)	Address	City	Zip
17	Mike + Cindy Kenger	819 26 1/2 Rd	GJ	81506
18	Garrett Hochul	2627 H 3/4 RD	Grand Junction	81506
19	Scott Peterson	CITY PLANNING		
20	Wylie Miller	2625 H Rd	GJ	81506
21	MIKE + KATHARIN STALL	2599 KAYDEN CT	GJ	81505
22	DENNY GREENING	894 26 Rd	GJ	81506
23	Craig Robillard	848 Summer Sage Ct	GJ	81506
24	Leo Bertrich	2654A Summer Crest Ct	GJ	81506
25	Adrian (Sue + Sam)	826 26 1/2 Rd.	H. J.	81506
26	Michael Maves	2594 Kayden Ct	GJ	81506
27	Jim + Karen Sufka	835 26 Rd.	GJ	81506
28	Hamilton & Lisa MacGregor	837 26 Rd	GJ	81506
29	BOB + JOYCE FERRARO	532 - 26 R	GJ	81506
30	Rail Cuthbert	838 Bermuda Ct	GJ	81506
31	Mark & Janet Candrew	2612 H 3/4 Rd	GJ	81506

**WEEMINIUCHE SUBDIVISION**  
**Neighborhood Meeting Sign In Sheet**

32	Lindsay Dickinson	2660 Catalina Dr.	GJ	81506
33	Liz Hower	873 Spring Crossing	GJ	81506
34	John Monosmith	880 Grand Vista Way	GJ	81506
35	Darryl Lee Ramirez	867 26th Rd		81506
36	John + June Colosimo	2618 H Rd	GJ	81506
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## PLANNING COMMISSION AGENDA ITEM

**Project Name:** Weeminuche Subdivision Outline Development Plan and  
Rezone to PD with a Default Zone of R-2  
**Applicant:** 26 Road LLC, Owner  
**Representative:** Vortex Engineering Inc., Robert Jones II  
**Address:** Between 26 & 26 ½ Roads, south of H ¾ Road  
**Zoning:** Planned Development (PD)

### I. SUBJECT

Consider a request of an Outline Development Plan (ODP) for Weeminuche Subdivision and a rezone to Planned Development (PD) with an R-2 default zone district, located between 26 & 26 ½ Roads, south of H ¾ Road.

### II. EXECUTIVE SUMMARY

The Applicant, 26 Road LLC, is requesting a rezone to Planned Development (PD) with an R-2 (Residential – 2 du/ac) default zone district as well as the approval of an Outline Development Plan (ODP) for Weeminuche Subdivision. The proposed plan will develop a 303 lot, single-family detached residential subdivision on 151.18 +/- acres. The Outline Development Plan establishes specific performance standards that the development will be required to meet and conform with through each and every development phase, as authorized by Section 21.02.150 (b) of the Zoning and Development Code. The project is located between 26 & 26 ½ Roads, south of H ¾ Road.

### III. BACKGROUND

The Zoning and Development Code (“The Code”) sets the purpose of a Planned Development (PD) zone that can be used for unique single-use projects where design flexibility is desired and is not available through application of the standards established in Chapter 21.03 GJMC. Planned Development zoning should be used when long-term community benefits will be derived and the vision, goals and policies of the Comprehensive Plan can be achieved. In this case, the following long-term community benefits are derived; such as over 33 acres of open space, including expansive buffered landscape tracts adjacent to major roadways and an integrated trail system of hard and soft surface trails, picnic shelters and play areas.

The subject property is currently vacant unplatted land located between 26 & 26 ½ Roads, south of H ¾ Road and is currently zoned PD (Planned Development) with a default zone of R-4 (Residential – 4 du/ac). A previous ODP for this property was approved in January, 2008 by the City Council for a 362 dwelling units/lots project; however, that plan lapsed. The property owner now wishes to apply for a new Planned Development zone district with a default zone of R-2 (Residential – 2 du/ac) and lower the number of dwelling units/lots proposed to 303.

The property was annexed in 1995; however, prior to annexation, a formal agreement between the City of Grand Junction and the previous property owner (known as the Saccomanno Girls Trust) specified that zoning of the property shall not be more than two (2) dwelling units to the acre. Therefore, the City Council in 1995 annexed and zoned the property PR (Planned Residential), with a density equivalent to RSF-2 (Residential Single Family – 2 du/ac) and a requirement that higher density be located towards the eastern edge and lower density locate towards the western edge of the property. In 2007 the property was rezoned to PD (Planned Development) with a density of 4 dwelling units per acre.

The subject property retained the PR/PD zoning until 2007 when a new ODP application was submitted and ultimately approved by City Council in January 2008 to rezone the property to PD (Planned Development) with a default zone of R-4 (Residential – 4 du/ac) and which ultimately allowed more density on the property, 362 dwelling units/lots total, with a lot layout that included higher density located towards the eastern edge and lower density located towards the western edge of the property.

The proposed PD zone is still consistent with the Comprehensive Plan Future Land Use designation of Residential Medium Low (2 - 4 du/ac) and the original Saccomanno Girls Trust agreement from 1994/1995. The Applicant's original request to City staff in March 2017 was to move forward with a new ODP request for 389 +/- lots with a default zone of R-4 (Residential – 4 du/ac). However, after feedback from the Neighborhood Meeting, the applicant has scaled back significantly the ODP request to develop 303 single-family detached lots with a default zone of R-2.

**Establishment of Uses:**

The Plan allows only Single Family detached units.

**Density:**

The proposed density for the Weeminuche Subdivision is 2 dwelling units per acre. The Comprehensive Plan Future Land Use Map designates this property as Residential Medium Low (2 – 4 du/ac). The Applicant is requesting a default zone of R-2, which has no minimum density and allows up to a maximum density of 2 dwelling units/acre.

**Access:**

The proposed subdivision will take access from 26 Road in two locations and from 26 ½ Road in two locations. One access point is proposed from H ¾ Road along with a separate street connection with the existing Freedom Heights subdivision to the south (Liberty Lane). Center left turn lanes in the two entrance locations within 26 ½ Road will be constructed as part of the subdivision development. Internal streets and private shared drive-ways will be constructed per the Code.

**Open Space and Pedestrian Amenities:**

The Plan provides over 33 acres of open space (21% of the total acreage of the property). Some of this open space acreage will be tracts held by a homeowner's association (HOA) for purposes of landscaping and respective utility companies such as Grand Valley Water User's Association for retention of their existing drainage infrastructure and the City of Grand Junction. The HOA tracts will be landscaped along with the construction and development of hard and soft surface trails within the subdivision which will provide an integrated bicycle and pedestrian system. When fully

developed, the Weeminuche subdivision will provide over 14,500 linear feet (2.74 miles) of hard and soft surface trails open for public use.

Within the proposed publicly City of Grand Junction owned tract adjacent to Leach Creek at the southeast corner of the property, a 10-foot-wide concrete trail will be constructed and will connect with the existing 10-foot-wide concrete trail located within the Freedom Heights Subdivision as required as part of the Urban Trails Master Plan. Also, in-lieu of constructing the minimum of 5' wide sidewalks adjacent to 26, 26 ½ and H ¾ Road, the Applicant is proposing to construct an 8-foot wide trail within a public pedestrian easement within a 69 foot to 115-foot-wide landscape buffer HOA tract of land adjacent to 26 Road, a 30-foot wide HOA tract of land adjacent to H ¾ Road and a 40-foot wide tract of land adjacent to 26 ½ Road. A small pocket park with an irrigation pond, play area and picnic shelter will also be located in the center of the development and will be improved with an 8-foot wide gravel walking trail around the perimeter of the pond.

As identified, the amount of developed open space meets Code requirements for clustering. In addition, the public trails being proposed, other than the Leach Creek trail, are not required by Code and serve as a community benefit for the Planned Development.

All pedestrian trails will be constructed with each individual phase and appropriate public pedestrian easements will be dedicated at that time.

### **Phasing:**

The Plan provides for seven (7) phases of development. Each phase will be required to be developed within 2 -3 years to account for construction and full market absorption before the next filing will begin. The following phasing schedule is proposed (approval of final plat):

Filing One (31 Lots): By December 31, 2018  
Filing Two (39 Lots): By December 31, 2020  
Filing Three (46 Lots): By December 31, 2023  
Filing Four (36 Lots): By December 31, 2026  
Filing Five (43 Lots): By December 31, 2029  
Filing Six (25 Lots): By December 31, 2032  
Filing Seven (83 Lots): By December 31, 2035

The seven phases are proposed to be completed with the filing of the Phase 7 plat by December 31, 2035; a 17-year phasing and development schedule. Specific phases of the project can found in the attached maps. Pursuant to Section 21.02.150 (B) (4) (iii) Validity, the effective period of the ODP/phasing schedule shall be determined concurrent with ODP approval. However, the phasing schedule is limited to a period of performance between one year but not more than 10 years in accordance with Section 21.02. 080.(n)(2)(i). The schedule as proposed exceeds this 10-year period by 7 years.

The Applicant continues to request a development schedule as outlined above. The Applicant has provided specific rationale for reasons related to this timeframe including the significant size ("three times the size of an average subdivision in the Grand Valley") and the "reasonable expectations for market absorption" of their product. In addition, the

Applicant provides that the inclusion of all of the property in a single ODP allows for the developer to master plan the entire site (instead of piecemeal) and will provide “predictability and assurances to neighborhood” as to the density, design and development of infrastructure related to the overall development.

Should the City be unable to provide a phasing and development schedule consistent with the Applicant’s request, the Applicant has suggested that a development and phasing schedule provide for Filing One to commence on or before December 31, 2018, with the last filing to be recorded 10 years from the date of approval.

**Cluster Provisions:**

The Applicant is interested in developing the Weeminuche Subdivision as a residential single-family detached subdivision to meet the R-2 zone district densities and proposes to utilize the cluster provisions of the Code to preserve and incorporate open space areas of the property. The amount of open space proposed (33 acres) would allow for minimum lot size of 10,050 sq. ft. in accordance with the Cluster Development provisions of Section 21.03.060 (c)(2). As proposed, each lot exceeds these minimum requirements. The cluster development provisions allow the applicant to utilize the bulk requirements (building setbacks, minimum lot width, lot coverage, etc.), of the zoning district which has the closest lot size, which, in this case, is the R-4 (Residential – 4 du/ac) zone district.

**Subdivision Signage:**

The Applicant is proposing to have two subdivision signs located at each of the six subdivision entrances (12 signs total). Subdivision signage will be placed in an HOA tract that abuts the public right-of-way and will not exceed 8’ in height and will each be 16 sq. ft. Requested number of signs, square footage and sign height are all in conformance with Section 21.02.150 (b) of the Zoning and Development Code.

**Long-Term Community Benefit:**

The intent and purpose of the PD zone is to provide flexibility not available through strict application and interpretation of the standards established in Section 21.03.040 of the Zoning and Development Code. The Zoning and Development Code also states that PD (Planned Development) zoning should be used only when long-term community benefits, which may be achieved through high quality planned development, will be derived. Long-term benefits include, but are not limited to:

1. More effective infrastructure;
2. Reduced traffic demands;
3. A greater quality and quantity of public and/or private open space;
4. Other recreational amenities;
5. Needed housing types and/or mix;
6. Innovative designs;
7. Protection and/or preservation of natural resources, habitat areas and natural features; and/or Public art.

The proposed residential development has met the following long-term community benefits, corresponding to the list above:



*#2 Reduced traffic demands.* An approval of this plan will increase traffic from what exists today, however, this plan will reduce traffic demand in relation to the 2007 PD and Outline Development Plan on the property that had an approved density of 4 units per acre.

*#3 Greater quality and quantity of public and/or private open space.* The Applicant is proposing over 33 acres of open space (21% of the total acreage of the property), which will be owned and maintained by a homeowners' association and respective utility companies such as Grand Valley Water User's Association and the City of Grand Junction. Trails will be constructed by the developer(s) and maintained by the HOA for the benefit and use of the public. The HOA tracts will be landscaped along with the construction and development of hard and soft surface trails within the subdivision and will provide an integrated bicycle and pedestrian system. When fully developed, the Weeminuche subdivision will provide over 14,500 linear feet of paved and soft surface trails (2.74 miles). All trails will be dedicated for general public use and, other than the Leach Creek trail, the proposed trails are not required by Code and serve as a community benefit for the Planned Development. All pedestrian trails and passive recreational areas will be constructed with each individual phase and appropriate public pedestrian easements will be dedicated at that time.

*#7* In addition, the proposed development preserves environmentally sensitive areas (Leach Creek) and proposes both active and passive recreational areas throughout the development that includes trails, picnic shelters and play areas within HOA tracts.

**Default Zone:**

Under the Cluster Development Provision of the Code, the Applicant is proposing to utilize the dimensional standard for the R-4 (Residential – 4 du/ac) zone district as follows:

Front yard setback (Principal/Accessory): 20'/25'.  
Side yard setback (Principal/Accessory): 7/3'.  
Rear yard setback (Principal/Accessory): 25'/5'.  
Maximum building height: 40'.  
Maximum Lot Coverage: 50%.  
Minimum Lot Area: 10,050 sq. ft.

Section 21.030.030 (d) (5) of the Code can also be utilized for setback reduction purposes for lots abutting open space tracts.

**Deviations:**

No special deviations are requested by the applicant as part of the ODP application. Proposed residential development will meet or exceed all Zoning Code requirements as identified.

**Drainage:**

As part of the subdivision development, the applicant will be relocating the existing Corchoran Wash at the northwest corner of the development. The existing drainage channel will be piped underground in an anticipated 30" to 36" pipe and rerouted along the H <sup>3</sup>/<sub>4</sub> Road and 26 Road rights-of-way and reconnected downstream. Applicant has obtained approval for this relocation from Grand Valley Water Users Association which maintains the wash. The Applicant's engineer has also provided information stating that

drainage will not damage or impact existing drainage patterns either upstream or downstream with this proposed relocation.

**Neighborhood Meeting:**

A Neighborhood Meeting regarding the proposed Outline Development Plan (ODP) was held on March 30, 2017. The applicant's representative and City Planning staff were in attendance along with over 50 citizens. Comments and concerns expressed by the attendees centered on the proposed density of the development (proposed to be an R-4 density at the time of the Neighborhood Meeting), increased traffic, road networks and capacity, sewer availability, open space, proximity to the airport, nighttime lighting and drainage concerns. Since the Neighborhood Meeting, City Project Manager has received numerous inquiries regarding the proposed subdivision requesting more information along with two official emails commenting on the proposed development, which are attached for review.

**IV. ANALYSIS**

Pursuant to Section 21.02.150 (b) of the Grand Junction Zoning and Development Code, requests for an Outline Development Plan (ODP) shall demonstrate conformance with all of the following:

- a) The Comprehensive Plan, Grand Valley Circulation Plan and other adopted plans and policies;

The proposed Outline Development Plan complies with the Comprehensive Plan, specifically, Goals 3, 5 & 8, as provided below. Regarding the Future Land Use Map, the proposed development is within the residential density range of the Residential Medium Low (2 – 4 du/ac) category as identified on the Future Land Use Map. This Outline Development Plan request is consistent with the following vision, goals and/or policies of the Comprehensive Plan:

Goal 3: The Comprehensive Plan will create ordered and balanced growth and spread future growth throughout the community.

Policy B: Create opportunities to reduce the amount of trips generated for shopping and commuting and decrease vehicle miles traveled thus increasing air quality.

Goal 5: To provide a broader mix of housing types in the community to meet the needs of a variety of incomes, family types and life stages.

Policy C: Increasing the capacity of housing developers to meet housing demand.

Goal 8: Create attractive public spaces and enhance the visual appeal of the community through quality development.

Policy A: Design streets and walkways as attractive public spaces.

No changes to the existing Grand Valley Circulation Plan or street network is proposed with the exception of the construction of center left turn lanes in the two

entrance locations within 26 ½ Road. As proposed, the application is in conformance with the Grand Valley Circulation Plan and other applicable adopted plans and policies.

In-lieu of constructing the minimum of 5' wide sidewalks adjacent to 26, 26 ½ and H ¾ Road, the Applicant is proposing to construct an 8' wide trail within a public pedestrian easement within a 69 foot to 115-foot-wide landscape buffer HOA tract of land adjacent to 26 Road, a 30-foot-wide HOA tract of land adjacent to H ¾ Road and a 40-foot-wide tract of land adjacent to 26 ½ Road. All HOA tracts of land will be fully landscaped and will provide an attractive landscape corridor along these road frontages.

- b) The rezoning criteria provided in Section 21.02.140 (a) of the Grand Junction Zoning and Development Code.

(1) Subsequent events have invalidated the original premises and findings; and/or

A previously adopted PD has lapsed, requiring that the property be rezoned.

(2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or

The character and/or condition of the area has seen some increased growth and development since the time of the previous approved Planned Development for the property in 2008. A new single-family residential subdivision has been developed to the south (Freedom Heights) and additional single-family homes have been constructed to the west. The Summer Hill Subdivision further to the east has also added additional filings in 2015 and 2016. The applicant is requesting to develop a residential subdivision as a Planned Development within the allowable density range as identified with the Comprehensive Plan Future Land Use Map designation of Residential Medium Low (2 – 4 du/ac). The request for rezone is consistent with the Plan, therefore, staff finds that this criterion has been met.

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

Existing public and community facilities and services are available to the property and are sufficient to serve the single-family residential land uses allowed in the PD zone district. Ute Water is located within the 26, 26 ½ and H ¾ Road rights-of-way and City sanitary sewer is presently stubbed to the property from the adjacent Freedom Heights Subdivision to the south. The property can also be served by Grand Valley Power electric and Xcel Energy natural gas. Located within the vicinity and along Horizon Drive are commercial centers that include general offices, grocery store, banks, restaurants, convenience stores and car wash, etc. St. Mary's Hospital is located a little over two miles directly to the

south on 26 ½ Road. The public and community facilities are adequate to serve the type and scope of the residential land use proposed, therefore, staff finds this criterion has been met.

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

The Weeminuche property is a large acreage, undeveloped parcel of land that is adjacent to all existing utility infrastructure and is ready for development without the need to assemble adjacent parcels of land. The applicant is requesting to develop a residential subdivision within an existing residential zone, as a Planned Development that provides additional community benefits that would not otherwise be required under conventional zoning, such as an integrated bicycle and pedestrian system of hard and soft surface trails located within HOA tracts of land. This property is proposed to be zoned PD to allow for design flexibility and additional long-term community benefits. Because PD is a zone category based on specific design and is applied on a case-by-case basis, staff finds this criterion is not applicable to this request, and, therefore has not been met.

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

The community will derive benefits from the zoning of PD (Planned Development) by the proposed development providing an extensive amount of open space and trail systems, both internally and externally. An internal trail that bisects the subdivision will provide a convenient off-street connection between 26 and 26 ½ Roads. A detached trail will also be constructed around the perimeter of the subdivision that will be located within a large HOA tract of land that separates the trail from the road rights-of-way. The proposed subdivision will reduce traffic demands in the area from what could have been developed on the property under the previous approved ODP from 2008 that was approved under the default zone of the R-4 zone district. A proposed 10-foot wide concrete trail will be constructed adjacent to Leach Creek that will connect to the existing trail that was constructed as part of the Freedom Heights residential subdivision to the south. The proposed subdivision also includes both active and passive recreational areas throughout the development that includes HOA tracts that will include picnic shelters and play areas. Staff, therefore finds this criterion has been met.

c) The planned development requirements of Section 21.05.040 (f) of the Zoning and Development Code;

(1) Setback Standards. Principal structure setbacks shall not be less than the minimum setbacks for the default zone unless the applicant can demonstrate that:

Reduced building setbacks are not proposed by the applicant other than what would be allowed under the Cluster Development provisions of the Code, in this case the R-4 zone district.

(2) Open Space. All residential planned developments shall comply with the minimum open space standards established in the open space requirements of the default zone.

The applicant is proposing over 33 acres of open space (21% of the total acreage of the property). Portions of this open space acreage will be developed as tracts of land and will be dedicated to the homeowner's association (HOA) and respective utility companies such as Grand Valley Water User's Association and the City of Grand Junction. The HOA tracts will be landscaped along with the construction and development of hard and soft surface trails both internally and externally to the subdivision which will provide an integrated bicycle and pedestrian system. When fully developed, the Weeminuche subdivision will provide over 14,500 linear feet (2.74 miles) of hard and soft surface trails. The minimum open space requirement for this project is 10%. The Applicant has exceeded this minimum standard and therefore has met this criterion.

(3) Fencing/Screening. Fencing shall comply with GJMC 21.04.040(i).

Fencing will be provided around the perimeter of the subdivision and in the open space areas. Fence materials will vary depending on the location of the fence but will include one of three types of materials; vinyl, composite or split rail and will comply with all applicable requirements of the Code.

(4) Landscaping. Landscaping shall meet or exceed the requirements of GJMC 21.06.040.

Landscaping is being provided in all open space tracts and will meet or exceed the requirements of the Code. Section 21.06.040(g)(5) of the Zoning and Development Code requires a 14-foot wide landscape buffer outside a perimeter enclosure adjacent to arterial and collector streets. The proposed width of the perimeter HOA tracts are 69 feet to 115 feet adjacent to 26 Road, 30 feet adjacent to H  $\frac{3}{4}$  Road and 40 feet adjacent to 26  $\frac{1}{2}$  Road. All tracts will include pedestrian amenities (trails), fencing, trees, shrubs and ground cover. A small pocket park with an irrigation pond, play area and picnic shelter will also be located in the center of the development and will be improved with an 8-foot-wide gravel walking trail around the perimeter of the pond.

(5) Parking. Off-street parking shall be provided in accordance with GJMC 21.06.050.

Off-street parking will be applied in accordance with the Zoning and Development Code for single-family residential development.

(6) Street Development Standards. Streets, alleys and easements shall be designed and constructed in accordance with TEDS (GJMC Title 29) and applicable portions of GJMC 21.06.060.

All proposed streets and easements will be designed in accordance with the TEDS Manual and the Code.

- d) The applicable corridor guidelines and other overlay districts.

The property is proposed to be developed as a Planned Development. There are no corridor guidelines that are applicable for this development. The property is however, located within the Airport Area of Influence and the Applicant will file an Avigation Easement at the time of Final Plan recording.

- e) Adequate public services and facilities shall be provided concurrent with the projected impacts of the development.

Existing public and community facilities and services are available to the property and are sufficient to serve the single-family residential land uses allowed in the PD zone district. Ute Water is located within the 26, 26 ½ and H ¾ Road rights-of-way and City sanitary sewer is presently stubbed to the property from the adjacent Freedom Heights Subdivision to the south. The property can also be served by Grand Valley Power electric and Xcel Energy natural gas. Located within the vicinity and along Horizon Drive are commercial centers that include general offices, grocery store, banks, restaurants, convenience stores and car wash, etc. St. Mary's Hospital is located a little over 2 miles directly to the south on 26 ½ Road.

- f) Adequate circulation and access shall be provided to serve all development pods/areas to be developed.

The proposed subdivision will take access from 26 Road in two locations and from 26 ½ Road in two locations. One access point is proposed from H ¾ Road along with a separate street connection with the existing Freedom Heights Subdivision to the south (Liberty Lane). Center left turn lanes in the two entrance locations within 26 ½ Road will be constructed as part of the subdivision development. Internal streets and private shared drive-ways will be constructed per City Code requirements for residential streets. The ODP is consistent with the City's adopted Circulation Plan for this area.

- g) Appropriate screening and buffering of adjacent property and uses shall be provided;

The applicant is proposing to construct an 8-foot wide trail within a public pedestrian easement within all HOA tracts surrounding the subdivision. The width of these HOA tracts will be 69 feet to 115 feet adjacent to 26 Road, 30 foot' wide adjacent to H ¾ Road and 40-foot wide adjacent to 26 ½ Road. As a comparison, under a straight zone subdivision development, the minimum landscaping width requirement would be 14' adjacent to these street frontages. All HOA tracts will

be landscaped. Fencing will be provided around the perimeter of the subdivision and in the open space areas. Fence materials will vary depending on the location of the fence but will include one of three types of materials; vinyl, composite or split rail.

- h) An appropriate range of density for the entire property or for each development pod/area to be developed;

The proposed density for Weeminuche Subdivision is 2 dwelling units/acre, which is within the Future Land Use Map residential density requirements of the Residential Medium Low (2 – 4 du/ac) designation.

- i) An appropriate set of “default” or minimum standards for the entire property or for each development pod/area to be developed.

The applicant is proposing an R-2 default zone district for establishing density and R-4 zone for establishing dimensional standards, with no deviations. All other minimum standards associated with the Zoning and Development Code have been met or exceeded. The cluster provisions of the Zoning and Development Code allow the applicant to utilize the bulk requirements (building setbacks, minimum lot width, lot coverage, etc.), of the zoning district which has the closest lot size to the proposed lot size of the overall development, which, in this case, is the R-4 (Residential – 4 du/ac) zone district, while still meeting the R-2 zone district densities.

- j) An appropriate phasing or development schedule for the entire property or for each development pod/area to be developed.

The applicant is proposing to develop this subdivision in seven phases, with full completion by December 31, 2035. Each filing will be allotted 2 -3 years for approval to account for construction and full market absorption before the next filing will begin.

## **V. STAFF RECOMMENDATION AND FINDINGS OF FACT**

After reviewing the application for a rezone to PD with an R-2 default zone district and an Outline Development Plan for the proposed Weeminuche Subdivision, PLD-2017-221, the following findings of fact have been made:

1. The Planned Development is in accordance with all criteria in Section 21.02.150 (b) (2) of the Grand Junction Zoning and Development Code.
2. Pursuant to Section 21.02.150(a), the Planned Development has been found to have long term community benefits including:
  - a. The provision of over 33 acres of open space, including expansive buffered landscape tracts adjacent to major roadways, and
  - b. The dedication and construction an integrated pubic trail system of hard and soft surface trails, picnic shelters and play areas.
3. The Planned Development is consistent with the vision, goals and policies of the Comprehensive Plan.

4. Pursuant to Section 21.02.150 (B) (4) (iii) Validity, the first filing shall commence by December 31, 2018 and the final filing shall be approved within 10 years of the ODP approval.

Therefore, Staff recommends approval of the request for a Planned Zone and Outline Development Plan (ODP) for the Weeminuche Subdivision.

#### **VI. RECOMMENDED MOTION**

Madam Chairman, on the Rezone to Planned Development (PD) with an R-2 (Residential – 2 du/ac) default zone district and an Outline Development Plan to develop a 303 single-family detached residential subdivision, file number PLD-2017-221, I move that the Planning Commission forward a recommendation of approval to City with the findings of fact listed in the staff report.

#### **Attachments:**

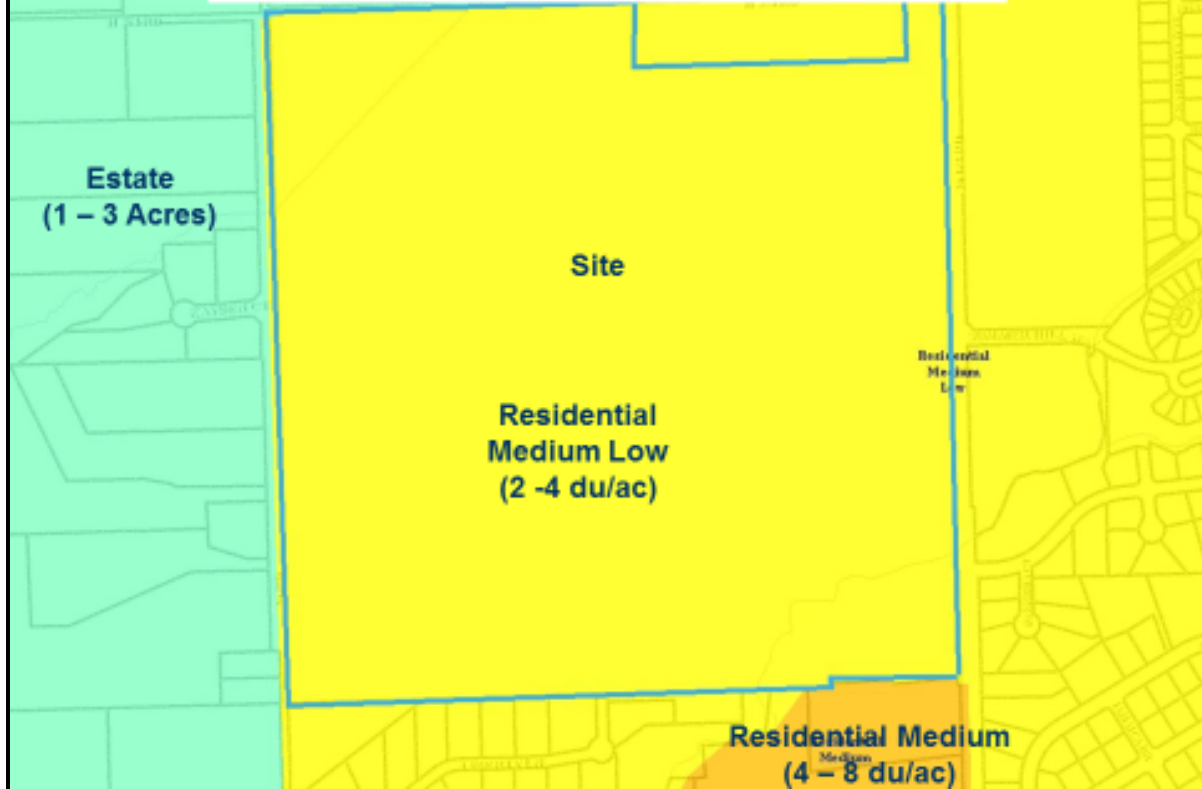
1. Site Location Map
2. Aerial Photo Map
3. Comprehensive Plan Future Land Use Map
4. Existing Zoning Map
5. Outline Development Plan
6. Phasing Plans
7. Open Space Plan
8. Correspondence received from the public
9. Ordinance (Proposed)

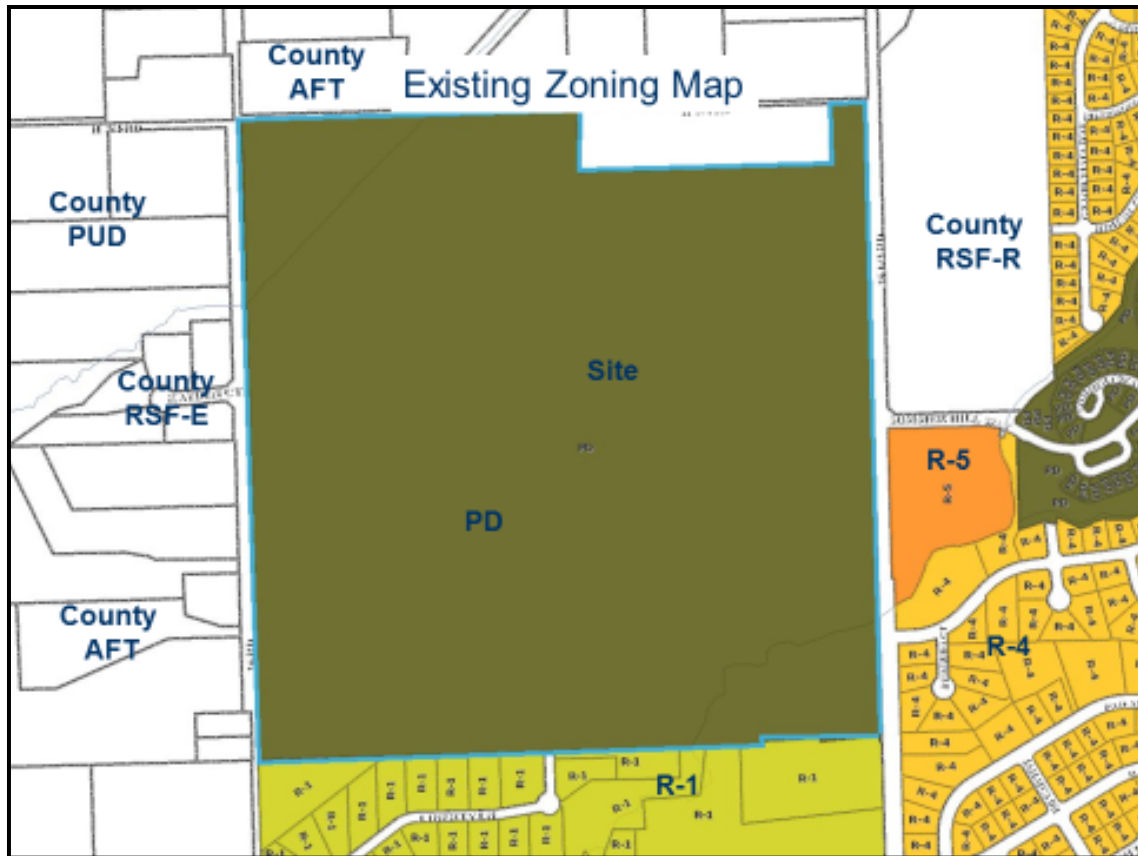






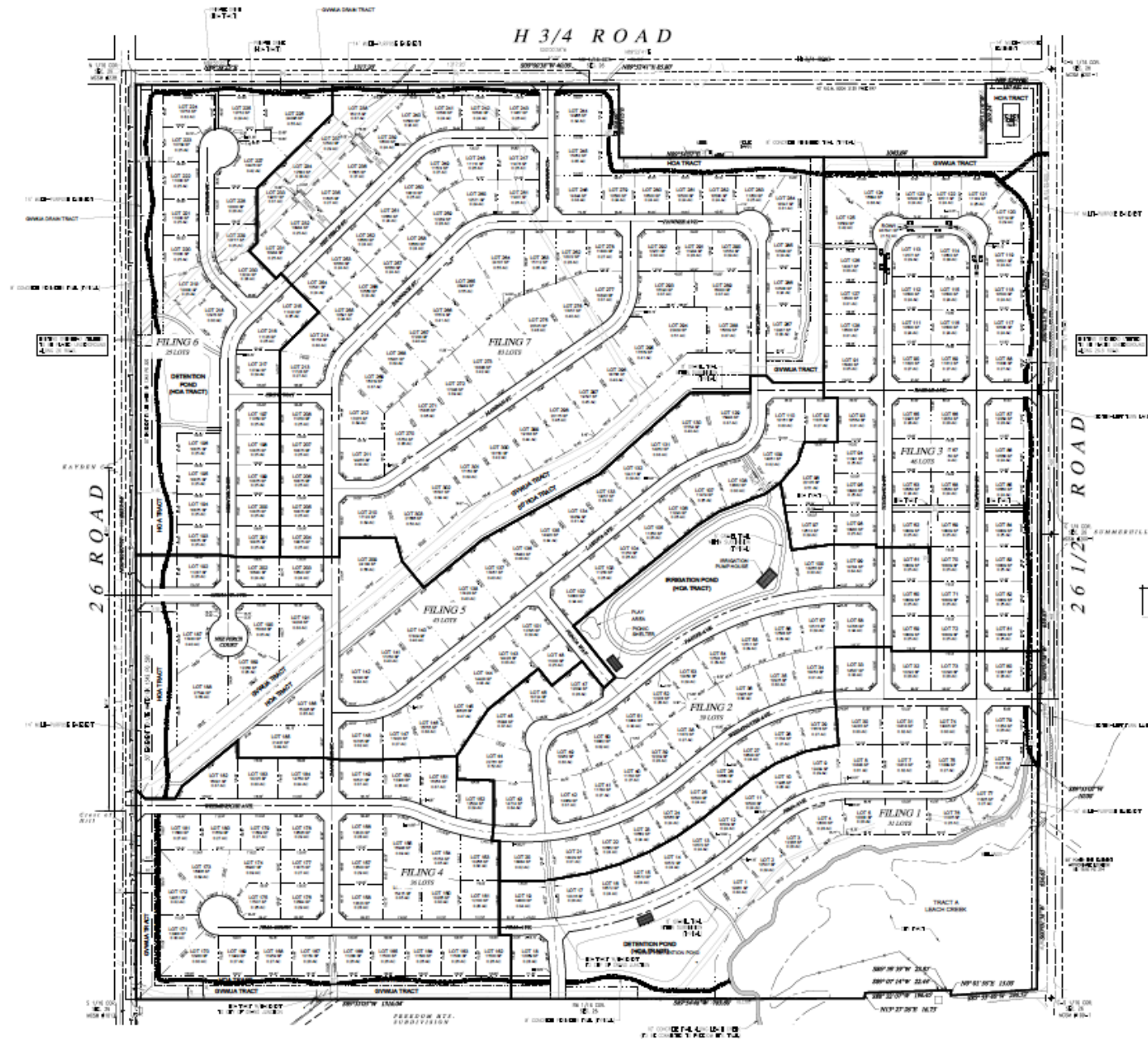
## Comprehensive Plan Future Land Use Map



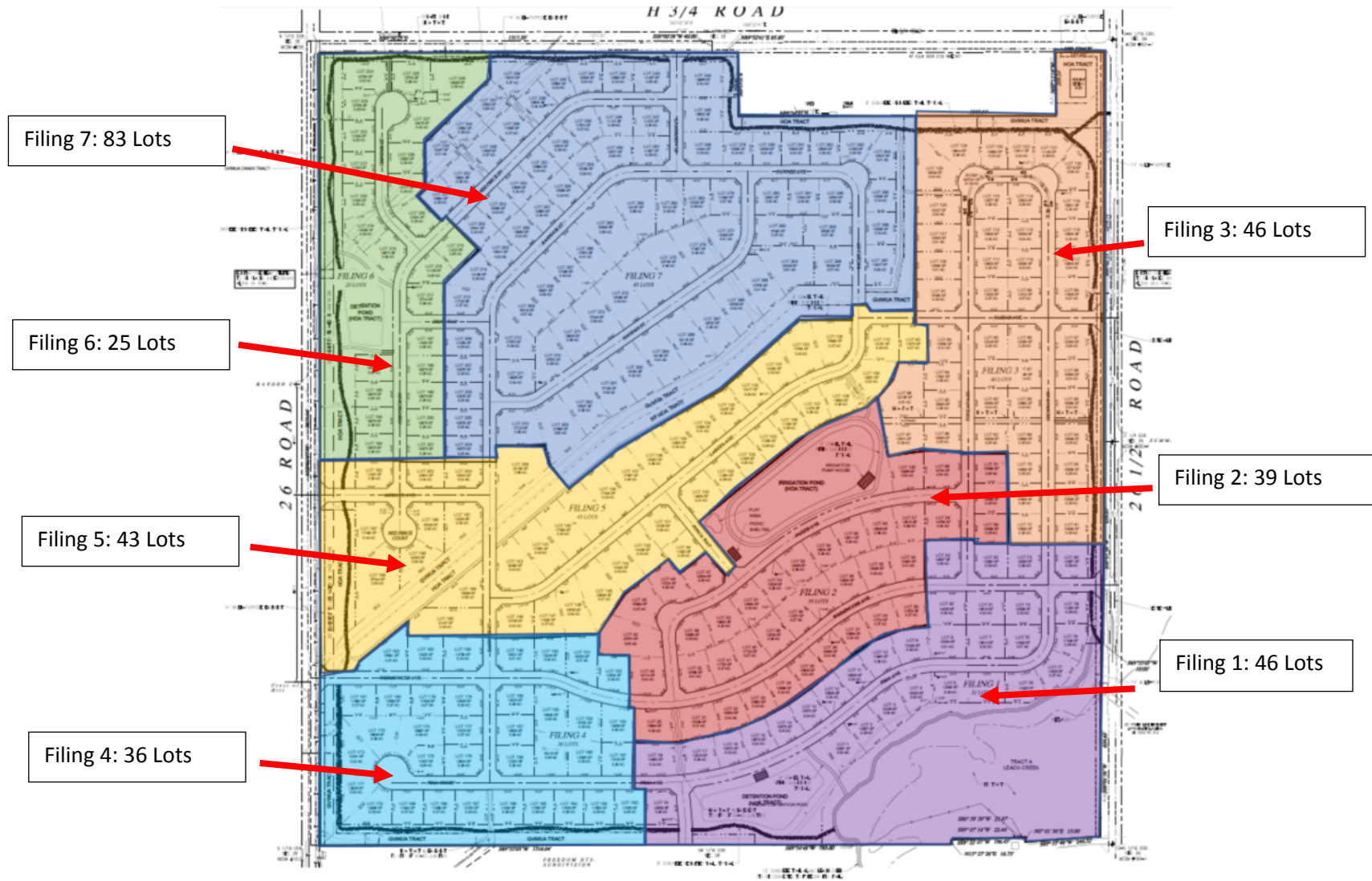




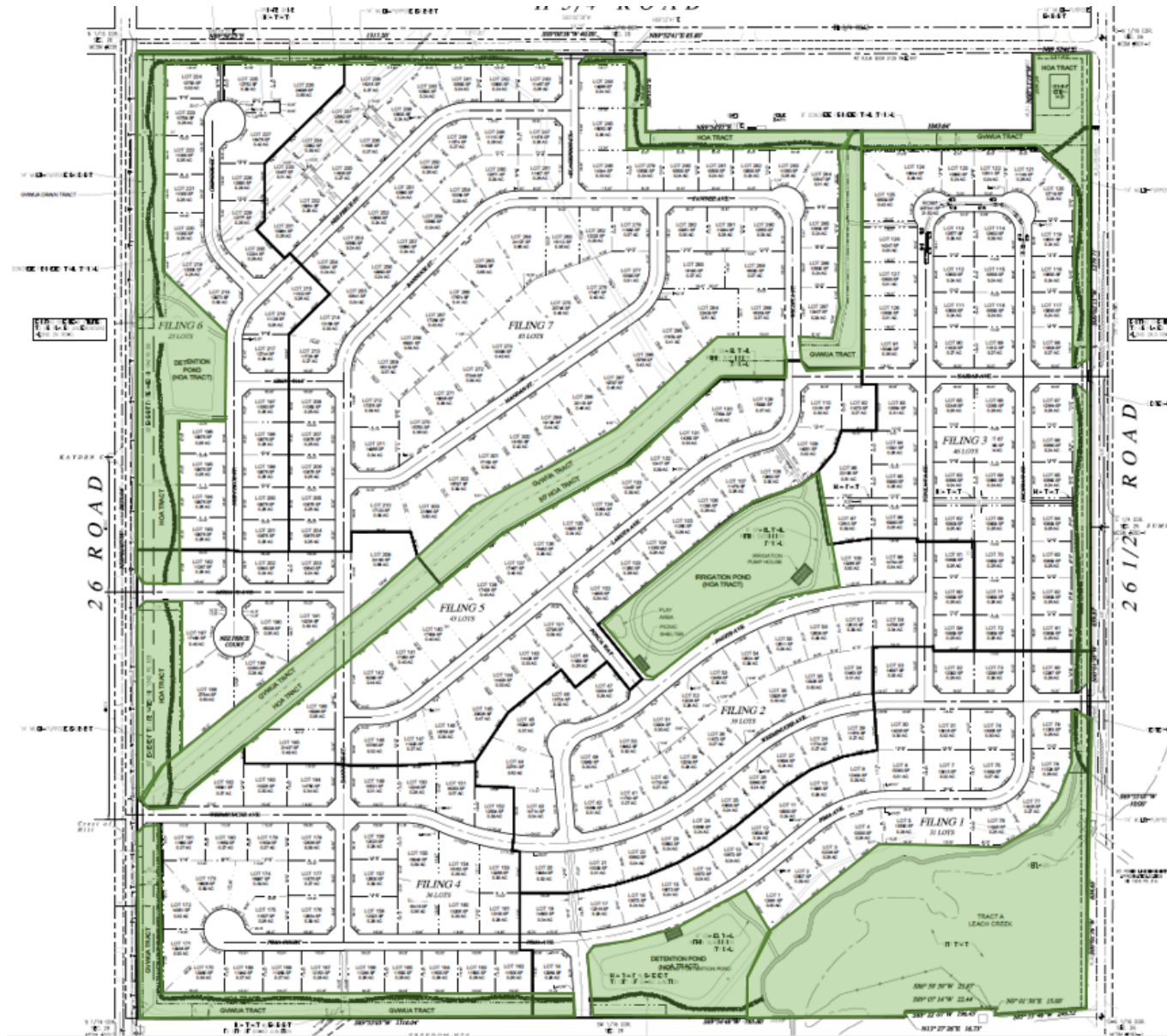
# Outline Development Plan



## Phasing Plan



# Open Space Plan





**Scott Peterson**

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**From:** Mark Gardner <mark@whitewater.construction>  
**Sent:** Tuesday, May 30, 2017 9:37 AM  
**To:** Scott Peterson  
**Subject:** RE: Weeminuche Subdivision - Proposed Lot Layout

Scott want to put in a comment for Weeminuche Subdivision.

The Weeminuche Subdivision does not transition to neighboring properties. The average lot size across from me is approximately .30 acres and the existing properties are between 2 to 5 acres. The Freemont Heights Subdivision went in with lot sizes of .70 acres with bordering properties of 1 to 2.5 acres.

As for the number of lots over the total acres, that is a numbers games. The Detention Ponds and the Irrigation Pond should not be counted as open space Leach Creek is not developable because of flood plain. Take those acres out and your lots per acre soar.

The property should be developed more like the original plan. That plan had better transition from higher density in the SE portion to lower in the NW. That type of transition reflects the surrounding areas.

In conclusion I am not against the development of Weeminuche Subdivision but I think it does not reflect or protect existing properties.

Mark Gardner  
2612 H ¼ Road  
Grand Junction, Co. 81506  
970-242-7538

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**From:** Scott Peterson [mailto:scott@cityofgj.org]  
**Sent:** Friday, May 26, 2017 4:08 PM  
**To:** Mark Gardner  
**Subject:** Weeminuche Subdivision - Proposed Lot Layout

Mark,

See attached PDF of the proposed lot layout for the Weeminuche Subdivision.

Let me know if you have any further questions.

Thank you.

Scott Peterson  
Senior Planner  
City of Grand Junction  
[scott@cityofgj.org](mailto:scott@cityofgj.org)  
(970) 244-1447



## Scott Peterson

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**From:** jim@thehighchaparralgroup.com  
**Sent:** Wednesday, June 14, 2017 4:00 PM  
**To:** Scott Peterson  
**Subject:** PLD-2017-221 Weeminuche Subdivision Comments

Scott,

I would like to add these concerns and comments to the record for the proposed Weeminuche Subdivision PLD-2017-221:

### Pedestrian and bicyclist safety:

There are no bike lanes or improved shoulders or sidewalks in either direction on any of the four boundary roads for this project (H Road, 26 Road, H-3/4 Road, and 26-1/2 Road). These are currently rural roads and have are highly used by both cyclists and joggers. I feel there is a legitimate concern for the safety of these people and that the subdivision should be required to add bike lanes in addition to the boundary sidewalks along all of the boundary roads that contact the subdivision. This will allow the pedestrians and cyclists to be off of the traffic lanes as the quantity of traffic increases.

### Increased traffic concerns:

The last traffic study was completed in 2006 and should be updated for current traffic patterns. Of particular concern are the narrow feeder I-70 overpasses at 26 and 26-1/2 Roads. I would expect that the major flow of traffic to and from the subdivision would be over these two bridges as homeowners go to work and into town for shopping and activities. Neither of these bridges has shoulders or acceptable pedestrian crossings. Further it would require a major expense to improve these bridges, and I believe these to be a "pinch point" for access to the subdivision which has not been appropriately vetted. Additionally, the high speed limits on 26 and 26-1/2 Roads combined with the hilly topography make for unsafe ingress and egress from the subdivision. There are currently no provisions to include turning lanes which would allow traffic to safely get into and out of the area and I believe these should be required at all access points including that which leads into the new Freedom Heights subdivision.

### Sound, visual, and light mitigation:

The addition of over 300 homes on 10,000 sq.ft. minimum lots surrounded on all sides (with the exception of those homes in Paradise Valley that border 26-1/2 Road near H Road) by rural homes on large 2+ acre lots will put an undue burden on quiet enjoyment of the bordering properties, and possibly negatively affecting their values. Specifically, we expect there to be additional noise from traffic, yard work, outdoor activities and other sources. There will also be additional light sources from the street lights, vehicles, and homes themselves that will affect the night sky of the surrounding homes. I would request that an increased setback of at least 100' be required along the entire perimeter of the subdivision which should include the addition of 8' high earthen berm topped with an appropriate 6' high solid fence of which vinyl would not be appropriate in this rural setting. (Stucco, stained wood, or stone veneer would be more appropriate).

### Violation of the Intent of the original Planned Development application:

It is my understanding that the intent of the PD was to have higher density housing generally to the eastern edge and the lower density housing to be generally to the west. This is referenced in the OPD provided by Vortex. Although this requirement may have been changed or ignored over the last ten years of this process, I believe it is still a sound requirement. The current ODP plat map shows that the largest lots are centered in the subdivision. I believe this requirement should be reinstated and the developer held to it as was originally required.

### Specific Concern about entrance to subdivision:

It appears that southern entrance on 26 Road to the subdivision is directly across the street from the homes at 835 and 837 26 Road. This will make it more difficult for these homeowners to safely enter and

exit their properties. Additionally, lights from traffic exiting the subdivision will adversely affect the quiet enjoyment of their properties and no provision to remediate this has been given. We request that this be a requirement for approval.

Thank you for taking these concerns and requests into account and I am requesting that they be made part of the public record.

Jim Sufka  
835 26 Road  
Grand Junction, CO 81506  
970.270.7979

City of Grand Junction Planning Office  
250 N 5<sup>th</sup> St  
Grand Junction CO 81501



17 September 2017

**Ordinance 2842: The City's compromise promise to preserve the neighborhood**

The criteria for development of the 151.35 acre tract bounded by H.75 Rd, 26 Rd, and 26.5 Rd was defined from a long and contentious meeting of the City Council by Ordinance 2842, which passed 4-3 after several failed motions:

*The following properties are zoned PR (with a density equivalent to RSF-2) and with a requirement that higher density locate towards the eastern edge & lower density locate towards the western edge of the properties: (legal description follows)*

These requirements for density gradation were reaffirmed and application of gross density denied in a 1 June 1995 letter from City Manager Mark Achen to Dr. Saccomanno (excerpt of paragraphs 6 and 7 of 8):

*We do not agree with your attorney's view that the maximum should be 300 units. City Code establishes a minimum lot size of 21,500 square feet in RSF-2 zones. This requires that the maximum number of lots be calculated on net acreage available after public-rights-of-way, open spaces, wetlands, etc. have been identified.*

*You are welcome to submit more detailed materials to assist our calculation of the maximum number of units. If you wish to do so, please provide such by Friday, June 9, 1995. This will allow us a week to evaluate your materials. Otherwise, we shall establish the maximum number of units that can be developed on the Trust property at 220.*

The current plan to build 303 dwellings on the Weeminuche Subdivision (Figure 2) is similar to plans rejected by the City Council in 1995 (see above quotation) and dishonors two requirements of City Ordinance 2842. These requirements, clarified by City Manager Mark Achen a month after its passage, allow no more than 220 dwellings, and specify a density gradation from east to west. The neighborhood surrounding 95% of the perimeter of the Weeminuche Subdivision, a 151.35 acre tract, is entirely rural and almost entirely built out. This plan will severely degrade the character of the surrounding area, is inconsistent with the City's Comprehensive Plan, and dishonors the promised development plan made at the 3 May 1995 City Council meeting to residents who were unanimously opposed to zoning desired by the landowner. Most residents of the 88 parcels within the 1/4 mile wide swath surrounding on the west, south, and north sides who were at that meeting still reside here and vividly recall promises documented by the verbatim of that meeting and clarifications added after. We expect rejection of the proposed plan and await a plan that honors the visionary compromise of Ordinance 2842. As described below, the stark contrast and disharmony between existing neighborhoods and the proposed subdivision will entirely disappear if Ordinance 2842 is followed.



### **Elements of the compromise visionary plan by the City Council in 1995**

At the 1995 meeting, the landowner asked the City to change zoning to RSF-4 (quarter acre minimum lot size) with annexation, whereas virtually all other residents desired to retain AFT zoning (5 acre lots) specified by the Appleton Plan that preceded annexation. The compromise of Ordinance 2842 by the 1995 City Council offers an opportunity to develop a visionary plan that gracefully grades from suburban parcel densities of Paradise Hills and Summer Hill to the east into the vast rural low density area that extends unbroken to Fruita. Within this vast rural low density region are Quail Run, Red Ranch, Northside, and many other subdivisions that blend in well with surrounding agricultural land and are unrecognizable in Figure 3. We provide an example (Figure 4) that precisely calculates the number of parcels within each 40 acre tract of land within Weeminuche Subdivision to match the average of the three adjacent 40 acre tracts outside the subdivision. In this example model, the total number of parcels within Weeminuche Subdivision is 122, and the density decreases from east to west. Parcel densities calculated for western Weeminuche Subdivision are virtually identical to those of Quail Run, whereas those for eastern Weeminuche Subdivision are virtually identical to those of Paradise Hills. All four 40 acre quadrants of Weeminuche Subdivision are within RSF-2 zone and R-2 as well. Every resident, whether inside or outside of the subdivision, enjoys a compatible neighborhood on all sides. We ask the City to reject the current proposal for Weeminuche Subdivision and to await a proposal that honors the zoning requirements promised to residents in 1995; most of these same residents now await its fulfillment.

### **Contrasting neighborhoods: Well established rural neighborhood and suburban**

By 1995 the area surrounding the Weeminuche Subdivision was well established as rural, with about 1/3rd of the surrounding parcels currently grazing horses, llamas, alpacas and other large animals. All major thoroughfares negotiate hilly terrain and are virtually devoid of shoulders (Figure 1). Only 7 of the 303 parcels exceed 1/2 acre in the proposed plan. The addition of 303 dwellings (Figure 2) within an area of 0.235 square miles adds a population that is 165% of the existing population of the 1.25 square mile area surrounding the development on 3 sides, that is, a density contrast of 9, and embeds 1 of every 50 residents of the City within the midst of farm animals. Imagine trying to ease your horse trailer out onto a single lane roadway used by residents in a hurry to make it to the office on time. The current plan does not address transition from rural to suburban, dishonoring both Ordinance 2842 and goal 7 of the Comprehensive Plan.



Figure 1. Left: Farm animals are common residents of area surrounding proposed development. Right: View north on 26.5 Rd (7th St) 1/4 mile north from H Rd.

Residents who have migrated to our type of neighborhood, attracted by its quality living and extraordinary stability, include highly accomplished professionals such as a recent City mayor, doctors and lawyers, and many other occupations. Such professionals are well known to be supporters of the arts and sciences, and often philanthropic, great assets to any community. The City will not attract such residents into the Weeminuche Subdivision as currently planned, and many who reside outside will relocate; some already have. Development as promised by Ordinance 2842 offers a similar neighborhood within the western part of the Weeminuche Subdivision to attract residents like those who have typically lived here for 30 years.

No services are available or planned, with the closest market or any service available 3 miles distant from the proposed subdivision. To reach any required service, new residents will exit mostly to the south via 26 and 26.5 Roads, greatly increasing traffic density. To be sure, roads will eventually be upgraded to standards for the markedly increased traffic flow, but until then the present residents of the surrounding area will find the roadways, particularly 26 Road and H.75 Road highly unsafe with suburban traffic flow rates on rural roadways. No road enclosing the proposed subdivision has any shoulder to accommodate the recreational walkers, runners, or bicyclists that use these roads in great numbers, including us. These roads are not designed for such volume and will be unsafe for drivers as well. The proposed Weeminuche Subdivision will greatly endanger the use of the rural roads that surround it.

#### **Infill: A key concept of the Comprehensive Plan**

Figure 3, which shows parcel densities throughout the Grand Valley, demonstrates that the proposed subdivision certainly does not "reduce sprawl" to support the goal of Infill, which is "a high priority of the Comprehensive Plan".

#### **Honor the promise of Ordinance 2842, a visionary compromise by the 1995 City Council**

The compromise of Ordinance 2842 by the 1995 City Council offers an opportunity to develop a visionary plan that gracefully grades from suburban parcel densities of Paradise Hills and Summer Hill to the east into the vast rural low density area that extends unbroken to Fruita. Every resident, whether inside or outside of the subdivision, will have compatible neighborhoods on all sides when the original compromise is honored. The City has received its 30 acre parcel across 26.5 Rd from the Catholic Church, the landowner obtained zoning coupled with sewer service from annexation that allows the highest density consistent with surrounding, established rural neighborhoods. Now residents of 183 rural parcels and 818 suburban parcels within the half mile surrounding Weeminuche Subdivision await fulfillment of our end of the bargain: a plan that preserves neighborhoods surrounding proposed development. We ask the City to reject the current proposed plan and to await a proposal that honors the zoning requirements promised to the residents in 1995. Our neighborhood awaits a plan that best suits and preserves this lovely part of the Grand Valley, one that honors the visionary compromise of Ordinance 2842.

Sincerely,

*Richard G. Warren*  
*Jan Warren*

Jan and Richard Warren  
2622 H Road  
Grand Junction, CO 81506

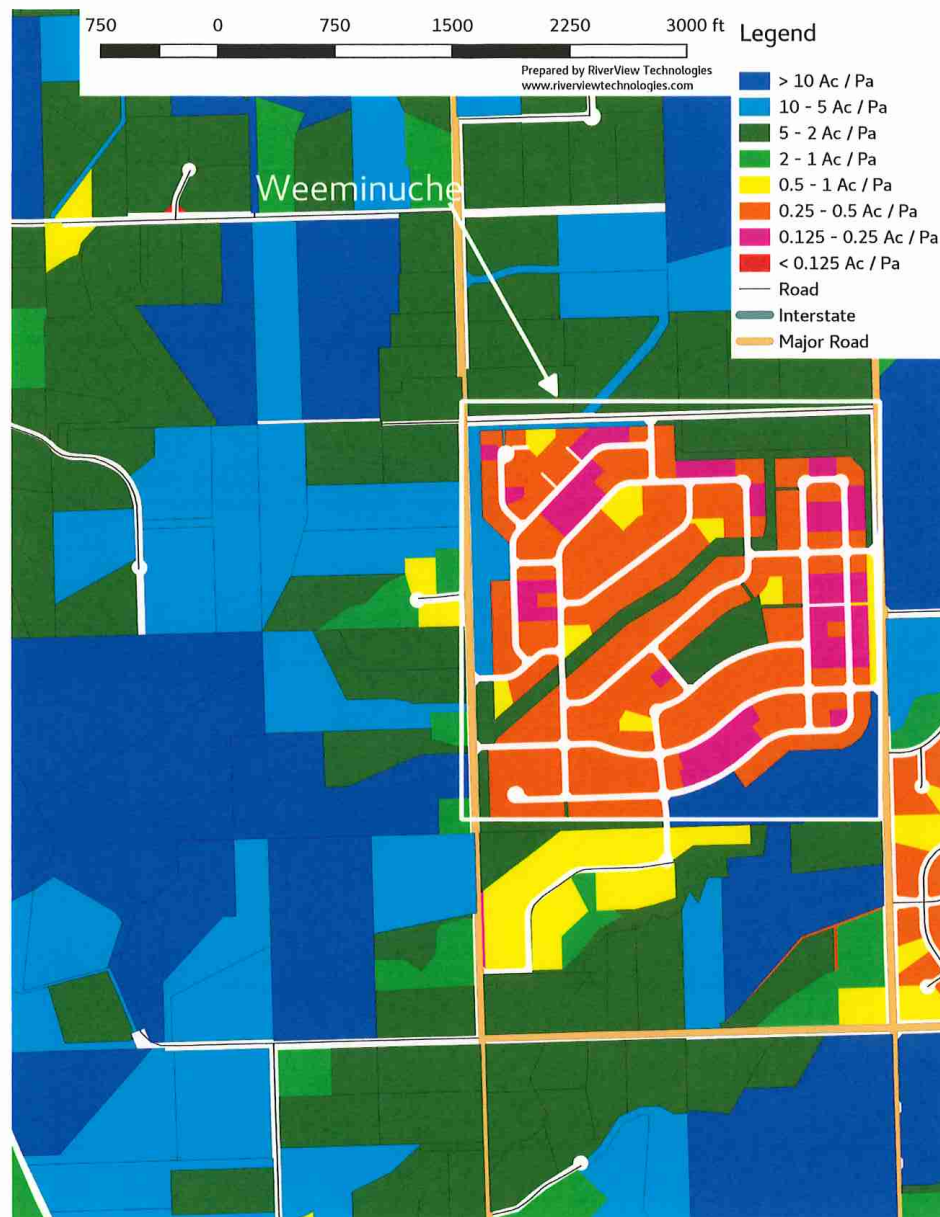


Figure 2. Parcel density for proposed 151.35 acre Weeminuche subdivision, 303 total parcels.



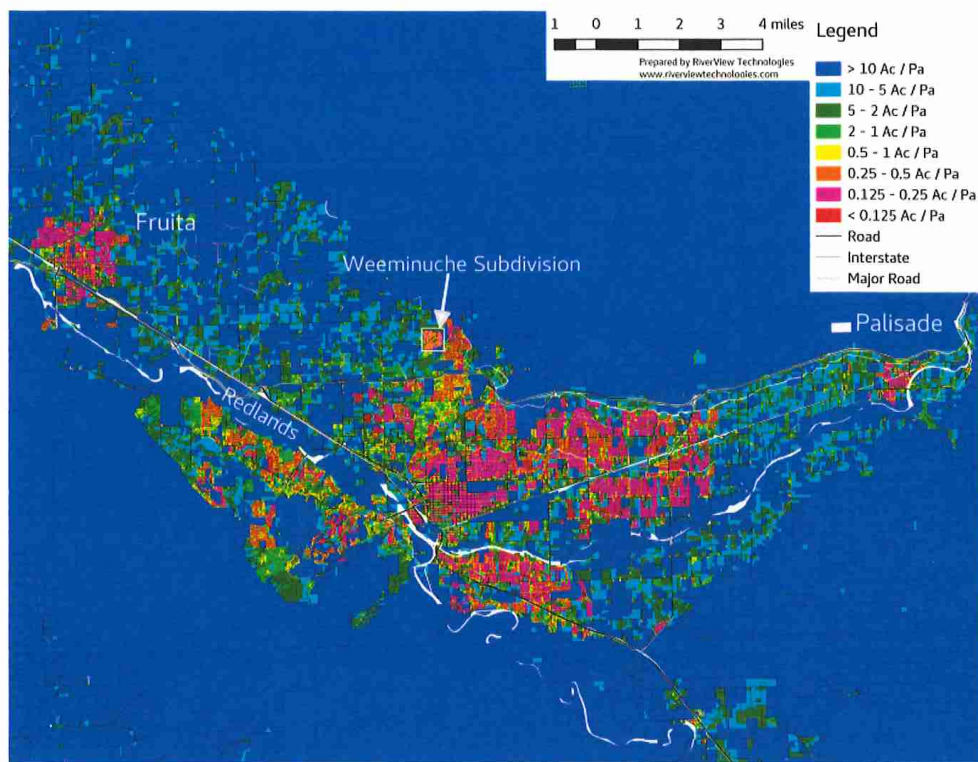


Figure 3. Parcel density for proposed 151.35 acre Weeminuche subdivision, 303 total parcels, compared to densities throughout Grand Valley.

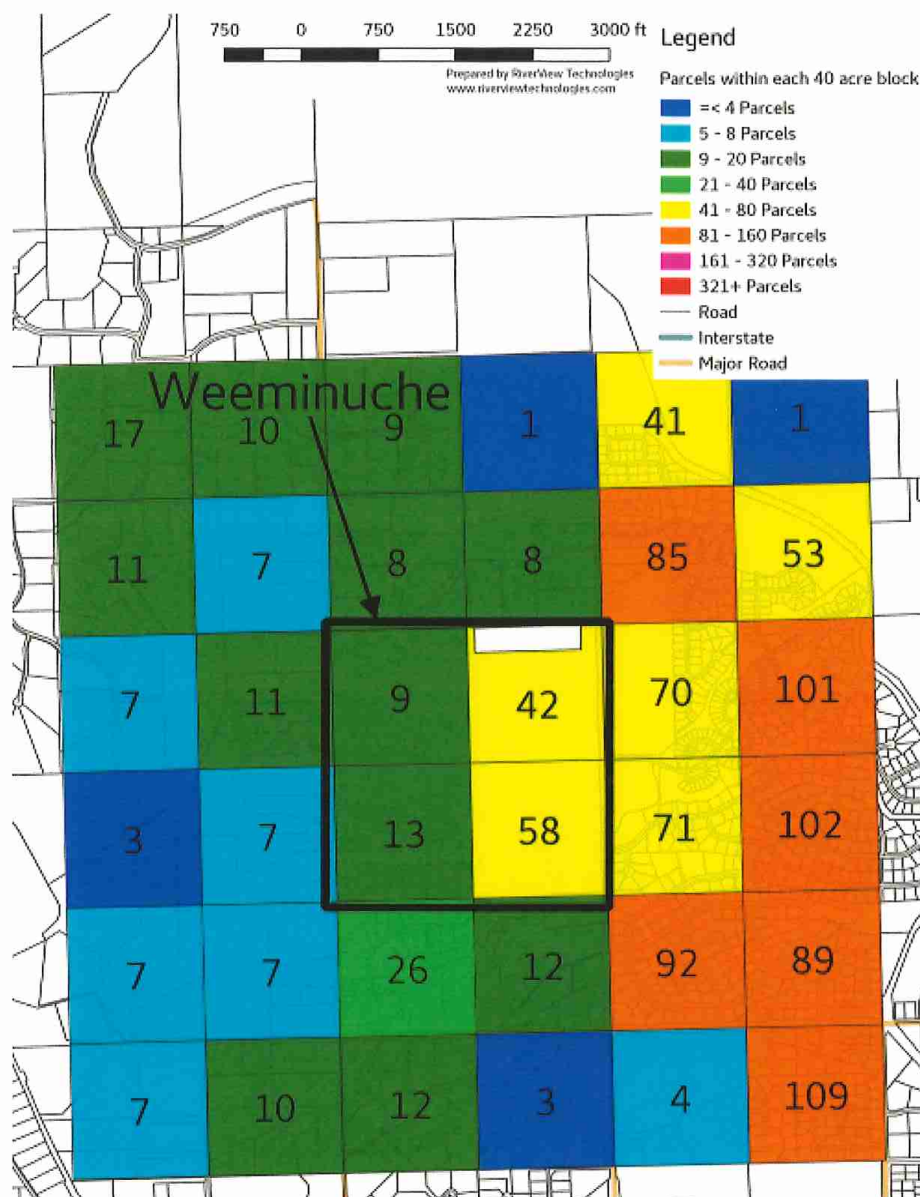


Figure 4. Number of parcels for each 40 acre tract calculated for 151.35 acre Weeminuche subdivision to match average for three immediately adjacent 40 acre tracts outside subdivision. Number of parcels for northeasterly 40 acre tract within subdivision is adjusted for smaller (31.35 acre) area.



To: Planning Commission

From: Mary Sornsin and Mike Agee  
Paradise Hills Residents

Date: September 26<sup>th</sup>, 2017

RE: Development between 26 1/2 and 26 Road and H 3/4 Road


Please consider the number of houses, the type of houses, the quality of construction and the impact that it will have on existing communities.


Also, the increase in traffic will be dramatic and noisy I already have difficulty turning from Catalina Drive onto 26 1/2 road due to the increased traffic and the speed in which cars are moving.

Consider the reason why people have purchased homes in Paradise Hills on 1/4 acre lots and how we value neighborhoods, quiet and open spaces. Please do not jeopardize our living experiences.

And lastly, why do we need this much additional housing? To build communities that are valued and green would have a very different plan than the process that is being discussed and determined today. The focus would not be entirely on profit and getting an old plan completed.

Thank you.

  
Mary Sornsin

  
Mike Agee

To: Planning Commission

From: Mike Agee and Mary Sornsin  
Paradise Hills Residents

Date: September 26<sup>th</sup>, 2017

RE: Proposed development north of H Road.

When we moved to Grand Junction in 2011, we did so by choice. My circumstances permitted my wife and I to move anywhere in the US we desired and we chose Grand Junction. We also chose to live in an area that had a more rural character, which the area north of H Road represented to us. If we had known at the time we purchased our home that the city of Grand Junction planned to increase the housing density in this area we would have not picked this location. I am confident that many other folks in our area have similar feelings.

I realize from our previous life on the Front Range that developers have considerable clout in most city jurisdictions that the average tax paying citizen does not, but we had hoped things might be different here. We are fortunate enough that we can move to another location but really do not desire to do so. We have great neighbors and a community that has felt secure. All the changes that come with increased housing density really only minimize these quality of life attributes.

Regards



Mike Agee



Mary Sornsin

Sept. 26, 2017

To: Grand Junction Planning Commission

Re: Weeminuche Subdivision Outline Development Plan and  
Rezone to PD with a Default Zone of R

I basically concur with the recommendations of the planning staff on the plans and plat for the Weeminuche Subdivision. However, I am concerned with the need to address the narrowness of the three major roads giving access to the development.

The three roads 26, 26 ½ and H Roads carry traffic to 1<sup>st</sup> & 7<sup>th</sup> streets and the airport region. The Paradise Hills and Summer Hill subdivisions and that of Immaculate Heart Catholic Church and school feed into already narrow roads. Add pedestrians and bicyclists to these roads and we often experience dangerous driving conditions.

I respectfully suggest that the Planning Commission recommend to the City the widening and addition of bike trails along these three roads.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Gay Hammer". The signature is stylized with a large, looped initial "G" and a cursive "H".

Gay Hammer  
2673 Catalina Drive  
Paradise Hills  
Grand Junction, CO 81506

**DATE:** August 16, 2017

**TO:** City of Grand Junction  
Attn: Scott Peterson, Senior Planner  
250 North 5<sup>th</sup> Street  
Grand Junction, CO 81501

**RE:** Weeminuche Subdivision  
Response to Comments – Round 4  
26 Road & H ¼ Road  
Grand Junction, CO

**VEAI #:** F17-006

**FILE #:** PLD-2017-221

Dear Mr. Peterson,

We ask that you attach this letter, Response to Comments – Round 4, to the staff report that will be submitted by Friday of this week for the October 18, 2017 City Council agenda. We feel it's very important to include this information in the Council's agenda packet so they can review it prior to the final public hearing on November 1, 2017.

At the September 26, 2017 Planning Commission meeting, it was noted by one Commissioner that the Weeminuche Subdivision Outline Development Plan (ODP) did not appear to meet the community benefit requirements of the Zoning and Development Code (Code). To demonstrate compliance with all required provisions of the Code, the applicant requests that City Community and Development Department staff affirm that the Weeminuche Subdivision ODP meets the following provisions of the Grand Junction Municipal Code:

**21.02.150 Planned development (PD).**

(a) **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 Chapter 21.05 GJMC. The PD zone district imposes any and all provisions applicable to the land as stated in the PD zoning ordinance. The purpose of the PD zone is to provide design flexibility as described in GJMC 21.05.010. Planned development rezoning should be used when long-term community benefits will be derived, and the vision, goals and policies of the Comprehensive Plan can be achieved. Long-term community benefits include:

- 1) More efficient infrastructure;
- 2) Reduced traffic demands;
- 3) More usable public and/or private open space;
- 4) Recreational amenities; and/or
- 5) Needed housing choices.

The Weeminuche Subdivision ODP meets a number of the long term benefits for the community:

- 2) Reduced traffic demands – Although the Weeminuche site is designated as Residential Medium Low (RML, 2-4 du/ac) on the Comprehensive Plan Future Land Use Map, and the anticipated density range allows up to 4 dwelling units per acre, the proposed ODP limits density to only two dwelling units per acre. By limiting the density (where a higher density range is anticipated as appropriate for the subject property), the community will benefit from reduced traffic demands. Overall, there is approximately 3,000 vehicle trips per day reduction anticipated with the R2 density. In addition, the provision of more than 14,500 linear feet of hard and soft surface trails that are part of the pedestrian and bicycle network also support reduced traffic demands by providing alternative modes of transportation and connectivity.
- 3) More usable public and/or private open space – The Zoning and Development Code requires 10% of open space be provided for developments with 10 or more lots; the Cluster Development provisions require at least 20% open space be provided when the cluster provisions are used. The Weeminuche Subdivision ODP is utilizing the cluster provisions and provides 21%, or 33 acres, of open space. Moreover, the open space that is provided is improved with landscaping and other amenities that are available for the use of the general public in addition to Weeminuche residents. Shade shelters, picnic tables, benches and playground equipment placed throughout the park areas and open space create an inviting environment for the public, as well as within the setbacks along roads with trails.

The open space represents a higher value to the overall community because it is made available to the general public, not just the residents of the Weeminuche Subdivision. The hard and soft surface trails allow the public to move throughout the community in a safe, richly landscaped environment. The provision of detached trails provides the public a safe, pleasant opportunity to walk or ride bikes around the entire perimeter and throughout the subdivision with very little interaction with vehicles.

- 4) Recreational amenities – While the Code requires the provision of a certain percentage of open space, there is no requirement to improve the open space with additional amenities. The Weeminuche Subdivision ODP will provide many amenities throughout the open space and park areas that will enhance the public's experience and provide safe areas for recreation. Shade shelters, picnic tables, benches and playground equipment all contribute to the enjoyment of the residents and public while using the park areas or the many hard and soft surface trails.

(b) **Outline Development Plan (ODP).**

- 1) **Applicability.** An outline development plan is required. The purpose of an ODP is to demonstrate conformance with the Comprehensive Plan, and coordination of improvements within and among individually platted parcels, sections or phases of a development prior to the approval of a final plat. At ODP, zoning for the entire property or for each “pod” designated for development on the plan is established. This step is recommended for larger, more diverse projects that are expected to be developed over a long period of time. Through this process, the general pattern of development is established with a range of densities assigned to individual “pods” that will be the subject of future, more detailed planning.

The Weeminuche Subdivision ODP conforms to the Comprehensive Plan through the proposed PD with R2 default zone district. The Future Land Use Map shows the subject property as Residential Medium Low (2-4 du/ac) density range. The proposed density for the Weeminuche Subdivision ODP is limited to two dwelling units per acre through the PD zoning process. This density is at the low end of the anticipated density range of 2-4 dwelling units per acre.

The proposed Weeminuche Subdivision ODP is located on the outer edge of the 201 Sewer Service area and the Urban Growth Boundary. Properties located outside of the sewer service area in the unincorporated area of Mesa County are expected to develop at rural densities and with rural services. However, properties located within the 201 Sewer Service area and the Urban Growth Boundary are expected to develop with urban densities and with urban services such as sewer, streets with curb, gutter and sidewalk and smaller lot sizes.

The Weeminuche Subdivision ODP will provide single family housing as a transition between the low density, rural type development of the unincorporated area of Mesa County located outside of the sewer service area and Urban Growth Boundary and the more urbanized residential development located to the east which is located inside the City limits, 201 Sewer Service area and Urban Growth Boundary.

The Weeminuche property has been master planned as one large project to maximize the external improvements on perimeter roads and to preserve continuity throughout the development of the entire project. All required infrastructure shall be constructed in compliance with all City of Grand Junction, state and federal requirements. All required local, state and federal permits shall be obtained. The applicant has designed the Weeminuche Subdivision ODP in compliance with the Zoning and Development Code, TEDS and SWMM manuals and all other applicable regulations and development policies.

- 2) **Approval Criteria.** An ODP application shall demonstrate conformance with all of the following:

- (i) The Comprehensive Plan, Grand Valley Circulation Plan and other adopted plans and policies;

The Weeminuche Subdivision Future Land Use classification is Residential Medium Low (RML, 2-4 du/ac). This land use classification is supported by the current zoning of the property of PD (with R4 default zone) and the requested rezone to PD (with R2 default

zone). The property is identified by the Comprehensive Plan as an “area of change” which anticipates new growth and development for properties located near and within Village and Neighborhood Centers as shown on the Future Land Use Map. A Neighborhood Center is anticipated at the intersection of H and 26 ½ Roads, located southeast of the Weeminuche Subdivision site. Residential development of this property will provide needed housing and will support the anticipated Neighborhood Center. In addition, the proposed development supports several of the goals and policies of the Comprehensive Plan as noted earlier in this report.

The proposed development is designed to be compliant with the Grand Valley Circulation Plan. Specifically the development meets Sec. 31.08.020(d) which states: “Subdivisions and other development shall be designed to continue or create an integrated system of streets and trails that provide for efficient movement of pedestrians, bicycles, and automobiles to and from adjacent development.” Sidewalks and various hard and soft surface detached pedestrian trails have been included in the design to meet the needs of an integrated system of streets and trails with convenient interconnectivity between streets and adjacent development. When fully constructed, the Weeminuche Subdivision will provide over 14,500 linear feet of hard and soft surface trails along with the extensive network of local roadways, connecting the development to the collector roadway system without encouraging cut-through traffic.

Because interconnectivity and providing a safe, pleasant pedestrian experience is a priority for the applicant, multiple trails have been incorporated into the development including a trail along Leach Creek. Freedom Heights Subdivision partially constructed a trail along a portion of Leach Creek. The Weeminuche Subdivision will complete the trail to provide one pedestrian facility along the creek, basically connecting 26 Road to 26 ½ Road through the Leach Creek corridor. The improved, pedestrian trail along Leach Creek supports the Urban Trails Master Plan.

(ii) The rezoning criteria provided in GJMC 21.02.140;

Section 21.02.140(a), Code amendment and rezoning, Approval Criteria. In order to maintain internal consistency between this code and the zoning maps, map amendments must only occur if:

1) Subsequent events have invalidated the original premises and findings; and/or

The subject property was zoned PD and completed the Preliminary Plan review process with City Council granting approval of the plans on January 29, 2008. Both the PD zone and the Preliminary Plans were found to be consistent with the Comprehensive Plan's Future Land Use Map and the Zoning and Development Code. At the time of approval, the local and national economy slowed and there was no longer a market or available financing for the construction and sale of single family homes. The developer postponed development hoping that the market would improve. Unfortunately, approval of the Preliminary Plans and the phasing schedule expired during the time the local market improved enough for development to proceed. The original premise and findings which led to the approval of the PD zone and Preliminary Plans have not been invalidated and still hold true. The proposed density for the new PD zoning is

substantially less than what was previously approved by the City in 2008. This criterion is not applicable.

- 2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or

The character and/or condition of the area have seen increased growth and development since the time of the PD zoning and approval of the Preliminary Plans on January 29, 2008. There has been an increase in the construction of single family homes to the south and east. A new single family subdivision known as Freedom Heights is currently under construction to the south. A stub street was provided by the Freedom Heights subdivision to the subject property in anticipation of future development. The Summer Hill Subdivision, located to the east, developed additional phases in 2015 and 2016.

The requested rezone to PD (with R2 default zone) will further the goals and policies of the Comprehensive Plan by providing for medium low density development in an area with shopping and services to support the new development. The proposed development will support the anticipated Neighborhood Center as shown on the Comprehensive Plan's Future Land Use Map.

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

All required and necessary utilities shall be constructed concurrent with development of the subject property. Utility providers for the subject property have the capacity and willingness to serve future development. Public facilities such as medical facilities, schools, library and parks are adequate to serve the scope of anticipated residential development. In addition, based on the recommendations of the Traffic Impact Study, left turn lanes will be constructed on 26 ½ Road and any additional right-of-way will be dedicated where needed on 26, H ¾, and 26 ½ Road.

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

There are very few vacant lots available for home construction within a mile of the subject property. Most neighborhoods are built out with the exception of the later phases of the Summer Hill subdivision. The nearest property with the potential to develop is located at the southeast corner of I-70 and 26 Road. There is an inadequate supply of suitable designated land available in this part of the community, particularly in the area of the proposed Neighborhood Center at H Road and 26 ½ Road.

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

The community will derive benefits from the rezone through the provision of 33 acres of public open space, trails and amenities. In addition, several pedestrian trails will be constructed for use by the public as well as residents of the Weeminuche Subdivision. An internal trail that bisects the subdivision will provide a convenient off-street connection between 26 Road and 26 ½ Road.



Freedom Heights Subdivision, located to the south, partially constructed a trail along a portion of Leach Creek. Weeminuche Subdivision will complete the trail to provide one pedestrian facility along the creek which will provide a pleasant pedestrian experience away from busy streets. A detached trail will be constructed around the majority of the perimeter of the subdivision with rich landscaping creating a park-like setting for outdoor recreational enjoyment.

Wide, landscaped buffer areas will provide the public with an inviting place to walk or ride bikes away from traffic. The width of the perimeter tracts are 69 feet to 240 feet adjacent to 26 Road; 30 feet adjacent to H  $\frac{3}{4}$  Road and 50 feet wide adjacent to 26  $\frac{1}{2}$  Road which far exceed the minimum Zoning Code requirements. All tracts with trails will include pedestrian amenities such as shade trees, shrubs and ground cover.

Park areas in the Weeminuche Subdivision ODP will also have community amenities to create an inviting place for passive and active recreation. Playground equipment, shade shelters and picnic tables will be provided for use by the public and residents. In addition, a 3.69 acre irrigation pond will create an aquatic amenity providing wildlife, a waterfall feature and scenic value to the users.

At the request of City staff, the area along Leach Creek will be dedicated to the public for ownership and maintenance by the City. This environmentally sensitive area will be preserved for the enjoyment of the public.

(iii) The planned development requirements of Chapter 21.05 GJMC;

The proposed Weeminuche Subdivision meets the following requirements for Planned Developments:

Sec. 21.05.010, Purpose: Planned development zoning should be used when long-term community benefits will be derived and the vision, goals and policies of the Comprehensive Plan can be achieved. The Weeminuche Subdivision has reserved 21% open space in both active and passive areas throughout the development. The open space will be landscaped with public trails internal and external to the development providing an integrated pedestrian system. A greater quantity and quality of open space is being incorporated into the development as a long term community benefit. The proposed development meets several of the goals and policies of the Comprehensive Plan as noted earlier in this report.

Sec. 21.05.020, Default Standards: Use of the Cluster provisions of Section 21.03.060 permit the use of the R4 bulk standards. This helps to achieve the density and design goals of the development and to preserve open space.

Sec. 21.05.030, Establishment of Uses: Allowed uses will be the same as those permitted in the R2 zone district including accessory uses.

Sec. 21.05.040, Development Standards: The development standards, such as those regarding fencing, parking and accessory uses, shall be the same as those permitted by the R2 zone district.

Sec. 21.05.050, Planned Development Phases and Signage: An appropriate phasing schedule and proposed subdivision signage information have been proposed for the Weeminuche Subdivision ODP.

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

There are no corridor guidelines that are applicable to the Weeminuche Subdivision ODP. Title 23, North Avenue Overlay Zone; Title 24, Greater Downtown Overlay Zone; and Title 25, the 24 Road Corridor Design Standards do not apply to the proposed development, therefore this criterion is not applicable.

(v) Adequate public services and facilities shall be provided concurrent with the projected impacts of the development;

The subject property is located within the 201 Sewer Service Boundary and the Urban Development Boundary. These areas are expected to grow and development with urban densities and services. All necessary and required utilities shall be provided concurrent with construction of the Weeminuche Subdivision. Utilities shall be installed to current City standards and specifications. Public facilities such as medical facilities, schools, library and parks are adequate to serve the scope of anticipated residential development.

(vi) Adequate circulation and access shall be provided to serve all development pods/areas to be developed;

There are six points of access proposed for the development which will provide interconnectivity and efficient traffic flow to, and within, the development. Filing #1 will be accessed by Liberty Lane from the Freedom Heights subdivision located on the southern property line and 26 ½ Road on the east. There are two points of access proposed from 26 Road and two points of access from 26 ½ Road. There is one point of access proposed from H ¾ Road on the northern property line. In addition to street circulation of traffic, several trails will be constructed to provide pedestrian and bicycle circulation in a multi-modal network.

(vii) Appropriate screening and buffering of adjacent property and uses shall be provided;

The HOA will maintain tracts along the perimeter of the development, with a minimum 30 foot width on H ¾ Road and up to a 240 foot width on the 26 Road frontage, which will be landscaped with shade trees and shrubs adjacent to the public rights-of-way. The open space tracts with detached trails provide a substantial visual buffer as well as physical separation between new and existing development.

Fencing will be installed around the perimeter of the subdivision and in the open space areas. Materials will vary depending on the location of the fence but will include one of three types of fencing materials: vinyl, composite or split rail. Perimeter fencing will be constructed of either vinyl or composite fencing at a height not to exceed six feet. Fencing in the open space areas will be split rail with 48 inch posts in areas where views and an open feel are to be protected. The applicant may construct a six foot privacy fence in areas where the open space backs up to

individual lots. In all cases, the applicant reserves the right to make a final determination on fencing materials.

- (viii) An appropriate range of density for the entire property or for each development pod/area to be developed;

The default R2 zone (Residential, 2 du/ac) will limit the density to two dwelling units per acre, which is consistent with the Residential Medium Low (2-4 du/ac) land use classification of the Comprehensive Plan. The Weeminuche Subdivision ODP is proposing a substantial reduction in density compared to the previous Preliminary Plan approved by City Council on January 16, 2008 which zoned the property PD with R4 default zone for up to 362 dwelling units.

- (ix) An appropriate set of “default” or minimum standards for the entire property or for each development pod/area to be developed;

The R4 bulk standards will be utilized as permitted by Section 21.03.060, Cluster Development. Allowed uses will be the same as those permitted in the R2 zone district including accessory uses. Other development standards, such as those regarding fencing, parking and accessory uses, shall be the same as those permitted by the R2 zone district.

- (x) An appropriate phasing or development schedule for the entire property or for each development pod/area to be developed; and

: Development of the subject property will take place over an extended period of time given the size of the property and the current absorption rate of the housing market. An appropriate phasing schedule has been proposed which is suitable for a large property of this nature to develop.

### (3) Decision-Maker.

- (i) The Director and Planning Commission shall make recommendations to City Council.
- (ii) City Council shall approve, conditionally approve or deny all applications for an ODP and accompanying planned development rezoning.

The applicant shall attend and participate in the public hearing process with the Planning Commission and City Council.

### (4) Additional Application and Review Procedures.

- (i) Simultaneous Review of Other Plans. 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 conference.

The applicant shall submit final plat and plans upon approval of the Weeminuche Subdivision ODP for the first filing.

- (ii) Density/Intensity. Density/intensity may be transferred between development pods/areas to be developed unless explicitly prohibited by the ODP approval.

: The overall density of the Weeminuche Subdivision ODP shall be limited to two dwelling units per acre which is consistent with the R2 default zone district and the low end of the anticipated density range of the Residential Medium Low (2-4 du/ac) land use classification. Density will be monitored with each filing and adjusted to ensure that the two dwelling units per acre are not exceeded.

- (iii) Validity. The effective period of the ODP/phasing schedule shall be determined concurrent with ODP approval.

It is very important to the applicant that the phasing schedule be realistic. A phasing schedule that is too short (for this very large subdivision) will require the applicant and the neighborhood to return to the public hearing process to gain approval for what will be the very same plans that were initially approved. The public hearing process is time and labor intensive for both the neighborhood, the City, and developer. The applicant is requesting that a realistic phasing schedule be approved that *guarantees* what the density and design of the development will be for the neighborhood through the approved ODP.

The Weeminuche Subdivision is at least three to four times the size of the average subdivision that is built in the Grand Valley. The requested phasing schedule is equivalent to the time allowed for the smaller subdivisions to build out. As an example, the Hawk's Nest Subdivision was approved for 110 lots and the first filing was recorded in July, 2007. That development is just now completing build out of the 110 lots. During the time of construction, the market had a slow steady absorption rate of the lots. No changes were made over the past 10 years to the design of the development; the developer simply continued to construct homes as the lots were sold.

The Summer Hill Subdivision, located to the east of the Weeminuche site, is another example of the time required to construct and build out a large development. The Summer Hill development began in 2000 with 85.61 acres. After 17 years of development, the subdivision is currently developing Filing 7 and still has 15 undeveloped acres before the project will be built out.

Because the Weeminuche Subdivision is larger than most developments, more time is needed to complete the build out. The developer is master planning the entire site through the ODP process, which will provide assurances to the neighborhood as to the density and design elements, if a realistic phasing schedule is approved with the ODP. If the subject property were developed as smaller, independently owned parcels, the community would not benefit from the same high quality amenities and open space.

With assurances that the Weeminuche site will not be developed at the high end of the Residential Medium Low (2-4 du/ac) density range, the neighborhood will benefit from the PD with R2 default zoning because the density will be limited by the ODP ordinance and the overall site design will be established through the approved Outline Development Plan. The Planned Development rezone

process provides an opportunity to deviate from the standard provisions of the Code when a community benefit is being provided, which is what the applicant is requesting with the phasing schedule.

The applicant requests that the phasing schedule be established to allow each filing a period of three years for construction and build out. Should the market be more favorable than anticipated, construction will be expedited for each subsequent filing. With over 30 years of residential construction experience in the Grand Valley, the applicant is confident that the proposed phasing schedule is realistic for the very large size of the Weeminuche Subdivision. The applicant is eager to secure predictability for the neighborhood, as well as for their confidence in retaining the entitlement for the Weeminuche Subdivision.

- (iv) Required Subsequent Approvals. Following approval of an ODP, a subsequent final development plan approval shall be required before any development activity occurs.

The applicant shall submit final plat and plans for the first filing upon approval of the Weeminuche Subdivision ODP. Said plat and plans shall meet or exceed all City Code and development regulations.

#### **21.05.010 Purpose.**

The planned development (PD) zone applies to mixed use or unique single-use projects where design flexibility is desired and is not available through application of the standards established in Chapter 21.03 GJMC. Planned development zoning should be used when long-term community benefits will be derived and the vision, goals and policies of the Comprehensive Plan can be achieved. The Director shall determine whether substantial community benefits will be derived. Specific benefits that the Director may find that would support a PD zoning include, but are not limited to:

- (a) More effective infrastructure;
- (b) Reduced traffic demands;
- (c) A greater quality and quantity of public and/or private open space;
- (d) Other recreational amenities;
- (e) Needed housing types and/or mix;
- (f) Innovative designs;
- (g) Protection and/or preservation of natural resources, habitat areas and natural features; and/or
- (h) Public art.

The following community benefits will be derived through the Weeminuche Subdivision ODP:

- (b) Reduced traffic demands – The Comprehensive Plan Future Land Use Map designates the subject property as Residential Medium Low (2-4 du/ac), meaning that the Comprehensive Plan anticipates residential development at a density starting at 2 dwelling units per acre and ranging

upward to 4 dwelling units per acre. The Weeminuche Subdivision ODP proposes development at not more than 2 dwelling units per acre, thereby reducing the overall potential traffic demands by 50% in terms of the total potential density anticipated by the Comprehensive Plan. The community will benefit from a reduction in the overall density of the Weeminuche Subdivision ODP compared with the overall allowed density of four dwelling units per acre which is anticipated by the Comprehensive Plan.

- (c) A greater quality and quantity of public and/or private open space – The Weeminuche Subdivision ODP proposes to preserve and make available to the public 33 acres of open space, which is more than 21% of the overall site. The majority of the open space will be maintained by the Home Owner's Association for the benefit of the public. When fully developed, the Weeminuche Subdivision will provide over 14,500 linear feet of paved and soft surface trails (2.74 miles). All trails will be dedicated for the use of the general public, not just the residents of the subdivision.
- (d) Other recreational amenities – The open space and trails in the Weeminuche Subdivision ODP contain many amenities such as shade shelters, picnic tables, benches which are not required by the Code, as well as landscaping. These amenities are provided to enhance the appearance of the proposed development and to create an inviting environment for the residents and the public to enjoy. In addition, a 3.69 acre irrigation pond will create an aquatic amenity providing wildlife, a waterfall feature and scenic value to the users.
- (g) Protection and/or preservation of natural resources, habitat areas and natural features – The southeast corner of the subject property contain a relatively undisturbed riparian area along Leach Creek. ERO Resources was engaged to map any wetland areas along Leach Creek and identified an area adjacent to the Leach Creek Bridge over 26 ½ Road as the only area of wetlands. This area is being preserved as an environmentally sensitive area and will be dedicated to the City of Grand Junction for ownership and maintenance. The area along Leach Creek will contain a 10' concrete trail that will allow pedestrians and bicyclists from the public to enjoy this area of natural beauty. Although the trail along Leach Creek is shown on the Urban Trails Master Plan and is a required feature, a large portion of this area is being preserved in the tract that will be dedicated to the City instead of being platted as private portions of the lots that line the Leach Creek. The community benefits from a larger area along Leach Creek being preserved so that everyone in the public may enjoy this area in its natural condition, including local wildlife.

#### **21.05.020 Default standards.**

The use, bulk, development, improvement and other standards for each planned development shall be derived from the underlying zoning, as defined in Chapter 21.03 GJMC. In a planned development context, those standards shall be referred to as default standards or default zone. The Director shall determine whether the character of the proposed planned development is consistent with the default zone upon which the planned development is based. Deviations from any of the default standards may be approved only as provided in this chapter and shall be explicitly stated in the zoning/rezoning ordinance. The planned development ordinance shall contain a provision that if

the planned development approval expires or becomes invalid for any reason, the property shall be fully subject to the default standards.

The Cluster Development provisions of the Code are being utilized, as permitted by Section 21.03.060. With preservation of 21% open space, the Cluster provisions allow use of the R4 bulk, or dimensional, standards. For lots located adjacent to open space tracts, Section 21.03.030(d)(5) may also be utilized for setback reduction purposes, as permitted by the Code. Due to the use of the R4 bulk standards and the opportunity to use Section 21.03.030(d)(5), there are no special deviations that are requested by the applicant as part of the Weeminuche Subdivision ODP.

#### **21.05.030 Establishment of uses.**

- (a) **Uses Allowed.** At the time of zoning a parcel to PD, the City Council shall determine the allowed uses. Only uses consistent in type and density with the Comprehensive Plan may be allowed within a PD. The type and density of allowed uses should generally be limited to uses allowed in the default zoning.

As noted in the General Project Report that was submitted with the initial application, the allowed uses will be the same as those permitted in the R2 zone district. Other development standards, such as those regarding fencing and accessory uses, shall be as permitted by the R2 zone district and the Zoning and Development Code. Density shall be limited to two dwelling units per acre which is consistent with the R2 zone district and the Residential Medium Low land use classification of the Comprehensive Plan.

- (b) **Adoption and Modification of Authorized Uses.** The City Council, at the time of establishing a PD zone, shall list uses that are authorized by right or by conditional use permit. All uses, whether by right or conditional use permit, shall be subject to all applicable permit and approval processes established in this code. The rezoning process shall be used to modify the authorized use list for any planned development.

The allowed uses will be the same as those permitted in the R2 zone district. There are no requested modifications to the list of allowed uses by the applicant for the requested PD zone district.

#### **21.05.040 Development standards.**

- (a) **Generally.** Planned development shall minimally comply with the development standards of the default zone and all other applicable code provisions, except when the City Council specifically finds that a standard or standards should not be applied. Planned development shall comply with GJMC 21.02.150.

The proposed residential development shall meet or exceed all Zoning and Development Code requirements, as well as all other applicable code provisions such as Title 28, Stormwater Management Manual (SWMM) and Title 29, Transportation Engineering Design Standards (TEDS). The R4 bulk standards will be utilized as permitted by Section 21.03.060, Cluster Developments, of the Zoning Code. There are no deviations requested from the R4 bulk standards.

- (b) **Residential Density.** Dwelling unit densities in planned development shall comply with the maximum and minimum densities of the Comprehensive Plan or default zone.

The Weeminuche Subdivision ODP density shall not exceed two dwelling units per acre which is consistent with the R2 default zone district, and the Residential Medium Low (RML, 2-4 du/ac) land use classification of the Comprehensive Plan Future Land Use Map. Although the RML land use anticipates density between two and four dwelling units per acre, the Weeminuche Subdivision ODP limits density to two dwelling units per acre for the entire development, which is at the low end of the allowed density for the subject property.

- (c) **Nonresidential Intensity.** A maximum floor area shall be established at the time of planned development approval. In determining the maximum floor area, the Planning Commission and City Council shall consider:

- (1) The intensity of adjacent development;
- (2) The demand for and/or mix of residential and nonresidential development in the proposed PD and in the vicinity of the proposed PD;
- (3) The availability of transportation facilities, including streets, parking, transit facilities and bicycle/pedestrian facilities;
- (4) The adequacy of utilities and public services.

There are no anticipated nonresidential uses that will be permitted other than those allowed by the R2 default zone district.

- (d) **Mixed Use Intensity.**

- (1) In mixed use developments in areas designated for residential development in the Comprehensive Plan, no more than 10 percent of the land area may be dedicated to nonresidential uses.
- (2) The maximum residential densities within mixed use developments designated for nonresidential development in the Comprehensive Plan shall not exceed 24 dwelling units per acre. In such developments, residential uses shall not constitute more than 75 percent of total floor area.

: This section is not applicable to the Weeminuche Subdivision ODP which is limited to the uses in the R2 default zone district.

- (e) **Minimum District Size.** A minimum of five acres is recommended for a planned development unless the Planning Commission recommends and the City Council finds that a smaller site is appropriate for the development or redevelopment as a PD. In approving a planned development smaller than five acres, the Planning Commission and City Council shall find that the proposed development:



- (1) Is adequately buffered from adjacent residential property;
- (2) Mitigates adverse impacts on adjacent properties; and
- (3) Is consistent with the goals and policies of the Comprehensive Plan.

: This section is not applicable to the Weeminuche Subdivision ODP due to the overall acreage of the subject property which is approximately 151 acres.

(f) **Development Standards.** Planned development shall meet the development standards of the default zone or the following, whichever is more restrictive. Exceptions may be allowed only in accordance with this section.

- (1) **Setback Standards.** Principal structure setbacks shall not be less than the minimum setbacks for the default zone unless the applicant can demonstrate that:
  - (i) Buildings can be safely designed and that the design is compatible with lesser setbacks.

Compatibility shall be evaluated under the International Fire Code and any other applicable life, health or safety codes;

- (ii) Reduced setbacks are offset by increased screening or primary recreation facilities in private or common open space;
  - (iii) Reduction of setbacks is required for protection of steep hillsides, wetlands or other environmentally sensitive natural features.

: Principal structure setbacks shall not be less than the minimum setbacks for the default zone unless the conditions listed in subsections (i), (ii) and (iii) have been met. Additionally, the provisions of Section 21.03.030(d)(5) may be utilized for lots located adjacent to open space tracts.

- (2) **Open Space.** All residential planned developments shall comply with the minimum open space standards established in the open space requirements of the default zone.

The R2 default zone requires the provision of 10% open space for subdivisions with 10 or more lots. Utilizing the Cluster provisions of the Code, the applicant is preserving 21% open space, or 33 acres, of the overall site. The amount of open space being preserved is double the amount required by the R2 default zone district.

The quality of the open space is greatly enhanced with amenities such as shade shelters, picnic tables and benches. Landscaping with shade trees, shrubs and ground cover create an inviting environment for passive and active recreation for the public.

Wide buffer tracts along the perimeter create a visual buffer and physical separation between new and existing development. Detached trails within the landscaped tracts provide a safe place for pedestrians and bicyclists to move throughout the development. A combination of hard and soft surface trails will provide 14,500 linear feet, or 2.7 miles, of trails when the Weeminuche Subdivision has been fully built out.

- (3) Fencing/Screening. Fencing shall comply with GJMC 21.04.040(i).

: Fencing shall be provided around the perimeter of the Weeminuche Subdivision ODP and in the open space areas. Fence materials will vary depending on the location of the fence but will include one of three types of materials: vinyl, composite or split rail. All fencing shall comply with Section 21.04.040.

- (4) Landscaping. Landscaping shall meet or exceed the requirements of GJMC 21.06.040.

: Landscaping located around the perimeter of the Weeminuche Subdivision ODP or in open space tracts owned by the HOA shall be maintained by the HOA, and shall meet or exceed the requirements of Section 21.06.040.

- (5) Parking. Off-street parking shall be provided in accordance with GJMC 21.06.050.

Off-street parking shall be provided in accordance with Section 21.06.050.

- (6) Street Development Standards. Streets, alleys and easements shall be designed and constructed in accordance with TEDS (GJMC Title 29) and applicable portions of GJMC 21.06.060.

All internal streets have been designed to meet the urban residential street standards of Title 29, TEDS, and the applicable sections of Section 21.06.060. Street configuration and lot layout has been configured to minimize long straight runs and is circuitous in nature to assure low traffic speeds within the subdivision. City staff directed adjustment of street alignment to better comply with the intent of the street configuration to avoid long straight runs.

(g) **Deviation from Development Default Standards.** The Planning Commission may recommend that the City Council deviate from the default district standards subject to the provision of any of the community amenities listed below. In order for the Planning Commission to recommend and the City Council to approve deviation, the listed amenities to be provided shall be in excess of what would otherwise be required by the code. These amenities include:

- (1) Transportation amenities including, but not limited to, trails other than required by the multimodal plan, bike or pedestrian amenities or transit oriented improvements, including school and transit bus shelters;
- (2) Open space, agricultural land reservation or land dedication of 20 percent or greater;
- (3) Community facilities for provision of public services beyond those required for development within the PD;
- (4) The provision of affordable housing for moderate, low and very low income households pursuant to HUD definitions for no less than 20 years; and
- (5) Other amenities, in excess of minimum standards required by this code, that the Council specifically finds provide sufficient community benefit to offset the proposed deviation.

: Due to the use of the R4 bulk standards and the opportunity to use Section 21.03.030(d)(5), there are no special deviations that are requested by the applicant as part of the Weeminuche Subdivision ODP. The applicant has provided 21% open space equal to 33 acres, and included many amenities for use by the public which include playground equipment in the center park, hard and soft surface trails exceeding 14,500 linear feet surrounding and throughout the Weeminuche Subdivision ODP as well as other features such as shade shelters, picnic tables and benches. Although these amenities have been provided for use by the residents and the general public, the applicant has not requested any special deviations from the default zone district standards.

#### **21.05.050 Planned development phases.**

- (a) **Transfer of Ownership.** No developer, owner or agent thereof shall sell, convey or otherwise transfer ownership of any planned development that has not been finally approved until such person has informed the buyer, in writing, of the property's exact status with respect to the planned development process and conditions of approval, if any. The City shall bear no liability for misrepresentation or failure to disclose terms and conditions by the owner or agent.

The applicant shall comply with the provisions of this section should they ever be applicable.

- (b) **Outline Development Plan (ODP).** An outline development plan (ODP) is required. The purpose of an ODP is to demonstrate conformance with the Comprehensive Plan, compatibility of land use and coordination of improvements within and among individually platted parcels, sections or phases of a development prior to the approval of an ODP. Zoning for the entire property or for each development "pod" is established at ODP. With an ODP, the pattern of development is established with densities assigned to individual "pods," which shall be the subject of future, more detailed planning.

The Weeminuche Subdivision ODP has demonstrated conformance with the Comprehensive Plan which designates the subject property as Residential Medium Low (RML, 2-4 du/ac). The applicant has requested a zoning of Planned Development with R2 default zone district, which limits density to the low end of the allowed density range (2 du/ac maximum) of the RML land use classification.

The proposed development is compatible with surrounding land development, which is not to say that it will be the same. Compatibility is found in the transitional nature of the proposed single family residential development between the large lot, estate type development of the areas located in unincorporated Mesa County to the north and west of the subject site, and the smaller lot, more urban type development of the areas located within City limits to the east and south. The Weeminuche Subdivision ODP transitions the lot sizes between these two areas that anticipate very different types of development.

The properties located outside of the 201 Persigo Sewer Service area (to the north and west) are expected to develop with rural density and rural services. The properties located within the 201 Persigo Sewer Service area and the Urban Growth Boundary (to the east and south) are expected to develop at urban densities and with urban services such as sewer, streets with curb, gutter and sidewalks and small lot sizes.

Construction of improvements will be coordinated with each development phase to ensure that all required off-site improvements are constructed as warranted by the Traffic Impact Study. Open space amenities and trails will also be constructed with each phase of development to ensure that residents and the public have access to the trails and open space features.

Zoning for the overall Weeminuche Subdivision ODP shall be limited to two dwelling units per acre and established with the Planned Development zoning.

- (c) **Signage.** No sign shall be allowed on properties in a planned development zone unless the sign has been approved as part of the final development plan. Variance of the maximum total surface area of signs shall not be permitted, but the maximum sign allowance for the entire development or use may be aggregated and the total allowance redistributed. See GJMC 21.06.070 for sign regulations.

The proposed signage shall comply with Sections 21.05.050(c), 21.06.070(h)(1) and 21.06.070(h)(7) of the Zoning and Development Code. The signage will be located at the six points of access to the Weeminuche Subdivision ODP and will be externally illuminated with lighting directed to the sign face. A total of 32 square feet of sign face area is permitted for each subdivision entry which will be divided between two signs at each point of entry. Final design of the proposed signage shall be included with the final plat and plans for each filing.

- (d) **Final Development Plan.** The final development plan and/or the subdivision plat are necessary to ensure consistency with the approved outline development plan, specific development requirements and construction requirements. See GJMC 21.02.150(c).

The final development plans for each filing shall be consistent with the approved outline development plan, specific requirements of the ODP approval and construction requirements.

#### **Section 28.28, Storm Runoff.**

All City, State and Federal permits will be obtained. Agreements with the 5-2-1 Drainage Authority will be executed for construction and post-construction stormwater management.

#### **Section 29.08, Transportation Impact Study.**

The applicant worked closely with City staff on access locations into the site to determine the optimal locations for spacing and sight distance. Compliance with TEDS requirements is based on findings of the Traffic Impact Study. Based on generated traffic volumes from the report, the City requested additional operational analysis of off-site major intersections (approximately 1 mile away from site). Recommendations contained in the analysis and approved by the City will be implemented according to project build-out.

#### **Section 29.20, Residential and Commercial Streets, Landscaping and Traffic Calming.**

The Weeminuche Subdivision ODP has been designed using the urban residential street standards within TEDS. Street configuration and lot layout was configured to minimize long straight runs and is circuitous in nature to assure low traffic speeds within the subdivision. City staff directed adjustment

of street alignment to better comply with the intent of the street configuration to avoid long straight runs.

**Section 29.28, Arterial and Collector Geometric Design, Including Roundabouts.**

The Traffic Impact Study (TIS) indicates that left turn lanes will be warranted and have therefore been designed in accordance with this Section 29.28 of TEDS. Improvements for surrounding major collectors around the perimeter of the subdivision will follow the recommendations of the TIS report. Construction improvements at subdivision access points and off-site intersections will be constructed with each development phase as warranted by increased traffic. Thank you.

Vortex Engineering, Inc. looks forward to working successfully with the City of Grand Junction to permit this project.

Should you have any questions or require additional information, please do not hesitate to contact me at (970) 245-9051 or by email at [rjones@vortexeng.us](mailto:rjones@vortexeng.us). Thank you.

Sincerely,

**Vortex Engineering, Inc.**

A handwritten signature in dark ink, appearing to read "Robert W. Jones, II", with a stylized flourish at the end.

**Robert W. Jones, II, P.E.**

Cc: File

**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO.**

**AN ORDINANCE APPROVING THE OUTLINE DEVELOPMENT PLAN AS A  
PLANNED DEVELOPMENT WITH A DEFAULT ZONE OF R-2 (RESIDENTIAL –2  
DU/AC) FOR THE DEVELOPMENT OF 303 SINGLE-FAMILY DETACHED  
DWELLING LOTS TO BE KNOWN AS WEEMINUICHE SUBDIVISION**

**LOCATED BETWEEN 26 & 26 ½ ROADS, SOUTH OF H ¾ ROAD**

**Recitals:**

The applicant, 26 Road LLC, proposes to develop a 303 lot, single-family detached residential subdivision to be located between 26 & 26 ½ Roads, south of H ¾ Road on a total of 151.18 +/- acres to be constructed within seven phases.

The request for an Outline Development Plan as a Planned Development with a default R-2 (Residential—2 du/ac) has been submitted in accordance with the Zoning and Development Code (Code).

This Planned Development zoning ordinance will establish the standards, default zoning, deviations and conditions of approval for the Outline Development Plan for Weeminuche Subdivision.

In public hearings, the Planning Commission and City Council reviewed the request for the proposed Outline Development Plan and determined that the Plan satisfied the criteria of the Code and is consistent with the purpose and intent of the Comprehensive Plan. Furthermore, it was determined that the proposed Plan has achieved “long-term community benefits” by providing;

#1 Greater quality and quantity of public and/or private open space. The Applicant is proposing over 33 acres of open space (21% of the total acreage of the property), which will be owned and maintained by a homeowners’ association and respective utility companies such as Grand Valley Water User’s Association and the City of Grand Junction. Trails will be constructed by the developer(s) and maintained by the HOA for the benefit and use of the public. The HOA tracts will be landscaped along with the construction and development of hard and soft surface trails within the subdivision and will provide an integrated bicycle and pedestrian system. When fully developed, the Weeminuche subdivision will provide over 14,500 linear feet of paved and soft surface trails (2.74 miles). All trails will be dedicated for general public use and, other than the Leach Creek trail, the proposed trails are not required by Code and serve as a long-term community benefit for the Planned Development. All pedestrian trails and passive recreational areas will be constructed with each individual phase and appropriate public pedestrian easements will be dedicated at that time.

#2 In addition, the proposed development preserves environmentally sensitive areas (Leach Creek) and proposes both active and passive recreational areas throughout the development that includes trails, picnic shelters and play areas within HOA tracts (see attached Exhibit A).

After reviewing the application for a rezone to PD with an R-2 default zone district and an Outline Development Plan for the proposed Weeminuche Subdivision, PLD-2017-221, the following findings of fact have been made:

1. The Planned Development is in accordance with all criteria in Section 21.02.150 (b) (2) of the Grand Junction Zoning and Development Code.
2. Pursuant to Section 21.02.150(a), the Planned Development has been found to have long term community benefits including:
  - a. The provision of over 33 acres of open space, including expansive buffered landscape tracts adjacent to major roadways, and
  - b. The dedication and construction an integrated pubic trail system of hard and soft surface trails, picnic shelters and play areas.
3. The Planned Development is consistent with the vision, goals and policies of the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT THE OUTLINE DEVELOPMENT PLAN AS A PLANNED DEVELOPMENT FOR THE WEEMINUICHE SUBDIVISION IS APPROVED WITH THE FOLLOWING STANDARDS AND DEFAULT ZONE:

- A. This Ordinance applies to the following described property:

A parcel of land situate in the S 1/2 NW 1/4 and the N 1/2 SW 1/4 of Section 26, Township 1 North, Range 1 West, City of Grand Junction, Mesa County, Colorado, being more particularly described as follows:

Beginning at the N 1/16 corner of said Section 26, the basis of bearing being N89°58'25"E along the north line of said S 1/2 NW 1/4 to the NW 1/16 corner of said Section 26; thence N89°58'25"E a distance of 1317.20 feet to the NW 1/16 corner; thence S00°00'28"W a distance of 40.00 feet to the south right-of-way line of H 3/4 Road as recorded in Book 2139 at Page 647; thence N89°52'41"E a distance of 85.80 feet along said south line; thence S00°15'15"E a distance of 208.66 feet; thence N89°54'37"E a distance of 1043.64 feet; thence N00°13'19"W a distance of 209.24 feet to said south right-of-way line; thence N89°52'41"E a distance of 157.63 feet along said south line; thence S00°02'15"W a distance of 1279.71 feet running parallel with and 30.00 feet west of the east line of said S 1/2 NW 1/4; thence S00°01'38"W a distance of 659.87 feet running parallel with and 30.00 feet west of the east line of said N 1/2 SW 1/4; thence S89°55'07"W a distance of 10.00 feet; thence S00°01'38"W a distance of

634.65 feet running parallel with and 40.00 feet west of the east line of said N 1/2 SW 1/4; thence along the northerly line of a boundary agreement as recorded in Book 4249 at Page 204 the following six courses:

1.) S85°55'46"W a distance of 246.52 feet. 2.) N00°01'56"E a distance of 15.00 feet. 3.) S86°59'39"W a distance of 23.87 feet. 4.) S89°07'14"W a distance of 22.44 feet. 5.) S88°22'07"W a distance of 196.46 feet. 5.) S13°27'26"W a distance of 16.70 feet to the south line of said N 1/2 SW 1/4; thence S89°54'58"W a distance of 783.60 feet to the SW 1/16 corner of said Section 26; thence S89°55'03"W a distance of 1316.04 feet to the S 1/16 corner of said Section 26; thence N00°01'07"W a distance of 2639.94 feet to the point of beginning.

Said parcel contains 151.18 acres more or less.

- B. This Property is zoned PD (Planned Development) with the following standards and requirements:

**Establishment of Uses:**

Allowed land uses will be the same as those permitted in the R-2 zone district.

**Density:**

The proposed density for the Weeminuche Subdivision is 2 dwelling units per acre. The Comprehensive Plan Future Land Use Map designates this property as Residential Medium Low (2 – 4 du/ac). The Applicant is requesting a default zone of R-2, which has no minimum density and allows up to a maximum density of 2 dwelling units/acre. This density is at the bottom of the range prescribed by the Comprehensive Plan for density in this area.

**Access:**

The proposed subdivision will take access from 26 Road in two locations and from 26 ½ Road in two locations. One access point is proposed from H ¾ Road along with a separate street connection with the existing Freedom Heights subdivision to the south (Liberty Lane). Center left turn lanes in the two entrance locations within 26 ½ Road will be constructed as part of the subdivision development. Internal streets and private shared driveways will be constructed per the Code.

**Open Space and Pedestrian Amenities:**

The ODP provides over 33 acres of open space (21% of the total acreage of the property). Some of this open space acreage will be tracts held by a homeowner's association (HOA) for purposes of landscaping and respective utility companies such as Grand Valley Water User's Association for retention of their existing drainage infrastructure. With Council approval, the City would be dedicated the area encompassing Leach Creek. The HOA tracts will be landscaped along with the construction and development of hard and soft surface trails within the subdivision



which will provide an integrated bicycle and pedestrian system. When fully developed, the Weeminuche subdivision will provide over 14,500 linear feet (2.74 miles) of hard and soft surface trails open for public use.

Within the proposed City of Grand Junction-owned tract adjacent to Leach Creek at the southeast corner of the property, a 10-foot-wide concrete trail will be constructed and will connect with the existing 10-foot-wide concrete trail located within the Freedom Heights Subdivision as required as part of the Urban Trails Master Plan. Also, in-lieu of constructing the minimum of 5 foot wide sidewalks adjacent to 26, 26 ½ and H ¾ Road, the Applicant is proposing to construct an 8-foot wide trail within a public pedestrian easement within a 69 foot to 115-foot-wide landscape buffer HOA tract of land adjacent to 26 Road, a 30-foot wide HOA tract of land adjacent to H ¾ Road and a 40-foot wide tract of land adjacent to 26 ½ Road. A small pocket park with an irrigation pond, play area and picnic shelter will also be located in the center of the development and will be improved with an 8-foot wide gravel walking trail around the perimeter of the pond.

As identified, the amount of developed open space slightly exceeds Code requirements for Cluster Developments. However, the Applicant pursued a PD and an outline development plan instead of a subdivision with Cluster Development. In addition, the public trails being proposed, other than the Leach Creek trail, are not required by Code and serve as a long-term community benefit for the Planned Development.

All pedestrian trails will be constructed with each individual phase and appropriate public pedestrian easements will be dedicated at that time.

### **Phasing:**

The Applicant's proposed Plan provides for seven (7) phases of development. Each phase is proposed to be developed within 2 -3 years to account for construction and full market absorption before the next filing will begin. The following phasing schedule is proposed (approval of final plat):

- Filing One (31 Lots): By December 31, 2018
- Filing Two (39 Lots): By December 31, 2020
- Filing Three (46 Lots): By December 31, 2023
- Filing Four (36 Lots): By December 31, 2026
- Filing Five (43 Lots): By December 31, 2029
- Filing Six (25 Lots): By December 31, 2032
- Filing Seven (83 Lots): By December 31, 2035

The seven phases are proposed to be completed with the filing of the Phase 7 plat by December 31, 2035; a 17-year phasing and development schedule. Specific phases of the project can found in the attached maps. Pursuant to Section 21.02.150 (B) (4) (iii) Validity, the effective period of the ODP/phasing schedule shall be determined concurrent with ODP approval. However, the phasing schedule is limited to a period of performance between one year but not more than 10 years in accordance with Section 21.02. 080.(n)(2)(i). The schedule as proposed exceeds this 10-year period by 7 years.

City Staff recommends a 10-year phasing plan in accordance with this section of the Code.

The Applicant continues to request a development schedule as outlined above. The Applicant has provided specific rationale for reasons related to this timeframe including the significant size (“three times the size of an average subdivision in the Grand Valley”) and the “reasonable expectations for market absorption” of their product. In addition, the Applicant provides that the inclusion of all of the property in a single ODP allows for the developer to master plan the entire site (instead of piecemeal) and will provide “predictability and assurances to the neighborhood” as to the density, design and development of infrastructure related to the overall development.

Should the City Council not consider the Applicant’s request for a 17-year phasing schedule, the Applicant has provided that a development and phasing schedule should provide for Filing One to commence on or before December 31, 2018, with the last filing to be recorded 10 years from the date of approval. Staff has included this alternative phasing plan in the recommended findings.

**Cluster Provisions:**

The Applicant is interested in developing the Weeminuche Subdivision as a residential single-family detached subdivision to meet the R-2 zone district densities and proposes to utilize the cluster provisions of the Code to preserve and incorporate open space areas of the property. The amount of open space proposed (33 acres) would allow for minimum lot size of 10,050 sq. ft. in accordance with the Cluster Development provisions of Section 21.03.060 (c)(2). As proposed, each lot exceeds these minimum requirements. The cluster development provisions allow the applicant to utilize the bulk requirements (building setbacks, minimum lot width, lot coverage, etc.), of the zoning district which has the closest lot size, which, in this case, is the R-4 (Residential – 4 du/ac) zone district.

**Subdivision Signage:**

The Applicant is proposing to have two subdivision signs located at each of the six subdivision entrances (12 signs total). Subdivision signage will be placed in an HOA tract that abuts the public right-of-way and will not exceed 8’ in height and will each be 16 sq. ft. Requested number of signs, square footage and sign height are all in conformance with Section 21.02.150 (b) of the Zoning and Development Code.

**Long-Term Community Benefit:**

The intent and purpose of the PD zone is to provide flexibility not available through strict application and interpretation of the standards established in Section 21.03.040 of the Zoning and Development Code. The Zoning and Development Code also states that PD zoning should be used only when long-term community benefits, which may be achieved through high quality planned development, will be derived. As defined by the Code, long-term benefits include, but are not limited to:

1. More effective infrastructure;

2. Reduced traffic demands;
3. A greater quality and quantity of public and/or private open space;
4. Other recreational amenities;
5. Needed housing types and/or mix;
6. Innovative designs;
7. Protection and/or preservation of natural resources, habitat areas and natural features; and/or Public art.

In review of the ODP, staff found the proposed residential development met the following long-term community benefits, corresponding to the list above:

*#3 Greater quality and quantity of public and/or private open space.* The Applicant is proposing over 33 acres of open space (21% of the total acreage of the property), which will be owned and maintained by a homeowners' association and respective utility companies such as Grand Valley Water User's Association and the City of Grand Junction. Trails will be constructed by the developer(s) and maintained by the HOA for the benefit and use of the public. The HOA tracts will be landscaped along with the construction and development of hard and soft surface trails within the subdivision and will provide an integrated bicycle and pedestrian system. When fully developed, the Weeminuche subdivision will provide over 14,500 linear feet of paved and soft surface trails (2.74 miles). All trails will be dedicated for general public use and, other than the Leach Creek trail, the proposed trails are not required by Code and serve as a long-term community benefit for the Planned Development. All pedestrian trails and passive recreational areas will be constructed with each individual phase and appropriate public pedestrian easements will be dedicated at that time.

*#7* In addition, the proposed development preserves environmentally sensitive areas (Leach Creek) and proposes both active and passive recreational areas throughout the development that includes trails, picnic shelters and play areas within HOA tracts.

**Default Zone:**

The Applicant is proposing an R-2 zone district as the default zone. In addition, the Applicant plans on developing the site utilizing the City's Cluster Development provision (Section 21.03.060). The cluster provisions of the Zoning and Development Code allow the Applicant to utilize the bulk requirements (building setbacks, minimum lot width, lot coverage, etc.), of the zoning district which has the closest lot size to the proposed lot size of the overall development, which, in this case, is the R-4 (Residential – 4 du/ac) zone district. Despite being able to use the R-4 bulk standards, the development is still required to meet the R-2 zone district densities. Apply the formula set by the Code, the Applicant will be able to develop lots with a minimum lot size of 10,050 square feet (instead of 15,000 square feet) and use the R-4 bulk standards as follows:

Front yard setback (Principal/Accessory): 20 feet/25 feet.

Side yard setback (Principal/Accessory): 7 feet/3 feet.

Rear yard setback (Principal/Accessory): 25 feet/5 feet.

Minimum Lot Width: 70 feet.  
Maximum building height: 40 feet.  
Maximum Lot Coverage: 50%.  
Minimum Lot Area: 10,050 sq. ft.

The Code also allows for the reduction of setback for lots abutting open space as provided in Section 21.030.030 (d) (5).

**Deviations:**

The R-2 zone district will be the default zone, however because the Applicant intends to utilize the Cluster Development provision of the Code, the R-4 bulk standards will apply. No deviations are being requested from the R-4 bulk standards by the Applicant as part of the ODP application. Proposed residential development will meet or exceed all other Zoning Code requirements as identified.

**Drainage:**

As part of the subdivision development, the Applicant will be relocating the existing Corchoran Wash at the northwest corner of the development. The existing drainage channel will be piped underground in an anticipated 30" to 36" pipe and rerouted along the H  $\frac{3}{4}$  Road and 26 Road rights-of-way and reconnected downstream. Applicant has obtained approval for this relocation from Grand Valley Water Users Association which maintains the wash. The Applicant's engineer has also provided information stating that drainage will not damage or impact existing drainage patterns either upstream or downstream with this proposed relocation.

Introduced for first reading on this \_\_\_\_\_ day of \_\_\_\_\_, 2017 and ordered published in pamphlet form.

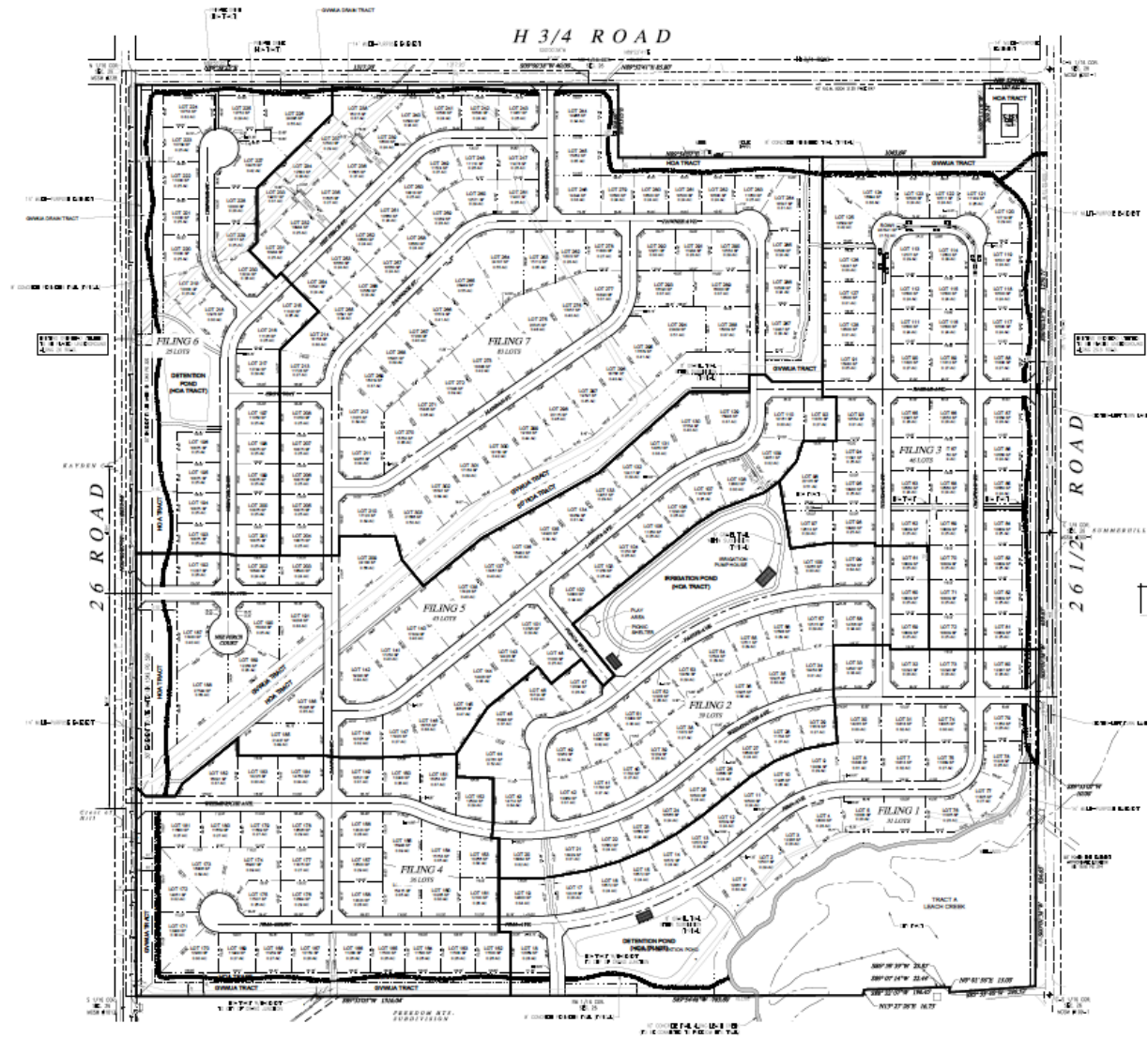
PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2017 and ordered published in pamphlet form.

ATTEST:

\_\_\_\_\_  
President of City Council

\_\_\_\_\_  
City Clerk

## EXHIBIT A – OUTLINE DEVELOPMENT PLAN





## Grand Junction City Council

### Regular Session

Item #2.a.ii.

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**Meeting Date:** October 18, 2017

**Presented By:** Kristen Ashbeck, Senior Planner/ CDBG Admin

**Department:** Community Development

**Submitted By:** Kristen Ashbeck Senior Planner

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### **Information**

#### **SUBJECT:**

Introduction of a Proposed Ordinance Zoning the Holder Annexation, Located at 3040 E Road, and Setting a Hearing for November 1, 2017

#### **RECOMMENDATION:**

The Planning Commission recommended approval of the zoning request at its September 26, 2017 meeting.

#### **EXECUTIVE SUMMARY:**

The Applicants, Kenneth Holder and Wayne Holder, have requested zoning of a 2.83-acre property located at 3140 E Road as Neighborhood Business (B-1). This property is also being considered for annexation into the City. The annexation is being compelled by the Persigo Agreement due to the Applicants' interest in selling the property to be developed as self-service storage units. Under the 1998 Persigo Agreement, developments within the 201 service area boundary which require a public hearing or land use review, are subject to annexation into the City. When a property is annexed, the City must also assign it a zoning designation that works to implement the Comprehensive Plan. The proposed zoning of B-1 will implement the Future Land Use Map that designates the property as Commercial.

#### **BACKGROUND OR DETAILED INFORMATION:**

The Holder annexation consists of one 2.83-acre parcel of land located at 3040 E Road. The property is currently vacant and is adjacent to existing city limits, within the Persigo 201 boundary and is annexable development as defined in the Persigo Agreement. The property owners have signed a petition for annexation and the

potential buyer will be submitting an application for the proposed self-storage units concurrent with the annexation process. There is no dedicated right-of-way included in the annexation however a portion of the developed E Road is included within the annexation along and is the portion along the frontage of the property. The dedicated right-of-way for E Road will be obtained by the City during development of the property.

Under the 1998 Persigo Agreement with Mesa County, the City shall zone newly annexed areas with a zone district that is either identical to current County zoning or to a zone district that implements the City's Comprehensive Plan Future Land Use Map. The proposed zoning of B-1 will implement the Future Land Use Map that designates the property as Commercial.

Properties adjacent to and surrounding the subject parcel are primarily residential although the two properties directly to the east have been annexed and zoned B-1 and the property adjacent to the west has a County PUD zoning which allows uses other than single family residential. The nearest commercial uses are located at the I-70B and 30 Road intersection approximately four tenths of a mile from the property and along the north side of I-70B approximately 500 feet from the property.

A Neighborhood Meeting was held on July 20, 2017. Nine citizens were present at the meeting. Future impacts related to the proposed use including lighting and size of buildings were the main discussion topics. The attendees were generally supportive of the proposed use. Irrigation laterals along the north and south sides of the property were also a concern. The consulting engineer for the buyers also attended the meeting and responded that they will look into the irrigation concerns as the development proceeds. Staff has received no additional comments from the public since the meeting.

#### Analysis

Pursuant to Section 21.02.140(a) of the Grand Junction Municipal Code the City may rezone a property if the proposed changes are consistent with the vision, goals and policies of the Comprehensive Plan and meet one or more of the following criteria:

#### Section 21.02.140(a)

(1) Subsequent events have invalidated the original premises and findings; and/or

The current zoning in unincorporated Mesa County is RSF-4 (Residential Single Family 4 Units per Acre), which is inconsistent with the Comprehensive Plan Future Land Use Map designation that was adopted subsequent to the original zoning. Since the property currently lies within County jurisdiction, the City has not previously applied zoning to this property. The Future Land Use Map, adopted in 2010, has designated the property as Commercial which may be implemented by the requested zone district.

Staff finds this criterion has been met.

(2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or

As seen in the attached aerial photographs, this area is generally developed with a commercial core at the intersection of I-70B, surrounded by single family residential development, some of which is in the City and some is under County jurisdiction.

There have been two other properties on the north side of E Road within the Commercial future land use designation that were annexed and zoned B-1 in 2006. These properties have not yet been developed but are currently on the real estate market for potential uses that are compatible within the B-1 zoning. There has not been significant development or change in the area and there are many vacant or underutilized parcels within the commercially-designated area so the overall character of the area has not changed. Thus, staff finds this criterion has not been met.

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

There are adequate public utilities available in E Road which serves as the access to this parcel. Utilities include potable water provided by the Clifton Water District, sanitary sewer service maintained by the City and electricity from Xcel Energy (a franchise utility). Utility mains and/or individual service connections will be extended into the property as part of future development of the parcel.

The property will be served by the City of Grand Junction Fire Department as of January 1, 2018. The property is currently just east of the Station 4 service area. There are adequate public facilities to serve this property if it is zoned B-1, therefore staff finds this criterion has been met.

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

One percent of the City's area is zoned B-1. Of the one percent, only 15 percent remains vacant. The purpose of the B-1 zone district is to provide small areas for office and professional services combined with limited retail and commercial uses, designed in scale with surrounding residential uses. A B-1 zone district in this location fits this purpose and serves as a buffer between the residential areas to the south and the busy and more intensely developed I-70B corridor. There is currently an inadequate supply of B-1 designated and undeveloped property, therefore staff finds this criterion has been met.



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

The B-1 zone district allows for lower intensity commercial and neighborhood services development. This type of development will provide a significant and immediate benefit to the community in that the proposed and potential B-1 uses will serve the neighborhood as well as provide a buffer between the residential areas to the south and the busy and more intensely developed I-70B corridor. Staff believes it will be of benefit to the community to provide for future B-1 uses on this property and thus this criterion has been met.

#### Comprehensive Plan

The zoning request is consistent with the following vision, goals and/or policies of the Comprehensive Plan.

Goal 3 / Policy A: To create large and small “centers” throughout the community that provide services and commercial area.

Goal 12 / Policy B: The City and County will provide appropriate commercial and industrial development opportunities.

#### Section 21.02.160(f)

Section 21.02.160(f) of the Grand Junction Municipal Code, states that the zoning of an annexation area shall be consistent with the adopted Comprehensive Plan and the criteria set forth. The Comprehensive Plan shows this area to develop in the Commercial category. The Applicants’ request to rezone the property to B-1 is consistent with the Comprehensive Plan. The Applicants will be able to develop the property with self-storage units, which is an asset to the neighborhood both for its use as well as serving as a barrier/buffer between residential areas and the I-70B corridor.

#### **FISCAL IMPACT:**

This land use action does not have any direct fiscal impact. Subsequent actions such as future development and related construction may have direct fiscal impact and will vary depending upon type of use.

#### **SUGGESTED MOTION:**

I move introduce a proposed ordinance zoning the Holder Annexation to B-1 (Neighborhood Business), located at 3040 E Road and setting a hearing for November 1, 2017.

### **Attachments**

1. Holder Zoning Planning Commission Staff Report
2. Holder Zoning Annexation Maps
3. Holder Zoning Proposed Ordinance

## PLANNING COMMISSION AGENDA ITEM

<b>Project Name:</b>	Zoning of the Holder Annexation
<b>Applicant:</b>	Kenneth Holder and Wayne Holder
<b>Representative:</b>	Cindy and Steve Coop
<b>Address:</b>	3040 E Road
<b>Zoning:</b>	County Single Family Residential – 4 Units per Acre (RSF-4)

### I. SUBJECT

Consider a request to zone 2.83 acres from County RSF-4 (Residential Single Family – 4 Units per Acre) to a City B-1 (Neighborhood Business) zone district. The property is located at 3040 E Road.

### II. EXECUTIVE SUMMARY

The Applicants, Kenneth Holder and Wayne Holder, have requested zoning of a 2.83 acre property located at 3140 E Road as Neighborhood Business (B-1). This property is also being considered for annexation into the City. The annexation is being compelled by the Persigo Agreement due to the Applicants' interest in selling the property to be developed as self-service storage units. Under the 1998 Persigo Agreement, developments within the 201 service area boundary which require a public hearing or land use review, are subject to annexation into the City. When a property is annexed, the City must also assign it a zoning designation that works to implement the Comprehensive Plan.

### III. BACKGROUND

The Holder annexation consists of one 2.83-acre parcel of land located at 3040 E Road. The property is currently vacant and is adjacent to existing city limits, within the Persigo 201 boundary and is annexable development as defined in the Persigo Agreement. The property owners have signed a petition for annexation and the potential buyer will be submitting an application for the proposed self-storage units concurrent with the annexation process. There is no dedicated right-of-way included in the annexation but a portion of the developed E Road with the annexation along the frontage of the property. Right-of-way for E Road will be obtained by the City during development of the property.

Under the 1998 Persigo Agreement with Mesa County, the City shall zone newly annexed areas with a zone district that is either identical to current County zoning or to a zone district that implements the City's Comprehensive Plan Future Land Use Map. The proposed zoning of B-1 will implement the Future Land Use Map, which designates the property as Commercial.

Properties adjacent to and surrounding the subject parcel are primarily residential although the two properties directly to the east have been annexed and zoned B-1 and the property adjacent to the west has a County PUD zoning which allows uses other than single family residential. The nearest commercial uses are located at the I-70B and 30 Road intersection approximately four tenths of a mile from the property and along the north side of I-70B approximately 500 feet from the property.

A Neighborhood Meeting was held on July 20, 2017. Nine citizens were present at the meeting. Future use and impacts from it in terms of lighting and size of buildings were the main discussion topics but the citizens were generally supportive of the proposed use. Irrigation laterals along the north and south sides of the property were also a concern. The consulting engineer for the buyers also attended the meeting and responded that they will look into the irrigation concerns as the development proceeds. Staff has received no additional comments from the public since the meeting.

#### **IV. ANALYSIS**

Pursuant to Section 21.02.140(a) of the Grand Junction Municipal Code the City may rezone a property if the proposed changes are consistent with the vision, goals and policies of the Comprehensive Plan and meet one or more of the following criteria:

##### **Section 21.02.140(a)**

*(1) Subsequent events have invalidated the original premises and findings; and/or*

The current zoning in unincorporated Mesa County is RSF-4 (Residential Single Family 4 Units per Acre), which is inconsistent with the Comprehensive Plan Future Land Use Map designation that was adopted subsequent to the original zoning. The Future Land Use Map, adopted in 2010, has designated the property as Commercial which may be implemented by the requested zone district. Staff believes this criterion has been met.

*(2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or*

As seen in the attached aerial photographs, this area is generally developed with a commercial core at the intersection of I-70B, surrounded by single family residential development, some of which is in the City and some is under County jurisdiction.

There have been two other properties on the north side of E Road within the Commercial future land use designation that were annexed and zoned B-1 in 2006. These properties have not yet been developed but are currently on the real estate market for potential uses that are compatible within the B-1 zoning. There has not been significant development or change in the area and there are many vacant or underutilized parcels within the commercially-designated area so

the overall character of the area has not changed. Thus, staff believes this criterion has not been met.

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

There are adequate public utilities available in E Road which serves as the access to this parcel. Utilities include potable water provided by the Clifton Water District, sanitary sewer service maintained by the City and electricity from Xcel Energy (a franchise utility). Utility mains and/or individual service connections will be extended into the property as part of future development of the parcel.

The property will remain served by the Clifton Fire Protection District, under an agreement with the City of Grand Junction. The Clifton Fire Station is just over two miles northeast on F Road. There are adequate public facilities to serve this property if it is zoned B-1, therefore staff believes this criterion has been met.

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

One percent of the City's area is zoned B-1. Of the one percent, only 15 percent remains vacant. The purpose of the B-1 zone district is to provide small areas for office and professional services combined with limited retail and commercial uses, designed in scale with surrounding residential uses. A B-1 zone district in this location fits this purpose and serves as a buffer between the residential areas to the south and the busy and more intensely developed I-70B corridor. There is currently an inadequate supply of B-1 designated and undeveloped property, therefore staff believes this criterion has been met.

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

The B-1 zone district allows for lower intensity commercial and neighborhood services development. This type of development will provide a significant and immediate benefit to the community in that the proposed and potential B-1 uses will serve the neighborhood as well as provide a buffer between the residential areas to the south and the busy and more intensely developed I-70B corridor. Staff believes it will be of benefit to the community to provide for future B-1 uses on this property and thus this criterion has been met.

### **Comprehensive Plan**

The zoning request is consistent with the following vision, goals and/or policies of the Comprehensive Plan.

Goal 3 / Policy A.: To create large and small “centers” throughout the community that provide services and commercial area.

**Section 21.02.160(f)**

Section 21.02.160(f) of the Grand Junction Municipal Code, states that the zoning of an annexation area shall be consistent with the adopted Comprehensive Plan and the criteria set forth. The Comprehensive Plan shows this area to develop in the Commercial category. The Applicants’ request to rezone the property to B-1 is consistent with the Comprehensive Plan. The Applicants will be able to develop the property with self-storage units, which is an asset to the neighborhood both for its use as well as serving as a barrier/buffer between residential areas and the I-70B corridor.

**V. STAFF RECOMMENDATION AND FINDINGS OF FACT**

After reviewing the Zoning of the Holder Annexation, ANX-2017-325, a request to zone the 2.83-acre property to the B-1 zone district, the following findings of fact have been made:

1. The requested zone is consistent with the goals and policies of the Comprehensive Plan.
2. More than one of the applicable review criteria in Section 21.02.140 of the Grand Junction Municipal Code have been met.
3. The applicable review criteria in Section 21.02.160(f) of the Grand Junction Municipal Code have been met.

Therefore, Staff recommends approval of the request to zone the Holder Annexation at 3040 E Road of 2.83 acres to Neighborhood Business (B-1).

**VI. RECOMMENDED MOTION**

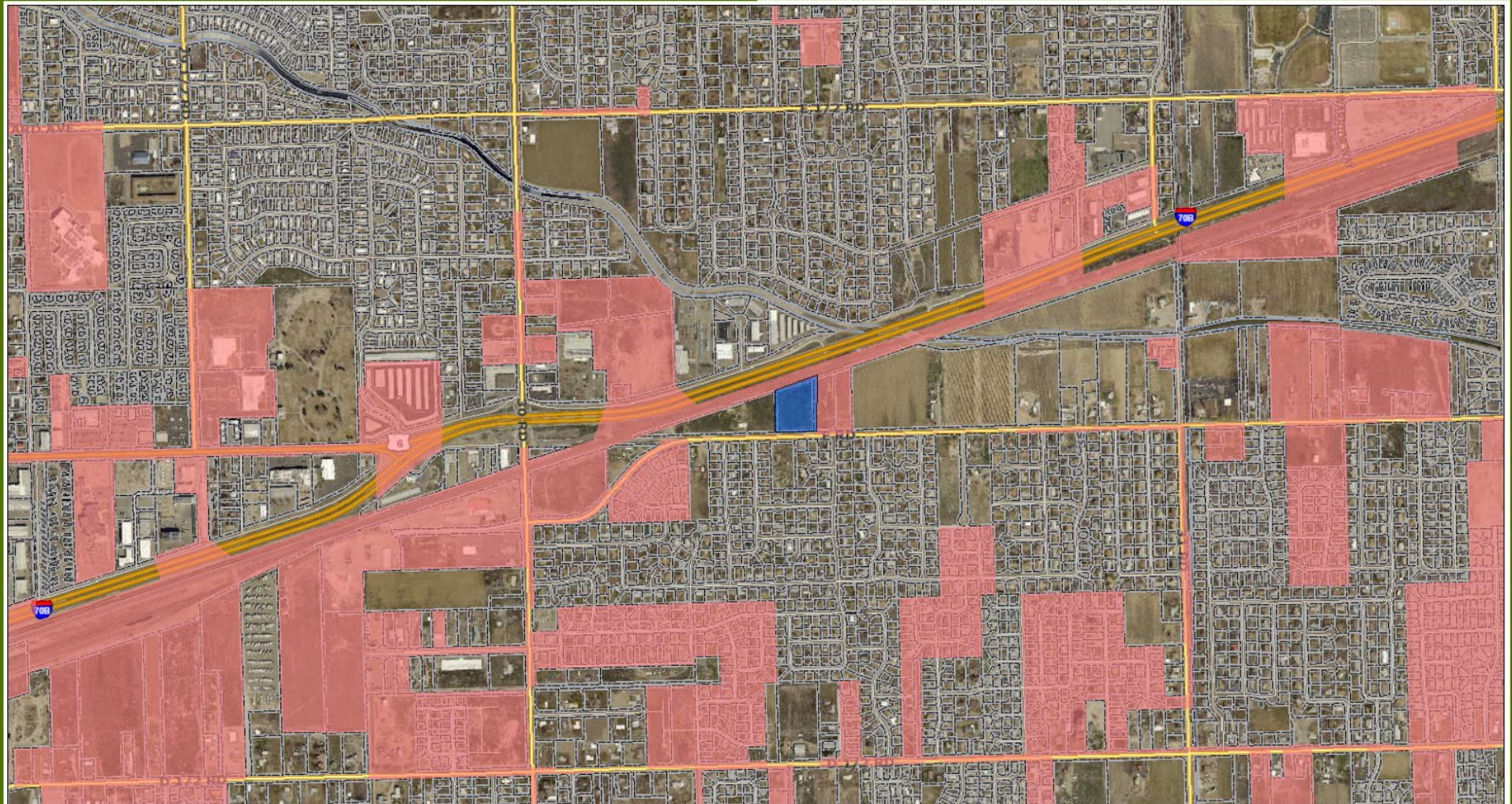
Madam Chairman, on the Holder Zone of Annexation, ANX-2017-325, I move that the Planning Commission forward to the City Council a recommendation of approval of the B-1 (Neighborhood Business) zone district for the Holder Annexation with the findings of fact listed in the staff report.

**Attachments:**

1. Expanded City Limits Location Map
2. Annexation Boundary Map
3. Close in City Limits Map
4. Comprehensive Plan Future Land Use Map
5. Existing City and County Zoning Map
6. Ordinance



## Expanded City Limits Location Map



0 0.275 0.55  
Miles

Date: 8/29/2017

1 inch = 732 feet

**CITY OF**  
**Grand Junction**  
COLORADO  
GEOGRAPHIC INFORMATION SYSTEM

# Holder Annexation

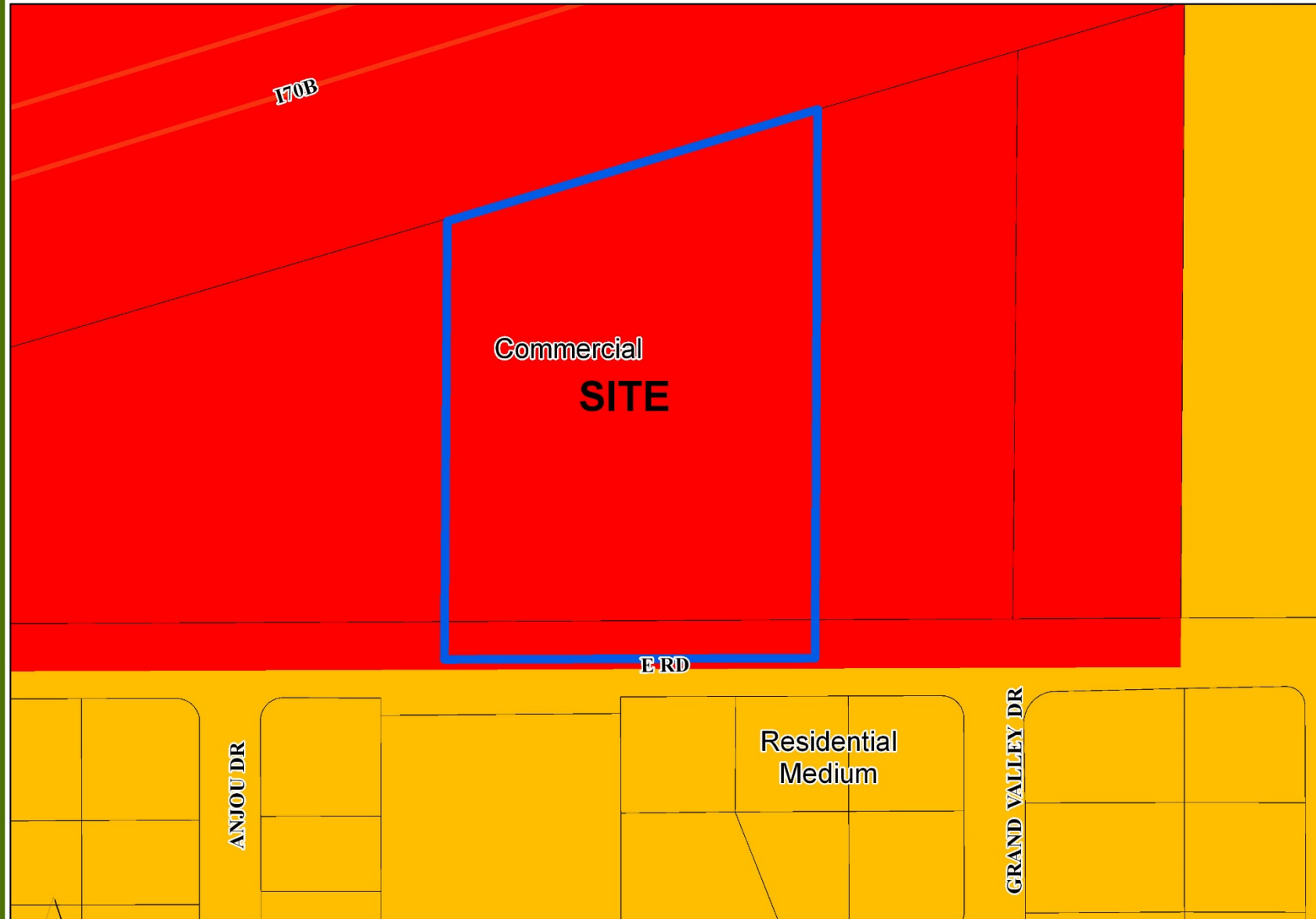




# Holder Annexation



# Holder Annexation - Future Land Use

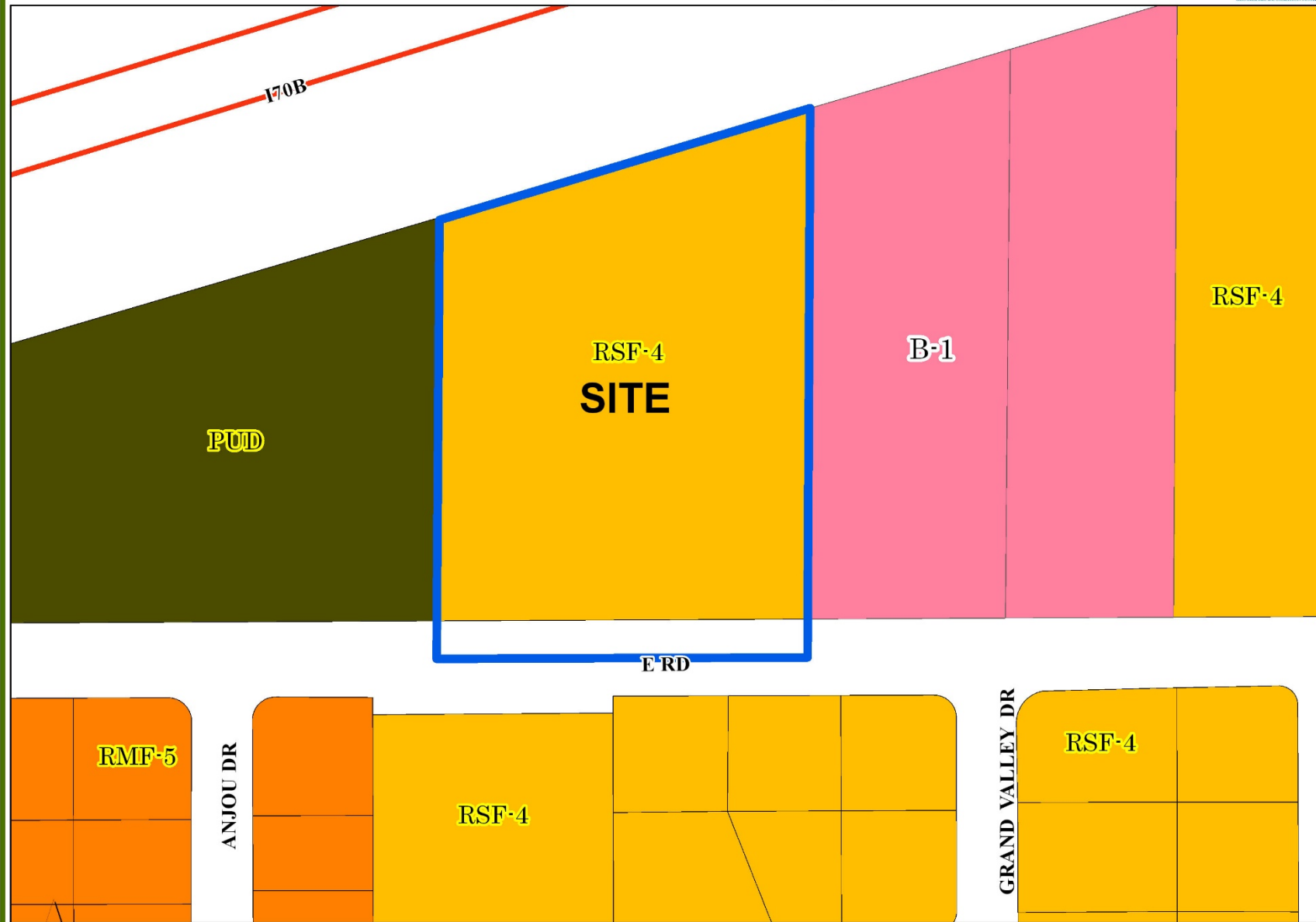


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 Annexation Boundary



Holder Annexation - Zoning



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CITY ZONING

COUNTY ZONING



Annexation Boundary

Date: 8/15/2017



**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO.**

**AN ORDINANCE ZONING THE HOLDER ANNEXATION  
TO B-1 (NEIGHBORHOOD BUSINESS)**

**LOCATED AT 3040 E ROAD**

Recitals

After public notice and public hearing as required by the Grand Junction Municipal Code, the Grand Junction Planning Commission recommended approval of zoning the Holder Annexation to the B-1 (Neighborhood Business) zone district finding that it conforms with the recommended land use category as shown on the future land use map of the Comprehensive Plan and the Comprehensive Plan's goals and policies and is generally compatible with land uses located in the surrounding area. The zone district meets the criteria found in Section 21.02.140 of the Grand Junction Municipal Code.

After public notice and public hearing before the Grand Junction City Council, City Council finds that the B-1 (Neighborhood Business) zone district is in conformance with the stated criteria of Section 21.02.140 of the Grand Junction Municipal Code.

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

The following property be zoned B-1 (Neighborhood Business).

**HOLDER ANNEXATION**

A certain parcel of land lying in the Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4) of Section 9, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

COMMENCING at the Southeast corner of the SE 1/4 SW 1/4 of said Section 9 and assuming the South line of the SE 1/4 SW 1/4 of said Section 9 bears S 89°54'32" W with all other bearings contained herein being relative thereto; thence from said Point of Commencement, N 00°05'46" W along the East line of the SE 1/4 SW 1/4 of said Section 9, a distance of 2.00 feet; thence S 89°54'32" W, along the North line of Timm Annexation No. 2, Ordinance No. 3186 as recorded in Book 2646, Page 308, Public Records of Mesa County, Colorado, being a line 2.00 feet North of and parallel with the South line of the SE 1/4 SW 1/4 of said Section 9, a distance of 201.67 feet; thence N 00°05'37" W along the East line Timm Annexation No. 1, Ordinance No. 3185 as recorded in Book 2646, Page 305, Public Records of Mesa County, Colorado, a

distance of 2.00 feet; thence S 89°54'32" W, along the North line of said Timm Annexation No. 1, being a line 4.00 feet North of and parallel with the South line of the SE 1/4 SW 1/4 of said Section 9, a distance of 100.34 feet to the POINT OF BEGINNING; thence from said Point of Beginning, continue N 89°54'32" E, a distance of 302.00 feet; thence N 00°05'27" W, along the West line of that certain parcel of land described in Book 2150, Page 734, Public Records of Mesa County, Colorado, a distance of 362.71 feet, more or less, to the South line of Southern Pacific Railroad Annexation No. 2, Ordinance No. 3159 as recorded in Book 2616, Page 715, Public Records of Mesa County, Colorado; thence N 72°58'00" E, along the South line of said annexation, a distance of 315.70 feet; thence S 00°05'24" E, along the East line of said parcel of land recorded in Book 2616, Page 715 and the West line of Pine E Road Commercial Annexation, Ordinance No. 3186 as recorded in Book 4253, Page 720, Public Records of Mesa County, Colorado, a distance of 454.71 feet, more or less, to the Point of Beginning.

CONTAINING 123,430 Square Feet or 2.833 Acres, as described above.

**INTRODUCED** on first reading the \_\_\_\_ day of \_\_\_\_, 2017 and ordered published in pamphlet form.

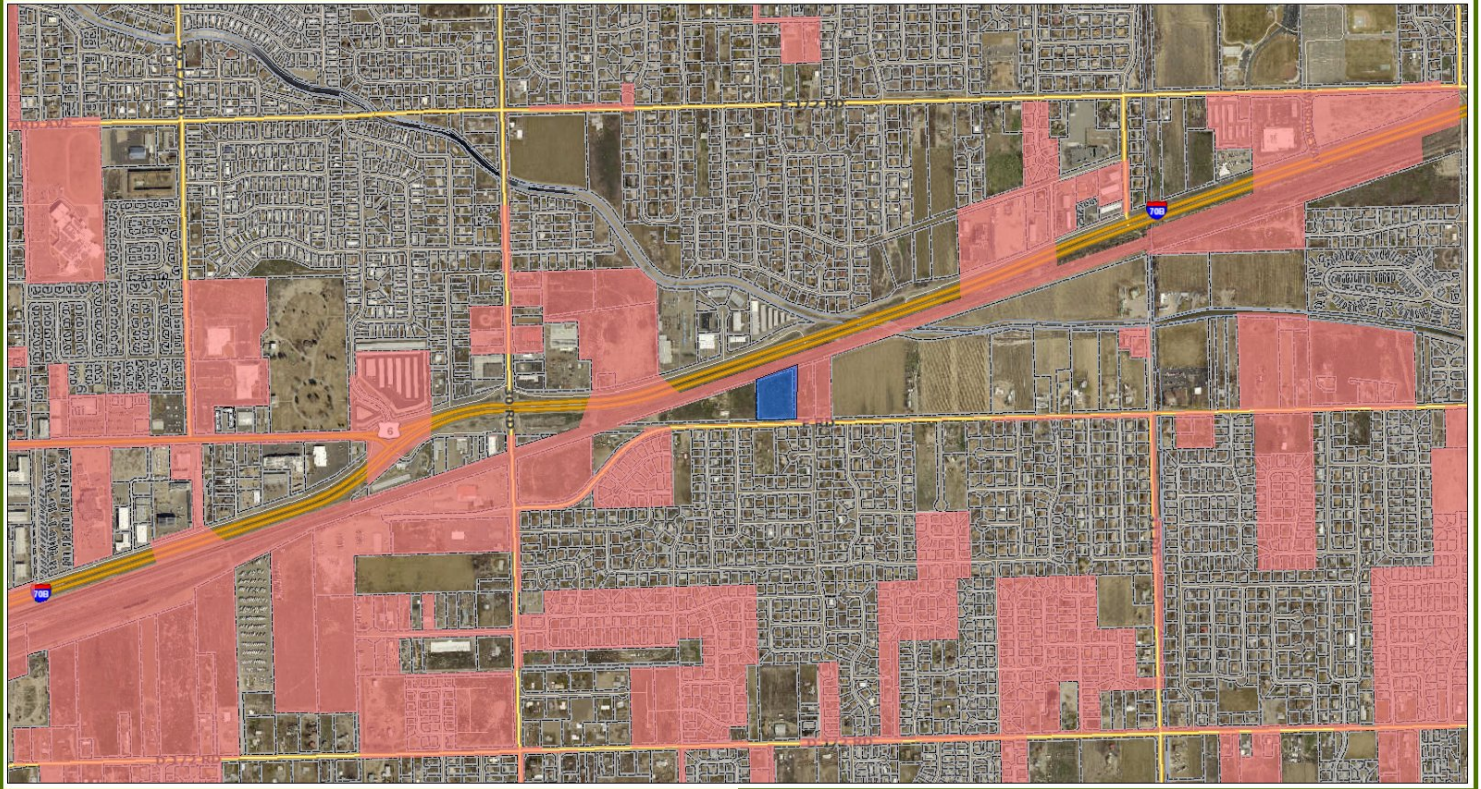
**ADOPTED** on second reading the \_\_\_\_\_ day of \_\_\_\_\_, 2017 and ordered published in pamphlet form.

ATTEST:

\_\_\_\_\_  
President of the Council

\_\_\_\_\_  
City Clerk

## Expanded City Limits Location Map



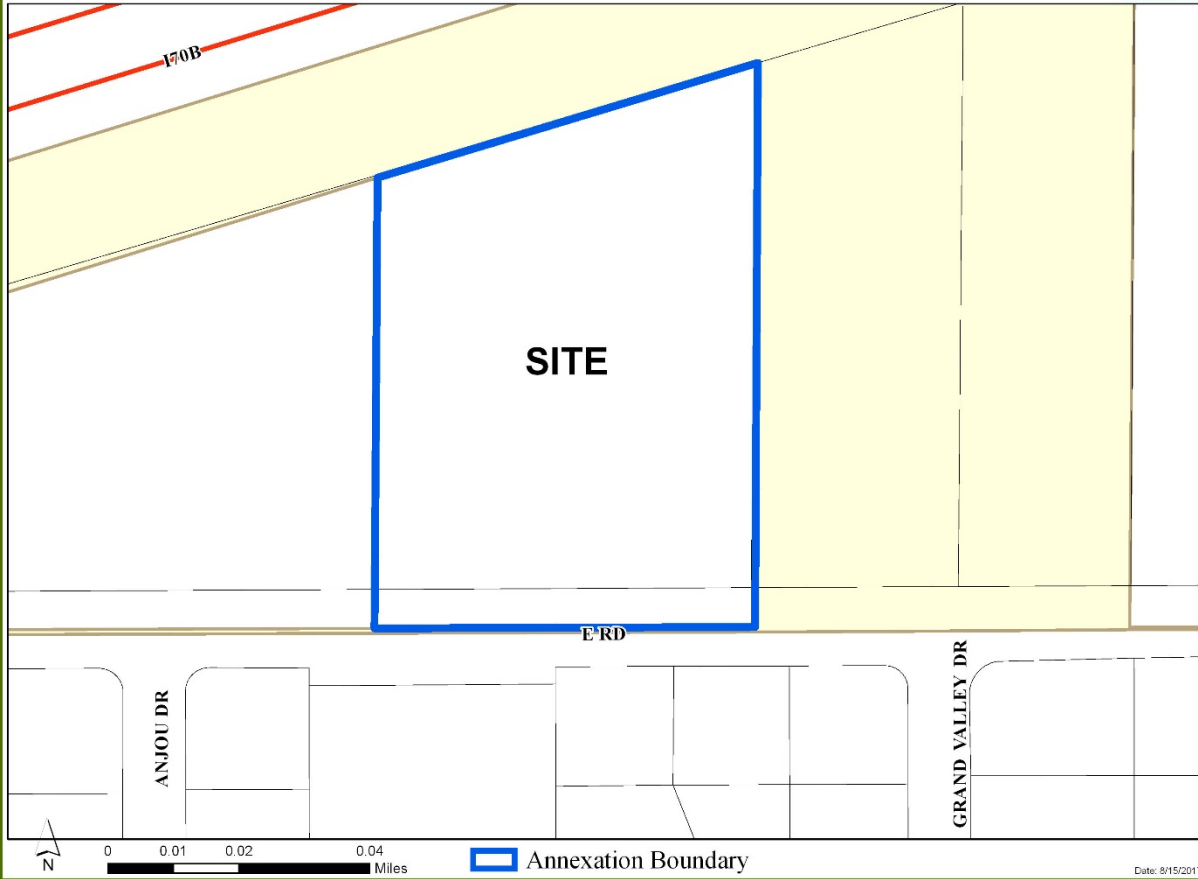
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Miles

Date: 8/29/2017

1 inch = 732 feet

CITY OF  
**Grand Junction**  
COLORADO  
GEOGRAPHIC INFORMATION SYSTEM

# Holder Annexation

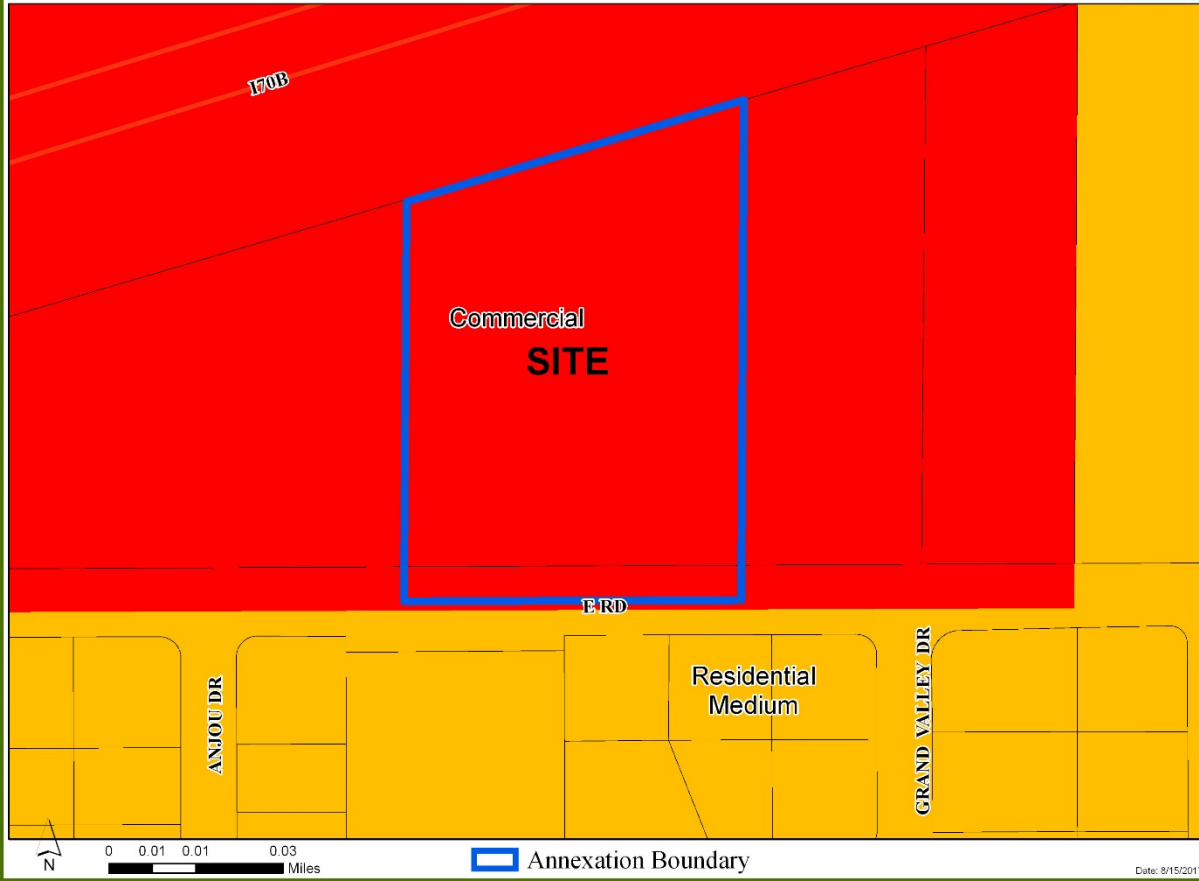




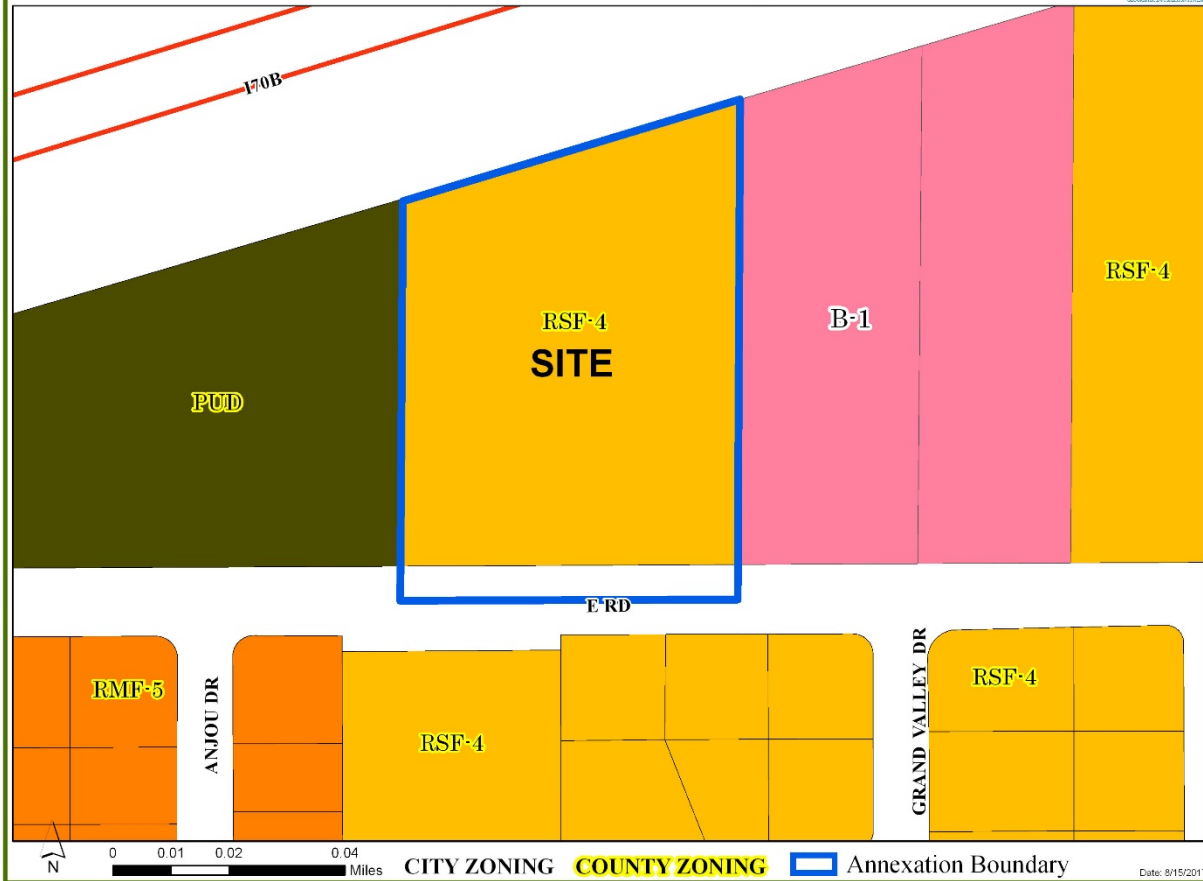
# Holder Annexation



# Holder Annexation - Future Land Use



# Holder Annexation - Zoning



**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO.**

**AN ORDINANCE ZONING THE HOLDER ANNEXATION  
TO B-1 (NEIGHBORHOOD BUSINESS)**

**LOCATED AT 3040 E ROAD**

Recitals

After public notice and public hearing as required by the Grand Junction Municipal Code, the Grand Junction Planning Commission recommended approval of zoning the Holder Annexation to the B-1 (Neighborhood Business) zone district finding that it conforms with the recommended land use category as shown on the future land use map of the Comprehensive Plan and the Comprehensive Plan's goals and policies and is generally compatible with land uses located in the surrounding area. The zone district meets the criteria found in Section 21.02.140 of the Grand Junction Municipal Code.

After public notice and public hearing before the Grand Junction City Council, City Council finds that the B-1 (Neighborhood Business) zone district is in conformance with the stated criteria of Section 21.02.140 of the Grand Junction Municipal Code.

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THAT:**

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**ADOPTED** on second reading the \_\_\_\_\_ day of \_\_\_\_\_, 2017 and ordered published in pamphlet form.

ATTEST:

\_\_\_\_\_  
President of the Council

\_\_\_\_\_  
City Clerk



## Grand Junction City Council

### Regular Session

Item #2.a.iii.

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**Meeting Date:** October 18, 2017

**Presented By:** Jay Valentine, Deputy Finance Director

**Department:** Finance

**Submitted By:** Jay Valentine, Deputy Finance Director

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### **Information**

#### **SUBJECT:**

Introduction of a Proposed Ordinance Approving the Downtown Development Authority Tax Increment Debt Financing and Setting a Public Hearing for November 1, 2017

#### **RECOMMENDATION:**

Staff recommends approval of the financing proposal submitted by ANB Bank.

#### **EXECUTIVE SUMMARY:**

The City of Grand Junction Downtown Development Authority (DDA) is planning to finance approximately \$19,120,000 for capital projects and the refinancing of the \$4,070,000 of non-callable bonds issued by the DDA in 2012. The financed capital projects include approximately \$9,000,000 for infrastructure and park amenities at the Las Colonias Business Park and \$6,000,000 of improvements to Two Rivers Convention Center. A Request for Proposals ("RFP") was issued in August inviting banks to bid on the direct purchase of the Bonds, placement agents to offer to place the Bonds with investors, or underwriters to underwrite the Bonds. After careful and thorough review, ANB Bank provided the DDA with the lowest present value of debt service in the form of a loan at 3.36%.

#### **BACKGROUND OR DETAILED INFORMATION:**

The City of Grand Junction Downtown Development Authority (DDA) is planning to finance approximately \$19,120,000 for capital projects and the refinancing of the \$4,070,000 of non-callable bonds issued by the DDA in 2012. The "Grand Junction, Colorado, Downtown Development Authority" (the "Authority") was formed by the City Council in March 1977 following a special election held within the City in February

1977. The current boundaries of the Authority encompass approximately 541 acres, and such boundaries are coterminous with the current boundaries of the Plan of Development Area (the “PDA”) in which certain redevelopment activities covered by the “Downtown Development Authority Plan of Development” (as amended from time to time, the “Plan”) may be conducted. The PDA encompasses much of the City’s traditional downtown shopping and business district, including the Main Street area, which was historically the City’s main commercial street.

Proceeds of the Bonds will be used to finance approximately \$6,000,000 of capital improvements to the Two Rivers Convention Center (TRCC) and approximately \$9,000,000 of infrastructure improvements to the Las Colonias Business Park (collectively, the “Project”). The remaining proceeds will be used to refinance the \$4,070,000 non-callable bonds issued by the DDA in 2012 and held by ANB Bank. The Convention Center contains nearly 23,000 square feet of meeting/event space and can accommodate a group of up to 2,000 people. The Convention Center contains three ballrooms of at least 5,800 square feet each, as well as six smaller rooms. The Convention Center is managed by Pinnacle Venue Services, which began managing the facility in January 2017. The improvements to the Convention Center will include roof repairs, upgrades to the water distribution system, kitchen upgrades, exterior repairs, and various other improvements, including the construction of a corridor that will connect the Convention Center to a future hotel planned to be constructed in 2019. The Las Colonias Business Park (the “Business Park”) is a planned 10-15 acre business park at the east end of Las Colonias Park (the “Park”). The Park comprises 147 acres and sits adjacent to downtown Grand Junction along the banks of the Colorado River. The Park offers easy access to recreational amenities and active transportation commuter routes along the Colorado River, as well as convenient access to shopping and businesses. It also functions as a gateway into downtown from Highway 50.

The Business Park will be open to outdoor recreation manufacturing businesses and related operations. The City has successfully negotiated an agreement with Bonsai Design to serve as the anchor tenant to the Business Park. On one of the 10 available parcels, Bonsai Design will construct their new \$2 million office building and build a zip line across the Colorado River that will be available for public use. The City plans to provide infrastructure improvements, including roads, utilities, lakes, and green spaces for public use.

Proposals were received from six different institutions that included; ANB Bank, Alpine Bank, Stifel, George K. Baum, Key Banc and RBC Capital Markets.

#### **FISCAL IMPACT:**

The City developed a preliminary financing plan that called for the issuance of Bonds secured by the Pledged Revenues of the Downtown Development Authority Tax

Increment Revenue. The Bonds were to be a fixed rate and amortized over a period beginning on the date of issuance of the Bonds and ending on a date not later than December 15, 2032. This original financing plan anticipated an amortization that would "wrap around" the Authority's outstanding Tax-Exempt Tax Increment Revenue Bonds, Series 2012A which are non-callable, to provide for aggregate level debt service on a calendar year basis. With the long term loan proposed by ANB Bank however, the 2012A bonds will be refinanced allowing for level debt service at a more favorable interest rate. The remaining proceeds of the loan shall be used to pay the costs of the Project and the costs of closing the loan as detailed below.

**DDA Tax Increment Financing Summary**

Las Colonias Bus. Park Infrastructure & Park Amenities	\$ 9,000,000
Two Rivers Convention Center Upgrade & Improvements	6,000,000
Refinance DDA 2012A TIF Bonds	4,070,000
Closing Costs & Other Fees	50,000
Total	\$19,120,000

**SUGGESTED MOTION:**

I move to Introduce a Proposed Ordinance Approving the Downtown Development Authority Tax Increment Debt Financing and Set a Public Hearing for November 1, 2017.

**Attachments**

1. Bond Ordinance



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF GRAND JUNCTION, COLORADO, DOWNTOWN DEVELOPMENT AUTHORITY TAX INCREMENT REVENUE AND REFUNDING BONDS, SERIES 2017, AND TAX INCREMENT REVENUE BONDS, SERIES 2018; PLEDGING THE TAX INCREMENT REVENUES OF THE CITY FOR THE PAYMENT OF SUCH BONDS; APPROVING THE FORM OF A LOAN AGREEMENT RELATING TO EACH SERIES OF BONDS; AND RELATED MATTERS.

WHEREAS, the City of Grand Junction, Colorado (the “City”) is a home rule city duly existing under the Constitution and laws of the State of Colorado and its City Charter; and

WHEREAS, the Grand Junction, Colorado, Downtown Development Authority (the “Authority”) was organized by the City pursuant to Title 31, Article 25, Part 8, of the Colorado Revised Statutes, as amended (the “Act”), as a “downtown development authority” for the purposes of the Act, including the improvement of that certain area (the “Plan of Development Area”) subject to the Downtown Development Authority Plan of Development (the “Plan”) approved by a resolution of the City Council of the City (the “Council”) adopted on December 16, 1981 (the “Resolution”); and

WHEREAS, the Authority proposed and submitted the Plan to the Council and the Plan was approved by the Council in the Resolution; and

WHEREAS, the Plan has been modified from time to time by amendments to the Resolution for the purpose of including additional property within the Plan of Development Area and other relevant changes; and

WHEREAS, the Plan provides for a division of taxes pursuant to Section 31-25-807(3) of the Act; and

WHEREAS, pursuant to Section 31-25-807(3)(a)(IV) of the Act and Ordinance No. 4494 duly adopted by the Council on January 4, 2012, such division of taxes (with the modifications required by Section 31-25-807(3)(a)(IV) of the Act) was extended for an additional twenty years beginning with the taxes levied in 2012 and collectible in 2013; and

WHEREAS, the Resolution established the Tax Increment Fund (defined below) for the deposit of the Tax Increments (defined below) resulting from such division of taxes; and

WHEREAS, the Tax Increments are defined as: (i) one hundred percent of the property taxes produced by the levy at the rate fixed each year by or for the City upon the valuation for assessment of taxable property within the boundaries of the Plan of Development Area which is in excess of the valuation for assessment of taxable property within the boundaries of the Plan of Development Area certified as the base amount by the Mesa County Assessor pursuant to Sections 31-25-807(3)(a)(IV) and 31-25-807(3)(f) of the Act and pledged herein for the repayment of and as security for the Bonds (defined herein); (ii) fifty percent, or such greater amount as may be set forth in an agreement negotiated between the City and the respective public bodies, of the property taxes produced by the levy at the rate fixed each year by or for each public body (excluding the City, which is covered by clause (i) of this definition) upon the valuation for assessment of taxable property within the boundaries of the Plan of Development Area which is in excess of the valuation for assessment of taxable property within the boundaries of the Plan of Development Area certified as the base amount by the County Assessor pursuant to Sections 31-25-807(3)(a)(IV) and 31-25-807(3)(f) of the Act and pledged herein for the repayment of and as security for the Bonds; and (iii) one hundred percent of the municipal sales taxes produced within each sales tax collection area within the Plan of Development Area which are in excess of the amount certified as the base amount for such collection area by the Finance Director of the City pursuant to Section 31-25-807(3) of the Act and pledged herein for the repayment of and as security for the Bonds. "Tax Increments" also include specific ownership taxes, if and to the extent received by the City in connection with the property tax increment described above; and

WHEREAS, pursuant to the Act, the City is permitted to issue securities made payable from the Tax Increments for the purposes of a project if the issuance of such bonds and the pledge of such revenues are first submitted for approval to the qualified electors of the Authority at a special election held for such purpose; and

WHEREAS, in addition, Article X, Section 20 of the Colorado Constitution requires voter approval in advance for the creation of any multiple-fiscal year direct or indirect debt or other financial obligation (except that refundings of existing debt at lower interest rates do not require an election); and

WHEREAS, at a special election held by the City within the boundaries of the Authority on April 3, 2007 (the “2007 Election”), a majority of the qualified electors of the Authority voting thereon authorized the City to issue bonds or other indebtedness not to exceed \$18,000,000, with a repayment cost of \$20,000,000, for the purpose of financing certain capital improvements within the Plan of Development Area and authorized the pledge of the Tax Increment Fund for payment of principal, interest and any premiums due in connection with such bonds or other indebtedness, said pledge of funds not to exceed the maximum time permitted by law; and

WHEREAS, the ballot question submitted to the qualified electors of the Authority at the 2007 Election was as follows:

SHALL CITY OF GRAND JUNCTION DEBT BE INCREASED \$18,000,000 WITH A REPAYMENT COST OF \$20,000,000, WITHOUT RAISING ADDITIONAL TAXES, TO FINANCE STREETS, PARKS, PLAZAS, PARKING FACILITIES, PLAYGROUNDS, CAPITAL FACILITIES, PEDESTRIAN MALLS, RIGHTS-OF-WAY, STRUCTURES, WATERWAYS, BRIDGES, ACCESS ROUTES TO ANY OF THE FOREGOING, DESIGNED FOR USE BY THE PUBLIC GENERALLY OR USED BY ANY PUBLIC AGENCY WITH OR WITHOUT CHARGE; SUCH DEBT TO BE EVIDENCED BY BONDS, LOANS, ADVANCES OR INDEBTEDNESS PROVIDED THAT THE SPECIFIC TERMS OF THE DEBT, INCLUDING A PROVISION FOR EARLY REPAYMENT WITH OR WITHOUT A PREMIUM, AND THE PRICE AT WHICH IT WILL BE SOLD SHALL BE DETERMINED BY THE CITY AS NECESSARY AND PRUDENT; SHALL THE PLEDGE OF THE TAX INCREMENT FUND TO SUCH DEBT BE AUTHORIZED FOR A PERIOD NOT TO EXCEED THE MAXIMUM TIME PERMITTED BY LAW; AND IF THIS QUESTION IS APPROVED, THE AUTHORITY TO ISSUE DEBT PURSUANT TO BALLOT ISSUE 5T AT THE CITY’S NOVEMBER 2, 2004 ELECTION SHALL BE OF NO FURTHER EFFECT?

; and

WHEREAS, at a special election held by the City within the boundaries of the Authority on April 5, 2011 (the “2011 Election”), a majority of the qualified electors of the Authority voting thereon authorized the City to issue bonds or other indebtedness not to exceed

\$65,000,000, with a repayment cost of \$72,000,000, for the purpose of financing certain capital improvements within the Plan of Development Area and authorized the pledge of the Tax Increment Fund for payment of principal, interest and any premiums due in connection with such bonds or other indebtedness, said pledge of funds not to exceed the maximum time permitted by law; and

WHEREAS, the ballot question submitted to the qualified electors of the Authority at the 2011 Election was as follows:

SHALL CITY OF GRAND JUNCTION DEBT BE INCREASED NOT TO EXCEED \$65,000,000 WITH A REPAYMENT COST OF \$72,000,000, WITHOUT RAISING ADDITIONAL TAXES, TO FINANCE STREETS, PARKS, PLAZAS, PARKING FACILITIES, PLAYGROUNDS, CAPITAL FACILITIES, PEDESTRIAN MALLS, RIGHTS-OF-WAY, STRUCTURES, WATERWAYS, BRIDGES, ACCESS ROUTES TO ANY OF THE FOREGOING, DESIGNED FOR USE BY THE PUBLIC GENERALLY OR USED BY ANY PUBLIC AGENCY WITH OR WITHOUT CHARGE; SUCH DEBT TO BE EVIDENCED BY BONDS, LOANS, ADVANCES OR INDEBTEDNESS PROVIDED THAT THE SPECIFIC TERMS OF THE DEBT, INCLUDING A PROVISION FOR EARLY REPAYMENT WITH OR WITHOUT A PREMIUM, AND THE PRICE AT WHICH IT WILL BE SOLD SHALL BE DETERMINED BY THE CITY AS NECESSARY AND PRUDENT; SHALL THE PLEDGE OF THE TAX INCREMENT FUND TO SUCH DEBT BE AUTHORIZED FOR A PERIOD NOT TO EXCEED THE MAXIMUM TIME PERMITTED BY LAW?

; and

WHEREAS, the City has previously issued \$17,125,000 of the indebtedness authorized at the 2007 Election, which indebtedness was represented by: (i) its \$10,000,000 “City of Grand Junction, Colorado, Downtown Development Authority, Tax-Increment Revenue Bonds, Series 2009” (the “2009 Bonds”), all of which were repaid as of December 15, 2012; (ii) its \$4,070,000 “City of Grand Junction, Colorado, Downtown Development Authority, Tax-Exempt Tax Increment Revenue Bonds, Series 2012A” (the “2012A Bonds”), all of which will be repaid upon the issuance of the 2017A Bonds (defined herein); and (iii) its \$3,055,000 City of Grand Junction, Colorado, Downtown Development Authority, Taxable Tax Increment Revenue Bonds, Series 2012B,” all of which will be repaid as of December 15, 2017; and

WHEREAS, the City has not previously issued any of the indebtedness authorized at the 2011 Election; and

WHEREAS, the City has determined to issue its “City of Grand Junction, Colorado, Downtown Development Authority, Tax Increment Revenue and Refunding Bonds, Series 2017 (the “2017 Bonds”), in the maximum aggregate principal amount of \$10,000,000 for the purpose of: (i) refunding the 2012A Bonds (the “Refunding Project”); (ii) financing (or reimbursing the costs of) certain additional improvements described in the Plan and the 2007 Election and/or the 2011 Election (the “Project”); (iii) funding a debt service reserve for the 2017 Bonds; and (iv) paying the costs of issuing the 2017 Bonds; and

WHEREAS, the 2017 Bonds are authorized to be issued pursuant to Section 31-28-809 of the Act, and the portion of the 2017 Bonds being used to accomplish the Refunding Project is permitted by Section 31-25-811 of the Act; and

WHEREAS, the portion of the 2017 Bonds allocable to the Refunding Project constitutes a refunding at a lower interest rate under Article X, Section 20 of the Colorado Constitution and does not require prior voter authorization for its issuance; and

WHEREAS, the portion of the 2017 Bonds allocable to the Project has been authorized by the 2007 Election and/or the 2011 Election; and

WHEREAS, the City has further determined to issue its “City of Grand Junction, Colorado, Downtown Development Authority, Tax Increment Revenue Bonds, Series 2018 (the “2018 Bonds,” and together with the 2017 Bonds, the “Bonds”) in the maximum aggregate principal amount of \$9,120,000 for the purpose of: (i) financing that portion of the Project not otherwise financed by the 2017 Bonds; (ii) funding debt service reserve for the 2018 Bonds; and (iii) paying the costs of issuing the 2018 Bonds; and

WHEREAS, the 2018 Bonds are authorized to be issued pursuant to Section 31-28-809 of the Act; and

WHEREAS, the 2018 Bonds have been authorized by the 2007 Election and/or the 2011 Election; and

WHEREAS, the 2017 Bonds shall be issued on or after December 15, 2017 and before December 31, 2017, with terms such that they meet the requirements of the ballot questions submitted at the 2007 Election and/or the 2011 Election; and

WHEREAS, the 2018 Bonds shall be issued on or after January 1, 2018, with terms such that they meet the requirements of the ballot questions submitted at the 2007 Election and/or the 2011 Election; and

WHEREAS, the Council has determined that in order to finance the Refunding Project, finance a portion of the Project, fund a debt service reserve fund for the 2017 Bonds, and pay the costs of issuing the 2017 Bonds it is necessary, advisable, and in the best interests of the City to issue the 2017 Bonds pursuant to this Bond Ordinance and the further terms and conditions of a Loan Agreement (the “2017 Loan Agreement”) with ANB Bank (the “Lender”), pursuant to which 2017 Loan Agreement the Lender will purchase the 2017 Bonds and will loan to the City the proceeds thereof in an amount not to exceed \$10,000,000 (the “2017 Loan”) for the purposes hereinabove stated; and

WHEREAS, the City’s repayment obligations under the 2017 Loan Agreement shall be evidenced by the 2017 Bonds; and

WHEREAS, the Council has further determined that in order to finance the balance of the Project, fund a debt service reserve fund for the 2018 Bonds, and pay the costs of issuing the 2018 Bonds it is necessary, advisable, and in the best interests of the City to issue the 2018 Bonds pursuant to this Bond Ordinance and the further terms and conditions of a Loan Agreement (the “2018 Loan Agreement,” and together with the 2017 Loan Agreement, the “Loan Agreements”) with ANB Bank (the “Lender”), pursuant to which 2018 Loan Agreement the Lender will purchase the 2018 Bonds and will loan to the City the proceeds thereof in an amount not to exceed \$9,120,000 (the “2018 Loan,” and together with the 2017 Loan, the “Loans”) for the purposes hereinabove stated; and

WHEREAS, the City’s repayment obligations under the 2018 Loan Agreement shall be evidenced by the 2018 Bonds; and

WHEREAS, the Tax Increments (less 20% of the Tax Increments originating from municipal sales tax revenues for a portion of the Plan of Development Area and 30% of such increments from another portion of the Plan of Development Area as provided in Grand Junction City Resolution No. 28-83), all funds deposited in the special fund created by the Resolution into which the Tax Increments are to be deposited by the City (the “Tax Increment Fund”) and any bond account established by the City for the Bonds pursuant to the Loan

Agreements (the “Bond Account”), and investment income from such Bond Account and the Tax Increment Fund, subject to Federal tax laws regarding arbitrage rebate, shall be pledged to the repayment of the Bonds (collectively, the “Pledged Revenues”); and

WHEREAS, forms of the Loan Agreements have been filed with the City Clerk; and

WHEREAS, the Council desires to approve the forms of the Loan Agreements and authorize the execution thereof and further authorize the execution and delivery of the Bonds.

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

Section 1. Approvals, Authorizations, and Amendments. The forms of the Loan Agreements (and the forms of the Bonds contained therein) filed with the City Clerk are incorporated herein by reference and are hereby approved. The City shall enter into and perform its obligations under the Loan Agreements in the forms of such documents, with such changes as are not inconsistent herewith and as are hereafter approved by the President of the Council (the “President”). The President and City Clerk are hereby authorized and directed to execute the Bonds and the Loan Agreements and to affix the seal of the City thereto, and further to execute and authenticate such other documents or certificates as are deemed necessary or desirable in connection therewith. The Bonds and the Loan Agreements shall be executed in substantially the forms approved at this meeting and, in any event, shall not contain terms inconsistent with the terms of this Bond Ordinance.

The execution by the President, the City Clerk, or other appropriate officers of the City of any instrument or certificate or other document in connection with the matters referred to herein shall be conclusive evidence of the approval by the City of such instrument or certificate or other document.

Section 2. Election to Apply Supplemental Act. Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, of the Colorado Revised Statutes, as amended (the “Supplemental Act”), provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental

Act. The Council hereby elects to apply all of the provisions of the Supplemental Act to the Bonds and the Loan Agreements.

Section 3. Delegation and Parameters.

(a) Pursuant to Section 11-57-205 of the Supplemental Act, the Council hereby delegates to the President, the Financial Operations Manager, or any member of the Council the authority to make the following determinations relating to and contained in the Bonds and the Loan Agreements, subject to the restrictions contained in paragraph (b) of this Section 3:

(i) the interest rate on the 2017 Bonds and the 2017 Loan and the interest rate on the 2018 Bonds and the 2018 Loan;

(ii) the principal amount of the 2017 Bonds and the 2017 Loan and the principal amount of the 2018 Bonds and the 2018 Loan;

(iii) the amount of principal of the 2017 Bonds and the 2017 Loan maturing in any given year and the final maturity of the 2017 Bonds and the 2017 Loan, and the amount of principal of the 2018 Bonds and the 2018 Loan maturing in any given year and the final maturity of the 2018 Bonds and the 2018 Loan;

(iv) the conditions on which and the prices at which the 2017 Bonds and the 2017 Loan may be paid prior to maturity, and the conditions on which and the prices at which the 2018 Bonds and the 2018 Loan may be paid prior to maturity;

(v) the dates on which the principal of and interest on the 2017 Bonds and the 2017 Loan are paid, and the dates on which the principal of and interest on the 2018 Bonds and the 2018 Loan are paid; and

(vi) the existence and amount of reserve funds or capitalized interest for the 2017 Bonds and the 2017 Loan, if any, and the existence and amount of reserve funds or capitalized interest for the 2018 Bonds and the 2018 Loan, if any.

(b) The delegation in paragraph (a) of this Section 3 shall be subject to the following parameters and restrictions: (i) the interest rate on the 2017 Bonds and the 2017 Loan shall not exceed 3.36%; (ii) the interest rate on the 2018 Bonds and the 2018 Loan shall not exceed 3.36%; (iii) the principal amount of the 2017 Bonds and the 2017 Loan shall not exceed \$10,000,000; (iv) the principal amount of the 2018 Bonds and the 2018 Loan shall not exceed



\$9,120,000; (v) the Bonds shall be subject to redemption prior to maturity on any date at a redemption price of not more than 101% of the principal amount thereof; (vi) the respective reserve funds for the 2017 Bonds and the 2018 Bonds may not exceed the maximum amount permitted for each series of Bonds under the Internal Revenue Code of 1986, as amended; and (vii) the final maturity of the Bonds and the Loans shall not be later than December 31, 2032.

Section 4. Conclusive Recital. Pursuant to Section 11-57-210 of the Supplemental Act, the Bonds and the Loan Agreements shall contain a recital that they are issued pursuant to the Supplemental Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds and the Loan Agreements after their delivery for value.

Section 5. Pledge of Revenues. The Bonds constitute a pledge of, and an irrevocable first lien (but not an exclusive first lien), on all of the Pledged Revenues. The Bonds are equitably and ratably secured by a pledge of and lien on the Pledged Revenues. All of the Bonds, together with the interest accruing thereon shall be payable and collectible solely out of the Pledged Revenues, which are hereby irrevocably so pledged; neither the Lender nor any other registered owner of the Bonds may not look to any general or other fund of the City or the Authority for the payment of the principal of and interest on the Bonds, except the designated special funds and accounts pledged therefor. The Bonds shall not constitute an indebtedness nor a debt within the meaning of the Charter or any State constitutional or statutory provision or limitation; nor shall they be considered or held to be general obligations of the City or the Authority.

Pursuant to Section 11-507-208(1) of the Supplemental Act, a public entity may pledge all or any portion of its revenues to the payment of its securities unless the use of such revenues is restricted by other laws of the state. Pursuant to such authority, together with the authority granted by the 2007 Election, the 2011 Election, and Section 31-25-807(3)(a)(IV)(B) of the Act, the City hereby irrevocably pledges to the repayment of the Bonds one hundred percent of the property taxes produced by the levy at the rate fixed each year by or for the City upon the valuation for assessment of taxable property within the boundaries of the Plan of Development Area which is in excess of the valuation for assessment of taxable property within the boundaries of the Plan of Development Area certified as the base amount by the County Assessor pursuant

to Sections 31-25-807(3)(a)(IV) and 31-25-807(3)(f) of the Act. Such amounts shall constitute Pledged Revenues for all purposes of this Ordinance.

The creation, perfection, enforcement, and priority of the Pledged Revenues to secure or pay the Bonds as provided herein shall be governed by Section 11-57-208 of the Supplemental Act and this Bond Ordinance. The Pledged Revenues, as received by or otherwise credited to the City or the Authority, shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act.

Section 6. Appropriations to Replenish Reserve Funds. Within 45 days of receiving notice from the Lender that the reserve fund for the 2017 Bonds and/or the reserve fund for the 2018 Bonds has been utilized, in whole or in part, the Financial Operations Manager shall prepare and submit a request for an appropriation of a sufficient amount of funds to replenish such reserve funds to the applicable reserve requirement (as more particularly described in the Loan Agreements). It is the present intention and expectation of the Council to appropriate such funds as requested, within the limits of available funds and revenues, but this declaration of intent shall not be binding upon the Council or any future Council in any future fiscal year of the City. The City Council may determine in its sole discretion, but shall never be required, to make the appropriations requested. All sums appropriated by the Council for such purpose shall be deposited in the reserve funds established by the Loan Agreements. Nothing provided in this Section 6 shall create or constitute a debt, liability or multiple fiscal year financial obligation of the City.

Section 7. Limitation of Actions. Pursuant to Section 11-57-212 of the Supplemental Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the Bonds or the Loan Agreements shall be commenced more than thirty days after the date of adoption of this Ordinance.

Section 8. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Council, or any officer or agent of the City acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal of or interest on the Bonds. Such recourse shall not be available either directly or indirectly through the Council or the City, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the

Bonds and as a part of the consideration of its sale or purchase, the Lender and any other registered owner of the Bonds specifically waives any such recourse.

Section 9. Disposition and Investment of Loan Proceeds. The proceeds of the 2017 Loan shall only be applied for the purposes described in the recitals hereto, and the proceeds of the 2018 Loan shall only be applied for the purposes described in the recitals hereto. Neither the Lender nor any subsequent owner(s) of the Bonds shall be responsible for the application or disposal by the City or any of its officers of the funds derived from the Loans.

Section 10. Direction to Take Authorizing Action. The appropriate officers of the City and members of the Council are hereby authorized and directed to take all other actions necessary or appropriate to effectuate the provisions of this Ordinance, including but not limited to the execution and delivery of such certificates and affidavits as may reasonably be required by the Lender.

Section 11. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the City and members of the Council, not inconsistent with the provisions of this Ordinance, relating to the Bonds, the Loan Agreements, Documents, or actions to be taken in respect thereof, are hereby authorized, ratified, approved, and confirmed.

Section 12. Repealer. All acts, orders, ordinances, or resolutions, or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

Section 13. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such determination shall not affect, impair, or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

Section 14. Ordinance Irrepealable. After the Bonds are issued, this Ordinance shall constitute an irrevocable contract between the City and the owners from time to time of the Bonds, and shall be and remain irrepealable until the Bonds and the interest thereon shall have been fully paid, satisfied, and discharged. No provisions of any constitution, statute, charter, ordinance, resolution, or other measure enacted after the issuance of the Bonds shall in any way be construed as impairing the obligations of the City to keep and perform its covenants contained in this Ordinance.

Section 15. Effective Date. This Ordinance shall be in full force and effect 30 days after publication following final passage.

*[The remainder of this page intentionally left blank.]*

INTRODUCED, PASSED ON FIRST READING, APPROVED AND  
ORDERED PUBLISHED IN PAMPHLET FORM this 18<sup>th</sup> day of October, 2017.

CITY OF GRAND JUNCTION, COLORADO

[ S E A L ]

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President of the City Council

Attest:

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City Clerk

INTRODUCED, PASSED ON SECOND READING, APPROVED AND  
ORDERED PUBLISHED IN PAMPHLET FORM this 1<sup>st</sup> day of November, 2017.

CITY OF GRAND JUNCTION, COLORADO

[ S E A L ]

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President of the City Council

Attest:

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City Clerk

STATE OF COLORADO                    )  
  )  
COUNTY OF MESA                    ) SS.  
  )  
CITY OF GRAND JUNCTION         )

I, Wanda Winkelman, the City Clerk of the City of Grand Junction, Colorado (the “City”) and Clerk to the City Council of the City (the “Council”), do hereby certify as follows:

(1) The foregoing pages are a true, correct and complete copy of an ordinance (the “Ordinance”) that was introduced, passed on first reading and ordered published in full by the Council at a regular meeting thereof held on October 18, 2017 and was duly adopted and ordered published in full by the Council at a regular meeting thereof held on November 1, 2017, which Ordinance has not been revoked, rescinded or repealed and is in full force and effect on the date hereof.

(2) The Ordinance was duly moved and seconded and the Ordinance was passed on first reading at the meeting of October 18, 2017, by an affirmative vote of a majority of the members of the Council as follows:

<u>Councilmember</u>	<u>Voting “Aye”</u>	<u>Voting “Nay”</u>	<u>Absent</u>	<u>Abstaining</u>
Rick Taggart				
Bennett Boeschstein				
Phyllis Norris				
Barbara Traylor Smith				
Duke Wortmann				
Duncan McArthur				
Chris Kennedy				

(3) The Ordinance was duly moved and seconded and the Ordinance was finally passed on second reading at the meeting of November 1, 2017, by an affirmative vote of a majority of the members of the Council as follows:

<u>Councilmember</u>	<u>Voting "Aye"</u>	<u>Voting "Nay"</u>	<u>Absent</u>	<u>Abstaining</u>
Rick Taggart				
Bennett Boeschstein				
Phyllis Norris				
Barbara Traylor Smith				
Duke Wortmann				
Duncan McArthur				
Chris Kennedy				

(4) The members of the Council were present at such meetings and voted on the passage of the Ordinance as set forth above.

(5) The Ordinance was approved and authenticated by the signature of the President of the Council, sealed with the City seal, attested by the City Clerk, and recorded in the minutes of the Council.

(6) There are no bylaws, rules, or regulations of the Council that might prohibit the adoption of the Ordinance.

(7) Notices of the meetings of October 18, 2017 and November 1, 2017 in the forms attached hereto as Schedule I were posted at City Hall in accordance with law.

(8) The Ordinance was published in pamphlet form in The Daily Sentinel, a daily newspaper of general circulation in the City, on October \_\_\_, 2017 and November \_\_\_, 2017, as required by the City Charter. True and correct copies of the affidavits of publication are attached hereto as Schedule II.

WITNESS my hand and the seal of the City affixed this \_\_\_ day of November, 2017.

---

City Clerk and Clerk to the Council

[ S E A L ]

## SCHEDULE I

(Attach Notices of Meetings of October 18, 2017 and November 1, 2017)



## SCHEDULE II

(Attach Notice of Meeting)



## Grand Junction City Council

### Regular Session

Item #3.a.

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**Meeting Date:** October 18, 2017

**Presented By:** Kristen Ashbeck, Senior Planner/ CDBG Admin

**Department:** Community Development

**Submitted By:** Kristen Ashbeck, Senior Planner/CDBG Admin

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### **Information**

#### **SUBJECT:**

2017 Community Development Block Grant Subrecipient Agreement between St. Mary's Hospital Foundation Gray Gourmet Program, Karis, Inc., HomewardBound of the Grand Valley, Marillac Clinic, Grand Valley Catholic Outreach, and Housing Resources of Western Colorado and the City of Grand Junction

#### **RECOMMENDATION:**

Staff recommends approval.

#### **EXECUTIVE SUMMARY:**

The Subrecipient Contracts formalize the City's award of CDBG funds to St. Mary's Hospital Foundation Gray Gourmet Program (\$16,000 for the purchase of food); Karis, Inc. (\$10,400 for youth counseling services); HomewardBound of the Grand Valley (\$15,000 for the purchase of food); Marillac Clinic (\$10,685 for the purchase of dental diagnostic equipment); Grand Valley Catholic Outreach (\$55,788 for the day center renovation); and Housing Resources of Western Colorado (\$22,500 for the critical home repair program); allocated from the City's 2017 CDBG Program Year as approved by City Council at its May 17, 2017 meeting. The contracts outline the duties and responsibilities of the agencies and ensures that the subrecipients comply with all Federal rules and regulations governing the use of the funds.

#### **BACKGROUND OR DETAILED INFORMATION:**

CDBG funds are a Department of Housing and Urban Development (HUD) entitlement grant to the City of Grand Junction which became eligible for the funding in 1996. The City has received \$400,521 for the 2017 Program Year and Council approved

amendments to Action Plans of previous program years to utilize a total of \$14,938 remaining funds to be allocated with the 2017 funds for a total allocation of \$415,459. The final funding decision of 11 projects was made by the City Council at its hearing on May 17, 2017. The City's 2017 Program Year began on September 1, 2017 therefore, contracts between the City and the agencies may now be executed.

2017-04 St. Mary's Hospital – Gray Gourmet Program Purchase Food (\$16,000)

Gray Gourmet prepares and serves a nutritious lunchtime meal for Mesa County seniors age 60 and older. CDBG funds will be used to help off-set the cost of food purchases for meals to be prepared and served for 10-11 more City residents with an estimated 1,952 more meals.

2017-02 Karis, Inc. Integrated Mental Health Services (\$10,400)

Karis, Inc. provides housing and support services for homeless, unaccompanied teens and youth in the community. CDBG funds will be used to provide mental health and substance abuse services to Karis clients at its various housing facilities in the City limits. With CDBG funds, Karis, Inc. will be able to increase direct service hours per week for two clinicians to a total of 40 hours per week.

2017-03 HomewardBound of the Grand Valley (HBGV) Purchase Food (\$15,000)

HBGV provides year-round overnight emergency shelter for up to 180 individuals nightly. The shelter typically serves 126 single men, 54 single women and 8-12 families per night with meals, bedding, hot showers and community outreach opportunities. In 2016, the shelter provided 116,207 nutritious meals for breakfast and dinners. Full meals provided by volunteer groups has decreased to very few so the shelter supplements 100% of the meals. 13,980 additional meals are expected to be served this year. CDBG funds will help fund the gap to purchase food for this expected increase.

2017-06 Marillac Clinic Purchase Dental Diagnostic Equipment (\$10,685)

Marillac Clinic, Inc. recently attained a designation as a Federally Qualified Community Health Center and, thus, are undergoing many changes and significant increase in services. Most of the heavily-used dental equipment at the clinic is 15-20 years old. This grant will help fund the purchase of a new diagnostic piece of equipment that detects decay and cracks not typically revealed by x-rays. The grant amount is based on 40 percent of Marillac's patients residing in the City thus 40% of project costs is eligible to be funded with CDBG.

2017-07 Grand Valley Catholic Outreach Day Center Renovation (\$55,788)

Grand Valley Catholic Outreach provides 12 core programs to meet the needs of individuals and families in distress. The Outreach Day Center located at 302 Pitkin Avenue is visited by 100 or more persons per day for the services it provides, including showers, clothes washing, see a doctor or therapist or assistance with obtaining a job.

CDBG funds would be used to remodel the Day Center and construct an addition to provide more space, privacy and security for the medical and mental health providers who serve on site.

2017-08 Housing Resources of Western Colorado Critical Home Repair Program (\$22,500)

Housing Resources provides low income residents with 24-hour emergency repair including roof repair, furnace repair, carbon monoxide issues, frozen pipes, water heaters, electrical problems and evaporative coolers. CDBG funding is requested to help pay for materials and labor for the program. Housing Resources expects to serve 65-75 city residents through the program.

These agencies are considered "subrecipients" to the City. The City will "pass through" portions of its 2017 Program Year CDBG funds to the agencies but the City remains responsible for the use of these funds. The contracts outline the duties and responsibilities of the agencies and ensures that the subrecipients comply with all Federal rules and regulations governing the use of the funds. The contracts must be approved before the subrecipients may obligate or spend any of the Federal funds. The Subrecipient Agreements contains the specifics of the projects and how the money will be used by each subrecipient.

**FISCAL IMPACT:**

Previously approved 2017 CDBG Program Year Budget:

2017 CDBG Allocation:	\$400,521
Remainder Previous Years:	\$14,938
Total Funding Allocated:	\$415,459

Total allocation includes \$75,000 for program administrative costs (\$25,000) and pre-development engineering and planning for the Las Colonias Business Park (\$50,000).

**SUGGESTED MOTION:**

I move to (approve or deny) authorization for the City Manager to sign the Subrecipient Contracts between the City of Grand Junction and various local non-profit agencies for funding through the City's 2017 Community Development Block Grant (CDBG) Program Year.

**Attachments**

1. 2017 CDBG Subrecipient Agreements

**2017 SUBRECIPIENT CONTRACT  
CITY OF GRAND JUNCTION, COLORADO AS GRANTEE  
UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**Date Approved:** \_\_\_\_\_

**Amount of Grant: \$10,400**

**Subrecipient: Karis, Inc.**

**Completion Date: December 31, 2018**

**I. AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_ day of \_\_\_\_\_, 201\_\_ by and between the CITY OF GRAND JUNCTION, COLORADO (hereinafter referred to as "*City*"), and Karis, Inc. a not-for-profit agency (hereinafter referred to as "*Subrecipient*").

***Recitals:***

The *City* as an entitlement recipient and grantee of the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) program does hereby enter this Agreement with the *Subrecipient* for the expenditure of CDBG funds in accordance with Title 24, Part 570 of the Code of Federal Regulations (24 CFR 570.000 *et. seq.* hereinafter referred to as *CDBG Regulations* and the *Uniform Requirements* in accordance with Title 2 Part 200 of the Code of Federal Regulations (2 CFR 200 *et. seq.*)

Pursuant to such Agreement the City has awarded the Subrecipient CDBG funds to undertake certain activities necessary for the execution of certain projects the City deems necessary, desirable and in furtherance of the purposes of the program. To accomplish those goals, the City does agree to disburse funds to the Subrecipient to execute its project in accordance with the CDBG Regulations and this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals which are a substantive part of this Agreement and the following provisions which are approved by the City and the Subrecipient, they mutually agree as follows:

**II. SUBRECIPIENT OBLIGATIONS AND SCOPE OF SERVICES**

**A. Activities**

The sub-granting of CDBG funds to and the scope of services to be rendered by the Subrecipient shall be for the provision of the services described in Exhibit A attached hereto and made a part of this Agreement. Subrecipient agrees to perform the work described in Exhibit A in compliance with all provisions of this Agreement and it agrees to conduct all activities of the Subrecipient, whether funded in whole or in part by CDBG funds from the City in accordance with the provisions contained in 24 CFR 85 and 570 *et. seq.* and *inter alia*. Subrecipient warrants and represents that it has the requisite authority and capacity to perform all terms and conditions to be performed hereunder as required by this Agreement or by law and that there is adequate consideration to support the making and enforcement of this Agreement.

**B. National Objectives**

Subrecipient certifies that the activities carried out with funds provided under this Agreement meet one or more of the CDBG program's National Objectives. The specific National

Objective to be met and how it will be met by the Subrecipient is described in Exhibit A attached to and incorporated by reference into this Agreement.

#### **C. Client Data**

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility and description of service provided. Such information shall be made available to the City or its designees for review upon request.

### **III. RESPONSIBILITY OF THE CITY**

The City shall designate representative(s) of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the execution of this Agreement and disbursing funds in connection with the program in accordance with the Agreement.

### **IV. PAYMENT**

If Subrecipient is not in default hereunder, and subject to City's receipt of the Department of Housing and Urban Development Community Development Block Grant funds and provided that the Agreement and Scope of Services are eligible expenditures of Community Development Block Grant funds, the City agrees to pay the Subrecipient a total dollar amount that is described on Exhibit A of this Agreement. Payment shall be made upon presentation of invoices which Subrecipient certifies are true and correct copies of payments due on behalf of the Subrecipient, for an activity covered by this Agreement and made in accordance and compliance with the Scope of Services. Payment may be withheld by the City in the event of non-performance by Subrecipient. The City may, at its sole discretion, retain 10% of each disbursement with final payment made upon successful completion of the project including satisfactory compliance with all City, state and federal requirements.

### **V. GENERAL CONDITIONS**

#### **A. General Compliance**

The Subrecipient also agrees to comply with all other applicable federal, state and local laws, regulations and policies governing the funds provided under and the obligations imposed by this Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

#### **B. Independent Contractor**

Nothing contained in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of employer/employee or a partnership or joint venture between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent Subrecipient.

#### **C. Hold Harmless**

The Subrecipient shall hold harmless, defend and indemnify the City from any and all claims, suits, charges, damages, costs, fees, expenses and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or other subject matter called for or otherwise provided in this Agreement.

**D. Workers' Compensation**

The Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

**E. Insurance and Bonding**

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to the total cash advances from the City.

**F. Amendments**

The City or Subrecipient may amend this Agreement at any time provided that such amendment(s) make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and approved by the City Council. Such amendment(s) shall not invalidate this Agreement nor relieve or release the City or Subrecipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with federal, state or local governmental law, rules, guidelines, regulations, policies and/or available funding amounts or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City and Subrecipient.

**G. Suspension or Termination**

Either party may terminate this Agreement at any time by giving written notice to the other party of termination and specifying the effective date thereof, at least 30 days before the effective date of such termination. Partial terminations of the Scope of Service may only be undertaken with the prior written approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement shall, at the option of the City, become the property of the City and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to termination.

In accordance with 24 CFR 85.43 and 44 the City may suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the law, rules, regulations or provisions referred to herein and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is reason to believe the Subrecipient is in noncompliance with any applicable law, rules or regulations, the City may withhold up to fifteen (15) percent of said contract funds until such time as the Subrecipient is found to be in compliance by the City or is otherwise found by the City to be in compliance.

## **VI. ADMINISTRATIVE REQUIREMENTS**

### **A. Uniform Administrative Requirements**

#### **1. Accounting Standards**

The Subrecipient agrees to comply with the *Uniform Requirements* for accounting principles and procedures required therein, to utilize adequate internal controls and maintain necessary source documentation for all costs incurred. Subrecipient shall comply and/or cause compliance with all audit reports required by the City and in conformity with 2 CFR 200.501 *et. seq.* as applicable. (See also B. 7 below)

#### **2. Cost Principles**

The Subrecipient shall administer its program in conformance with the *Uniform Requirements* pertaining to cost as applicable. These principles shall be applied for all costs incurred.

### **B. Documentation and Record-Keeping**

#### **1. Records to be Maintained**

The Subrecipient shall maintain all required records required specified in 24 CFR Part 570.506. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program;
- f. Financial records as required by 24 CFR Part 570.502, and 2 CFR Part 200 *et. seq.* and
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

#### **2. Retention**

The Subrecipient shall retain all required records incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and the same has started before the expiration of the three-year period, then such records must be retained until completion of the action(s) and resolution of all issues or the expiration of the three-year period, whichever occurs later.

#### **3. Disclosure**

The Subrecipient understands that client information collected under this Agreement is private and the unauthorized use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited except as allowed or provided by law.



#### **4. Access to Records**

The Subrecipient shall furnish and cause each of its own subrecipients and/or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent or other authorized officials for purposes of investigation to ascertain compliance with the law, rule, regulations and provisions stated herein. The Subrecipient understands that the City, the Comptroller General and the Secretary of HUD shall have access to all records related to this project.

#### **5. Reversion of Assets**

The Subrecipient shall describe in writing in a form established by the City, all CDBG Assets to be obtained as a result of the funded activity. CDBG Asset shall mean an asset(s) purchased in whole or in part with CDBG funds or improved in whole or in part with CDBG funds and having a fair market value of -- NA -- or greater.

The City shall have a security interest in any and all CDBG Assets and after being obtained by the Subrecipient the City's security interest shall be perfected by means of: a) a deed of trust for real estate, encumbering the Subrecipient's equity in the real estate; or b) a lien notation on the certificate of title for a motor vehicle(s); or c) a security agreement and financing statement for personal property; or d) an assignment of accounts receivable for accounts receivable. The deed of trust shall be recorded with the Mesa County Clerk, the lien with the Colorado Department of Revenue and the financing statement and assignment of accounts recorded with the Colorado Secretary of State. The account debtors will be notified in writing of the assignment of accounts receivable. The Subrecipient shall transfer to the City any Community Development Block Grant funds related to this project on hand at the time of expiration of this Agreement and/or any accounts receivable of Community Development Block Grant funds related to this project. The instruments necessary to perfect the security interest will be prepared by the City Attorney. The Subrecipient shall pay all recording fees and mailing costs with other than CDBG funds.

If the Subrecipient ceases to use a CDBG Asset for CDBG purposes, the City may, in its discretion, direct the Subrecipient to convey the CDBG Asset to the City or require the Subrecipient to repay the CDBG funds that were used in whole or in part to acquire the CDBG Asset. The instruments necessary to convey the CDBG Asset will be prepared by the City Attorney.

In accordance with 24 CFR 570.503(b)(7) any real property under the Subrecipient's control that was acquired or improved, in whole or in part, with CDBG Funds (including CDBG funds provided to the Subrecipient in the form of a loan) shall, at the option of the City either a) be used for an eligible CDBG activity, as determined by the City and as provide for in a legal instrument(s) creating the interest, for a period of at least 5 years after the expiration of this Agreement or such longer period as the City may require or b) be disposed of in a manner that results in the City's being reimbursed in the lesser amount of the CDBG funds that were expended on the real property or the current fair market value of the property, less any portion of the value attributable to the expenditure of non-CDBG funds for acquisition or improvement(s) to the property.

The Subrecipient agrees to use all improvements made to the real property, with CDBG funds, as set forth in Exhibit "A."

## **6. Program Income**

The Subrecipient agrees that it shall not use CDBG funds in any manner which shall provide income to the Subrecipient. Any interest income earned on funds generated through the use of investment of funds received from CDBG shall be cause, in the sole discretion of the City, for recapture of such income and/or the full amount of funds granted to the Subrecipient.

The Subrecipient shall report quarterly all program income (as defined by 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitation, the Subrecipient may use such income during the contract period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program balance(s) on hand. All unexpended program income shall be returned to the City at the end of the contract period as required by 24 CFR 570.503(b)(7). Any interest earned on cash advances from the US Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the City.

## **7. Audits and Inspections**

All Subrecipient records with respect to any matters covered by the Agreement shall be made available to the City, their designees and/or the federal government, at any time during normal business hours, as often as the City deems necessary, to audit, examine and make excerpts or transcripts of all data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt of notice of deficiency. Failure of the Subrecipient to comply with the above audit requirements constitutes a violation of this Agreement and may result in the withholding of payment(s).

The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with City policy and, as applicable, the *Uniform Requirements*.

## **C. Reporting, Payment and Procurement Procedures**

### **1. Indirect Costs**

Indirect costs are not allowed and shall not be charged. The Subrecipient shall not develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall not submit such plan to the City for approval, in a form specified by the City.

### **2. Payment Procedures**

The City will pay to the Subrecipient funds available under this agreement based upon information submitted by the Subrecipient and consistent with the approved budget and any City policies concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed the actual grant award. In addition, the City reserves the right to liquidate funds available under this agreement for costs incurred by the City on behalf of the Subrecipient.

### **3. Progress Reports**

The Subrecipient shall submit Progress Reports to the City in the time and manner specified in Exhibit A of this Agreement.

#### **D. Procurement – Uniform Requirements**

The Subrecipient shall procure all materials, property or services in accordance with the *Uniform Requirements* of 2 CFR Part 200 *et. seq.*

### **VII. RELOCATION, REAL PROPERTY ACQUISITION, AND ONE-FOR-ONE HOUSING REPLACEMENT**

The Subrecipient and the City agree that no persons are being displaced. But if they were Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations of 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in §570.606(d) governing optional relocation policies. The Subrecipient shall provide relocation assistance to persons who are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project.

### **VIII. PERSONNEL AND PARTICIPANT CONDITIONS**

#### **A. Civil Rights**

##### **1. Compliance**

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

##### **2. Nondiscrimination**

The Subrecipient shall not discriminate against any person, employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

##### **3. Land Covenants**

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant and will not itself

discriminate.

#### **4. Section 504**

The Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706) which prohibits discrimination against the handicapped in any federally assisted program.

### **B. Affirmative Action**

#### **1. Approved Plan**

The Subrecipient agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The Subrecipient shall submit a plan for an Affirmative Action Program for approval by the City.

#### **2. W/MBE**

The Subrecipient will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and women-owned business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

#### **3. EEO/AA Statement**

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

#### **4. Subcontractor Provisions**

The Subrecipient shall include the provisions of Paragraphs VIII A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

### **C. Employment Restrictions-Prohibited Activity**

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage and nepotism activities.

### **D. Conduct**

#### **1. Assignability**

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City; provided, however, that claims for money due to the Subrecipient from the City under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notice of assignment or transfer to a bank or other financial institution shall be furnished promptly to the City.

#### **2. Subcontracts**

- a. The Subrecipient shall not enter into any subcontracts with any agency or

individual in the performance of this Agreement without the written consent of the City. b. The Subrecipient understands that the City and/or HUD will monitor the Subrecipient for compliance with this Agreement. c. The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement. d. The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

### **3. Hatch Act**

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

### **4. Conflict of Interest**

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

### **5. Lobbying**

**The Subrecipient certifies that:**

- a. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement;
- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "*Disclosure Form to Report Lobbying*," in accordance with instructions;
- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification - Paragraph d - This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each failure.

## **6. Copyright**

If this Agreement results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

## **7. Religious Organization**

The Subrecipient agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 570.200(j).

## **E. "Section 3" Clause**

### **1. Compliance**

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the federal financial assistance provided under this agreement and binding upon the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for the low- and very low-income persons residing in the metropolitan area in which the project is located."

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation, housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in

connection with a housing rehabilitation, housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

## **2. Subcontracts**

The Subrecipient shall include the foregoing Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

## **IX. ENVIRONMENTAL CONDITIONS**

### **A. Air and Water**

The Subrecipient agrees to comply with the following insofar as they apply to the performance of this Agreement. (The Subrecipient does not assume the City's environmental responsibilities described in §570.604 nor does it assume the responsibility for initiating the review process under 24 CFR Part 52.) *Clean Air Act*, 42 U.S.C., 7401, et seq.; *Water Pollution Control Act*, as amended, 33 U.S.C. 1251, et seq., as amended, 1319 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder and Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

### **B. Flood Disaster Protection**

In accordance with the requirements of the *Flood Disaster Protection Act* of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

### **C. Lead-Based Paint**

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.





#### **D. Historic Preservation**

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the *National Historic Preservation Act* of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

### **X. CONSTRUCTION CONDITIONS**

#### **A. Labor Standards**

The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the *Davis-Bacon Act* as amended, the provisions of *Contract Work Hours and Safety Standards Act*, the *Copeland Anti-Kickback Act* (40 USC 276a-276a-5; 40 USC 327 and 40 USC 276 c) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements. Such documentation shall be made available to the City for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this agreement, shall comply with federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

#### **B. Asbestos**

The Contractor/Subrecipient where undertaking renovation, rehabilitation, or demolition actions shall follow the notification and strict work practices for asbestos handling, removal, storage and transport as required under 40 CFR Part 61, Subpart m and 40 CFR Part 763 as well as for worker protection standards and exposures as required under 29 CFR 1910.1001 (non-construction), 1926.58 (construction), 40 CFR Part 763, Subpart G, and any applicable local regulations.

#### **C. Energy Efficiency**

The Contractor/Subrecipient shall comply with the *1989 Model Energy Code*, incorporated herein by this reference, for all new buildings constructed under this Agreement to address federal energy efficiency requirements found at 24 CFR 85.36 (i) (13) incorporated herein by this reference.

### **XI. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

**XII. ENTIRE AGREEMENT**

The provisions set forth in items I-XI, and all attachments to this Agreement which includes the Subrecipient's lease with the City, constitute the entire Agreement between the parties hereto and no statement, promise, conditions, understanding, inducement or representation, oral or written, express or implied, which is not contained herein shall be binding or valid.

IN WITNESS WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

CITY OF GRAND JUNCTION, COLORADO

BY:

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

SUBRECIPIENT:

BY: \_\_\_\_\_  
Signature Title

ATTEST: \_\_\_\_\_

**2017 SUBRECIPIENT CONTRACT FOR  
CITY OF GRAND JUNCTION  
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS  
EXHIBIT A  
SCOPE OF SERVICES**

**Date Approved:** \_\_\_\_\_

**Amount of Grant: \$10,400**

**Subrecipient: Karis, Inc.**

**Completion Date: December 31, 2018**

1. The City agrees to pay the Subrecipient, subject to the subrecipient agreement, this Exhibit and attachment to it, \$10,400 from its 2017 Program Year CDBG Entitlement Funds for integrated mental health services for youth at its various facilities in Grand Junction, Colorado ("Property"). Subrecipient provides housing and support services for homeless, unaccompanied teens and youth in the community.
2. The Subrecipient certifies that it will meet the CDBG National Objective of low/moderate income benefit (570.201 (e)) – youth. It shall meet this objective by completing the above-referenced (example: housing rehabilitation for low/moderate income, developmentally disabled persons) in Grand Junction, Colorado.
3. The project consists of providing mental health and substance abuse counseling services to Karis clients at its various housing facilities in the City limits (undisclosed locations). The Properties are currently owned and operated by Subrecipient which will continue to operate the housing and service facilities. It is understood that \$10,400 of City CDBG funds shall be used only for the services described in this agreement. Costs associated with any other elements of the project shall be paid for by other funding sources obtained by the Subrecipient.
4. This project shall commence upon the full and proper execution of the 2017 Subrecipient Agreement and the completion of all necessary and appropriate state and local licensing, environmental permit review, approval and compliance. The project shall be completed on or before the Completion Date.
5. The total budget for the project is estimated to be \$39,260 as follows:  
  
CDBG Funds: \$10,400    Other Funds: \$28,860
6. This project will provide for an increase in direct service hours per week for two clinicians to a total of 40 hours per week.

\_\_\_\_\_ Subrecipient

\_\_\_\_\_ City of Grand Junction

7. The City shall monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this agreement are met in accordance with City and other applicable monitoring and evaluating criteria and standards. The Subrecipient shall cooperate with the City relating to monitoring, evaluation and inspection and compliance.
8. The Subrecipient shall provide quarterly financial and performance reports to the City. Reports shall describe the progress of the project, what activities have occurred, what activities are still planned, financial status, compliance with National Objectives and other information as may be required by the City. A final report shall also be submitted when the project is completed.
9. During a period of five (5) years following the Completion Date the use of the Properties improved may not change unless: A) the City determines the new use meets one of the National Objectives of the CDBG Program, and B) the Subrecipient provides affected citizens with reasonable notice and an opportunity to comment on any proposed changes. If the Subrecipient decides, after consultation with affected citizens that it is appropriate to change the use of the Properties to a use which the City determines does not qualify in meeting a CDBG National Objective, the Subrecipient must reimburse the City a prorated share of the Amount of the Grant the City makes to the project. At the end of the five-year period following the project closeout date and thereafter, no City restrictions under this agreement on use of the Properties shall be in effect.
10. The Subrecipient understands that the funds described in the Agreement are received by the City from the U.S. Department of Housing and Urban Development under the Community Development Block Grant Program. The Subrecipient shall meet all City and federal requirements for receiving Community Development Block Grant funds, whether or not such requirements are specifically listed in this Agreement. The Subrecipient shall provide the City with documentation establishing that all local and federal CDBG requirements have been met.
11. A blanket fidelity bond equal to cash advances as referenced in Paragraph V. (E) will not be required as long as no cash advances are made and payment is on a reimbursement basis.
12. A formal project notice will be sent to the Subrecipient once all funds are expended and a final report is received.

\_\_\_\_\_ Subrecipient

\_\_\_\_\_ City of Grand Junction

## Attachment 1 – Performance Measures

### 1. Output Measures

- A. Total Number of unduplicated clients anticipated to be served during the contract: 185
- B. Number of unduplicated LMI City residents to be served during the contract: 185
- C. Of the City residents to be served, how many will: i) have new or continued access to the service/benefit\_\_\_\_; ii) have improved access to the service or benefit: 185 ; and iii) receive the service or benefit that is improved/no longer substandard\_\_\_\_.

### 2.) Schedule of Performance

Estimate the number of unduplicated City residents to be served per quarter of the contract:

Q1: 46 Q2: 46 Q3: 46 Q4: 47

### 3) Payment Schedule

During the contract, funds will be drawn Q1: 25% Q2: 25% Q3: 25% Q4: 25%

### 4) Outcome Measures

**Activity** (select one) \_\_\_ Senior Service X Youth Service \_\_\_ Homeless Service  
\_\_\_ Disabled Service \_\_\_ LMI Service \_\_\_ Fair Housing Service \_\_\_ Housing \_\_\_ Other  
(insert specify)

**Primary Objective** (select one) X Create a suitable living environment \_\_\_ Provide decent, affordable housing \_\_\_ Create economic opportunity(ies)

**Primary Outcome Measurement** (select one) \_\_\_ Availability/Accessibility \_\_\_ Affordability  
X Sustainability

*Summarize the means by which outcomes will be tracked, measured and reported:*

The types of persons served are of special need (homeless). All clients complete a thorough intake and assessment upon admission. Specific questions are asked concerning living situation and income.

\_\_\_\_\_ Subrecipient

\_\_\_\_\_ City of Grand Junction

**2017 SUBRECIPIENT CONTRACT  
CITY OF GRAND JUNCTION, COLORADO AS GRANTEE  
UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**Date Approved:** \_\_\_\_\_  
**Amount of Grant:** \$15,000  
**Subrecipient:** HomewardBound of the Grand Valley  
**Completion Date:** December 31, 2018

**I. AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_ day of \_\_\_\_\_, 201\_\_\_ by and between the CITY OF GRAND JUNCTION, COLORADO (hereinafter referred to as "*City*"), and HomewardBound of the Grand Valley, a not-for-profit agency (hereinafter referred to as "*Subrecipient*").

***Recitals:***

The *City* as an entitlement recipient and grantee of the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) program does hereby enter this Agreement with the *Subrecipient* for the expenditure of CDBG funds in accordance with Title 24, Part 570 of the Code of Federal Regulations (24 CFR 570.000 *et. seq.* hereinafter referred to as *CDBG Regulations* and the *Uniform Requirements* in accordance with Title 2 Part 200 of the Code of Federal Regulations (2 CFR 200 *et. seq.*)

Pursuant to such Agreement the City has awarded the Subrecipient CDBG funds to undertake certain activities necessary for the execution of certain projects the City deems necessary, desirable and in furtherance of the purposes of the program. To accomplish those goals, the City does agree to disburse funds to the Subrecipient to execute its project in accordance with the CDBG Regulations and this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals which are a substantive part of this Agreement and the following provisions which are approved by the City and the Subrecipient, they mutually agree as follows:

**II. SUBRECIPIENT OBLIGATIONS AND SCOPE OF SERVICES**

**A. Activities**

The sub-granting of CDBG funds to and the scope of services to be rendered by the Subrecipient shall be for the provision of the services described in Exhibit A attached hereto and made a part of this Agreement. Subrecipient agrees to perform the work described in Exhibit A in compliance with all provisions of this Agreement and it agrees to conduct all activities of the Subrecipient, whether funded in whole or in part by CDBG funds from the City in accordance with the provisions contained in 24 CFR 85 and 570 *et. seq.* and *inter alia*. Subrecipient warrants and represents that it has the requisite authority and capacity to perform all terms and conditions to be performed hereunder as required by this Agreement or by law and that there is adequate consideration to support the making and enforcement of this Agreement.

**B. National Objectives**

Subrecipient certifies that the activities carried out with funds provided under this Agreement

meet one or more of the CDBG program's National Objectives. The specific National Objective to be met and how it will be met by the Subrecipient is described in Exhibit A attached to and incorporated by reference into this Agreement.

### **C. Client Data**

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility and description of service provided. Such information shall be made available to the City or its designees for review upon request.

## **III. RESPONSIBILITY OF THE CITY**

The City shall designate representative(s) of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the execution of this Agreement and disbursing funds in connection with the program in accordance with the Agreement.

## **IV. PAYMENT**

If Subrecipient is not in default hereunder, and subject to City's receipt of the Department of Housing and Urban Development Community Development Block Grant funds and provided that the Agreement and Scope of Services are eligible expenditures of Community Development Block Grant funds, the City agrees to pay the Subrecipient a total dollar amount that is described on Exhibit A of this Agreement. Payment shall be made upon presentation of invoices which Subrecipient certifies are true and correct copies of payments due on behalf of the Subrecipient, for an activity covered by this Agreement and made in accordance and compliance with the Scope of Services. Payment may be withheld by the City in the event of non-performance by Subrecipient. The City may, at its sole discretion, retain 10% of each disbursement with final payment made upon successful completion of the project including satisfactory compliance with all City, state and federal requirements.

## **V. GENERAL CONDITIONS**

### **A. General Compliance**

The Subrecipient also agrees to comply with all other applicable federal, state and local laws, regulations and policies governing the funds provided under and the obligations imposed by this Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

### **B. Independent Contractor**

Nothing contained in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of employer/employee or a partnership or joint venture between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent Subrecipient.

### **C. Hold Harmless**

The Subrecipient shall hold harmless, defend and indemnify the City from any and all claims, suits, charges, damages, costs, fees, expenses and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or other subject matter called for or otherwise provided in this Agreement.

**D. Workers' Compensation**

The Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

**E. Insurance and Bonding**

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to the total cash advances from the City.

**F. Amendments**

The City or Subrecipient may amend this Agreement at any time provided that such amendment(s) make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and approved by the City Council. Such amendment(s) shall not invalidate this Agreement nor relieve or release the City or Subrecipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with federal, state or local governmental law, rules, guidelines, regulations, policies and/or available funding amounts or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City and Subrecipient.

**G. Suspension or Termination**

Either party may terminate this Agreement at any time by giving written notice to the other party of termination and specifying the effective date thereof, at least 30 days before the effective date of such termination. Partial terminations of the Scope of Service may only be undertaken with the prior written approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement shall, at the option of the City, become the property of the City and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to termination.

In accordance with 24 CFR 85.43 and 44 the City may suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the law, rules, regulations or provisions referred to herein and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is reason to believe the Subrecipient is in noncompliance with any applicable law, rules or regulations, the City may withhold up to fifteen (15) percent of said contract funds until such time as the Subrecipient is found to be in compliance by the City or is otherwise found by the City to be in compliance.



## **VI. ADMINISTRATIVE REQUIREMENTS**

### **A. Uniform Administrative Requirements**

#### **1. Accounting Standards**

The Subrecipient agrees to comply with the *Uniform Requirements* for accounting principles and procedures required therein, to utilize adequate internal controls and maintain necessary source documentation for all costs incurred. Subrecipient shall comply and/or cause compliance with all audit reports required by the City and in conformity with 2 CFR 200.501 *et. seq.* as applicable. (See also B. 7 below)

#### **2. Cost Principles**

The Subrecipient shall administer its program in conformance with the *Uniform Requirements* pertaining to cost as applicable. These principles shall be applied for all costs incurred.

### **B. Documentation and Record-Keeping**

#### **1. Records to be Maintained**

The Subrecipient shall maintain all required records required specified in 24 CFR Part 570.506. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program;
- f. Financial records as required by 24 CFR Part 570.502, and 2 CFR Part 200 *et. seq.* and
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

#### **2. Retention**

The Subrecipient shall retain all required records incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and the same has started before the expiration of the three-year period, then such records must be retained until completion of the action(s) and resolution of all issues or the expiration of the three-year period, whichever occurs later.

#### **3. Disclosure**

The Subrecipient understands that client information collected under this Agreement is private and the unauthorized use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited except as allowed or provided by law.

#### **4. Access to Records**

The Subrecipient shall furnish and cause each of its own subrecipients and/or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent or other authorized officials for purposes of investigation to ascertain compliance with the law, rule, regulations and provisions stated herein. The Subrecipient understands that the City, the Comptroller General and the Secretary of HUD shall have access to all records related to this project.

#### **5. Reversion of Assets**

The Subrecipient shall describe in writing in a form established by the City, all CDBG Assets to be obtained as a result of the funded activity. CDBG Asset shall mean an asset(s) purchased in whole or in part with CDBG funds or improved in whole or in part with CDBG funds and having a fair market value of - NA - or greater.

The City shall have a security interest in any and all CDBG Assets and after being obtained by the Subrecipient the City's security interest shall be perfected by means of: a) a deed of trust for real estate, encumbering the Subrecipient's equity in the real estate; or b) a lien notation on the certificate of title for a motor vehicle(s); or c) a security agreement and financing statement for personal property; or d) an assignment of accounts receivable for accounts receivable. The deed of trust shall be recorded with the Mesa County Clerk, the lien with the Colorado Department of Revenue and the financing statement and assignment of accounts recorded with the Colorado Secretary of State. The account debtors will be notified in writing of the assignment of accounts receivable. The Subrecipient shall transfer to the City any Community Development Block Grant funds related to this project on hand at the time of expiration of this Agreement and/or any accounts receivable of Community Development Block Grant funds related to this project. The instruments necessary to perfect the security interest will be prepared by the City Attorney. The Subrecipient shall pay all recording fees and mailing costs with other than CDBG funds.

If the Subrecipient ceases to use a CDBG Asset for CDBG purposes, the City may, in its discretion, direct the Subrecipient to convey the CDBG Asset to the City or require the Subrecipient to repay the CDBG funds that were used in whole or in part to acquire the CDBG Asset. The instruments necessary to convey the CDBG Asset will be prepared by the City Attorney.

In accordance with 24 CFR 570.503(b)(7) any real property under the Subrecipient's control that was acquired or improved, in whole or in part, with CDBG Funds (including CDBG funds provided to the Subrecipient in the form of a loan) shall, at the option of the City either a) be used for an eligible CDBG activity, as determined by the City and as provide for in a legal instrument(s) creating the interest, for a period of at least 5 years after the expiration of this Agreement or such longer period as the City may require or b) be disposed of in a manner that results in the City's being reimbursed in the lesser amount of the CDBG funds that were expended on the real property or the current fair market value of the property, less any portion of the value attributable to the expenditure of non-CDBG funds for acquisition or improvement(s) to the property.

The Subrecipient agrees to use all improvements made to the real property, with CDBG funds, as set forth in Exhibit "A."

## **6. Program Income**

The Subrecipient agrees that it shall not use CDBG funds in any manner which shall provide income to the Subrecipient. Any interest income earned on funds generated through the use of investment of funds received from CDBG shall be cause, in the sole discretion of the City, for recapture of such income and/or the full amount of funds granted to the Subrecipient.

The Subrecipient shall report quarterly all program income (as defined by 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitation, the Subrecipient may use such income during the contract period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program balance(s) on hand. All unexpended program income shall be returned to the City at the end of the contract period as required by 24 CFR 570.503(b)(7). Any interest earned on cash advances from the US Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the City.

## **7. Audits and Inspections**

All Subrecipient records with respect to any matters covered by the Agreement shall be made available to the City, their designees and/or the federal government, at any time during normal business hours, as often as the City deems necessary, to audit, examine and make excerpts or transcripts of all data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt of notice of deficiency. Failure of the Subrecipient to comply with the above audit requirements constitutes a violation of this Agreement and may result in the withholding of payment(s).

The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with City policy and, as applicable, the *Uniform Requirements*.

## **C. Reporting, Payment and Procurement Procedures**

### **1. Indirect Costs**

Indirect costs are not allowed and shall not be charged. The Subrecipient shall not develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall not submit such plan to the City for approval, in a form specified by the City.

### **2. Payment Procedures**

The City will pay to the Subrecipient funds available under this agreement based upon information submitted by the Subrecipient and consistent with the approved budget and any City policies concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed the actual grant award. In addition, the City reserves the right to liquidate funds available under this agreement for costs incurred by the City on behalf of the Subrecipient.

### **3. Progress Reports**

The Subrecipient shall submit Progress Reports to the City in the time and manner specified in Exhibit A of this Agreement.

#### **D. Procurement – Uniform Requirements**

The Subrecipient shall procure all materials, property or services in accordance with the *Uniform Requirements* of 2 CFR Part 200 *et. seq.*

### **VII. RELOCATION, REAL PROPERTY ACQUISITION, AND ONE-FOR-ONE HOUSING REPLACEMENT**

The Subrecipient and the City agree that no persons are being displaced. But if they were Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations of 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in §570.606(d) governing optional relocation policies. The Subrecipient shall provide relocation assistance to persons who are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project.

### **VIII. PERSONNEL AND PARTICIPANT CONDITIONS**

#### **A. Civil Rights**

##### **1. Compliance**

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

##### **2. Nondiscrimination**

The Subrecipient shall not discriminate against any person, employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

##### **3. Land Covenants**

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant and will not itself

discriminate.

#### **4. Section 504**

The Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706) which prohibits discrimination against the handicapped in any federally assisted program.

### **B. Affirmative Action**

#### **1. Approved Plan**

The Subrecipient agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The Subrecipient shall submit a plan for an Affirmative Action Program for approval by the City.

#### **2. W/MBE**

The Subrecipient will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and women-owned business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

#### **3. EEO/AA Statement**

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

#### **4. Subcontractor Provisions**

The Subrecipient shall include the provisions of Paragraphs VIII A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

### **C. Employment Restrictions-Prohibited Activity**

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage and nepotism activities.

### **D. Conduct**

#### **1. Assignability**

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City; provided, however, that claims for money due to the Subrecipient from the City under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notice of assignment or transfer to a bank or other financial institution shall be furnished promptly to the City.

#### **2. Subcontracts**

- a. The Subrecipient shall not enter into any subcontracts with any agency or

individual in the performance of this Agreement without the written consent of the City. b. The Subrecipient understands that the City and/or HUD will monitor the Subrecipient for compliance with this Agreement. c. The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement. d. The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

### **3. Hatch Act**

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

### **4. Conflict of Interest**

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

### **5. Lobbying**

**The Subrecipient certifies that:**

- a. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement;
- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "*Disclosure Form to Report Lobbying*," in accordance with instructions;
- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification - Paragraph d - This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each failure.

## **6. Copyright**

If this Agreement results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

## **7. Religious Organization**

The Subrecipient agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 570.200(j).

## **E. "Section 3" Clause**

### **1. Compliance**

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the federal financial assistance provided under this agreement and binding upon the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for the low- and very low-income persons residing in the metropolitan area in which the project is located."

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation, housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in

connection with a housing rehabilitation, housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

## **2. Subcontracts**

The Subrecipient shall include the foregoing Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

## **IX. ENVIRONMENTAL CONDITIONS**

### **A. Air and Water**

The Subrecipient agrees to comply with the following insofar as they apply to the performance of this Agreement. (The Subrecipient does not assume the City's environmental responsibilities described in §570.604 nor does it assume the responsibility for initiating the review process under 24 CFR Part 52.) *Clean Air Act*, 42 U.S.C., 7401, et seq.; *Water Pollution Control Act*, as amended, 33 U.S.C. 1251, et seq., as amended, 1319 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder and Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

### **B. Flood Disaster Protection**

In accordance with the requirements of the *Flood Disaster Protection Act* of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

### **C. Lead-Based Paint**

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.





#### **D. Historic Preservation**

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the *National Historic Preservation Act* of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

### **X. CONSTRUCTION CONDITIONS**

#### **A. Labor Standards**

The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the *Davis-Bacon Act* as amended, the provisions of *Contract Work Hours and Safety Standards Act*, the *Copeland Anti-Kickback Act* (40 USC 276a-276a-5; 40 USC 327 and 40 USC 276 c) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements. Such documentation shall be made available to the City for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this agreement, shall comply with federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

#### **B. Asbestos**

The Contractor/Subrecipient where undertaking renovation, rehabilitation, or demolition actions shall follow the notification and strict work practices for asbestos handling, removal, storage and transport as required under 40 CFR Part 61, Subpart m and 40 CFR Part 763 as well as for worker protection standards and exposures as required under 29 CFR 1910.1001 (non-construction), 1926.58 (construction), 40 CFR Part 763, Subpart G, and any applicable local regulations.

#### **C. Energy Efficiency**

The Contractor/Subrecipient shall comply with the *1989 Model Energy Code*, incorporated herein by this reference, for all new buildings constructed under this Agreement to address federal energy efficiency requirements found at 24 CFR 85.36 (i) (13) incorporated herein by this reference.

**XI. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

**XII. ENTIRE AGREEMENT**

The provisions set forth in items I-XI, and all attachments to this Agreement which includes the Subrecipient's lease with the City, constitute the entire Agreement between the parties hereto and no statement, promise, conditions, understanding, inducement or representation, oral or written, express or implied, which is not contained herein shall be binding or valid.

IN WITNESS WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

CITY OF GRAND JUNCTION, COLORADO

BY:

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

SUBRECIPIENT:

BY: \_\_\_\_\_  
Signature Title

ATTEST: \_\_\_\_\_

**2017 SUBRECIPIENT CONTRACT FOR  
CITY OF GRAND JUNCTION  
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS  
EXHIBIT A  
SCOPE OF SERVICES**

**Date Approved:** \_\_\_\_\_

**Amount of Grant: \$15,000**

**Subrecipient: HomewardBound of the Grand Valley**

**Completion Date: December 31, 2018**

1. The City agrees to pay the Subrecipient, subject to the subrecipient agreement, this Exhibit and attachment to it, \$15,000 from its 2017 Program Year CDBG Entitlement Funds to purchase food for meals served at the shelter at 2853 North Avenue, Grand Junction, Colorado ("Property"). Subrecipient provides year-round overnight emergency shelter for up to 180 individuals per night with meals, bedding, hot showers and community outreach opportunities.
2. The Subrecipient certifies that it will meet the CDBG National Objective of low/moderate income and homeless benefit (570.201(e)). It shall meet this objective by completing the above-referenced purchase of food for meals served to homeless persons at the shelter in Grand Junction, Colorado.
3. The project consists of the purchase of food for meals served at the shelter. In 2016, the shelter provided 116,207 nutritious meals for breakfast and dinners. 13,980 additional meals are expected to be served this year. CDBG funds will help fund the gap to purchase food for this expected increase. The Property is currently owned and operated by Subrecipient which will continue to operate the community shelter facility. It is understood that \$15,000 of City CDBG funds shall be used only for the improvements described in this agreement. Costs associated with any other elements of the project shall be paid for by other funding sources obtained by the Subrecipient.
4. This project shall commence upon the full and proper execution of the 2017 Subrecipient Agreement and the completion of all necessary and appropriate state and local licensing, environmental permit review, approval and compliance. The project shall be completed on or before the Completion Date.
5. The total budget for the project is estimated to be \$25,000 as follows:

CDBG Funds: \$15,000    Other Funds: \$10,000
6. This project will help fund the gap in food expenses for the expected increase in the number of meals served at the shelter.

\_\_\_\_\_ Subrecipient

\_\_\_\_\_ City of Grand Junction

7. The City shall monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this agreement are met in accordance with City and other applicable monitoring and evaluating criteria and standards. The Subrecipient shall cooperate with the City relating to monitoring, evaluation and inspection and compliance.
8. The Subrecipient shall provide quarterly financial and performance reports to the City. Reports shall describe the progress of the project, what activities have occurred, what activities are still planned, financial status, compliance with National Objectives and other information as may be required by the City. A final report shall also be submitted when the project is completed.
9. During a period of five (5) years following the Completion Date the use of the Properties improved may not change unless: A) the City determines the new use meets one of the National Objectives of the CDBG Program, and B) the Subrecipient provides affected citizens with reasonable notice and an opportunity to comment on any proposed changes. If the Subrecipient decides, after consultation with affected citizens that it is appropriate to change the use of the Properties to a use which the City determines does not qualify in meeting a CDBG National Objective, the Subrecipient must reimburse the City a prorated share of the Amount of the Grant the City makes to the project. At the end of the five-year period following the project closeout date and thereafter, no City restrictions under this agreement on use of the Properties shall be in effect.
10. The Subrecipient understands that the funds described in the Agreement are received by the City from the U.S. Department of Housing and Urban Development under the Community Development Block Grant Program. The Subrecipient shall meet all City and federal requirements for receiving Community Development Block Grant funds, whether or not such requirements are specifically listed in this Agreement. The Subrecipient shall provide the City with documentation establishing that all local and federal CDBG requirements have been met.
11. A blanket fidelity bond equal to cash advances as referenced in Paragraph V. (E) will not be required as long as no cash advances are made and payment is on a reimbursement basis.
12. A formal project notice will be sent to the Subrecipient once all funds are expended and a final report is received.

\_\_\_\_\_ Subrecipient

\_\_\_\_\_ City of Grand Junction

## Attachment 1 – Performance Measures

### 1. Output Measures

- A. Total Number of unduplicated clients anticipated to be served during the contract: 1,358
- B. Number of unduplicated LMI City residents to be served during the contract: 1,358
- C. Of the City residents to be served, how many will: i) have new or continued access to the service/benefit 100%; ii) have improved access to the service or benefit NA ; and iii) receive the service or benefit that is improved/no longer substandard NA.

### 2.) Schedule of Performance

Estimate the number of unduplicated City residents to be served per quarter of the contract:

Q1: 340 Q2: 340 Q3: 340 Q4: 340

### 3) Payment Schedule

During the contract, funds will be drawn Q1: 75% Q2: 25% Q3: 0 Q4: 0

### 4) Outcome Measures

**Activity** (select one) \_\_\_ Senior Service \_\_\_ Youth Service X Homeless Service  
\_\_\_ Disabled Service \_\_\_ LMI Service \_\_\_ Fair Housing Service \_\_\_ Housing \_\_\_ Other  
(insert specify)

**Primary Objective** (select one) X Create a suitable living environment \_\_\_ Provide decent, affordable housing \_\_\_ Create economic opportunity(ies)

**Primary Outcome Measurement** (select one) \_\_\_ Availability/Accessibility \_\_\_ Affordability  
X Sustainability

*Summarize the means by which outcomes will be tracked, measured and reported*

The type of persons served are of special need (presumed benefit) – homeless. Each person or family fills out an intake form from which outcomes are tracked, measured and reported.

\_\_\_\_\_ Subrecipient

\_\_\_\_\_ City of Grand Junction

**2017 SUBRECIPIENT CONTRACT  
CITY OF GRAND JUNCTION, COLORADO AS GRANTEE  
UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**Date Approved:** \_\_\_\_\_

**Amount of Grant: \$16,000**

**Subrecipient: St. Mary's Foundation Gray Gourmet Program**

**Completion Date: December 31, 2018**

**I. AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_ day of \_\_\_\_\_, 201\_\_ by and between the CITY OF GRAND JUNCTION, COLORADO (hereinafter referred to as "*City*"), and St. Mary's Foundation Gray Gourmet Program, a not-for-profit agency (hereinafter referred to as "*Subrecipient*").

***Recitals:***

The *City* as an entitlement recipient and grantee of the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) program does hereby enter this Agreement with the *Subrecipient* for the expenditure of CDBG funds in accordance with Title 24, Part 570 of the Code of Federal Regulations (24 CFR 570.000 *et. seq.* hereinafter referred to as *CDBG Regulations* and the *Uniform Requirements* in accordance with Title 2 Part 200 of the Code of Federal Regulations (2 CFR 200 *et. seq.*)

Pursuant to such Agreement the City has awarded the Subrecipient CDBG funds to undertake certain activities necessary for the execution of certain projects the City deems necessary, desirable and in furtherance of the purposes of the program. To accomplish those goals, the City does agree to disburse funds to the Subrecipient to execute its project in accordance with the CDBG Regulations and this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals which are a substantive part of this Agreement and the following provisions which are approved by the City and the Subrecipient, they mutually agree as follows:

**II. SUBRECIPIENT OBLIGATIONS AND SCOPE OF SERVICES**

**A. Activities**

The sub-granting of CDBG funds to and the scope of services to be rendered by the Subrecipient shall be for the provision of the services described in Exhibit A attached hereto and made a part of this Agreement. Subrecipient agrees to perform the work described in Exhibit A in compliance with all provisions of this Agreement and it agrees to conduct all activities of the Subrecipient, whether funded in whole or in part by CDBG funds from the City in accordance with the provisions contained in 24 CFR 85 and 570 *et. seq.* and *inter alia*. Subrecipient warrants and represents that it has the requisite authority and capacity to perform all terms and conditions to be performed hereunder as required by this Agreement or by law and that there is adequate consideration to support the making and enforcement of this Agreement.

**B. National Objectives**

Subrecipient certifies that the activities carried out with funds provided under this Agreement



meet one or more of the CDBG program's National Objectives. The specific National Objective to be met and how it will be met by the Subrecipient is described in Exhibit A attached to and incorporated by reference into this Agreement.

### **C. Client Data**

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility and description of service provided. Such information shall be made available to the City or its designees for review upon request.

## **III. RESPONSIBILITY OF THE CITY**

The City shall designate representative(s) of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the execution of this Agreement and disbursing funds in connection with the program in accordance with the Agreement.

## **IV. PAYMENT**

If Subrecipient is not in default hereunder, and subject to City's receipt of the Department of Housing and Urban Development Community Development Block Grant funds and provided that the Agreement and Scope of Services are eligible expenditures of Community Development Block Grant funds, the City agrees to pay the Subrecipient a total dollar amount that is described on Exhibit A of this Agreement. Payment shall be made upon presentation of invoices which Subrecipient certifies are true and correct copies of payments due on behalf of the Subrecipient, for an activity covered by this Agreement and made in accordance and compliance with the Scope of Services. Payment may be withheld by the City in the event of non-performance by Subrecipient. The City may, at its sole discretion, retain 10% of each disbursement with final payment made upon successful completion of the project including satisfactory compliance with all City, state and federal requirements.

## **V. GENERAL CONDITIONS**

### **A. General Compliance**

The Subrecipient also agrees to comply with all other applicable federal, state and local laws, regulations and policies governing the funds provided under and the obligations imposed by this Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

### **B. Independent Contractor**

Nothing contained in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of employer/employee or a partnership or joint venture between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent Subrecipient.

### **C. Hold Harmless**

The Subrecipient shall hold harmless, defend and indemnify the City from any and all claims, suits, charges, damages, costs, fees, expenses and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or other subject matter called for or otherwise provided in this Agreement.

**D. Workers' Compensation**

The Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

**E. Insurance and Bonding**

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to the total cash advances from the City.

**F. Amendments**

The City or Subrecipient may amend this Agreement at any time provided that such amendment(s) make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and approved by the City Council. Such amendment(s) shall not invalidate this Agreement nor relieve or release the City or Subrecipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with federal, state or local governmental law, rules, guidelines, regulations, policies and/or available funding amounts or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City and Subrecipient.

**G. Suspension or Termination**

Either party may terminate this Agreement at any time by giving written notice to the other party of termination and specifying the effective date thereof, at least 30 days before the effective date of such termination. Partial terminations of the Scope of Service may only be undertaken with the prior written approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement shall, at the option of the City, become the property of the City and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to termination.

In accordance with 24 CFR 85.43 and 44 the City may suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the law, rules, regulations or provisions referred to herein and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is reason to believe the Subrecipient is in noncompliance with any applicable law, rules or regulations, the City may withhold up to fifteen (15) percent of said contract funds until such time as the Subrecipient is found to be in compliance by the City or is otherwise found by the City to be in compliance.

## **VI. ADMINISTRATIVE REQUIREMENTS**

### **A. Uniform Administrative Requirements**

#### **1. Accounting Standards**

The Subrecipient agrees to comply with the *Uniform Requirements* for accounting principles and procedures required therein, to utilize adequate internal controls and maintain necessary source documentation for all costs incurred. Subrecipient shall comply and/or cause compliance with all audit reports required by the City and in conformity with 2 CFR 200.501 *et. seq.* as applicable. (See also B. 7 below)

#### **2. Cost Principles**

The Subrecipient shall administer its program in conformance with the *Uniform Requirements* pertaining to cost as applicable. These principles shall be applied for all costs incurred.

### **B. Documentation and Record-Keeping**

#### **1. Records to be Maintained**

The Subrecipient shall maintain all required records required specified in 24 CFR Part 570.506. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program;
- f. Financial records as required by 24 CFR Part 570.502, and 2 CFR Part 200 *et. seq.* and
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

#### **2. Retention**

The Subrecipient shall retain all required records incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and the same has started before the expiration of the three-year period, then such records must be retained until completion of the action(s) and resolution of all issues or the expiration of the three-year period, whichever occurs later.

#### **3. Disclosure**

The Subrecipient understands that client information collected under this Agreement is private and the unauthorized use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited except as allowed or provided by law.

#### **4. Access to Records**

The Subrecipient shall furnish and cause each of its own subrecipients and/or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent or other authorized officials for purposes of investigation to ascertain compliance with the law, rule, regulations and provisions stated herein. The Subrecipient understands that the City, the Comptroller General and the Secretary of HUD shall have access to all records related to this project.

#### **5. Reversion of Assets**

The Subrecipient shall describe in writing in a form established by the City, all CDBG Assets to be obtained as a result of the funded activity. CDBG Asset shall mean an asset(s) purchased in whole or in part with CDBG funds or improved in whole or in part with CDBG funds and having a fair market value of – NA -- or greater.

The City shall have a security interest in any and all CDBG Assets and after being obtained by the Subrecipient the City's security interest shall be perfected by means of: a) a deed of trust for real estate, encumbering the Subrecipient's equity in the real estate; or b) a lien notation on the certificate of title for a motor vehicle(s); or c) a security agreement and financing statement for personal property; or d) an assignment of accounts receivable for accounts receivable. The deed of trust shall be recorded with the Mesa County Clerk, the lien with the Colorado Department of Revenue and the financing statement and assignment of accounts recorded with the Colorado Secretary of State. The account debtors will be notified in writing of the assignment of accounts receivable. The Subrecipient shall transfer to the City any Community Development Block Grant funds related to this project on hand at the time of expiration of this Agreement and/or any accounts receivable of Community Development Block Grant funds related to this project. The instruments necessary to perfect the security interest will be prepared by the City Attorney. The Subrecipient shall pay all recording fees and mailing costs with other than CDBG funds.

If the Subrecipient ceases to use a CDBG Asset for CDBG purposes, the City may, in its discretion, direct the Subrecipient to convey the CDBG Asset to the City or require the Subrecipient to repay the CDBG funds that were used in whole or in part to acquire the CDBG Asset. The instruments necessary to convey the CDBG Asset will be prepared by the City Attorney.

In accordance with 24 CFR 570.503(b)(7) any real property under the Subrecipient's control that was acquired or improved, in whole or in part, with CDBG Funds (including CDBG funds provided to the Subrecipient in the form of a loan) shall, at the option of the City either a) be used for an eligible CDBG activity, as determined by the City and as provide for in a legal instrument(s) creating the interest, for a period of at least 5 years after the expiration of this Agreement or such longer period as the City may require or b) be disposed of in a manner that results in the City's being reimbursed in the lesser amount of the CDBG funds that were expended on the real property or the current fair market value of the property, less any portion of the value attributable to the expenditure of non-CDBG funds for acquisition or improvement(s) to the property.

The Subrecipient agrees to use all improvements made to the real property, with CDBG funds, as set forth in Exhibit "A."

## **6. Program Income**

The Subrecipient agrees that it shall not use CDBG funds in any manner which shall provide income to the Subrecipient. Any interest income earned on funds generated through the use of investment of funds received from CDBG shall be cause, in the sole discretion of the City, for recapture of such income and/or the full amount of funds granted to the Subrecipient.

The Subrecipient shall report quarterly all program income (as defined by 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitation, the Subrecipient may use such income during the contract period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program balance(s) on hand. All unexpended program income shall be returned to the City at the end of the contract period as required by 24 CFR 570.503(b)(7). Any interest earned on cash advances from the US Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the City.

## **7. Audits and Inspections**

All Subrecipient records with respect to any matters covered by the Agreement shall be made available to the City, their designees and/or the federal government, at any time during normal business hours, as often as the City deems necessary, to audit, examine and make excerpts or transcripts of all data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt of notice of deficiency. Failure of the Subrecipient to comply with the above audit requirements constitutes a violation of this Agreement and may result in the withholding of payment(s).

The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with City policy and, as applicable, the *Uniform Requirements*.

## **C. Reporting, Payment and Procurement Procedures**

### **1. Indirect Costs**

Indirect costs are not allowed and shall not be charged. The Subrecipient shall not develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall not submit such plan to the City for approval, in a form specified by the City.

### **2. Payment Procedures**

The City will pay to the Subrecipient funds available under this agreement based upon information submitted by the Subrecipient and consistent with the approved budget and any City policies concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed the actual grant award. In addition, the City reserves the right to liquidate funds available under this agreement for costs incurred by the City on behalf of the Subrecipient.

### **3. Progress Reports**

The Subrecipient shall submit Progress Reports to the City in the time and manner specified in Exhibit A of this Agreement.

## **D. Procurement – *Uniform Requirements***

The Subrecipient shall procure all materials, property or services in accordance with the

## **VII. RELOCATION, REAL PROPERTY ACQUISITION, AND ONE-FOR-ONE HOUSING REPLACEMENT**

The Subrecipient and the City agree that no persons are being displaced. But if they were Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations of 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in §570.606(d) governing optional relocation policies. The Subrecipient shall provide relocation assistance to persons who are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project.

## **VIII. PERSONNEL AND PARTICIPANT CONDITIONS**

### **A. Civil Rights**

#### **1. Compliance**

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

#### **2. Nondiscrimination**

The Subrecipient shall not discriminate against any person, employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

#### **3. Land Covenants**

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant and will not itself discriminate.

#### **4. Section 504**

The Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706) which prohibits discrimination against the handicapped in any federally assisted program.

## **B. Affirmative Action**

### **1. Approved Plan**

The Subrecipient agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The Subrecipient shall submit a plan for an Affirmative Action Program for approval by the City.

### **2. W/MBE**

The Subrecipient will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and women-owned business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

### **3. EEO/AA Statement**

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

### **4. Subcontractor Provisions**

The Subrecipient shall include the provisions of Paragraphs VIII A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

## **C. Employment Restrictions-Prohibited Activity**

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage and nepotism activities.

## **D. Conduct**

### **1. Assignability**

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City; provided, however, that claims for money due to the Subrecipient from the City under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notice of assignment or transfer to a bank or other financial institution shall be furnished promptly to the City.

### **2. Subcontracts**

- a. The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the City.
- b. The Subrecipient understands that the City and/or HUD will monitor the

Subrecipient for compliance with this Agreement. c. The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement. d. The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

### **3. Hatch Act**

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

### **4. Conflict of Interest**

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

### **5. Lobbying**

**The Subrecipient certifies that:**

- a. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement;
- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "*Disclosure Form to Report Lobbying*," in accordance with instructions;
- c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and
- d. Lobbying Certification - Paragraph d - This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this



transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each failure.

## **6. Copyright**

If this Agreement results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

## **7. Religious Organization**

The Subrecipient agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 570.200(j).

## **E. "Section 3" Clause**

### **1. Compliance**

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the federal financial assistance provided under this agreement and binding upon the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for the low- and very low-income persons residing in the metropolitan area in which the project is located."

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation, housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation, housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the

CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

## **2. Subcontracts**

The Subrecipient shall include the foregoing Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

## **IX. ENVIRONMENTAL CONDITIONS**

### **A. Air and Water**

The Subrecipient agrees to comply with the following insofar as they apply to the performance of this Agreement. (The Subrecipient does not assume the City's environmental responsibilities described in §570.604 nor does it assume the responsibility for initiating the review process under 24 CFR Part 52.) *Clean Air Act*, 42 U.S.C., 7401, et seq.; *Water Pollution Control Act*, as amended, 33 U.S.C. 1251, et seq., as amended, 1319 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder and Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

### **B. Flood Disaster Protection**

In accordance with the requirements of the *Flood Disaster Protection Act* of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

### **C. Lead-Based Paint**

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.

### **D. Historic Preservation**

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in

the *National Historic Preservation Act* of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

## **X. CONSTRUCTION CONDITIONS**

### **A. Labor Standards**

The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the *Davis-Bacon Act* as amended, the provisions of *Contract Work Hours and Safety Standards Act*, the *Copeland Anti-Kickback Act* (40 USC 276a-276a-5; 40 USC 327 and 40 USC 276 c) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements. Such documentation shall be made available to the City for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this agreement, shall comply with federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

### **B. Asbestos**

The Contractor/Subrecipient where undertaking renovation, rehabilitation, or demolition actions shall follow the notification and strict work practices for asbestos handling, removal, storage and transport as required under 40 CFR Part 61, Subpart m and 40 CFR Part 763 as well as for worker protection standards and exposures as required under 29 CFR 1910.1001 (non-construction), 1926.58 (construction), 40 CFR Part 763, Subpart G, and any applicable local regulations.

### **C. Energy Efficiency**

The Contractor/Subrecipient shall comply with the *1989 Model Energy Code*, incorporated herein by this reference, for all new buildings constructed under this Agreement to address federal energy efficiency requirements found at 24 CFR 85.36 (i) (13) incorporated herein by this reference.

## **XI. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and

effect.

**XII. ENTIRE AGREEMENT**

The provisions set forth in items I-XI, and all attachments to this Agreement which includes the Subrecipient's lease with the City, constitute the entire Agreement between the parties hereto and no statement, promise, conditions, understanding, inducement or representation, oral or written, express or implied, which is not contained herein shall be binding or valid.

IN WITNESS WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

CITY OF GRAND JUNCTION, COLORADO

BY:

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

SUBRECIPIENT:

BY: \_\_\_\_\_  
Signature Title

ATTEST: \_\_\_\_\_

**2017 SUBRECIPIENT CONTRACT FOR  
CITY OF GRAND JUNCTION  
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS  
EXHIBIT A  
SCOPE OF SERVICES**

**Date Approved:** \_\_\_\_\_

**Amount of Grant: \$16,000**

**Subrecipient: St. Mary's Foundation Gray Gourmet Program**

**Completion Date: December 31, 2018**

1. The City agrees to pay the Subrecipient, subject to the subrecipient agreement, this Exhibit and attachment to it, \$16,000 from its 2017 Program Year CDBG Entitlement Funds to purchase food for meals served by the Gray Gourmet Program located at 551 Chipeta Avenue, Grand Junction, Colorado ("Property"). Subrecipient prepares and serves a nutritious lunchtime meal for Mesa County seniors age 60 and older.
2. The Subrecipient certifies that it will meet the CDBG National Objective of low/moderate income benefit (570.201(e)) – seniors. It shall meet this objective by providing the above above-referenced services in Grand Junction, Colorado.
3. The project consists of using CDBG funds to purchase food to help off-set the cost of meals to be prepared and served for 10 to 11 more City residents with an estimated 1,952 more meals. Meals are prepared at the main program office located at 551 Chipeta Avenue. It is understood that \$16,000 of City CDBG funds shall be used only for the project described in this agreement. Costs associated with any other elements of the program shall be paid for by other funding sources obtained by the Subrecipient.
4. This project shall commence upon the full and proper execution of the 2016 Subrecipient Agreement and the completion of all necessary and appropriate state and local licensing, environmental permit review, approval and compliance. The project shall be completed on or before the Completion Date.
5. The total budget for the project is estimated to be \$281,800 as follows:  
  
CDBG Funds: \$16,000    Other Funds: \$265,800
6. This project will provide for an estimated 1,952 meals to be served to 10-11 more clients.
7. The City shall monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this agreement are met in accordance with City and other applicable monitoring and evaluating criteria and standards. The Subrecipient shall cooperate with the City relating to monitoring, evaluation and inspection and compliance.

\_\_\_\_\_ Subrecipient

\_\_\_\_\_ City of Grand Junction

8. The Subrecipient shall provide quarterly financial and performance reports to the City. Reports shall describe the progress of the project, what activities have occurred, what activities are still planned, financial status, compliance with National Objectives and other information as may be required by the City. A final report shall also be submitted when the project is completed.
9. During a period of five (5) years following the Completion Date the use of the Properties improved may not change unless: A) the City determines the new use meets one of the National Objectives of the CDBG Program, and B) the Subrecipient provides affected citizens with reasonable notice and an opportunity to comment on any proposed changes. If the Subrecipient decides, after consultation with affected citizens that it is appropriate to change the use of the Properties to a use which the City determines does not qualify in meeting a CDBG National Objective, the Subrecipient must reimburse the City a prorated share of the Amount of the Grant the City makes to the project. At the end of the five-year period following the project closeout date and thereafter, no City restrictions under this agreement on use of the Properties shall be in effect.
10. The Subrecipient understands that the funds described in the Agreement are received by the City from the U.S. Department of Housing and Urban Development under the Community Development Block Grant Program. The Subrecipient shall meet all City and federal requirements for receiving Community Development Block Grant funds, whether or not such requirements are specifically listed in this Agreement. The Subrecipient shall provide the City with documentation establishing that all local and federal CDBG requirements have been met.
11. A blanket fidelity bond equal to cash advances as referenced in Paragraph V. (E) will not be required as long as no cash advances are made and payment is on a reimbursement basis.
12. A formal project notice will be sent to the Subrecipient once all funds are expended and a final report is received.

\_\_\_\_\_ Subrecipient

\_\_\_\_\_ City of Grand Junction

## Attachment 1 – Performance Measures

### 1. Output Measures

A. Total Number of unduplicated clients anticipated to be served during the contract: 1,500

B. Number of unduplicated LMI City residents to be served during the contract: 1,020

C. Of the City residents to be served, how many will: i) have new or continued access to the service/benefit: 1,020; ii) have improved access to the service or benefit \_\_\_\_ ; and iii) receive the service or benefit that is improved/no longer substandard \_\_\_\_.

### 2.) Schedule of Performance

Estimate the number of unduplicated City residents to be served per quarter of the contract:

Q1: 255 Q2: 255 Q3: 255 Q4: 255

### 3) Payment Schedule

During the contract, funds will be drawn Q1: 25% Q2: 25% Q3: 25% Q4: 25%

### 4) Outcome Measures

**Activity** (select one) ☒ Senior Service \_\_\_\_ Youth Service \_\_\_\_ Homeless Service  
\_\_\_\_ Disabled Service \_\_\_\_ LMI Service \_\_\_\_ Fair Housing Service \_\_\_\_ Housing \_\_\_\_ Other  
(insert specify)

**Primary Objective** (select one) ☒ Create a suitable living environment \_\_\_\_ Provide decent, affordable housing \_\_\_\_ Create economic opportunity(ies)

**Primary Outcome Measurement** (select one) \_\_\_\_ Availability/Accessibility \_\_\_\_ Affordability  
☒ Sustainability

*Summarize the means by which outcomes will be tracked, measured and reported:*

The types of households or persons served are of special need (elderly). All clients complete intake forms that have questions determined by the State Union on Aging including, income, living arrangements, frailty and nutritional risk.

\_\_\_\_\_ Subrecipient  
\_\_\_\_\_ City of Grand Junction



**2017 SUBRECIPIENT CONTRACT  
CITY OF GRAND JUNCTION, COLORADO AS GRANTEE  
UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**Date Approved:** \_\_\_\_\_

**Amount of Grant: \$10,685**

**Subrecipient: Marillac Clinic, Inc.**

**Completion Date: December 31, 2018**

**I. AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_ day of \_\_\_\_\_, 201\_\_ by and between the CITY OF GRAND JUNCTION, COLORADO (hereinafter referred to as "*City*"), and Marillac Clinic, Inc. a not-for-profit agency (hereinafter referred to as "*Subrecipient*").

***Recitals:***

The *City* as an entitlement recipient and grantee of the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) program does hereby enter this Agreement with the *Subrecipient* for the expenditure of CDBG funds in accordance with Title 24, Part 570 of the Code of Federal Regulations (24 CFR 570.000 *et. seq.* hereinafter referred to as *CDBG Regulations* and the *Uniform Requirements* in accordance with Title 2 Part 200 of the Code of Federal Regulations (2 CFR 200 *et. seq.*)

Pursuant to such Agreement the City has awarded the Subrecipient CDBG funds to undertake certain activities necessary for the execution of certain projects the City deems necessary, desirable and in furtherance of the purposes of the program. To accomplish those goals, the City does agree to disburse funds to the Subrecipient to execute its project in accordance with the CDBG Regulations and this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals which are a substantive part of this Agreement and the following provisions which are approved by the City and the Subrecipient, they mutually agree as follows:

**II. SUBRECIPIENT OBLIGATIONS AND SCOPE OF SERVICES**

**A. Activities**

The sub-granting of CDBG funds to and the scope of services to be rendered by the Subrecipient shall be for the provision of the services described in Exhibit A attached hereto and made a part of this Agreement. Subrecipient agrees to perform the work described in Exhibit A in compliance with all provisions of this Agreement and it agrees to conduct all activities of the Subrecipient, whether funded in whole or in part by CDBG funds from the City in accordance with the provisions contained in 24 CFR 85 and 570 *et. seq.* and *inter alia*. Subrecipient warrants and represents that it has the requisite authority and capacity to perform all terms and conditions to be performed hereunder as required by this Agreement or by law and that there is adequate consideration to support the making and enforcement of this Agreement.

**B. National Objectives**

Subrecipient certifies that the activities carried out with funds provided under this Agreement meet one or more of the CDBG program's National Objectives. The specific National

Objective to be met and how it will be met by the Subrecipient is described in Exhibit A attached to and incorporated by reference into this Agreement.

#### **C. Client Data**

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility and description of service provided. Such information shall be made available to the City or its designees for review upon request.

### **III. RESPONSIBILITY OF THE CITY**

The City shall designate representative(s) of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the execution of this Agreement and disbursing funds in connection with the program in accordance with the Agreement.

### **IV. PAYMENT**

If Subrecipient is not in default hereunder, and subject to City's receipt of the Department of Housing and Urban Development Community Development Block Grant funds and provided that the Agreement and Scope of Services are eligible expenditures of Community Development Block Grant funds, the City agrees to pay the Subrecipient a total dollar amount that is described on Exhibit A of this Agreement. Payment shall be made upon presentation of invoices which Subrecipient certifies are true and correct copies of payments due on behalf of the Subrecipient, for an activity covered by this Agreement and made in accordance and compliance with the Scope of Services. Payment may be withheld by the City in the event of non-performance by Subrecipient. The City may, at its sole discretion, retain 10% of each disbursement with final payment made upon successful completion of the project including satisfactory compliance with all City, state and federal requirements.

### **V. GENERAL CONDITIONS**

#### **A. General Compliance**

The Subrecipient also agrees to comply with all other applicable federal, state and local laws, regulations and policies governing the funds provided under and the obligations imposed by this Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

#### **B. Independent Contractor**

Nothing contained in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of employer/employee or a partnership or joint venture between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent Subrecipient.

#### **C. Hold Harmless**

The Subrecipient shall hold harmless, defend and indemnify the City from any and all claims, suits, charges, damages, costs, fees, expenses and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or other subject matter called for or otherwise provided in this Agreement.

**D. Workers' Compensation**

The Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

**E. Insurance and Bonding**

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to the total cash advances from the City.

**F. Amendments**

The City or Subrecipient may amend this Agreement at any time provided that such amendment(s) make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and approved by the City Council. Such amendment(s) shall not invalidate this Agreement nor relieve or release the City or Subrecipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with federal, state or local governmental law, rules, guidelines, regulations, policies and/or available funding amounts or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City and Subrecipient.

**G. Suspension or Termination**

Either party may terminate this Agreement at any time by giving written notice to the other party of termination and specifying the effective date thereof, at least 30 days before the effective date of such termination. Partial terminations of the Scope of Service may only be undertaken with the prior written approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement shall, at the option of the City, become the property of the City and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to termination.

In accordance with 24 CFR 85.43 and 44 the City may suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the law, rules, regulations or provisions referred to herein and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is reason to believe the Subrecipient is in noncompliance with any applicable law, rules or regulations, the City may withhold up to fifteen (15) percent of said contract funds until such time as the Subrecipient is found to be in compliance by the City or is otherwise found by the City to be in compliance.

## **VI. ADMINISTRATIVE REQUIREMENTS**

### **A. Uniform Administrative Requirements**

#### **1. Accounting Standards**

The Subrecipient agrees to comply with the *Uniform Requirements* for accounting principles and procedures required therein, to utilize adequate internal controls and maintain necessary source documentation for all costs incurred. Subrecipient shall comply and/or cause compliance with all audit reports required by the City and in conformity with 2 CFR 200.501 *et. seq.* as applicable. (See also B. 7 below)

#### **2. Cost Principles**

The Subrecipient shall administer its program in conformance with the *Uniform Requirements* pertaining to cost as applicable. These principles shall be applied for all costs incurred.

### **B. Documentation and Record-Keeping**

#### **1. Records to be Maintained**

The Subrecipient shall maintain all required records required specified in 24 CFR Part 570.506. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program;
- f. Financial records as required by 24 CFR Part 570.502, and 2 CFR Part 200 *et. seq.* and
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

#### **2. Retention**

The Subrecipient shall retain all required records incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and the same has started before the expiration of the three-year period, then such records must be retained until completion of the action(s) and resolution of all issues or the expiration of the three-year period, whichever occurs later.

#### **3. Disclosure**

The Subrecipient understands that client information collected under this Agreement is private and the unauthorized use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited except as allowed or provided by law.

#### **4. Access to Records**

The Subrecipient shall furnish and cause each of its own subrecipients and/or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent or other authorized officials for purposes of investigation to ascertain compliance with the law, rule, regulations and provisions stated herein. The Subrecipient understands that the City, the Comptroller General and the Secretary of HUD shall have access to all records related to this project.

#### **5. Reversion of Assets**

The Subrecipient shall describe in writing in a form established by the City, all CDBG Assets to be obtained as a result of the funded activity. CDBG Asset shall mean an asset(s) purchased in whole or in part with CDBG funds or improved in whole or in part with CDBG funds and having a fair market value of – N/A -- or greater.

The City shall have a security interest in any and all CDBG Assets and after being obtained by the Subrecipient the City's security interest shall be perfected by means of: a) a deed of trust for real estate, encumbering the Subrecipient's equity in the real estate; or b) a lien notation on the certificate of title for a motor vehicle(s); or c) a security agreement and financing statement for personal property; or d) an assignment of accounts receivable for accounts receivable. The deed of trust shall be recorded with the Mesa County Clerk, the lien with the Colorado Department of Revenue and the financing statement and assignment of accounts recorded with the Colorado Secretary of State. The account debtors will be notified in writing of the assignment of accounts receivable. The Subrecipient shall transfer to the City any Community Development Block Grant funds related to this project on hand at the time of expiration of this Agreement and/or any accounts receivable of Community Development Block Grant funds related to this project. The instruments necessary to perfect the security interest will be prepared by the City Attorney. The Subrecipient shall pay all recording fees and mailing costs with other than CDBG funds.

If the Subrecipient ceases to use a CDBG Asset for CDBG purposes, the City may, in its discretion, direct the Subrecipient to convey the CDBG Asset to the City or require the Subrecipient to repay the CDBG funds that were used in whole or in part to acquire the CDBG Asset. The instruments necessary to convey the CDBG Asset will be prepared by the City Attorney.

In accordance with 24 CFR 570.503(b)(7) any real property under the Subrecipient's control that was acquired or improved, in whole or in part, with CDBG Funds (including CDBG funds provided to the Subrecipient in the form of a loan) shall, at the option of the City either a) be used for an eligible CDBG activity, as determined by the City and as provide for in a legal instrument(s) creating the interest, for a period of at least 5 years after the expiration of this Agreement or such longer period as the City may require or b) be disposed of in a manner that results in the City's being reimbursed in the lesser amount of the CDBG funds that were expended on the real property or the current fair market value of the property, less any portion of the value attributable to the expenditure of non-CDBG funds for acquisition or improvement(s) to the property.

The Subrecipient agrees to use all improvements made to the real property, with CDBG funds, as set forth in Exhibit "A."

## **6. Program Income**

The Subrecipient agrees that it shall not use CDBG funds in any manner which shall provide income to the Subrecipient. Any interest income earned on funds generated through the use of investment of funds received from CDBG shall be cause, in the sole discretion of the City, for recapture of such income and/or the full amount of funds granted to the Subrecipient.

The Subrecipient shall report quarterly all program income (as defined by 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitation, the Subrecipient may use such income during the contract period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program balance(s) on hand. All unexpended program income shall be returned to the City at the end of the contract period as required by 24 CFR 570.503(b)(7). Any interest earned on cash advances from the US Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the City.

## **7. Audits and Inspections**

All Subrecipient records with respect to any matters covered by the Agreement shall be made available to the City, their designees and/or the federal government, at any time during normal business hours, as often as the City deems necessary, to audit, examine and make excerpts or transcripts of all data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt of notice of deficiency. Failure of the Subrecipient to comply with the above audit requirements constitutes a violation of this Agreement and may result in the withholding of payment(s).

The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with City policy and, as applicable, the *Uniform Requirements*.

## **C. Reporting, Payment and Procurement Procedures**

### **1. Indirect Costs**

Indirect costs are not allowed and shall not be charged. The Subrecipient shall not develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall not submit such plan to the City for approval, in a form specified by the City.

### **2. Payment Procedures**

The City will pay to the Subrecipient funds available under this agreement based upon information submitted by the Subrecipient and consistent with the approved budget and any City policies concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed the actual grant award. In addition, the City reserves the right to liquidate funds available under this agreement for costs incurred by the City on behalf of the Subrecipient.

### **3. Progress Reports**

The Subrecipient shall submit Progress Reports to the City in the time and manner specified in Exhibit A of this Agreement.

## **D. Procurement – *Uniform Requirements***

The Subrecipient shall procure all materials, property or services in accordance with the *Uniform Requirements* of 2 CFR Part 200 *et. seq.*

## **VII. RELOCATION, REAL PROPERTY ACQUISITION, AND ONE-FOR-ONE HOUSING REPLACEMENT**

The Subrecipient and the City agree that no persons are being displaced. But if they were Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations of 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in §570.606(d) governing optional relocation policies. The Subrecipient shall provide relocation assistance to persons who are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project.

## **VIII. PERSONNEL AND PARTICIPANT CONDITIONS**

### **A. Civil Rights**

#### **1. Compliance**

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

#### **2. Nondiscrimination**

The Subrecipient shall not discriminate against any person, employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

#### **3. Land Covenants**

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant and will not itself discriminate.

#### **4. Section 504**

The Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706) which prohibits discrimination against the handicapped in any federally assisted program.

### **B. Affirmative Action**

#### **1. Approved Plan**

The Subrecipient agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The Subrecipient shall submit a plan for an Affirmative Action Program for approval by the City.

#### **2. W/MBE**

The Subrecipient will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and women-owned business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

#### **3. EEO/AA Statement**

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

#### **4. Subcontractor Provisions**

The Subrecipient shall include the provisions of Paragraphs VIII A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

### **C. Employment Restrictions-Prohibited Activity**

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage and nepotism activities.

### **D. Conduct**

#### **1. Assignability**

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City; provided, however, that claims for money due to the Subrecipient from the City under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notice of assignment or transfer to a bank or other financial institution shall be furnished promptly to the City.

#### **2. Subcontracts**

- a. The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the



City. b. The Subrecipient understands that the City and/or HUD will monitor the Subrecipient for compliance with this Agreement. c. The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement. d. The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

### **3. Hatch Act**

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

### **4. Conflict of Interest**

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

### **5. Lobbying**

**The Subrecipient certifies that:**

a. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement;

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "*Disclosure Form to Report Lobbying*," in accordance with instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification - Paragraph d - This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered

into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each failure.

## **6. Copyright**

If this Agreement results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

## **7. Religious Organization**

The Subrecipient agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 570.200(j).

## **E. "Section 3" Clause**

### **1. Compliance**

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the federal financial assistance provided under this agreement and binding upon the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for the low- and very low-income persons residing in the metropolitan area in which the project is located."

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation, housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation, housing construction, or other public construction project are given to business concerns that provide economic opportunities

for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

## **2. Subcontracts**

The Subrecipient shall include the foregoing Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

## **IX. ENVIRONMENTAL CONDITIONS**

### **A. Air and Water**

The Subrecipient agrees to comply with the following insofar as they apply to the performance of this Agreement. (The Subrecipient does not assume the City's environmental responsibilities described in §570.604 nor does it assume the responsibility for initiating the review process under 24 CFR Part 52.) *Clean Air Act*, 42 U.S.C., 7401, et seq.; *Water Pollution Control Act*, as amended, 33 U.S.C. 1251, et seq., as amended, 1319 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder and Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

### **B. Flood Disaster Protection**

In accordance with the requirements of the *Flood Disaster Protection Act* of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

### **C. Lead-Based Paint**

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.

### **D. Historic Preservation**

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the *National Historic Preservation Act* of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

## **X. CONSTRUCTION CONDITIONS**

### **A. Labor Standards**

The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the *Davis-Bacon Act* as amended, the provisions of *Contract Work Hours and Safety Standards Act*, the *Copeland Anti-Kickback Act* (40 USC 276a-276a-5; 40 USC 327 and 40 USC 276 c) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements. Such documentation shall be made available to the City for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this agreement, shall comply with federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

### **B. Asbestos**

The Contractor/Subrecipient where undertaking renovation, rehabilitation, or demolition actions shall follow the notification and strict work practices for asbestos handling, removal, storage and transport as required under 40 CFR Part 61, Subpart m and 40 CFR Part 763 as well as for worker protection standards and exposures as required under 29 CFR 1910.1001 (non-construction), 1926.58 (construction), 40 CFR Part 763, Subpart G, and any applicable local regulations.

### **C. Energy Efficiency**

The Contractor/Subrecipient shall comply with the *1989 Model Energy Code*, incorporated herein by this reference, for all new buildings constructed under this Agreement to address federal energy efficiency requirements found at 24 CFR 85.36 (i) (13) incorporated herein by this reference.

## **XI. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be

affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

**XII. ENTIRE AGREEMENT**

The provisions set forth in items I-XI, and all attachments to this Agreement which includes the Subrecipient's lease with the City, constitute the entire Agreement between the parties hereto and no statement, promise, conditions, understanding, inducement or representation, oral or written, express or implied, which is not contained herein shall be binding or valid.

IN WITNESS WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

CITY OF GRAND JUNCTION, COLORADO

BY:

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

SUBRECIPIENT:

BY: \_\_\_\_\_  
Signature Title

ATTEST: \_\_\_\_\_

**2017 SUBRECIPIENT CONTRACT FOR  
CITY OF GRAND JUNCTION  
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS  
EXHIBIT A  
SCOPE OF SERVICES**

**Date Approved:** \_\_\_\_\_

**Amount of Grant: \$10,685**

**Subrecipient: Marillac Clinic, Inc.**

**Completion Date: December 31, 2017**

1. The City agrees to pay the Subrecipient, subject to the subrecipient agreement, this Exhibit and attachment to it, \$10,685 from its 2017 Program Year CDBG Entitlement Funds to purchase dental diagnostic equipment for the clinic located at 2333 North 6<sup>th</sup> Street, Grand Junction, Colorado ("Property"). Subrecipient provides dental and medical services to low and moderate income and homeless persons in the community.
2. The Subrecipient certifies that it will meet the CDBG National Objective of low/moderate income benefit (570.201(e)). It shall meet this objective by completing the above-referenced purchase of dental diagnostic equipment in Grand Junction, Colorado.
3. The project consists of the purchase of three portable dental diagnostic x-ray units to replace the 9 older technology units. The property is currently owned and operated by Marillac Clinic, Inc. which will continue to operate the clinic facility. It is understood that \$10,685 of City CDBG funds shall be used only for the improvements described in this agreement. Costs associated with any other elements of the project shall be paid for by other funding sources obtained by the Subrecipient.
4. This project shall commence upon the full and proper execution of the 2017 Subrecipient Agreement and the completion of all necessary and appropriate state and local licensing, environmental permit review, approval and compliance. The project shall be completed on or before the Completion Date.
5. The total budget for the project is estimated to be \$28,120 as follows:  
  
CDBG Funds: \$10,685    Other Funds: \$17,435
6. This project will improve the dental services to approximately 10,560 low and moderate income and homeless persons in the community.
7. The City shall monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this agreement are met in accordance with City and other applicable monitoring and evaluating criteria and standards. The Subrecipient shall cooperate with the City relating to monitoring, evaluation and inspection and compliance.

\_\_\_\_\_ Subrecipient

\_\_\_\_\_ City of Grand Junction

8. The Subrecipient shall provide quarterly financial and performance reports to the City. Reports shall describe the progress of the project, what activities have occurred, what activities are still planned, financial status, compliance with National Objectives and other information as may be required by the City. A final report shall also be submitted when the project is completed.
9. During a period of five (5) years following the Completion Date the use of the Properties improved may not change unless: A) the City determines the new use meets one of the National Objectives of the CDBG Program, and B) the Subrecipient provides affected citizens with reasonable notice and an opportunity to comment on any proposed changes. If the Subrecipient decides, after consultation with affected citizens that it is appropriate to change the use of the Properties to a use which the City determines does not qualify in meeting a CDBG National Objective, the Subrecipient must reimburse the City a prorated share of the Amount of the Grant the City makes to the project. At the end of the five-year period following the project closeout date and thereafter, no City restrictions under this agreement on use of the Properties shall be in effect.
10. The Subrecipient understands that the funds described in the Agreement are received by the City from the U.S. Department of Housing and Urban Development under the Community Development Block Grant Program. The Subrecipient shall meet all City and federal requirements for receiving Community Development Block Grant funds, whether or not such requirements are specifically listed in this Agreement. The Subrecipient shall provide the City with documentation establishing that all local and federal CDBG requirements have been met.
11. A blanket fidelity bond equal to cash advances as referenced in Paragraph V. (E) will not be required as long as no cash advances are made and payment is on a reimbursement basis.
12. A formal project notice will be sent to the Subrecipient once all funds are expended and a final report is received.

\_\_\_\_\_ Subrecipient  
\_\_\_\_\_ City of Grand Junction

## Attachment 1 – Performance Measures

### 1. Output Measures

A. Total Number of unduplicated clients anticipated to be served during the contract: 10,560

B. Number of unduplicated LMI City residents to be served during the contract: 4,224

C. Of the City residents to be served, how many will: i) have new or continued access to the service/benefit\_\_\_\_; ii) have improved access to the service or benefit: 4,224 ; and iii) receive the service or benefit that is improved/no longer substandard\_\_\_\_.

### 2.) Schedule of Performance

Estimate the number of unduplicated City residents to be served per quarter of the contract:

Q1: 1,056 Q2: 1,056 Q3: 1,056 Q4: 1,056

### 3) Payment Schedule

During the contract, funds will be drawn Q1: 100% Q2: \_\_\_\_ Q3: \_\_\_\_ Q4: \_\_\_\_

### 4) Outcome Measures

**Activity** (select one) \_\_\_\_ Senior Service \_\_\_\_ Youth Service \_\_\_\_ Homeless Service  
\_\_\_\_ Disabled Service X LMI Service \_\_\_\_ Fair Housing Service \_\_\_\_ Housing \_\_\_\_ Other

**Primary Objective** (select one) X Create a suitable living environment \_\_\_\_ Provide decent, affordable housing \_\_\_\_ Create economic opportunity(ies)

**Primary Outcome Measurement** (select one) \_\_\_\_ Availability/Accessibility \_\_\_\_ Affordability  
X Sustainability

*Summarize the means by which outcomes will be tracked, measured and reported*

The income of each household/person receiving assistance will be individually verified for eligibility. All patients who enroll at Marillac undergo a registration and financial screening process and are required to submit legal identification and financial information to verify their identity and income.

\_\_\_\_ Subrecipient

\_\_\_\_ City of Grand Junction



**2017 SUBRECIPIENT CONTRACT  
CITY OF GRAND JUNCTION, COLORADO AS GRANTEE  
UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**Date Approved:**  
**Amount of Grant: \$55,788**  
**Subrecipient: Grand Valley Catholic Outreach**  
**Completion Date: December 31, 2018**

**I. AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017 by and between the CITY OF GRAND JUNCTION, COLORADO (hereinafter referred to as "*City*"), and Grand Valley Catholic Outreach (GVCO), a not-for-profit agency (hereinafter referred to as "*Subrecipient*").

**Recitals:**

The City as an entitlement recipient and grantee of the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) program does hereby enter this Agreement with Grand Valley Catholic Outreach for the expenditure of CDBG funds in accordance with Title 24, Part 570 of the Code of Federal Regulations (24 CFR 570.000 *et. seq.* hereinafter referred to as *CDBG Regulations* and the *Uniform Requirements* in accordance with Title 2 Part 200 of the Code of Federal Regulations (2 CFR 200 *et. seq.*)

Pursuant to such Agreement the City has awarded the Subrecipient CDBG funds to undertake certain activities necessary for the execution of certain projects the City deems necessary, desirable and in furtherance of the purposes of the program. To accomplish those goals, the City does agree to disburse funds to the Subrecipient to execute its project in accordance with the CDBG Regs and this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals which are a substantive part of this Agreement and the following provisions which are approved by the City and the Subrecipient, they mutually agree as follows:

**II. SUBRECIPIENT OBLIGATIONS AND SCOPE OF SERVICES**

**A. Activities**

The sub-granting of CDBG funds to and the scope of services to be rendered by the Subrecipient shall be for the provision of the services described in Exhibit A attached hereto and made a part of this Agreement. Subrecipient agrees to perform the work described in Exhibit A in compliance with all provisions of this Agreement and it agrees to conduct all activities of the Subrecipient, whether funded in whole or in part by CDBG funds from the City in accordance with the provisions contained in 24 CFR 85 and 570 *et. seq.* and *inter alia*. Subrecipient warrants and represents that it has the requisite authority and capacity to perform all terms and conditions to be performed hereunder as required by this Agreement or by law and that there is adequate consideration to support the making and enforcement of this Agreement.

**B. National Objectives**

Subrecipient certifies that the activities carried out with funds provided under this Agreement

meet one or more of the CDBG program's National Objectives. The specific National Objective to be met and how it will be met by the Subrecipient is described in Exhibit A attached to and incorporated by reference into this Agreement.

#### **C. Client Data**

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility and description of service provided. Such information shall be made available to the City or its designees for review upon request.

### **III. RESPONSIBILITY OF THE CITY**

The City shall designate representative(s) of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the execution of this Agreement and disbursing funds in connection with the program in accordance with the Agreement.

### **IV. PAYMENT**

If Subrecipient is not in default hereunder, and subject to City's receipt of the Department of Housing and Urban Development Community Development Block Grant funds and provided that the Agreement and Scope of Services are eligible expenditures of Community Development Block Grant funds, the City agrees to pay the Subrecipient a total dollar amount that is described on Exhibit A of this Agreement. Payment shall be made upon presentation of invoices which Subrecipient certifies are true and correct copies of payments due on behalf of the Subrecipient, for an activity covered by this Agreement and made in accordance and compliance with the Scope of Services. Payment may be withheld by the City in the event of non-performance by Subrecipient. The City may, at its sole discretion, retain 10% of each disbursement with final payment made upon successful completion of the project including satisfactory compliance with all City, state and federal requirements.

### **V. GENERAL CONDITIONS**

#### **A. General Compliance**

The Subrecipient also agrees to comply with all other applicable federal, state and local laws, regulations and policies governing the funds provided under and the obligations imposed by this Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

#### **B. Independent Contractor**

Nothing contained in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of employer/employee or a partnership or joint venture between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent Subrecipient.

#### **C. Hold Harmless**

The Subrecipient shall hold harmless, defend and indemnify the City from any and all claims, suits, charges, damages, costs, fees, expenses and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or other subject matter called for

or otherwise provided in this Agreement.

#### D. Workers' Compensation

The Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

#### E. Insurance and Bonding

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to the total cash advances from the City.

#### F. Amendments

The City or Subrecipient may amend this Agreement at any time provided that such amendment(s) make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and approved by the City Council. Such amendment(s) shall not invalidate this Agreement nor relieve or release the City or Subrecipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with federal, state or local governmental law, rules, guidelines, regulations, policies and/or available funding amounts or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City and Subrecipient.

#### G. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of termination and specifying the effective date thereof, at least 30 days before the effective date of such termination. Partial terminations of the Scope of Service may only be undertaken with the prior written approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement shall, at the option of the City, become the property of the City and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to termination.

In accordance with 24 CFR 85.43 and 44 the City may suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the law, rules, regulations or provisions referred to herein and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is reason to believe the Subrecipient is in noncompliance with any applicable law, rules or regulations, the City may withhold up to fifteen (15) percent of said contract funds until such time as the Subrecipient is found to be in compliance by the City or is otherwise found by the City to be in compliance.

## **VI. ADMINISTRATIVE REQUIREMENTS**

### **A. Uniform Administrative Requirements**

#### **1. Accounting Standards**

The Subrecipient agrees to comply with the *Uniform Requirements* for accounting principles and procedures required therein, to utilize adequate internal controls and maintain necessary source documentation for all costs incurred. Subrecipient shall comply and/or cause compliance with all audit reports required by the City and in conformity with 2 CFR 200.501 *et. seq.* as applicable. (See also B. 7 below)

## 2. Cost Principles

The Subrecipient shall administer its program in conformance with the *Uniform Requirements* pertaining to cost as applicable. These principles shall be applied for all costs incurred.

## B. Documentation and Record-Keeping

### 1. Records to be Maintained

The Subrecipient shall maintain all required records required specified in 24 CFR Part 570.506. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program;
- f. Financial records as required by 24 CFR Part 570.502, and 2 CFR Part 200 *et. seq.*

and

- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

### 2. Retention

The Subrecipient shall retain all required records incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and the same has started before the expiration of the three-year period, then such records must be retained until completion of the action(s) and resolution of all issues or the expiration of the three-year period, whichever occurs later.

### 3. Disclosure

The Subrecipient understands that client information collected under this Agreement is private and the unauthorized use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited except as allowed or provided by law.

### 4. Access to Records

The Subrecipient shall furnish and cause each of its own subrecipients and/or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent or other authorized officials for purposes of investigation to ascertain compliance with the law, rule, regulations and provisions stated

herein. The Subrecipient understands that the City, the Comptroller General and the Secretary of HUD shall have access to all records related to this project.

#### 5. Reversion of Assets

The Subrecipient shall describe in writing in a form established by the City, all CDBG Assets to be obtained as a result of the funded activity. CDBG Asset shall mean an asset(s) purchased in whole or in part with CDBG funds or improved in whole or in part with CDBG funds and having a fair market value of \$55,788 or greater.

The City shall have a security interest in any and all CDBG Assets and after being obtained by the Subrecipient the City's security interest shall be perfected by means of: a) a deed of trust for real estate, encumbering the Subrecipient's equity in the real estate; or b) a lien notation on the certificate of title for a motor vehicle(s); or c) a security agreement and financing statement for personal property; or d) an assignment of accounts receivable for accounts receivable. The deed of trust shall be recorded with the Mesa County Clerk, the lien with the Colorado Department of Revenue and the financing statement and assignment of accounts recorded with the Colorado Secretary of State. The account debtors will be notified in writing of the assignment of accounts receivable. The Subrecipient shall transfer to the City any Community Development Block Grant funds related to this project on hand at the time of expiration of this Agreement and/or any accounts receivable of Community Development Block Grant funds related to this project. The instruments necessary to perfect the security interest will be prepared by the City Attorney. The Subrecipient shall pay all recording fees and mailing costs with other than CDBG funds.

If the Subrecipient ceases to use a CDBG Asset for CDBG purposes, the City may, in its discretion, direct the Subrecipient to convey the CDBG Asset to the City or require the Subrecipient to repay the CDBG funds that were used in whole or in part to acquire the CDBG Asset. The instruments necessary to convey the CDBG Asset will be prepared by the City Attorney.

In accordance with 24 CFR 570.503(b)(7) any real property under the Subrecipient's control that was acquired or improved, in whole or in part, with CDBG Funds(including CDBG funds provided to the Subrecipient in the form of a loan) shall, at the option of the City either a) be used for an eligible CDBG activity, as determined by the City and as provide for in a legal instrument(s) creating the interest, for a period of at least 5 years after the expiration of this Agreement or such longer period as the City may require or b) be disposed of in a manner that results in the City's being reimbursed in the lesser amount of the CDBG funds that were expended on the real property or the current fair market value of the property, less any portion of the value attributable to the expenditure of non-CDBG funds for acquisition or improvement(s) to the property.

The Subrecipient agrees to use all improvements made to the real property, with CDBG funds, as set forth in Exhibit "A."

#### 6. Program Income

The Subrecipient agrees that it shall not use CDBG funds in any manner which shall provide income to the Subrecipient. Any interest income earned on funds generated through the use of investment of funds received from CDBG shall be cause, in the sole discretion of the City, for recapture of such income and/or the full amount of funds granted to the Subrecipient.

The Subrecipient shall report quarterly all program income (as defined by 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitation, the Subrecipient may use such income during the contract period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program balance(s) on hand. All unexpended program income shall be returned to the City at the end of the contract period as required by 24 CFR 570.503(b)(7). Any interest earned on cash advances from the US Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the City.

#### 7. Audits and Inspections

All Subrecipient records with respect to any matters covered by the Agreement shall be made available to the City, their designees and/or the federal government, at any time during normal business hours, as often as the City deems necessary, to audit, examine and make excerpts or transcripts of all data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt of notice of deficiency. Failure of the Subrecipient to comply with the above audit requirements constitutes a violation of this Agreement and may result in the withholding of payment(s). The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with City policy and, as applicable, the *Uniform Requirements*.

#### C. Reporting, Payment and Procurement Procedures

##### 1. Indirect Costs

Indirect costs are not allowed and shall not be charged. The Subrecipient shall not develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall not submit such plan to the City for approval, in a form specified by the City.

##### 2. Payment Procedures

The City will pay to the Subrecipient funds available under this agreement based upon information submitted by the Subrecipient and consistent with the approved budget and any City policies concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed the actual grant award. In addition, the City reserves the right to liquidate funds available under this agreement for costs incurred by the City on behalf of the Subrecipient.

##### 3. Progress Reports

The Subrecipient shall submit Progress Reports to the City in the time and manner specified in Exhibit A of this Agreement.

#### D. Procurement – *Uniform Requirements*

The Subrecipient shall procure all materials, property or services in accordance with the *Uniform Requirements* of 2 CFR Part 200 *et. seq.*

### **VII. RELOCATION, REAL PROPERTY ACQUISITION, AND ONE-FOR-ONE HOUSING REPLACEMENT**

The Subrecipient and the City agree that no persons are being displaced. But if they were

Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations of 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in §570.606(d) governing optional relocation policies. The Subrecipient shall provide relocation assistance to persons who are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project.

## **VIII. PERSONNEL AND PARTICIPANT CONDITIONS**

### **A. Civil Rights**

#### **1. Compliance**

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

#### **2. Nondiscrimination**

The Subrecipient shall not discriminate against any person, employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

#### **3. Land Covenants**

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant and will not itself discriminate.

#### **4. Section 504**

The Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706) which prohibits discrimination against the handicapped in any federally assisted program.

### **B. Affirmative Action**

1. Approved Plan

The Subrecipient agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The Subrecipient shall submit a plan for an Affirmative Action Program for approval by the City.

2. W/MBE

The Subrecipient will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and women-owned business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. EEO/AA Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

4. Subcontractor Provisions

The Subrecipient shall include the provisions of Paragraphs VIII A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions-Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage and nepotism activities.

D. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City; provided, however, that claims for money due to the Subrecipient from the City under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notice of assignment or transfer to a bank or other financial institution shall be furnished promptly to the City.

2. Subcontracts

a. The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the City. b. The Subrecipient understands that the City and/or HUD will monitor the Subrecipient for compliance with this Agreement. c. The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement. d. The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.



### 3. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

### 4. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

### 5. Lobbying

The Subrecipient certifies that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement;

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "*Disclosure Form to Report Lobbying*," in accordance with instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification - Paragraph d - This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each failure.

### 6. Copyright

If this Agreement results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce,

publish or otherwise use and to authorize others to use, the work or materials for government purposes.

## 7. Religious Organization

The Subrecipient agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 570.200(j).

### E. "Section 3" Clause

#### 1. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the federal financial assistance provided under this agreement and binding upon the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for the low- and very low-income persons residing in the metropolitan area in which the project is located."

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation, housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation, housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

## 2. Subcontracts

The Subrecipient shall include the foregoing Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

## IX. ENVIRONMENTAL CONDITIONS

### A. Air and Water

The Subrecipient agrees to comply with the following insofar as they apply to the performance of this Agreement. (The Subrecipient does not assume the City's environmental responsibilities described in §570.604 nor does it assume the responsibility for initiating the review process under 24 CFR Part 52.) *Clean Air Act*, 42 U.S.C., 7401, et seq.; *Water Pollution Control Act*, as amended, 33 U.S.C. 1251, et seq., as amended, 1319 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder and Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

### B. Flood Disaster Protection

In accordance with the requirements of the *Flood Disaster Protection Act of 1973* (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

### C. Lead-Based Paint

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.

### D. Historic Preservation

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the *National Historic Preservation Act of 1966*, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all

rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

## **X. CONSTRUCTION CONDITIONS**

### **A. Labor Standards**

The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the *Davis-Bacon Act* as amended, the provisions of *Contract Work Hours and Safety Standards Act*, the *Copeland Anti-Kickback Act* (40 USC 276a-276a-5; 40 USC 327 and 40 USC 276 c) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements. Such documentation shall be made available to the City for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this agreement, shall comply with federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

### **B. Asbestos**

The Contractor/Subrecipient where undertaking renovation, rehabilitation, or demolition actions shall follow the notification and strict work practices for asbestos handling, removal, storage and transport as required under 40 CFR Part 61, Subpart m and 40 CFR Part 763 as well as for worker protection standards and exposures as required under 29 CFR 1910.1001 (non-construction), 1926.58 (construction), 40 CFR Part 763, Subpart G, and any applicable local regulations.

### **C. Energy Efficiency**

The Contractor/Subrecipient shall comply with the *1989 Model Energy Code*, incorporated herein by this reference, for all new buildings constructed under this Agreement to address federal energy efficiency requirements found at 24 CFR 85.36 (i) (13) incorporated herein by this reference.

## **XI. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

## **XII. ENTIRE AGREEMENT**

The provisions set forth in items I-XI, and all attachments to this Agreement which includes the Subrecipient's lease with the City, constitute the entire Agreement between the parties hereto and no statement, promise, conditions, understanding, inducement or representation, oral or

written, express or implied, which is not contained herein shall be binding or valid.

IN WITNESS WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

CITY OF GRAND JUNCTION, COLORADO

BY:

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

SUBRECIPIENT:

BY: \_\_\_\_\_  
Signature Title

ATTEST: \_\_\_\_\_

**2017 SUBRECIPIENT CONTRACT FOR  
CITY OF GRAND JUNCTION  
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS  
EXHIBIT A  
SCOPE OF SERVICES**

**Date Approved:**

**Amount of Grant: \$55,788 (may change)**

**Subrecipient: Grand Valley Catholic Outreach**

**Completion Date: December 31, 2018**

1. The City agrees to pay the Subrecipient, subject to the subrecipient agreement, this Exhibit and attachment to it, \$55,788 from its 2017 Program Year CDBG Entitlement Funds to remodel and construct an addition to the Homeless Day Center located at 302 Pitkin Avenue, Grand Junction, Colorado ("Property").
2. The Subrecipient certifies that it will meet the CDBG National Objective of low/moderate income/homeless benefit (570.202(a)). It shall meet this objective by completing the above-referenced remodel and addition to the Day Center for homeless persons in Grand Junction, Colorado.
3. The project consists of rehabilitating the existing building as well as constructing an addition to the building known as the Day Center located at 302 Pitkin Avenue. The remodel will provide more space, privacy and security for the medical and mental health providers who serve on site. The property is currently owned and operated by Subrecipient which will continue to operate the facility. It is understood that the \$55,788 grant of City CDBG funds shall be used only for eligible improvements described in this agreement. Costs associated with any other elements of the project shall be paid for by other funding sources obtained by the Subrecipient.
4. This project shall commence upon the full and proper execution of the 2017 Subrecipient Agreement and the completion of all necessary and appropriate state and local licensing, environmental permit review, approval and compliance. The project shall be completed on or before the Completion Date.
5. The total budget for the project is estimated to be \$1,070,230 as follows:

CDBG Funds	\$55,788
Other GVCO Funds	\$1,014,442
6. This project will improve the spatial needs of homeless persons and service providers that utilize the building.

\_\_\_\_\_ Subrecipient

\_\_\_\_\_ City of Grand Junction

7. The City shall monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this agreement are met in accordance with City and other applicable monitoring and evaluating criteria and standards. The Subrecipient shall cooperate with the City relating to monitoring, evaluation and inspection and compliance.
8. The Subrecipient shall provide quarterly financial and performance reports to the City. Reports shall describe the progress of the project, what activities have occurred, what activities are still planned, financial status, compliance with National Objectives and other information as may be required by the City. A final report shall also be submitted when the project is completed.
9. During a period of five (5) years following the Completion Date the use of the Properties improved may not change unless: A) the City determines the new use meets one of the National Objectives of the CDBG Program, and B) the Subrecipient provides affected citizens with reasonable notice and an opportunity to comment on any proposed changes. If the Subrecipient decides, after consultation with affected citizens that it is appropriate to change the use of the Properties to a use which the City determines does not qualify in meeting a CDBG National Objective, the Subrecipient must reimburse the City a prorated share of the Amount of the Grant the City makes to the project. At the end of the five-year period following the project closeout date and thereafter, no City restrictions under this agreement on use of the Properties shall be in effect.
10. The Subrecipient understands that the funds described in the Agreement are received by the City from the U.S. Department of Housing and Urban Development under the Community Development Block Grant Program. The Subrecipient shall meet all City and federal requirements for receiving Community Development Block Grant funds, whether or not such requirements are specifically listed in this Agreement. The Subrecipient shall provide the City with documentation establishing that all local and federal CDBG requirements have been met.
11. A blanket fidelity bond equal to cash advances as referenced in Paragraph V. (E) will not be required as long as no cash advances are made and payment is on a reimbursement basis.
12. A formal project notice will be sent to the Subrecipient once all funds are expended and a final report is received.

\_\_\_\_\_ Subrecipient

\_\_\_\_\_ City of Grand Junction

## Attachment 1 – Performance Measures

### 1. Output Measures

A. Total Number of unduplicated clients anticipated served by the project during the contract:

4,600

B. Number of unduplicated LMI City residents served with grant funds during the contract:

4,600

C. Of the City residents to be served, how many will: i) have new or continued access to the service/benefit: 0; ii) have improved access to the service or benefit: 4,600; and iii) receive the service or benefit that is improved/no longer substandard: 0

### 2.) Schedule of Performance

Estimate the number of unduplicated City resident to be served per quarter of the contract Q1:

Q1: 1,000 Q2: 1,000 Q3: 1,000 Q4: 1,000

### 3) Payment Schedule

During the contract funds will be drawn Q1: 0 Q2: 30% Q3: 35% Q4: 35%

### 4) Outcome Measures

Activity (select one) \_\_\_ Senior Service \_\_\_ Youth Service X Homeless Service

\_\_\_ Disabled Service \_\_\_ LMI Service \_\_\_ Fair Housing Service \_\_\_ Housing

Primary Objective (select one) X Create a suitable living environment \_\_\_ Provide decent, affordable housing \_\_\_ Create economic opportunity (ies)

Primary Outcome Measurement (select one) \_\_\_ Availability/Accessibility \_\_\_ Affordability

X Sustainability

*Summarize the means by which outcomes will be tracked, measured and reported:*

The types of households or persons served are of special need (presumed benefit) – Homeless. Income is not verified for guests at the Day Center. Only the income of the individuals who receive services for Financial Aid at Catholic Outreach is verified by requiring statements of income, salary stubs, or other financial documents. Clients that will benefit from this contract will be reported via the required Subrecipient Drawdown form.



\_\_\_\_\_ Subrecipient  
\_\_\_\_\_ City of Grand Junction

**2017 SUBRECIPIENT CONTRACT  
CITY OF GRAND JUNCTION, COLORADO AS GRANTEE  
UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**Date Approved:** \_\_\_\_\_

**Amount of Grant: \$22,500**

**Subrecipient: Housing Resources of Western Colorado**

**Completion Date: December 31, 2018**

**I. AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 201\_\_ by and between the CITY OF GRAND JUNCTION, COLORADO (hereinafter referred to as "*City*"), and Housing Resources of Western Colorado a not-for-profit agency (hereinafter referred to as "*Subrecipient*").

***Recitals:***

The *City* as an entitlement recipient and grantee of the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) program does hereby enter this Agreement with the *Subrecipient* for the expenditure of CDBG funds in accordance with Title 24, Part 570 of the Code of Federal Regulations (24 CFR 570.000 *et. seq.* hereinafter referred to as *CDBG Regulations* and the *Uniform Requirements* in accordance with Title 2 Part 200 of the Code of Federal Regulations (2 CFR 200 *et. seq.*)

Pursuant to such Agreement the City has awarded the Subrecipient CDBG funds to undertake certain activities necessary for the execution of certain projects the City deems necessary, desirable and in furtherance of the purposes of the program. To accomplish those goals, the City does agree to disburse funds to the Subrecipient to execute its project in accordance with the CDBG Regulations and this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals which are a substantive part of this Agreement and the following provisions which are approved by the City and the Subrecipient, they mutually agree as follows:

**II. SUBRECIPIENT OBLIGATIONS AND SCOPE OF SERVICES**

**A. Activities**

The sub-granting of CDBG funds to and the scope of services to be rendered by the Subrecipient shall be for the provision of the services described in Exhibit A attached hereto and made a part of this Agreement. Subrecipient agrees to perform the work described in Exhibit A in compliance with all provisions of this Agreement and it agrees to conduct all activities of the Subrecipient, whether funded in whole or in part by CDBG funds from the City in accordance with the provisions contained in 24 CFR 85 and 570 *et. seq.* and *inter alia*. Subrecipient warrants and represents that it has the requisite authority and capacity to perform all terms and conditions to be performed hereunder as required by this Agreement or by law and that there is adequate consideration to support the making and enforcement of this Agreement.

**B. National Objectives**

Subrecipient certifies that the activities carried out with funds provided under this Agreement meet one or more of the CDBG program's National Objectives. The specific National Objective to be met and how it will be met by the Subrecipient is described in Exhibit A attached to and incorporated by reference into this Agreement.

#### **C. Client Data**

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility and description of service provided. Such information shall be made available to the City or its designees for review upon request.

### **III. RESPONSIBILITY OF THE CITY**

The City shall designate representative(s) of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the execution of this Agreement and disbursing funds in connection with the program in accordance with the Agreement.

### **IV. PAYMENT**

If Subrecipient is not in default hereunder, and subject to City's receipt of the Department of Housing and Urban Development Community Development Block Grant funds and provided that the Agreement and Scope of Services are eligible expenditures of Community Development Block Grant funds, the City agrees to pay the Subrecipient a total dollar amount that is described on Exhibit A of this Agreement. Payment shall be made upon presentation of invoices which Subrecipient certifies are true and correct copies of payments due on behalf of the Subrecipient, for an activity covered by this Agreement and made in accordance and compliance with the Scope of Services. Payment may be withheld by the City in the event of non-performance by Subrecipient. The City may, at its sole discretion, retain 10% of each disbursement with final payment made upon successful completion of the project including satisfactory compliance with all City, state and federal requirements.

### **V. GENERAL CONDITIONS**

#### **A. General Compliance**

The Subrecipient also agrees to comply with all other applicable federal, state and local laws, regulations and policies governing the funds provided under and the obligations imposed by this Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

#### **B. Independent Contractor**

Nothing contained in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of employer/employee or a partnership or joint venture between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent Subrecipient.

#### **C. Hold Harmless**

The Subrecipient shall hold harmless, defend and indemnify the City from any and all claims, suits, charges, damages, costs, fees, expenses and judgments whatsoever that

arise out of the Subrecipient's performance or nonperformance of the services or other subject matter called for or otherwise provided in this Agreement.

**D. Workers' Compensation**

The Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

**E. Insurance and Bonding**

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to the total cash advances from the City.

**F. Amendments**

The City or Subrecipient may amend this Agreement at any time provided that such amendment(s) make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and approved by the City Council. Such amendment(s) shall not invalidate this Agreement nor relieve or release the City or Subrecipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with federal, state or local governmental law, rules, guidelines, regulations, policies and/or available funding amounts or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City and Subrecipient.

**G. Suspension or Termination**

Either party may terminate this Agreement at any time by giving written notice to the other party of termination and specifying the effective date thereof, at least 30 days before the effective date of such termination. Partial terminations of the Scope of Service may only be undertaken with the prior written approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement shall, at the option of the City, become the property of the City and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to termination.

In accordance with 24 CFR 85.43 and 44 the City may suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the law, rules, regulations or provisions referred to herein and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is reason to believe the Subrecipient is in noncompliance with any applicable law, rules or regulations, the City may withhold up to fifteen (15) percent of said contract funds until such time as the Subrecipient is found to be in compliance by the City or is otherwise found by the City to be in compliance.

## **VI. ADMINISTRATIVE REQUIREMENTS**

### **A. Uniform Administrative Requirements**

#### **1. Accounting Standards**

The Subrecipient agrees to comply with the *Uniform Requirements* for accounting principles and procedures required therein, to utilize adequate internal controls and maintain necessary source documentation for all costs incurred. Subrecipient shall comply and/or cause compliance with all audit reports required by the City and in conformity with 2 CFR 200.501 *et. seq.* as applicable. (See also B. 7 below)

#### **2. Cost Principles**

The Subrecipient shall administer its program in conformance with the *Uniform Requirements* pertaining to cost as applicable. These principles shall be applied for all costs incurred.

### **B. Documentation and Record-Keeping**

#### **1. Records to be Maintained**

The Subrecipient shall maintain all required records required specified in 24 CFR Part 570.506. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program;
- f. Financial records as required by 24 CFR Part 570.502, and 2 CFR Part 200 *et. seq.* and
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

#### **2. Retention**

The Subrecipient shall retain all required records incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and the same has started before the expiration of the three-year period, then such records must be retained until completion of the action(s) and resolution of all issues or the expiration of the three-year period, whichever occurs later.

#### **3. Disclosure**

The Subrecipient understands that client information collected under this Agreement is private and the unauthorized use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with

respect to services provided under this contract, is prohibited except as allowed or provided by law.

#### **4. Access to Records**

The Subrecipient shall furnish and cause each of its own subrecipients and/or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent or other authorized officials for purposes of investigation to ascertain compliance with the law, rule, regulations and provisions stated herein. The Subrecipient understands that the City, the Comptroller General and the Secretary of HUD shall have access to all records related to this project.

#### **5. Reversion of Assets**

The Subrecipient shall describe in writing in a form established by the City, all CDBG Assets to be obtained as a result of the funded activity. CDBG Asset shall mean an asset(s) purchased in whole or in part with CDBG funds or improved in whole or in part with CDBG funds and having a fair market value of – N/A -- or greater.

The City shall have a security interest in any and all CDBG Assets and after being obtained by the Subrecipient the City's security interest shall be perfected by means of: a) a deed of trust for real estate, encumbering the Subrecipient's equity in the real estate; or b) a lien notation on the certificate of title for a motor vehicle(s); or c) a security agreement and financing statement for personal property; or d) an assignment of accounts receivable for accounts receivable. The deed of trust shall be recorded with the Mesa County Clerk, the lien with the Colorado Department of Revenue and the financing statement and assignment of accounts recorded with the Colorado Secretary of State. The account debtors will be notified in writing of the assignment of accounts receivable. The Subrecipient shall transfer to the City any Community Development Block Grant funds related to this project on hand at the time of expiration of this Agreement and/or any accounts receivable of Community Development Block Grant funds related to this project. The instruments necessary to perfect the security interest will be prepared by the City Attorney. The Subrecipient shall pay all recording fees and mailing costs with other than CDBG funds.

If the Subrecipient ceases to use a CDBG Asset for CDBG purposes, the City may, in its discretion, direct the Subrecipient to convey the CDBG Asset to the City or require the Subrecipient to repay the CDBG funds that were used in whole or in part to acquire the CDBG Asset. The instruments necessary to convey the CDBG Asset will be prepared by the City Attorney.

In accordance with 24 CFR 570.503(b)(7) any real property under the Subrecipient's control that was acquired or improved, in whole or in part, with CDBG Funds (including CDBG funds provided to the Subrecipient in the form of a loan) shall, at the option of the City either a) be used for an eligible CDBG activity, as determined by the City and as provide for in a legal instrument(s) creating the interest, for a period of at least 5 years after the expiration of this Agreement or such longer period as the City may require or b) be disposed of in a manner that results in the City's being reimbursed in the lesser amount of the CDBG funds that were expended on the real property or the current fair market value of the property, less any portion of the value attributable to the expenditure of non-CDBG funds for acquisition or improvement(s) to the property.

The Subrecipient agrees to use all improvements made to the real property, with CDBG funds, as set forth in Exhibit "A."

#### **6. Program Income**

The Subrecipient agrees that it shall not use CDBG funds in any manner which shall provide income to the Subrecipient. Any interest income earned on funds generated through the use of investment of funds received from CDBG shall be cause, in the sole discretion of the City, for recapture of such income and/or the full amount of funds granted to the Subrecipient.

The Subrecipient shall report quarterly all program income (as defined by 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitation, the Subrecipient may use such income during the contract period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program balance(s) on hand. All unexpended program income shall be returned to the City at the end of the contract period as required by 24 CFR 570.503(b)(7). Any interest earned on cash advances from the US Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the City.

#### **7. Audits and Inspections**

All Subrecipient records with respect to any matters covered by the Agreement shall be made available to the City, their designees and/or the federal government, at any time during normal business hours, as often as the City deems necessary, to audit, examine and make excerpts or transcripts of all data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt of notice of deficiency. Failure of the Subrecipient to comply with the above audit requirements constitutes a violation of this Agreement and may result in the withholding of payment(s).

The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with City policy and, as applicable, the *Uniform Requirements*.

### **C. Reporting, Payment and Procurement Procedures**

#### **1. Indirect Costs**

Indirect costs are not allowed and shall not be charged. The Subrecipient shall not develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall not submit such plan to the City for approval, in a form specified by the City.

#### **2. Payment Procedures**

The City will pay to the Subrecipient funds available under this agreement based upon information submitted by the Subrecipient and consistent with the approved budget and any City policies concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed the actual grant award. In addition, the City reserves the right to liquidate funds available under this agreement for costs incurred by the City on behalf of the Subrecipient.

#### **3. Progress Reports**

The Subrecipient shall submit Progress Reports to the City in the time and manner



specified in Exhibit A of this Agreement.

#### **D. Procurement – Uniform Requirements**

The Subrecipient shall procure all materials, property or services in accordance with the *Uniform Requirements* of 2 CFR Part 200 *et. seq.*

### **VII. RELOCATION, REAL PROPERTY ACQUISITION, AND ONE-FOR-ONE HOUSING REPLACEMENT**

The Subrecipient and the City agree that no persons are being displaced. But if they were Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations of 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in §570.606(d) governing optional relocation policies. The Subrecipient shall provide relocation assistance to persons who are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project.

### **VIII. PERSONNEL AND PARTICIPANT CONDITIONS**

#### **A. Civil Rights**

##### **1. Compliance**

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

##### **2. Nondiscrimination**

The Subrecipient shall not discriminate against any person, employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

##### **3. Land Covenants**

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United

States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant and will not itself discriminate.

#### **4. Section 504**

The Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706) which prohibits discrimination against the handicapped in any federally assisted program.

### **B. Affirmative Action**

#### **1. Approved Plan**

The Subrecipient agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The Subrecipient shall submit a plan for an Affirmative Action Program for approval by the City.

#### **2. W/MBE**

The Subrecipient will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and women-owned business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

#### **3. EEO/AA Statement**

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

#### **4. Subcontractor Provisions**

The Subrecipient shall include the provisions of Paragraphs VIII A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

### **C. Employment Restrictions-Prohibited Activity**

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage and nepotism activities.

### **D. Conduct**

#### **1. Assignability**

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City; provided, however, that claims for money due to the Subrecipient from the City under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notice of assignment or

transfer to a bank or other financial institution shall be furnished promptly to the City.

## **2. Subcontracts**

a. The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the City. b. The Subrecipient understands that the City and/or HUD will monitor the Subrecipient for compliance with this Agreement. c. The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement. d. The Subrecipient shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

## **3. Hatch Act**

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

## **4. Conflict of Interest**

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

## **5. Lobbying**

**The Subrecipient certifies that:**

a. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement;

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "*Disclosure Form to Report Lobbying*," in accordance with instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification - Paragraph d - This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each failure.

## **6. Copyright**

If this Agreement results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

## **7. Religious Organization**

The Subrecipient agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 570.200(j).

## **E. "Section 3" Clause**

### **1. Compliance**

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the federal financial assistance provided under this agreement and binding upon the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for the low- and very low-income persons residing in the metropolitan area in which the project is located."

The Subrecipient further agrees to ensure that opportunities for training and employment

arising in connection with a housing rehabilitation, housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation, housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

## **2. Subcontracts**

The Subrecipient shall include the foregoing Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

## **IX. ENVIRONMENTAL CONDITIONS**

### **A. Air and Water**

The Subrecipient agrees to comply with the following insofar as they apply to the performance of this Agreement. (The Subrecipient does not assume the City's environmental responsibilities described in §570.604 nor does it assume the responsibility for initiating the review process under 24 CFR Part 52.) *Clean Air Act*, 42 U.S.C., 7401, et seq.; *Water Pollution Control Act*, as amended, 33 U.S.C. 1251, et seq., as amended, 1319 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder and Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

### **B. Flood Disaster Protection**

In accordance with the requirements of the *Flood Disaster Protection Act* of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

### **C. Lead-Based Paint**

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-

assisted housing and require that all owners, prospective owners and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.

#### **D. Historic Preservation**

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the *National Historic Preservation Act* of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

### **X. CONSTRUCTION CONDITIONS**

#### **A. Labor Standards**

The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the *Davis-Bacon Act* as amended, the provisions of *Contract Work Hours and Safety Standards Act*, the *Copeland Anti-Kickback Act* (40 USC 276a-276a-5; 40 USC 327 and 40 USC 276 c) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements. Such documentation shall be made available to the City for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this agreement, shall comply with federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

#### **B. Asbestos**

The Contractor/Subrecipient where undertaking renovation, rehabilitation, or demolition actions shall follow the notification and strict work practices for asbestos handling, removal, storage and transport as required under 40 CFR Part 61, Subpart m and 40 CFR Part 763 as well as for worker protection standards and exposures as required under 29 CFR 1910.1001 (non-construction), 1926.58 (construction), 40 CFR Part 763, Subpart G, and any applicable local regulations.

**C. Energy Efficiency**

The Contractor/Subrecipient shall comply with the *1989 Model Energy Code*, incorporated herein by this reference, for all new buildings constructed under this Agreement to address federal energy efficiency requirements found at 24 CFR 85.36 (i) (13) incorporated herein by this reference.

**XI. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

**XII. ENTIRE AGREEMENT**

The provisions set forth in items I-XI, and all attachments to this Agreement which includes the Subrecipient's lease with the City, constitute the entire Agreement between the parties hereto and no statement, promise, conditions, understanding, inducement or representation, oral or written, express or implied, which is not contained herein shall be binding or valid.

IN WITNESS WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

CITY OF GRAND JUNCTION, COLORADO

BY:

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

SUBRECIPIENT:

BY: \_\_\_\_\_  
Signature Title

ATTEST: \_\_\_\_\_



**2017 SUBRECIPIENT CONTRACT FOR  
CITY OF GRAND JUNCTION  
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS  
EXHIBIT A  
SCOPE OF SERVICES**

**Date Approved:** \_\_\_\_\_

**Amount of Grant: \$22,500**

**Subrecipient: Housing Resources of Western Colorado**

**Completion Date: December 31, 2018**

1. The City agrees to pay the Subrecipient, subject to the subrecipient agreement, this Exhibit and attachment to it, \$22,500.00 from its 2017 Program Year CDBG Entitlement Funds to be used for its Critical Home Repair program within the City limits. Subrecipient provides low income residents with 24-hour emergency repair including roof repair, furnace repair, carbon monoxide issues, frozen pipes, water heaters, electrical problems and evaporative coolers.
2. The Subrecipient certifies that it will meet the CDBG National Objective of low/moderate income benefit and housing rehabilitation (570.202(a) and 570.202). It shall meet this objective by completing the above-referenced (example: housing rehabilitation for low/moderate income households in Grand Junction, Colorado).
3. The project consists of rehabilitating homes with critical repairs as listed above. The homes will be low and moderate income households within the City limits. It is understood that \$22,500.00 of City CDBG funds shall be used only for the improvements described in this agreement. Costs associated with any other elements of the project shall be paid for by other funding sources obtained by the Subrecipient.
4. This project shall commence upon the full and proper execution of the 2017 Subrecipient Agreement and the completion of all necessary and appropriate state and local licensing, environmental permit review, approval and compliance. The project shall be completed on or before the Completion Date.
5. The total budget for the project is estimated to be \$32,500.00 as follows:  
  
CDBG Funds: \$22,500.00    Other Funds: \$10,000.00
6. This project will rehabilitate approximately 65-75 homes for city residents so as to maintain them as viable, affordable living units.
7. The City shall monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this agreement are met in accordance with City and other applicable monitoring and evaluating criteria and standards. The Subrecipient shall cooperate with the City relating to monitoring, evaluation and inspection and compliance.

\_\_\_\_\_ Subrecipient

\_\_\_\_\_ City of Grand Junction

8. The Subrecipient shall provide quarterly financial and performance reports to the City. Reports shall describe the progress of the project, what activities have occurred, what activities are still planned, financial status, compliance with National Objectives and other information as may be required by the City. A final report shall also be submitted when the project is completed.
9. During a period of five (5) years following the Completion Date the use of the Properties improved may not change unless: A) the City determines the new use meets one of the National Objectives of the CDBG Program, and B) the Subrecipient provides affected citizens with reasonable notice and an opportunity to comment on any proposed changes. If the Subrecipient decides, after consultation with affected citizens that it is appropriate to change the use of the Properties to a use which the City determines does not qualify in meeting a CDBG National Objective, the Subrecipient must reimburse the City a prorated share of the Amount of the Grant the City makes to the project. At the end of the five-year period following the project closeout date and thereafter, no City restrictions under this agreement on use of the Properties shall be in effect.
10. The Subrecipient understands that the funds described in the Agreement are received by the City from the U.S. Department of Housing and Urban Development under the Community Development Block Grant Program. The Subrecipient shall meet all City and federal requirements for receiving Community Development Block Grant funds, whether or not such requirements are specifically listed in this Agreement. The Subrecipient shall provide the City with documentation establishing that all local and federal CDBG requirements have been met.
11. A blanket fidelity bond equal to cash advances as referenced in Paragraph V. (E) will not be required as long as no cash advances are made and payment is on a reimbursement basis.
12. A formal project notice will be sent to the Subrecipient once all funds are expended and a final report is received.

\_\_\_\_\_ Subrecipient  
\_\_\_\_\_ City of Grand Junction

## Attachment 1 – Performance Measures

### 1. Output Measures

- A. Total Number of unduplicated clients anticipated to be served during the contract: 100
- B. Number of unduplicated LMI City residents to be served during the contract: 70
- C. Of the City residents to be served, how many will: i) have new or continued access to the service/benefit: 70; ii) have improved access to the service or benefit\_\_\_\_; and iii) receive the service or benefit that is improved/no longer substandard\_\_\_\_\_.

### 2.) Schedule of Performance

Estimate the number of unduplicated City residents to be served per quarter of the contract:

Q1: 17 Q2: 18 Q3: 17 Q4: 18

### 3) Payment Schedule

During the contract, funds will be drawn Q1: 25% Q2: 25% Q3: 25% Q4: 25%

### 4) Outcome Measures

**Activity** (select one) \_\_\_ Senior Service \_\_\_ Youth Service \_\_\_ Homeless Service  
\_\_\_ Disabled Service \_\_\_ LMI Service \_\_\_ Fair Housing Service X Housing \_\_\_ Other

**Primary Objective** (select one) \_\_\_ Create a suitable living environment X Provide decent, affordable housing \_\_\_ Create economic opportunity(ies)

**Primary Outcome Measurement** (select one) \_\_\_ Availability/Accessibility \_\_\_ Affordability  
X Sustainability

*Summarize the means by which outcomes will be tracked, measured and reported*

The income of each household/person receiving assistance will be individually verified for eligibility. If a client is a LEAP recipient, the LEAP letter of approval will serve as determination of income. If a client is qualifying through their income, all related income must be verified through pay stubs, social security annual letters and other qualifying documentation. Income is not to exceed the threshold of low/moderate income established guidelines.

\_\_\_\_\_ Subrecipient  
\_\_\_\_\_ City of Grand Junction



## Grand Junction City Council

### Regular Session

Item #4.a.

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**Meeting Date:** October 18, 2017

**Presented By:** Allison Blevins, DGJBID Executive Director

**Department:** Downtown GJ Business Improvement District

**Submitted By:** Allison Blevins, Downtown BID Director

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### **Information**

#### **SUBJECT:**

New Outdoor Dining Lease for The Goat and Clover Tavern, LLC Located at 336 Main Street, Suite 104

#### **RECOMMENDATION:**

Staff recommends adoption of the proposed resolution to lease a portion of the sidewalk right-of-way located in front of 336 Main Street.

#### **EXECUTIVE SUMMARY:**

The Goat and Clover, LLC dba Goat and Clover Tavern, is a new tenant occupying the former location of Ella's Blues Room at 336 Main Street. As a new business entity, The Goat and Clover, LLC, is requesting a first-time Outdoor Dining Lease for an area measuring 250 square feet directly in front of their building. The Outdoor Dining Lease would permit the business to expand their licensed premise and allow alcohol sales in this area. The outdoor dining area comprises the same enclosed sidewalk dining area that was occupied by Ella's Blues Room.

#### **BACKGROUND OR DETAILED INFORMATION:**

Council approved the expansion of sidewalk dining with liquor service in July 2004. However, at that time, it was made clear that permission to serve alcohol on the sidewalk would require a specific lease of the public right-of-way in order to expand the licensed premise under the business's individual liquor license. In Spring 2012 Council approved a newly revised standard Lease Agreement that is being used to allow for liquor sales within a leased sidewalk area. Approval of this lease will allow the applicant to apply for expansion of its premises through the proper State and City agencies.

**FISCAL IMPACT:**

There is no fiscal impact to the City. The Downtown Grand Junction Business Improvement District will receive the lease revenue of \$250 per year.

**SUGGESTED MOTION:**

I move to (adopt or deny) Resolution No. 59-17 - A resolution authorizing the lease of sidewalk right-of-way to the Goat and Clover Tavern, LLC, located at 336 Main Street.

**Attachments**

1. Signed Lease and site drawing
2. Proposed Resolution

## **DOWNTOWN OUTDOOR DINING LEASE AGREEMENT**

THIS LEASE AGREEMENT ("Agreement") is made and entered into as of this 18<sup>th</sup> day of October, 2017, by and between THE CITY OF GRAND JUNCTION, COLORADO, a municipal corporation, as Lessor, (hereinafter "City") and, The Goat and Clover Tavern, LLC dba The Goat and Clover Tavern as Lessee, (hereinafter "Lessee"), and the Grand Junction Downtown Development Authority as Lessor's Administrative Agent, (hereinafter "DDA").

### **RECITALS:**

The City by Ordinance No. 3650 and subsequently amended by Ordinance No. 4120 established a Sidewalk Restaurant commercial activity permit for restaurants in the Downtown Shopping Park (DSP) on Main Street, Seventh Street and Colorado Avenue.

In accordance with that authority, the City Council and the DDA desire to make certain areas of the sidewalk in the DSP and at other locations as authorized available by lease to proximate land owners and/or lessees that want to make use of a portion of the public way for outdoor dining with or without alcohol service.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein, it is agreed as follows:

### **1. Demise of Premises.**

Option B: The City does hereby lease to Lessee the Premises (hereinafter "Premises") comprising approximately 250 square feet of the public way located in front of and immediately abutting the Lessee's business. The Premises and the location of Lessee's primary business facility are more particularly described in the attached Exhibit A.

A brief description of the Lessee's business is attached as Exhibit B.

### **2. Term.**

The term of this Agreement shall be for a period of one (1) year to commence on October 18, 2017. Upon signature by all parties this Agreement supersedes all prior leases, and terminates on October 19, 2018.

### **3. Rental.**

Lessee shall pay rent to Lessor at the rate of \$1.00 per square foot per year and in the total sum of \$250, which sum shall be payable in advance at the offices of the City Clerk, Grand Junction City Hall, 250 North 5th Street, Grand Junction, Colorado 81501. If the rent payment is not paid in full when due, a Lease shall not issue.

### **4. Permitted Uses and Hours of Operation.**

Lessee agrees to use the Premises for the purpose of selling and dispensing food and/or beverages to the public. The Premises may be open to the public during Lessee's normal business hours, but in no event shall food and/or beverage service extend beyond 1:00 A.M. Service of alcoholic beverages shall be permitted provided Lessee holds a valid State and City liquor license. Tableside preparation of food shall be permitted pursuant to applicable health and safety regulations; however, fuel-based cooking or food preparation is expressly prohibited in the Premises. Live acoustic music performance is permitted on the Premises, provided any amplification utilized

shall not result in a sound level exceeding 55 decibels measured at a distance of 20 feet from any of the Premises boundaries.

**5. Assignment or Subletting Prohibited.**

Lessee shall not have the right to assign the lease or to sublet the Premises in whole or in part without the prior written consent of the City.

**6. Compliance with Legal Requirements.**

Lessee shall comply with all applicable requirements of any governmental or quasi-governmental body including City, County, State or Federal agencies, boards, councils and commissions having jurisdiction respecting any operation conducted on the Premises by Lessee or any equipment, installations or other property placed upon, in or about the Premises by Lessee.

Lessee further agrees to comply with all rules of the DDA relating to the use of the Premises. Prior to commencing alcohol service in the Premises, Lessee shall include the Premises in the licensed service area as required by the liquor laws of the State and City.

Lessee shall not discriminate against any worker, employee or job applicant, or any member of the public because of race, color, creed, religion, ancestry, national origin, sex, age, marital status, physical handicap, status or sexual orientation, family responsibility or political affiliation, or otherwise commit an unfair employment practice.

**7. Taxes.**

Lessee shall timely list for taxes and pay all tax assessments of whatever kind or nature assessed against or on Lessee's possessory interest, improvements, furnishings, fixtures, inventory, equipment and other property situated or placed upon, in or about the Premises. All such amounts shall be paid prior to delinquency.

**8. Utilities.**

Lessee shall make arrangements for all utilities, if any, needed at the Premises and is responsible for payment of the fees and charges arising out of the provision and/or use of the utility service(s).

**9. Improvements and Personal Property.**

All construction, improvements, installations, furniture, fixtures and/or equipment on the Premises shall comply with the following:

a. Lessee may place furniture, fixtures and equipment in the Premises so long as the same do not endanger any passersby or patrons, and are secured to resist wind. No portion of the Lessee's furniture, fixtures or equipment shall extend beyond the boundaries of the Premises nor impede pedestrian traffic on the sidewalk adjoining the Premises. The terms of this paragraph shall be construed to include but not be limited to perimeter enclosures, planters, signs, tables, chairs, shade structures, umbrellas while closed or open and any other fixtures, furniture or equipment placed or utilized by the Lessee. The Lessee may store its fixtures on the Premises at its own discretion and shall accept and retain full responsibility and liability for any damage to or theft of such fixtures. Required perimeter fencing shall be continuously maintained during the term of this Agreement.



b. Lessee shall provide a physical demarcation of the perimeter of the Premises, such as planters or stanchions, subject to DDA approval of the form and location of the same, to facilitate monitoring of potential encroachments beyond the Premises. If alcohol service is permitted in the Premises, the perimeter of the Premises shall be enclosed by a fixed perimeter enclosure no less than thirty (30) inches in height, the material, design and installation of which shall be approved by the DDA. Openings in the enclosure shall not be less than 44 inches wide. If there is a gate it must swing inward to prevent obstruction of the sidewalk.

c. No gas lighting shall be permitted in the Premises. Battery powered lights, candles in wind-protected enclosures, and low wattage electric lights, such as Christmas lights, shall be allowed. Under no circumstances shall electrical wires, extension cords or similar wiring, cables or conduit extend beyond the Premises into the public way, (easement area or otherwise) nor cross pedestrian paths, nor be placed so as to create a tripping hazard. Any suspended lighting must be securely installed to prevent dislodgement, sagging, or other hazard.

d. Signs are expressly prohibited on the Premises, except for the following: i) menu signs in compliance with the City sign code and ii) umbrellas that display the Lessee's business logo, and/or the logo of only one business product that is featured and representative of the theme of the business. Signs shall be subject to approval by the DDA and City. Third party business signs and/or identification are expressly prohibited on the Premises.

e. Lessee shall not utilize sidewalk trash and/or recycling receptacles for refuse generated within the Premises. Lessee may provide a private trash and/or recycling receptacle within the Premises provided that it is emptied and maintained on a regular basis.

f. Lessee shall remove any personal property, including but not limited to improvements, enclosures, furniture, fixtures, equipment or structures installed by it or at its direction on the Premises promptly upon expiration without renewal of this Agreement. Failure to remove said property within ten (10) days of expiration shall be deemed an abandonment of said property, and result in ownership thereof transferring to the DDA which shall have the right to dispose of said property as its own.

#### **10. Safe and Sanitary Condition.**

Lessee shall at all time keep the Premises in good repair and free from all litter, dirt, debris, snow, and ice, and in a clean and sanitary condition. Lessee shall not permit nor suffer any disorderly conduct or nuisance whatsoever, which would annoy or damage other persons or property by any alteration to the Premises or by any injury or accident occurring thereon. Lessee shall be responsible, subject to applicable law regulating the discharge of contaminants to the sewer for power-washing or steam cleaning the sidewalk surface of the Premises twice yearly.

#### **11. Lessor and Agent not Liable for Damages or Injuries.**

Lessor and its Administrative Agent shall not be responsible to Lessee or to any other person or entity for damages or injuries arising out of the Lessee's use of the Premises. Lessor and/or its Administrative Agent are not an insurer for Lessee's activities and

Lessee shall obtain appropriate insurance against potential damages, injury, lost profit or advantage and any and all other claims as determined in the Lessees sole and absolute discretion. Lessee shall indemnify and hold harmless the City of Grand Junction and the DDA and its employees, elected and appointed officials, against any and all claims for damages or personal injuries arising from the use of the Premises.

#### **12. Insurance.**

Lessee agrees to furnish Certificate(s) of Insurance at least fifteen (15) days prior to the commencement of the term of this Agreement as proof that it has secured and paid for a policy of public liability insurance covering all public risks related to the leasing, use, occupancy, maintenance and operation of the Premises. Insurance shall be procured from a company authorized to do business in the State of Colorado and be satisfactory to the City. The amount of insurance, without co-insurance clauses, shall not be less than the maximum liability that can be imposed upon the City under the laws of the State, as amended. Lessee shall name the City and the DDA as named insureds on all insurance policies and such policies shall include a provision that written notice of any non-renewal, cancellation or material change in a policy by the insurer shall be delivered to the City no less than ten (10) days in advance of the effective date.

#### **13. Inspection, Access and Improvements by City and/or DDA.**

Lessee agrees to permit the City, its designated representatives, and/or the DDA to enter upon the Premises at any time to inspect the same and make any necessary repairs or alterations to the sidewalks, utilities, meters or other public facilities as the City may deem necessary or proper for the safety, improvement, maintenance or preservation thereof. Lessee further agrees that if the City shall determine to make changes or improvements affecting the Premises which may affect any improvements placed by the Lessee, that the Lessee, by execution of this Agreement, hereby waives any and all right to make any claim for damages to the improvements (or to its leasehold interest) and agrees to promptly remove any furniture, fixtures, equipment and structures as necessary during such construction periods. The City agrees to rebate all rents in the event it undertakes major structural changes that continue for a period in excess of 14 continuous days during a lease period.

#### **14. Delivery and Condition of Premises upon Expiration or Termination.**

Lessee agrees to surrender and deliver up the possession of the Premises in substantially the same condition as received, ordinary wear and tear and approved improvements excepted, promptly upon the expiration of this Lease or upon five (5) days' written notice in the case of the termination of this Lease by City by reason of a breach in any provisions hereof.

#### **15. Limitation of Rights Demised.**

The City by this demise hereby conveys no rights or interest in the public way except the right to the uses on such terms and conditions as are described herein and retains all title thereto.

#### **16. Sale or Transfer of Lessee's Business Interest**

Lessee hereby affirms that Lessee is the owner and/or lessee of the abutting or approximate property and agrees that on sale or other transfer of such interest, Lessee will so notify the City of the transfer in interest and all right and interest under this Lease shall terminate.

### **17. Attorney's Fees.**

If legal action is taken by either party hereto to enforce any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party all of its cost, including reasonable attorney's fees. If the City and/or DDA uses in-house counsel to prosecute or defend any action arising out of or under this Agreement the City and/or DDA shall be entitled to recover the value of those services at the prevailing rate of private litigation counsel in Grand Junction.

### **18. Waiver.**

No failure by Lessor to exercise any rights hereunder to which Lessor may be entitled shall be deemed a waiver of Lessor's right to subsequently exercise same. Lessee shall gain no rights nor become vested with any power to remain in default under the terms hereof by virtue of Lessor's failure to timely assert his rights. It is further agreed that no assent, expressed or implied, to any breach of any one or more of the covenants or agreements herein shall be deemed or taken to be a waiver of any succeeding or any other breach.

### **19. Default.**

a. Each and every one and all of the following events shall constitute an Event of Default:

i) if Lessee files a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act or voluntarily takes advantage of any such act or makes an assignment for the benefit of creditors;

ii) if involuntary proceedings under any bankruptcy law, insolvency or receivership action shall be instituted against Lessee, or if a receiver or trustee shall be appointed for all or substantially all of the property of Lessee and such proceedings are not dismissed, or the receivership or trusteeship vacated, within ten (10) days after the institution or appointment;

iii) if Lessee fails to pay any sum due from it in strict accordance with the provisions of this Lease, and/or fails to pay any tax or assessment of the State, City or DDA and does not make the payment within ten (10) days after written notice thereof. For the purposes hereof, all sums due from Lessee shall constitute rentals whether denominated as rentals or otherwise elsewhere herein and Lessee has absolutely no right of offset;

iv) if Lessee fails to fully perform and comply with each and every condition and covenant of this Lease Agreement, and such failure or performance continues for a period of thirty (30) days after notice thereof;

v) if Lessee vacates or abandons the Premises;

vi) if the interest of Lessee is transferred, levied upon or assigned to any other person, firm or corporation whether voluntarily or involuntarily except as herein permitted;

vii) if Lessor, in any four month period during the Term, or spanning consecutive Terms, gives any notice to Lessee pursuant to subparagraphs iii) or iv) above, notwithstanding Lessee's cure of default within the allowable period or periods.

b. Upon the occurrence of any Event of Default as set forth above, Lessor shall have the right, at its option, to utilize any one or more of the following rights:

i) to cancel and terminate this Lease Agreement and all interests of the Lessee hereunder by giving notice of such cancellation and termination not less than ten (10)

days prior to the effective date of such termination. Upon the expiration of said ten (10) day period, the Lessee shall have no further rights under this Lease Agreement (but such cancellation shall not serve to release or discharge the damages Lessee owes to Lessor); and/or

ii) to make any payment required of Lessee herein or correct any condition required to be corrected by Lessee, and Lessor shall have the right to enter the Premises for the purpose of correcting any such condition and to remain on the Premises until the complete correction of such condition. However, no expenditure by Lessor on behalf of Lessee shall be deemed to waive or release Lessee's breach hereof and Lessor shall retain all rights to proceed against Lessee as set forth herein; and/or

iii) to reenter the Premises immediately with or without order of court and without claim of trespass, remove the property of Lessee and store such property in a public warehouse or such other location selected by Lessor, all at the expense of Lessee. After such reentry, Lessor shall have the right to terminate this Lease Agreement by giving ten (10) days notice of termination to Lessee, but without such notice, the reentry by Lessor shall not terminate this Lease Agreement. On termination, Lessor may recover from Lessee all damages resulting from Lessee's breach, including the cost of recovery of the Premises and placing them in satisfactory condition; and/or

iv) all other rights and remedies provided by law to a Lessor with a defaulting Lessee including all such money damages as Lessor shall be entitled pursuant to the law of damages.

c. In the event of any conflict between any of the provisions hereof regarding the amount of time that must elapse without cure after notice of breach before the same constitutes an Event of Default, then the provisions establishing the least amount of time to cure after notice shall prevail.

d. Upon any breach hereof, regardless of whether such breach is, or becomes, an Event of Default; Lessor shall be reimbursed by Lessee for any reasonable attorney's fees incurred by Lessor in connection with such breach.

## **20. Notices and Written Consents.**

All notices and written consents required under this Agreement shall be in writing and either hand delivered or mailed by first class certified mail to the following parties:

To Lessor: City of Grand Junction c/o City Attorney  
250 North 5th Street  
Grand Junction, Colorado 81501

To Lessee: The Goat and Clover Tavern, LLC dba The Goat and Tavern  
336 Main Street, Suite 104  
Grand Junction, CO 81501

To Agent: Downtown Development Authority c/o DGJBID Executive Director  
437 Colorado Avenue  
Grand Junction, CO 81501

Notices shall be deemed served upon posting the same as addressed above and sent as First Class United States mail.



**21. Binding Effect and Complete Terms.**

The terms, covenants, conditions and agreements herein contained shall be binding upon and inure to the benefit of and shall be enforceable by Lessor and Lessee and by their respective heirs, successors and assigns. All negotiations and agreements of Lessor and Lessee are merged herein. No modification hereof or other purported agreement of the parties shall be enforceable unless the same is in writing and signed by the Lessor and Lessee. This Lease supersedes all prior leases between Lessor and Lessee.

**22. Construction of Lease.**

This Lease shall not be construed more strictly against either party regardless of which party is responsible for the preparation of the same.

**23. Performance Standards.**

It is the intention of all parties hereto that the obligations hereunder and actions related hereto will be performed in accordance with the highest standards of commercial reasonableness, common sense and good faith.

**24. Authorization of Parties.**

Each individual executing this Lease as director, officer, partner, member, or agent of a corporation, limited liability company, or partnership represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of such corporation, limited liability company, or partnership and that reasonable evidence of such authorization will be provided to the other party upon request.

**25. Administrative Agent.**

In conformance with the City's delegation of management responsibilities and authority concerning the Downtown Shopping Park and others areas of the public way in downtown Grand Junction, the City designates the DDA to serve as its Agent for the administration and enforcement of this Agreement.

IN WITNESS WHEREOF, the parties have signed and sealed this Lease Agreement, this day and year first above written.

Lessor: City of Grand Junction

Lessee:

\_\_\_\_\_  
By: Greg Caton, City Manager

By: \_\_\_\_\_

Agent: Downtown Development Authority c/o DGJBID Executive Director

\_\_\_\_\_  
By: Allison Blevins, DGJBID Executive Director



Exhibit C: Assurances, Hold Harmless and Indemnity Agreement

The Applicant assures the Downtown Development Authority and the City of Grand Junction that if a lease is issued, s/he will comply with all of the requirements and provisions of Grand Junction City Ordinance 3609, all other applicable ordinances and laws, and the Plan of Development for Downtown Grand Junction. The applicant further assures that s/he has obtained or will obtain all of the necessary and required permits or licenses to engage in the business or activity proposed.

I, Randy Gulden, applicant for a Lease to conduct activities in the Downtown Shopping Park area, agree that I shall:

- (a) Hold harmless the City of Grand Junction, its officers and employees, and the Downtown Development Authority of Grand Junction, its officers and employees, from any claims for damage to property or injury to persons which may arise from or be occasioned by any activity carried on by me within the Downtown Shopping Park, and
- (b) Indemnify the City of Grand Junction, its officers and employees, and the Downtown Development Authority, its officers and employees, against any claim, loss, judgment, or action, or any nature whatsoever, including reasonable attorney fees, that may arise from or be occasioned by any activity carried on by me within the Downtown Shopping Park.

I realize that consideration for this release is the granting of a lease to me by the City of Grand Junction, and I realize and agree that this Hold Harmless/ Indemnity Agreement shall take effect whenever I begin to conduct the type of activities for which the lease has been applied or when the permit is issued, whichever is earlier. I also understand and agree that this agreement shall apply to any activities which I carry on which are done in violation of the terms of this lease.

Executed this 21 day of September, 2017.

Signed: 



Exhibit B: Brief Description of Business / DDA Certification: include date, who prepared and lessee signature or initials

Business Name (name of insured): The Goat and Clover Tavern

DBA (if needed): The Goat and Clover Tavern LLC

Applicant / Relationship to Business: Owner

Contact Phone and Email: 970-273-8117 candye@gsnhospitality.com

Type of Food/Beverage to be served in leased area: \_\_\_\_\_

Days of Operation / Operating Hours: Sun 11-11 M-Th 11-12 F&S 11-1AM

How this operation will benefit Downtown Grand Junction: \_\_\_\_\_

will enhance downtown with a great celtic Pub with Food & Beverage

Number of tables to be used in the leased area: 7

Number of chairs to be used in the leased area: 22

Semi-permanent or movable structures including carts, stands, signs, etc: \_\_\_\_\_

English phone Booths

Describe any musical or vocal presentations or effects to be used in the leased area:

Sound System

Are these current:

Permits & Licenses Obtained: State Sales Tax

2017/634187

City Sales Tax

12976

Liquor License

I-12-17/4706585

Restaurant/Food Service

Proof of Liability Insurance Coverage Provided?

yes

DDA Certification: The Downtown Development Authority hereby finds that this application is proper, that all applicable permits have been obtained or will be obtained, that it is in compliance and will further the goals and objectives of the Plan of Development for Downtown Grand Junction, and that no current application exists for this location.

Signed: [Signature]

Date: 9.25.2017

If denied, state reason:



THEGOAT-01

KATIES

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

09/21/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER  
Home Loan & Investment Company  
205 North 4th Street  
Grand Junction, CO 81501

CONTACT NAME: Matthew L. Hall

PHONE  
(A/C, No, Ext):FAX  
(A/C, No):

E-MAIL ADDRESS: matth@hlic.com

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: Hanover Insurance Group

22292

INSURER B: Pinnacol Assurance

41190

INSURER C:

INSURER D:

INSURER E:

INSURER F:

INSURED

The Goat and Clover Tavern, LLC  
336 Main Street  
Grand Junction, CO 81501

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X		CWP8368262	09/25/2017	09/25/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 LIQUOR LIAB \$ 1,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		APP9381411	09/20/2017	10/01/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	Liquor Liability			CWP8368262	09/25/2017	09/25/2018	Liquor \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Grand Junction and Downtown Development Authority are named as additional insured with respects to the general liability.

\*30 days' notice of cancellation for non payment of premium.

## CERTIFICATE HOLDER

City of Grand Junction, Downtown Development Authority  
250 North 5th Street  
Grand Junction, CO 81501

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

**RESOLUTION NO.**

**A RESOLUTION AUTHORIZING THE LEASE OF SIDEWALK  
RIGHT-OF-WAY TO THE GOAT AND CLOVER TAVERN, LLC  
LOCATED AT 336 MAIN STREET**

Recitals:

The City has negotiated an agreement for The Goat and Clover Tavern, LLC, to lease a portion of the sidewalk right-of-way located in front of 336 Main Street from the City for use as outdoor dining; and

The City Council deems it necessary and appropriate that the City lease said property to THE GOAT AND CLOVER TAVERN, LLC.

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

The City Manager is hereby authorized and directed to sign the Lease Agreement leasing the city-owned sidewalk right-of-way for an initial term commencing October 19, 2017, and terminating in 2018 on the date concurrent with the expiration of THE GOAT AND CLOVER TAVERN's Hotel Restaurant Liquor License, for the rental sum of \$250.00, to THE GOAT AND CLOVER TAVERN, LLC.

PASSED and ADOPTED this 18<sup>th</sup> day of October, 2017.

/s/: J. Merrick Taggart  
President of the Council

Attest:

/s/: Wanda Winkelmann  
City Clerk



## Grand Junction City Council

### Regular Session

Item #5.a.

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**Meeting Date:** October 18, 2017

**Presented By:** City Council

**Department:** City Council

**Submitted By:** CMU 20000 Steering Committee

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### **Information**

#### **SUBJECT:**

Discussion and Possible Direction Regarding North Avenue/University Boulevard and CMU 20000

#### **RECOMMENDATION:**

Refer to staff for the preparation of a draft resolution consistent with the City Council discussion and the requests contained in that letter; and furthermore, that the draft resolution be considered at the November 1, 2017 City Council meeting.

#### **EXECUTIVE SUMMARY:**

Earlier this year, the Colorado Mesa University 20000 Initiative, the Grand Junction Area Chamber of Commerce, and the North Avenue Business Owners Association proposed to change the name of North Avenue to University Blvd. as an objective of CMU 20000. The CMU 20000 Steering Committee is formally requesting that City Council reconsider its previous formal designation of the North Avenue name change and to create a five-member task force to make suggestions moving forward.

#### **BACKGROUND OR DETAILED INFORMATION:**

Earlier this year, the Colorado Mesa University 20000 Initiative, the Grand Junction Area Chamber of Commerce, and the North Avenue Business Owners Association proposed to change the name of North Avenue to University Blvd. as an objective of CMU 20000. The CMU 20000 vision is to unify a community that values higher learning and students as vehicles for greater prosperity.

Recently, the CMU 20000 Steering Committee learned that the initiative objective to

change the name of North Ave. to University Blvd. has become an inadvertent distraction from the broader outcomes desired the CMU 20000 effort. As a result, the Steering Committee is formally requesting that City Council reconsider its previous formal designation of the North Avenue name change.

Moving forward, the CMU 20000 Steering Committee proposes that City Council collectively and formally endorse the CMU 20000 Initiative while concurrently rescinding the decision to rename North Avenue. the Steering Committee also proposes that Council appoint a five-member task force to make suggestions moving forward on how the community can enhance the University's visibility throughout the City and report back to Council with recommendations within the next 30 to 60 days. The proposal asks that a task force be appointed and comprised of a 12th Street and North Avenue business owner as well as a CMU representative, Grand Junction City Council member, City Planning Department staff member, and a CMU 20000 Steering Committee member.

**FISCAL IMPACT:**

N/A

**SUGGESTED MOTION:**

I move that the letter from the CMU 20000 Steering Committee be referred to staff for the preparation of a draft resolution consistent with the City Council discussion and the requests contained in that letter; and furthermore, that the draft resolution be considered at the November 1, 2017 City Council meeting.

**Attachments**

1. CMU 20000 Letter



October 13, 2017

Dear Honorable Mayor Taggart and Members of the Council,

The Colorado Mesa University 20000 Initiative is a product that belongs to the community. As an extension of the community, the project affords Grand Junction residents tremendous opportunity to work together enhancing the health and vitality of the economy and community, through our University.

Objectives of the Initiative were established through the passion and joint efforts of over 300 citizens. These community members rallied behind the idea of supporting their local institution of higher learning. To date, the collaboration supporting CMU is something the community is proud of.

Recently, the CMU 20000 Steering Committee has learned that an initiative objective (while worthwhile and valuable) has also become an inadvertent distraction from the broader outcomes desired by thousands who subscribe to the CMU 20000 effort. The renaming of North Avenue is this distraction. As a result, the Steering Committee formally requests City Council reconsider its previous formal designation of the North Avenue name change. Moving forward we propose (just as individual council members have already done) that City Council collectively and formally endorse the CMU 20000 Initiative while concurrently rescinding the decision to rename North Avenue. Also, we propose Council appoint a five-member task force to make suggestions moving forward on how the community can enhance the University's visibility throughout the City and report back to Council with recommendations within the next 30 to 60 days. We propose a task force be appointed and be comprised of a 12th Street and North Avenue business owner as well as a CMU representative; Grand Junction City Council member; City Planning Department staff member; and, a CMU 20000 Steering Committee member.

The CMU 20000 vision unifies the community around a common vision--a vision that values students and higher learning as vehicles for greater prosperity. When, however, an objective instead creates division within the community we believe an appropriate course of action is to pause and then explore how the community's common goals can be achieved through different means.

Please accept this letter as our deepest appreciation for your belief that supporting higher learning (and valuing the University's role in our society and community) is a worthwhile endeavor.

Sincerely,

CMU 20000 Steering Committee



## Grand Junction City Council

### Regular Session

Item #6.a.i.

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**Meeting Date:** October 18, 2017

**Presented By:** Kathy Portner, Community Services Manager

**Department:** Community Development

**Submitted By:** Kathy Portner, Community Services Manager

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### **Information**

#### **SUBJECT:**

Ordinance Vacating Right-of-Way and Easements Located in the Jarvis Subdivision Plat

#### **RECOMMENDATION:**

Planning Commission, at their September 26, 2017 hearing, recommended approval on the consent agenda.

#### **EXECUTIVE SUMMARY:**

The City-owned 63-acre site, located between Highway 50 and the Riverside neighborhood along the Colorado River, was recently platted to accommodate future redevelopment. This proposal is to vacate certain rights-of-way and easements that are no longer needed to serve the property or the surrounding area. They include portions of Riverside Park Drive, Lila Avenue, alleys and sewer and utility easements. Future development plans for the property will establish new rights-of-way and easements as needed.

#### **BACKGROUND OR DETAILED INFORMATION:**

The City acquired in 1990, the 63-acre site, referred to as the Jarvis property due to previous ownership by the Jarvis Family. The property is located on the north bank of the Colorado River between the Highway 50/railroad bridge and the Riverside neighborhood. Since that time, the property has been cleared, the Riverfront Trail was extended, and a backwater pond for endangered fish was created between the trail and River. The remaining acreage was intended for redevelopment.

The property was recently platted to serve future redevelopment. Since City acquisition, it has become clear that the existing platted rights of way and easements, some of which were dedicated with the O'Boyle Subdivision, will not accommodate the pattern of development that the City anticipates occurring on this large tract of land. This proposal is to vacate certain right-of-way and easements that are not currently used and are not anticipated to be needed to serve the property or the surrounding area. Future development plans for the property will establish new rights-of-way and easements as needed.

Pursuant to Section 21.02.100 of the Zoning and Development Code, the vacation of public right-of-way or easement shall conform to the following:

a. The Comprehensive Plan, Grand Valley Circulation Plan, and other adopted plans and policies of the City.

Goal 9: Develop a well-balanced transportation system that supports automobile, local transit, pedestrian, bicycle, air, and freight movement while protecting air, water and natural resources.

Policy C: The Regional Transportation Plan will be used as a basis for development review and to help prioritize capital improvement programming. The City and County will maintain Capital Improvement Plans (CIPs) which prioritize road and alley improvements based on needs for traffic flow, safety enhancements, maintenance and linkages.

The proposed right-of-way and easements to be vacated are not needed to serve the property or the surrounding area; therefore, the vacation of this right-of-way does not conflict and conforms with the Comprehensive Plan, the Grand Valley Circulation Plan and other adopted plans of the City. Staff believes this request conforms with this criterion.

b. No parcel shall be landlocked as a result of the vacation.

No parcels will be landlocked with the proposed vacations; therefore, this criterion has been met.

c. Access to any parcel shall not be restricted to the point where access is unreasonable, economically prohibitive or reduces or devalues any property affected by the proposed vacation.

Riverside Park Drive provided access through the property prior to the construction of the Riverside Parkway. This portion of the road has been blocked off and it no longer needed to provide access to or through the property. Previously, Lila Avenue and the



alley's to be vacated provided access to individual lots that have since been replatted into one large parcel, so are no longer needed to provide access to individual lots. No access to any parcel will be restricted; therefore, this request conforms with this criterion.

d. There shall be no adverse impacts on the health, safety, and/or welfare of the general community and the quality of public facilities and services provided to any parcel of land shall not be reduced (e.g. police/fire protection and utility services).

No adverse impacts on the health, safety, and/or welfare of the general community have been identified and the quality of public facilities and services provided to any parcel of land will not be reduced as a result of this vacation request; therefore, this request conforms with this criterion.

e. The provision of adequate public facilities and services shall not be inhibited to any property as required in Chapter 21.06 of the Grand Junction Municipal Code.

There are no existing public facilities or services located within the right-of-way. Additionally, the easements reserved specifically for utilities and sewer do not contain any improvements; therefore, this request conforms with this criterion.

f. The proposal shall provide benefits to the City such as reduced maintenance requirements, improved traffic circulation, etc.

Future development plans for the property will establish new rights-of-way and easements that will be intended to provide better access and improved traffic circulation to future lots. Staff believes this request conforms with this criterion.

#### **FISCAL IMPACT:**

This land use action does not have any direct fiscal impact.

#### **SUGGESTED MOTION:**

I move to (approve or deny) Ordinance No. 4767 - An ordinance vacating right-of-way and easements within the Jarvis Subdivision Plat, located at 1001 S. 3rd Street.

#### **Attachments**

1. Vicinity and Site Location Maps
2. Jarvis Ordinance

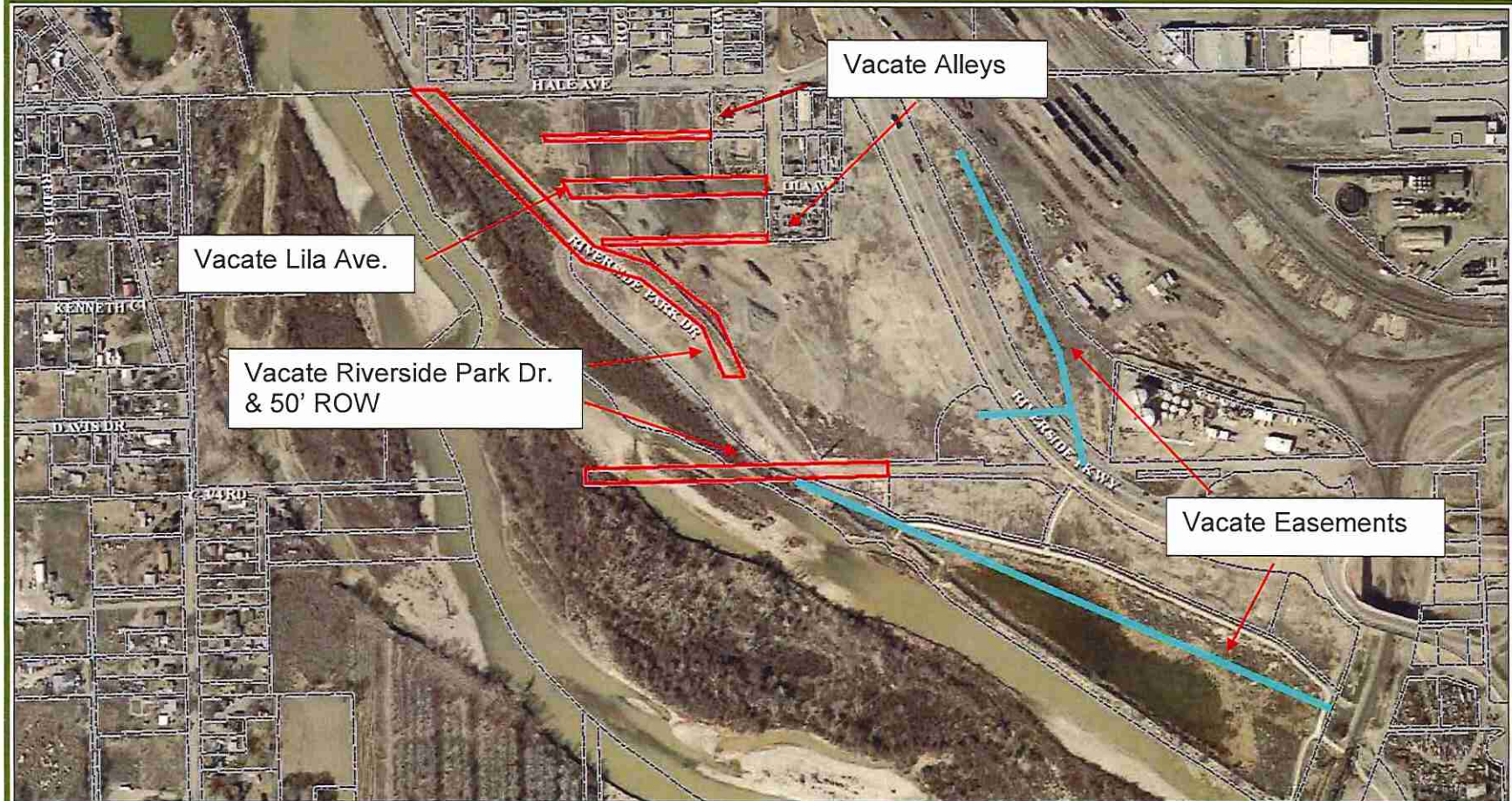
[illegible]

1 inch = 458 feet





## Easement and R/W Vacations



0 0.1 0.2  
Miles

Date: 9/11/2017

1 inch = 300 feet

**Grand Junction**  
COLORADO  
OFFICIAL CITY ENGINEERING & PLANNING BUREAU

**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE VACATING RIGHT-OF-WAY AND EASEMENTS WITHIN THE  
JARVIS SUBDIVISION PLAT, LOCATED AT 1001 S. 3<sup>RD</sup> STREET**

**Recitals:**

The City acquired the 63-acre site, known as the Jarvis property, located on the north bank of the Colorado River between the Highway 50/railroad bridge and the Riverside neighborhood, in 1990. Since that time, the property has been cleared, the Riverfront Trail was extended, and a backwater pond for endangered fish was created between the trail and River. The remaining acreage was intended for redevelopment.

The property was recently platted to accommodate future redevelopment. This proposal is to vacate certain rights-of-way and easements that are no longer needed to serve the property or the surrounding area. Future development plans for the property will establish new rights-of-way and easements as needed.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, and upon recommendation of approval by the Planning Commission, the Grand Junction City Council finds that the request to vacate certain right-of-way and easements within the Jarvis Subdivision plat is consistent with the Comprehensive Plan, the Grand Valley Circulation Plan and Section 21.02.100 of the Grand Junction Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT THE FOLLOWING DESCRIBED DEDICATED RIGHT-OF-WAY AND EASEMENTS ARE HEREBY VACATED:

Five (5) recorded rights of way lying in the Northeast Quarter (NE ¼) of Section 22, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

**No. 1**

ALL of that certain 60' road right of way, as same is recorded in Book 805, Page 14, Public Records of Mesa County, Colorado and entitled "Riverside Park Drive".  
CONTAINING 1.97 Acres, more or less, as described. (Exhibit A)

**No. 2**

ALL of that portion of the 20.0 foot wide Alley lying within the O'Boyle's Sub-Division, as same is recorded in Plat Book 2, Page 43, Public Records of Mesa County, Colorado lying West of Lot 8, Block 3 and South of Lots 9 thru 30 of said Block 3.  
CONTAINING 10,886 Square Feet or 0.25 Acres, more or less, as described. (Exhibit A)

**No. 3**

ALL of that portion of the 60.0 foot wide right of way for Lila Avenue lying within the O'Boyle's Sub-Division, as same is recorded in Plat Book 2, Page 43, Public Records of Mesa County, Colorado lying West of the West right of way for Lawrence Avenue (platted as Lawrence Street).

CONTAINING 39,153 Square Feet or 0.90 Acres, more or less, as described. (Exhibit A)

No. 4

ALL of that portion of the 20.0 foot wide Alley within Block 2 of the O'Boyle's Sub-Division, as same is recorded in Plat Book 2, Page 43, Public Records of Mesa County, Colorado lying West of the West line of the East 175.0 feet of Lot A of said O'Boyle's Sub-Division.

CONTAINING 10,936 Square Feet or 0.25 Acres, more or less, as described. (Exhibit A)

No. 5

ALL of that certain 50' road right of way, as same is recorded in Book 741, Page 138, Public Records of Mesa County, Colorado being the South 50.0 feet of the Northeast Quarter of the Northeast Quarter (NE  $\frac{1}{4}$  NE  $\frac{1}{4}$ ) of Section 22, Township 1 South, Range 1 West of the Ute Principal Meridian, LESS HOWEVER, the East 314.35 feet thereof.

CONTAINING 49,943 Square Feet or 1.15 Acres, more or less, as described. (Exhibit B)

Vacation of 20' Sewer Easement (Book 973, Page 993)

ALL of that certain 20.0 foot wide Sewer Easement, as recorded in Book 973, Page 993, Public Records of Mesa County, Colorado and lying in the Southeast Quarter of the Northeast Quarter (SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ ) of Section 22 and the Southwest Quarter of the Northwest Quarter (SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ ) of Section 23, all in Township 1 South, Range 1 West of the Ute Principal Meridian.

CONTAINING 0.81 Acres, more or less, as described. (Exhibit C)

Vacation of 20' Utility Easement (Within Lot 2 of D & R G W Railroad Subdivision)

A certain parcel of land lying in the Northwest Quarter of the Northwest Quarter (NW  $\frac{1}{4}$  NW  $\frac{1}{4}$ ) of Section 23, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

ALL of that certain North-South 20.0 foot wide Utility Easement lying within Lot 2 of D & R G W Railroad Subdivision, TOGETHER WITH that certain East-West 10.0 foot wide Utility Easement within said Lot 2 with the West end of said easement being 157.3 feet, more or less, North of the Southwest corner of said Lot 2, all recorded in Plat Book 13, Page 383, Public Records of Mesa County, Colorado.

CONTAINING 22,843 Square Feet or 0.524 Acres, more or less, as described. (Exhibit D)

Introduced on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017 and ordered published in pamphlet form.

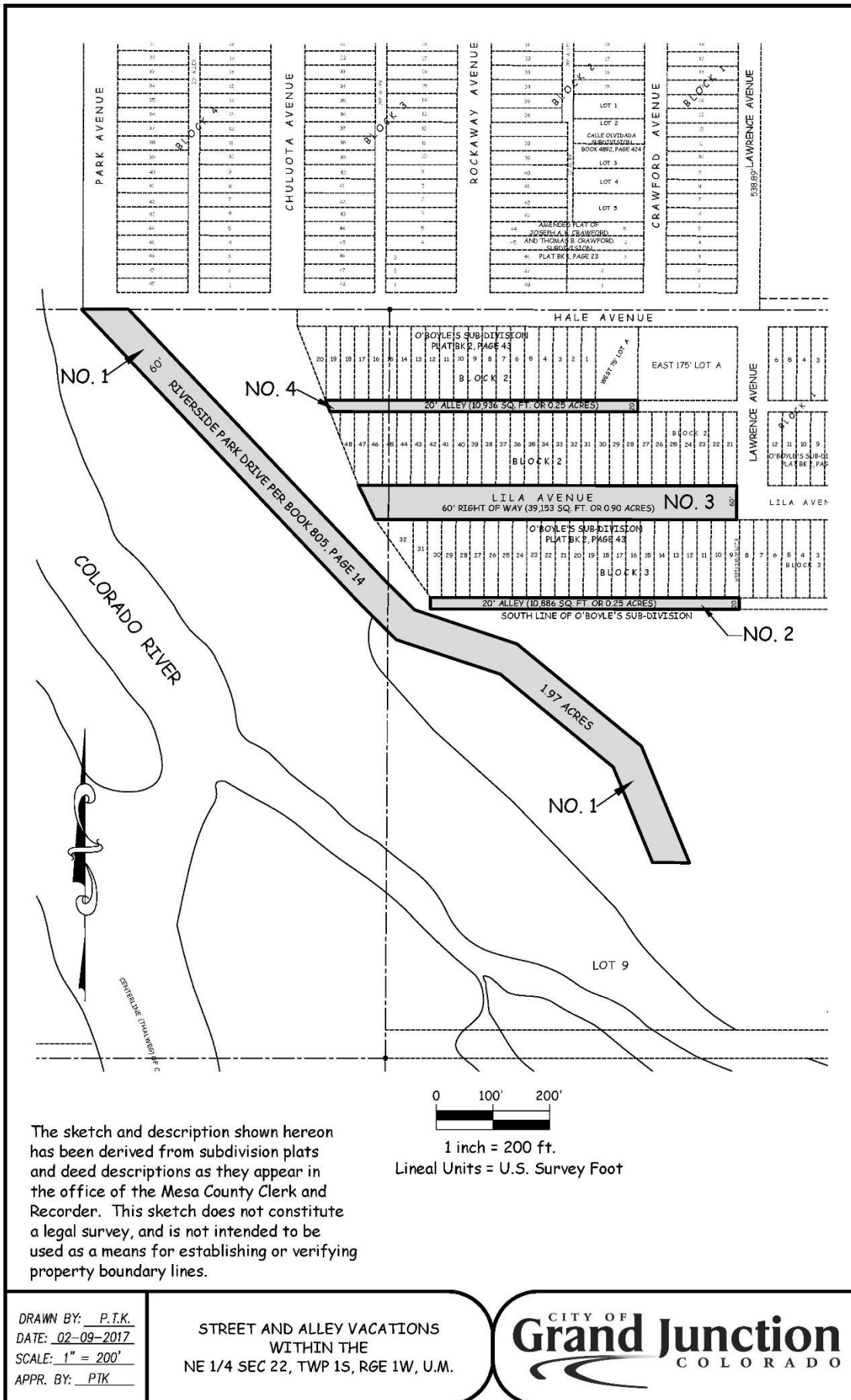
Adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017 and ordered published in pamphlet form.

ATTEST:

\_\_\_\_\_  
City Clerk

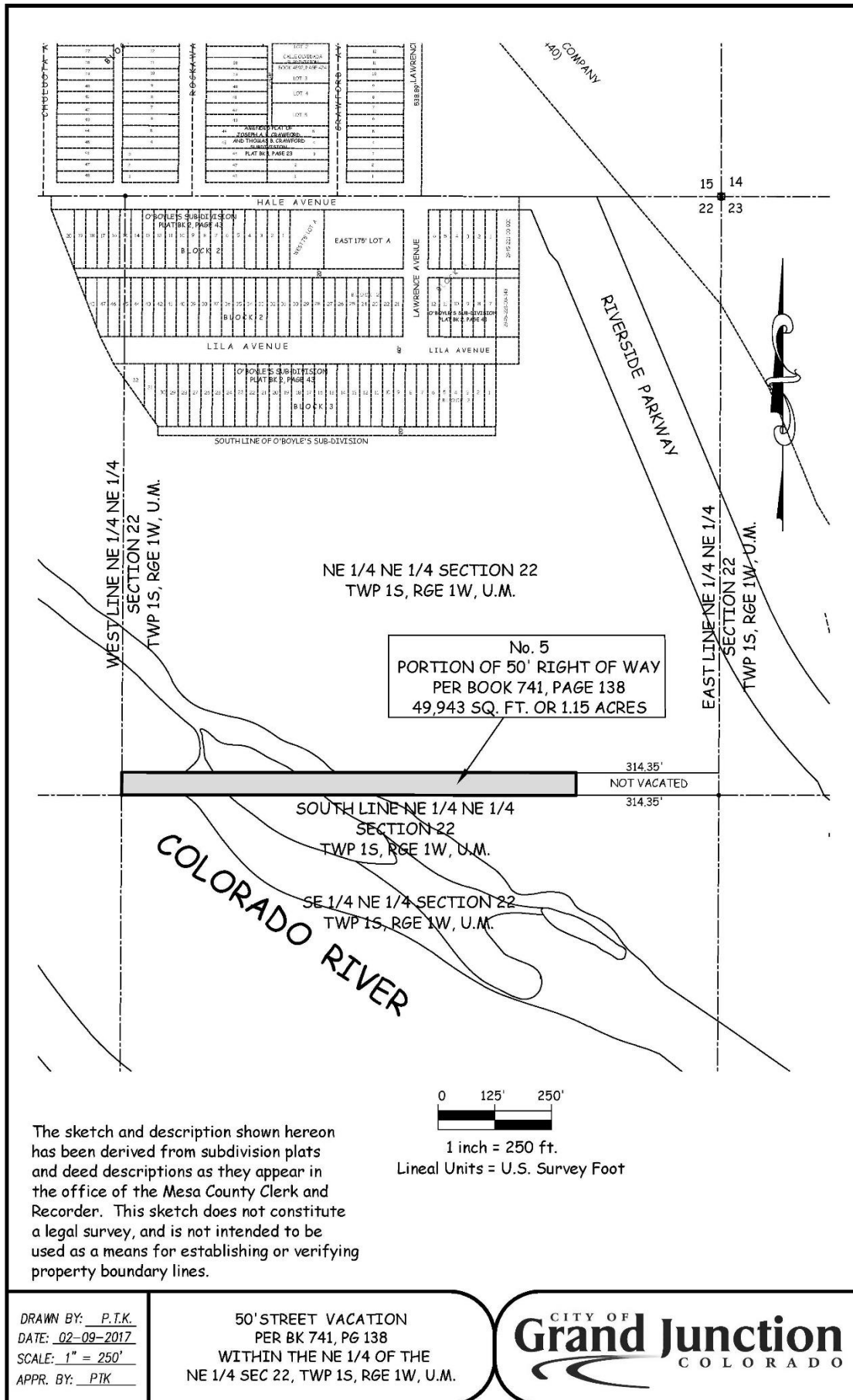
\_\_\_\_\_  
Mayor

# Exhibit A





# Exhibit B





# Exhibit C

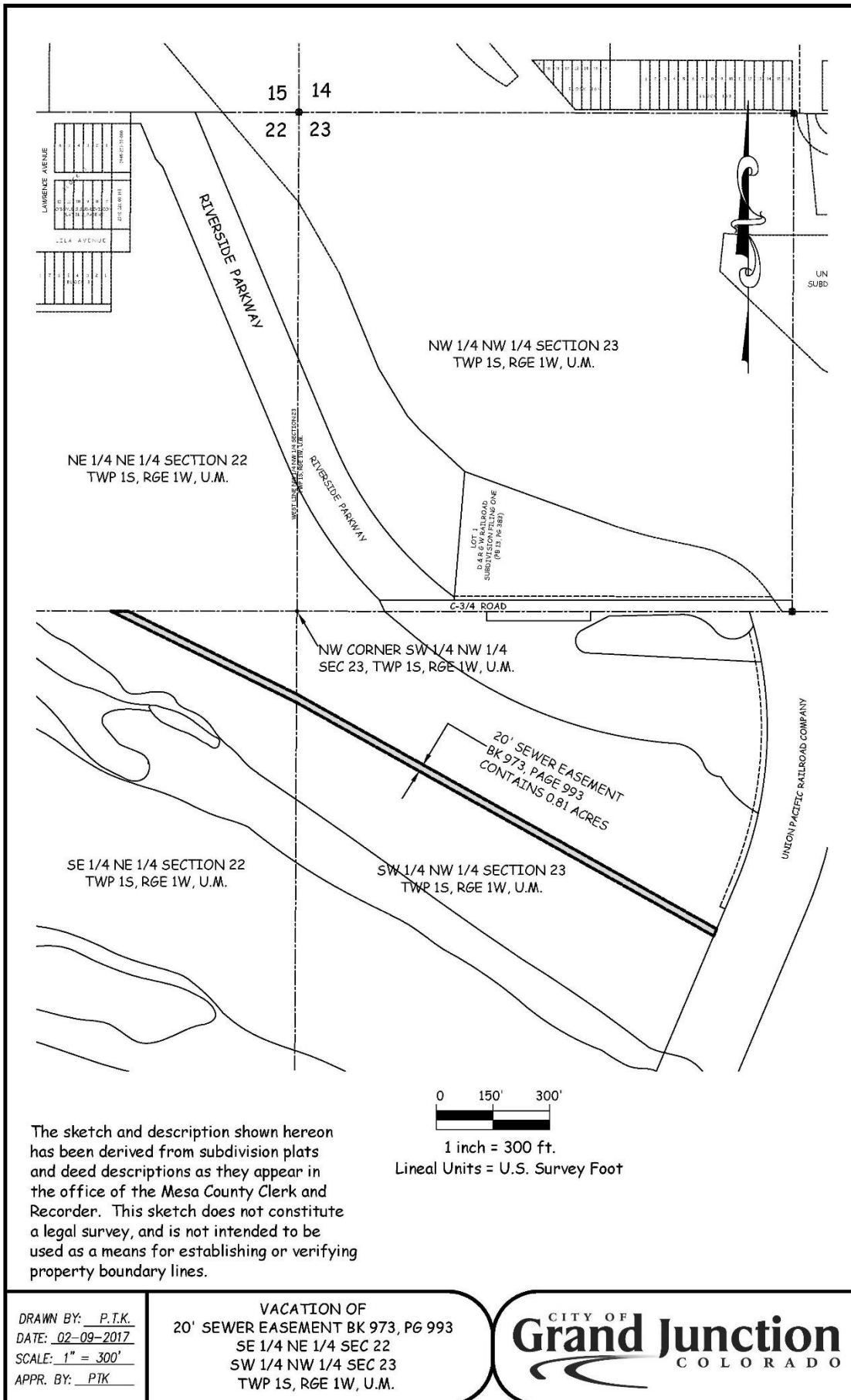
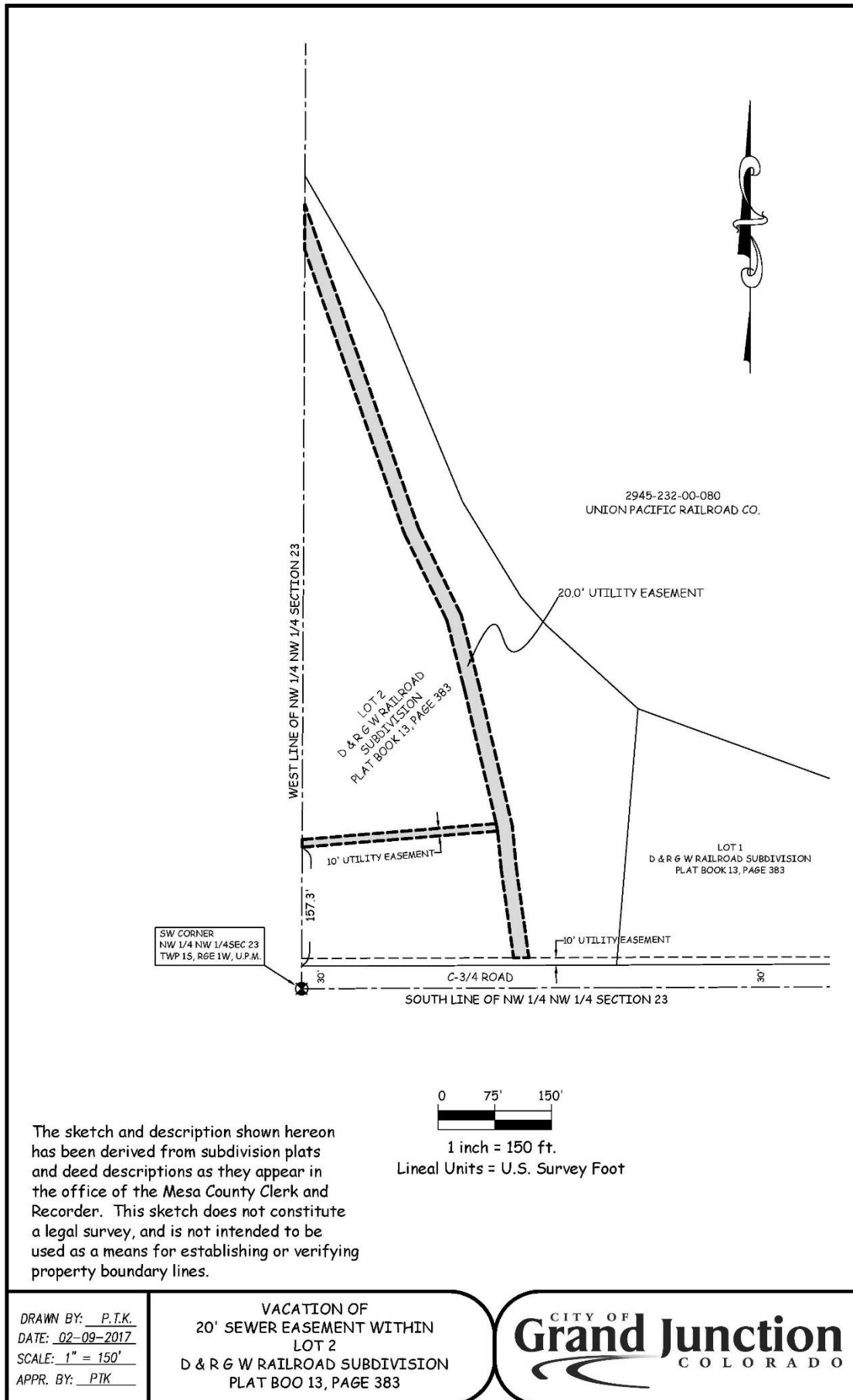


Exhibit D



CITY COUNCIL MEETING CITIZEN PRESENTATION		Date Oct. 18, 2017
Citizen's Name	Barrett Dunn	
Subject	Birth of Bahá'ulláh anniversary	
Phone Number (optional)		Including your phone number is helpful if we would like to contact you in response to your questions, comments, or concerns. Thank you!

CITY COUNCIL MEETING

CITIZEN PRESENTATION

Date: 10/18/17

Citizen's Name: Richard Swingle

443 Mediterranean Way

Address: Grand Junction, CO 81507-4525

Phone Number: ( )

Subject: PRIVATE ENTERPRISE

CITY COUNCIL MEETING CITIZEN PRESENTATION		Date 18 Oct 2017
Citizen's Name	Larry Sipes	
Subject	Garage Sales - RE Signage & Removal	
Phone Number (optional)		Including your phone number is helpful if we would like to contact you in response to your questions, comments, or concerns. Thank you!

CITY COUNCIL MEETING CITIZEN PRESENTATION		Date
Citizen's Name	Bruce Schumiller	
Subject	Night Patrols Etc.	
Phone Number (optional)		Including your phone number is helpful if we would like to contact you in response to your questions, comments, or concerns. Thank you!

CITY COUNCIL MEETING CITIZEN PRESENTATION		Date 04/18/2017
Citizen's Name	LIM SHUTS	
Subject	ELECTRIC	
Phone Number (optional)		Including your phone number is helpful if we would like to contact you in response to your questions, comments, or concerns. Thank you!

CITY COUNCIL MEETING CITIZEN PRESENTATION		Date 10/18/17
Citizen's Name	DENNIS SIMPSON	
Subject	2018 BUDGET	
Phone Number (optional)		Including your phone number is helpful if we would like to contact you in response to your questions, comments, or concerns. Thank you!

Two things I will quickly read should take about 1 minute:

When the council has city exclusive matters whether North Avenue or a community center for examples before it, I suggest that only actual citizens of the city have standing before the city council and only they be allowed to give citizen input, testimony, etc. Otherwise a New York state resident in New York City and not a resident here could come before the council on a Grand Junction matter and chew up time. I am pretty sure this is not a First Amendment issue--but a matter of protocol and residential standing and should also apply to any petition regarding the city of Grand Junction.

The following has nothing to do with the North Avenue matter before the council tonight.

2 I think we should change, Rood to Polite, White to Black, Walnut to Cashew, Grand to Puny, Main to Secondary and Colorado to Arizona.

Thank you very much.

Mr. Schultz

# City of Grand Junction City Council Meeting October 18, 2017

## Private Enterprise

Prepared by: Richard Swingle

## Private Enterprise

Private enterprise defined:

Privately owned business or industry run independently of the government.



## Private Enterprise

### Broadband timeline:

2005 –SB05-152 passed by Colorado legislature (CenturyLink, Charter, Comcast)

2015 – City of GJ holds election for SB05-152 exemption – passes 77%, hires consultant

2016 – RFP, Workshops, Start Nokia/SiFi negotiations

2017 – SiFi negotiations end, Incumbents interviewed

October 4, 2017 – Proposed 2018 Budget up to \$100,000 for broadband, CenturyLink and Charter Spectrum speak during City Council meeting

October 18, 2017 – day 924 since exemption has passed

Grand Junction City Council-October 18, 2017

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## Private Enterprise

### Senate Bill 05-152 (passed in 2005)

- "THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS THE POLICY OF THIS STATE TO ENSURE THAT CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, AND HIGH SPEED INTERNET ACCESS, OTHERWISE KNOWN AS ADVANCED SERVICE, ARE EACH PROVIDED WITHIN A CONSISTENT, COMPREHENSIVE, AND NONDISCRIMINATORY FEDERAL, STATE, AND LOCAL GOVERNMENT FRAMEWORK."
- Prevents the state's municipalities from creating their own broadband networks without a local election being held for an exemption
- Backed by incumbents - CenturyLink, Charter Spectrum and Comcast (private enterprise)
- 2007 – Apple iPhone introduced

Grand Junction City Council-October 18, 2017

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## Private Enterprise

Other Western Slope communities that are working on a municipal solution for getting fiber optic cable capabilities:

- Rangely – Complete
- Meeker – Complete
- Montrose – Fiber being installed
- Delta – Fiber being installed
- Gunnison – Fiber loop being installed
- Durango – Deployed in many areas
- Glenwood Springs – Being deployed

Grand Junction City Council-October 18, 2017

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## Private Enterprise

- Broadband Capital Funding City of Grand Junction Broadband Capital Fund – passed October 4, 2017

### Purpose:

The Broadband Capital Fund is a funding source from which fiber installation construction advances can be made for high speed fiber optic broadband expansion projects. As money is repaid through a revenue share with the broadband provider, the capital can then re-advanced for another project. The intent is to make the construction and installation costs, above the provider's standard or advertised installation policies affordable to a location where the added costs would otherwise make the installation unaffordable.

### 2018 Budget Proposal - \$100,000 fund:

The city will fund up to 50% of the capital construction costs (not to exceed \$10,000) to provide fiber-based broadband services to a location not currently served with the partnering company's broadband services

Grand Junction City Council-October 18, 2017

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## Private Enterprise

### Evaluation Criteria and Award Process

- Demonstrate need or demand for high-speed broadband
- Demonstrate economic development opportunity
- Project to begin within 3-months and completed within 12-months
- Must improve broadband services to end-users
- Preference given to the retention or local job creation
- **Projects less than \$10,000 that meet eligibility requirements approved by administration assuming available budget**
- **Projects greater than \$10,000 or longer term presented and approved by City Council**

Grand Junction City Council-October 13, 2017

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## Private Enterprise

So what happens now:

- City staff has to review each request made by incumbents
  - ✓ Project Manager assigned
  - ✓ Purchasing Manager assigned
  - ✓ Legal review
  - ✓ Accounting entries to track loan terms and payback
- Any request over \$10,000 requires City Council approval
- Private Enterprise = Privately owned business or industry run independently of the government.
- SB05-152 –

Grand Junction City Council-October 18, 2017

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## Private Enterprise

- Questions:
  - Does the current path lead to “To become the most livable community west of the Rockies by 2025”?
  - How will we measure success with the Broadband Capital Fund?
    - How many projects would demonstrate success?
    - What timeframe should be placed on this effort? Three months? Six months?
    - How will this proposal lower the cost for the average business/resident?
    - Who owns the fiber optic cable?
    - Can it be shared with other providers?
    - How much staff time for review and approval will each project take?
    - How does this impact the financial/accounting the City is required to complete and track?
  - If private enterprise can solve this problem why do we need to offer funding?
  - SB05-152 – same folks 12