



**CITY COUNCIL AGENDA  
OCTOBER 11, 2016 – 6:00 P.M.  
116 SOUTH MAIN STREET**

**All Times Listed are Estimates. At the Discretion of the Mayor and Council Times May be Adjusted.**

- 1) Call to Order**
- 2) Pledge of Allegiance**
- 3) Roll Call**
- 4) (A) Presentations:**
  - **8.12 and 8.14 Ordinance Findings on Behalf of Blight Team Research (Kimberly)**
  - **Old Towne Arts Donation (Kimberly)**
- 4) (B) Board/Commission/Committee Appointments**
- 5) City Council Agenda Requests and Announcements**
- 6) Public to be Heard**

Citizens may address the Council on items that are not on the agenda. Please sign up with the City Clerk prior to the meeting. Council may not be able to provide an immediate answer, but will direct staff to follow-up. Out of respect for the Council and others in attendance, please limit your comments to three (3) minutes or less.
- 7) Consent Agenda**

Note: All items listed under the Consent Agenda are considered to be routine and will be approved with one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which case the item may be removed from the Consent Agenda and considered separately, at the discretion of Council. (Est. time-3 min)

  - A. Approval of the September 27, 2016 City Council Meeting Minutes**
  - B. Approve and Award the Contract for the 2016 Water Department Saddle Tap Replacement Project to Plowman Excavating, Inc., of Fountain, Colorado, with the Contract Amount Not to Exceed \$64,000.**
- 8) Old Business**
- None**
- 9) New Business**

**A. Consideration of Items Removed from the Consent Agenda**

**10) Correspondence, Comments and Ex-Officio Reports**

**11) Announcement of Executive Sessions**

In accordance with the City Charter and the Colorado Open Meetings Act, the City Council open session is to determine whether it will hold a Closed Executive Session. A Closed Executive Session may be held upon an affirmative vote of two-thirds of the quorum present. If consent to the closed Executive Session is not given, the items may be discussed in open session or withdrawn from consideration.

1. An executive session pursuant to C.R.S. Section 24-6-402(4) for the purpose of review, approval, and amendment of executive session minutes

2. An executive session pursuant to C.R.S. Section 24-6-402(4)(b) for the purpose of receiving legal advice on specific legal questions

**12) Adjourn**

**A (Administrative Action)      QJ (Quasi-Judicial Action)      L (Legislative Action)**

**NEXT REGULAR COUNCIL MEETING  
OCTOBER 25, 2016**

**FOLLOWING THE ADJOURNMENT OF THE REGULAR CITY COUNCIL MEETING THE CITY COUNCIL SHALL RECONVENE AS THE EX OFFICIO BOARD OF DIRECTORS OF THE FOUNTAIN GENERAL IMPROVEMENT DISTRICT NO. 2 FOR ACTION ON THE FOLLOWING ITEM:**

**1. Second Reading of Ordinance No. 1679GID2, An Ordinance Of The Fountain General Improvement District No. 2, City Of Fountain, Colorado, For Inclusion Of Certain Property Sometimes Known As Eagleside Filing #2 Into The Fountain General Improvement District No. 2, City Of Fountain, Colorado**

Posting Date:

# 8.12 and 8.14 Chapter Findings

on behalf of Blight Team Research

10.11.16 City Council

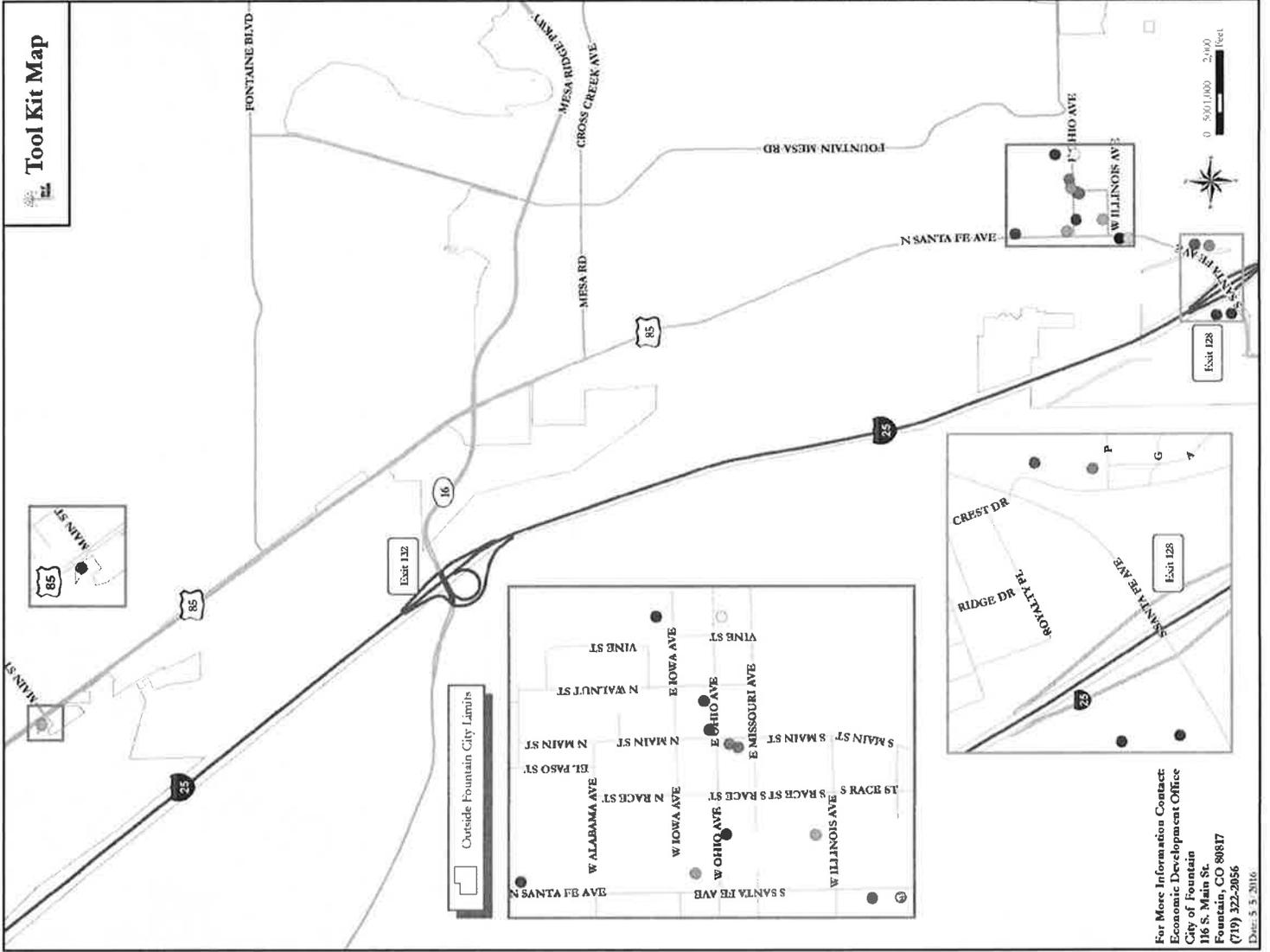
# Agenda

- Blight Team Introduction
- Commercial Blight Assets Map
- Basis of Chapter(s) Revision Recommendations
- Protective Rights
- Neighborhood Services
- Legal Review of Chapter(s)
- Cost Impacts on City Resources
- Q&A

# Blight Team

- March 2015 Staff meeting convened by Councilmember Thomas with respect to hurdles with blight remediation of commercial assets
- September 2015 Executive Session held with City Council
  - Vacant Property Registration Form and Fee Chart Introduction
    - Fees to be allocated as reserve funds toward blight remediation costs
  - Staff's legal matters of concern addressed with Council
    - Motion to move forward on subsequent recommendation alternatives
- **Team:**
  - Kimberly Bailey – Economic Development/Urban Renewal
  - Todd Evans – Planning Department
    - Former Dave Smedsrud role over Code Compliance
  - Juan Flores – Neighborhood Services
  - Luchia Tingley – Neighborhood Services
  - Jennifer Stewart – City Intern Assistant
  - Pat McDivitt – City Legal
  - Gerry Dahl – Land Use Legal Advisor

# Blight Assets Map



For More Information Contact:  
 Economic Development Office  
 City of Fountain  
 116 S. Main St.  
 Fountain, CO 80817  
 (719) 322-2056  
 Date: 5.5.2016

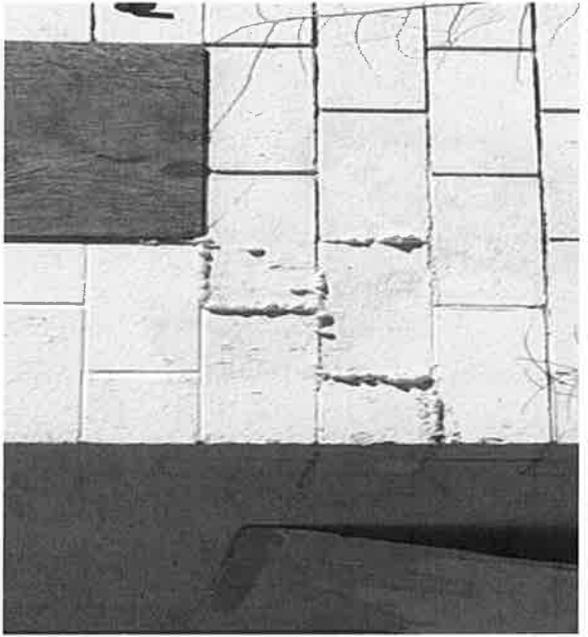
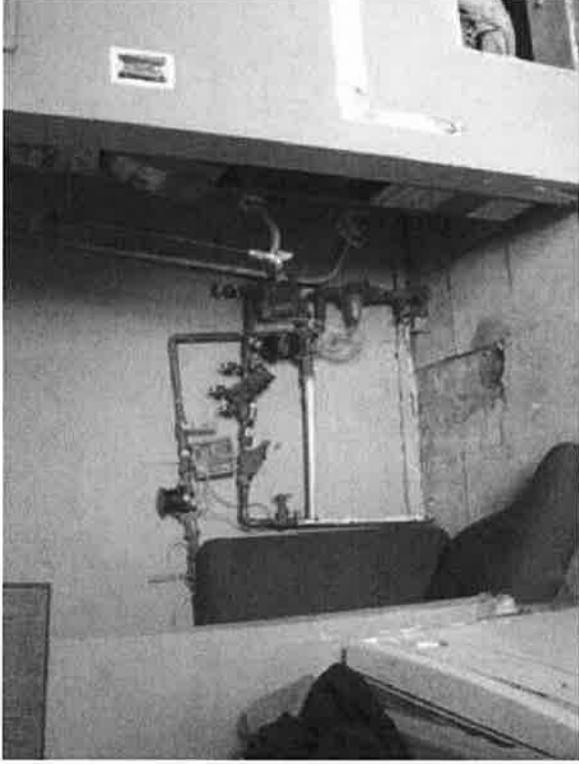
# Basis of Chapter(s) Revision

- **Combat Blight Toolkit Resource**
  - Additive measures to curtail depressed asset impacts on EcoDev efforts toward new business attraction and job creation for community
- **PPRBA “Dangerous Building Code” limitations**
  - Means to stop-gap the black hole void of limited-inactionable measures with respect to Pike Peak Regional Building Authority code
- **Stem the Bleeding from 2007/2008 Great Recession**
  - Remnant clean up and proactive measures established for future U.S. economic recessions
- **Public Health – Safety – Wellness Mission**
  - Impact awareness on Public Safety and Wellness
- **Clarity of Policy and Enforcement Procedures**
  - On behalf of both Property Owners and City Staff
- **Sync with Planning 2017 Development Code Revisions**
  - Unison effort with building code revisions on the horizon

# Protective Rights

- Chapter Revisions incorporated clause with respect to enlisted Military property ownership
  - Deployment and lack of property management awareness
- Enhanced benefit measures for Property Ownership
  - Protection of property owners' due-process
  - Transparency and Clarity of policy, enforcement, and appeal process(s)
- Maintains existing \$250 - \$1,000 Fine allowance cap
  - State Statue provides a limit < \$2,650
- Administrative Hearing Officer to provide appeal rights that are immediate and user-friendly
  - Sync with City Clerk and Municipal Court process revisions underway with City Legal

# Neighborhood Services



# Neighborhood Services

## Property Ownership Benefits

- Provides a greater clarity of the ordinances and code compliance process, no gray area
- Emphasizes voluntary compliance in order to preclude Notices/Court Summons
- Provides protection of owner rights and due process
- Recognizes Military Service and provides consideration in the case of deployment

## City Staff Benefits

- Provides greater clarity of these ordinances and the code compliance process
- Standardizes compliance procedures
- Enhances the Code Compliance “Toolkit”
- Increases Code Compliance Effectiveness
  - Emphasizes voluntary compliance
  - Measurable by “Calls for Service” vs Notices Served/Court Cases

# Legal Review of Chapter(s)

- Gerry Dahl
- Third-party legal advisor specialized in Land Use
- Works with over 30 CO municipalities on Land Use



ATTORNEYS AT LAW



- Pat McDivitt
- City legal attorney
- Chapter(s) Revision Recommendations
  - 8.12 Chapter
  - 8.14 Chapter

# Cost Impacts

Blight Fees Justification	Summary
<b>Department/Justification</b> <b>Code Enforcement</b> 3.5 hours x \$20/hour = \$70 Fuel = \$30 7 total steps—each step averages about 30 minutes of time	\$100/property
<b>Police</b> Blighted property addresses: (# of calls from 2013 - present): 331 N. Santa Fe = 16 calls 401 S. Santa Fe = 6 calls 500 N. Santa Fe = 49 calls 650 S. Santa Fe = 17 calls 700 N. Santa Fe = 95 calls 119 E Ohio = 1 call 121 E Ohio = 3 calls 218 W Ohio = 2 calls 319 W Ohio = 163 calls 303 E Iowa Ave = 91 calls 403 Royalty Pl = 14 calls 505 Royalty Pl = 189 calls 506 Royalty Pl = 7 calls 217 W Missouri Ave = 4 calls 650 Champlin Dr = 242 calls Total calls = 899 Total calls x average hourly officer pay (each CRS takes average of 1.5 hours @ \$22/hour) x number of officers 899 x \$33 x 2 Total: \$59,334 (2013 - present)	\$66/occurrence \$224/year rate
<b>Fire</b> 10515 Jimmy Camp Road Fire Only called out if there is a fire; they fight the fire from outside and do not go in the building, if it is blighted and/or vacant. <b>EMT</b> Average call is approximately an hour long and takes 4 medics to provide medical care <b>City Clerk</b> Based off the price: the cost of obtaining an occupational business license; similar process for future VPK form	\$9,000 in apparatus/manpower  \$800/occurrence  \$50

16 Commercial  
66 Residential

Annual Tally on  
City Resources  
> **\$16,969**

Planning  
Police  
Fire  
Legal

\*departments  
that endorse  
Blight Team  
recommendations  
of 8.12.& 8.14  
Chapter Revisions

# Q&A

Closing Recommendation by Council

# Legal Definitions

- **Attractive Nuisance**
  - Shall mean a premises which, because of its appearance or condition, encourages criminal and illicit activities, such as, but not limited to persons intending to commit crimes, illegal drug use, sale and distribution, vandalism, prostitution, vagrancy, and theft.
- **Vacant/Abandoned/Substandard Building**
  - Shall mean a building or portion thereof which is vacant, defective, or in such condition of disrepair as to create or constitute a nuisance as herein defined, or so as to substantially diminish the value of surrounding property, or otherwise be substantially detrimental to surrounding properties in their enjoyment, use, or property value. By way of description but not limitation, any one (1) or more of the following conditions may render a building vacant, abandoned or substandard:
    - The building is unoccupied;
    - Any utility service has been discontinued in the building for more than 60 days;
    - Utility service has been shut off or discontinued by a utility provider;
    - Windows or doors are permanently locked and secured;
    - Mail deliveries are obviously accumulating and/or mail delivery has been discontinued
- **Reasonable Party**
  - Shall mean any person who makes or causes a nuisance to exist, or who has possession or control of any real property or premises, whether as the owner, lessee, occupant or person in possession or control of a premises where any nuisance is found, or in the case of a motor vehicle, the owner or operator of the same.
- **Disorderly House**
  - The keeping of any dwelling, boardinghouse, rooming house or other residential property in violation of any provision of this Chapter or of Chapter 17, including any violation of maximum occupancy limitations imposed by that Chapter or any condition of approval of the use of property imposed by action of the City, is a nuisance. A disorderly house shall also include keeping any such property in a condition or manner which generates law enforcement calls disproportionate to other properties in the neighborhood or which negatively affects neighboring properties and/or residents, whether by continuous or excessive noise or by maintenance of the property in an unwholesome manner, noxious or offensive to others or injurious to public health, safety or welfare, or in a condition which renders it an attractive nuisance as defined herein.

Appendix

## 8.12 AND 8.14 CHAPTER CODE

## Blight Fees Justification

Department/Justification	Summary
<p><b>Code Enforcement</b>            3.5 hours X \$20/hour = \$70            Fuel = \$30            7 total steps – each step averages about 30 minutes of time</p>	\$100/property
<p><b>Police</b>            Blighted property addresses (# of calls from 2013 - present):            331 N. Santa Fe = 16 calls            401 S. Santa Fe = 6 calls            500 N. Santa Fe = 49 calls            660 S. Santa Fe = 17 calls            700 N. Santa Fe = 95 calls            119 E Ohio = 1 call            121 E Ohio = 3 calls            218 W Ohio = 2 calls            319 W Ohio = 163 calls            301 E Iowa Ave = 91 calls            403 Royalty Pl = 14 calls            505 Royalty Pl = 189 calls            506 Royalty Pl = 7 calls            217 W Missouri Ave = 4 calls            650 Champlin Dr = 242 calls</p> <p>Total calls = 899            Total calls x average hourly officer pay (each CFS takes average of 1.5 hours @ \$22/hour) x number of officers            899 x \$33 x 2            Total: \$59,334 (2013 - present)</p>	\$66/occurrence \$224/year rate
<p><b>Fire</b>  <i>10515 Jimmy Camp Road Fire</i>            Only called out if there is a fire; they fight the fire from outside and do not go in the building if it is blighted and/or vacant</p>	\$9,000 in apparatus/manpower
<p><b>EMT</b>            Average call is approximately an hour long and takes 4 medics to provide medical care</p>	\$800/occurrence
<p><b>City Clerk</b>            Based off the price the cost of obtaining an occupational business license; similar process for future VPR form</p>	\$50

## Chapter 8.12

### NUISANCES

#### Sections:

- 8.12.001 Purpose; Findings
- 8.12.005 Definitions
- 8.12.010 Nuisances Prohibited; Violation
- 8.12.020 Unsanitary Animal and Fowl Enclosures
- 8.12.030 Offensive, Unsanitary or Hazardous Conditions of Building or Premises
- 8.12.040 Disorderly House
- 8.12.050 Applicability of Chapter 8.14
- 8.12.060 Investigation
- 8.12.070 Right of Entry.
- 8.12.080 Abatement Alternatives
- 8.12.090 Recovery of Expense of Abatement
- 8.12.100 Summons and Complaint: Municipal Court
- 8.12.110 Violation; Penalty; Suit

8.12.001 Purpose; Findings. In enacting this Chapter 8.12, the City Council finds and determines this Chapter is necessary for the protection of the public health, safety and welfare. In particular, the City Council finds that nuisance conditions as defined herein:

A. Create or maintain unhealthy and dangerous conditions, including physical hazards such as but not limited to obnoxious odors, fire danger, unsafe buildings and pedestrian ways, unhealthy noise levels or dangers from flooding.

B. Serve as harbors for and create an environment in which illegal acts are encouraged, including graffiti and vandalism of vacant buildings.

C. Serve as an incentive for secondary criminal activities, including sale and use of illegal substances, theft, and prostitution.

D. By creating or maintaining an environment which fosters criminal activity, these nuisance conditions threaten the health and safety of the general public.

E. Negatively affect adjacent properties and businesses by their proximity to properties having these conditions.

F. Require expenditure of additional public funds to address criminal activity associated with such nuisance conditions, diverting limited resources from other important public priorities.

8.12.005 Definitions. For the purposes of this Chapter, the following words shall have the following meanings:

A. "Attractive Nuisance" means a premises which, because of its appearance or condition, encourages criminal and illicit activities, such as, but not limited to persons intending to commit crimes, illegal drug use, sale and distribution, vandalism, prostitution, vagrancy, and theft.

B. "Business day" is each day of the week excluding Saturdays, Sundays, and holidays recognized by the City under section 2.14.510 of the Fountain Municipal Code. Half day holidays shall be treated as a full day holiday.

C. "Code Compliance Officer" means a duly appointed City of Fountain Code Compliance Officer, the City Manager or his designated representative.

D. "Nuisance" or "Nuisance Condition" includes but is not limited to:

2. 1. The conducting or maintaining of any business, occupation or activity prohibited by statute by this Chapter, or in violation of any regulation of the City, the county, or the state. Any building, structure or land open to or used by the general public, the condition of which presents a substantial danger or hazard to public health or safety.
3. Any unlawful pollution or contamination of any surface or subsurface waters in the City, or of the air, or of any water intended for human consumption.
4. Any activity, operation or condition which, after being ordered abated, corrected or discontinued by a lawful order of an agency or officer of the City continues to be conducted or continues to exist in violation of any statute or this Chapter or in violation of any regulation of the City, the county, or the state.
5. Any activity, operation, condition, building, structure, place, premises or thing which is injurious to the health or safety of the citizens of the City, or which is indecent or offensive to the senses so as to interfere with the comfortable enjoyment of life or property.
6. Any vacant, abandoned, or substandard building which attracts or has the potential to attract vagrants and criminal activity as a result of its being obviously unoccupied, or to constitute an attractive nuisance as defined herein.
7. Those specific nuisances described in this Chapter at Section 8.12.010, 8.12.020, 8.12.030, and 8.12.040.
8. Those offenses which are known to the common law as it exists in the State, or as provided by the Statutes of Colorado as nuisances, shall in case the same exists within the City, be treated as a nuisance or nuisances and proceeded against as provided in this Chapter.
9. Any condition which, in the reasonable judgment of the Code Compliance Officer, constitutes a nuisance within the scope of this Chapter.

E. "Owner, Lessee or Occupant" means one who owns, leases or occupies any lot or parcel of land in the City, or any agent, manager, tenant, representative, or employee of such owner, lessee or occupant, having control of any occupied or unoccupied lot or parcel of land in

the City, including, without limitation, public and utility easements and drainage ways within such property.

F. “Property” in reference to real property means any occupied or unoccupied lot or parcel of land in the City including, without limitation any structure thereon, public and utility easements and drainage ways located within any lot or parcel of land in the City.

G. “Public view” means visible from the street or other public right-of-way. Upon complaint by an owner, occupant or lessee of a lot or parcel, public view includes being visible from that owner’s, occupant’s or lessee’s lot or parcel of land. (Ord. 1452 §2, 2009) (Ord. 1459 §2, 2009)

H. “Responsible party” means any person who makes or causes a nuisance to exist, or who has possession or control of any real property or premises, whether as the owner, lessee, occupant or person in possession or control of a premises where any nuisance is found, or in the case of a motor vehicle, the owner or operator of the same.

I. “Vacant, abandoned or substandard building” means an building or portion thereof which is vacant, defective, or in such condition of disrepair as to create or constitute a nuisance as herein defined, or so as to substantially diminish the value of surrounding property, or otherwise be substantially detrimental to surrounding properties in their enjoyment, use, or property value. By way of description but not limitation, any one (1) or more of the following conditions may render a building vacant, abandoned or substandard:

1. The building is unoccupied;
2. Any utility service has been discontinued in the building for more than 60 days;
3. Utility service has been shut off or discontinued by a utility provider;
4. Windows or doors are permanently locked and secured.
5. Mail deliveries are obviously accumulating and/or mail delivery has been discontinued.

8.12.010 Nuisances Prohibited; Violation. It is a violation of this Chapter to cause or permit any real property or structure within the City to constitute a nuisance or nuisance condition, as defined herein.

8.12.020 Unsanitary Animal and Fowl Enclosures. Any animal or fowl enclosure or appurtenance thereto in which any animal or fowl is kept, or any other place within the City in which manure or liquid discharges of such animals or fowl accumulates, or which is maintained in an unsanitary condition, allowing an offensive odor to escape therefrom, or providing an insect or rodent attractant, shall be a nuisance. (Ord. 1452 §2, 2009)

8.12.030 Offensive, Unsanitary or Hazardous Conditions of Building or Premises. It is unlawful and constitutes a nuisance for any responsible party to allow any building or premises or appurtenance thereof to become offensive in odor, or to create an unsanitary or hazardous health condition. (Ord. 1452 §2, 2009)

8.12.040 Disorderly house. The keeping of any dwelling, boardinghouse, rooming house or other residential property in violation of any provision of this Chapter or of Chapter 17, including any violation of maximum occupancy limitations imposed by that Chapter or any condition of approval of the use of property imposed by action of the City, is a nuisance. A disorderly house shall also include keeping any such property in a condition or manner which generates law enforcement calls disproportionate to other properties in the neighborhood or which negatively affects neighboring properties and/or residents, whether by continuous or excessive noise or by maintenance of the property in an unwholesome manner, noxious or offensive to others or injurious to public health, safety or welfare, or in a condition which renders it an attractive nuisance as defined herein.

8.12.050 Applicability of Chapter 8.14. All buildings and the portions thereof and including the lot, tract or parcel of land on which the same are located which are determined to be vacant, abandoned, or substandard as defined herein or in Chapter 8.14 of the Fountain Municipal Code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in this Chapter, or in the discretion of the Code Compliance Officer if Chapter 8.14 is applicable, abatement proceedings may be taken pursuant to Chapter 8.14 instead of this Chapter. (Ord. 1452 §2, 2009)

8.12.060 Investigation. The Code Compliance Officer is hereby authorized to investigate any matter at any place within the City which reasonably appears to be in violation of the provisions of this Chapter. Except upon a citizen complaint, the Code Compliance Officer shall have no obligation to investigate violations which are not in public view as defined in this Chapter. (Ord. 1452 §2, 2009)

8.12.070 Right of Entry.

A. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter or whenever the Code Compliance Officer has reasonable cause to believe that there exists upon any property any condition or violation which makes such property unsafe, dangerous, hazardous, unsanitary, or constituting a nuisance, such Code Compliance Officer may enter such property at all reasonable times to inspect it or to perform any duty imposed upon the Code Compliance Officer by this Chapter. If such property is occupied, the Code Compliance Officer shall first present proper credentials and request entry. If such property is unoccupied, the Compliance Officer shall first make a reasonable effort to locate the responsible party and request entry. If such entry is refused, the Code Compliance Officer shall give the responsible party written notice of intent to inspect not sooner than twenty-four (24) hours after the time specified in the notice. If the responsible party cannot be located after a reasonable effort, the Code Compliance Officer shall post upon a conspicuous place upon the property written notice of intent to inspect not sooner than twenty-four (24) hours after the time specified in the notice. The notice shall state that the responsible party has the right to refuse entry prior to the date and time of inspection and that in the event such entry is refused, inspection of the property may be made only upon issuance of a search warrant by a municipal judge of the City.

B. The Code Compliance Officer may appear before the municipal judge and, upon a showing to the judge that grounds for the search warrant exist or that there is probable cause to believe that they exist, shall obtain a search warrant entitling such Code Compliance Officer to

enter upon the property, using such reasonable force as may be necessary to gain entry and perform necessary inspection. Such search warrant may, but is not required to, authorize the Code Compliance Officer to secure the property and/or the structure from the outside. The Code Compliance Officer in applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the property at issue in order to obtain a search warrant, but must show some factual or practical circumstances that would cause an ordinary prudent person to act. Any municipal judge of the municipal court of the City shall have the power to issue search warrants pursuant to Rule 241 of the Colorado Municipal Court Rules of Procedure.

C. When the Code Compliance Officer shall have first obtained a search warrant or other remedy provided by law to secure entry to the property, no responsible party shall fail or neglect, after proper request is made, to promptly permit entry by the Code Compliance Officer for the purpose of inspection and examination pursuant to this Chapter.

D. Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Chapter, a Code Compliance Officer may enter upon the property, using such reasonable force as may be necessary. An emergency situation includes any situation of imminent danger of loss of, or injury or damage to, life, limb, property, or threat to public safety. It is unlawful for any responsible party of the property to deny entry to any Code Compliance Officer or to resist reasonable force used by any Code Compliance Officer acting pursuant to this Chapter. (Ord. 1452 §2, 2009) (Ord. 1459 §3, 2009)

E. In the event the Code Compliance Officer is required to enter property and/or take any action in an emergency situation without first securing permission from a responsible party, or a search warrant or other order from the Municipal Court, the property owner shall as soon thereafter as practical be given notice of an opportunity for hearing before an Administrative Hearing Officer in the same manner as provided in Section 8.12.080.E.

8.12.080 Abatement Alternatives. If, after an investigation, the Code Compliance Officer has reason to believe that a building or premises is being maintained in violation of this Chapter, the Code Compliance Officer has the discretion and is empowered to abate nuisances in the City by any or all of the following methods, alone or in combination:

A. Emergency Abatement. Whenever any nuisance is found on any premises in the City reasonably believed to constitute an imminent hazard or an emergency situation exists, the Code Compliance Officer is empowered to immediately cause the same to be summarily abated in such manner as the Code Compliance Officer may direct. The responsible party of the premises subject to emergency abatement may appeal the validity of the abatement by requesting an administrative hearing in writing within fifteen (business days) of the date of abatement. The hearing shall be conducted in the manner set forth at subsection 8.12.080.E.

B. Voluntary abatement and compliance; discretionary authority of the Code Compliance Officer. In furtherance of the City's policy of encouraging voluntary compliance, any person deemed or alleged to be in violation of or not in compliance with any of the provisions of this Chapter shall, to the extent possible or practical and at the direction of the Code Compliance Officer, be notified verbally and/or in writing of such alleged violation or lack of compliance prior to the initiation either of abatement or enforcement proceedings, and shall be

offered an opportunity to bring the property into compliance. The Code Compliance Officer is authorized to exercise discretion in investigating and enforcement of violations of this Chapter in furtherance of this policy.

C. Notice and Order to Abate: Owner Abatement

1. As to all nuisances found in any building, or upon any ground or other premises within the City, a ten (10) day written notice, or other reasonable amount of time as determined by the Code Compliance Officer considering the type of violation and the time necessary to correct the violation, shall be given in writing to the responsible party or persons in possession or in charge or in control of any vehicle, or such building or other premises, to remove and abate such nuisances. The notice shall either be served personally or be sent by first class mail to the responsible party of such real property or record owner of the vehicle. Service by mail shall be deemed complete upon mailing. If the written notice is sent by mail, the Code Compliance Officer shall also cause the property where the violation of this Chapter is located to be posted in a conspicuous place visible from an adjacent public right-of-way. Such notice of violation shall state the date issued, the name of the person to whom the notice is issued, the address of the property, the violation(s) cited, a time limit given to remove or correct the cause of such violation, the right to appeal the notice and to request an administrative hearing by making a written demand to the City for a hearing within seven (7) business days of service or posting of the notice, and be signed by the issuing Officer. Such posted notice of violation need not contain the name of the person to whom the notice is issued.
2. If the responsible party of any such vehicle, building or other premises, is unknown or cannot be found, then the notice shall be posted in a conspicuous place on the premises visible from an adjacent public right-of-way.
3. Extension of Time. If the Code Compliance Officer determines that good cause exists, the Code Compliance Officer may extend the time period for removing or correcting the cause of the violation for an additional time as determined necessary by the Code Compliance Officer to remove or correct the cause of the violation. Good cause may include, but shall not be limited to, additional time needed because of the practical difficulty of removing or correcting the cause of the violation, the age, financial condition, or health of the responsible party of the property, the availability of volunteers to assist the responsible party of the property in removing or correcting the cause of the violation, and other extenuating circumstances.
4. At the expiration of the time for abatement of the nuisance as provided in the notice, the Code Compliance Officer may then abate said nuisance pursuant to subsection D of this Section.
5. The Code Compliance Officer shall have discretion to delay enforcement under this Chapter if, after service or attempted service of the notice and order, the Code

Compliance Officer has reason to believe: (i) the responsible party is on active out-of-state military deployment and (ii) apparent violations are not an immediate hazard.

D. Appeal of Notice and Order to Abate. The person who has been served with a notice and order to abate pursuant to this Chapter, or who wishes to appeal any order or decision of the Code Compliance Officer, may, within seven (7) business days after service or posting of the notice, make a written demand to the City for an administrative hearing on the question of whether a violation in fact exists on the subject property. The Code Compliance Officer may also, after issuing a Notice and Order to Abate under Section 8.12.080.C, apply to the Administrative Hearing Officer for an order to enforce the same.

1. Such written demand must be filed with the City Clerk on a form provided for such a hearing by the Clerk. The City may impose a reasonable fee for the hearing and to defray the costs of processing the written demand for a hearing.
2. Unless any nuisance found upon the premises is reasonably believed to constitute an eminent hazard or an emergency situation, once a demand for a hearing has been filed, the obligation to abate is stayed until completion of the hearing.
3. An administrative hearing shall be held within seven (7) business days following receipt by the City of the written demand and at least two (2) business days' notice of the hearing shall be given to the person who made the written demand for the hearing.
4. The administrative hearing shall be conducted by a Hearing Officer who shall be designated by the City Manager. The sole issue before the Hearing Officer shall be whether the condition(s) described in the notice constitutes a violation of this Chapter. If the Hearing Officer finds that a violation exists, the Hearing Officer shall confirm the order that the violation be abated. If the time for abatement set forth in the Notice of Violation has expired the Hearing Officer shall impose a reasonable time for abatement to be accomplished. If the Hearing Officer finds that no violation exists, the Hearing Officer has the authority to vacate the notice.
5. Failure of the responsible party to request a hearing within the stated time period, or failure to appear for the scheduled hearing, shall be deemed a waiver of the right to such hearing.
6. The Hearing Officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. Such hearing shall be recorded. The responsible party, if any, for the subject property shall be given the opportunity to present evidence during the course of the hearing. In addition, members of the public and the City enforcement personnel shall also be given an opportunity to present evidence.
7. At the conclusion of the hearing, the Hearing Officer shall prepare a written decision. A copy of such decision shall be provided to the person requesting the hearing and the enforcement personnel.
8. The decision of the Hearing Officer is the final decision of the City for purposes of judicial review.

9. An appeal of the Hearing Officer's order, pursuant to Colorado Rules of Civil Procedure 106 (a)(4), by either the responsible party or the City, shall be made to a court of competent jurisdiction. If the Hearing Officer confirms the abatement order, the date for abatement set forth in the notice and order shall apply unless a stay is ordered by the court, to which an appeal is made. (Ord. 1452 §2, 2009)

E. City Abatement. If any responsible party neglects or refuses to abate the nuisance in accordance with the notice as provided in this Section, the Code Compliance Officer may take such action as reasonably necessary to abate said nuisance. Such action may include, without limitation, removal of items identified in the notice as contributing to the nuisance condition, and disposing of the same, filling excavations, boarding up and securing buildings and other actions, and assess costs and fees of such abatement against the property upon which the nuisance was maintained or against the owner thereof in the manner set forth in Section 8.12.090.

F. Civil Action. When an alleged violation of this chapter has not been abated or corrected within the time specified in any notice to abate, the City may bring a civil action in the municipal court or in any other court with jurisdiction, and in addition to all other abatement alternatives, to have the violation declared as such by the court and for an order enjoining the condition or authorizing its restraint, removal, termination, repair, demolition or abatement by the responsible party or by the City.

#### 8.12.090 Recovery of Expense of Abatement.

A. The actual costs of abatement, including attorney fees and costs, plus fifteen (15) percent of such abatement costs for inspection, a minimum fee assessment of one hundred dollars (\$100.00) and other incidental costs of abatement, shall be assessed upon the lot, lots or tracts of land upon which such violation is abated.

B. Such costs shall be paid to the City within thirty (30) days after the City has mailed notice of the assessment by certified mail to the owner of the property. Service shall be complete upon depositing the notice within the United States Postal Service, postage prepaid for certified mail. Every such assessment shall be a lien in the several amounts assessed against such lot, lots or tract of land until paid.

C. Failure to pay such assessment within such period of thirty (30) days shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time after such failure to so pay the same, by the City pursuant to CRS 31-20-105 to the county treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with fifteen (15) percent penalty to defray the cost of collection.

D. The City may also collect by suit its expenses of abatement.

#### 8.12.100 Summons and Complaint: Municipal Court.

A. If, after ten (10) business days from the date of serving a notice of violation of this Chapter, the cause of such violation has not been removed or corrected, and if an

administrative hearing is not pending, a summons and complaint into the Municipal Court may be issued to the person or persons named in the notice of violation was served unless satisfactory arrangements for an extension of time have been made with the Code Compliance Officer.

B. If, after the expiration of any extension of time authorized by the by the Code Compliance Officer, if an administrative hearing is not pending, and if the cause of such violation has not been removed or corrected, a summons and complaint into the Municipal Court may be issued to the person or persons named in the notice of violation.

C. If, after an administrative hearing, the Hearing Officer finds that a violation exists, if any time authorized by the Hearing Officer for abatement of the violation has expired, and if the cause of such violation has not been removed or corrected, a summons and complaint into the Municipal Court may be issued to the person or persons named in the notice of violation.(Ord. 1452 §2, 2009)

#### 8.12.110 Violation; Penalty; Suit

A. Except for minor offenders under section 1.08.020 of the Fountain Municipal Code, any person convicted for the violation of this Chapter shall be punished by a fine of not more than one thousand dollars (\$1,000.00).

B. Each day during which any person commits, or allows to remain unabated, any of the actions specified as unlawful in this Chapter shall constitute a separate offense. Multiple violations of this Chapter may be included on a single notice to abate or a single summons and complaint without any requirement to issue additional citations, summons or complaint.

## Chapter 8.14

### PROPERTY MAINTENANCE CODE FOR NON-OWNER OCCUPIED HOUSING AND NON-RESIDENTIAL BUILDINGS

#### Sections:

- 8.14.010 Findings; Purpose
- 8.14.020 Applicability
- 8.14.030 Compliance Required
- 8.14.040 Vacant, Abandoned and Substandard Dwellings and Non-residential Structures Declared Nuisances
- 8.14.050 Designated Substandard Buildings and Property
- 8.14.060 Maintenance of Premises
- 8.14.070 Enforcement Generally
- 8.14.080 Right of Entry
- 8.14.090 Reserved
- 8.14.100 Standards for Order to Repair, Vacate, or Demolish
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- 8.14.120 Enforcement Alternatives
- 8.14.130 Voluntary Abatement
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- 8.14.160 City Abatement
- 8.14.170 Emergency Abatement
- 8.14.180 Civil Action
- 8.14.190 Appeals
- 8.14.200 Violation; Penalty
- 8.14.210 Recovery of Expense of Enforcement
- 8.14.220 Definitions

8.14.010 Purpose: Findings.

A. The purpose of this Chapter is to provide minimum standards to safeguard life, health, property and the public's welfare by regulating and controlling the use and occupancy, location and maintenance of all non-owner occupied housing and nonresidential buildings, including the lot, tract, or parcel of land on which the same are located. (Ord. 1107, §1, 2000)

B. The City Council finds and declares that this Chapter 8.14 is necessary for the protection of the public health, safety and welfare. Specifically, the City Council finds that the existence of substandard non-owner-occupied housing and substandard nonresidential buildings (hereinafter in this Chapter collectively "substandard buildings") threaten and impair the public in the following ways, without limitation. Such substandard buildings:

1. Create or maintain unhealthy and dangerous conditions, including physical hazards such as, but not limited to obnoxious odors, fire danger, unsafe buildings and pedestrian ways, unhealthy noise levels and dangers from flooding.

2. Serve as harbors for and create an environment in which illegal acts are encouraged, including graffiti and vandalism of vacant buildings.
3. Serve as an incentive for secondary criminal activities, including sale and use of illegal substances, thefts, and prostitution.
4. By creating or maintaining an environment which fosters criminal activity, these nuisance conditions threaten the health and safety of the general public.
5. Negatively affect adjacent properties and businesses by their proximity to properties having these conditions.
6. Require expenditure of additional public funds to address criminal activity associated with such nuisance conditions, diverting limited resources from other important public priorities.
7. Serve as an attractive nuisance, and in so doing, attract vagrants and persons intending to commit crimes, including drug use, sale and distribution, vandalism, prostitution, vagrancy, and theft.
8. Render the immediate area of such buildings unwelcome and unsafe for the members of the public.
9. Depress legitimate economic activity in the area of such buildings and impairs the efforts of the City to promote economic development of the area.

8.14.020 Applicability.

A. This Chapter applies to all buildings or portions of buildings used or designed to be used for human habitation of non-owner occupied housing, and to nonresidential buildings as defined in Section 8.14.150. This includes any dwelling unit, guest room or hotel; and any mobile home as defined in Chapter 17 of the Fountain Municipal Code, or any other similar place intended for human habitation or non-residential use, which is leased, rented, or otherwise occupied by a person who is not the fee owner of record of said building, mobile home or portion thereof buildings within the City of Fountain.

B. Any new work or construction shall comply with the Uniform Building Code. (Ord.1107, §1, 2000)

8.14.030 Compliance Required. It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure including the lot, tract, or parcel of land on which the same is located or cause or permit the occupancy in violation of this Chapter. (Ord. 1107, §1, 2000)

8.14.040 Vacant, Abandoned and Substandard Dwellings and Non-residential Structures Declared Nuisances. All buildings or portions thereof including the lot, tract, or parcel of land on which the same is located which are determined to be vacant, abandoned or substandard as defined in this Chapter are hereby declared to be public nuisances and shall be

abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in this Chapter.

8.14.050 Designated Substandard Buildings and Property. Any building or portion thereof including any leased or rented dwelling unit, guestroom or suite of rooms, non-residential structure or the premises which the same is located in which there exists any one (1) or more of the following listed conditions to an extent that endangers life, health, safety, property or welfare of the public or the occupant shall be deemed and hereby declared to be a substandard building:

A. The premises are so defective, unsightly, or in such condition of disrepair that they substantially diminish the value of surrounding property or are otherwise substantially detrimental to surrounding properties. Manifestation of this condition shall include, but shall not be limited to, the keeping or disposing of, or the scattering over the premises, of any of the following:

1. Junk, trash, or debris as controlled in Chapter 8.04 (Weeds and Refuse), Chapter 8.12 (Nuisances), Chapter 8.20 (Junk, Junkyards and Junk Vehicles), Chapter 9.20 II. (Litter), and Chapter 12.12 (Sidewalks) of the Fountain Municipal Code.
2. Abandoned, discarded, or unusable appliances or equipment such as furniture, stoves, water heaters, refrigerators, or freezers, or other objects of similar nature.
3. Stagnant water or an excavation.
4. Any device, decoration, design, fence, or structure which is unsightly by reason of its condition or its inappropriate location, of which is no longer in its original or upright position, or which has deteriorated due to lack of maintenance.

B. The premises are so out of harmony or conformity with the maintenance standard of adjacent properties and the neighborhood as to cause substantial diminution of the enjoyment, use, or property values of adjacent properties and the neighborhood.

C. The premises is obviously unoccupied such that it serves as an attractive nuisance and encourages criminal and illicit activity, such as, but not limited to persons intending to commit crimes, illegal drug use, sale and distribution, vandalism, prostitution, vagrancy, and theft.

D. The premises are abandoned, boarded-up, partially destroyed, or left unreasonably in a state of partial construction, or with respect to which there has been a failure to timely complete any renovation or alteration within the relevant time periods for the same.

E. Buildings have dry rot, warping, animal or insect infestation.

F. The premises have broken doors, broken windows or other broken attachments such as gutters, garage doors, siding or roofing that cause hazardous conditions and invite trespassers and malicious mischief.

G. The landscaping on premises has not been maintained as follows:

1. The majority of plant materials has not been adequately irrigated and maintained and is dead or dying.
2. Trees or shrubs have not been trimmed and are overhanging public rights-of-way or other properties.
3. Weeds as defined in Section 8.04.020 of the Fountain Municipal Code have grown over nine inches and have not been removed.
4. Dead or diseased plantings have not been removed or replaced.

H. The exterior of the building has not been maintained so as to present a neat and orderly appearance, which is compatible with the neighborhood, including, but not limited to the following conditions and standards:

1. Windows are cracked or broken.
2. Painted surfaces are substantially cracked or peeling or the paint has deteriorated to the point where the bare surface is substantially exposed.
3. The building has otherwise not been substantially maintained as evidenced by missing exterior wall coverings.

I. Off-street parking areas are characterized by pavement deterioration, chuckholes, pavement failure, or cave-in.

J. Inadequate sanitation including but not limited to the following is found on the premises:

1. Lack of or improper water closet, lavatory, bathtub or shower in a dwelling unit as defined in the City adopted Uniform Building Code.
2. Lack of hot and cold running water to plumbing fixtures in any habitable unit as defined in the City adopted Uniform Building Code.
3. Lack of adequate heating facilities as defined in the City adopted Uniform Building Code.
4. Lack of light and ventilation as defined in the City adopted Uniform Building Code.
5. Lack of required electric lighting as defined in the City adopted Uniform Building Code.
6. Lack of connection to required sewage disposal system as defined in the City adopted Uniform Building Code. Any other unsanitary condition.
7. Any other unsanitary condition.

K. Missing, inoperable, improperly installed or improperly operating appliances.

L. Any building or portion, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the Fire Chief, is in such a condition to cause a fire or

explosion or provide ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

M. Any other condition of a building or premises that may be considered a nuisance, safety or health problem in the opinion of the Code Compliance Officer based upon adopted El Paso County or State health requirements, adopted Uniform Building, Plumbing, Electrical or Fire Codes. (Ord. 1107, §1, 2000)

8.14.060 Maintenance of Premises.

A. Every owner remains liable for violations of duties imposed by this Chapter even though an obligation is imposed on the occupants of the building and even through the owner has by agreement imposed on the occupant the duty of furnishing required equipment or of complying with this Chapter. Nothing herein shall be construed as limiting or interfering in any way, the right of any persons to establish by written contract specific responsibilities or owners and occupants for the purpose of leasing or renting non-owner occupied housing or leased nonresidential property. Every responsible party, in addition to being responsible for maintaining the building in a sound structural condition, shall be responsible for keeping that part of the building or premises which the responsible party occupies or controls in a safe and sanitary condition including the shared or public area in a building containing two (2) or more dwelling units.

B. Every responsible party of a dwelling unit or non-residential property, in addition to being responsible for keeping the same in a clean, sanitary, and safe condition that part of the unit or premises which said occupant controls, shall dispose of all rubbish, garbage, and other organic waste in a manner required by Chapter 8.04 (Weeds and Refuse), Chapter 8.12 (Nuisances), Chapter 8.20 (Junk, Junkyards and Junk Vehicles), Chapter 9.20 II. (Litter), and Chapter 12.12 (Sidewalks) of the Fountain Municipal Code.

C. Every responsible party shall maintain the building free from all of the conditions listed in Section 8.14.050.

D. Every responsible party shall, when required by this Chapter, other provisions of the Fountain Municipal Code, or the El Paso County Health Department, furnish and maintain approved devices, equipment or facilities necessary to keep the premises safe and sanitary. (Ord. 1107, §1, 2000)

8.14.070 Enforcement Generally.

A. Any occupant of a dwelling unit or non-residential building, or any resident of the City of Fountain may file a complaint with the Code Compliance Officer stating that a building or premises are in violation of this Chapter. The Code Compliance Officer may in the course of his daily duties find that the provisions of this Chapter are being violated.

B. If the Code Compliance Officer finds that any of the provisions of this Chapter are being violated, the Officer shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. For such purposes, the Code Compliance Officer shall have the powers of a law compliance officer as

enumerated in Chapter 2.14 (Personnel Policies and Procedures) of the Fountain Municipal Code.

C. No oversight or dereliction or error on the part of the Code Compliance Officer or on the part of any other official or employee of the City of Fountain shall legalize, authorize, or excuse the violation of any provisions of this Chapter. (Ord. 1107, §1, 2000)

D. The Code Compliance Officer is hereby authorized to investigate any matter at any place within the City which reasonably appears to be in violation of the provisions of this Chapter. Except upon a citizen complaint, the Code Compliance Officer shall have no obligation to investigate violations which are not in public view as defined in this Chapter. (Ord. 1452 §2, 2009)

#### 8.14.080 Right of Entry.

A. Whenever necessary to make an inspection to enforce any of the provisions of this Chapter or whenever the Code Compliance Officer has reasonable cause to believe that there exists upon any property any condition or violation which makes such property unsafe, dangerous, hazardous, unsanitary, or constituting a nuisance, such Code Compliance Officer may enter such property at all reasonable times to inspect it or to perform any duty imposed upon the Code Compliance Officer by this Chapter. If such property is occupied, the Code Compliance Officer shall first present proper credentials and request entry. If such property is unoccupied, the Compliance Officer shall first make a reasonable effort to locate the responsible party and request entry. If such entry is refused, the Code Compliance Officer shall give the responsible party written notice of intent to inspect not sooner than twenty-four (24) hours after the time specified in the notice. If the responsible party cannot be located after a reasonable effort, the Code Compliance Officer shall post upon a conspicuous place upon the property written notice of intent to inspect not sooner than twenty-four (24) hours after the time specified in the notice. The notice shall state that the owner, lessee or occupant has the right to refuse entry prior to the date and time of inspection and that in the event such entry is refused, inspection of the property may be made only upon issuance of a search warrant by a municipal judge of the City.

B. The Code Compliance Officer may appear before the municipal judge and, upon a showing to the judge that grounds for the search warrant exist or that there is probable cause to believe that they exist, shall obtain a search warrant entitling such Code Compliance Officer to enter upon the property, using such reasonable force as may be necessary to gain entry and perform necessary inspection. Such search warrant may, but is not required to, authorize the Code Compliance Officer to secure the property and/or the structure from the outside. The Code Compliance Officer in applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the property at issue in order to obtain a search warrant, but must show some factual or practical circumstances that would cause an ordinary prudent person to act. Any municipal judge of the municipal court of the City shall have the power to issue search warrants pursuant to Rule 241 of the Colorado Municipal Court Rules of Procedure.

C. When the Code Compliance Officer shall have first obtained a search warrant or other remedy provided by law to secure entry to the property, no responsible party shall fail or

neglect, after proper request is made, to promptly permit entry by the Code Compliance Officer for the purpose of inspection and examination pursuant to this Chapter.

D. Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Chapter, a Code Compliance Officer may enter upon the property, using such reasonable force as may be necessary. An emergency situation includes any situation of imminent danger of loss of, or injury or damage to, life, limb, property, or threat to public safety. It is unlawful for any responsible party of the property to deny entry to any Code Compliance Officer or to resist reasonable force used by any Code Compliance Officer acting pursuant to this Chapter. (Ord. 1452 §2, 2009) (Ord. 1459 §3, 2009)

E. In the event the Code Compliance Officer is required to enter property and/or take any action in an emergency situation without first securing a search warrant or other order from the Municipal Court, the property owner shall as soon thereafter as practical be given notice of an opportunity for hearing before an Administrative Hearing Officer in substantially the same manner as provided in Section 8.14.160.B.

8.14.090 Reserved.

8.14.100 Standards for Order to Repair, Vacate, or Demolish. The Code Compliance Officer shall follow the following standards in ordering the repair, vacation, or demolition of any substandard building or structure:

A. If any building is declared a substandard building under this Chapter, it shall either be repaired in accordance with the City adopted Uniform Building Code, except as provided herein, or shall be demolished at the option of the building owner.

B. When repair is ordered, immediate repair shall secure the building from unauthorized entry and from the elements; however, such immediate repair may only be in place until permanent repairs are made. The owner (or the City, if necessary under Section 8.14.160) shall permanently repair the building using like materials to the original, such as to render the building normal in use and appearance.

C. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or of the occupants, it shall be ordered to be vacated. (Ord. 1107, §1, 2000)

D. Any building ordered to be vacated shall be fully and completely secured from entry by the general public, pending its repair or demolition.

E. It is the intent of this Chapter that the Code Compliance Officer is authorized to request (and if the request is not honored by the responsible party), to require and/or perform at the owner's cost any repair, remodel, or reconstruction, as an alternative to demolition.

8.14.110 Repair of Substandard Buildings Required. Whenever the Code Compliance Officer has inspected or caused to be inspected any building and has found and determined that such building is a substandard building, the Officer shall commence proceedings

to cause the repair, rehabilitation, vacation, or demolition of the building through one or more of the enforcement alternatives described in Section 8.14.120. (Ord. 1107, §1, 2000)

8.14.120 Enforcement Alternatives. When a violation of this Chapter exists, the City may pursue any one or more of the following enforcement alternatives:

- A. Voluntary Abatement as provided by Section 8.14.130;
- B. Notice and Order for Owner Abatement as provided by Sections 8.14.140 and 8.14.150;
- C. City Abatement, as provided by Section 8.14.160;
- D. Emergency Abatement as provided by Section 8.14.170.
- E. Civil Action as provided by Section 8.14.180.

In addition, and not in limitation of the foregoing the City may also, singly or in combination with the foregoing enforcement actions, revoke, refuse to issue, or cease processing any application for any permit, administrative approval or land use application relating to the real property which is the subject of the alleged violation of this Chapter until the violation has been abated.

8.14.130 Voluntary abatement and compliance; discretionary authority of the Code Compliance Officer. In furtherance of the City's policy of encouraging voluntary compliance, any person deemed or alleged to be in violation of or not in compliance with any of the provisions of this Chapter shall, to the extent possible or practical and at the direction of the Code Compliance Officer, be notified orally and/or in writing of such alleged violation or lack of compliance prior to the initiation either of abatement or enforcement proceedings, and shall be offered an opportunity to bring the property into compliance. The Code Compliance Officer is authorized to exercise discretion in investigating and enforcement of violations of this chapter in furtherance of this policy.

8.14.140 Notice and Order for Owner Abatement. In the event voluntary abatement does not take place, the Code Compliance Officer may issue a notice and order directed to the record owner of the property. The notice and order shall contain:

- A. The street address or legal description of the premises upon which the building is located.
- B. A statement that the Code Compliance Officer has found the building to be substandard with a brief and concise description of the conditions found to render the building dangerous under the provision of 8.14.050.
- C. A statement of the action required to be taken as determined by the Code Compliance Officer, which shall state one (1) or more of the following:

1. The Code Compliance Officer has determined that the building or structure must be repaired, the order shall require that all required permits be secured and the work physically commenced within such time not to exceed sixty (60) days from the date of the order and completed within such time as the Code Compliance Officer shall determine is reasonable under all of the circumstances.
2. The Code Compliance Officer has determined that the building or structure must be vacated within a reasonable time from the date of the order as specified under Chapter 16 of the Fountain Municipal Code.
3. The Code Compliance Officer has determined that the building or structure must be demolished. The order shall require that the building be vacated within such time as the Code Compliance Officer shall determine reasonable not to exceed sixty (60) days from the date of the order, that all required permits be secured within sixty (60) days from the date of the order and that the demolition be completed within such time as the Officer shall determine is reasonable.

D. Statements advising that if any required repair or demolition work without vacation also being required is not commenced within such time specified, the Officer will order the building vacated and posted to prevent further occupancy until the work is completed.

E. Statements advising that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the Code Compliance Officer to the Fountain Board of Adjustment, provided that the appeal is made in writing as provided in this Chapter, and filed within thirty (30) days from the date of service of such notice and order; and that failure to appeal will constitute a waiver of all right to administrative hearing and determination of the matter. (Ord. 1107, §1, 2000)

8.14.150      Service of Notice and Order.

A. The notice, order, and any amended or supplemental notice and order shall be served upon the record owner and posted on the property. One (1) copy shall be served on each of the following if known to the Code Compliance Officer or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record, the owner or holder of any lease of record and the holder in or to the building or the land on which it is located. The failure of the Code Compliance Officer to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any person duly served or relieve any such person from any duty or obligation imposed on the Officer by the provision of the Chapter.

B. Service of the notice and order shall be made upon all person entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at the address as it appears on the last equalized assessment roll of El Paso County or as known to the Code Compliance Officer. If no address of any such person so appears or is known to the Officer, then a copy of the notice and order shall be mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

C. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date, and manner in which service was made. The declaration, together with any receipt card returned in acknowledgement of receipt by certified mail shall affix to the copy of the notice and order retained by the Code Compliance Officer.

D. Immediate and imminent hazards to the public health and safety, determined by the Code Compliance Officer, Fire Department, or El Paso County Health Department, found to exist in any dwelling, guestroom, or in any building containing such, or upon any premises containing such building thereon may be subject to immediate abatement as specified in this Chapter. (Ord. 1107, §1, 2000)

E. The Code Compliance Officer shall have discretion to delay enforcement under this Chapter if, after service or attempted service of the notice and order, the Code Compliance Officer has reason to believe: (i) the responsible party is on active out-of-state military deployment and (ii) apparent violations are not an immediate hazard.

8.14.160 City Abatement.

A. In the event the responsible party fails or refuses to comply with the Code Compliance Officer's Notice and Order, the City may begin the City abatement process.

B. Abatement upon Administrative Hearing Officer Order. In the event the Code Compliance Officer determines that the nature of the violation is sufficiently serious as to require an order to abate, the Code Compliance Officer shall apply to the Administrative Hearing Officer for an abatement order, as follows:

1. The application shall be accompanied by an affidavit affirming that the City has complied with the notice requirements of Sections 8.14.140 and 8.14.150 and that the responsible party has failed to abate the identified violation.
2. The City shall give notice to the responsible party of its application for the abatement order in the same manner as provided above for service of the original notice to abate. The City's notice to the last known address of the responsible party as reflected in the records of the El Paso County Clerk and Recorder shall be considered adequate notwithstanding any error in the county's records. The Code Compliance Officer may reasonably rely upon current county records to obtain an accurate address.
3. The notice of application for an abatement order shall include a copy of the City's application and its affidavit in support thereof, as well as the time, date, and place at which the City will appear before the Administrative Hearing Officer to request entry of the abatement order.
4. At the stated time, date, and place, the Administrative Hearing Officer shall review the application for administrative abatement order, the affidavit, any statement of the City in support thereof, as well as any statement and evidence presented by the owner, if present.

5. Thereafter, the Administrative Hearing Officer is authorized to enter an order permitting the City to enter upon such property, abate the same and recover its costs as provided by Section 8.14.210.
6. The decision of the Administrative Hearing Office is the final decision of the City for purposes of judicial review.

C. At any hearing conducted pursuant to subsection (B) of this section, the Administrative Hearing Officer may consider evidence of actual notice received by an owner in determining whether adequate notice of a violation or of a citation has been provided. The Administrative Hearing Officer may find that notice is adequate despite a lack of technical compliance with subsection (2) hereof upon evidence that an owner received actual notice of a written notice to abate a reasonable amount of time prior to the expiration of the abatement period.

8.14.170 Emergency abatement. If in the judgment of the Code Compliance Officer a violation of this Chapter is a cause of imminent danger to the public health, safety and welfare, any such violation may be summarily abated by the City, and costs of abatement shall be charged and recovered as provided by Section 8.14.210. In all such cases, the owner shall be given notice of a post-abatement hearing before the Administrative Hearing Officer substantially in the manner set forth in Section 8.14.160.B and an opportunity at that time to contest the validity of the abatement.

8.14.180 Civil Action. When an alleged violation of this chapter has not been abated or corrected within the time specified in any notice to abate, the city may bring a civil action in the municipal court or in any other court with jurisdiction to have the violation declared as such by the court and for an order enjoining the condition or authorizing its restraint, removal, termination, repair, demolition or abatement by the responsible party or by the City.

8.14.190 Appeals from Administrative Decisions. Any person or persons, firm or corporation, or any board, taxpayer, department or bureau of the City aggrieved by any decision of the Code Compliance Officer may seek review by the Administrative Hearing Officer in substantially the manner set forth in Section 8.14.160.B. A petition for such review shall be filed within thirty (30) days after any Order is issued by the Code Compliance Officer. It shall not be a condition precedent to such review that the Code Compliance Officer reconsiders his decision. (Ord. 1107, §1, 2000)

8.14.200 Violations and Penalty.

A. Any person, partnership or corporation who is in violation of this Chapter, shall, on conviction thereof, be punished by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00), provided however, that nothing contained in this section shall impair the ability of the City to enforce the other remedial provisions provided in this Chapter.

B. As a portion of any judgment, fine or assessment levied upon conviction of a violation of this article the court shall order that the violation be abated within a time established

by the court, but in no event to exceed thirty (30) days from the date of conviction. Failure to abate within the time so ordered may constitute contempt of court, and shall be punishable as such. The order shall also provide that, in the event the defendant has not abated the violation within thirty (30) days after the court order, the City or its agents are authorized to do so.

C. In addition to any fines levied hereunder, the court shall impose, as a portion of the costs assessed against the defendant, any costs incurred by the City in prosecuting, enforcing and abating the violation.

D. Each day during which any person commits, or allows to remain unabated, any of the actions specified as unlawful in this chapter shall constitute a separate offense. Multiple violations of this Chapter may be included on a single notice to abate or a single summons and complaint without any requirement to issue additional citations, summons or complaint.

#### 8.14.210 Recovery of Expense of Enforcement.

A. The actual costs of abatement, including attorney fees and costs, plus fifteen (15) percent of such abatement costs for inspection, a minimum fee assessment of one hundred dollars (\$100.00) and other incidental costs of abatement, shall be assessed upon the lot, lots or tracts of land upon which such violation is abated.

B. Such costs shall be paid to the City within thirty (30) days after the City has mailed notice of the assessment by certified mail to the owner of the property. Service shall be complete upon depositing the notice within the United States Postal Service, postage prepaid for certified mail. Every such assessment shall be a lien in the several amounts assessed against such lot, lots or tract of land until paid.

C. Failure to pay such assessment within such period of thirty (30) days shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time after such failure to so pay the same, by the City pursuant to CRS 31-20-105 to the county treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with fifteen (15) percent penalty to defray the cost of collection.

D. The City may also collect by suit its expenses of abatement.

8.14.220 Definitions. For the purposes of this Chapter, certain terms, phrases, works, and their derivatives shall be construed as specified in either this Chapter or as specified in the City adopted Uniform Building Code. Where terms are not defined, they shall have their ordinary accepted meaning within the context with which they are used. Webster's Dictionary of the English Language, Unabridged, copyright 1999, shall be considered as providing ordinary accepted meanings. As used in this Chapter, the following terms shall have the meaning indicated:

A. *Attractive Nuisance* shall mean a premises which, because of its appearance or condition, encourages criminal and illicit activities, such as, but not limited to persons intending

to commit crimes, illegal drug use, sale and distribution, vandalism, prostitution, vagrancy, and theft.

B. *City or Uniform Building Code* shall mean the latest edition of the Uniform Building Code as adopted by the City.

C. *City or Uniform Electrical Code* shall mean the latest edition of the Uniform Electric Code.

D. *City or Uniform Mechanical Code* shall mean the latest edition of the Uniform Mechanical Code.

E. *City or Uniform Plumbing Code* shall mean the latest edition of the Uniform Plumbing Code or other recognized standard as adopted by the City.

F. *Code Compliance Officer* means a duly appointed City of Fountain Code Compliance Officer, the City Manager or his designated representative.

G. *Habitable room* shall mean a room or enclosed floor space used or intended to be used or designed to be used for living, sleeping, eating, or cooking, excluding bathrooms, toilet compartments, closets, laundry rooms, halls, and storage or utility spaces.

H. *Health Officer* shall mean the legally designated head of the County Department of Health or the Health Officers' authorized agent.

I. *Hot water* shall mean hot water supplied to plumbing fixtures at a temperature of not less than one hundred ten° (110) degree Fahrenheit.

J. *Non-residential establishment* shall mean any building or portion thereof, including the lot, tract or parcel of land on which the same is located, containing any nonresidential enterprise unit intended to house a business establishment.

K. *Non-owner occupied housing* shall mean any building or portion thereof, including the lot, tract, or parcel of land on which the same is located, containing any dwelling unit, guest room or hotel; and any mobile home as defined in Chapter 17 of the Fountain Municipal Code, or any other similar place intended for human habitation, which is leased, rented, or otherwise occupied by a person who is not the fee owner of record of said building, mobile home or portion thereof. (Ord. 1107, §1, 2000)

L. *Public View* means visible from the street or other public right-of-way. Upon complaint by an owner, occupant or lessee of a lot or parcel, public view includes being visible from that owner's, occupant's or lessee's lot or parcel of land. (Ord. 1452 §2, 2009) (Ord. 1459 §2, 2009)

M. *Responsible party* shall mean any person who makes or causes a nuisance to exist, or who has possession or control of any real property or premises, whether as the owner, lessee,

occupant or person in possession or control of a premises where any nuisance is found, or in the case of a motor vehicle, the owner or operator of the same.

N. *Substandard building* shall mean any building, and if applicable, the lot, tract or parcel of real property upon which the same is located and any appurtenant structures thereto, which exhibits any of the conditions listed in Section 8.14.050.

O. *Vacant, abandoned or substandard building* shall mean a building or portion thereof which is vacant, defective, or in such condition of disrepair as to create or constitute a nuisance as herein defined, or so as to substantially diminish the value of surrounding property, or otherwise be substantially detrimental to surrounding properties in their enjoyment, use, or property value. By way of description but not limitation, any one (1) or more of the following conditions may render a building vacant, abandoned or substandard:

1. The building is unoccupied;
2. Any utility service has been discontinued in the building for more than 60 days;
3. Utility service has been shut off or discontinued by a utility provider;
4. Windows or doors are permanently locked and secured.
5. Mail deliveries are obviously accumulating and/or mail delivery has been discontinued.



# Regular City Council Meeting

## Consent – 7A

Council Meeting Minutes

### October 11, 2016

#### Summary Information

**Title:**

Approval of the September 27, 2016 City Council Meeting Minutes

Initiator : City Clerk

Presenter: Silvia Huffman, City Clerk

Legal Review:  Yes  No

Council Action

Council Information

Report to Council

**Summary Overview and List of Attachments:**

The attached minutes were compiled as the result of the September 27, 2016 City Council Meeting Minutes

Attachments: September 27, 2016 City Council Meeting Minutes

#### Background Information

N/A

#### Recommendation

Approve the September 27, 2016 City Council Meeting Minutes

#### Proposed Motion

Motion to approve shall be included under the consent agenda.

*S.H.*

CM Review

**CITY COUNCIL MEETING**  
**September 27, 2016**

**1) Call to Order**

Mayor Ortega called the meeting to order at 6:00 P.M.

**2) Pledge of Allegiance**

The Pledge of Allegiance was recited.

**3) Roll Call**

Roll call found the following members present:

Mayor Ortega  
Mayor Pro Tem Thomas  
Council Member Thompson  
Council Member Gieck  
Council Member Applegate  
Council Member Lauer

Council Member Coke notified staff of his absence.

**4) Special Presentations & Declarations:**

**Proclamation declaring October as Arts and Humanities Month**

Mr. Andy Vick, Cultural office Director thanked Council for their consideration of this proclamation and reviewed information about this organization with a focus on inclusion of local elected officials.

Mayor Ortega read the proclamation as a motion to approve, seconded by Mayor Pro Tem Thomas. All members voted yes (6-0); the motion carried.

**Proclamation declaring October 3, 2016 as World Habitat Day**

Andy Peterson, Habitat for Humanities reported on the success of the Habitat for Humanity program in Fountain. He thanks City Council for their support.

Mayor Ortega read the proclamation as a motion to approve, seconded by Council Member Thompson. All members voted yes (6-0); the motion carried.

**5) City Council Agenda Requests and Announcements**

Council Member Gieck reported on his attendance at the Community Night in the Park and thanked all those involved with its success.

Council Member Applegate noted that he attended a meeting with Pikes Peak Regional Building and they have excellent information for Senior Citizens in the community.

Mayor Ortega reminded Council and public of the upcoming "Trunk or Treat" scheduled for October 28, 2016. He also thanked staff for the success of the Community Night in the Park and the Police Department and School District 8 for their efforts in building community relationships through the tailgate event prior to the football game.

City Clerk Huffman stated that the executive sessions planned for tonight will not be requested. She also noted the upcoming Budget Worksessions will be held on September 29, 2016 at 6:00 P.M. and October 18 at 6:00 P.M. in Council Chambers.

**6) Public to be Heard**

Mr. Gonzalez, VFW, reported on the upcoming events at the VFW.

Deborah Stout Meininger, stated that she is concerned with national reports that water contamination causes cancer.

**7) Consent Agenda**

- A. Approval of the September 13, 2016 City Council Meeting Minutes**
- B. Resolution 16-028, Authorizing Contract To Purchase Wild Oak Farms Subdivision No. 1, Filing No. 2, Tact A for Street Right-Of-Way Purposes Located Westerly of Blossom Field Road**
- C. Resolution 16-030, A Resolution Approving a Plat Change Certificate to Remove a Plat Note Restriction for Lots 3 and 4, Beckett-Bandley Filing No. 1A, Related to Access to Bandley Drive for Property Located at 7710 and 7750 Office Circle.**

Mayor Pro Tem Thomas made a motion to approve the consent agenda, seconded by Council Member Thompson. All members voted yes (6-0); the motion carried.

**8) Old Business**

- A. Second Reading Ordinance 1677, An Ordinance Granting Mountain View Electric Association, Inc., A Colorado Corporation, A Franchise To Furnish Electricity And The Authority To Construct, Operate, Maintain, And Extend An Electric Plant And System, And Granting The Right To Use The Streets,**

**Alleys, And Other Public Places Within The Present Or Future Corporate Limits Of The City Of Fountain Colorado**

Utility Director Mitchell stated there have been no changes to this ordinance since first reading.

Council Member Gieck made a motion to approve Ordinance 1677 on second reading, seconded by Council Member Applegate. All members voted yes (6-0); the motion carried.

**B. Second Reading of Ordinance 1678, An Ordinance Repealing And Reordaining Section 040 (Organization) Of Chapter 18 (Park And Recreation Advisory Board) Of Title 2 (Administration And Personnel) Of The Fountain Municipal Code**

City Attorney McDivitt stated there have been no changes to this ordinance since first reading.

Council Member Thompson made a motion to approve Ordinance 1678 on second reading, seconded by Council Member Gieck all members voted yes (6-0); the motion carried.

**9) New Business**

**A. Consideration of Items Removed from the Consent Agenda**

There were no items removed.

**B. Resolution 16-031, Approving the 2016 El Paso County CDBG Subrecipient Agreement No. 4161409 for the Fontaine Boulevard Extension Improvement Project.**

City Engineer Greenwood stated this would allow the extension of Fontaine Blvd. West of Highway 85 to Southmore Drive.

Council Member Thompson stated her concern about allowing this to be a truck route.

City Engineer Greenwood reported that the City would like to keep this as a truck route and Chief Heberer stated that the Police Department would keep watch on this area.

Council Member Applegate made a motion to approve Resolution 16-031, seconded by Council Member Gieck. All members voted yes (6-0); the motion carried.

**10) Correspondence, Comments and Ex-Officio Reports**

Deputy City Manager Evans reported on the upcoming Toys for Tots run and thanked the Parks Department for addressing the parking concerns at the end of the bike route for this event.

Police Chief Heberer reported on the Police Department win over the Fire Department softball tournament. He noted the public events that are being held have been a valued by the citizens of Fountain.

Utility Director Mitchell reported the larger water systems met with the State Health Department today to continue the ongoing discussions on PFC's and the Federal Government will decide on an assistance contract. He also noted that improvement have continued in the distribution system. The wholesale power supplier negotiations are ongoing.

Council Member Lauer reported that his friend had contact with Officer Steele and wanted to give kudos to Officer Steel's behavior during the traffic stop.

Council Member Thompson reported on her attendance at the Community Night in the Park, Library Anniversary event. She stated that Council Members have been invited to the Resource Exchange event.

Mayor Ortega reported on that he attended the dance that was held when the library opened and can't believe it has been 10 years. He also stated that the Regional Business Alliance is hosting a strategic planning event and he will be presenting on Fountain's plan. He thanked the Police Department and School District 8 and Dr. Romero for making the tailgate event a success, he would like a thank you letter sent to her.

Mayor Ortega stated that City Council will reconvene after adjournment of this regular meeting as the Ex Officio Board of Directors of the Fountain General Improvement District No. 2 to consider an item.

**11) Announcement of Executive Sessions**

There were no executive sessions requested.

**12) Adjourn**

There being no further business Mayor Ortega declared the meeting adjourned at 6:52 P.M.

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City Clerk

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Mayor



# Regular City Council Meeting

**Consent – 7B**

*October 11, 2016*

### Summary Information

**Title:**

Approve and Award the Contract for the 2016 Water Department Saddle Tap Replacement Project to Plowman Excavating, Inc., of Fountain, Colorado, with the Contract Amount Not to Exceed \$64,000.

Initiator: Michael Fink, P.E.

Presenter: Michael Fink, Water Resource Engineer

Legal Review:  Yes  No

Council Action

Council Information

Report to Council

The purpose of this item is to authorize the City Manager to execute the 2016 Water Department Saddle Tap Replacement Project Contract for Plowman Excavating, Inc., of Fountain, Colorado, with the contract amount not to exceed \$64,000.

**Attachments:**

Construction Contract (15 pages)

Map of Rancher Drive Location (1 page)

Photograph of Used and New Saddle Tap Hardware (1 page)

### Background Information

The southeast area of Fountain has a unique soil condition that is very corrosive to steel and iron. The Water Department has been systematically replacing several blocks of water saddle taps every summer for the past 10 years in this area.

This year, the Water Department planned the Saddle Tap Replacement Project for a block of Rancher Drive and a block of Falling Star Road, with 36 total saddle tap replacements.

The Water Department advertised for bidders and conducted a Mandatory Pre-Bid Meeting on August 22. Only two prospective bidders attended. Bids were received on September 7, and only one qualified bidder submitted a proposal. Plowman Excavating, Inc., of Fountain, Colorado, was the only bidder at \$106,560 for the base bid. Please note that the unit price that Plowman bid for the Saddle Tap Replacement (\$2,960) is more than the previous unit price bid amount; the previous bid did not include paving the excavations in the street (the Water Utility contracted for that separately). Relieving the bidder of that paving responsibility did not result in a better product two years ago. Using this comparison, the Water Department is confident that the City is receiving a fair and competitive price for this project. The Water Utility and Plowman Excavating also negotiated a scope of service that only included Rancher Drive.

### Recommendation

The Utilities Staff recommends that the Council authorizes the City Manager to execute the 2016 Water Department Saddle Tap Replacement Project Contract to Plowman Excavating, Inc., of Fountain, Colorado, with the contract amount not to exceed \$64,000.

### Proposed Motion

"I recommend the Council authorizes the City Manager to execute the 2016 Water Department Saddle Tap Replacement Project Contract to Plowman Excavating, Inc., of Fountain, Colorado with the contract amount not to exceed \$64,000."

**CONSTRUCTION CONTRACT**  
**2016 Water Department Saddle Tap Replacement Project**

This Construction Contract is made this \_\_\_\_ day of \_\_\_\_\_, 2016 between The City of Fountain, a Colorado municipal corporation and home rule city (hereinafter "City"), and Plowman Excavating, Inc. (hereafter "Contractor"). City and Contractor, for the consideration hereinafter referenced, agree as follows:

**ARTICLE I**  
**THE CONTRACT DOCUMENTS**

1. The Contract consists of this Contract, plus any documents listed below or attached hereto as Exhibits, including but not limited to: Proposals, Drawings, Specifications, addenda issued prior to execution of this Agreement, Performance, Labor, Material Payment and Maintenance Bonds and other documents referenced in this Contract plus Modifications or written Change Orders issued after execution of this Contract. All of the above-referenced documents which are attached hereto are a part of the Construction Contract, and are incorporated by this reference into this Contract.
2. The Contract represents the entire and integrated agreement between the parties, and supersedes prior negotiations, representations, or agreements, whether oral or written.
3. The Construction Contract is to be executed in duplicate by City and Contractor. Contractor, by executing the Construction Contract represents that it has inspected and is familiar with the Property and the local conditions under which the work is to be performed.

**ARTICLE II**  
**CONTRACT WORK**

Contractor and its Subcontractors shall fully perform all Work described in the Contract, except to the extent specified in the Contract to be the responsibility of others, or as stated herein. For purposes of this contract, a Subcontractor is defined as a person or entity, including their employees and agents, with whom Contractor has a contract for any portion of the Work or materials to be provided for the Work. Except where expressly provided otherwise in the Contract, all references to Subcontractors shall apply to Sub-Subcontractors and their agents and employees. All contracts between Contractor and Subcontractors shall conform to this Contract.

**ARTICLE III**  
**CONTRACT TIME**

1. After execution of this Contract, City shall deliver to Contractor a written Notice to Proceed, and upon receipt of such Notice, Contractor shall promptly apply for and obtain all appropriate permits. Completion of the Project shall occur within 150 calendar days after receipt by Contractor of the Notice to Proceed.
2. Construction under this Contract shall begin on the date agreed upon between the City and the Contractor on the Notice to Proceed issued by the City.
3. Substantial Completion of the Work shall be determined at a later date. "Completion of the Project" means completion of the improvements in accordance with the plans and specifications and shall mean that the Project is ready for occupancy/use by City.
4. The times stated in the Contract may be extended by a written Change Order for such reasonable time that Contractor has been justifiably delayed in the Work by any reason beyond Contractor's control, such as labor disputes, fire, prolonged transportation delays, injuries, or any delays caused by City, provided such delays are not a result of Contractor's negligence or the negligence of any Subcontractor, material, man or employee of the Contractor or under Contractor's supervision.

5. All times stated in this Contract are of the essence.

**ARTICLE IV  
CONTRACT PRICE**

City shall pay Contractor for Contractor's performance of the Contract the contract Price, which shall not exceed \$62,160.00. City shall make payments in the form of monthly progress payments plus a Final Payment as set forth in Article V.

**ARTICLE V  
PAYMENTS**

1. City shall make progress payments based upon the percentage of Work completed, as set forth in monthly Applications for Payment submitted by Contractor to City as the Work progresses. Contractor shall submit such Applications for Payment by the 25<sup>th</sup> day of the month. City shall pay undisputed amounts in the application to Contractor no later than the 5<sup>th</sup> day of the following month. No payments shall be made that are not in compliance with the requirements of Article 91 of Title 24 Colorado Revised Statutes.
2. Final Payment shall be made within 30 days following completion of the Project and City's acceptance of the Work, except as otherwise provided in this Agreement. No final payment shall be made until compliance with the requirements of section 38-26-107 Colorado Revised Statutes including advertising of notice of final settlement in a newspaper of general circulation and including withholding of any funds required to be withheld for payment of claims under this statute.

**ARTICLE VI  
TERMINATION OR SUSPENSION BY CONTRACTOR**

1. The Contract may be terminated or the Work may be suspended by Contractor if the Work is stopped for a period of 30 days through no fault of Contractor, a Subcontractor, or any other persons under their direction, for any of the following reasons:
  - A. Order of any court or public authority having jurisdiction;
  - B. National emergency or act of government;
  - C. City has not made payment within 10 days of the date such payment is due;
  - D. City has caused unreasonable and repeated suspensions, delays or interruptions;
  - E. City has failed to furnish to Contractor upon request anything City is required to furnish under the Contract;
  - F. Work has been stopped for a period of 60 consecutive days through no fault of Contractor, a Subcontractor, or any person working under their direction, and because City has consistently failed to perform its obligations under this Contract pertaining to matters important to progress of the Work.
  - G. Contractor reasonably determines that unsafe conditions exist, in which case Contractor may suspend the Work until such conditions are remedied. Such suspension shall not be considered a breach of this contract by Contractor, and Contractor will be entitled to an equitable adjustment to the Contract Price and Contract Time.
2. Contractor shall give City seven (7) days written notice of any of the above reasons, and thereafter may terminate the contract and recover from City payment for Work satisfactorily completed.

**ARTICLE VII**

### **TERMINATION OR SUSPENSION BY CITY**

1. City may, upon seven (7) days written notice to Contractor, terminate or suspend the Contract without prejudice to any other remedy City may have, for the following reasons:
  - A. Contractor substantially fails to comply with laws, ordinances, rules, regulations or orders of public authorities having jurisdiction;
  - B. Contractor breaches any provision of the contract;
2. Upon request by City, Contractor shall provide a detailed accounting of costs required to finish the Work.

### **ARTICLE VIII CITY'S RIGHTS AND RESPONSIBILITIES**

1. City shall pay all development fees due to any city, county or state entity relating to the Project, except that fees for permits in the Santa Fe right-of-way shall be included as incidental to that Bid Schedule Item.
2. Should Contractor fail to clean up the site as required in this Agreement or General Conditions, City may obtain clean up services elsewhere and offset or charge the cost against Contractor.
3. City and its representatives will be given reasonable access to the Work site to monitor the progress and manner of construction.
4. Before Contractor shall be entitled to Final Payment: (i) City may inspect the Project, make a punch list of deficiencies, and all punch list items shall be completed; and (ii) the Work site shall be in broom clean condition, free of trash or debris, boxes, wrappings and equipment.

### **ARTICLE IX CONTRACTOR'S RIGHTS AND RESPONSIBILITIES**

1. Contractor shall be responsible for all Work under this contract, including the techniques, sequences, procedures, and means, and for coordination of all Work. Contractor shall supervise and direct the Work to the best of its ability, and give it all attention necessary for such proper supervision and direction. Contractor shall insure that sufficient numbers of properly skilled and licensed, if required by any local, city, county or state law, rule or ordinance, workers are performing the Work.
2. Contractor shall maintain at all times strict discipline among its employees, and Contractor agrees not to employ for the Work any person unfit or without sufficient skill to perform the job for which he or she was employed in the sole discretion of the Contractor.
3. Contractor shall provide and pay for all labor, materials, and equipment, including tools, construction equipment, and machinery, as necessary for the proper completion of the Work according to the Contract.
4. Contractor shall pay all taxes required by law in connection with the Work, including sales tax, use tax, and similar taxes. Note; Contractor can use the City's tax-exempt status when this status applies. Contractor shall secure and pay fees for all licenses and permits necessary for proper completion of the Work.
5. Contractor shall comply with all laws, ordinances, rules, regulations and orders of all public authorities with jurisdiction, which relate to the Work.
6. Contractor shall provide for and oversee all safety orders, precautions, laws, regulations, ordinances, and programs necessary for the reasonable safety of the performance of the Work. Contractor shall take reasonable precautions for the safety of all employees and other persons whom the Work might affect, all

labor and material incorporated in the Work, and all property and improvements on or adjacent to the Work site.

7. Contractor shall keep the work premises and adjoining ways free of waste material and rubbish caused by the performance of the Work. Contractor shall remove all waste material and rubbish upon termination of the Work, together with all its tools, equipment, machinery, and surplus materials. Contractor shall conduct general clean up of operations, including surfaces, paved streets, walks, steps, and interior floors, upon completion or termination of the Work.
8. Contractor shall make arrangements for all required tests, inspections, or approvals to be conducted in a timely manner to avoid delay of the Work. Testing company shall be approved by the City.
9. Contractor shall provide all documents, reports and other information requested by the City, and shall cooperate with City to the fullest extent possible.
10. Contractor is not an architect, engineer, or designer and is not hired to perform any of these services. Suggestions made by contractor related to these services are merely options to be considered by City after consultation with the appropriate professional, and are not to be relied upon by City.
11. Any remaining inventory or material is the property of the Contractor.
12. Contractor shall furnish necessary surveys for the work, including placement of stakes at property lines if required, and shall secure and pay for construction easements as necessary for completion of the Work.
13. Contractor shall comply with all applicable provisions of the Construction Code, Chapter 12.04 of the Fountain Municipal Code, and any other applicable City requirements.

#### **ARTICLE X CORRECTION OF WORK**

1. Contractor shall promptly correct any Work which is not in compliance with applicable codes and regulations whether observed before or after substantial Completion of the Work, at any stage of progress. Contractor shall bear costs of such correction, including any additional testing, inspections, and other necessary expenses. Contractor shall remove from the Work site any portions which are not in compliance. Should Contractor fail to promptly correct any portion of the Work or perform any other obligation under applicable codes and regulations, City may cause such corrections or obligations to be performed by a third party at Contractor's expense.
2. Contractor's obligation to correct work expires one year after last completion of the work, unless the noncompliance was latent and not discovered under reasonable diligence within the one-year period, in which case Contractor's obligation to correct expires one year from discovery of the noncompliance.
3. If City prefers to accept Work which is not in compliance with the Contract, City may do so instead of requiring its removal and correction, in which case the Contract Price will be reduced as appropriate. Such adjustment shall be made whether or not Final Payment has been made. Contractor shall pay funds due under such adjustment within ten days after such adjustment.

#### **ARTICLE XI CHANGES IN THE WORK**

1. The City may order changes in the Work, such as additions, deletions, or modifications, without invalidating the Contract, provided that appropriate adjustments are made in the Contract Price and time for completion. Changes shall be made by written Change Order. Change Orders shall be signed by both City and the Contractor stating A) a description of the change in the Work; B) the amount of the adjustment in

Contract Price; and C) the extension of time necessary for the change. Contractor will determine the cost of additions required by Change Orders, and will add 15% of such amounts to the Contract Price for profit and overhead. In contrast, a 15% deduction for profit and overhead will not be made for deletions. Contractor shall not begin making any changes until it receives a written Change Order from City with provisions agreeable to both Contractor and City.

2. The terms of this Construction Contract, including Contract Price, are based on observations Contractor was able to make under conditions existing at the time of Contractor's bid. If concealed conditions are discovered as the Work progresses which will affect the Contract Price or Contract Time or otherwise interfere with the performance of the Work, Contractor will stop the Work, notify City, and both parties will execute an appropriate Change Order.

## **ARTICLE XII INDEMNITY**

1. Contractor agrees that Contractor shall indemnify, defend, and hold harmless City, its officers, employees, and agents, from and against any and all loss, damage, injuries, claims, costs, including attorney's fees, cause or causes of action, or any liability whatsoever resulting from, or arising out of, or in connection with the Contractor's obligations or actions under this contract, or from any act or obligation of any Subcontractor, laborer, materialman or agent of the Contractor.
2. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable for or by the Contractor or any Subcontractor, manufacturer or supplies under Worker's Compensation Act, disability benefits acts or other employee benefit acts.

## **ARTICLE XIII INSURANCE**

1. **INSURANCE INSTRUCTIONS.** Contractor shall not commence work under this contract until all insurance required under this section has been obtained and such insurance has been approved by the City, nor shall the Contractor allow any Subcontractor to commence work on a subcontract until all similar insurance required of this Subcontractor has been so obtained. The City shall be included as an additional insured on all insurance coverages.
2. **WORKER'S STATUTORY COMPENSATION INSURANCE AND EMPLOYER LIABILITY INSURANCE.** The Contractor shall take out and maintain during the life of this contract the applicable statutory Worker's Compensation Insurance with an insurance company authorized to write such insurance and in the applicable state covering all employees, and in the case of any work sublet, the Contractor shall require the Subcontractor similarly to provide statutory Worker's Compensation Insurance for the latter's employees. The Contractor shall take out and maintain during the life of this contract, Employer's Liability Insurance with a limit of \$100,000 with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract and the Contractor shall require such Subcontractor similarly to maintain Employer's Liability Insurance on its employees.
3. **COMMERCIAL LIABILITY INSURANCE.** The Contractor shall maintain during the life of this contract such Public Liability Insurance as shall protect against claims for damages resulting from (1) bodily injury, including wrongful death, and property damage, which may arise from operations under this contract whether such operations be by self or by any Subcontractor or anyone directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided by such Public Liability Insurance shall be as follows:
  - A. Bodily Injury and Property Damage Limits are \$500,000 per occurrence Combined Single Limit

- B. The Public Liability Insurance required by the preceding subparagraph shall include the following extensions of coverage:
  - C. Coverage shall be provided under a Commercial General Liability form of policy or similar thereto.
  - D. X.C.U. Coverage - If the contract requires any work procedures involving blasting, excavating, tunneling, or other underground work, the liability coverage shall include Standard Blasting or Explosion Coverage, Standard Collapse Coverage and Standard Underground Coverage, commonly referred to as X.C.U. property damage liability coverage with limits of \$1,000,000 each occurrence.
  - E. The property damage coverage shall include a Broad form Property Damage Endorsement.
  - F. Contractual Liability coverage shall be included.
  - G. Protective Liability coverage shall be included to protect the Contractor against claims arising out of operations performed by Subcontractor.
  - H. Products Liability and/or Completed Operations coverage shall be included.
  - I. Completed Operations coverage shall be provided for two years following substantial completion of the work.
4. **AUTOMOBILE LIABILITY INSURANCE.** The Contractor shall take out and maintain during the life of the contract such comprehensive Automobile Liability Insurance as shall protect against claims for damages resulting from (1) bodily injury, including wrongful death, and (2) property damage, which may arise from the operations of any owned, hired, or non-owned automobiles used by or for work in any capacity in connection with the carrying out of this contract. The minimum acceptable limits of liability to be provided by such comprehensive Automobile Liability Insurance shall be as follows:
- A. Bodily Injury and Property Damage Limits are \$500,000 per occurrence Combined Single Limit
5. **CITY'S PROTECTIVE LIABILITY.** This insurance shall be in the name of the City and maintained in force for the duration of the contract by the Contractor. The policy shall provide a liability limit of not less than \$1,000,000 and shall protect against any and all claims, and liabilities for injury to or death of persons, or damage to property caused in whole or in part by, or alleged to have been caused in whole or in part by, the negligent acts or omissions of Contractor, Contractor's agents, employees, or Subcontractor, in connection with or resulting from the operations performed under the terms of the agreement.
6. **EXCESS LIABILITY POLICY.** This insurance shall protect the Contractor against all claims in excess of the limits provided under the Commercial Automobile Liability and the Commercial General Liability. The liability limits of the Excess Liability Policy shall not be less than \$1,000,000.
7. **PROOF OF CARRIAGE OF INSURANCE.** The Contractor shall furnish the City satisfactory proof of carriage of the insurance required. All certificates of insurance shall state that 30 days written notice will be given to the City before the policy is canceled or changed. The Contractor and all Subcontractors shall include the City and the City's officers, agents and employees as "additional insured parties" on each policy for each project, except for Worker's Compensation Coverage. Each certificate of insurance shall state the type of coverage certified and shall be identified as one of the following:

- A. Worker's Compensation ..... Statutory
- B. Employer's Liability ..... \$100,000 each person
- C. Commercial General Liability
  - Bodily Injury ..... \$500,000 each occurrence
  - Property Damage ..... \$500,000 each occurrence
- D. Commercial Automobile Liability
  - Bodily Injury ..... \$500,000 each occurrence
  - Property Damage ..... \$500,000 each occurrence
- E. Excess Liability Policy ..... \$1,000,000  
 Required X

Two copies of each certificate shall be sent to the CITY.

**ARTICLE XIV  
DISPUTE RESOLUTION**

1. Negotiation. In the event of any dispute, claim, questions or disagreement arising out of or in relation to this Contract or any part of the Contract, or the breach thereof (the "dispute") the parties hereto shall use their best efforts to settle such dispute. To this effect they shall consult and negotiate with each other in good faith, and recognizing their mutual interest, attempt to reach a just agreement which is satisfactory to both parties.
2. Mediation. If the dispute cannot be settled through negotiation within thirty (30) days, the parties agree to try in good faith to settle the dispute by mediation administered under the auspices of a recognized, established mediation service within the state of Colorado. If the parties are unable to settle the dispute through mediation within ninety (90) days, or if the parties fail to enter into mediation within ten (10) days after the expiration of the negotiation period, then the parties may initiate litigation relating to any dispute. In the event of litigation, venue shall be in the District Court of El Paso County, Colorado, or if subject to jurisdiction of the United States District, in the United States District Court for the District of Colorado.
3. Except as expressly provided for in the Contract, the parties waive all claims for consequential damages.

**ARTICLE XV  
MISCELLANEOUS PROVISIONS**

1. Where this Agreement references a provision of the General Conditions or another Contract document, the reference incorporates all amendments or supplements.
2. Notices concerning the Contract shall be in writing and be deemed sufficiently given when personally delivered or sent by certified or registered mail if sent to the respective addresses of each party as set forth above.
3. Any modification of the Contract, including Change Orders, and any additional obligation assumed by either party in connection with this Contract shall be binding only if evidenced in writing signed by each

party or an authorized representative thereof.

4. The rights of each party pursuant to this Contract are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express written consent of the other party. This contract is binding upon the successors and assigns to the parties.
5. Titles to the Articles in this Agreement are solely for convenience and shall not be used to explain, modify, simplify, or aid in the interpretation of this Agreement.
6. All duties, obligations, rights, and remedies provided for under the Contract are in addition to and shall not limit any duties, obligations, rights and remedies otherwise provided for by law.
7. No act or failure to act shall constitute a waiver of any right or duty, or constitute an approval or acquiescence, unless expressly provided for in writing.
8. The invalidity of any part or provision of the Contract shall not impair or affect in any manner the validity, enforceability or effect of the remaining parts and provisions of the Contract.
9. No applicable statute of limitations shall be deemed to have commenced with respect to any portion of the Work which is not in accordance with the requirements of the Contract, which would not be visible or apparent upon conducting a reasonable investigation, and which is not discovered by City until after the date which would be the date of commencement of the statute of limitations. The applicable statute of limitations instead shall be deemed to have commenced on the date of such discovery by City.
10. Nothing in this Contract shall be deemed to waive or otherwise limit any and all defenses available to the City pursuant to the Colorado Governmental Immunity Act or as otherwise provided by law.
11. The laws, rules and regulations of the State of Colorado, and City of Fountain shall be applicable in the enforcement, interpretation and execution of this Easement.
12. This Contract may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

This Construction Contract is entered as of the first date written above and is executed in triplicate.

City of Fountain \_\_\_\_\_

By: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

The above person's signature verifies his/her authority to execute this Contract on behalf of City.

Contractor:

By: \_\_\_\_\_

Printed Name and title: \_\_\_\_\_

The above person's signature verifies her/her authority to execute this Construction Contract on behalf of the Contractor.

# EXHIBIT "A"



---

This is an Addendum to the "CONSTRUCTION CONTRACT" which was assigned to Plowman Excavating, Inc. (Contractor) as a result of City Council Action on \_\_\_\_\_, 2016.

The Article I, Paragraph 1 listing of Exhibits is amended to include, but not be limited to the following document (attached hereto):

- Scope of Service – Saddle Taps (3 pages)
- Executed Bid Form (3 pages)

The Contract Price (Article IV) is based on the Scope of Service, not to exceed \$62,160.00.

Date: \_\_\_\_\_, 2016

City of Fountain \_\_\_\_\_

By: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

The above person's signature verifies his/her authority to execute this Contract Addendum on behalf of the City.

Contractor: Plowman Excavating, Inc.

By: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

The above person's signature verifies his/her authority to execute this Contract Addendum on behalf of the Contractor.

**SCOPE OF SERVICE  
FOR 2016 SADDLE TAP REPLACEMENT PROJECT  
CITY OF FOUNTAIN, COLORADO**

The Saddle Taps will be delivered to Fountain on a Unit Price contract. The successful contractor will be responsible for the following tasks at each Saddle Tap Replacement location:

1. Excavate Service Line at Water Main
2. Furnish and Replace 8-inch Tap Saddle and Corporation Stop conforming to City Standards
3. Soil Compaction Test
4. Replace Asphaltic Pavement
5. Restore Sidewalk and/or Parkway (if required)
6. Spoils Disposal and Clean-Up
7. Provide a one (1) year warranty

The successful contractor will be required to file and obtain all permits and licenses, manage all subcontractors and conform to all quality assurance testing and inspection. City of Fountain Street Cut Permit fees will be waived.

The Technical Standards for Saddle Tap Construction in the City of Fountain, Ordinance 1664, are as follows (complete Technical Specifications are available on the City of Fountain Web Page at [www.fountaincolorado.org](http://www.fountaincolorado.org)):

**7.3 Service Line Installation and Material**

- A. An expansion loop (three-fourth (3/4") inch through two (2") inch only) must be left in the service line where it is connected to the corporation stop at the water main to allow for expansion and contraction. Existing water services or taps, which are not three-fourth (3/4") inch or larger and do not consist of copper or polyethylene tubing or that will not meet the specifications referred to in this section, will not be permitted. If an existing tap has been deleted from the water system at the time of demolition, under no circumstances will the City of Fountain allow that service to be reconnected; it would constitute a new tap and service.
- B. Water service line material between the corporation and the curb stop shall be as follows:

	<b>Polyethylene Pipe</b>
Pressure Rating:	200 psi minimum, SDR 7
O.D. Base:	Iron Pipe Size
End Treatment:	Stainless Steel Stiffener Insert
Conformance:	ASTM D-2239 PE 3408
Acceptable Product:	Driscopipe
Acceptable Manufactures:	Phillips Petroleum Co. Johns Manville (JM)

- C. Water Service Line Joints Polyethylene pipe shall have compression fittings without flaring.
- D. All water service lines shall have a minimum cover of four (4') feet and a maximum cover of five (5') feet except at the expansion loop.
- E. Where any water service line crosses another utility or any underground structure, the water service line shall preferably pass over the other utility or structure, but in no instance shall there be less than six (6") inches clearance between the water service line and the other utility or structure. The space between the water service line and the utility or structure shall be backfilled with sand when the clearance is less than twelve (12") inches. Where any water service line passes under a sewer main, the sewer main shall be constructed of ductile iron for six (6') feet each side of the water service or the water service line shall be encased in a steel, ductile iron or PVC C-900 casing pipe with a minimum of four (4") inches in diameter for nine (9') feet each side of the sewer main or sewer service line.
- F. When a service pipe is installed, the City of Fountain will require a six (6) gauge stranded copper wire with THHN insulation to be installed with the service line and taped every three (3') feet to the pipe for the purpose of locating the service. The copper wire shall extend from the water main to the curb stop and from the curb stop to the building. The copper wire shall also be extended up the outside of the curb stop box to the ground surface with the specified wire splices (Nicropress sleeve or equal).
- G. New water service lines on single family units will be installed to enter the property three (3') feet inside of the side property line farthest from the garage and/or driveway unless otherwise approved by the Superintendent. The water service line shall be located such that no concrete or bituminous driveway pavement will be placed over any portion of the water service line from the curb to the curb stop.
- H. The length of the service line from the corporation to the house or other building will be limited as follows:

<b>Size</b>	<b>Maximum Length</b>
¾"	75 Feet
1"	100 Feet
1¼" - 1½"	150 Feet

- I. Authorized lengths of service lines two (2") inches and larger will be determined by the Superintendent on a case-by-case basis.
- J. Service taps must be spaced a minimum of forty-eight (48") inches apart and forty-eight (48") inches away from any fittings or joints.

#### **7.4 Curb Stop and Curb Box**

- A. All water service lines, regardless of size, must have a curb stop and a curb box installed in accordance with Standard Drawing No. 38. The curb box shall be centered over the curb stop and shall be plumb.
- B. All curb stop boxes will be located eight (8') feet behind the curb at the street right-of-way line, or where a front yard public improvement or utility easement exists, at the side line of the front yard easement unless designated otherwise by the Superintendent. For approved flag lots, the curb stop will be installed in front of the sidewalk for that individual flag lot.
- C. The responsibility of the Contractor for the curb box ends only when sidewalks, curbs, driveways and other public and private improvements have been installed and all backfilling and compaction has been completed and accepted by the City of Fountain.
- D. The Owner and his/her representative shall coordinate with the Contractor installing curb and gutter to provide an impression in the curb head while concrete remains plastic marking the location of a water service. An impression with the letter "W," a minimum of two (2") inches in height and one-fourth ( $\frac{1}{4}$ ") inch deep shall be provided at a location immediately above the water service line and opposite of a water curb stop box.
- E. Immediately after completion of backfill of water curb stop boxes, two (2) steel fence posts (tee posts) shall be placed approximately twelve (12") inches each side of the stop box. Orange webbed construction fencing shall be wrapped around the two posts immediately above the stop box location in order to provide notice and protection for each facility.
- F. Only corporation stops (FB-1001) and curb stop (B46-333) by Ford Meter Box Co. shall be permitted in the system.

**BID FORM**  
**2016 SADDLE TAP REPLACEMENT PROJECT**  
**CITY OF FOUNTAIN, COLORADO**

The undersigned declares that they have carefully examined the bid information and complete solicitation, (the term solicitation means the complete request for proposal) in submitting a bid for the "2016 Saddle Tap Replacement Project".

The Contractor's signature will be considered the Contractor's acknowledgment of their understanding and ability to comply with all items in this solicitation. If a Contractor makes any changes or corrections to the bid documents (such as white out, or writing over a figure, etc.) such changes or corrections must be initialed and dated by the person signing the offer prior to its submittal.

The Contractor is expected to identify the cost to replace the Saddle Taps and appurtenant Fittings at thirty-six (36) existing water service locations, including preparation and submittal of the necessary permits and construction in an all inclusive lump sum amount that covers every aspect of the project as identified by this statement of requirements and contained within the Contractor's submission. The conditions among the thirty-six locations are not uniform. The saddle tap replacements shall be performed knowing the conditions are not uniform, meaning the contractor may have to deal with bad soil, deeper-than-expected pipes, etc. with no expectation of receiving additional funds. Extra payment is not to be considered except for significant changes in scope requested by the Water Department Engineer.

The Contractor is responsible for providing all labor and materials necessary for the completion of the intended improvements.

**COST PROPOSAL**

A cost breakdown shall be provided to assist in the overall assessment of the submission.

<u>BASE BID FORM – 2016 Saddle Tap Replacement</u>	<u>COST</u>
Indicate the <u>maximum</u> Unit Price per Saddle Tap Replacement.	\$ _____
Unit Fee	\$ <u>2960.00</u>
Indicate the <u>maximum</u> amount for the Replacement of Thirty-Six (36) Saddle Taps (Unit Fee x 36)	\$ _____
<b>2016 Saddle Tap Replacement Construction Cost</b>	\$ <u>106,560.00</u>

In addition, include unit prices for the following items for future negotiations if necessary:

<u>ITEM</u>	<u>UNIT</u>	<u>PRICE</u>
Fill (Compacted in Place)	CY	\$ <u>775.00</u>
Asphalt Pavement (8" Full Depth)	SY	\$ <u>72.00</u>
Concrete Curb-and-Gutter	LF	\$ <u>38.00</u>
Reinforced Conc. Flatwork (3-1/2" Thick w/WWF Reinf.)	SF	\$ <u>15.00</u>

**Supplemental Bid Notes: (if applicable)**

The undersigned acknowledges and understands the terms, conditions, specifications and all requirements contained and/or referenced and are legally authorized by the bidder to make the above bid statements or representations.

**HOW DID YOU RECEIVE THIS SOLICITATION?**

Mail \_\_\_\_\_ City Website X \_\_\_\_\_ Plan Room \_\_\_\_\_ Other \_\_\_\_\_

(Please place a check on the line above)

Plowman Excavating, Inc.  
NAME OF COMPANY



SIGNATURE

PO Box 188

ADDRESS

719-382-8823

PHONE NUMBER

Fountain, CO 80817

CITY, STATE, ZIP

719-382-9127

FACSIMILE NUMBER

Jeff Plowman

TYPE/PRINT NAME

President

TITLE

Contractor hereby acknowledges receipt of the following amendments, if applicable (Contractor agrees that it is bound by all amendments identified herein)

AMENDMENT #1: \_\_\_\_\_

DATED: \_\_\_\_\_

AMENDMENT #2: \_\_\_\_\_

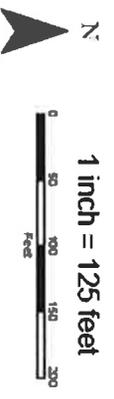
DATED: \_\_\_\_\_

AMENDMENT #3: \_\_\_\_\_

DATED: \_\_\_\_\_

AMENDMENT #4: \_\_\_\_\_

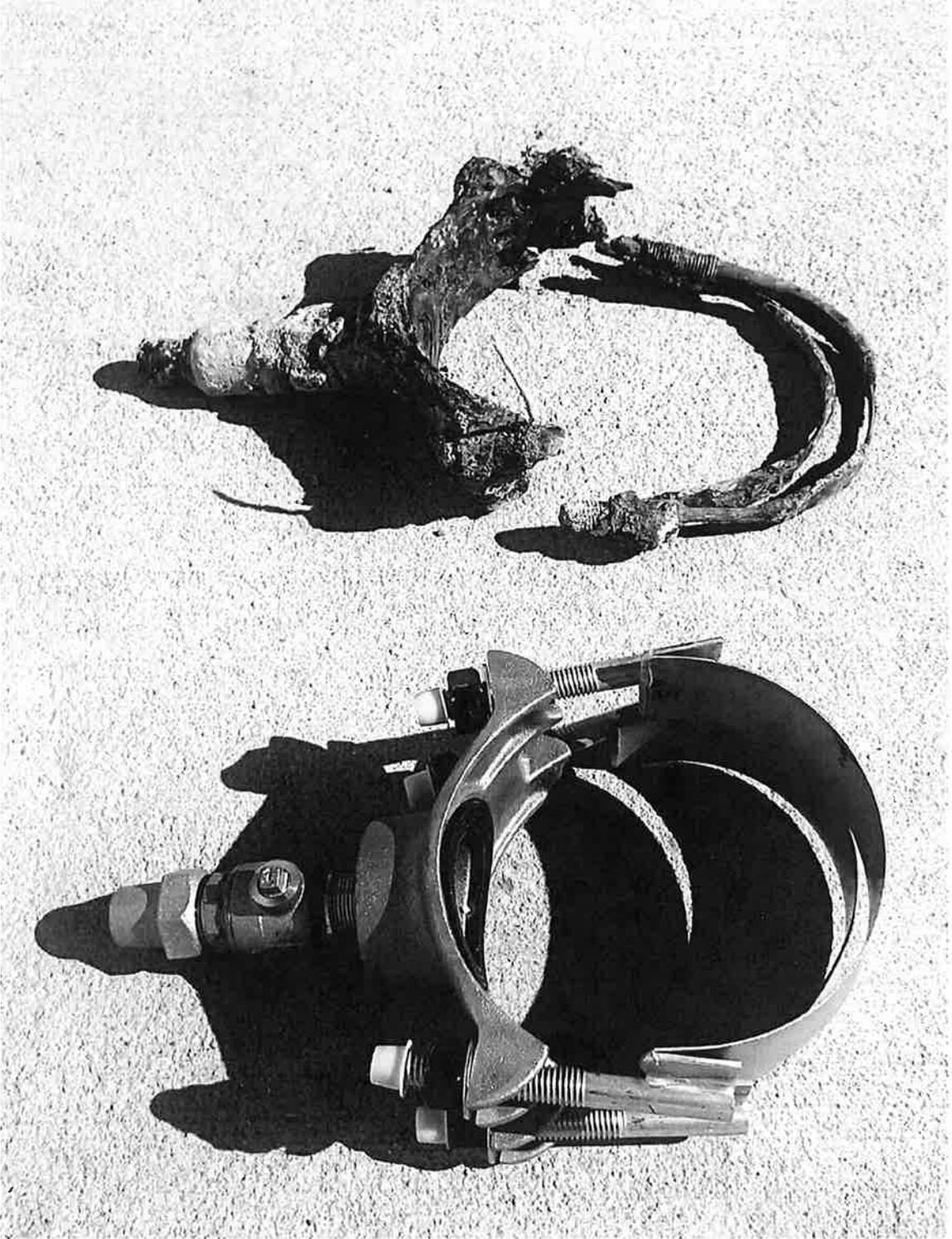
DATED: \_\_\_\_\_



**Saddle Tap Replacements**  
 Fountain, CO  
 Rancher Dr

- Valve
- ⤴ Fire Hydrant
- Curb Stop
- Water Main
- ▭ Rancher Dr Saddle Taps







# Regular City Council Meeting

## ***New Business – 9A***

Items Removed from Consent

*October 11, 2016*

### ***Summary Information***

**Title:**

Consideration of Items Removed from the Consent Agenda

Initiator : City Clerk Huffman

Presenter: Silvia Huffman, City Clerk

Legal Review:  Yes  No

Council Action

Council Information

Report to Council

**Summary Overview and List of Attachments:**

Any Items removed from the Consent agenda for further discussion shall be heard under this item

### ***Background Information***

N/A

### ***Recommendation***

N/A

### ***Proposed Motion***

CM Review



# Regular City Council Meeting

## GID2- Item #1

### October 11, 2016

#### Summary Information

**Title:** Second Reading Of Ordinance 1679GID2 An Ordinance Of The Fountain General Improvement District No. 2, City Of Fountain, Colorado, For Inclusion Of Certain Property Sometimes Known As Eagleside Filing #2 Into The Fountain General Improvement District No. 2, City Of Fountain, Colorado

Initiator: City Clerk

Presenter: City Clerk

Legal Review:  Yes  No

Council Action

Council Information

Report to Council

#### Summary Overview and List of Attachments:

There have been no changes to this ordinance since first reading.

#### Background Information

In August, 2012, the City Council approved Ordinance No. 1577 organizing the Fountain General Improvement District No. 2, City of Fountain, Colorado. The purpose of the district is to provide an alternate financing mechanism for the funding of certain improvements and funding of certain services benefiting the properties included within the boundaries of the district that would otherwise be funded through the collection of impact fees by the City. The City Council serves as the ex officio board of directors of the district. In conjunction with the creation of district, the Council enacted Ordinance No. 1579 which provides for the exemption of property within the boundaries of the district from the service expansion fee, exemption from the plat plan review fee, exemption from residential construction evaluation surcharge, and a reduction of the water tap fee. In November, 2012, a TABOR election was held by the district which authorized the imposition of a 10 mill levy on property located within the district. The tax resulting from this mill levy will be paid by the property owners located within the boundaries of the district to the district. When the district was formed, it was contemplated that other property owners may desire to join the district. This Ordinance amends the boundaries of the district to include the Petitioner's property within the district. The property will be subject to the district's 10 mill levy starting in 2014.

#### Recommendation

Approve Ordinance No. 1679GID2

#### Proposed Motion

"I recommend the approval of Ordinance No. 1679GID2 on second reading"

ST

CM Review