



CITY COUNCIL AGENDA
October 24, 2023, 6:00 P.M.
116 Main St., Fountain
Register to attend virtually @
www.fountaincolorado.org

1) Call to Order

2) Pledge of Allegiance

3) Roll Call

4.1) Presentations

- Provide Years of Service Plaque to former Police Chief Chris Heberer (Scott Trainor) 5 minutes

4.2) Board/Commission/Committee

- Appoint One Regular Member To The Planning Commission

5) Correspondence, Comments and Ex-Officio Reports

6) Public to be Heard

Citizens may address the Council on items that are not on the agenda. 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

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 October 10, 2023 City Council Meeting Minutes (S. Huffman)
- B. Resolution 23-047, A Resolution To Approve The 2024 Operating Plan And Budget For The Norris/Appletree Business Improvement District. (K. Martinez)
- C. Resolution 23-048, A Resolution To Approve The 2024 Operating Plan And Budget For The Riverbend Crossing Business Improvement District. (K. Martinez)
- D. Approval Of Amendment To City Manager Employment Agreement
- E. Resolution 23-049, A Resolution Authorizing The City Manager To Disburse The Contingency Funds Included In The 2021 Energy Performance Contract.(D. Blankenship)

8) Old Business

- A.** Second Reading Of Ordinance 1792, An Ordinance Annexing To The City Of Fountain That Area To Be Known As School District No. 8 Arena Access Annexation, Located At 10535 Jimmy Camp Road, And Hereinafter More Specifically Described In Exhibit A (K. Martinez est. 5 min.)
- B.** Second Reading Of Ordinance 1793, An Ordinance Amending The Official Zoning Map Of The City Of Fountain, Colorado To Parks And Open Space (Pos) District Related To That Area To Be Known As School District No. 8 Arena Access Annexation, Generally Located At 10535 Jimmy Camp Road, And Hereinafter More Specifically Described In Exhibit A And Exhibit B (K. Martinez est. 5 min.)
- C.** Second Reading Of Ordinance 1794, An Ordinance Amending The Official Zoning Map Of The City Of Fountain, Colorado From Planned Unit Development (PUD) To Parks And Open Space (Pos) District For Property Located At 10515-10525 Jimmy Camp Road, And Hereinafter More Specifically Described In Exhibit A And Exhibit B (K. Martinez est. 5 min.)

9) New Business

- A.** Consideration Of Items Removed From The Consent Agenda
- B.** Resolution 23-050, Resolution Of The City Of Fountain Opposing Proposition HH, An Undue Limitation On Municipal Budgets And Local Control Of Property Tax Relief (Mayor Thompson, 10 min)
- C.** Resolution No. 23-051, A Resolution Of The City Council Of The City Of Fountain, Colorado Adopting The Amended City Of Fountain Code Of Conduct For Elected Officials. (S. Huffman 20 min)

10) City Council Agenda Requests

City Council shall use this time to request any items for future consideration.

11) Announcement of Executive Sessions

12) Adjourn

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

**NEXT REGULAR COUNCIL MEETING
November 14, 2023**



Regular City Council Meeting

Appointments-4.2A

October 24, 2023

Appointment of Planning Commission Member

Summary Information

Title: APPOINT ONE REGULAR MEMBER TO THE PLANNING COMMISSION

Initiator: Kristy Martinez, Planning Manager

Presenter: Kristy Martinez, Planning Manager

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

The purpose of this action is to appoint one member to the Planning Commission.

Previous Action by City Council: N/A

Attachment: Application for Kalanikaimakani Liana

Background Information

There are currently three vacant Planning Commission seats. Member Angela Hackett-Larson term expired on March 12, 2023. Ms. Hackett-Larson decided not to pursue a second term. This position will be for a 4-year term, which would expire on October 24, 2027.

Please see attached application for Kalanikaimakani Liana .

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.
- Diversify city financial resources and invest.
- Provide reliable access to public safety services.
- Improve the quality and availability of parks and recreation opportunities

Recommendation

Staff does not provide a recommendation on appointments. If appointed, this term would be for four years and will expire on October 24, 2027.

Proposed Motion

I move to appoint Kalanikaimakani Liana as a regular member to the Planning Commission for a four year term until October 24, 2027."



Regular City Council Meeting

Consent –7A
Council Meeting Minutes

October 24, 2023

Summary Information

Title:

APPROVAL OF THE OCTOBER 10, 2023 CITY COUNCIL MEETING MINUTES

Initiator: City Clerk Huffman

Presenter: City Clerk Huffman

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 October 10, 2023 City Council Meeting Minutes

Attachments: Above Referenced Meeting Minutes

Background Information

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.**
- Diversify city financial resources and invest.**
- Provide reliable access to public safety services.**
- Improve the quality and availability of parks and recreation opportunities**

Recommendation

Staff recommends approval.

Proposed Motion

Motion to approve shall be included under the consent agenda.

CITY COUNCIL MEETING
October 10, 2023

1) Call to Order

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

2) Pledge of Allegiance

The pledge of Allegiance was recited.

3) Roll Call

Roll call found the following members present:

Mayor Thompson
Mayor Pro Tem Estes
Council Member Rick
Council Member Applegate
Council Member Duncan
Council Member Cory

Council Member Hinton notified staff of his absence.

4 (1) Presentations

- **Update From PPIR And Donation To Shield 616**

Commander Racine introduced members from Shield 616 and Pikes Peak International Raceway reporting that the raceway held a pin striping competition and raised \$7,175.50 to donate to Shield 616. Shield 616 purchases safety equipment for the Fire and Police Departments.

Council thanked those from Shield 616, PPIR, and City staff for organizing this event for a great cause.

- **Proclamation Recognizing October As Code Enforcement Month**

Mayor Pro Tem Estes read the proclamation into record. She then read a statement explaining that on September 14th Officer Cornella, Officer Stevens, and Officer Eckhart were on-call when a call from dispatch came over the radio about a neighboring address that there was an unresponsive party. The officers entered the address and began administering CPR. Because of this, the patient became conscience and was transported to the hospital.

Mayor Thompson thanked the officers for all they do and especially with that incident.

Council Member Duncan noted that these officers are well trained in various areas of inspections.

City Manager Trainor stated he was able to watch the body cams and was very impressed with their actions.

- **Update on the Environmental Services Agreement (ESA) with the US Air Force for Mitigation of PFAS-Contaminated Groundwater**

Water Engineer Murphy reviewed the Environmental Services Agreement with the USAF, the history of PFAS and PFOA in the water system. Most notably, in 2016 once the EPA established the health advisory of 70 PPT, Fountain immediately shut off all municipal wells. Since that time, Fountain has worked with the Air Force to construct treatment centers and continues to monitor the pretreated and treated water and has delivered water to the citizens with no detection of either contamination.

Mayor Thompson asked for a moment of silence for Fallen Officer Sandoval and citizens of Israel.

4 (2) Board/Commission/Committee Appointments

There were no appointments.

5) Correspondence, Comments and Ex-Officio Reports

City Manager Trainor reported that Deputy City Manager Evans is doing well after his surgery,

Police Chief Cristiani gave statistics on the calls for service that benefited from Fountain Health Clinician.

Utility Director Blankenship thanked Water Engineer Murphy for his dedication to ensuring our citizens are safe and his drive to ensure that our partners are paying based on agreements.

Council Member Duncan reported that October is Domestic Violence Awareness month and also Breast Cancer Awareness month. She gave information on the domestic violence hotline and website as well as stressing the importance of getting tested for breast cancer. She then noted that ballots will be mailed on October 16 and gave information if you do not receive your ballot.

Council Member Cory reminded attendees of the upcoming street dance on October 13th.

Council Member Rick reported on the upcoming Veteran's Day event scheduled for November 11th at the American Legion.

Mayor Thompson noted that Fountain hosted a successful CML district meeting, and she attended a Fostering Hope event and solicited volunteers to help this organization.

6) Public to be Heard

Aaron Himes, VFW, gave information on the VFW's upcoming event as well as their recent accomplishments.

7) Consent Agenda

A. Approval Of the September 26, 2023, City Council Meeting Minutes

B. Resolution 23-045, A Resolution Authorizing And Approving The Exclusive Permanent Easement And Temporary Construction Easement Agreement Between The City Of Fountain And Copart, Inc. For Waterline Easements To Support The Sw/Link Water Transmission Main Project (T. Murphy)

Mayor Thompson made a correction to the minutes.

Council Member Rick made a motion to approve the consent agenda as amended, seconded by Council Member Cory. All members voted yes (6-0); the motion carried.

8) Old Business

A. Discussion on time for public comment for items on the agenda.

City Attorney Johnson reviewed the current language in the City Council's Code of Conduct noting that language for public comment on items that are on the agenda are listed as 3 minutes. Public to be heard comments

9) New Business

A. Consideration Of Items Removed From The Consent Agenda

There were no items removed.

Council Member Rick disclosed that he was in attendance at the Planning Commission meeting to where these items were considered and verified with City Attorney Johnson that because he did not participate in that meeting that he would not need to recuse himself but if Council felt he should then he will.

Council agreed that Council Member Rick should remain.

Mayor Thompson opened the public hearing for the Ordinances listed in 9C & 9D.

B. Resolution 23-046, A Resolution Setting Forth Findings Of Fact And Conclusions Based Thereon Regarding The Eligibility For Annexation To The City Of Fountain Of Territory Known As School District No. 8 Arena Access Annexation, Located At 10535 Jimmy Camp Road, And Hereinafter More Specifically Described In Exhibit "A"

Planning Supervisor Martinez stated that staff has evaluated the annexation request considering its conformity to state law requirements and determines that the property is eligible to be annexed. She reported that this area is approximately 1.38 acres and located at 10535 Jimmy Camp Road.

C. Public Hearing And First Reading Of Ordinance 1792, An Ordinance Annexing To The City Of Fountain That Area To Be Known As School District No. 8 Arena Access Annexation, Located At 10535 Jimmy Camp Road, And Hereinafter More Specifically Described In Exhibit A

Planning Supervisor Martinez reported that this is a request to annex approximately 1.38 acres generally located at 10535 Jimmy Camp Road. A petition for annexation has been submitted to the City by the property owner. The School District acquired this parcel of land in August 2022 and intends to incorporate it in the overall Fountain-Fort Carson District campus plan. Previous District plans had the internal private roadway known as Trojan Point intersecting with Jimmy Camp further north. With the acquisition of this parcel, the Trojan Point access point will be realigned and follow a perpendicular path to Jimmy Camp Road, generally parallel to the Conrad Early Education access road.

D. Public Hearing And First Reading Of Ordinance 1793, An Ordinance Amending The Official Zoning Map Of The City Of Fountain, Colorado To Parks And Open Space (Pos) District Related To That Area To Be Known As School District No. 8 Arena Access Annexation, Generally Located At 10535 Jimmy Camp Road, And Hereinafter More Specifically Described In Exhibit A And Exhibit B

Planning Supervisor Martinez stated that This is a request to zone approximately 1.38 acres located at 10535 Jimmy Camp Road. The Fountain Fort Carson School District recently acquired this land which will be incorporated into the overall District campus. This land will be used for the realigned private roadway known as Trojan Point which provides access to several District facilities internal to the campus. The request to zone the parcel to the POS district is consistent with other land owned by the School District and after reviewing the application for initial zoning Staff concludes that the application meets the minimum development requirements of the PUD zone district.

Adriene May, School District 8 Director of Facilities, noted that plans for the parcel are undetermined and no plans to develop.

Residents of High Gate Farms asked about the future intent of these parcels and alignment of Trojan Road. They stated that the School District was to have communicated previously with the residents, however, they have been noncommunicative.

Council Member Rick asked if the school district would have to come to City Council for approval if they chose to develop that lot.

Planning Director Martinez stated that they would not need approval from City Council because they fall under separate statutory requirements that the only legal requirement is to notify residents.

City Manager Trainor, stated for clarification, with the rezoning of this parcel, they would not be able to develop townhomes.

Council Member Rick wants to ask the school if they anticipate planting in that area to prevent dirt from flying around and try to get it done before next summer. He also asked for them to consider making the curb ADA accessible.

Mr. May stated that they do plan on mitigating the dirt but it is a current construction area. He also noted that the ADA requirements will be in place as required and will take all these concerns to the school administration.

E. Public Hearing And First Reading Of Ordinance 1794, An Ordinance Amending The Official Zoning Map Of The City Of Fountain, Colorado From Planned Unit Development (PUD) To Parks And Open Space (Pos) District For Property Located At 10515-10525 Jimmy Camp Road, And Hereinafter More Specifically Described In Exhibit A And Exhibit B (K. Martinez est. 5 min.)

Mayor Thompson opened the public hearing.

Planning Supervisor Martinez stated this is a request to rezone approximately 5.01 acres located at 10515-10525 Jimmy Camp Road from the Planned Unit Development (PUD) District to the Parks and Open Space (POS) District for Fountain Fort Carson School District No. 8. This parcel was initially zoned PUD in 2007 for a proposed townhome development known as Sonador Ranch.

Discussion was held regarding the current road alignment.

Donna Wall, High Gate resident requested the school district place the speed limit signs back on Trojan Pt.

Mr. May stated those signs have been taken down temporarily for construction.

It was requested that they place temporary signs during construction.

Police Chief Cristiani stated that this road is on private property so the police could not enforce the speed limit but the SRO's could possibly help.

Mayor Thompson closed the public hearing.

Council Member Rick made a motion to approve Resolution 23-046, seconded by Mayor Pro Tem Estes. All members voted yes (6-0); the motion carried.

Council Member Rick made a motion to approve Ordinance 1792, seconded by Mayor Pro Tem Estes. All members voted yes (6-0); the motion carried.

Mayor Pro Tem Estes made a motion to approve Ordinance 1793, seconded by Council Member Cory. All members voted yes (6-0); the motion carried.

Council Member Duncan made a motion to approve Ordinance 1794, seconded by Council Member Rick. All members voted yes (6-0); the motion carried.

10) City Council Agenda Requests

Council Member Duncan requested to bring back a discussion on public comment under public to be heard.

Mayor Pro Tem Estes asked for a proclamation to honor the Museum for 20 years in Fountain.

11) Announcement of Executive Sessions

City Clerk Huffman request the following executive sessions:

- Pursuant to C.R.S. Section 24-6-402(4) for the Purpose of Review, Approval, and Amendment of Executive Session Minutes
- Pursuant to C.R.S. Section 24-6-402(4)(f) for the purpose of discussing a personnel matter and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees. For a performance evaluation.

Council Member Rick made a motion to hold the executive sessions as requested, seconded by Council Member Duncan. All members voted yes (6-0); the motion carried.

12) Adjourn

There being no further business, Mayor Thompson declared the meeting adjourned at 7:54 P.M.

City Clerk

Mayor



Regular City Council Meeting

Consent – 7B
Norris/Appletree Business Improvement
District 2024 Operating Plan and Budget

October 24, 2023

Summary Information

Title:
RESOLUTION 23-047, A RESOLUTION TO APPROVE THE 2024 OPERATING PLAN AND BUDGET FOR THE NORRIS/APPLETREE BUSINESS IMPROVEMENT DISTRICT.

Initiator : Kristy Martinez, AICP Planning Manager	<input checked="" type="checkbox"/> Council Action
Presenter: Kristy Martinez, AICP Planning Manager	<input type="checkbox"/> Council Information
Legal Review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Report to Council

Summary Overview and List of Attachments:
Colorado Revised Statues require City Council to either approve or disapprove business improvement district’s annual operating plan and budget.

Attachments:
Vicinity map
Resolution 23-047
Exhibit A – 2024 Norris/Appletree Business Improvement District Operating Plan and Budget

Background Information

In September 2006, the City of Fountain City Council established the Norris/Appletree Business Improvement District (BID) and appointed an initial Board of Directors, through the adoption of Ordinance No. 1345. Colorado Revised Statute §31-25-1211 requires that the Council annually approve or disapprove the BID’s operating plan and budget for the upcoming calendar year.

The District encompasses an approximate one-half acre parcel east of Marksheffel Road south of Peaceful Valley Road and is part of the Appletree commercial development.

Resolution 23-047 will approve the Norris/Appletree Business Improvement District’s 2024 Operating Plan and Budget. The 2024 annual general fund budget is projected at \$13,424.00 which includes developer advances. The City Council previously authorized a maximum debt and operation mill levy that the District can impose of 50 mills; 30 mills will be imposed for debt service and 20 mills for operations. It is anticipated that no debt will be incurred by the District in 2024.

Activities: The District does not anticipate any commercial development in 2024 and does not have a specific timeframe for development at this time.

Projects and Public Improvements: The District does not anticipate funding any public improvements in 2024. There is no financial impact to the City of Fountain.

- Strategic Plan Priority (if applicable):
- Transportation Infrastructure
 - Telecommunications Technology and Capabilities.
 - Distribution of Public Safety Resources
 - Improve the Availability of Venues Which Support Community Activities

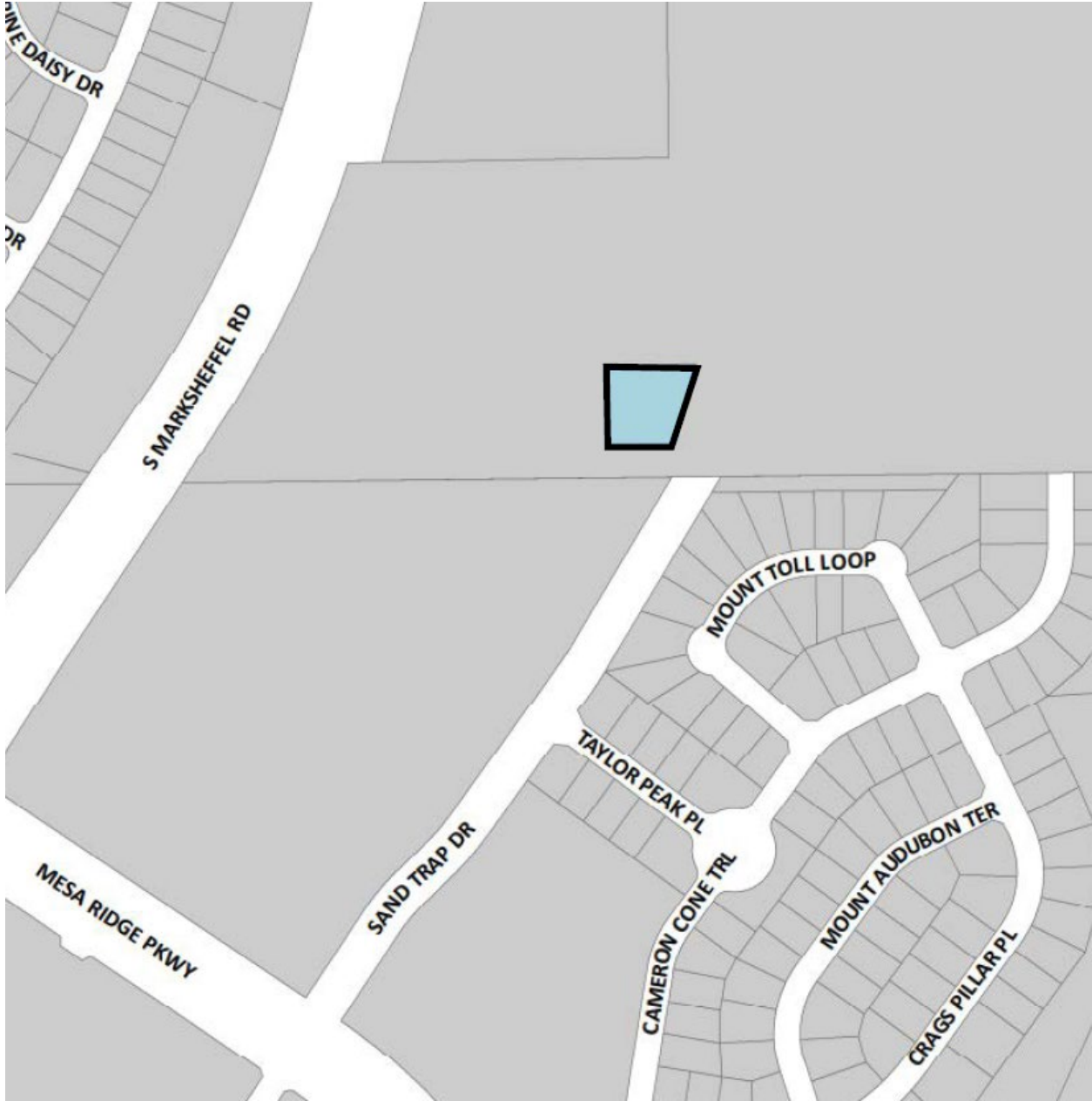
Recommendation

There have been no significant changes in the operating plan since 2006. Staff does not oppose the approval of Resolution 23-047

Proposed Motion

Motion to approve shall be included under the consent agenda.

VICINITY MAP





RESOLUTION 23-047

A RESOLUTION APPROVING THE NORRIS/APPLETREE BUSINESS IMPROVEMENT DISTRICT 2024 OPERATING PLAN AND BUDGET

WHEREAS, in 2006 the City Council approved the formation of the Norris/AppleTree Improvement District (“District”) by Ordinance 1345 to serve an approximate one-half acre commercial development known as Norris/AppleTree (“Project”) and appointing the District’s initial Board of Directors (“Board”); and

WHEREAS, Colorado Revised Statute §31-25-1211, provides that no district created under the Act shall issue bonds, levy taxes, or assessments, or provide improvements or services unless the City has approved an operating plan and budget for the district; and

WHEREAS, the Business Improvement District Act mandates that the City Council approve an annual operating plan and budget for the District and accordingly the District has submitted an operating plan and budget for calendar year 2024 which is attached hereto as Exhibit A; and

WHEREAS, the City Council finds and determines that the approval of the 2024 Operating Plan and Budget in the form presented to the Council at this meeting is in the best interests of the both the City and the District.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fountain, Colorado, as follows:

Section 1. The 2024 Operating Plan and Budget for the Norris/AppleTree Business Improvement District are hereby approved in the form attached as Exhibit A.

Done this 24th day of October, 2023.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk

2024 OPERATING PLAN AND BUDGET

**NORRIS/APPLETREE
BUSINESS
IMPROVEMENT
DISTRICT**

City of Fountain, El Paso County, Colorado

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EXHIBIT B - 2024 Budget

2024
OPERATING PLAN AND BUDGET FOR THE
NORRIS/APPLETREE BUSINESS IMPROVEMENT DISTRICT

1. PURPOSE AND SCOPE OF THIS DISTRICT

A. Introduction and Purpose. The purpose of the Norris/AppleTree Business Improvement District (the “District”) is to finance needed public improvements and services in the designated commercial area within the City of Fountain (the “City”).

B. Territory within the BID. A legal description and map of the territory within the initial boundaries of the District was attached to the District's initial operating plan (being the 2006-2007 Operating Plan) and is incorporated by reference herein. No boundary changes were made or proposed from 2008 to the present. Any future changes made to the boundaries of the District will be made pursuant to the provisions of Section 31-25-1220, C.R.S.

C. Operating Plan Contents. Pursuant to the provisions of the Business Improvement District Act, Section 31-25-1201, *et seq.*, C.R.S., as amended, this Operating Plan specifically identifies: (1) the composition of the Board of Directors; (2) the services and improvements to be provided by the District; (3) the taxes, fees, and assessments to be imposed by the District; (4) the estimated principal amount of the bonds to be issued by the District; and (5) such other information as the City may require.

2. COMPOSITION OF THE BOARD OF DIRECTORS

A. Appointed Board, Electors. The Board of Directors of the District was appointed by the City Council. All Board members shall serve at the pleasure of City Council. All Board members must, by law, be electors of the District. Electors are those persons defined as such by Section 31-25-1203(4)(a), C.R.S.:

“Elector” means a natural person who is a citizen of the United States and a resident of the State of Colorado, who is eighteen years of age or older, and who:

(I) Makes his primary dwelling place in the district; or

(II) Owns taxable real or personal property within the boundaries of the district; or

(III) Is the holder of a leasehold interest in taxable real or personal property within the boundaries of the district; or

(IV) Is the natural person designated by an owner or lessee of taxable real or personal property in the district which is not a natural person to vote for such owner or lessee. Such designation must be in writing and filed with the secretary of the District. Only one such person may be designated by an owner or lessee.

In the event that the statutory definition of “elector” is amended, then the new definition shall apply to the Board of the District.

B. District Board. The current Board of Directors of the District is comprised of the following individuals:

- 1) Bryan R. Horan
- 2) Vacancy
- 3) Vacancy
- 4) Vacancy
- 5) Vacancy

Director contact information is attached hereto as **EXHIBIT A.**

C. Advisory Board. The Board of Directors may appoint one or more advisory boards to assist the Board of Directors on such matters as the Board of Directors desires assistance. The Board of Directors shall, upon the appointment of an advisory board, set forth its duties, duration, and membership. The Board of Directors may provide rules of procedure for the advisory board or may delegate to the advisory board the authority to provide such rules. To date no advisory board has been appointed by the Board of Directors.

3. DESCRIPTION OF PUBLIC IMPROVEMENTS AND SERVICES

A. Improvements and Services. Subject to whatever limitations are imposed in the District’s annual Operating Plan, and subject to whatever other limitations are imposed by law, the District is empowered to provide the financing, acquisition, construction, completion, installation, replacement and/or operation and maintenance of all of the services and public improvements allowed under Colorado law for business improvement districts, including “Improvements” as that term is defined in Section 31-25-1203(5), C.R.S., services as described in Section 31-25-1212(1)(f), C.R.S., and other powers granted to such districts under Section 31-25-1212, C.R.S., to the extent necessary or needed within the District’s boundaries or as the same now exist or may hereafter be enlarged by the City from time to time.

Any public improvements not funded by the District will be paid for by the developer of the real property within the District’s boundaries. Specific improvements and services that the District is authorized to provide are acquisition, construction, operation and maintenance of parking facilities, roadways, lighting, driveways, public utilities and landscaping. Public improvements anticipated to be financed by the District were identified with particularity in the District's 2006 - 2007 Operating Plan.

B. Perimeter and Extraterritorial Improvements, Services. The District will be primarily concerned with the provision of public improvements and services within the boundaries of the District; however, there may be instances, such as an extension of a sidewalk, drainage, road, or utility line required by plans approved by the City, where it will be advantageous to the District to provide or assist with financing of an Improvement or service outside of the then-current

boundaries of the District. The District shall have the authority to provide or assist with these perimeter and extraterritorial improvements and services.

4. ADMINISTRATION, OPERATION, AND MAINTENANCE

A. General. The District shall provide for its own administration, operations, and maintenance. These services will be performed by District personnel or by contract.

B. Limited Operations. The operations of the District are based on the premise that the City will accept for operation and maintenance only those items that the City has determined the City has the capability to operate and maintain, while the improvements owned and maintained by the District will be public improvements within the District's financial capabilities.

5. FINANCIAL PLAN AND BUDGET

A. General Matters, Proforma, Budget. The financial feasibility plan filed with the 2006 - 2007 Operating Plan demonstrates that the District has the ability to finance the facilities identified therein, and will be capable of discharging the proposed indebtedness and providing the proposed services on a reasonable basis.

The 2024 Budget is furnished in **EXHIBIT B**. The final budget, which will be substantially in accordance with the budget set forth herein, will be adopted following the District's compliance with the Colorado Local Government Budget Law, including the required public notice and hearing before the Board of Directors. Budgets for subsequent years shall be submitted to the City for review and approval as required by § 31-25-1211, C.R.S. of the Business Improvement District Act.

B. Aggregate Mill Levy Limit. Notwithstanding anything herein to the contrary, the District may authorize, issue, sell, and deliver such bonds, notes, contracts, reimbursement agreements, or other obligations evidencing or securing a borrowing (collectively, "Bonds") as are permitted by law. The District shall have a total mill levy cap for debt service and operations of fifty (50) mills; provided, however, such mill levy cap may be subject to upward or downward adjustments addressing any abatement or statutory, legislative, or constitutional changes that adjust or impact the assessed or actual valuation of property or the assessment ratio pursuant to which taxes are calculated occurring after, but not before, January 1, 2006. Such upward or downward adjustments are to be determined by the Board of Directors in good faith (such determination to be binding and final) so that to the extent possible, the actual revenue generated by the mill levy, as adjusted for changes occurring after January 1, 2006, are neither diminished nor enhanced as a result of such changes.

C. Operating Mill Levy. To pay for administration, operations and maintenance, the District may certify a levy up to twenty (20) mills for its general fund, provided, however, such operating mill levy cap set forth in this paragraph may be subject to upward or downward adjustments addressing any abatement or statutory, legislative, or constitutional changes that adjust or impact the assessed or actual valuation of property or the assessment ratio pursuant to which

taxes are calculated occurring after, but not before, January 1, 2006. Such upward or downward adjustments are to be determined by the Board of Directors in good faith (such determination to be binding and final) so that to the extent possible, the actual revenue generated by the mill levy, as adjusted for changes occurring after January 1, 2006, are neither diminished nor enhanced as a result of such changes.

The power to assess ad valorem taxes is limited to collections from taxable commercial property as defined in Section 31-25-1203(2), C.R.S. within the boundaries of the District. In addition to the levy, the District may impose fees and charges for operation and maintenance services based on the costs thereof or accept funds from property owners for operations and maintenance purposes.

D. Debt Financing. The provision of facilities by the District will be financed by the issuance of limited tax general obligation bonds.

(i) The amount of debt authority authorized by this Operating Plan is \$1,900,000 in principal amount, which will be sufficient to yield proceeds to the District available for public improvement acquisition and construction purposes, including completion, construction, acquisition and/or installations of the proposed public improvements, plus construction contingencies, design and construction engineering, construction management and other capitalized costs (“Capital Costs”). Bond proceeds would also cover costs and expenses for financing the facilities, including, but not limited to, capitalized interest, bond issuance costs, bond reserve funds, credit enhancement costs, and District organizational costs. In order to allow the District a degree of flexibility in how it allocates its authority to issue bonds between categories of improvements, the amount of voter-approved debt authority and bonds issued by the District to finance the facilities will be greater than the principal amount stated above, nonetheless, the principal amount of the Bonds that may be issued by the District is limited to \$1,900,000 in principal amount unless the District obtains the City Council’s approval of another Operating Plan or an amendment to the Operating Plan. Voter approved debt shall not exceed \$2,500,000.

The District will also be authorized to issue refunding bonds as allowed by law.

(ii) Pursuant to Section 31-25-1221, C.R.S. or the Supplemental Public Securities Act, specifically Section 11-57-207(1)(a), C.R.S., the Bonds would mature not more than thirty years from the date of issuance. The proposed maximum voted net effective interest rate is 12% and the maximum discount is estimated at 2%. These maximums will allow the District flexibility on structuring the Bonds to meet the timing of revenues to pay debt service. The exact interest rates and discounts will be determined at the time the Bonds are sold and will reflect market conditions at the time of sale. Capitalized interest may be needed to make the first bond payments. In addition, a reserve fund may be necessary.

(iii) The Business Improvement District Act requires that, in the event residential property is accidentally included in the District, or if a commercial property converts to residential, the property owner may demand and receive exclusion of the property and the property is not subject to the revenue raising powers of the District.

(iv) Debt Mill Levy Limitations. The District shall restrict its ability to issue limited tax general obligation debt as follows:

(I) The debt service mill levy and operating mill levy combined will not exceed the aggregate mill levy limit of fifty (50) mills, except as set forth in Section 5(B) of this Operating Plan.

(II) If a higher operating or debt service levy over the limits as adjusted are necessary in the future, then City Council and voter approval shall be obtained as required by law for such a levy.

(v) The debt of the District shall not constitute a debt or obligation of the City in any manner. The faith and credit of the City shall not be pledged for the repayment of the debt of the District. This will be clearly stated on all offering circulars, prospectus, or disclosure statements associated with any securities issued by the District.

(vi) Improvements may be started using private financing. The District shall have the authority to purchase completed public works or work in progress and pay administrative and district organizational expenses to reimburse expenditures. The methods, terms, and amounts of such purchases and reimbursements shall be as determined by the Board of Directors, but in no event shall interest greater than 8% per annum be paid on any of funds loaned to the District by any developer or developers. Bonds issued for the purpose of making such purchases and reimbursements, if any, shall be limited tax general obligation bonds, shall be subject to the debt limit set forth herein, and shall not bear interest at a rate greater than 8% per annum.

(vii) Additional Bond Limitations. In addition to the other limitations set forth in this Operating Plan, all bonds issued by the District shall also be subject to the limitations of state law. In the event of a conflict between the limitations of this Operating Plan and state law, the more restrictive provision shall control.

E. Other Revenue Sources.

(i) As a result of its mill levy and state law, the District will receive an allocation of specific ownership taxes that will vary from year to year. In keeping with the District's and City's desire for conservative financial assumptions, this variable revenue source is shown in the financial plan for the bonds at 10% of total property tax revenue per year.

(ii) Potential interest earnings are expected to be a minor revenue source and so are not shown in the financial plan.

F. Initial Election. The District held an election on November 7, 2006 for the purpose of authorizing debt, taxes, revenue limits, spending limits, and such other matters as may be necessary or convenient for the implementation of Art. X, Sec. 20 of the Colorado Constitution and the operating plan.

6. MUNICIPAL OVERSIGHT OF DISTRICT ACTIVITIES

A. Annual Operating Plan and Budget. The District shall submit to the City by September 30 of each year an annual operating plan and budget describing its proposed activities for the upcoming budget year in accordance with statute, Section 31-25-1211, C.R.S. This annual operating plan and budget will include a brief report of District activities for the past year and all of the information required by state law and as may be required from time-to-time by the City.

B. Inclusions and Exclusions. The City shall consider, and as determined by City Council, approve or deny any inclusions or exclusions of property for the District. Property within the potential service area, as identified in the District's initial Operating Plan (being the 2006-2007 Operating Plan), shall be included following the City's receipt of a petition filed by the property owner requesting inclusion of the property into the District. To date, no inclusions or exclusions of territory into or from the District have occurred.

C. Dissolution. The District may be dissolved under the conditions of Section 31-25-1225, C.R.S.

7. 2024 ACTIVITIES, PROJECTS, AND CHANGES

1. **Activities.**

The District does not anticipate activity for commercial development in 2024 and has no specific plan at this time.

2. **Projects and Public Improvements.**

The District does not anticipate funding the design, installation, or acquisition of public improvements during 2024. If the District acts to fund additional improvements during 2024, an amendment to this Operating Plan will be sought in accordance with the provisions of Section 31-25-1211, C.R.S.

3. **Summary of 2024 Activities and Changes.**

Boundary changes: The District's boundaries have not changed since the District's formation and the District does not anticipate changes to its boundaries in the upcoming year.

Mill levy changes: The District has not imposed a mill levy in the past and does not anticipate imposing a mill levy in the upcoming year.

New, refinanced, or fully discharged debt: Not anticipated for the upcoming year.

Elections: None anticipated in 2024.

Major changes in development activity or valuation: No major changes in development activity or valuation are anticipated for the upcoming year.

8. CONCLUSION

It is submitted that this Operating Plan and Budget for the District meets the requirements of the Business Improvement District Act and further meets applicable requirements of the Colorado Constitution and other law. It is further submitted that the types of services and improvements to be provided by the District are those services and improvements which best satisfy the purposes of Part 12 of Article 25 of Title 31, C.R.S., as required by Section 31-25-1207(5), C.R.S.

EXHIBIT A
Director Contact Information

NORRIS/APPLETREE BUSINESS IMPROVEMENT DISTRICT

BOARD OF DIRECTORS:

Bryan Horan, Assistant Secretary
4 Inverness Court East, Suite 300
Englewood, CO 80112
Term: Appt 4/22/08 – at pleasure of Council

(w) 303-346-7006
(h) 303-346-8771
(f) 303-865-7006
© 303-525-2683
bhoran@ventanacap.com

Vacancy

Vacancy

Vacancy

Vacancy

EXHIBIT B

2024 Budget

Norris Appletree Business Improvement District
Proposed Budget
General Fund
For the Year Ended December 31, 2024

	Actual <u>2022</u>	Adopted Budget <u>2023</u>	Actual <u>06/30/23</u>	Estimated <u>2023</u>	Proposed Budget <u>2024</u>
Beginning fund balance	\$ 2,013	\$ 2,858	\$ 1,567	\$ 1,567	\$ -
Revenues:					
Developer advances	<u>7,193</u>	<u>10,000</u>	<u>3,972</u>	<u>7,388</u>	<u>13,424</u>
Total revenues	<u>7,193</u>	<u>10,000</u>	<u>3,972</u>	<u>7,388</u>	<u>13,424</u>
Total funds available	<u>9,206</u>	<u>12,858</u>	<u>5,539</u>	<u>8,955</u>	<u>13,424</u>
Expenditures:					
Accounting / audit	3,067	2,500	2,522	3,500	4,500
Legal	4,416	4,800	2,978	4,800	7,884
Insurance	-	-	-	255	255
Miscellaneous	156	200	39	200	200
Directors' Fees	-	2,275	-	200	200
Emergency reserve (3%)	<u>-</u>	<u>225</u>	<u>-</u>	<u>-</u>	<u>385</u>
Total expenditures	<u>7,639</u>	<u>10,000</u>	<u>5,539</u>	<u>8,955</u>	<u>13,424</u>
Ending fund balance	<u>\$ 1,567</u>	<u>\$ 2,858</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Assessed valuation		<u>\$ 1,430</u>			<u>\$ 40</u>
Mill Levy		<u>-</u>			<u>-</u>



Regular City Council Meeting

Consent –7C
Riverbend Crossing BID 2024
Operating Plan & Budget

October 24, 2023

Summary Information

Title: RESOLUTION 23-048, A RESOLUTION TO APPROVE THE 2024 OPERATING PLAN AND BUDGET FOR THE RIVERBEND CROSSING BUSINESS IMPROVEMENT DISTRICT.

Initiator : Kristy Martinez, AICP Planning Manager	<input checked="" type="checkbox"/> Council Action
Presenter: Kristy Martinez, AICP Planning Manager	<input type="checkbox"/> Council Information
Legal Review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Report to Council

Summary Overview and List of Attachments:
 Colorado Revised Statutes require City Council to either approve or disapprove business improvement district’s annual operating plan and budget.

Attachments:
 Vicinity Map
 Resolution 23-048
 Exhibit A – 2024 Riverbend Crossing Business Improvement District Operating Plan and Budget

Background Information

In April 2019, The City of Fountain City Council established the Riverbend Crossing Business Improvement District (BID) and appointed an initial Board of Directors, through the adoption of Ordinance No. 1728. Colorado Revised Statute §31-25-1211 requires that the Council annually approve or disapprove the BID’s operating plan and budget for the upcoming calendar year.

The District encompasses approximately 10.6 acres generally located west of U.S. Highway 85-87 and Southmoor Drive.

Resolution 23-048 will approve the Riverbend Crossing Business Improvement District’s 2024 Operating Plan and Budget. The 2024 annual general fund budget is projected at \$65,000.00. It is anticipated that a \$15,000,000.00 general obligation bond will be issued for public improvements in 2024. The City Council previously authorized a maximum debt and operation mill levy that the District can impose of 50 mills; with a maximum of 20 mills for operations. It is common practice for business improvement districts to incur debt in the years following the formation of the district to fund the necessary public improvements. The private fiscal impacts are detailed below.

For the 2024 Capital Projects Fund, the District anticipates receiving a developer’s advance of \$11.7 million and borrowing \$15 million from general obligation bonds described above. During the same year, the District anticipates repaying the developer advance and spending \$11.7 million from bonds on capital projects.

The Riverbend Business Improvement District’s annual general budget is generated from a 45 mil levy property tax levy. The BID’s debt service fund 2024 budget forecasts an ending fund balance of \$2,178,413.

- Strategic Plan Priority (if applicable):
- Facilitate responsible development, building reasonable capacity to meet future community needs.
 - Diversify city financial resources and invest.
 - Provide reliable access to public safety services.
 - Improve the quality and availability of parks and recreation opportunities

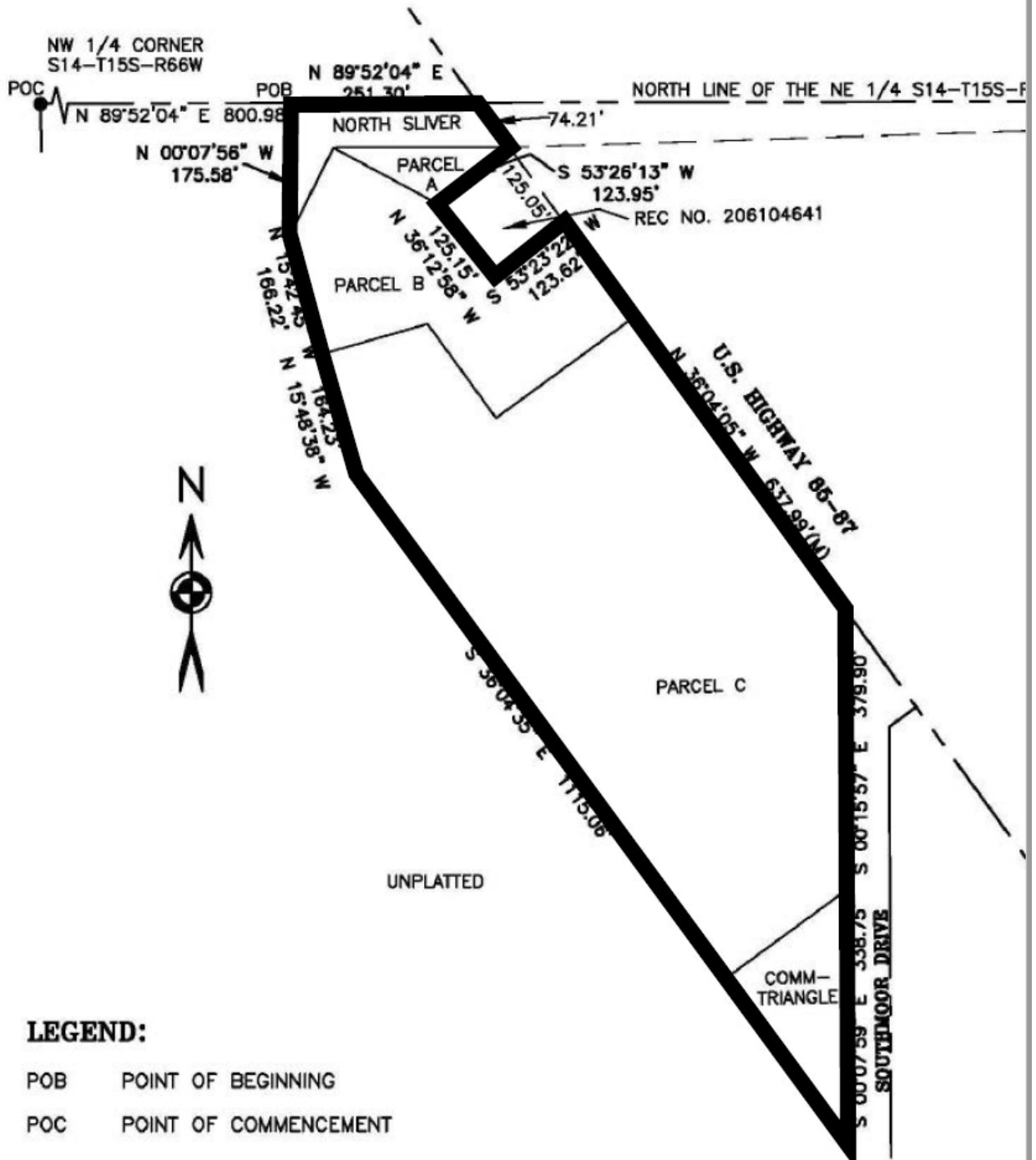
Recommendation

There have been no significant changes in the operating plan; Staff does not oppose the approval of RES 23-048.

Proposed Motion

Motion to approve shall be included under the consent agenda.

VICINITY MAP





RESOLUTION 23-048

A RESOLUTION APPROVING THE RIVERBEND CROSSING BUSINESS IMPROVEMENT DISTRICT 2022 OPERATING PLAN AND BUDGET

WHEREAS, in 2019 the City Council approved the formation of the Riverbend Crossing Business Improvement District (“District”) by Ordinance 1728 to serve an approximate 10-acre commercial development known as Riverbend Crossing (“Project”) and appointing the District’s initial Board of Directors (“Board”); and

WHEREAS, Colorado Revised Statute §31-25-1211, provides that no district created under the Act shall issue bonds, levy taxes, or assessments, or provide improvements or services unless the City has approved an operating plan and budget for the district; and

WHEREAS, the Business Improvement District Act mandates that the City Council approve an annual operating plan and budget for the District and accordingly the District has submitted an operating plan and budget for calendar year 2024 which is attached hereto as Exhibit A; and

WHEREAS, the City Council finds and determines that the approval of the 2024 Operating Plan and Budget in the form presented to the Council at this meeting is in the best interests of the both the City and the District.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fountain, Colorado, as follows:

Section 1. The 2024 Operating Plan and Budget for the Riverbend Business Improvement District are hereby approved in the form attached as Exhibit A.

Done this 24th day of October, 2023.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk

2024 OPERATING PLAN AND BUDGET

**RIVERBEND
CROSSING
BUSINESS
IMPROVEMENT
DISTRICT**

City of Fountain, El Paso County, Colorado

TABLE OF CONTENTS

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2. COMPOSITION OF THE BOARD OF DIRECTORS 1
3. DESCRIPTION OF PUBLIC IMPROVEMENTS AND SERVICES 2
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5. FINANCIAL PLAN AND BUDGET 3
6. MUNICIPAL OVERSIGHT OF DISTRICT ACTIVITIES 6
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EXHIBIT A

Legal Description and Map

EXHIBIT B

2024 BID Budget

General Fund

Debt Service Fund

Capital Projects Fund

2024
OPERATING PLAN AND BUDGET FOR THE
RIVERBEND CROSSING BUSINESS IMPROVEMENT DISTRICT

1. PURPOSE AND SCOPE OF THIS DISTRICT

A. Introduction and Purpose. The purpose of the Riverbend Crossing Business Improvement District (the “District”) is to finance needed public improvements and services in the designated commercial area within the City of Fountain (the “City”). In 2024, the District anticipates infrastructure to be built.

B. Territory within the BID. A legal description and map of the territory within the initial boundaries of the District is attached hereto as **EXHIBIT A**.

C. Operating Plan Contents. Pursuant to the provisions of the Business Improvement District Act, Section 31-25-1201, *et seq.*, C.R.S., as amended, this Operating Plan specifically identifies: (1) the composition of the Board of Directors; (2) the services and improvements to be provided by the District; (3) the taxes, fees, and assessments to be imposed by the District; (4) the estimated principal amount of the bonds to be issued by the District; and (5) such other information as the City may require.

2. COMPOSITION OF THE BOARD OF DIRECTORS

A. Elected Board, Electors. The Board of Directors of the District is, and shall be, elected. All Board members must, by law, be electors of the District. Electors are those persons defined as such by Section 31-25-1203(4)(a), C.R.S.:

“Elector” means a natural person who is a citizen of the United States and a resident of the State of Colorado, who is eighteen years of age or older, and who:

(I) Makes his primary dwelling place in the district; or

(II) Owns taxable real or personal property within the boundaries of the district; or

(III) Is the holder of a leasehold interest in taxable real or personal property within the boundaries of the district; or

(IV) Is the natural person designated by an owner or lessee of taxable real or personal property in the district which is not a natural person to vote for such owner or lessee. Such designation must be in writing and filed with the secretary of the District. Only one such person may be designated by an owner or lessee.

In the event that the statutory definition of “elector” is amended, then the new definition shall apply to the Board of the District.

B. District Board. The current elected Board of Directors of the District is comprised of the following individuals:

- 1) Jeff Carter
- 2) Carolyn Carter
- 3) Meghan Leemon
- 4) Dustin Leemon
- 5) Vacancy

C. Advisory Board. The Board of Directors may appoint one or more advisory boards to assist the Board of Directors on such matters as the Board of Directors desires assistance. The Board of Directors shall, upon the appointment of an advisory board, set forth its duties, duration, and membership. The Board of Directors may provide rules of procedure for the advisory board or may delegate to the advisory board the authority to provide such rules.

3. DESCRIPTION OF PUBLIC IMPROVEMENTS AND SERVICES

A. Improvements and Services. Subject to limitations imposed by law, the District is empowered to provide the financing, acquisition, construction, completion, installation, replacement and/or operation and maintenance of all of the services and public improvements allowed under Colorado law for business improvement districts, including “Improvements” as that term is defined in Section 31-25-1203(5), C.R.S., services as described in Section 31-25-1212(1)(f), C.R.S., and other powers granted to such districts under Section 31-25-1212, C.R.S., to the extent necessary or needed within the District’s boundaries or as the same now exist or may hereafter be enlarged by the City from time to time.

Any public improvements the District does not fund will be paid for by the Developer of the real property within the District’s boundaries. Specific improvements and services that the District is authorized to provide are acquisition, construction, operation, and maintenance of parking facilities, roadways, traffic safety devices, lighting, driveways, public utilities, and landscaping. Public improvements that are anticipated to be financed by the District in 2024 were identified with particularity in the District’s 2019 Operating Plan.

B. Perimeter and Extraterritorial Improvements, Services. The District will be primarily concerned with the provision of public improvements and services within the boundaries of the District; however, there may be instances, such as an extension of a sidewalk, drainage, road, or utility line required by plans approved by the City, where it will be advantageous to the District to provide or assist with financing of an Improvement or service outside of the then-current boundaries of the District. The District shall have the authority to provide or assist with these perimeter and extraterritorial improvements and services.

4. ADMINISTRATION, OPERATION AND MAINTENANCE

A. General. The District shall provide for its own administration, operations, and maintenance. These services will be performed by District personnel or by contract.

B. Limited Operations. The operations of the District will be based on the premise that the City will accept for operation and maintenance only those public improvements that the City has determined the City has the capability to operate and maintain. The District will own, operate, and maintain all other public improvements constructed, installed, or acquired by the District and not accepted by the City or another governmental entity for operation and maintenance.

5. FINANCIAL PLAN AND BUDGET

A. General Matters, Proforma, Budget. The financial feasibility plan filed with the District's 2019 Operating Plan demonstrates that the District has the ability to finance the facilities identified therein, and will be capable of discharging the proposed indebtedness and providing the proposed services on a reasonable basis.

The 2024 Budget is furnished in **EXHIBIT B**. The final budget will be adopted following the District's compliance with the Colorado Local Government Budget Law, including the required public notice and hearing before the Board. Budgets for subsequent years shall be submitted to the City for review and approval as required by C.R.S. § 31-25-1211 of the Business Improvement District Act.

B. Aggregate Mill Levy Limit. Notwithstanding anything herein to the contrary, the District may authorize, issue, sell, and deliver such bonds, notes, contracts, reimbursement agreements, or other obligations evidencing or securing a borrowing (collectively, "Bonds") as are permitted by law. The District shall have a total mill levy cap for debt service and operations of fifty (50) mills; provided however, such total mill levy cap may be subject to upward or downward adjustments addressing any abatement or statutory, legislative, or constitutional changes that adjust or impact the assessed or actual valuation of property or the assessment ratio pursuant to which taxes are calculated occurring after, but not before, January 1, 2019. Such upward or downward adjustments are to be determined by the Board of Directors in good faith (such determination to be binding and final) so that to the extent possible, the actual revenue generated by the mill levy, as adjusted for changes occurring after January 1, 2019, are neither diminished nor enhanced as a result of such changes.

C. Operating Mill Levy. To pay for administration, operation and maintenance, the District may certify a levy up to twenty (20) mills for its general fund, provided, however, such operating mill levy cap set forth in this paragraph may be subject to upward or downward adjustments addressing any abatement or statutory, legislative, or constitutional changes that adjust or impact the assessed or actual valuation of property or the assessment ratio pursuant to which taxes are calculated occurring after, but not before, January 1, 2019. Such upward or downward

adjustments are to be determined by the Board of Directors in good faith (such determination to be binding and final) so that to the extent possible, the actual revenue generated by the mill levy, as adjusted for changes occurring after January 1, 2019, are neither diminished nor enhanced as a result of such changes.

The power to assess ad valorem taxes is limited to collections from taxable commercial property as defined in Section 31-25-1203(2), C.R.S. within the boundaries of the District. In addition to the levy, the District may impose fees and charges for operation and maintenance services based on the costs thereof or accept funds from property owners for operations and maintenance purposes.

D. Debt Financing. The provision of facilities by the District will be financed by the issuance of limited tax general obligation bonds. The District anticipates a bond issuance of approximately \$15,000,000 in 2024 to finance needed public improvements.

(i) The amount of debt authority authorized by this Operating Plan is \$15,000,000 in principal amount, which will be sufficient to yield proceeds to the District available for public improvement acquisition and construction purposes, including completion, construction, acquisition and/or installations of the proposed public improvements, plus construction contingencies, design and construction engineering, construction management and other capitalized costs (“Capital Costs”). Bond proceeds would also cover costs and expenses for financing the facilities, including, but not limited to, capitalized interest, bond issuance costs, bond reserve funds, credit enhancement costs, and District organizational costs. In order to allow the District a degree of flexibility in how it allocates its authority to issue bonds between categories of improvements, the amount of voter-approved debt authority and bonds issued by the District to finance the facilities will be greater than the principal amount stated above, nonetheless, the principal amount of the Bonds that may be issued by the District is limited to \$15,000,000 in principal amount unless the District obtains the City Council’s approval of another Operating Plan or an amendment to the Operating Plan. Voter approved debt shall not exceed \$20,000,000. The District anticipates issuing bonds in 2024 as reflected in **EXHIBIT B**.

The District will also be authorized to issue refunding bonds as allowed by law.

(ii) Pursuant to § 31-25-1221, C.R.S., or the Supplemental Public Securities Act, specifically Section 11-57-207(1)(a), C.R.S., the Bonds would mature not more than thirty (30) years from the date of issuance. The proposed maximum voted net effective interest rate is 12% and the maximum discount is estimated at 5%. These maximums will allow the District flexibility on structuring the Bonds to meet the timing of revenues to pay debt service. The exact interest rates and discounts will be determined at the time the Bonds are sold and will reflect market conditions at the time of sale. Capitalized interest may be needed to make the first bond payments. In addition, a reserve fund may be necessary.

(iii) The Business Improvement District Act requires that, in the event residential property is accidentally included in the District, or if a commercial property converts

to residential, the property owner may demand and receive exclusion of the property and the property is not subject to the revenue raising powers of the District.

(iv) Debt Mill Levy Limitations. The District shall restrict its ability to issue limited tax general obligation debt as follows:

(I) The debt service mill levy will not exceed the aggregate mill levy limit of fifty (50) mills except as set forth in Section 5(B) of this Operating Plan and less the amount of the District's operating mill levy.

(II) If a higher operating or debt service levy over the limits as adjusted are necessary in the future, then City Council and voter approval shall be obtained as required by law for such a levy.

(v) The debt of the District shall not constitute a debt or obligation of the City in any manner. The faith and credit of the City shall not be pledged for the repayment of the debt of the District. This will be clearly stated on all offering circulars, prospectus, or disclosure statements associated with any securities issued by the District.

(vi) Improvements may be started using private financing. The District shall have the authority to purchase completed public works or work in progress and pay administrative and district organizational expenses to reimburse expenditures. The methods, terms, and amounts of such purchases and reimbursements shall be as determined by the Board. Bonds issued for the purpose of making such purchases and reimbursements, if any, shall be limited tax general obligation bonds, shall be subject to the debt limit set forth herein, and shall not bear interest at a rate greater than 12% per annum. Any bonds issued to the developer will be supported by a fairness opinion issued by a qualified red book investment banking firm stating that the terms and conditions of the loan are fair and reasonable including the interest rate.

(vii) Additional Bond Limitations. In addition to the other limitations set forth in this Operating Plan, all bonds issued by the District shall also be subject to the limitations of state law. In the event of a conflict between the limitations of this Operating Plan and state law, the more restrictive provision shall control.

E. Other Revenue Sources.

(i) As a result of its mill levy and state law, the District will receive an allocation of specific ownership taxes that will vary from year to year.

(ii) Potential interest earnings are expected to be a minor revenue source and so are not shown in the financial plan.

(iii) The District may utilize public improvement fees to provide necessary funding revenues for the public improvements to be financed by the District.

F. Initial Election. The District held an election on November 5, 2019 for the purpose of authorizing debt, taxes, revenue limits, spending limits, and such other matters as may be necessary or convenient for the implementation of Art. X, Sec. 20 of the Colorado Constitution and this Operating Plan.

6. MUNICIPAL OVERSIGHT OF DISTRICT ACTIVITIES

A. Annual Operating Plan and Budget. The District shall submit to the City by September 30 of each year an annual operating plan and budget describing its proposed activities for the upcoming budget year in accordance with statute, § 31-25-1211, C.R.S. This annual operating plan and budget will include a brief report of District activities for the past year and all of the information required by state law and as may be required from time-to-time by the City. The approval by the City of this Operating Plan and Budget does not constitute an approval or authorization for the District to issue debt in subsequent years. Any debt issued in future years must be submitted to and approved as part of the applicable future year's Operating Plan and Budget.

B. Inclusions and Exclusions. The City shall consider, and as determined by City Council, approve or deny any inclusions or exclusions of property for the District.

C. Dissolution. The District may be dissolved under the conditions of Section 31-25-1225, C.R.S.

7. CONCLUSION

It is submitted that this Operating Plan and Budget for the District meets the requirements of the Business Improvement District Act and further meets applicable requirements of the Colorado Constitution and other law. It is further submitted that the types of services and improvements to be provided by the District are those services and improvements which best satisfy the purposes of Part 12 of Article 25 of Title 31, C.R.S., as required by Section 31-25-1207(5), C.R.S.

EXHIBIT A

Legal Description and Map

BARRON LAND, LLC

Legal Description for commercial property

A tract of land being a portion of the West Half (W 1/2) of the Northeast Quarter (NE 1/4) of Section 14, Township 15 South, Range 66 West of the 6th P.M., County of El Paso, State of Colorado, described as follows:

Bearings based on the West line of the Northeast Quarter (NE 1/4) of Section 14, Township 15 South, Range 66 West of the 6th P.M., monumented at the North Quarter (N 1/4) corner with a 3 1/4" aluminum cap, stamped "BARRON LAND 2018 PLS 38141" and at the Center Quarter (C 1/4) corner with a 3 1/4" aluminum cap, stamped "OLIVER E. WATTS 2000 PE-LS 9853" and bears S 00°24'11" E, 2640.42 feet.

COMMENCING at the said North Quarter (N 1/4) corner; thence N 89°52'04" E, along the North line of the said Northeast Quarter (NE 1/4), a distance of 549.67 feet to the POINT OF BEGINNING;

Thence, continuing along said North line, N 89°52'04" E, 251.30 feet to a point on the Southwest right of way line of U.S. Highway 85-87;

Thence S 36°04'05" E, along said Southwest right of way line, a distance of 837.25 feet to the Northeast corner of the land described in Book 1763 at Page 57, recorded at El Paso County Records, said point also being the Northwest corner of Southmoor Drive;

Thence S 00°15'57" E, along the East line of said land, also being the West line of said Southmoor Drive, a distance of 379.90 feet;

Thence continuing along the West line of said Southmoor Drive S 00°07'59" E, a distance of 338.75 feet to a point on the Southeast extension of the Southwest line of said land;

Thence along said Southeast extension, Southeast line and Westerly lines of said land the following three (3) courses:

1) N 36°04'35" W, a distance of 1115.06 feet;

2) N 15°48'38" W, a distance of 164.23;

3) N 15°42'45" W, a distance of 166.22 feet to the Northwest corner of said land;

Thence N 00°07'56" W, a distance of 175.58 feet to the POINT OF BEGINNING;

Excepting therefrom that parcel of land described at Reception No. 206104641 at the El Paso County Clerk and Recorder.

BARRON LAND, LLC

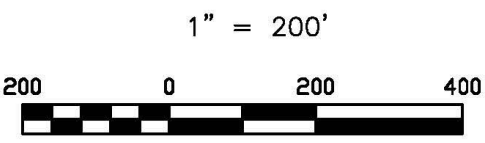
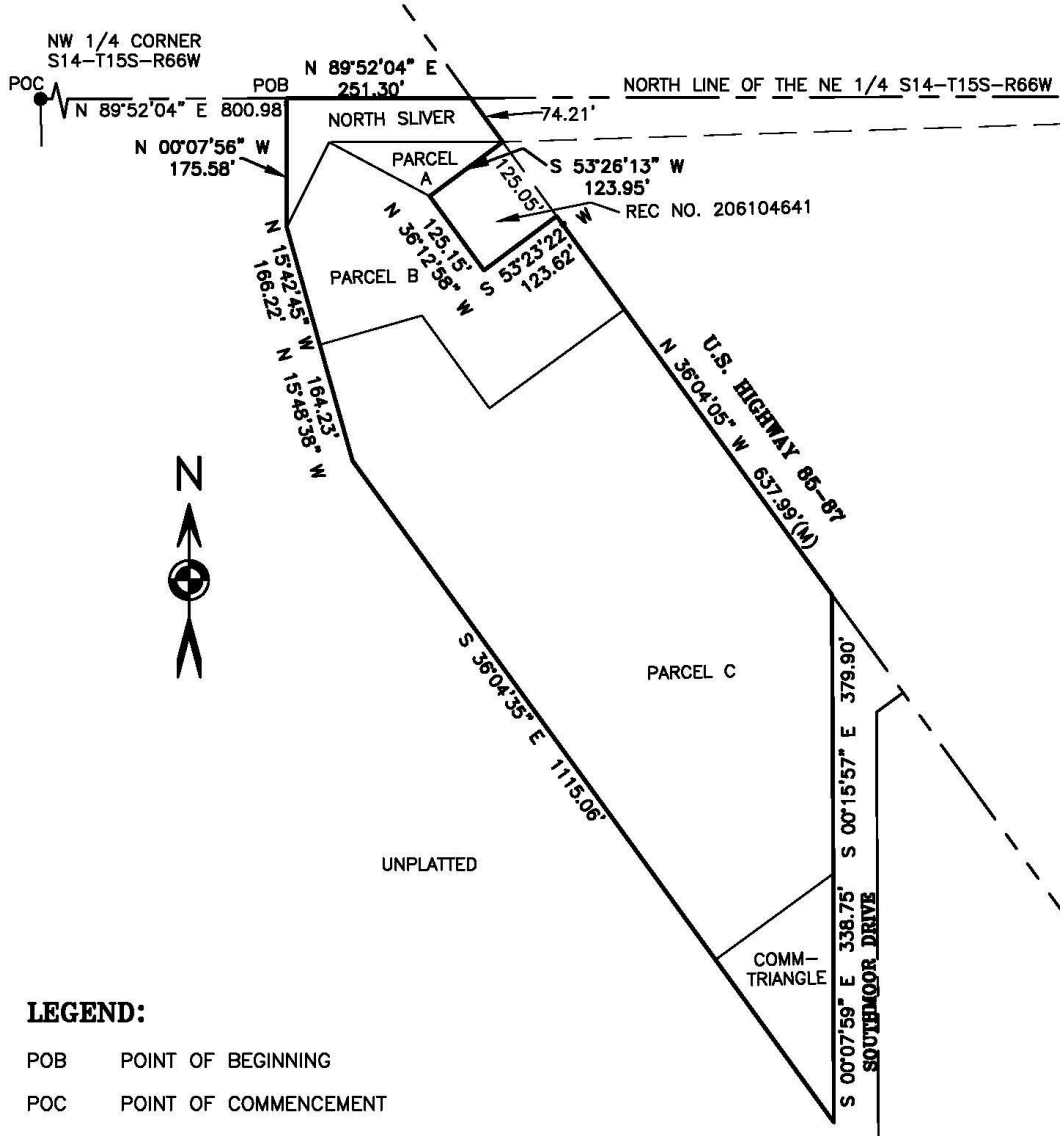
Containing a total calculated area of 465,661 square feet (10.690 acres), of land, more or less.

Spencer J. Barron
State of Colorado Professional Land Surveyor No. 38141
For and on behalf of Barron Land, LLC

2790 N. Academy Blvd., Suite 311 • Colorado Springs, CO 80917 • Phone: 719.360.6827 • Fax: 719.466.6527

www.BARRONLAND.com

COMMERCIAL EXHIBIT



BARRON **LAND**
 BOUNDARY Δ MAPPING Δ SURVEYING Δ CONSTRUCTION
 2790 N. Academy Blvd. Suite 311 P: 719.360.6827
 Colorado Springs, CO 80917 F: 719.466.6527
www.BARRONLAND.com

EXHIBIT B

2024 Budget

**RIVERBEND CROSSING BUSINESS
IMPROVEMENT DISTRICT**

ANNUAL BUDGET

FOR THE YEAR ENDING DECEMBER 31, 2024

**RIVERBEND CROSSING BID
SUMMARY
2024 BUDGET
WITH 2022 ACTUAL AND 2023 ESTIMATED
For the Years Ended and Ending December 31,**

9/26/23

	ACTUAL 2022	BUDGET 2023	ACTUAL 6/30/2023	ESTIMATED 2023	BUDGET 2024
BEGINNING FUND BALANCES	\$ 31,694	\$ 48,529	\$ 47,259	\$ 47,259	\$ 66,687
REVENUES					
Property taxes	19,083	18,757	18,797	18,797	19,927
Specific ownership taxes	2,224	2,138	1,089	2,178	2,338
Interest income	761	4,500	186	374	4,600
Developer advance	18,500	11,763,737	9,300	20,000	11,756,000
Bond issuance proceeds	-	15,000,000	-	-	15,000,000
Total revenues	<u>40,568</u>	<u>26,789,132</u>	<u>29,372</u>	<u>41,349</u>	<u>26,782,865</u>
TRANSFERS IN	<u>-</u>	<u>3,000,000</u>	<u>-</u>	<u>-</u>	<u>3,000,000</u>
Total funds available	<u>72,262</u>	<u>29,837,661</u>	<u>76,631</u>	<u>88,608</u>	<u>29,849,552</u>
EXPENDITURES					
General Fund	24,771	70,001	9,027	21,700	65,000
Debt Service Fund	232	914,997	221	221	905,233
Capital Projects Fund	-	23,700,000	-	-	23,700,000
Total expenditures	<u>25,003</u>	<u>24,684,998</u>	<u>9,248</u>	<u>21,921</u>	<u>24,670,233</u>
TRANSFERS OUT	<u>-</u>	<u>3,000,000</u>	<u>-</u>	<u>-</u>	<u>3,000,000</u>
Total expenditures and transfers out requiring appropriation	<u>25,003</u>	<u>27,684,998</u>	<u>9,248</u>	<u>21,921</u>	<u>27,670,233</u>
ENDING FUND BALANCES	<u>\$ 47,259</u>	<u>\$ 2,152,663</u>	<u>\$ 67,383</u>	<u>\$ 66,687</u>	<u>\$ 2,179,319</u>
EMERGENCY RESERVE	\$ 200	\$ 189	\$ 200	\$ 200	\$ 300
AVAILABLE FOR OPERATIONS	(1,899)	-	3,682	2,840	606
DEBT SERVICE RESERVE	-	1,650,000	-	-	1,650,000
CAPITALIZE INTEREST	-	450,000	-	-	450,000
TOTAL RESERVE	<u>\$ (1,699)</u>	<u>\$ 2,100,189</u>	<u>\$ 3,882</u>	<u>\$ 3,040</u>	<u>\$ 2,100,906</u>

No assurance provided. See summary of significant assumptions.

**RIVERBEND CROSSING BID
PROPERTY TAX SUMMARY INFORMATION
2024 BUDGET
WITH 2022 ACTUAL AND 2023 ESTIMATED
For the Years Ended and Ending December 31,**

9/26/23

	ACTUAL 2022	BUDGET 2023	ACTUAL 6/30/2023	ESTIMATED 2023	BUDGET 2024
ASSESSED VALUATION					
Commercial	134,660	134,520	134,520	134,520	121,060
State assessed	-	4,020	4,020	4,020	4,440
Vacant land	340,600	340,600	340,600	340,600	374,330
	<u>475,260</u>	<u>479,140</u>	<u>479,140</u>	<u>479,140</u>	<u>499,830</u>
Adjustments	(52,010)	(62,320)	(62,320)	(62,320)	(73,800)
Certified Assessed Value	<u>\$ 423,250</u>	<u>\$ 416,820</u>	<u>\$ 416,820</u>	<u>\$ 416,820</u>	<u>\$ 426,030</u>
MILL LEVY					
General	10.000	10.000	10.000	10.000	10.394
Debt Service	35.000	35.000	35.000	35.000	36.379
Total mill levy	<u>45.000</u>	<u>45.000</u>	<u>45.000</u>	<u>45.000</u>	<u>46.773</u>
PROPERTY TAXES					
General	\$ 4,232	\$ 4,168	\$ 4,168	\$ 4,168	\$ 4,428
Debt Service	14,814	14,589	14,589	14,589	15,499
	<u>19,046</u>	<u>18,757</u>	<u>18,757</u>	<u>18,757</u>	<u>19,927</u>
Levied property taxes	19,046	18,757	18,757	18,757	19,927
Adjustments to actual/rounding	-	-	40	40	-
Budgeted property taxes	<u>\$ 19,046</u>	<u>\$ 18,757</u>	<u>\$ 18,797</u>	<u>\$ 18,797</u>	<u>\$ 19,927</u>
BUDGETED PROPERTY TAXES					
General	\$ 4,232	\$ 4,168	\$ 4,177	\$ 4,177	\$ 4,428
Debt Service	14,814	14,589	14,620	14,620	15,499
	<u>\$ 19,046</u>	<u>\$ 18,757</u>	<u>\$ 18,797</u>	<u>\$ 18,797</u>	<u>\$ 19,927</u>

No assurance provided. See summary of significant assumptions.

**RIVERBEND CROSSING BID
GENERAL FUND
2024 BUDGET
WITH 2022 ACTUAL AND 2023 ESTIMATED
For the Years Ended and Ending December 31,**

9/26/23

	ACTUAL 2022	BUDGET 2023	ACTUAL 6/30/2023	ESTIMATED 2023	BUDGET 2024
BEGINNING FUND BALANCES	\$ (2,060)	\$ 184	\$ (1,699)	\$ (1,699)	\$ 3,040
REVENUES					
Property taxes	4,240	4,168	4,177	4,177	4,428
Specific ownership taxes	2,224	2,138	1,089	2,178	2,338
Interest income	168	-	42	84	100
Developer advance	18,500	63,737	9,300	20,000	56,000
Total revenues	<u>25,132</u>	<u>70,043</u>	<u>14,608</u>	<u>26,439</u>	<u>62,866</u>
Total funds available	<u>23,072</u>	<u>70,227</u>	<u>12,909</u>	<u>24,740</u>	<u>65,906</u>
EXPENDITURES					
Accounting	10,840	25,000	3,780	9,000	25,000
Auditing	-	4,500	-	-	4,500
County Treasurer's fee	66	63	63	64	67
Dues and membership	319	1,500	319	319	1,500
Insurance	-	2,500	-	2,500	2,500
Legal	12,301	25,000	4,048	9,000	25,000
Election	1,245	2,500	817	817	2,500
Contingency	-	6,938	-	-	3,933
Engineering	-	2,000	-	-	-
Total expenditures	<u>24,771</u>	<u>70,001</u>	<u>9,027</u>	<u>21,700</u>	<u>65,000</u>
Total expenditures and transfers out requiring appropriation	<u>24,771</u>	<u>70,001</u>	<u>9,027</u>	<u>21,700</u>	<u>65,000</u>
ENDING FUND BALANCES	<u>\$ (1,699)</u>	<u>\$ 226</u>	<u>\$ 3,882</u>	<u>\$ 3,040</u>	<u>\$ 906</u>
EMERGENCY RESERVE	\$ 200	\$ 189	\$ 200	\$ 200	\$ 300
AVAILABLE FOR OPERATIONS	(1,899)	-	3,682	2,840	606
TOTAL RESERVE	<u>\$ (1,699)</u>	<u>\$ 189</u>	<u>\$ 3,882</u>	<u>\$ 3,040</u>	<u>\$ 906</u>

No assurance provided. See summary of significant assumptions.

**RIVERBEND CROSSING BID
DEBT SERVICE FUND
2024 BUDGET
WITH 2022 ACTUAL AND 2023 ESTIMATED
For the Years Ended and Ending December 31,**

9/26/23

	ACTUAL 2022	BUDGET 2023	ACTUAL 6/30/2023	ESTIMATED 2023	BUDGET 2024
BEGINNING FUND BALANCES	\$ 33,754	\$ 48,345	\$ 48,958	\$ 48,958	\$ 63,647
REVENUES					
Property taxes	14,843	14,589	14,620	14,620	15,499
Interest income	593	4,500	144	290	4,500
Total revenues	<u>15,436</u>	<u>19,089</u>	<u>14,764</u>	<u>14,910</u>	<u>19,999</u>
TRANSFERS IN					
Transfers from other funds	<u>-</u>	<u>3,000,000</u>	<u>-</u>	<u>-</u>	<u>3,000,000</u>
Total funds available	<u>49,190</u>	<u>3,067,434</u>	<u>63,722</u>	<u>63,868</u>	<u>3,083,646</u>
EXPENDITURES					
General and administrative					
County Treasurer's fee	232	219	221	221	233
Paying agent fees	-	5,000	-	-	5,000
Contingency	-	9,778	-	-	-
Debt Service					
Bond interest	-	900,000	-	-	900,000
Total expenditures	<u>232</u>	<u>914,997</u>	<u>221</u>	<u>221</u>	<u>905,233</u>
Total expenditures and transfers out requiring appropriation	<u>232</u>	<u>914,997</u>	<u>221</u>	<u>221</u>	<u>905,233</u>
ENDING FUND BALANCES	<u>\$ 48,958</u>	<u>\$ 2,152,437</u>	<u>\$ 63,501</u>	<u>\$ 63,647</u>	<u>\$ 2,178,413</u>
DEBT SERVICE RESERVE	\$ -	\$ 1,650,000	\$ -	\$ -	\$ 1,650,000
CAPITALIZE INTEREST	-	450,000	-	-	450,000
TOTAL RESERVE	<u>\$ -</u>	<u>\$ 2,100,000</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,100,000</u>

No assurance provided. See summary of significant assumptions.

**RIVERBEND CROSSING BID
CAPITAL PROJECTS FUND
2024 BUDGET
WITH 2022 ACTUAL AND 2023 ESTIMATED
For the Years Ended and Ending December 31,**

9/26/23

	ACTUAL 2022	BUDGET 2023	ACTUAL 6/30/2023	ESTIMATED 2023	BUDGET 2024
BEGINNING FUND BALANCES	\$ -	\$ -	\$ -	\$ -	\$ -
REVENUES					
Developer advance	-	11,700,000	-	-	11,700,000
Bond issuance proceeds	-	15,000,000	-	-	15,000,000
Total revenues	-	26,700,000	-	-	26,700,000
Total funds available	-	26,700,000	-	-	26,700,000
EXPENDITURES					
General and Administrative					
Capital Projects					
Repay developer advance	-	11,700,000	-	-	11,700,000
Bond issue costs	-	300,000	-	-	300,000
Capital outlay	-	11,700,000	-	-	11,700,000
Total expenditures	-	23,700,000	-	-	23,700,000
TRANSFERS OUT					
Transfers to other fund	-	3,000,000	-	-	3,000,000
Total expenditures and transfers out requiring appropriation	-	26,700,000	-	-	26,700,000
ENDING FUND BALANCES	\$ -	\$ -	\$ -	\$ -	\$ -

No assurance provided. See summary of significant assumptions.

**RIVERBEND CROSSING BUSINESS IMPROVEMENT DISTRICT
2024 BUDGET
SUMMARY OF SIGNIFICANT ASSUMPTIONS**

Services Provided

The District was organized to provide the financing, acquisition, construction, completion, installation, replacement and/or operation and maintenance of all the services and public improvements allowed under Colorado law for business improvement districts. Specific improvements and services provided by the District include parking facilities, roadways, lighting, driveways, public utilities, and landscaping. The District's service area is located in the designated commercial area within the City of Fountain, El Paso County, Colorado.

The District was organized by Ordinance of the City of Fountain on March 6, 2019.

At an election held on November 5, 2019, the voters approved general indebtedness of \$20,000,000 at a maximum interest rate of 18.00% for each of the following improvements and services: streets, water, sanitary sewer, traffic and safety control, park and recreation, business recruitment, transportation, television relay, mosquito control, security services, business recruitment, and fire protection. The voters also authorized indebtedness of \$20,000,000 for revenue debt, special assessment debt, operations and maintenance and reimbursement agreements and \$40,000,000 for debt refunding.

The District has no employees, and all administrative functions are contracted.

The District prepares its budget on the modified accrual basis of accounting, in accordance with requirements of Colorado Revised Statutes C.R.S. 29-1-105 using its best estimates as of the date of the budget hearing. These estimates are based on expected conditions and its expected course of actions. The assumptions disclosed herein are those that the District believes are significant to the budget. There will usually be differences between the budget and actual results because events and circumstances frequently do not occur as expected, and those differences may be material.

Revenues

Property Taxes

Property taxes are levied by the District's Board of Directors. The levy is based on assessed valuations determined by the County Assessor generally as of January 1 of each year. The levy is normally set by December 15 by certification to the County Commissioners to put the tax lien on the individual properties as of January 1 of the following year. The County Treasurer collects the determined taxes during the ensuing calendar year. The taxes are payable by April or if in equal installments, at the taxpayer's election, in February and June. Delinquent taxpayers are notified in August and generally sales of the tax liens on delinquent properties are held in November or December. The County Treasurer remits the taxes collected monthly to the District.

The calculation of the taxes levied is displayed on the Property Tax Summary page of the budget using the adopted mill levy imposed by the District.

**RIVERBEND CROSSING BUSINESS IMPROVEMENT DISTRICT
2024 BUDGET
SUMMARY OF SIGNIFICANT ASSUMPTIONS**

Revenues - (continued)

Property Taxes – Continued

Senate Bill 21-293 among other things, designates multi-family residential real property (defined generally, as property that is a multi-structure of four or more units) as a new subclass of residential real property. For tax collection year 2024, the assessment rate for single family residential property decreases to 6.765% from 6.95%. The rate for multifamily residential property, the newly created subclass, decreases to 6.765% from 6.80%. Agricultural and renewable energy production property remains at 26.4%. Producing oil and gas remains at 87.5%. All other nonresidential property decreases to 27.90% from 29%.

Specific Ownership Taxes

Specific ownership taxes are set by the State and collected by the County Treasurer, primarily on vehicle licensing within the County as a whole. The specific ownership taxes are allocated by the County Treasurer to all taxing entities within the County. The budget assumes that the District's share will be equal to approximately 10.00% of the property taxes collected.

Developer Advance

The District is in the development stage. As such, the operating and administrative expenditures will be mainly funded by the Developer. A major portion of the capital expenditures are also expected to be funded by the Developer. Developer advances are recorded as revenue for budget purposes with an obligation for future repayment when the District is financially able to reimburse the Developer from bond proceeds and other legally available revenue.

Net Investment Income

Interest earned on the District's available funds has been estimated based on an average interest rate of approximately 4.00%.

Bond Issuance

The District anticipates issuing general obligation bonds. Bond proceeds will be used to pay infrastructure costs, bond issue costs and capitalized interest. Significant terms of the bond issuance will be determined at the time of issuance.

Expenditures

Administrative Expenditures

Administrative and operating expenditures include the estimated services necessary to maintain the District's administrative viability such as legal, management, accounting, insurance, and other administrative expenses.

**RIVERBEND CROSSING BUSINESS IMPROVEMENT DISTRICT
2024 BUDGET
SUMMARY OF SIGNIFICANT ASSUMPTIONS**

Expenditures – (continued)

County Treasurer’s Fees

County Treasurer’s collection fees have been computed at 1.50% of property taxes.

Debt Service

Principal and interest payments are provided based on the anticipated Series 2024 Bond issuance.

Capital Outlay

The District anticipates infrastructure improvements as noted in the Capital Projects fund.

Debt and Leases

The District has no capital or operating leases and intends on issuing bonds in 2024.

The District has outstanding Developer Advances with anticipated activity as follows:

	Balance - December 31,			Balance - December 31,
	2022	Additions	Payments	2023
Developer Advance Payable	\$ 49,140	\$ 20,000	\$ -	\$ 69,140
Accrued Interest on Advances	5,687	4,731	-	10,418
Total	\$ 54,827	\$ 24,731	\$ -	\$ 79,558
	Balance - December 31,			Balance - December 31,
	2023	Additions	Payments	2024
Developer Advance Payable	\$ 69,140	\$ 11,756,000	\$ 11,700,000	\$ 125,140
Accrued Interest on Advances	10,418	7,771	-	18,189
Total	\$ 79,558	\$ 11,763,771	\$ 11,700,000	\$ 143,329

Reserves

Emergency Reserve

The District has provided for an Emergency Reserve equal to at least 3.00% of fiscal year spending as defined under TABOR.

This information is an integral part of the accompanying budget.



Regular City Council Meeting

Consent –7D
City Manager Employment
Agreement

October 24, 2023

Summary Information

Title:

APPROVAL OF AMENDMENT TO CITY MANAGER EMPLOYMENT AGREEMENT

Initiator : City Council

Council Action

Presenter: Mayor Thompson

Council Information

Legal Review: Yes No

Report to Council

Summary Overview and List of Attachments:

The purpose of this item is to approve an amendment to the Employment Agreement between the City of Fountain and the City Manager, Scott Trainor

Attachment: Amendment #8 to the Employment Agreement

Background Information

Pursuant to the current Employment Agreement, which was originally executed in October of 2007 and has been amended from time to time since then, the City Council met and provided the City Manager’s performance evaluation in Executive Session. The City Council unanimously found the City Manager’s performance exceptional and provided direction to amend the Employment Agreement, as attached. There are two changes to the Agreement:

1. An increase of the salary amount, from \$168,098 to \$184,907.80, to reflect both the performance and a market adjustment

Recommendation

The Employment Agreement has been amended, as directed.

Proposed Motion

Motion to approve shall be included under the consent agenda.

**Amendment #8
To Employment Agreement**

THIS AMENDMENT TO EMPLOYMENT AGREEMENT (“Amendment #8”) dated the 24th day of October 2023, by and between the City of Fountain, a Colorado home rule municipal corporation, hereinafter known as “the City” and Scott P. Trainor, hereinafter known as the “City Manager.”

WHEREAS, the City entered into an Employment Agreement with City Manager on October 25, 2007 (the “Employment Agreement”), setting forth certain specifics concerning the employment of the City Manager by the City, and to establish conditions of employment and working conditions of the City Manager; and

WHEREAS, the City Council has evaluated the City Manager’s performance for 2022 and has found the City Manager’s employment to be exceptional.

NOW THEREFORE, The Parties desire to amend the Employment Agreement, as previously amended, pursuant to Amendment #8 as follows:

1. Sections 3 and 10 of the Employment Agreement are deleted and replaced with the following:

3. Compensation. The City agrees to pay to the City Manager for his services rendered pursuant hereto an annual base salary of one hundred eighty-four thousand and nine hundred seven dollars and eighty cents (\$184,907.80) and payable in biweekly installments at the same time as other employees of the City are paid. In addition, the City agrees to increase the salary and/or other benefits of the City Manager in such amounts and to such extent as the City Council may determine is desirable on the basis of periodic reviews of performance of the City Manager.

The position of City Manager is an exempt position under the provision of the Fair Labor Standards Act. As such, the City Manager shall not be bound by the recordkeeping or overtime provisions of the Act.

10. Deferred Compensation. The City agrees to pay an amount equal to five percent (5%) of the City Manager’s base salary into the City’s approved Section 457 Deferred Compensation Plans or at the election of the City Manager pay such an amount equal to five percent (5%) directly to the City Manager in accordance with the City’s pay schedule. All of the City’s contribution will be vested to the City Manager from the date of his employment. The City’s contribution may change, as agreed to by the City and City Manager.

2. Counterparts. This amendment #8 may be signed in counterparts, all of which taken together shall constitute one document.

3. Headings. The headings in this Amendment #8 are for convenience only and do not constitute a part of the text of the Agreement.
4. Except as changed by this Amendment #8, the Employment Agreement between the City and the City Manager dated October 25, 2007, along with subsequent amendments, is hereby ratified and reaffirmed.
5. If any provision or portion of this Amendment #8 is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement shall be deemed severable and shall remain in full force and effect.

In WITNESS WHEREOF, the parties have executed this Amendment #8 to the Employment Agreement on the dates set forth adjacent to their respective signatures, intending the same to be effective immediately.

CITY OF FOUNTAIN

CITY MANAGER

Sharon Thompson, Mayor Date

Scott Trainor, City Manager Date

Attest:

Silvia Huffman, City Clerk



Regular City Council Meeting

Consent –7E
2021 Energy Performance Contract:
Contingency Request
October 24, 2023

<i>Summary Information</i>	
Title: RESOLUTION 23-049, A RESOLUTION AUTHORIZING THE CITY MANAGER TO DISBURSE THE CONTINGENCY FUNDS INCLUDED IN THE 2021 ENERGY PERFORMANCE CONTRACT.	
Initiator : Dan Blankenship, Utilities Director	<input checked="" type="checkbox"/> Council Action
Presenter: Dan Blankenship, Utilities Director	<input type="checkbox"/> Council Information
Legal Review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Report to Council
<p><u>Summary Overview and List of Attachments:</u> The City’s Energy Performance Contractor, Veregy has requested authorization for the use of the contingency included in the 2021 Energy Performance Contract (EPC) to cover unexpected expenses associated with the construction and installation of the solar array. In accordance with the EPC, the City Manager may disburse the contingency funds upon approval by the City Council.</p> <p>Attachments: Veregy Change Order request form.</p>	

<i>Background Information</i>
<p>On November 16, 2021, the City Council approved Resolution 21-068 authorizing the City Manager to enter into an Energy Performance Contract (EPC) with Midstate Energy (dba Veregy). EPC Section 4, Compensation establishes a maximum contract price of \$4,239,957, which includes a contingency in the amount of \$210,452. The contingency represents approximately 5% of the total (maximum) contract price.</p> <p>The project is nearing completion and Veregy has requested that the City authorize the use of the contingency funds to cover unexpected costs associated with the construction and installation of the solar array. Staff has reviewed the request including the documentation required by the EPC and has determined that the request is consistent with the General Conditions (Schedule A) of the EPC.</p> <p>EPC Section 6J, Contingency Funds states that “the Principal Representative (City Manager) may authorize the disbursement of contingency funds through a Change Order as described in Exhibit A if authorized by the Governing Body” (City Council). The original action by the City Council on 11/16/21, Resolution 21-068 was to authorize the contract with Veregy; there was no special or separate action with respect to contingency funds. Therefore, the disbursement of contingency funds must be approved by the City Council.</p> <p>Because the contingency is part of the maximum contract price, which will not be exceeded, authorization of the contingency expenditure does not require any budget related action.</p> <p>Strategic Plan Priority (if applicable):</p> <ul style="list-style-type: none"> <input type="checkbox"/> Facilitate responsible development, building reasonable capacity to meet future community needs. <input type="checkbox"/> Diversify city financial resources and invest. <input type="checkbox"/> Provide reliable access to public safety services. <input type="checkbox"/> Improve the quality and availability of parks and recreation opportunities

Recommendation

Staff recommends that the Council approve Resolution 23-049, authorizing the City Manager to disburse the contingency funds included in the 2021 Energy Performance Contract.

Proposed Motion

Motion to approve shall be included under the consent agenda.



RESOLUTION 23-049

A RESOLUTION AUTHORIZING THE CITY MANAGER TO DISBURSE THE CONTINGENCY FUNDS INCLUDED IN THE 2021 ENERGY PERFORMANCE CONTRACT.

RECITALS:

WHEREAS, the City of Fountain, duly organized and existing as a political subdivision, municipal corporation or similar public entity of the State of Colorado, is authorized by the laws of the State of Colorado to acquire, finance and lease personal property for the benefit of Lessee and its inhabitants and to enter into contracts with respect thereto; and

WHEREAS, the State of Colorado, through the Colorado Energy Office, has created an Energy Performance Contracting program for improvements of public facilities through energy cost savings; and

WHEREAS, The City of Foutain entered into an Energy Performance Contract in November 2021 with Midstate Energy (dba Veregy), for energy improvements to City facilities, including the construction and installation of a solar array to offset the electric energy that is consumed by City owned facilities and street lights; and

WHEREAS, the Energy Performance Contract included a contingency for unexpected costs that could occur during the implementation of the energy improvements; and

WHEREAS, Veregy has submitted a request for the use of the contingency funds to cover unexpected costs associated with the construction and installation of the solar array and staff has determined that the request is consistent with the General Conditions of the Energy Performance Contract; and

WHEREAS, The City Council desires to authorize the City Manager to disburse the contingency funds included in the 2021 Energy Performance Contract as requested by Veregy.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fountain, Colorado as follows:

1. The City Manager is hereby authorized to disburse the 2021 Energy Performance Contract contingency funds in the amount of \$210,452 to the energy performance contractor, Veregy.
2. This Resolution shall be effective immediately upon its approval and adoption.

PASSED AND ADOPTED by the City Council of the City of Fountain, Colorado, this 24th day of October 2023.

CITY OF FOUNTAIN, COLORADO

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk



STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAMS

CHANGE ORDER PROPOSAL

(enter information ONLY in YELLOWED cells)

Change Order Proposal No. 4122002-001 Date 6/7/2023

Change Order Bulletin No: _____
Description of Work: _____ Date 7/18/2023
Structural redesign and construction hard dig refusal.

Midstate Energy, LLC & Veregy, LLC
Contractor
dba Veregy
Institution or Agency
41-22-002 / City of Fountain Substation Solar
Project No./Name

(Before completing this form, read instructions on reverse side.)

PART I - WORK PERFORMED BY CONTRACTOR

Line 1.	Direct Labor Costs		\$	0.00	
Line 2.	Labor Overhead (Direct Labor Burdens)	(0% x Line 1)	\$	0.00	
Line 3.	Total Contractor's Labor Costs (Lines 1 and 2)		\$	0.00	
Line 4.	Direct Materials Costs		\$	0.00	
Line 5.	Materials Overhead (Delivery Costs & Taxes)	(0% x Line 4)	\$	0.00	
Line 6.	Total Materials Costs (Lines 4 and 5)		\$	0.00	
Line 7.	Total Equipment Costs		\$	0.00	
Line 8.	PART I - TOTAL CONTRACTOR'S L, M & E COSTS (Lines 3, 6 and 7)				Part I \$ <u>0.00</u>

PART II - WORK PERFORMED BY SUBCONTRACTOR

Line 9.	Direct Labor Costs		\$	102,176.51	
Line 10.	Labor Overhead (Direct Labor Burdens)	(_____ x Line 9)	\$	0.00	
Line 11.	Total Subcontractor's Labor Costs (Lines 9 and 10)		\$	102,176.51	
Line 12.	Direct Materials Costs		\$	80,033.02	
Line 13.	Materials Overhead (Delivery Costs & Taxes)	(_____ x Line 12)	\$	0.00	
Line 14.	Total Subcontractor's Materials Costs (Lines 12 and 13)		\$	80,033.02	
Line 15.	Total Subcontractor's Equipment Costs		\$	0.00	
Line 16.	Total Subcontractor's L, M & E Costs (Line 11, 14 and 15)		\$	182,209.53	
Line 17.	Subcontractor's Overhead (Indirect Costs)	(10.0% x Line 16)	\$	18,220.95	
Line 18.	Subcontractor's Profit (on line 16) <u>1</u> Addition or Deduct <u>0</u>		\$	0.00	
Line 19.	PART II - TOTAL SUBCONTRACTOR'S COSTS (Lines 16, 17 and 18)				Part II \$ <u>200,430.48</u>

PART III - CONTRACTOR'S OVERHEAD & PROFIT

Line 20.	Contractor's Overhead (Indirect Costs)	(10.0% x Part I Total)	\$	0.00	
Line 21.	Contractor's Overhead (2nd Tier only)	(5.0% x Part I Total)	\$	0.00	
Line 22.	PART III - TOTAL CONTRACTOR OVERHEAD & PROFIT (Lines 20 and 21)				Part III \$ <u>0.00</u>

PART IV - CONTRACTOR'S MARKUP ON SUBCONTRACTOR

Line 23.	Contractor's Commission on Subcontractor	(0.0% x Part II Total)	\$	0.00	
Line 24.	Contractor's Profit (on Line 19) <u>1</u> Addition or Deduct <u>0</u>		\$	10,021.52	
Line 25.	PART IV - TOTAL CONTRACTOR MARKUP ON SUBCONTRACTOR (Lines 23 and 24)				Part IV \$ <u>10,021.52</u>

PART V - SUBTOTAL C.O. PROPOSAL (Parts I and II and III and IV)	Part V (Subtotal)	\$	<u>210,452.00</u>
PART VI - CONTRACTOR'S BOND COST	Part VI	\$	<u>0.00</u>
PART VII - GRAND TOTAL CHANGE ORDER PROPOSAL (Sum of Totals: Parts V and VI)	Grand Total	\$	<u>210,452.00</u>
PART VIII - CONTRACT TIME (CALENDAR DAYS CHANGED)	<input type="checkbox"/> EXTENDED <input checked="" type="checkbox"/> NO CHANGE <input type="checkbox"/> REDUCED		<u> </u> Days

THE TIME OF COMPLETION MAY CHANGE BY THE CALENDAR DAYS INDICATED (ABOVE) FROM THE TOTAL NUMBER OF DAYS LISTED IN THE CONTRACTOR'S AGREEMENT TO COMPLETE THE ENTIRE PROJECT.

CONTRACTOR'S CERTIFICATE:

This is to certify that, to the best of my knowledge and belief, the cost/price data submitted in response to the listed C.O. Bulletin, are accurate, complete and current as of 07/18/23.

Firm: Midstate Energy, LLC + Veregy, LLC
Name & title: Shannon Roepke - Project Manager
Signature: [Signature]
Date: 07/18/23

* The proposal shall remain in full force and effect for a period of _____ calendar days from date of signature.

STATE BUILDINGS PROGRAMS (or Authorized Delegate)

Date: _____

ARCHITECT/ENGINEER'S CERTIFICATE:

This is to certify that I have analyzed the proposal and find, to the best of my knowledge and belief, that the proposal represents current, fair, factual and competitive cost/price data.

Firm: MW Engineering LLC
Name & title: Tim O'Farrell P.E. Electrical Engineer
Signature: [Signature]
Date: 7/24/23



Regular City Council Meeting

Old Business –8A
School District No. 8 Arena Access
Annexation

October 24, 2023

Summary Information

Title:

SECOND READING OF ORDINANCE 1792, AN ORDINANCE ANNEXING TO THE CITY OF FOUNTAIN THAT AREA TO BE KNOWN AS SCHOOL DISTRICT NO. 8 ARENA ACCESS ANNEXATION, LOCATED AT 10535 JIMMY CAMP ROAD, AND HEREINAFTER MORE SPECIFICALLY DESCRIBED IN EXHIBIT A

Initiator: Kristy Martinez, Planning Manager

Council Action

Presenter: Kristy Martinez, Planning Manager

Council Information

Legal Review: Yes No

Report to Council

Summary Overview and List of Attachments:

A request to consider annexation of 1.38 acres to the City of Fountain.

Previous Action by City Council: N/A

Attachments

Ordinance 1792

Background Information

This is a request to annex approximately 1.38 acres generally located at 10535 Jimmy Camp Road. A petition for annexation has been submitted to the City by the property owner. The School District acquired this parcel of land in August 2022 and intends to incorporate it in the overall Fountain-Fort Carson District campus plan. Previous District plans had the internal private roadway known as Trojan Point intersecting with Jimmy Camp further north. With the acquisition of this parcel, the Trojan Point access point will be realigned and follow a perpendicular path to Jimmy Camp Road, generally parallel to the Conrad Early Education access road.

To be eligible for annexation, a petition must be signed by persons comprising more than fifty percent (50%) of the landowners in the area proposed to be annexed who own more than fifty percent (50%) of said area, excluding public streets and alley. The submitted petition complies with this minimum requirement with 100% of the landowners signing the annexation petition.

The annexation area has a total perimeter of approximately 985 lineal feet, of which 100% is contiguous to the existing city limits. State law requires no less than 1/6th or 16.6% of the perimeter to be contiguous with the city boundaries.

Comprehensive Development Plan: The request is generally consistent with the *Fountain Comprehensive Development Plan*, as amended. The property falls within the City’s Urban Growth Area Boundary. Applicable goals, principals and policies set forth within the *Plan* regarding the annexation fall under the *Growth Management and Land Use* section:

Principle 1: Ensure the logical extension of the City boundaries so that Fountain will expand in a directed and fiscally sound manner, providing greater predictability in the rate, location, type and character of new growth.

GM Policy 1.2: Encourage strategic annexations if such annexations provide greater control to the City of Fountain and protect the City’s growth options.

GM Policy 1.3: Evaluate annexations based on their impact on the local tax base and value to the residents of the community.

Staff Findings: Staff finds that the area proposed for annexation is located within the City's Urban Services Area and Urban Growth Area and within the Three Mile Plan of the *Comprehensive Development Plan*, as amended. The City and petitioner believe that the annexation will accommodate orderly development of the City, and the petitioner believes that the availability of City services and other benefits through annexation to City will be of substantial benefit to them. Staff finds that the request is consistent with applicable State Statutes.

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.
- Diversify city financial resources and invest.
- Provide reliable access to public safety services.
- Improve the quality and availability of parks and recreation opportunities

Recommendation

Planning Commission Recommendation: On July 6, 2023, the City Planning Commission voted 4 to 0 to recommend approval of the annexation request.

Staff does not oppose the approval of Ordinance 1792 on second reading. There have been no changes to the ordinance since reading.

Proposed Motion

I Motion to Approve Ordinance 1792 on second reading.

ORDINANCE NO. 1792

AN ORDINANCE ANNEXING TO THE CITY OF FOUNTAIN THAT AREA TO BE KNOWN AS SCHOOL DISTRICT NO. 8 ARENA ACCESS ANNEXATION, LOCATED AT 10535 JIMMY CAMP ROAD, AND HEREINAFTER MORE SPECIFICALLY DESCRIBED IN EXHIBIT A

WHEREAS, El Paso County School District No. 8 (Petitioner), comprising more than fifty percent (50%) of the landowners in the area described in Exhibit A attached hereto (Property) and described in the petition for annexation (Petition) owning more than fifty percent (50%) of the Property, excluding public streets and alleys, have petitioned for the annexation of the Property to the City of Fountain, Colorado; and

WHEREAS, on August 22, 2023, the City Council of the City of Fountain by Resolution 23-034 accepted the Petition, found that the Petition substantially complies with the requirements set forth in section 31-12-107(1), C.R.S. and set a public hearing to consider the eligibility of the Property for annexation to the City of Fountain; and

WHEREAS, on October 10, 2023, after the giving of notice as required under section 31-12-108(2), C.R.S., the City Council of the City of Fountain held a public hearing on the proposed annexation to determine if the annexation complies with sections 31-12-104 and 31-12-105, C.R.S. and section 30 of Article II of the Colorado Constitution; and

WHEREAS, the City Council of the City of Fountain by Resolution 23-046 determined that the requirements of sections 31-12-104 and 31-12-105, C.R.S. and section 30 of Article II of the Colorado Constitution have been met, that an election is not required under section 31-12-107(2), C.R.S, and that no additional terms or conditions are to be imposed on the Property; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fountain, Colorado:

Section 1. The Property is hereby annexed to the City of Fountain.

Section 2. The annexation of the Property to the City of Fountain shall become legally effective in accordance with section 31-12-113, C.R.S., and such annexation shall be effective for general taxation purposes on and after January 1 next ensuing.

Section 3. This ordinance shall be in full force and effect from and after its passage and publication as provided by the City Charter.

Introduced, read by title and passed this 10th day of October, 2023, by the City Council, City of Fountain, Colorado, signed by the Mayor, and ordered published by title with a summary written by the City Clerk together with a statement that the ordinance is available for public inspection and acquisition in the office of the City Clerk in the Gazette, a newspaper of general circulation in the City of Fountain.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk

Introduced, read by title, and passed on second and final reading on the _____ day of _____, 2023, and ordered published by title in the Gazette, a newspaper of general circulation in the City of Fountain, Colorado, in accordance with the City Charter.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk

**PROJECT 20416-20
JUNE 28, 2023**

LEGAL DESCRIPTION – SCHOOL DISTRICT 8 ARENA ACCESS ANNEXATION

A TRACT OF LAND BEING LOCATED IN SECTION 8, TOWNSHIP 16 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, SAID TRACT BEING FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NE 1/4 OF THE NE 1/4 OF SAID SECTION 8, FROM WHENCE THE NORTH LINE OF SECTION 8 BEARS N88°36'39"E, 1320.88 FEET, TO THE NORTHEAST CORNER THEREOF, SAID NORTH LINE MONUMENTED AT THE WEST TERMINUS BY A FOUND 3.25" ALUMINUM CAP STAMPED "DREXEL BARRELL & CO. T16S R65W E 1/16 S5 S8 1985 LS 17664" AND MONUMENTED AT THE EAST TERMINUS BY A FOUND #6 REBAR WITH A 3.25" ALUMINUM CAP STAMPED "DREXEL BARRELL & CO. T16S R65W S5 S4 S8 S9 2007 PLS 29413", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE ALONG THE WEST LINE OF SAID NE 1/4 OF THE NE 1/4 AND THE EASTERLY LINE OF THE JIMMY CAMP ROAD ANNEXATION, THE PLAT THEREOF RECORDED UNDER RECEPTION NO. 205167019 OF THE RECORDS OF EL PASO COUNTY COLORADO, S01°08'40"E, 238.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID WEST AND EASTERLY LINES, S01°08'40"E, 235.00 FEET; THENCE ALONG THE NORTH LINE OF THE HIGH SCHOOL NORTH PROPERTY ADDITION ANNEXATION, THE PLAT THEREOF RECORDED UNDER RECEPTION NO. 206712392 OF THE RECORDS OF EL PASO COUNTY, AND THE NORTH LINE OF SCHOOL DISTRICT 8 FILING NO. 3, THE PLAT THEREOF RECORDED UNDER RECEPTION NO. 207712679 OF THE RECORDS OF EL PASO COUNTY, N88°36'26"E, 257.85 FEET TO THE WESTERLY LINE OF SONADOR RANCH TOWNHOMES ANNEXATION, THE PLAT THEREOF RECORDED UNDER RECEPTION NO. 207712680 OF THE RECORDS OF EL PASO COUNTY;

THENCE NORTHERLY AND WESTERLY ALONG SAID SONADOR RANCH TOWNHOMES ANNEXATION THE FOLLOWING TWO (2) COURSES:

1. N01°23'34"W, 235.00 FEET;
2. S88°36'26"W, 256.83 FEET TO THE WEST LINE OF THE NE 1/4 OF THE NE 1/4 OF SECTION 8 AND THE AND THE EASTERLY LINE OF SAID JIMMY CAMP ROAD ANNEXATION AND THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED TRACT CONTAINS 60,475 SQUARE FEET, MORE OR LESS.

I, JOHN C. DAY, A PROFESSIONAL LAND SURVEYOR, LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.

JOHN C. DAY PLS 29413
FOR AND ON BEHALF OF
DREXEL, BARRELL & CO.
3 SOUTH 7TH STREET
COLORADO SPRINGS, COLORADO 80905
719-260-0887





Regular City Council Meeting

Old Business –8B

School District No. 8 Arena Access
Initial POS Zoning

October 24, 2023

Summary Information

Title:

SECOND READING OF ORDINANCE 1793, AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FOUNTAIN, COLORADO TO PARKS AND OPEN SPACE (POS) DISTRICT RELATED TO THAT AREA TO BE KNOWN AS SCHOOL DISTRICT NO. 8 ARENA ACCESS ANNEXATION, GENERALLY LOCATED AT 10535 JIMMY CAMP ROAD, AND HEREINAFTER MORE SPECIFICALLY DESCRIBED IN EXHIBIT A AND EXHIBIT B

Initiator: Kristy Martinez, Planning Manager

Council Action

Presenter: Kristy Martinez, Planning Manager

Council Information

Legal Review: Yes No

Report to Council

Summary Overview and List of Attachments:

A request to amend the official zoning map of the City of Fountain to the Parks and Open Space (POS) District.

Attachment:

Ordinance 1793

Background Information

This is a request to zone approximately 1.38 acres located at 10535 Jimmy Camp Road. The Fountain Fort Carson School District recently acquired this land which will be incorporated into the overall District campus. This land will be used for the realigned private roadway known as Trojan Point which provides access to several District facilities internal to the campus. The request to zone the parcel to the POS district is consistent with other land owned by the School District.

Surrounding Land Uses and Zoning:

North	Vacant School District land	PUD (Planned Unit Development) District*
South	Conrad Early Learning Center	Parks and Open Space (POS) District
East	Vacant School District land	PUD (Planned Unit Development) District*
West	Countryside Townhomes	PUD (Planned Unit Development) District

*The property owners (School District No. 8) have submitted a request to rezone this parcel to the POS District

Comprehensive Development Plan: The Land Use Plan within the Fountain Comprehensive Development Plan recommends Single Family Residential for this property. The initial zoning request is not consistent with the Future Land Use Plan; however, staff is supportive of the deviation as public schools are permitted in all zone districts.

Staff Findings: Pursuant to Section 17.24.050 of the Fountain Municipal Code, initial zoning requests are processed in the same manner of a rezone and are subject to the following review criteria:

1. The request is consistent with the overall development plan of the property, if applicable, and the Fountain Comprehensive Development Plan.
2. The request is compatible with the surrounding zoning and land uses.
3. There has been a material change in the character or conditions of the neighborhood or in the city generally, such that the request would be in the public interest and consistent with the change.
4. The property was previously zoned in error.

After reviewing the application for initial zoning Staff concludes that the application meets the minimum development requirements of the PUD zone district and is consistent with criteria 2.

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.
- Diversify city financial resources and invest.
- Provide reliable access to public safety services.
- Improve the quality and availability of parks and recreation opportunities

Recommendation

Planning Commission Recommendation: On July 6, 2023, the City of Fountain Planning Commission voted 4 to 0 to recommend approval of the POS initial zoning request.

Staff does not oppose the approval of the second reading of Ordinance 1793. There have been no changes to the ordinance since reading.

Proposed Motion

I Motion to Approve Ordinance 1793, on second reading.

CM Review

ORDINANCE NO. 1793

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FOUNTAIN, COLORADO TO PARKS AND OPEN SPACE (POS) DISTRICT RELATED TO THAT AREA TO BE KNOWN AS SCHOOL DISTRICT NO. 8 ARENA ACCESS ANNEXATION, GENERALLY LOCATED AT 10535 JIMMY CAMP ROAD, AND HEREINAFTER MORE SPECIFICALLY DESCRIBED IN EXHIBIT A AND EXHIBIT B

WHEREAS, El Paso County School District No. 8, owner of the real property legally described in Exhibit A attached hereto (Property), also known as School District No. 8 Arena Access Annexation, has made application for the Property to be zoned Parks and Open Space (POS) District as described and provided for in the City of Fountain Municipal Code; and

WHEREAS, on July 6, 2023 the Planning Commission of the City of Fountain conducted a public hearing on, and considered all applicable evidence with respect to, the proposed POS zoning of the Property, and recommended to the City Council of the City of Fountain by a vote of 4 to 0 that the POS zoning be approved for the Property; and

WHEREAS, a public hearing by the City Council of the City of Fountain on the POS zoning request for the Property was duly noticed in accordance with section 17.20.080 of the Fountain Municipal Code; and

WHEREAS, after conducting a public hearing on, and considering all applicable evidence with respect to, the POS zoning request for the Property, the City Council of the City of Fountain finds that such POS zoning request meets the minimum development requirements and regulations and that the request is compatible with the zoning and land uses surrounding the Property, in accordance with the review criteria set forth in section 17.24.050 of the Fountain Municipal Code.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fountain, Colorado:

Section 1. The Official Zoning Map of the City of Fountain is hereby amended by zoning the Property described in Exhibit A and Exhibit B attached here to and incorporated by reference herein to POS pursuant to the Municipal Code of the City of Fountain.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by the City Charter.

Introduced, read by title and passed this 10th day of October, 2023, by the City Council, City of Fountain, Colorado, signed by the Mayor, and ordered published by title with a summary written by the City Clerk together with a statement that the ordinance is available for public inspection and acquisition in the office of the City Clerk in the Gazette, a newspaper of general circulation in the City of Fountain.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk

Introduced, read by title, and passed on second and final reading on the _____ day of _____, 2023, and ordered published by title in the Gazette, a newspaper of general circulation in the City of Fountain, Colorado, in accordance with the City Charter.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk

PROJECT 20416-20
JUNE 28, 2023

LEGAL DESCRIPTION – ANNEXATION ZONING

A TRACT OF LAND BEING LOCATED IN SECTION 8, TOWNSHIP 16 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, SAID TRACT BEING FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NE 1/4 OF THE NE 1/4 OF SAID SECTION 8, FROM WHENCE THE NORTH LINE OF SECTION 8 BEARS N88°36'39"E, 1320.88 FEET, TO THE NORTHEAST CORNER THEREOF, SAID NORTH LINE MONUMENTED AT THE WEST TERMINUS BY A FOUND 3.25" ALUMINUM CAP STAMPED "DREXEL BARRELL & CO. T16S R65W E 1/16 S5 S8 1985 LS 17664" AND MONUMENTED AT THE EAST TERMINUS BY A FOUND #6 REBAR WITH A 3.25" ALUMINUM CAP STAMPED "DREXEL BARRELL & CO. T16S R65W S5 S4 S8 S9 2007 PLS 29413", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE ALONG THE WEST LINE OF SAID NE 1/4 OF THE NE 1/4 AND THE EASTERLY LINE OF THE JIMMY CAMP ROAD ANNEXATION, THE PLAT THEREOF RECORDED UNDER RECEPTION NO. 205167019 OF THE RECORDS OF EL PASO COUNTY COLORADO, S01°08'40"E, 238.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID WEST AND EASTERLY LINES, S01°08'40"E, 235.00 FEET; THENCE ALONG THE NORTH LINE OF THE HIGH SCHOOL NORTH PROPERTY ADDITION ANNEXATION, THE PLAT THEREOF RECORDED UNDER RECEPTION NO. 206712392 OF THE RECORDS OF EL PASO COUNTY, AND THE NORTH LINE OF SCHOOL DISTRICT 8 FILING NO. 3, THE PLAT THEREOF RECORDED UNDER RECEPTION NO. 207712679 OF THE RECORDS OF EL PASO COUNTY, N88°36'26"E, 257.85 FEET TO THE WESTERLY LINE OF SONADOR RANCH TOWNHOMES ANNEXATION, THE PLAT THEREOF RECORDED UNDER RECEPTION NO. 207712680 OF THE RECORDS OF EL PASO COUNTY;

THENCE NORTHERLY AND WESTERLY ALONG SAID SONADOR RANCH TOWNHOMES ANNEXATION THE FOLLOWING TWO (2) COURSES:

1. N01°23'34"W, 235.00 FEET;
2. S88°36'26"W, 256.83 FEET TO THE WEST LINE OF THE NE 1/4 OF THE NE 1/4 OF SECTION 8 AND THE AND THE EASTERLY LINE OF SAID JIMMY CAMP ROAD ANNEXATION AND THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED TRACT CONTAINS 60,475 SQUARE FEET, MORE OR LESS.

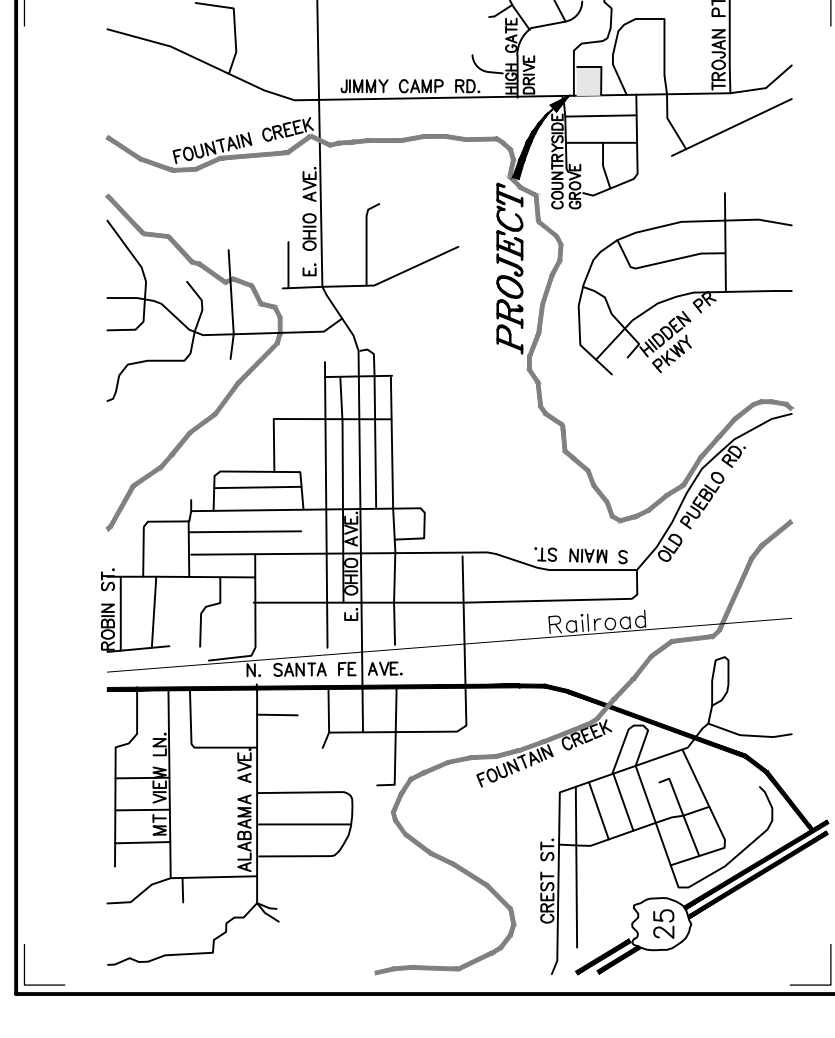
I, JOHN C. DAY, A PROFESSIONAL LAND SURVEYOR, LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.

JOHN C. DAY PLS 29413
FOR AND ON BEHALF OF
DREXEL, BARRELL & CO.
3 SOUTH 7TH STREET
COLORADO SPRINGS, COLORADO 80905
719-260-0887

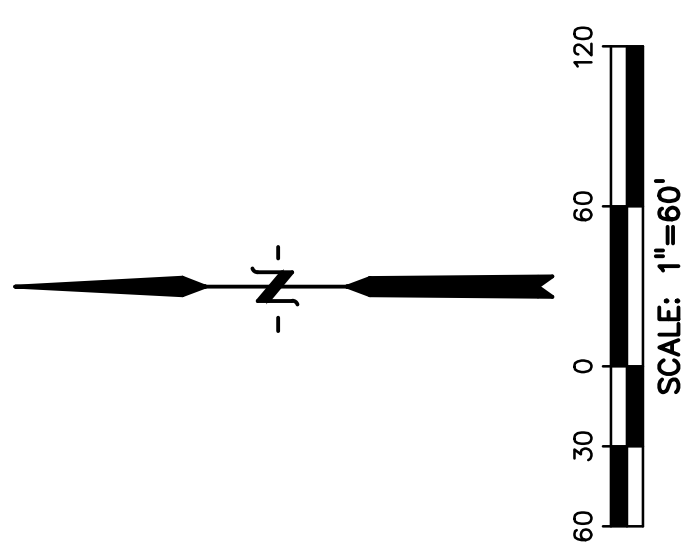
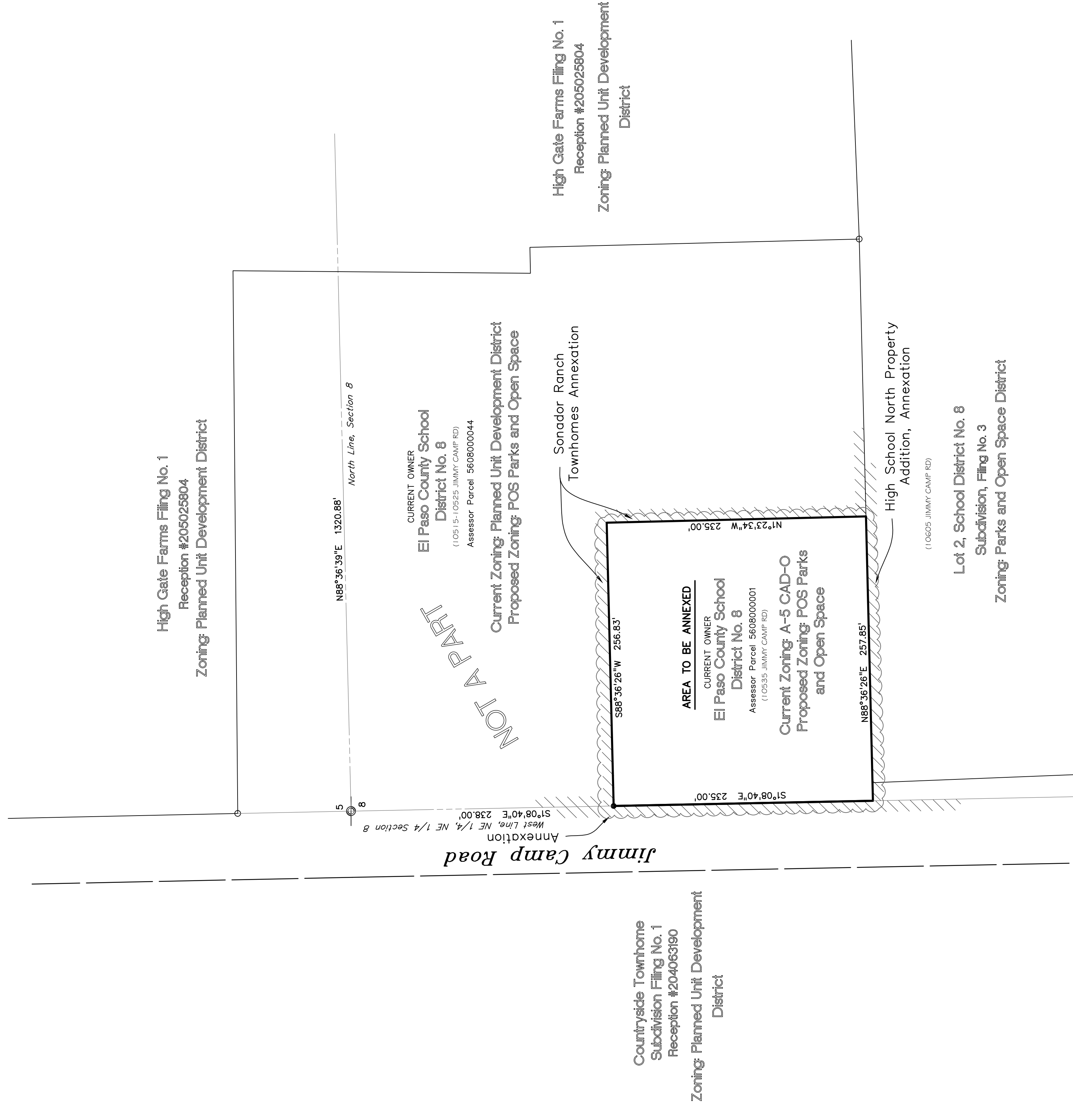


ZONING EXHIBIT FOR SCHOOL DISTRICT 8 ARENA ACCESS

A TRACT OF LAND BEING LOCATED IN SECTION 8, TOWNSHIP 16 SOUTH, RANGE 65 WEST OF THE SIXTH P.M. CITY OF FOUNTAIN, EL PASO COUNTY, COLORADO



Vicinity Map
Not to scale



LEGEND

- R-O-W LINE
- - - SECTION LINE
- /// EXISTING CITY LIMITS, PREVIOUS ANNEXATIONS
- LOT LINE
- ⋈ AREA OF ZONING

NOTES

- ALL ZONING & OWNER INFORMATION HEREON PER EL PASO COUNTY ASSESSORS WEB SITE, DATED JANUARY 27, 2023.
- ASSESSOR PARCEL 5608000001 (ADDRESS 10535 JIMMY CAMP ROAD) TO BE ZONED PER THIS EXHIBIT.

Drexel, Barrell & Co. Engineers/Surveyors
 3 SOUTH 7TH STREET, COLORADO SPRINGS, CO 80905 (719) 260-0887
 1378 MINERS DRIVE, SUITE 107, LAFAVETTE, CO 80028 (303) 442-4338

Revisions - Date	Date	Drawn By	Job No.
	6/28/2023	SC/A/C	20416-20
		Checked By	Drawing No.
		JCD	20416-20 ZONING
		Scale	
		1" = 60'	



Regular City Council Meeting

Old Business –8C
School District No. 8 Arena Access
Rezone PUD to POS

October 24, 2023

Summary Information

Title:

SECOND READING OF ORDINANCE 1794, AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FOUNTAIN, COLORADO FROM PLANNED UNIT DEVELOPMENT (PUD) TO PARKS AND OPEN SPACE (POS) DISTRICT FOR PROPERTY LOCATED AT 10515-10525 JIMMY CAMP ROAD, AND HEREINAFTER MORE SPECIFICALLY DESCRIBED IN EXHIBIT A AND EXHIBIT B

Initiator: Kristy Martinez, Planning Manager

Council Action

Presenter: Kristy Martinez, Planning Manager

Council Information

Legal Review: Yes No

Report to Council

Summary Overview and List of Attachments:

A request to amend the official zoning map of the City of Fountain to the Parks and Open Space (POS) District.

Attachment:

Ordinance 1794

Background Information

This is a request to rezone approximately 5.01 acres located at 10515-10525 Jimmy Camp Road from the Planned Unit Development (PUD) District to the Parks and Open Space (POS) District for Fountain Fort Carson School District No. 8. This parcel was initially zoned PUD in 2007 for a proposed townhome development known as Sonador Ranch.

The District acquired this parcel in 2018 and has been vacant for some time. The District initially intended to use this parcel for connectivity of the private internal roadway known as Trojan Point. The District has since acquired the parcel to the south which will provide better connectivity and alignment for the roadway. The District does not have any future plans at this time for development of this parcel. The request to rezone the parcel to the POS district is consistent with other land owned by the School District.

Surrounding Land Uses and Zoning:

North	Single Family Residential	PUD (Planned Unit Development) District
South	Vacant Land	A-5 CAD-0 (unincorporated El Paso County)*
East	Single Family Residential	PUD (Planned Unit Development) District
West	Countryside Townhomes	PUD (Planned Unit Development) District

*This parcel is being considered for annexation and initial zoning to the POS district.

Comprehensive Development Plan: The Land Use Plan within the *Fountain Comprehensive Development Plan* recommends Single Family Residential for this property. The rezone request is not consistent with the Future Land Use Plan; however, staff is supportive of the deviation as public schools are permitted in all zone districts.

Staff Findings: Pursuant to Section 17.24.050 of the Fountain Municipal Code, initial zoning requests are processed in the same manner of a rezone and are subject to the following review criteria:

1. The request is consistent with the overall development plan of the property, if applicable, and the Fountain Comprehensive Development Plan.
2. The request is compatible with the surrounding zoning and land uses.
3. There has been a material change in the character or conditions of the neighborhood or in the city generally, such that the request would be in the public interest and consistent with the change.

4. The property was previously zoned in error.

After reviewing the application for rezone request Staff concludes that the application meets the minimum development requirements of the PUD zone district and is consistent with criteria 2.

Planning Commission Action: On July 6, 2023, the City of Fountain Planning Commission voted 4 to 0 to recommend approval of the rezone request from PUD District to the POS District.

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.
- Diversify city financial resources and invest.
- Provide reliable access to public safety services.
- Improve the quality and availability of parks and recreation opportunities

Recommendation

Staff does not oppose the approval of the second reading of Ordinance 1794. There have been no changes to the ordinance since first reading.

Proposed Motion

I Motion to Approve Ordinance 1794, on second reading.

ORDINANCE NO. 1794

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FOUNTAIN, COLORADO FROM PLANNED UNIT DEVELOPMENT (PUD) TO PARKS AND OPEN SPACE (POS) DISTRICT FOR PROPERTY LOCATED AT 10515-10525 JIMMY CAMP ROAD, AND HEREINAFTER MORE SPECIFICALLY DESCRIBED IN EXHIBIT A AND EXHIBIT B

WHEREAS, El Paso County School District No. 8, owner of the real property legally described in Exhibit A attached hereto (Property), also known as 10515-10525 Jimmy Camp Road, has made application for the Property to be rezoned from the Planned Unit Development (PUD) District to the Parks and Open Space (POS) District as described and provided for in the City of Fountain Municipal Code; and

WHEREAS, on July 6, 2023 the Planning Commission of the City of Fountain conducted a public hearing on, and considered all applicable evidence with respect to, the proposed rezoning of the Property, and recommended to the City Council of the City of Fountain by a vote of 4 to 0 that the Property be rezoned from PUD to the POS District; and

WHEREAS, a public hearing by the City Council of the City of Fountain to consider the rezoning request to the POS district for the Property was duly noticed in accordance with section 17.20.080 of the Fountain Municipal Code; and

WHEREAS, after conducting a public hearing on, and considering all applicable evidence with respect to, the rezone request for the Property, the City Council of the City of Fountain finds that such POS zoning request meets the minimum development requirements and regulations and that the request is compatible with the zoning and land uses surrounding the Property, in accordance with the review criteria set forth in section 17.24.050 of the Fountain Municipal Code.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fountain, Colorado:

Section 1. The Official Zoning Map of the City of Fountain is hereby amended by rezoning the Property described in Exhibit A and Exhibit B attached here to and incorporated by reference herein to POS District pursuant to the Municipal Code of the City of Fountain.

Section 2. The previously approved Sonador Ranch Townhomes Overall Development Plan (2007) is hereby deemed obsolete and no longer valid.

Section 3. This ordinance shall be in full force and effect from and after its passage and publication as provided by the City Charter.

Introduced, read by title and passed this 10th day of October 2023, by the City Council, City of Fountain, Colorado, signed by the Mayor, and ordered published by title with a summary written by the City Clerk together with a statement that the ordinance is available for public inspection and acquisition in the office of the City Clerk in the Gazette, a newspaper of general circulation in the City of Fountain.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk

Introduced, read by title, and passed on second and final reading on the _____ day of _____, 2023, and ordered published by title in the Gazette, a newspaper of general circulation in the City of Fountain, Colorado, in accordance with the City Charter.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk

PROJECT 20416-20
JUNE 28, 2023

LEGAL DESCRIPTION – RE-ZONING

A TRACT OF LAND BEING LOCATED IN SECTIONS 5 AND 8, TOWNSHIP 16 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, SAID BEING TRACT FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE NE 1/4 OF THE NE 1/4 OF SAID SECTION 8, FROM WHENCE THE NORTH LINE OF SECTION 8 BEARS N88°36'39"E, 1320.88 FEET, TO THE NORTHEAST CORNER THEREOF, SAID NORTH LINE MONUMENTED AT THE WEST TERMINUS BY A FOUND 3.25" ALUMINUM CAP STAMPED "DREXEL BARRELL & CO. T16S R65W E 1/16 S5 S8 1985 LS 17664" AND MONUMENTED AT THE EAST TERMINUS BY A FOUND #6 REBAR WITH A 3.25" ALUMINUM CAP STAMPED "DREXEL BARRELL & CO. T16S R65W S5 S4 S8 S9 2007 PLS 29413", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE ALONG THE WEST LINE OF SAID NE 1/4 OF THE NE 1/4, N01°09'41"W, 102.71 FEET TO THE SOUTHWEST CORNER OF HIGH GATE FARMS FILING NO. 1, THE PLAT THEREOF RECORDED UNDER RECEPTION NO. 208025804 OF THE RECORDS OF EL PASO COUNTY, COLORADO; THENCE ALONG THE SOUTHERLY AND WESTERLY LINES OF SAID HIGH GATE FARMS FILING NO. 1 THE FOLLOWING FOUR (4) COURSES:

1. N89°29'30"E, 492.00 FEET;
2. S00°28'46"W, 269.63 FEET;
3. N88°53'52"E, 23.45 FEET;
4. S01°26'47"E, 298.51 FEET TO THE NORTH LINE OF SCHOOL DISTRICT NO. 8 FILING NO. 3, THE PLAT THEREOF RECORDED UNDER RECEPTION NO. 207712679 OF THE RECORDS OF EL PASO COUNTY, COLORADO;

THENCE ALONG THE NORTH LINE OF SAID SCHOOL DISTRICT NO. 8 FILING NO. 3, S88°36'26"W, 251.47 FEET;

THENCE N01°23'34"W, 235.00 FEET; THENCE S88°36'26"W, 256.83 FEET TO THE WEST LINE OF THE NE 1/4 OF THE NE 1/4 OF SECTION 8; THENCE ALONG SAID WEST LINE, N01°08'40"W, 238.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED TRACT CONTAINS 224,794 SQUARE FEET, MORE OR LESS.

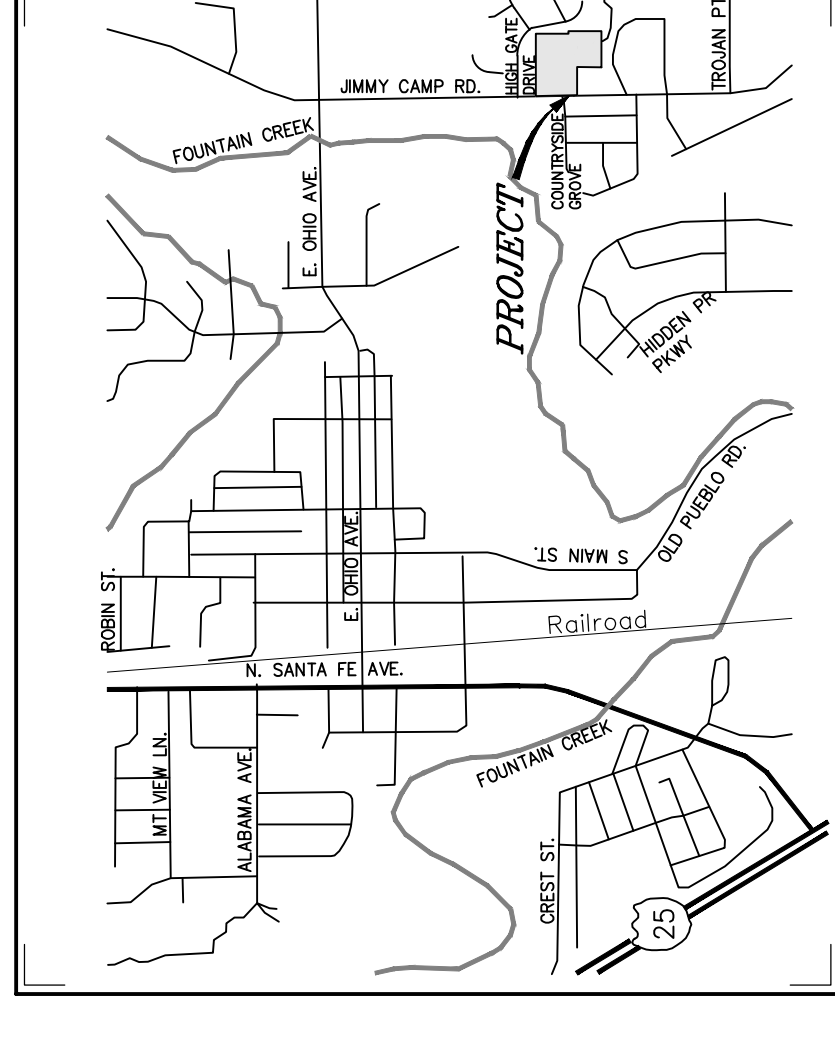
I, JOHN C. DAY, A PROFESSIONAL LAND SURVEYOR, LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.

JOHN C. DAY PLS 29413
FOR AND ON BEHALF OF
DREXEL, BARRELL & CO.
3 SOUTH 7TH STREET
COLORADO SPRINGS, COLORADO 80905
719-260-0887

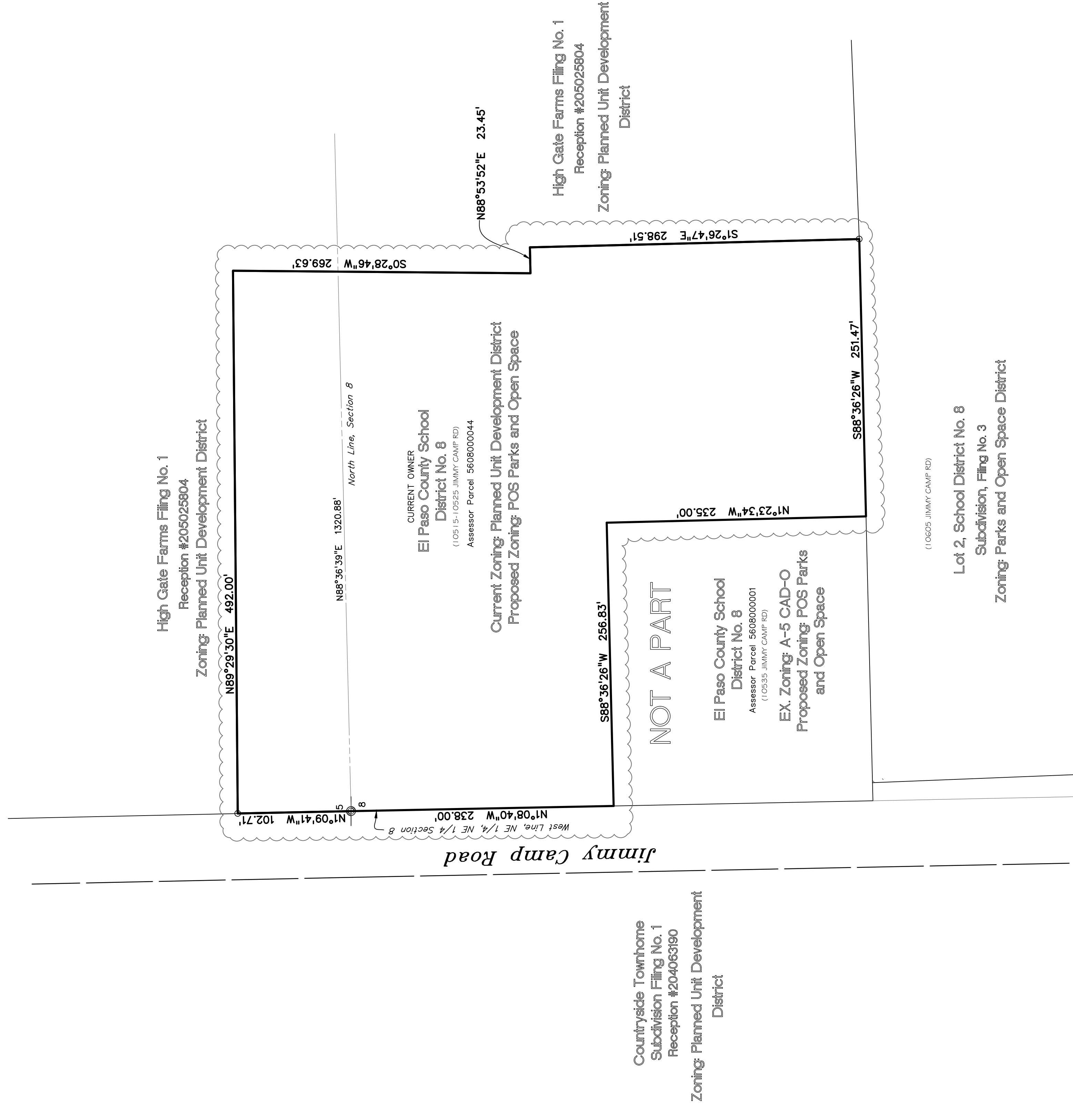


RE-ZONING EXHIBIT FOR SCHOOL DISTRICT 8 ARENA ACCESS

A TRACT OF LAND BEING LOCATED IN SECTION 8, TOWNSHIP 16 SOUTH, RANGE 65 WEST OF THE SIXTH P.M. EL PASO COUNTY, COLORADO



Vicinity Map
Not to scale



Countryside Townhome
Subdivision Filing No. 1
Reception #204063190
Zoning: Planned Unit Development
District

High Gate Farms Filing No. 1
Reception #205025804
Zoning: Planned Unit Development District

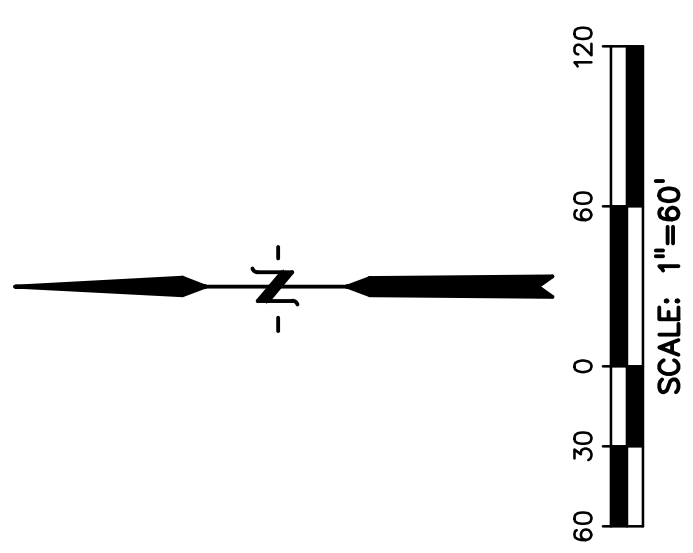
CURRENT OWNER
El Paso County School
District No. 8
(105115-10525 JIMMY CAMP RD)
Assessor Parcel: 5608000044

Current Zoning: Planned Unit Development District
Proposed Zoning: POS Parks and Open Space

High Gate Farms Filing No. 1
Reception #205025804
Zoning: Planned Unit Development
District

Lot 2, School District No. 8
Subdivision, Filing No. 3
Zoning: Parks and Open Space District

NOT A PART
El Paso County School
District No. 8
Assessor Parcel: 5608000001
(10525 JIMMY CAMP RD)
EX. Zoning: A-5 CAD-O
Proposed Zoning: POS Parks
and Open Space



LEGEND

- R-O-W LINE
- - - SECTION LINE
- LOT LINE
- ⊃ AREA OF RE-ZONING

NOTES

1. ALL ZONING & OWNER INFORMATION HEREON PER EL PASO COUNTY ASSESSORS WEB SITE, DATED JANUARY 27, 2023.
2. ASSESSOR PARCEL 5608000044 (ADDRESSES 10515-10525 JIMMY CAMP ROAD) TO BE RE-ZONED PER THIS EXHIBIT.

Drexel, Barrell & Co. Engineers/Surveyors
3 SOUTH 7TH STREET, COLORADO SPRINGS, CO 80905 (719) 260-0887
1378 MINERS DRIVE, SUITE 107, LAFAVETTE, CO 80028 (303) 442-4338

Revisions - Date	Date	Drawn By	Job No.
	6/28/2023	SC/AYC	20416-20
		Checked By	Drawing No.
		JCD	20416-20
		Scale	1" = 60'
			20416-20REZONING



Regular City Council Meeting

New Business –9A

Items removed from Consent Agenda

October 24, 2023

Summary Information

Title:

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA

Initiator: City Clerk

Presenter: 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.

Previous Action by City Council:

Attachment:

Background Information

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.
- Diversify city financial resources and invest.
- Provide reliable access to public safety services.
- Improve the quality and availability of parks and recreation opportunities

Recommendation

Staff recommendations

Proposed Motion

"I move to approve"



Regular City Council Meeting

New Business –9B

Resolution Opposition of HH

October 24, 2023

Summary Information

Title:

RESOLUTION NO. 23-050, A RESOLUTION OF THE CITY OF FOUNTAIN OPPOSING PROPOSITION HH, AN UNDUE LIMITATION ON MUNICIPAL BUDGETS AND LOCAL CONTROL OF PROPERTY TAX RELIEF

Initiator: City Council

Presenter: Mayor Thompson

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

Previous Action by City Council:

Request for this by City Council at its September 26, 2023, meeting

Attachment: Resolution 23-050

Background Information

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.
- Diversify city financial resources and invest.
- Provide reliable access to public safety services.
- Improve the quality and availability of parks and recreation opportunities

Recommendation

Proposed Motion

"I move to approve Resolution No. 23-050"



RESOLUTION 23-050

RESOLUTION OF THE CITY OF FOUNTAIN OPPOSING PROPOSITION HH, AN UNDUE LIMITATION ON MUNICIPAL BUDGETS AND LOCAL CONTROL OF PROPERTY TAX RELIEF

WHEREAS, the City of Fountain is aware of the financial burden that increased property tax valuations may create and desires to provide locally-appropriate relief without negatively impacting its ability to provide needed services and programs; and

WHEREAS, the City of Fountain relies on property tax revenue to provide critical services funded locally through property tax revenue; to reduce debt used to fund infrastructure; and

WHEREAS, the City of Fountain annually prepares a budget and certifies a property tax mill levy through an open and public process under existing law; and

WHEREAS, by Senate Bill 23-303, the Colorado General Assembly referred to voters Proposition “HH” that, among other things, would:

- impose an unnecessary and arbitrary limit on the growth of property tax revenue for certain local governments unless the governing body votes to exceed the limit after a public hearing and does not provide any opportunity for reimbursement of revenues lost due to the limit;
- permit the state to retain money that would be otherwise refunded to taxpayers under the Taxpayer’s Bill of Rights, partial reimbursements to local governments for reduced property tax revenue, and rental assistance programs; and

WHEREAS, after factoring in partial reimbursements of lost revenue, Proposition HH is estimated to decrease revenue to local governments statewide, on net, by at least \$100 million in 2024, \$350 million in 2025, and \$550 million in 2026, based on assessor reporting; and

WHEREAS, Proposition HH would unnecessarily constrain the ability of the City of Fountain City Council to control its budget and to provide locally-appropriate property tax relief; and

WHEREAS, the long-term fiscal impact of Proposition HH on the City of Fountain and other local governments that serve our community is unclear and will cause uncertainty in our budgeting process; and

WHEREAS, Proposition HH would dictate local property tax rates, overruling the decisions of voters, and allow the state to retain refunds entitled to citizens under the Colorado Taxpayer’s Bill of Rights; and

WHEREAS, the revenue entitled to local governments will be reallocated to other services, notably elementary and secondary education which already has tax-assessing ability within their districts and which a previous statewide ballot initiative failed; and

WHEREAS, the complexity of Proposition HH will impose unnecessary administrative burdens on the City of Fountain

NOW, THEREFORE, the City Council of the City of Fountain opposes Proposition HH and strongly urges a vote of NO this November.

Resolved this ____ of 2023.

Sharon Thompson, Mayor

Attest:

Silvia Huffman, City Clerk



Regular City Council Meeting

New Business –9C

Resolution 23-051 Code of Conduct

October 24, 2023

Summary Information

Title:

RESOLUTION NO. 23-051, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOUNTAIN, COLORADO ADOPTING THE AMENDED CITY OF FOUNTAIN CODE OF CONDUCT FOR ELECTED OFFICIALS

Initiator: City Council

Presenter: City Clerk Huffman

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

Resolution 14-021 will be repealed by adoption of Resolution 23-051

Previous Action by City Council:

Attachment: Resolution 23-051
Code of Conduct

Background Information

Strategic Plan Priority (if applicable):

The City Council met at its semi-annual retreat on July 15, 2023 and reviewed the Code of Conduct and requested amendments. In addition, City Council requested additional changes at its October 10, 2023 regular City Council meeting.

Recommended changes are reflected in this amended document.

- Facilitate responsible development, building reasonable capacity to meet future community needs.
- Diversify city financial resources and invest.
- Provide reliable access to public safety services.
- Improve the quality and availability of parks and recreation opportunities

Recommendation

Proposed Motion

“I move to approve Resolution No. 23-051“



RESOLUTION NO. 23-051

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOUNTAIN, COLORADO ADOPTING THE AMENDED CITY OF FOUNTAIN CODE OF CONDUCT FOR ELECTED OFFICIALS

WHEREAS, the orderly conduct of Council meetings will assure that all citizens presenting information are treated respectfully and fairly, and

WHEREAS, an understanding of the duties of the Mayor and Council members and the protocol that is to be followed during Council meetings will insure that the meetings are conducted in an orderly and effective manner, and

WHEREAS, respect among Council members is crucial to the conduct of business at Council meetings, and

WHEREAS, courteous conduct by Council, staff, and the citizens at Council meetings will assist in the communication by Council, staff, and the citizens in all public meetings, and

WHEREAS, this code of conduct shall work in conjunction with the Chapter 2.04 of the Fountain Municipal Code of Ethics for City Officials, and

WHEREAS, it is essential that the Mayor and Council Members are transparent to allow the public to have confidence in the integrity of its government.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FOUNTAIN, COLORADO:

1. The City Council adopts the Code of Conduct for Elected Officials that is attached as Exhibit 1.
2. This Resolution shall take effect upon its passage.

Done this 24th day of October, 2023.

By: _____
Sharon Thompson, Mayor

Attest:

Silvia Huffman, City Clerk

**CITY OF FOUNTAIN CODE OF CONDUCT FOR
ELECTED OFFICIALS**



This Code of Conduct is designed to describe the manner in which Council members should treat one another, city staff, constituents, and others they come into contact with in representing the City of Fountain. It reflects the work of the City Council in defining more clearly the behavior, manners, and courtesies that are suitable for various occasions.

The constant and consistent theme through all of the conduct guidelines is "respect." Council members experience stress in making decisions that impact the lives of the citizens. At times, the impacts of the entire community must be weighed against the impact of only a few. Despite these pressures, elected officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide Council members to do the right thing in even the most difficult situations.

Overview of Roles & Responsibilities

MAYOR

- Elected “at-large” for a four-year term.
- Shall be the presiding officer of the Council.
- Has same speaking and voting rights as any other member.
- Shall sign contracts, conveyances of interest in land, bonds, indentures, evidences of indebtedness, proclamations, ordinances, resolutions and other legal documents.
- Shall be recognized as the head of city government for all legal, dignitary, ceremonial, martial law and disaster emergency purposes.
- Leads the Council into an effective, cohesive working team.

Mayor Pro Tem

- Elected by the City Council.
- Shall act as Mayor during the absence or inability of the Mayor to fulfill his/her duties.

All Council Members

All members of the City Council, including the Mayor and Mayor Pro Tem, have equal votes and all should be treated with equal respect.

All Council Members should:

- Fully participate in City Council meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others.
- Prepare in advance of meetings and be familiar with issues on the agenda.
- Be respectful of other people’s time. Stay focused and act efficiently during public meetings.
- Serve as a model of leadership and civility to the community.
- Inspire public confidence in Fountain government.
- Demonstrate honesty and integrity in every action and statement.
- Participate in scheduled activities.

- No member of Council may become an employee or officer, or be retained in any capacity, for compensation, monetary or otherwise, of the city of Fountain, within one year from the date of resignation or from expiration of term.

Policies & Protocol Related To Conduct

Ceremonial Events

Requests for a City representative at ceremonial events will be handled by City staff. The Mayor will generally serve as the designated City representative. If the Mayor is unavailable, then the Mayor Pro Tem, a City Council member, or the City Manager will be recommended to serve as the substitute. Invitations addressed to Council Members at their homes are presumed to be for unofficial, personal consideration.

Endorsement of Candidates

While Council Members have the right to endorse candidates for all Council seats or other elected offices, it is inappropriate to mention endorsements during Council meetings or other official City meetings or functions.

Intergovernmental Relations

The Council values intergovernmental relations with neighboring communities and other entities. As a result, Council Members should make a concerted effort to attend scheduled meetings with other entities to further promote intergovernmental relations.

Legislative Process

The City generally does not follow Roberts Rules of Order for meeting management, but rather a modified, less formal version. Details of the Council meeting process is available under Sec. 2.04.090. - Order of business, of the Fountain Municipal Code.

Public Hearing Protocol

The Mayor will open public hearings. Staff will make the initial presentation. The applicant or appellant shall have the right to speak first. The Mayor will determine the length of time allowed for this presentation. Speakers representing "supporting" points of view will be allowed to follow. Speakers representing "opposing" points of view will then follow. The Mayor will determine how much time will be allowed for each speaker, although the standard time granted is generally 3 minutes. The Mayor will then elicit questions from Council before the public hearing is closed. The Mayor has the responsibility to run an efficient public meeting and has the discretion to modify the public hearing process in order to make the meeting run smoothly. Council Members will not express opinions during the public hearing. "I think" and "I feel" comments by Council Members are not appropriate until after the close of the public hearing. At no time shall a Council Member

engage in arguing or debating with the public nor shall the Mayor allow arguing or debating among the public during a hearing. After the close of a public hearing, no more public testimony will be accepted unless the Mayor reopens the public hearing for a limited and specific purpose.

Travel Expenses

The City Council may adopt a separate Travel Policy, the purpose of which is to establish the policies and procedures for Council Members who travel on official City business either in-state or out-of-state. Such travel shall include attendance at conferences, seminars, and training sessions on behalf of the City. This City shall pay reasonable expenses for registration fees, lodging, meals, and transportation for the Council Member only. Please note that the City's vehicle insurance does not cover the employee's private vehicle while engaged in City business. If you use your own vehicle to perform City business, your automobile insurance policy must cover any claims that arise from such use.

Council Conduct with One Another

Councils are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even as Council may "agree to disagree" on contentious issues.

IN PUBLIC MEETINGS

- **Practice civility, professionalism and decorum in discussions and debate.**

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does NOT allow, however, Council Members to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated. Council Members should conduct themselves in a professional and respectful manner at all times.

- **Honor the role of the Mayor in maintaining order**

It is the responsibility of the Mayor to keep the comments of Council members on track during public meetings. Council Members should honor efforts by the Mayor to focus

discussion on current agenda items. If there is disagreement about the agenda or the Mayor's actions, those objections should be voiced politely and with reason.

- **Demonstrate effective problem-solving approaches**

Council Members have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

- **Keep Comments relative to topics discussed**

It is important that discussion on issues be relative to the topic at hand and allow adequate time to fully discuss scheduled issues.

- **Be Prepared**

Staff prepares your Council packet with all necessary information for agenda items. It is critical that Councilmembers read the information and prepare for the Council meeting ahead of time. If there are any questions or concerns with the agenda items, please contact the City Manager or staff member directly to have questions addressed pre-meeting.

IN PRIVATE ENCOUNTERS

- **Be aware of the insecurity of written notes, voicemail messages, and e-mail**

Technology allows words written or said without much forethought to be distributed wide and far. Written notes, voicemail messages, texts and e-mail should be treated as potentially "public" information.

Council Conduct with City Staff

Governance of a City relies on the cooperative efforts of elected officials, who set policy, and City staff, who implements and administers the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

- **Treat all staff as professionals**

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected.

- **Contact with City Staff**

No member of the Council shall dictate or interfere with the appointment or the duties of any officer or employee of the City, except as expressly provided in the Charter, nor shall any member of the Council prevent or interfere with any officer or employee of the City in the exercise of his judgment in the performance of his assigned municipal responsibilities. The Council shall deal with the administrative service of the City solely through the City Manager, and the Council shall not give orders or reprimands to any employee or subordinate of the City Manager.

- **Never publicly criticize an individual employee**

Council should never express concerns about the performances of a City employee in public or to the employee directly. Comments about staff performance should only be made to the City Manager. It is unacceptable to make derogatory comments about staff. If you publicly show a lack of respect or trust in City staff, so will the public.

- **Do not solicit political support from staff**

Council Members should not solicit any type of political support (financial contributions, display of poster or lawn signs, name of support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

- **Requesting items for future consideration**

Council Members should not request a staff member add an item to be placed on the agenda for consideration without first requesting this item in a public meeting.

Council Conduct with the Public

IN PUBLIC MEETINGS

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual Council members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- **Be fair and equitable in allocating public speaking time to individual speakers**

The Mayor will determine and announce limits on speakers at the start of the meeting. Generally, each speaker will be allocated 5 (five) minutes for items on the agenda. If many

speakers are anticipated, the Mayor may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers. No speaker will be turned away unless he or she exhibits inappropriate behavior. Each speaker may only speak once on each topic during the meeting unless the Council requests additional clarification later in the process.

- **Ask for clarification, but avoid debate and argument with the public**

Only the Mayor, not individual Council Members, can interrupt a speaker during a presentation. Council Members can request to speak if the speaker is off the topic or exhibiting behavior or language to Council Member finds disturbing.

If the speaker becomes belligerent or disruptive, it is the responsibility of the Mayor to focus the speaker and maintain the order and decorum of the meeting. It is never appropriate to belligerently challenge or belittle the speaker. No personal attacks of any kind, under any circumstance will be tolerated.

Council Members' personal opinions or inclinations about upcoming votes should not be revealed until after discussion is closed.

IN UNOFFICIAL SETTINGS

- **Make no promises on behalf of the Council**

Council members will frequently be asked to explain a Council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise Council action, or to promise City staff will do something specific (fix a pothole, street sweep; repair a street light, etc.).

- **Make no personal comments about other Council Members**

It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Council Members, their opinions and actions.

Council members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the City of Fountain. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by Council members, 24 hours a day, seven days a week.

Council Conduct with City Boards & Commissions or Other Public Bodies

The City has established several Boards and Commissions as a means of gathering more community input. Citizens who serve on Boards and Commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect. Additionally, the City Councilmembers may attend other Public bodies, such as Council of Government meetings, other City Council meetings, etc.

- **If attending a Board or Commission meeting, be careful to only express personal opinions**

Council members may attend any Board or Commission meeting, which are always open to any member of the public. However, if the Board or Commission is conducting a public hearing, the Councilmember should remove themselves from the proceedings. Council members should be sensitive to the way their participation – especially if it is on behalf of an individual, business or developer -- could be viewed as unfairly affecting the process. Any public comments by a Councilmember at a Board or Commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council. Also, a Councilmember's presence may affect the conduct of the Board or Commission and limit their role and function.

- **Limit contact with Board and Commission members**

It is inappropriate for a Councilmember to contact a Board or Commission member to lobby on behalf of an individual, business, or developer. Council members should contact staff in order to clarify a position taken by the Board or Commission.

- **Remember that Boards and Commissions serve the community, not individual Council members**

The City Council appoints individuals to serve on Boards and Commissions, and it is the responsibility of Boards and Commissions to follow policy established by the Council. Board and Commission members do not report to individual Council members.

- **Attendance of meetings for non-City Public Bodies**

From time to time the Mayor or Councilmembers may attend meetings of other Public bodies, such as other Cities' Council meetings, Colorado Municipal League meetings, Pikes Peak Area Council of Governments meetings, etc. Councilmembers should be sensitive to the way they represent the City of Fountain at those meetings and should take care to

differentiate between their representation as a member of the City of Fountain Council, or representation of their own personal views.

Council Conduct with The Media

- **The best advice for dealing with the media is to never go "off the record"**

Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. But one bad experience can be catastrophic. Words that are not said cannot be quoted.

- **The Mayor is the official spokesperson for the representative on City position.**

The Mayor is the designated representative of the Council to present and speak on the official City position. If an individual Councilmember is contacted by the media, the Councilmember should be clear about whether their comments represent the official City position or a personal viewpoint.

- **Choose words carefully and cautiously**

Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, or word play.

Sanctions

- **Public Disruption**

Members of the public who do not follow proper conduct after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council Chambers.

- **Inappropriate Staff Behavior**

Council members should refer to the City Manager any City staff who do not follow proper conduct in their dealings with Council members, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions.

- **Council members Behavior and Conduct**

City Council members who intentionally and repeatedly do not adhere to this Code of Conduct may be reprimanded or formally censured by the Council. Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by Council. Council members should point out to the offending Councilmember infractions of the Code of Ethics or Code of Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being challenged, then the matter should be referred to the Mayor Pro-Tem. It is the responsibility of the Mayor to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor, the alleged violation(s) can be brought up with the full Council in a public meeting.

If violation of the Code of Ethics or Code of Conduct is outside of the observed behaviors by the Mayor or Council members, the alleged violation should be referred to the Mayor, or Mayor Pro-Tem in the event the conduct in question is the Mayors. The Mayor should ask the City Attorney to investigate the allegation and report the findings to the Mayor. It is the Mayor's responsibility to take the next appropriate action. These actions can include, but are not limited to: discussing and counseling the individual on the violations; recommending sanction to the full Council to consider in a public meeting; or forming a Council ad hoc subcommittee to review the allegation; the investigation and its findings, as well as to recommend sanction options for Council consideration.

It all comes down to respect

*Respect for one another as individuals . . . respect for the validity of different opinions . . .
respect for the democratic process . . . respect for the community that we serve.*

FOUNTAIN URBAN RENEWAL AUTHORITY

September 28, 2023

(COVID-19 Social Distancing and Unvaccinated Masks in effect)

General Board Meeting Minutes

Chair Aragon called a regular monthly meeting of the Fountain Urban Renewal Authority to order at 6:11pm. Commissioners present included Vice Chair (VC) McMaster, Nichol Reinhardt, Logan Broz, and Tamera Estes. Additional attendees include: Carrie Bartow, CliftonLarsonAllen (CLA) and Gary Barber, Southern Colorado Rail Park (SCRIP). FURA staff included Executive Director (ED) Kimberly Bailey and Administrative Associate (AA) Nate Shull. Public citizens in attendance included: Dean and Penny Cimino

CONSENT AGENDA

The following Consent Agenda items were presented for approval:

- Approval of August 15, 2023 General Meeting Minutes
- Approval of September 28, 2023 Accounts Payable
- Approval of September 28, 2023 Monthly Financials Report

VC McMaster motioned for Consent approval as denoted, second by Estes, and the motion passed unanimously by the Board.

PUBLIC TO BE HEARD

Public citizens in attendance, Dean and Penny Cimino, addressed the Authority on the following items with commentary as denoted.

1. D.Cimino inquired about the reduced rent policy with the Woodman Hall asset.
 - a. ED Bailey advised that the current tenants are encountering a disruptive construction zone of conditions which does require both the tenant(s) and the clientele to be flexible with property upgraded improvements; and for those issues the rental rate is adjusted but is on a scaled increase per year to move any/all tenants towards a Fair Market Rate (FMR) unit rental rate as established in the Lease Terms and Conditions.
 - b. ED Bailey referenced the former 212 Illinois property as operated by Peaks-n-Pines Brewery, as an example case; whereby the ownership and tenant have a mutual partnership in the property improvements. Therefore, the private capital invested in each Authority asset(s) is reflected in the reduced rental rate policy among each of the FURA assets and its mutual partnership approach within each tenant Lease Terms and Conditions.
2. D.Cimino inquired about the US85 Pad Site asset and the depreciated for sale list price vs investment value.
 - a. ED Bailey affirmed the land acquisition price, as well as the blight improvements costs, to steward a shovel-ready asset on behalf of attracting a private investor for gaining accessible goods/services in the underserved Olde Town district.
 - b. ED Bailey further described the additional onsite and offsite improvements which will be necessitated to support redevelopment in the aged district business corridor; with regards to stormwater improvements, water utility' PSI and lack of redundancy system, and CDOT compliance with US85 HWY access.
 - a. In closing, ED Bailey commented that the Authority has the capacity to realize a full return on investment (ROI) through the asset's lifecycle; whereby a generation of new Sales Tax Revenues and Property Tax Revenues which are reflective in the tax-increment basis of the private capital improvements of new commercial development in the Olde Town district. In

addition, clarification added that the Authority is unlike a typical investor; whereby ROI is achieved over time and not required at the impetus of a real estate transaction; the methodology also achieves critical infrastructure gains as paid by a private capital investor.

In closing, both Dean and Penny Cimeno were not amicable in the fiscal view as shared by the Authority and had expired more than the three-minutes time allotment of Public to be Heard. ED Bailey thanked them for their time and offered any further discussion could be addressed in office upon request.

UPDATES

Real Estate

US85 Pad Site Update

ED Bailey mentioned the WPS broker advised they were still working thru due diligence negotiations with two prospects that have expressed interest in the site and working with ED Bailey on behalf of the Authority's preferred interests of development as to new services procurement for the Olde Town district community. WPS will provide continual updates to the Authority as discussions may continue.

Woodman Hall

ED Bailey provided updates on the following with regards to the Woodman Hall asset.

- The new exterior restroom addition variance was presented to the City Hearing Officer on August 30th with legal representation by BHFS Carolynne White and architect representation by TDG Mark Tremmel and Sharon Allen. The Authority received written approval notification to proceed on September 7, 2023 by the City.
- Effective October 15, 2023, a new business tenant will occupy Unit D, known as: Life Healing and Therapy Wellness, operated by Sara Muse. As required, self-billing on City Electric Utility will be established by the tenant as of the effective move in date.
- As reflected in the September A/P, a Timberline Landscaping maintenance services contract has been established to ensure curb appeal and beautification maintenance of the two garden beds flanking Main Street. Under former administrative assistant J.Stockton and the Main Street/Ohio Intersection Public Improvement Project efforts with the City, a consistent landscape maintenance vendor is now required to ensure curb appeal of the Woodman Hall asset; the minimalistic vegetation area as remaining on premises and an additive of Olde Town district beautification. As the recently planted vegetation is grown in very nicely and thriving under a wet seasonal spring/summer, to include Russian Sage, there is a staff inability to continue to handle the garden beds maintenance on behalf of the Authority's WH asset; due to ED Bailey is highly allergic to the Sage planted.
 - (Reinhart) An inquiry on a budgeted schedule for property protection interest of the asset long term maintenance was presented.
 - ED Bailey stated "YES", and it is listed in the Authority's budget for the property asset.

FINANCE

2024 Budget Planning (October 2023)

ED Bailey recapped two items previously introduced with the Authority, in the CLA facilitation of preparing a draft 2024 Budget for delivery by the deadline of October 15th under the State Statue of Colorado.

1. US85 Gateway Master URA

- a. As introduced in the August general board meeting, the board discussed a pledge of support under a Wayfinding and Signage Campaign for the US85 URA on behalf of directional awareness which would represent a holistic program to include the Gateway, Olde Town, Mesa Ridge, and N. US85 business district corridors located within the URA boundaries.
- b. The Campaign was presented to City Council under an amendment to the Economic Development D13/D15 Strategic Objective recommendation; unanimously supported and approved with the Campaign in effect for 2024.
- c. The Campaign is a direct-action item extract of recommendations as featured in the 2014 Olde Town Revitalization Summary, 2017 THK Town Design+Aesthetics Guidelines, 2020 Ohio Avenue Placemaking Program, and the to-be released 2023 The Blast Site Pedestrian Mobility Corridor EPA Study.
 - i. As prior notated, Staff will be providing a recap of these former action plans at a forthcoming general board meeting for Authority awareness/education.
- d. ED Bailey concluded with a restatement of the 40/60 pledge request, representing \$35,000 for FURA in a program cost partnership of \$50,000 City budget; the board continued to echo unanimous support of the 2024 Campaign initiative and pledge funding.
 - i. (Chair Aragon) An inquiry on the time or resource commitment by the board and staff was presented.
 1. ED Bailey stated, just as in former initiatives, one board member will be requested to be assigned to the working committee paired with the Consultant to be selected by the City.
 2. AA Shull stated the Campaign timeline is anticipated to finalize bid RFP by 2023, bid review/issuance Spring 2024, and a completed scope of work by 2024 end of year.

2. Southern Colorado Rail Park (SCRC), guest speaker Gary Barber

- a. ED Bailey reintroduced the mission of the Charter Oak URA 2015 establishment, in support of the public-private partnership business development known as the [Southern Colorado Rail Park](#) regional initiative on behalf of Fort Carson Army Installation resiliency and commercial business investment and job creation in the City. She then introduced guest speaker, Gary Barber – project manager.
- b. Barber depicted the 3,000 AC site area utilizing a land use master plan map to share general site proximity awareness, a three phased development area forecast, and future regional transportation improvements in the planning efforts with CDOT, El Paso County, and CSU Nixon Power Plan operations.
- c. Barber presented a formal request as to FURA identified as the “applicant” under a 2024 DOLA/LOMA State of CO matching funds application, in correlation to a larger 2024 FRA CRISI grant being spearheaded by the regional COS counterpart.
 - i. FRA CRISI is a value approximation of \$18M with COS Public Works as “applicant”
 - ii. DOLA/LOMA is a value approximation of \$4M State of CO matching funds with the Fountain Urban Renewal Authority (FURA) as “applicant”
 1. ED Bailey emphasized this recommendation is based on the TABOR exemption classification of the Authority under State Statue CO; whereby there are no impacts to its general revenues and CLA administrative fees would be procured through the matching grant funds (as awarded)
 2. ED Bailey also clarified that the DOLA/LOMA would only take effect IF/WHEN the larger FRA CRISI grant is formally instituted (as awarded)

- d. In closing, no further questions were posed by the board with a general consensus of support to proceed with ED Bailey to keep the board apprised of efforts undertaking in 2024.

South Academy Highlands, Venetucci Road

- ED Bailey referenced a September 22, 2023 email issued by the Wilson Co. project manager on behalf of the City of Fountain's Venetucci Road defect/repair assessment.
- Three options of repair were identified with a recommendation to proceed with Option 2 listed at a value of \$234,606.00 for consideration by the Authority, under its governance of the SAH PH II Project Escrow Fund.
- ED Bailey stated the formal appropriation of funding approved by the Authority was at a value of \$125,000 and now the reassessment has almost doubled and hence it is being presented to the board for consideration of a new authorization to proceed with an increase in appropriation of funding.
 - (VC McMaster) An inquiry as to what makes Option 2 the best approach vs. Option #1 or #3.
 - ED Bailey stated it is the less invasive approach to excavate the area and bridge the groundwater penetration that is causing the road defect to occur below grade; whereby if engineers expose too much of the site area that could cause larger issues to transpire and overdo the work necessary to remedy the situation.
 - A general dialog ensured whereby the board was seeking higher technical engineering than ED Bailey was equipped to address on behalf of the project scope; in addition, if a statement of guarantee could be issued by the contractor.
 - (Chair Aragon) He made a recommendation for VC McMaster to work with ED Bailey to schedule a quick call with the Wilson Co. project manager to address the technical engineering aspects of the project.
- Chair Aragon motioned for approval of no more than \$250,000 (Option #3) in SAH PH II Project Escrow towards remediation of the Venetucci Road defect, conditional upon a call arranged between VC McMaster and Wilson Co. PM, second by Reinhardt, and the motion passed unanimously by the Board.
 - [UPDATE: A technical engineering call was hosted on October 6th with Wilson Co. project manager and the Authority's questions of clarification were satisfactorily addressed and to proceed with the motion as stands by the board.](#)

5Star Bank Loan REFI and Equity Terms

ED Bailey presented Resolution 23-01 for the board to authorize the Chair and Executive Director to agree to Loan REFI and Equity Terms with 5Star Bank of Colorado. Estes motioned for approval of Resolution 23-01, second by VC McMaster, and the motion passed unanimously by the Board.

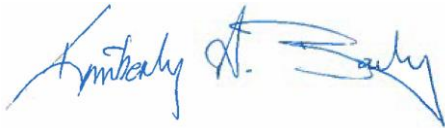
Check Signing

As approved on consent, A/P checks were signed totaling \$51,586.46.

ANNOUNCEMENTS

1. Community Night in the Park, September 19th 4-7pm
2. Olde Town Seasonal Events Flyer
3. DCI Membership and TIF Training Session
4. Article: [Woodman Hall Fostering New Business](#) (*The Gazette 9.18.23*)

Chair Aragon asked if there was any further business. No further topics were brought forth by board members; therefore, Reinhardt motioned to adjourn, second by Estes, passed unanimously by the board at 7:24pm.



Kimberly Bailey, Executive Director

____10.17.23_____
Date