



CITY COUNCIL WORK SESSION
Monday, August 5, 2024 - 10:00 AM
City Council Chambers, Elks Civic Building - 107 S. Cascade Ave.

Public participation for this meeting will be in person in the City Council Chambers. The meeting can be [viewed online via livestream](#) and video recordings of the meetings can be viewed on our [YouTube page](#).

Hearing assistance devices are available for public use. Please let us know if you need accommodation. The City also offers interpretation for Spanish speakers. Schedule time to book this resource, by [emailing the City](#) at least 3 days before the meeting.

1) DISCUSSION ITEMS

- A) Police Department Equipment Purchase (15 minutes)
Staff: Police Chief Blaine Hall
- B) 6600 Road Water Service Area Modification Agreement (15 minutes)
Staff: City Engineer Scott Murphy
- C) Les Schwab Tire Center Development Agreement (15 minutes)
Staff: Anthony Russo, Business Development
- D) Montrose Drive Waterline Interconnect Contract Award (10 minutes)
Staff: City Engineer Scott Murphy
- E) Proposed Ordinance for Unauthorized Camping, Sleeping in Public and Proposed Amendment to Park Hours (20 minutes)
Staff: Assistant City Attorney Matt Magliaro
- F) Ballot Question Wording for Proposed Lodging Tax Increase (30 minutes)

2) GENERAL CITY COUNCIL DISCUSSION

3) STAFF COMMENTS



Axon Enterprise Inc.
PO BOX 29661
DEPARTMENT 2018
PHOENIX, AZ 85038-9661
Ph: 1-480-991-0797, option 5, option 1
arinquiries@axon.com
www.axon.com
TIN: 86-0741227
DUNS Number: 832176382
UEI Number: TBW7MGPYURM7

Invoice

Invoice ID INUS232003
Date 01-Mar-24
Page 1 of 10
Sales Order
Requisition
Your Ref Q-463786,
Our Ref , Q-463786,
Payment Net 30 days
Invoice Account 107462
Terms of Delivery FCA

BILL TO

Montrose Police Department - CO
PO Box 790
Montrose, CO 81402-0790
USA

SHIP TO

Montrose Police Department - CO
434 S 1st St
Montrose, CO 81401-3948
USA

Bundled Item Number	Bundled Description	Bundled Quantity	Unit Price	Amount
T10Cert	TASER 10 Certification Bundle	65.00		59,147.40

Line No.	Ship to*	Item Number	Description	Quantity	Unit Price	Amount
1	1	71019	AXON BODY - DOCK POWERCORD - NORTH AMERICA Tax Date 31-Jan-24 Shipment Date: 02/05/2024	1.00	10.31	
2	1	70033	AXON - DOCK WALL MOUNT - BRACKET ASSY Tax Date 31-Jan-24 Shipment Date: 02/05/2024	1.00	40.00	
3	1	80396	AXON TASER 7 - EXT WARRANTY - DOCK SIX BAY Tax Date 01-Mar-24 Shipment Date:	1.00	311.80	
4	1	74200	AXON TASER - DOCK - SIX BAY PLUS CORE Tax Date 01-Mar-24 Shipment Date:	1.00	1,479.89	

PAYMENT REMITTANCE INFORMATION

For ACH/EFT Payment: (Preferred Method)		For Wire Transfers		For Check Payments Mail To:	For Overnight Check Payments Mail
Account Name	Axon Enterprise, Inc.	Beneficiary	Axon Enterprise, Inc.	Axon Enterprise, Inc.	Axon Enterprise, Inc.
Account Number	634912729	Account Number	634912729	PO BOX 29661	JPMorgan Chase (AZ1-2170)
Bank Routing No	122100024	Bank Routing No	021000021	DEPARTMENT 2018	Attn: Axon Enterprises 29661-2018
Reference No	INUS232003	SWIFT Code	CHASUS33	PHOENIX, AZ 85038-9661	2108 E Elliot Rd,
		Reference No	INUS232003	Reference No INUS232003	Tempe, AZ 85283
					Reference No INUS232003

Please reference the invoice number on your ACH, Wire or Check payment and send to AR@axon.com



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Line No.	Ship to*	Item Number	Description	Quantity	Unit Price	Amount
5	1	80374	AXON TASER 7 - EXT WARRANTY - BATTERY PACK Tax Date 01-Mar-24 Shipment Date:	12.00	20.99	
6	1	20018	TASER BATTERY PACK, TACTICAL Tax Date 01-Mar-24 Shipment Date:	12.00	89.38	
7	1	80374	AXON TASER 7 - EXT WARRANTY - BATTERY PACK Tax Date 01-Mar-24 Shipment Date:	2.00	20.99	
8	1	20018	TASER BATTERY PACK, TACTICAL Tax Date 01-Mar-24 Shipment Date:	2.00	89.38	
9	1	80090	AXON TASER - TARGET FRAME - PROFESSIONAL 27.5 IN X 75 IN Tax Date 01-Mar-24 Shipment Date:	1.00	77.94	
10	1	100396	AXON TASER 10 - MAGAZINE - INERT RED Tax Date 01-Mar-24 Shipment Date:	3.00	136.66	

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11	1	80087	AXON TASER - TARGET - CONDUCTIVE PROFESSIONAL RUGGEDIZED Tax Date 01-Mar-24 Shipment Date:	1.00	155.84	
12	1	80374	AXON TASER 7 - EXT WARRANTY - BATTERY PACK Tax Date 01-Mar-24 Shipment Date:	65.00	20.99	
13	1	20018	TASER BATTERY PACK, TACTICAL Tax Date 01-Mar-24 Shipment Date:	65.00	89.38	
14	1	20120	AXON TASER - INSTRUCTOR COURSE VOUCHER Tax Date 01-Mar-24 Shipment Date:	1.00	450.98	
15	1	20120	AXON TASER - INSTRUCTOR COURSE VOUCHER Tax Date 01-Mar-24 Shipment Date:	1.00	450.98	
16	1	20120	AXON TASER - INSTRUCTOR COURSE VOUCHER Tax Date 01-Mar-24 Shipment Date:	1.00	450.98	

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17	1	20120	AXON TASER - INSTRUCTOR COURSE VOUCHER Tax Date 01-Mar-24 Shipment Date:	1.00	450.98	
18	1	20120	AXON TASER - INSTRUCTOR COURSE VOUCHER Tax Date 01-Mar-24 Shipment Date:	1.00	450.98	
19	1	20119	AXON TASER - MASTER INSTRUCTOR SCHOOL VOUCHER Tax Date 01-Mar-24 Shipment Date:	1.00	1,821.22	
20	1	20119	AXON TASER - MASTER INSTRUCTOR SCHOOL VOUCHER Tax Date 01-Mar-24 Shipment Date:	1.00	1,821.22	
21	1	20119	AXON TASER - MASTER INSTRUCTOR SCHOOL VOUCHER Tax Date 01-Mar-24 Shipment Date:	1.00	1,821.22	
22	1	20119	AXON TASER - MASTER INSTRUCTOR SCHOOL VOUCHER Tax Date 01-Mar-24 Shipment Date:	1.00	1,821.22	

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Line No.	Ship to*	Item Number	Description	Quantity	Unit Price	Amount
23	1	20119	AXON TASER - MASTER INSTRUCTOR SCHOOL VOUCHER Tax Date 01-Mar-24 Shipment Date:	1.00	1,821.22	
24	1	20248	AXON TASER - EVIDENCE.COM LICENSE Tax Date 01-Mar-24 Shipment Date:	1.00	273.32	
25	1	20248	AXON TASER - EVIDENCE.COM LICENSE Tax Date 01-Mar-24 Shipment Date:	65.00	273.32	
26	1	999999	BUNDLE SCALER Tax Date 01-Mar-24 Shipment Date:	1.00	8.73	
27	1	100751	AXON TASER 10 - REPLACEMENT ACCESS PROGRAM - DUTY CARTRIDGE Tax Date 01-Mar-24 Shipment Date:	65.00	267.85	
28	1	100611	AXON TASER 10 - SAFARILAND HOLSTER - RH Tax Date 01-Mar-24 Shipment Date:	65.00	72.89	

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Line No.	Ship to*	Item Number	Description	Quantity	Unit Price	Amount
29	1	100394	AXON TASER 10 - MAGAZINE - HALT TRAINING BLUE Tax Date 01-Mar-24 Shipment Date:	3.00	136.66	
30	1	100399	TASER 10 LIVE CARTRIDGE Tax Date 01-Mar-24 Shipment Date:	1,300.00	19.13	
31	1	100623	AXON TASER - TRAINING - ENHANCED HALT SUIT V2 Tax Date 01-Mar-24 Shipment Date:	1.00	683.30	
32	1	100393	AXON TASER 10 - MAGAZINE - LIVE DUTY BLACK Tax Date 01-Mar-24 Shipment Date:	65.00	136.66	
33	1	100401	AXON TASER 10 - CARTRIDGE - INERT Tax Date 01-Mar-24 Shipment Date:	26.00	19.13	
34	1	100395	AXON TASER 10 - MAGAZINE - LIVE TRAINING PURPLE Tax Date 01-Mar-24 Shipment Date:	3.00	136.66	

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Line No.	Ship to*	Item Number	Description	Quantity	Unit Price	Amount
35	1	100393	AXON TASER 10 - MAGAZINE - LIVE DUTY BLACK Tax Date 01-Mar-24 Shipment Date:	2.00	136.66	
36	1	100400	TASER 10 HALT CARTRIDGE Tax Date 01-Mar-24 Shipment Date:	390.00	19.13	
37	1	100390	AXON TASER 10 - HANDLE - YELLOW CLASS 3R Tax Date 01-Mar-24 Shipment Date:	65.00	1,958.79	
38	1	100704	AXON TASER 10 - EXT WARRANTY - HANDLE Tax Date 01-Mar-24 Shipment Date:	65.00	275.51	
39	1	100390	AXON TASER 10 - HANDLE - YELLOW CLASS 3R Tax Date 01-Mar-24 Shipment Date:	2.00	1,958.79	
40	1	100704	AXON TASER 10 - EXT WARRANTY - HANDLE Tax Date 01-Mar-24 Shipment Date:	2.00	275.51	

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41	1	100400	TASER 10 HALT CARTRIDGE Tax Date 01-Mar-24 Shipment Date:	390.00	19.13	
42	1	100399	TASER 10 LIVE CARTRIDGE Tax Date 01-Mar-24 Shipment Date:	130.00	19.13	
43	1	100400	TASER 10 HALT CARTRIDGE Tax Date 01-Mar-24 Shipment Date:	390.00	19.13	
44	1	100399	TASER 10 LIVE CARTRIDGE Tax Date 01-Mar-24 Shipment Date:	130.00	19.13	
45	1	100400	TASER 10 HALT CARTRIDGE Tax Date 01-Mar-24 Shipment Date:	390.00	19.13	
46	1	100399	TASER 10 LIVE CARTRIDGE Tax Date 01-Mar-24 Shipment Date:	130.00	19.13	
47	1	100400	TASER 10 HALT CARTRIDGE Tax Date 01-Mar-24 Shipment Date:	390.00	19.13	

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Line No.	Ship to*	Item Number	Description	Quantity	Unit Price	Amount
48	1	100399	TASER 10 LIVE CARTRIDGE Tax Date 01-Mar-24 Shipment Date:	130.00	19.13	

Sales Amount	59,147.40
Misc. Charge	0.00
Discount	0.00
Sales Tax	0.00
Total	59,147.40
Amount Received	0.00

Payment Due 31-Mar-24

BALANCE DUE USD 59,147.40

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*Tax Note

Ship-to-address Legend*

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MEMORANDUM



TO: Honorable Mayor and Members of the City Council
FROM: Scott Murphy, *City Engineer*
DATE: July 24, 2024
RE: 6600 Road Water Service Area Boundary Modification
CC: William Bell, Shani Wittenberg, Chris Dowsey, David Bries

Action

Consider entering into a water service area modification agreement with Tri-County Water Conservancy District to modify boundaries in the vicinity of 6600 Road between Locust and Draft Horse Roads.

Background

Municipal water service within the Uncompahgre Valley is supplied by six different water providers: the City of Montrose, Tri-County Water, Menoken Water, Chipeta Water, the Town of Olathe, and the City of Delta. These six entities, in partnership with the Uncompahgre Valley Water Users Association, purchase their treated water from the Project 7 Water Treatment Authority and then distribute within their respective water service areas. In and around the City of Montrose, these water service area boundaries can be viewed online at <http://gis.cityofmontrose.org> under the “Water Districts” map layer.

The water service area boundaries were negotiated amongst the various water providers concurrent with the development of Project 7 and the US Bureau of Reclamation’s Dallas Creek Project (Ridgway Reservoir). The boundaries aim to maximize efficiency by centering around existing/proposed transmission infrastructure and take into consideration existing and anticipated land uses. For example, the City of Montrose water service area generally focuses on the City limits and portions of the City’s urban growth boundary likely to experience urban levels of development. The surrounding rural water providers (Tri-County, Chipeta, and Menoken) are designed and built for rural styles of development and are typically unable to support higher-density, urban developments. An important distinction between the urban and rural water providers is in their ability to provide fire protection; with some exceptions, the City’s water system is hydraulically designed and operated to meet code-required minimum fire flows and pressures whereas the rural systems generally are not.

As part of the water service area agreements between providers, consideration is given to allow for modification of the boundaries and/or to allow for service to be provided outside of the boundaries through written agreement between affected parties. This option has been utilized over the years for cases where infrastructure is not available within the established service area from its respective provider, due to hydraulic limitations of a given system, or due to limitations in water resource availability.

The City of Montrose and Tri-County Water are interested in modifying the existing water service area boundary along 6600 Road between Locust and Draft Horse Roads as outlined in the attached agreement. The service area modification has the following drivers:

1. As residential growth has continued to occur in this quadrant of the City and fire-protection standards have increased over time, modeling indicates that Tri-County’s water system would not be able to provide urban levels of fire protection for this area going into the future.

2. The City is aware of several property owners seeking to construct residential housing developments within the proposed service area modification that would require City water for fire protection. This includes areas near Locust Road that are zoned R-4 (high density) and two developments that are currently going through the City's subdivision process.
3. The majority of the City's current water distribution system north of San Juan Avenue is currently fed by a single 6 inch water main in 6530 Road with no backup. This leaves the area vulnerable; a break in this mainline could leave hundreds of water customers without water while repairs are made. In recognition of this lack of redundancy, the City's water master plan recommended the construction of a new mainline connection down 6600 Road as a high-priority capital project.

The proposed service area modification would include a new City of Montrose water transmission main down 6600 Road between Locust and Draft Horse Roads to provide a secondary feed to the area, service future development (which helps to recapture cost of the mainline extension), and support the construction of an emergency fire flow interconnect between the City and Tri-County systems at its northern end. This mainline extension project is currently proposed in the 2025 City budget.

Water Resource Availability

As part of the Dallas Creek Project, the City of Montrose was allocated and has been paying for 10,000 acre-feet of Ridgway Reservoir's municipal and industrial (M&I) pool of water. The City also holds shares in the Cimarron Canal Company which are used to fill Cerro Reservoir; however, these shares are currently reserved for emergency use only. Total annual demands within the City of Montrose over the past several years have hovered around 4,500 acre-feet or about 45% of the City's total allocation from Ridgway Reservoir.

As part of the City's ongoing water resource master planning, the City has been working to project how much water would be needed to achieve full buildout of the City's water service area. Using conservative assumptions for the anticipated land-use density, water demand per capita, and relying on limited conservation programs to be implemented over time, these projections indicate that the City should have approximately 300 acre-feet of water to spare following full buildout. Said another way, at this time it appears that 300 acre-feet of water would be available to provide service outside of our existing water service area. It should be noted that these projections do carry a degree of uncertainty and do account for recent service area expansions approved in 2023/2024.

Of this available 300 acre-feet, it is anticipated that the potential development within the service area modification boundary could potentially utilize all of it if high-density development were to occur within the area. It should be noted that water resource modeling is routinely updated to account for the actual development/usage patterns that are occurring and to determine if additional water resources would be available for future service area modification requests that may arise. At this time, there are no known outstanding requests for service area modifications.

Impact on Water Customers

Within the proposed service area modification, there are currently customers located within City Limits being serviced by Tri County Water. This includes several individual residences along 6600 Road between Locust and Draft Horse and all residences along Draft Horse Road. Once the new City mainline is constructed, it is proposed that all water customers currently within City limits would be switched over to

City water service and be billed according to the City's fee schedule going forward. All water customers within Montrose County would be connected to the City main but would continue to be billed by Tri County water according to their fee schedule. The City would then bill Tri County for water supplied to their meters within this area. As development/annexations occur within the modified service area, the future customers would be serviced by City of Montrose water.

The difference in water rates between the City of Montrose and Tri-County is summarized in Table 1 below for a typical residential meter.

TABLE 1
Comparison of Water Rates

Element	Tri County Water	City of Montrose
Base Charge	\$18.00 every two months	\$20.94 every month
Usage	\$3.70 per 1,000 gallons	\$4.40 per 1,000 gallons
Tap and Capacity Fees for New Connection (New Construction Only)	\$11,000.00	\$3,052.00

As shown in Table 1, the City's rate structure will result in a higher monthly cost to the water customer. The difference in rate structures between the City of Montrose and Tri County stems from the difference in hydraulic capacity that the systems are built for (City system is built to a full fire protection standard) and also due to differences in revenue sources (Tri-County Water receives a mill levy in addition to usage charges). To provide a feel for the resulting differences in customer's water bills, Table 2 summarizes the anticipated difference based on the customer's water usage.

TABLE 2
Comparison of Monthly Cost based on Water Usage

Monthly Water Usage (gal)	Tri County Cost (equivalent monthly)	City of Montrose Cost	Difference
5,000	\$27.50	\$42.94	\$15.44
10,000	\$46.00	\$64.94	\$18.94
20,000	\$83.00	\$108.94	\$25.94
30,000	\$120.00	\$152.94	\$32.94

It should also be noted that water rates are anticipated to rise for both Tri County and the City of Montrose in the coming years as necessary to fund the new southern treatment plant.

Tri-County Board Consideration

The agreement was considered by the Tri County Water board of directors at their July 17, 2024 regular meeting. It was approved with a split vote (6 for, 5 against). It is our understanding that the primary concern of board members against entering into the agreement was regarding the loss of potential water revenue and the lack of compensation (buy out) to accompany the district change.

**CITY OF MONTROSE & TRI-COUNTY WATER CONSERVANCY DISTRICT
6600 ROAD SERVICE AREA MODIFICATION AGREEMENT - DRAFT**

This Service Area Modification Agreement (the “Agreement”) is entered into and effective as of the _____ day of _____, 2024 by and between the City of Montrose, Colorado, a Colorado home rule municipal corporation, hereinafter referred to as the “City” and the Tri-County Water Conservancy District, a Water Conservancy District organized and existing pursuant to the laws of the State of Colorado, hereinafter referred to as “Tri-County”; the aforementioned entities may sometimes be collectively referred to as the “Parties.”

RECITALS

Both the City and Tri-County purchase treated domestic water wholesale from the Project 7 Water Authority and distribute to their respective customers.

With some exceptions, the City and Tri-County distribute water within their respective service area boundaries. These are managed through a service area agreement between the Parties which was last revised in 1999 and creates a process to amend boundaries through mutual agreement by both parties (“1999 Service Area Agreement”). The parties have used this process several times since the effective date of the 1999 service area agreement and shall continue to partner and modify service area boundaries to create the most cost effective and efficient water systems for both parties. Service area boundaries do not necessarily follow the City’s municipal or growth area boundaries.

City subdivisions are present and proposed within Tri-County’s water service area that must meet modern fire protection standards stipulated by the Montrose Fire Protection District (“Minimum Fire Flow”) and as required by the City’s subdivision regulations, engineering specifications, and fire-protection codes.

Tri-County, by its Operating Policy, does not guarantee a minimum fire flow or pressure at any fire hydrant within its water distribution system.

The City is currently experiencing a shortage of housing and, as a result, has an interest in working to ensure housing development can continue to occur with sufficient fire protection.

During the summer months when overall water demands are high, the City and Tri-County staff have observed that code-required minimum fire flow within the Bear Creek Subdivision and surrounding area cannot be achieved through Tri-County’s water distribution system alone.

In response to the observed fire-flow availability, the City and Tri-County entered into an emergency interconnect agreement on January 13, 2023 (“Interconnect Agreement”). Under the framework of this agreement, the City installed and placed into service an interim interconnect at the intersection of Draft Horse and Barnwood Roads in late 2023 (“Interim Interconnect”).

High density residential development is currently proposed alongside 6600 Road between Locust and Draft Horse Roads in locations currently within Tri-County's water service area ("6600 Road Developments").

As buildout of the Bear Creek subdivision continues and once the 6600 Road Developments occur, it is expected that the Interim Interconnect at Draft Horse/Barnwood Roads will not be sufficient to meet fire flow demands for the area.

Now, therefore, in consideration of the above recitals, and the mutual covenants and agreements contained herein, the Parties agree as follows:

AGREEMENT

1. The existing City water service area boundary shall be expanded as shown in Exhibit A to generally encompass the proposed 6600 Road Developments and allow this area to be serviced by the City.
2. The City shall construct a new 12 inch mainline along 6600 Road in general conformance with the alignment shown in Exhibit A ("City Mainline"). The City Mainline will provide service and fire protection to the proposed 6600 Road Developments, will have the secondary benefit of providing a redundant feed to nearby portions of the City's water distribution system, and will also serve as the supply line for a new interconnect to be located at 6600 Road and Draft Horse.
 - a. The City Mainline shall be constructed as a replacement of the existing Tri-County 14-inch asbestos-cement waterline south of Draft Horse Road. Once the City Mainline is constructed, existing services on the Tri-County waterline will be changed over to the City Mainline and the existing Tri-County waterline shall be abandoned.
 - b. Existing Tri-County water customers within the City service area boundary modified herein that are located outside of Montrose City Limits shall remain as Tri-County water customers but will be serviced by the City Mainline. Tri-County shall compensate the City for water usage by these customers according to the wholesale Project 7 water rate plus 5 percent. The City and Tri-County shall coordinate meter reading/usage data as necessary to facilitate customer and wholesale billing. This is expected to include **six** existing meters.
 - c. Any properties serviced by the City Mainline, within City Limits, and within the City service area boundary modified herein shall become City water customers concurrent with construction of the City Mainline. City shall be responsible for all outreach, communication, meter swaps, and billing changeovers associated with this change. This is expected to include **five** existing meters.
 - d. The new City Mainline shall connect to the existing Tri-County waterline on Draft Horse Road, the City shall become the owner and operator of this line, and existing customers on Draft Horse Road shall become City water customers. City shall be responsible for all outreach, communication, meter swaps, and billing changeovers associated with this change. At this time, this is expected to include **25** existing meters.

- e. The City shall install pressure reducing valves in a standalone meter pit immediately downstream of existing water meter pits for any water services changing over to the City Mainline that do not currently include a pressure reducing valve on their plumbing. Because the City Mainline is expected to be higher pressure than the Tri-County distribution system, these pressure reducing valves will give water customers the option to reduce pressure on their service. City shall coordinate with homeowners to advise them of the installation and initial pressure settings.
 - f. As annexations, development, and redevelopment occur within the City service area boundary modified herein, all new water customers shall connect to and be serviced by City water.
 - g. The City shall construct an emergency permanent interconnect between the City and Tri-County water systems at the intersection of Draft Horse and 6600 Roads on the northern end of the City Mainline. This shall be designed and constructed in general conformance with the January 2023 Interconnect Agreement but at the updated location.
 - h. The City shall design and construct the City Mainline and associated infrastructure as soon as practicable and as budget approvals allow. At this time, construction is tentatively scheduled for the summer of 2025.
3. Both Parties consider the proposed service area modification, associated City Mainline, and water system interconnect to be mutually beneficial given the improvement to fire protection for the area, improvements to system reliability, allowance for continued development within both water service areas, and its role in helping to address our community's housing needs. As a result, no monetary compensation is proposed between the Parties as part of this Agreement with the exception of water usage billing discussed in Section 2.b above and emergency interconnect billing (if any) discussed in the Interconnect Agreement. This shall satisfy as appropriate compensation pursuant to Section 7 of the 1999 Service Area Agreement.
4. The City agrees to release and hold harmless Tri-County, its officers and employees, and to be solely responsible for any liability, loss and expense on account of injury, claim or damage resulting from the actions or omissions of the City, or any employee, agent or assignee of the City, which arise out of or are in any manner connected with this Agreement. Tri-County agrees to release and hold harmless the City, its officers and employees, and to be solely responsible for any liability, loss and expense on account of injury, claim or damage resulting from the actions or omissions of Tri-County, or any employee, agent or assignee of Tri-County, which arise out of or are in any manner connected with this Agreement. The Parties are public entities governed by the Colorado Governmental Immunity Act, Colo. Rev. Stat. § 24-10-101, *et seq.* (the "Act"). Notwithstanding any other provision of this Agreement to the contrary, no term or condition hereof shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Act, as now or hereafter amended. The Parties understand and agree that liability for claims of injury to persons or property arising out of acts of public entities, their officers and employees, are controlled and limited by provisions of the Act, as now or hereafter amended, which

provisions are hereby incorporated and made a part of this Agreement.

5. This Agreement shall not be construed to create a financial obligation extending beyond any current fiscal year. The Parties' expenditure of any monies necessary to fulfill the terms of this Agreement is subject to annual budget appropriations as required by provisions of the Taxpayers' Bill of Rights ("TABOR") contained in Article X, Section 20 of the Colorado Constitution, as amended. The Parties further agree that any failure to fund the obligations set forth herein as a result of TABOR-related monetary constraints shall not give rise to any legal or equitable cause of action whatsoever.
6. Only the Parties shall have enforceable rights and remedies under this Agreement; there shall be no enforceable rights or remedies conferred upon any third party. The Parties reserve the power to modify, renew, or terminate this Agreement without the consent of any third party.
7. Each Party hereto agrees to cooperate in good faith in all reasonable respects necessary to consummate the transactions contemplated by this Agreement, and from time to time to do such acts and things as may reasonably be required in order to implement the transactions contemplated hereby. Each Party hereto agrees to cooperate in the execution of subsequent addenda, or to re-execute an amended version of this Agreement, in the event that a Party discovers: 1) a clerical error; or 2) a misinterpretation of law; or 3) an error as to form; when such error(s) obviate or hinder the consideration, performance or enforcement of this Agreement.
8. The Parties may not amend this Agreement, except by written agreement of the Parties that identifies itself as an amendment to this Agreement.

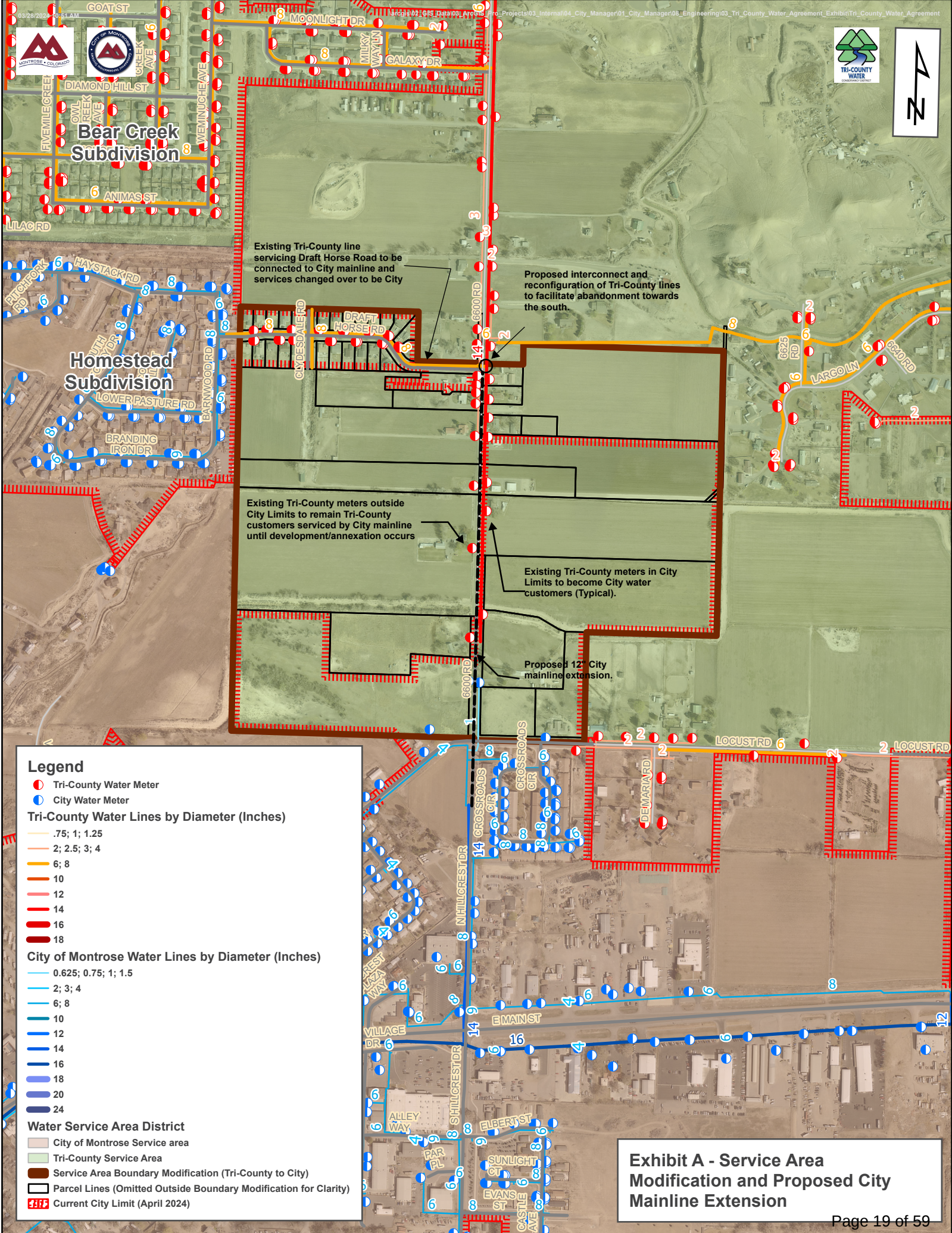
This Modification Agreement shall be deemed effective as of the date of the execution and for the term of the 1999 Service Area Agreement unless earlier modified, extended, or amended by written agreement signed by both parties.

CITY OF MONTROSE

**TRI-COUNTY WATER
CONSERVANCY DISTRICT**

William Bell, City Manager

Jerry M. Young, General Manager



Legend

- Tri-County Water Meter
- City Water Meter

Tri-County Water Lines by Diameter (Inches)

- .75; 1; 1.25
- 2; 2.5; 3; 4
- 6; 8
- 10
- 12
- 14
- 16
- 18

City of Montrose Water Lines by Diameter (Inches)

- 0.625; 0.75; 1; 1.5
- 2; 3; 4
- 6; 8
- 10
- 12
- 14
- 16
- 18
- 20
- 24

Water Service Area District

- City of Montrose Service area
- Tri-County Service Area
- Service Area Boundary Modification (Tri-County to City)
- Parcel Lines (Omitted Outside Boundary Modification for Clarity)
- Current City Limit (April 2024)

Exhibit A - Service Area Modification and Proposed City Mainline Extension

CITY OF MONTROSE
Development Agreement
With
SFP-E, LLC

Table of Contents

1.	PARTIES.....	2
2.	EFFECTIVE DATE AND NOTICE OF NONLIABILITY.....	2
3.	RECITALS	2
4.	DEFINITIONS	2
5.	TERM AND EARLY TERMINATION	4
6.	STATEMENT OF WORK AND UNDERSTANDING OF PERFORMANCE.....	4
7.	BREACH.....	5
8.	REMEDIES	5
9.	REPRESENTATIONS AND WARRANTIES	7
10.	NOTICES AND REPRESENTATIVES.....	8
11.	GENERAL PROVISIONS.....	8
12.	SPECIAL PROVISIONS	11
	SIGNATURE PAGE.....	13
	EXHIBIT A – SITE PLAN.....	14
	EXHIBIT B – WATERLINE PROJECT PLANS	16

1. PARTIES

This Development Agreement (hereinafter called "Agreement") is entered into by and between the City of Montrose, whose address is 400 East Main Street, Montrose, Colorado 81401 (hereinafter called "City"), SFP-E, LLC, whose address is 20900 Cooley Rd., Bend, OR 97701 (hereinafter called "Grantee").

2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY

This Agreement shall not be effective or enforceable until it is approved and signed by the City Manager or designee and the Grantee (hereinafter called the "Effective Date"). The City shall not be liable to pay or reimburse Grantee for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof, prior to the Effective Date, unless expressly provided.

3. RECITALS

A. Authority, Appropriation, and Approval

The City enters into this agreement under authority of the Constitution of the State of Colorado as a home-rule municipality.

B. Consideration

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Agreement.

C. Purpose

In the interest of promoting, economic development, and local businesses, this Agreement is serving as a specific inducement for Grantee to commit to the location and construction of its local business.

D. References

All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

4. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

A. Evaluation

"Evaluation" means the process of examining Grantee's Work and completion is based on criteria as set forth in this Agreement.

B. Employee

"Employee" or "Full Time Position" (FTP) means a person who works in the service of

Grantee or its subsidiaries, under an express or implied contract of hire under which the employer has the right to control the duties of work performance.

C. Goods

“Goods” means tangible material acquired, produced, or delivered by Grantee either separately or in conjunction with the Services Grantee renders hereunder.

D. Agreement

“Agreement” means this agreement, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Agreement, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado State law, City ordinance and City Fiscal Policies.

E. Grant Funds

“Grant Funds” means funds available for distribution by the City payable by the City to Grantee or a Sub-grantee, pursuant to this Agreement.

F. Party or Parties

“Party” means the City or Grantee and “Parties” means both the City and Grantee.

G. Review

“Review” means examining Grantee’s Work to ensure that it is adequate, accurate, correct and in accordance with the criteria set forth in this agreement.

H. Services

“Services” means the Funds or Work to be contributed by the City pursuant to this Agreement.

I. Sub-grantee

“Sub-grantee” means third-parties, if any, engaged by Grantee to aid in performance of its obligations under this Agreement.

J. Work or Project

“Work” or “Project” means the tasks and activities described in Sections 6.C. and 6.D. below.

K. Work Product

“Work Product” means the tangible or intangible results of Grantee’s Work, including, but not limited to, software, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type, including drafts.

5. TERM AND EARLY TERMINATION

A. Initial Term and Work Commencement

The Parties' respective performances under this Agreement shall commence on the Effective Date and this Agreement shall terminate on June 30, 2026 unless sooner terminated or further extended as specified elsewhere herein. Grantee shall obtain a building permit, signifying the beginning of work, no later than January 1, 2025.

B. Obligations Non-Transferrable and Sale of the Property

Grantee's rights and obligations under this Agreement are personal and nontransferable, except to Sub-grantees. If the property subject to this Agreement is no longer the location of the business or the nature of the project changes, it shall be a breach of this Agreement. The duties of this Agreement shall survive such a sale of the property.

6. STATEMENT OF WORK AND UNDERSTANDING OF PERFORMANCE

A. Completion

City shall perform or pay for the Work and Services as outlined in Section 6.C. below. Provided that Grantee is approved for a building permit, Grantee shall endeavor to complete the Work described in Section 6.B. and D. below on or before June 30, 2026.

B. Grantee's Obligation;

In consideration for the Services described in Section 6.C. below, Grantee shall construct (or cause to be constructed) a Les Schwab Tire Center by June 30, 2026 (the "Completion Date"), in general conformance with the site plan attached as Exhibit A. Grantee shall have sole responsibility for and control over the design, development, and construction of the Project.

C. Infrastructure; Work

The City agrees to complete as an in-kind contribution or reimburse for costs of the Services described in the following table.

Description of Work	In-Kind Contribution	Maximum Reimbursement*
Montrose Drive Waterline Interconnect and Off-Site Mainline Waterline Installation (see Exhibit B)	\$334,037	N/A
Montrose Drive Right of Way Sidewalk Replacements (see Exhibit A)	\$30,000	N/A
Offsite Mainline Sewer Installation (See Exhibit A)	N/A	\$368,582
Totals:	\$364,037	\$368,582

* City shall reimburse Grantee or their contractor for actual costs incurred by Grantee in completing the described Work up to the maximum reimbursement listed and in accordance with §8.D.i.

City shall pay for the Services described above upon task completion. Grantee shall reasonably cooperate with City in the completion of such Services.

7. BREACH

A. Defined

In addition to any breaches specified in other sections of this Agreement, the failure of either Party to perform any of its material obligations hereunder, in whole or in part or in a timely or satisfactory manner, constitutes a breach of this Agreement. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in § 9. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the aggrieved Party may exercise any of the remedies set forth in § 8. Notwithstanding anything to the contrary herein, the City, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Agreement in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

8. REMEDIES

If Grantee is in breach under any provision of this Agreement, the City shall have all of the remedies listed in this § 8 in addition to all other remedies set forth in other sections of this Agreement following the notice and cure period set forth in § 7(B). The City may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

A. Termination for Cause and/or Breach

If Grantee fails to perform any of its obligations hereunder with such diligence as is required by this Agreement following the applicable notice and cure period, the City, at its option, upon written notice to Grantee, may terminate this entire Agreement or such part of this Agreement as to which there has been delay or a failure to properly perform. Exercise by the City of this right shall not be deemed a breach of its obligations hereunder.

Grantee shall continue performance of this Agreement to the extent not terminated, if any.

B. If Grantee fails to complete the project, Grantee shall reimburse the City for all amounts paid by the City to Grantee for completed work and in-kind contributions up to the amount set forth in Section 6.C. above. Nothing herein shall be construed to limit or otherwise restrict Grantee's ability to sell, lease, mortgage, or otherwise dispose of all or any portion of the Parcel following the Completion Date.

C. If the City terminates the Agreement as set forth herein, Grantee may continue with the Project at its own expense.

D. Payments

i. The City shall reimburse Grantee for the amounts specified in Section 6.C. above only for accepted performance within thirty (30) days after issuance of Certificate of Occupancy, through the effective date of termination. Should Grantee not obtain a Certificate of Occupancy prior to June 30, 2026, Grantee shall not be reimbursed any amounts specified in Section 6.C. If, after termination by the City, it is determined that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest and the rights and obligations of the Parties shall be the same as if this Agreement had been terminated in the public interest, as described herein, and the City shall promptly reimburse Grantee for amounts specified in Section 6.C.

ii. Damages and Withholding
Notwithstanding any other remedial action by the City, Grantee also shall remain liable to the City for any damages sustained by the City by virtue of any breach under this Agreement by Grantee and the City may withhold any payment to Grantee for the purpose of mitigating the City's damages, until such time as the exact amount of damages due to the City from Grantee is determined.

E. Remedies Not Involving Termination

The City, in its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

i. Withhold Payment
Withhold payment or make a partial payment to Grantee until corrections in Grantee's performance of the Work are satisfactorily made and completed, provided that City promptly notifies Grantee in writing of the City's disapproval of the Work.

ii. Deny Payment

Deny payment for those obligations not performed as set forth in this Agreement; provided that any denial of payment shall be reasonably related to the value to the City of the obligations not performed.

iii. Intellectual Property

If Grantee infringes on a patent, copyrights, trademark, trade secret or other intellectual property right while performing its obligations under this Agreement, Grantee shall, at the City's option (a) obtain for the City or Grantee the right to use such products and services; (b) replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, (c) if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to the City.

9. REPRESENTATIONS AND WARRANTIES

The Grantee has written consent of the real property owner to make any and all improvements on the real property that are considered by this Grant and has full power, right and authority, and any approval required by law, to make and enter into this Agreement.

Grantee makes the following specific representations and warranties, each of which was relied on by the City in entering into this Grant.

A. Standard and Manner of Performance

Grantee shall perform its obligations hereunder in accordance with the highest standards of care, skill and diligence in the industry, trades or profession and in the sequence and manner set forth in this Grant.

B. Legal Authority – Grantee and Grantee's Signatory

Grantee warrants that it possesses the legal authority to enter into this Grant and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this grant, or any part thereof, and to bind Grantee to its terms. If requested by the City, Grantee shall provide the City with proof of Grantee's authority to enter into this Grant within 15 days of receiving such request.

C. Licenses, Permits, Etc.

Grantee represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Grant, without

reimbursement by the City or other adjustment in Grant Funds. Additionally, all employees and agents of Grantee performing Services under this Grant shall hold all required licenses or certifications, if any, to perform their responsibilities. Grantee, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Grantee to properly perform the terms of this Grant shall be deemed to be a material breach by Grantee and constitute grounds for termination of this Grant.

10. NOTICES AND REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not lieu of a hard-copy notice, notice also may be sent via e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

A. City of Montrose:

William E. Bell, City Manager
or Current City Manager
400 E. Main Street
Montrose, CO 81401
Ph: 970-240-1400
Email:
wbell@Cityofmontrose.org

cc: Chris Dowsey, City Attorney
or Current City Attorney
400 E. Main Street
Montrose, CO 81401
Ph: 970-240-1440
Email:
bmorris@Cityofmontrose.org

B. Grantee:

SFP-E, LLC
Attn: Real Estate
P.O. Box 5350
Bend, Oregon 97708

11. GENERAL PROVISIONS

A. Assignment and Sub-grants

Grantee's rights and obligations hereunder are personal and may not be transferred, assigned or sub-granted without prior, written consent of the City. Any attempt at assignment, transfer or sub-granting without such consent shall be void as will be this Agreement. All

assignments, Sub-grants, or Sub-grantees approved by Grantee or the City are subject to all of the provisions hereof. Grantee shall be solely responsible for all aspects of sub-granting arrangements and performance. Ownership transfers in excess of 20% will require the City's approval in writing. This approval will not be unreasonably withheld.

B. Binding Effect

All provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representative, successors, and assigns.

C. Captions

The captions and headings in this Grant are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

D. Counterparts

This Grant may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

E. Entire Understanding

This Grant represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior to contemporaneous additions, deletions, or other changes hereto shall not have any force or affect whatsoever, unless embodied herein.

F. Indemnification – General

To the fullest extent permitted by law, the Grantee agrees to indemnify and hold harmless the City, its officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the performance of the services under this contract, if such injury, loss, or damage, or any portion thereof, is caused by, or claimed to be caused by, the act, omission, or other fault of the Grantee or any Sub-grantee of the Grantee, or any officer, employee, or agent of the Grantee or any Sub-grantee, or any other person for whom Grantee is responsible. The Grantee shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims and demands, and to bear all other costs and expenses related thereto, including court costs and attorneys' fees. The Grantee's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the City.

G. Jurisdiction and Venue

All suits, actions, or proceedings related to this Agreement shall be held in the State of Colorado and exclusive venue shall be in the City and County of Montrose.

H. Modification

- i. Except as specifically provided in this Agreement, modifications of this Agreement shall not be effective unless agreed to in writing by the Parties in an amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law and City ordinances.
- ii. **By Operation of Law**
This Agreement is subject to such modifications as may be required by changes in Federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Agreement on the effective date of such change, as if fully set forth herein.

I. Order Precedence

The provisions of this Agreement shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this Agreement and its exhibits and attachments including, but not limited to, those provided by Grantee, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. Special Provisions;
- ii. The provisions of the main body of this Agreement ; and
- iii. Exhibit A

J. Severability

Provided this Agreement can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.

K. Survival of Certain Terms

Notwithstanding anything herein to the contrary, provisions of this Agreement requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the City if Grantee fails to perform or comply as required.

L. Third Party Beneficiaries

Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

M. Waiver

Waiver of any breach of a term, provision, or requirement of this Agreement , or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

12. SPECIAL PROVISIONS

These Special Provisions apply to all Grants except where noted in italics.

A. City APPROVAL.

This Agreement shall not be deemed valid until it has been approved by the City of Montrose City Manager and Montrose City Council.

B. GOVERNMENTAL IMMUNITY.

The Parties hereto understand and agree that the City is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, (C.R.S. § 24 10 101 et seq.,) as from time to time amended, or otherwise available to the City.

C. INDEPENDENT CONTRACTOR.

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agents or employee of Grantee shall be deemed to be an agent or employee of the City. Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the City and the City shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Unemployment insurance benefits shall be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Grant. Grantee shall not have authorization, expressed or implied, to bind the City to any agreement, liability or understanding, except as expressly set forth herein. Grantee shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the City, and (c) be solely responsible for its acts and those of its employees and agents.

D. COMPLIANCE WITH LAW.

Grantee shall strictly comply with all applicable Federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

E. CHOICE OF LAW.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Grant. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Grant, to the extent capable of execution.

F. BINDING ARBITRATION PROHIBITED.

The City does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Agreement or incorporated herein by reference shall be null and void.

G. SOFTWARE PIRACY PROHIBITION.

The City or other public funds payable under this Grant shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Grant and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the City determines the Grantee is in violation of this provision, the City may exercise any remedy available at law or in equity or under this Grant, including without limitation, immediate termination of this Grant and any remedy consistent with federal copyright laws or applicable licensing restrictions.

H. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST.

The signatories aver that to their knowledge, no employee of the City has any personal or beneficial interest whatsoever in the service or property described in this Grant. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

I. TABOR.

The Parties agree that the City's payment of any monies under this Agreement is subject to annual budget appropriations as required by provisions of the Taxpayers' Bill of Rights ("TABOR") contained in Article X, Section 20 of the Colorado Constitution, as amended. The Parties further agree that any failure to fund the obligations set forth herein as a result of TABOR-related monetary constraints shall not give rise to any legal or equitable cause of action whatsoever.

SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

*Persons signing for Grantee hereby swear and affirm that they are authorized to act on Grantee's behalf and acknowledge that the City is relying their representations to that effect.

CITY OF MONTROSE

GRANTEE

By: _____
William E. Bell, City Manager

By: _____

State of Colorado)
) ss.
County of Montrose)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by William E. Bell, City Manager, City of Montrose.

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

(Seal)

Notary

State of Colorado)
) ss.
County of Montrose)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by,

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

(Seal)

Notary

EXHIBIT A – SITE PLAN

EXHIBIT B – WATERLINE PROJECT PLANS

To: William Bell; Anthony Russo

From: Bert Hayenga

CC: Brian Zurek

Date: July 18, 2024

Re: 1901 S. Townsend Avenue, Montrose, Colorado
Permit Number: 2308-697-BLD

DTV Montrose Drive, LLC ("DTV") owns 5.14 ac located at 1901 S. Townsend Avenue ("Property"). DTV's Development is a Les Schwab Tire Center on the northwest portion of the Property consisting of approximately 1.97 acre ("Les Schwab Site"). Directly south of the Les Schwab Site with Townsend Ave. frontage will be a ~1.40 acre retail PAD that will likely be a service-oriented retail building with a drive-thru. Additionally, there will be a ~1.75 ac PAD remaining on the east side of the Property where DTV is in conversation to develop a hotel, multi-family housing etc., subject to market conditions. Further identified on Exhibit A.

The cost to acquire the Land, develop the On & Off Site Les Schwab Improvements and develop the Les Schwab Tire Center Improvements totals **\$9,422,188.00.**
(Not including future vertical improvements for the aforementioned PADs)

We plan to commence construction August 15, 2024.

Cost breakdown for the Development:

1. Land: \$1,950,000.00
2. On & Off Site Les Schwab Improvements: \$676,000.00
3. Les Schwab Tire Center Improvements: \$6,796,188.00

Total Project Costs: **\$9,422,188.00**

Les Schwab Tire Center Community Impact:

Yearly Revenue Projections:

\$3,500,000.00

Community Impact:

Les Schwab Tire Center benefits the community by providing an essential service (the sale and installation of tires, wheels, shocks, breaks), a state/city revenue source in the form of sales tax, employment opportunities, along with our traditional community support. Les Schwab is actively involved in local charities, including school district athletics, children's organizations and many, many more.

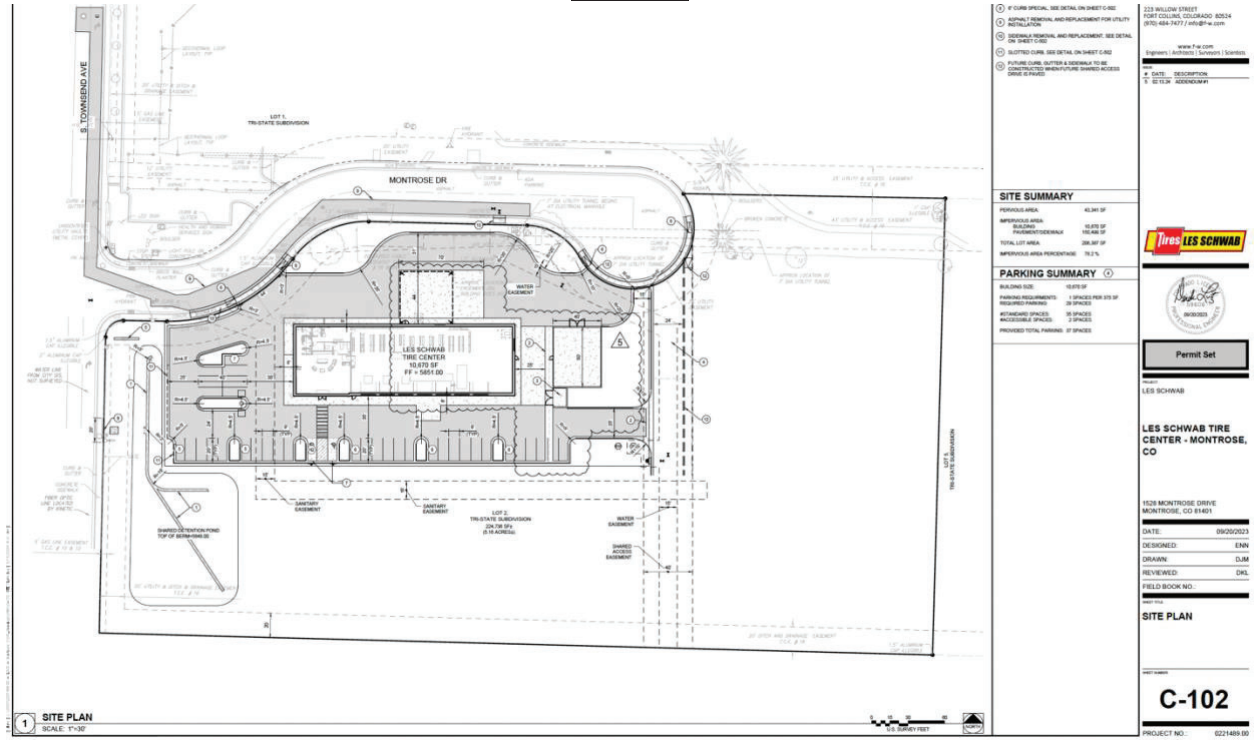
Number of Jobs created:

Les Schwab Tire Center expects to employ 10 – 12 full time jobs with incomes ranging from \$40,000.00 - \$115,000.00 per year with excellent benefits and growth opportunities. Les Schwab hires locally and has a "promote from within" culture. We offer our employees many opportunities for advancement with both on-line and hands-on training. Every Operations leader started their career in a sales or service position within a store.

Employee Benefits:

Full time employees receive full benefits and the industry's best retirement plan. Les Schwab shares approximately half of its profits with employees through several generous programs including health benefits, bonus, and retirement.

Exhibit A



CONTRACT AWARD CONSIDERATION



TO: Honorable Mayor and Members of the City Council
FROM: Scott Murphy, *City Engineer*
DATE: July 30, 2024
RE: Montrose Drive Waterline Interconnect Construction Contract Award
CC: William Bell, Shani Wittenberg

Action

Consider the award of a construction contract to Ridgway Valley Enterprises in the amount of \$334,037.00 for completion of the Montrose Drive Waterline Interconnect construction project.

Background

Water service in the vicinity of Montrose Drive, east of Townsend Avenue is currently provided (to Montrose County Health and Human Services) through several small-diameter waterlines running on private property and inaccessible to other parcels within the area. The area also only has a single point of connection without any backup looping to other portions of the City's water system. In response to these shortcomings, the City has desired to install a properly-sized mainline within the Montrose Drive right of way and interconnect to existing mainlines located further towards the east. To that end, the City added a mainline waterline stub to east Montrose Drive as part of the Townsend Avenue Waterline Replacement Project in 2022. This stub alone did not resolve the issues, but it did provide a tie-point to facilitate an eventual water system cleanup and interconnection in the area.

Developers have been working over the past several years to bring commercial development (Les Schwab Tire Center and potentially a future drive through restaurant, housing, and/or hotel) to the southern side of east Montrose Drive. A lack of water and sewer infrastructure has generally precluded development of this area as it would be cost ineffective to bring these utilities to the site for any single project.

The proposed Montrose Drive Waterline Interconnect project discussed herein plans to finish the mainline water infrastructure within Montrose Drive and interconnect to existing lines towards the east. The project also relocates some water services to facilitate the abandonment of a redundant asbestos cement waterline along the eastern shoulder of Townsend Avenue. With this redundant Townsend waterline abandoned, space then becomes available for the developer to run a sewerline down the eastern side of Townsend Avenue and service the Montrose Drive developments.

An overview of the waterline project area is included as an attachment to this memo.

Project Bidding and Associated Expenditures

Construction of the waterline project was put out for bid on May 9th and bids were publicly received on June 3, 2024 from three contractors as summarized in Table 1 below. Bid totals presented include a 10 percent contingency.

TABLE 1
Summary of Bid Results

Contractor	Location	Bid Total
Ridgway Valley Enterprises	Montrose, CO	\$334,037.00
K&D Construction	Grand Junction, CO	\$339,422.11
Haynes Excavation	Montrose, CO	\$352,847.41

The City has recent positive experience working with the low bidder, Ridgway Valley Enterprises, on numerous capital projects and considers them qualified to perform the work. It should be noted that the City's local preference policy would not change the outcome of bidding in this case.

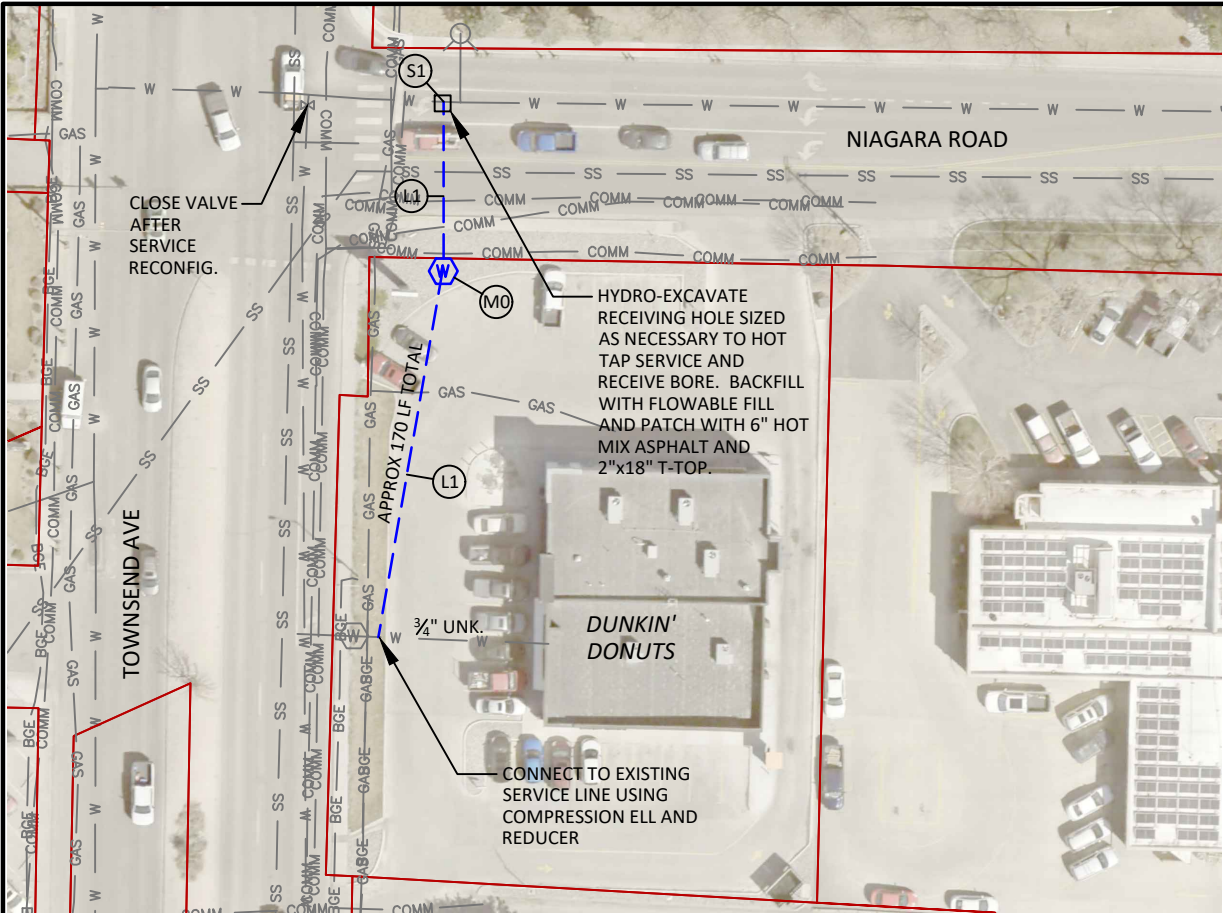
Project Schedule and Traffic Control

This project is scheduled to be complete by the end of 2024. Work will require localized closures of Montrose Drive although access to Montrose County Health and Human Services will remain open throughout construction. Waterline work within Townsend Avenue will be performed along shoulders areas during the daytime and any required lane closures would occur in the overnight hours.

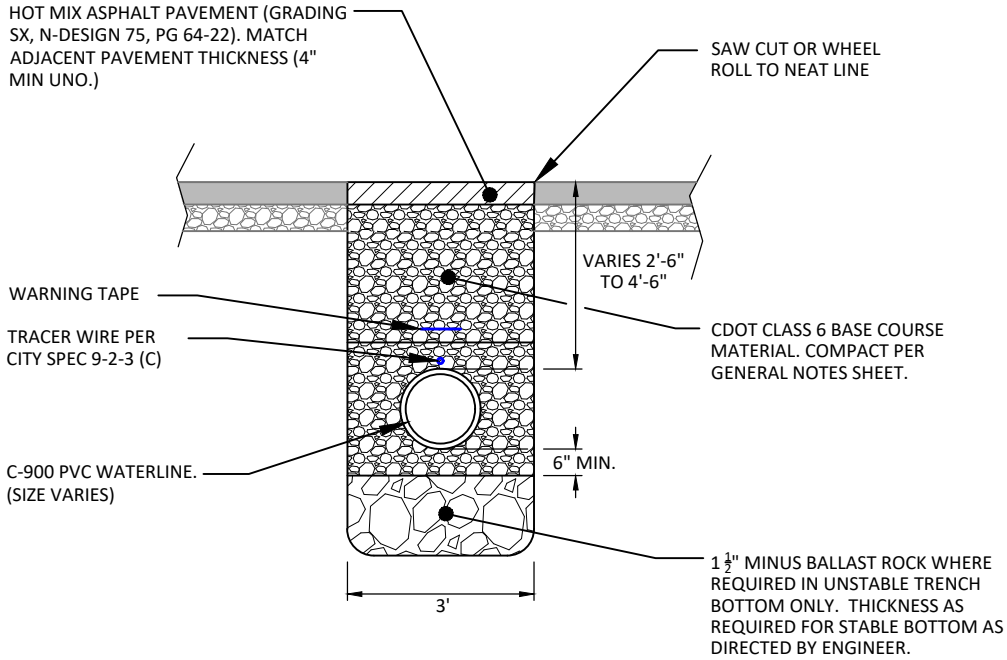
Contract Administration and Project Financials

Contract administration, project management, survey, and inspection will be performed by the City of Montrose engineering department. Because the project was designed in-house, no outside surveying or design support is anticipated.

The City budgeted \$150,000 for the easternmost interconnect portions of this project in the 2024 water capital budget. The remaining \$184,037 covers the western portions of the project feeding the development area and service abandonments needed to facilitate their sewer project. These work elements are deemed an economic incentive and the expenditures are being considered separately as part of a development agreement for the area.



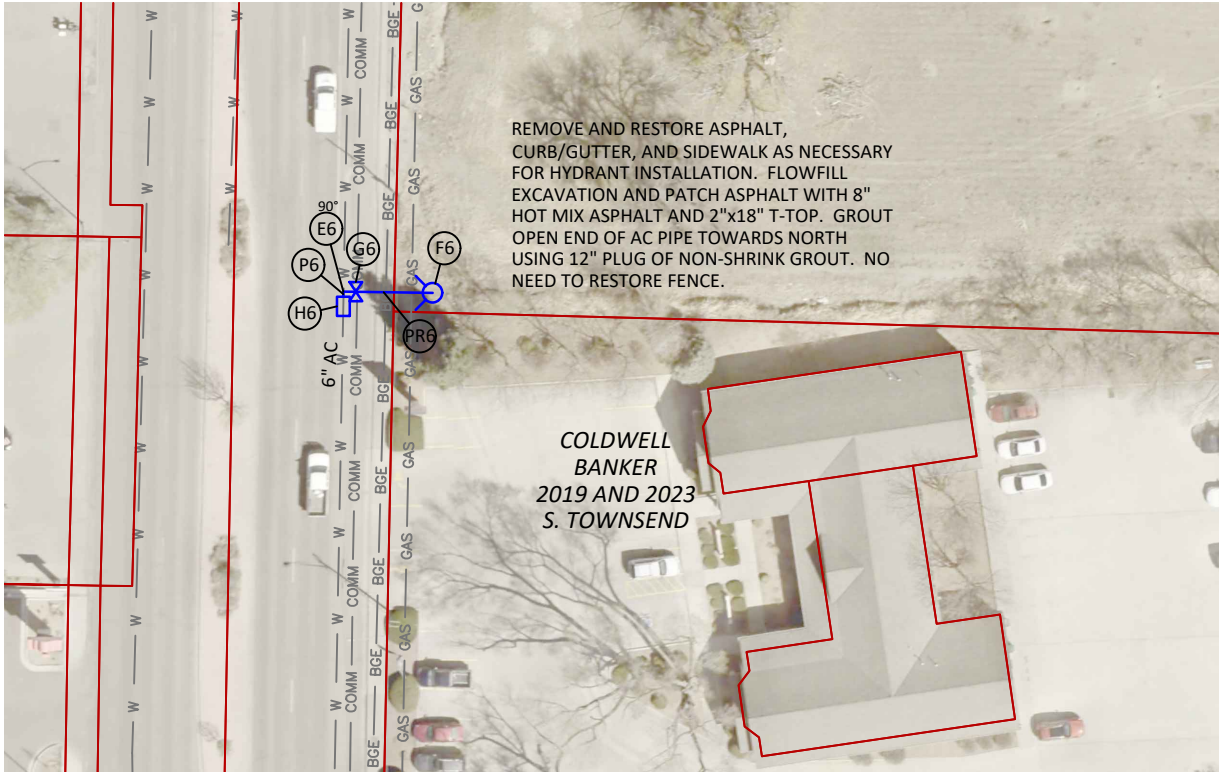
DUNKIN' DONUTS WATER SERVICE RECONFIGURATION



TYPICAL MONTROSE DRIVE WATERLINE TRENCH
NTS

SCHEDULE OF PIPE	
Identifier	Description
P6	6" (ID) AWWA C-900 Class 235 (DR18) PVC Pipe
PR6	6" (ID) AWWA C-900 Class 235 (DR18) Certa-Lok PVC Pipe
P8	8" (ID) AWWA C-900 Class 235 (DR18) PVC Pipe
PR8	8" (ID) AWWA C-900 Class 235 (DR18) Certa-Lok PVC Pipe (Dashed Lines to be Directionally Drilled)
L1	1" Pure-Core Service Lateral - Directionally Drilled

SCHEDULE OF FITTINGS			
Identifier	Description	Size (in)	Notes
T6	Tee	6 x 6 x 6	Epoxy coated mechanical restrained joint
T8	Tee	8 x 8 x 8	Epoxy coated mechanical restrained joint
E6	45° or 90° Ell	6 x 6	Epoxy coated mechanical restrained joint
E8	45° Ell	8 x 8	Epoxy coated mechanical restrained joint
R8	Reducer	8 x 6	Epoxy coated mechanical restrained joint
C8	Cap	8	Epoxy coated mechanical restrained joint
SS8	Solid Sleeve Coupling	8 x 8	Epoxy coated mechanical restrained joint
H6	Hymax Coupling	6 x 6	
S1	Service Line Tap	1	CC Thread. See City Standard Detail W-03. Incl. corp stop valve
M0	Meter Pit Assembly	0.75	Incl. curb stop valve, yoke, meter pit, reducer, lid. See City Standard Detail W-03
G6	Gate Valve	6	See City Standard Detail W-10
G8	Gate Valve	8	See City Standard Detail W-10
F6	Fire Hydrant	6	See City Standard Detail W-09. Excl. ell, isolation valve, and lateral paid elsewhere.



NEW TOWNSEND LINE TERMINAL POINT
(PERFORM AFTER DUNKIN' SERVICE RECONFIGURATION ABOVE)

FOR BIDDING
PURPOSES ONLY
NOT APPROVED FOR
CONSTRUCTION



REVISIONS		DESCRIPTION	
NO	DATE	BY	CHK'D
A	3-27-24	SAM	RDC
B	5-9-24	SAM	RDC
Date:		3-26-2024	
Job No:		24.14.1	
Drawn:		SAM	
Design:		SAM	
Checked:		RDC	
Scale:		AS SHOWN	

ORDINANCE NO. 2670

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, UPDATING TITLE 6 CHAPTER 1, OF THE OFFICIAL CODE OF THE CITY OF MONTROSE, COLORADO: REPEALING AND REPLACING TITLE 6 CHAPTER 1 SECTION 10 (6-1-10), REGARDING UNAUTHORIZED CAMPING; REPEALING AND REPLACING TITLE 6 CHAPTER 1 SECTION 12 (6-1-12), REGARDING SLEEPING ON SIDEWALKS, STREETS, CURBS, PARKING SPACES, ALLEYS, PUBLIC RIGHT-OF-WAY OR WITHIN DOORWAYS PROHIBITED; AND AMENDING TITLE 9 CHAPTER 10 SECTION 1 (9-10-1), REGARDING PARK HOURS

WHEREAS, the City of Montrose is a home rule municipal corporation operating under adopted charter pursuant to § 6 of Article XX of the Colorado Constitution; and

WHEREAS, the State of Colorado has recognized the authority of municipal governments, in relation to their general police powers enumerated in C.R.S. § 31-15-401(1)(a)-(q), to “do all acts and make all regulations which may be necessary or expedient for the promotion of health” as well as to declare what is a nuisance, to set punishments and abate declared nuisances; and

WHEREAS, the City of Montrose as property owner has a governmental interest in the preservation of its public property, including but not limited to its parks, for the general health, welfare, and benefit of all of its citizens, and recognizes the need to have a clear system of regulation to allow for authorized, permitted camping while establishing rules to ensure safe access to the general public of its rights-of-ways on public property; and

WHEREAS, the conduct of unlawful camping on municipal-owned land raises health, welfare and safety concerns as well as negatively impacts the public land as a use; and

WHEREAS, the conduct of unlawfully remaining after notice to cease and desist sleeping in public and private rights-of-way used for pedestrian and vehicular traffic raises health, welfare and safety concerns as well as impacts the safety of all users of those spaces; and

WHEREAS the United States Supreme Court recently held the enforcement by municipal governments of generally applicable laws prohibiting camping on public property does not constitute cruel and unusual punishment proscribed by the Eighth Amendment of the Constitution of the United States, *City of Grants Pass, Oregon v Johnson*, 603 U.S. ___, 144 S.Ct. 2202 (2024); and

WHEREAS, the City of Montrose updates the Municipal Code from time to time;
and

WHEREAS, the City Council of the City of Montrose has determined that the changes to the Municipal Code will further the health, safety, and welfare of the people of the City of Montrose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO that:

SECTION 1:

Title 6, Chapter 1 Section 10. (6-1-10) (Reserved.) of the Official Code of the City of Montrose, Colorado, is hereby repealed and replaced to read in its entirety as follows:

6-1-10. - Unauthorized camping.

- (A) It shall be unlawful for any person to camp on any public property within the municipal limits of the City of Montrose, except in a location where camping has been expressly authorized as a permitted activity in compliance with Title 9 of the Official Code of the City of Montrose.
- (B) It shall be unlawful for any person to camp on private property without the express consent of the property owner or the owner's agent.
- (C) It is unlawful for any person to construct or erect any building or structure, whether permanent or temporary, on any public property owned by the City of Montrose without express permission from the City to do so.
- (D) For purposes of this section, the following definitions are applicable:

(1) *Camp or camping* means the use of property for the purpose of unauthorized overnight occupancy, or to reside or dwell on public property with shelter overnight, or the use of public property for the purpose of overnight occupancy or longer occupancy. The term "shelter" as used in this definition includes, without limitation, any tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of cover or protection from the elements other than clothing. The term "reside or dwell" includes, without limitation, conducting such activities as eating, sleeping, or the storage of personal possessions. Evidence of unauthorized camps includes, but is not limited to, sleeping, or making preparations to sleep by laying out personal belongings, bedding, bedroll(s), blanket(s), sleeping pad(s), sleeping bag(s), erecting or occupying a tent, makeshift shelter, lean-to, tarpaulin,

enclosure, or other structure used for overnight living purposes, or any form of cover or protection from the elements other than clothing, or making preparations for a fire or making a fire except for fires at sites specifically designated or authorized for a fire by the City of Montrose's Parks Department, setting up or using a camp stove, cooking device, or other type of heating source except for grills and personal grills permitted in designated areas by Parks Department. Camp or camping can include using a vehicle for overnight occupancy where overnight occupancy or overnight camping violates City Code or regulation or is not otherwise authorized by the City. Camping does not include napping during the day or picnicking.

(2) *Public property* means, by way of illustration, but not limited to, a highway, highway median, any street, street median, road, road median, alley, sidewalk, strips of land between streets and sidewalks, lanes, catch basins, pedestrian or transit mall, bike path, greenway, public parking lot, or any other structure or area encompassed within the public right-of-way; any park, parkway, mountain park, open space, natural area, all City owned or managed trails or hard surface trails and areas adjacent to those areas, beach, playground, or other publicly owned recreation facility; a municipal watercourse, bodies of water, watercourses, stormwater infrastructure such as, but not limited to, bridges, pipes, inlets and culverts; or any other grounds, buildings, or other facilities owned or leased by the city or by any other public entity, regardless of whether such public property is vacant or occupied and actively used for any public purpose.

- (E) For a first violation of this Section, the Court shall impose a fine of \$100.00 only. A first violation of this Section shall constitute a civil infraction. An adult defendant convicted of a second or subsequent offense in violation of this Section shall be punished by imprisonment in the county jail for at least 10 days but no more than the penalties in accordance with Section 1-2-3 of the Official Code of the City of Montrose, Colorado.
- (F) Unauthorized camping in violation of this Section is declared a nuisance under Section 6-4-1 of the Official Code of the City of Montrose. If the unauthorized camping occurred in a City park, the Court shall issue, for a first offense, an order of abatement limited to a written exclusion order from the City of Montrose's parks for a period of thirty (30) days. The Court has authority under this Section to issue any other orders for abatement of nuisance under Section 6-4-2 of the Official Code of the City of Montrose for second or subsequent violations. Nothing in this Section limits the discretion of the Municipal Court to enter separate orders it deems appropriate for a separate conviction for Nuisance under Article 4 of this Title.

- (G) A separate offense shall be deemed committed each day on which a violation of this Section continues. The Montrose Municipal Court may impose consecutive sentences for multiple violations proven beyond a reasonable doubt.
- (H) The affirmative defense of necessity, as codified in C.R.S. § 18-1-702, may be raised to a prosecution under this Section should sufficient evidence justify the defense.

SECTION 2:

Title 6, Chapter 1 Section 12. (6-1-12) (Reserved.) of the Official Code of the City of Montrose, Colorado, is hereby repealed and replaced to read in its entirety as follows:

6-1-12. - Sleeping on sidewalks, streets, curbs, parking spaces, alleys, public right-of-way or within doorways prohibited.

- (A) Sleeping on a public sidewalk, street, curb, parking space, alley, lane, breezeway, public right-of-way or in a space within a doorway or entryway abutting a public sidewalk is prohibited as unsafe, as this conduct may obstruct pedestrian and/or vehicular traffic, may inhibit the use of these spaces by the disabled in violation of federal and state law, and may place the person sleeping and/or the public in danger of harm.
- (B) No person may sleep on a public sidewalk, street, curb, parking space, alley, lane, breezeway or public right-of-way.
- (C) No person may sleep in any pedestrian or vehicular entrance to public or private property abutting a public sidewalk, to include spaces within a doorway or entryway on either public or private property.
- (D) No law enforcement officer shall issue a citation, make an arrest, or otherwise enforce this Section against any person unless a request to cease and desist is first made either verbally or in writing by any police officer or firefighter displaying or presenting indicia of acting under the color of their official authority, or by the property owner or their authorized agent, and the person unlawfully remains in violation of this Section.
- (E) For a first violation of this Section, the Court shall impose a fine of \$100.00 only. A first violation of this Section shall constitute a civil infraction. Second or subsequent offenses in violation of this Section may be punished in accordance with Section 1-2-3 of the Official Code of the City of Montrose, Colorado.

- (F) Any violation of this Section is hereby declared to be a nuisance which may be abated, pursuant to Chapter 4 of this Title of the Official Code of the City of Montrose.
- (G) Notwithstanding any other provision of law, any person found in violation of this Section may be immediately removed from the premises.

SECTION 3:

Title 9, Chapter 10 Section 1. (9-10-1.(A), (B)) (Park hours.) of the Official Code of the City of Montrose, Colorado, are hereby amended to read in their entirety as follows:

9-10-1. Park hours, permitted camping authorized.

- (A) All parks shall be closed between the hours of 11:00 p.m. and 5:00 a.m., unless other hours of closure are posted, in which case the posted hours shall control.
- (B) It shall be unlawful for any person to enter upon or remain upon any of said parks or City property during hours which they are closed pursuant to this Section, and such violation(s) may be cited under Title 6 of the Official Code of the City of Montrose or other applicable law. The official operations of the City of Montrose, persons acting under the direction of the City, and contractors or agents acting with the authorization of the City of Montrose are exempt from this Section.

SECTION 4:

New subsections (C), (D), (E), (F) and (G) are hereby added to Title 9, Chapter 10 Section 1. (9-10-1.(C), (D), (E), (F), (G)) (Park hours.) of the Official Code of the City of Montrose, Colorado, to read in their entirety as follows:

- (C) Camping is authorized on public property within the City of Montrose year round only at Lions Park. Camping in Lions Park is only authorized with a written permit obtained in advance from the City Clerk's Office.
- (D) Camping may be authorized on public property for persons attending events held at the City parks allowed pursuant to a events use permit or festival event permit obtained in advance from the City Clerk's Office and with the approval of the City Manager's Office.
- (E) Camping may be authorized by the City Manager or designee for those persons on authorized business for the City of Montrose.

- (F) Camping is authorized and no person shall be cited under this Section if a formal declaration of an emergency requires the use of temporary shelter space in accordance with City Charter or a declaration of the Governor of the State of Colorado.
- (G) The City Manager or designee is authorized to make such additional regulations as are necessary and convenient for the administration and enforcement of this Section, including the development of required forms.

SECTION 5:

Except as specifically amended hereby, the Official Code of the City of Montrose, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

SECTION 6:

The City Council hereby finds, determines and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the City of Montrose and the inhabitants thereof by codifying generally recognized law and procedure pertaining to plea bargains and sentencing.

SECTION 7:

The City Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the City of Montrose Charter.

SECTION 8:

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

SECTION 9:

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 10:

This Ordinance shall become effective as set forth in the City of Montrose Charter. You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its adoption on second reading on Tuesday, the ____ day of _____, 2024, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this _____ day of _____, 2024.

J. David Reed, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this ____ day of _____, 2024.

J. David Reed, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, UPDATING TITLE 6 CHAPTER 1, OF THE OFFICIAL CODE OF THE CITY OF MONTROSE, COLORADO: REPEALING AND REPLACING TITLE 6 CHAPTER 1 SECTION 10 (6-1-10), REGARDING UNAUTHORIZED CAMPING; REPEALING AND REPLACING TITLE 6 CHAPTER 1 SECTION 12 (6-1-12), REGARDING SLEEPING ON SIDEWALKS, STREETS, CURBS, PARKING SPACES, ALLEYS, PUBLIC RIGHT-OF-WAY OR WITHIN DOORWAYS PROHIBITED; AND AMENDING TITLE 9 CHAPTER 10 SECTION 1 (9-10-1), REGARDING PARK HOURS

WHEREAS, the City of Montrose is a home rule municipal corporation operating under adopted charter pursuant to § 6 of Article XX of the Colorado Constitution; and

WHEREAS, the State of Colorado has recognized the authority of municipal governments, in relation to their general police powers enumerated in C.R.S. § 31-15-401(1)(a)-(q), to “do all acts and make all regulations which may be necessary or expedient for the promotion of health” as well as to declare what is a nuisance, to set punishments and abate declared nuisances; and

WHEREAS, the City of Montrose as property owner has a governmental interest in the preservation of its public property, including but not limited to its parks, for the general health, welfare, and benefit of all of its citizens, and recognizes the need to have a clear system of regulation to allow for authorized, permitted camping while establishing rules to ensure safe access to the general public of its rights-of-ways on public property; and

WHEREAS, the conduct of unlawful camping on municipal-owned land raises health, welfare and safety concerns as well as negatively impacts the public land as a use; and

WHEREAS, the conduct of unlawfully remaining after notice to cease and desist sleeping in public and private rights-of-way used for pedestrian and vehicular traffic raises health, welfare and safety concerns as well as impacts the safety of all users of those spaces; and

WHEREAS the United States Supreme Court recently held the enforcement by municipal governments of generally applicable laws prohibiting camping on public property does not constitute cruel and unusual punishment proscribed by the Eighth Amendment of the Constitution of the United States, *City of Grants Pass, Oregon v Johnson*, 603 U.S. ___, 144 S.Ct. 2202 (2024); and

WHEREAS, the City of Montrose updates the Municipal Code from time to time;
and

WHEREAS, the City Council of the City of Montrose has determined that the changes to the Municipal Code will further the health, safety, and welfare of the people of the City of Montrose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO that:

SECTION 1:

Title 6, Chapter 1 Section 10. (6-1-10) (Reserved.) of the Official Code of the City of Montrose, Colorado, is hereby repealed and replaced to read in its entirety as follows:

6-1-10. - ~~Reserved.~~ Unauthorized camping.

- (A) It shall be unlawful for any person to camp on any public property within the municipal limits of the City of Montrose, except in a location where camping has been expressly authorized as a permitted activity in compliance with Title 9 of the Official Code of the City of Montrose.
- (B) It shall be unlawful for any person to camp on private property without the express consent of the property owner or the owner's agent.
- (C) It is unlawful for any person to construct or erect any building or structure, whether permanent or temporary, on any public property owned by the City of Montrose without express permission from the City to do so.
- (D) For purposes of this section, the following definitions are applicable:
 - (1) *Camp or camping* means the use of property for the purpose of unauthorized overnight occupancy, or to reside or dwell on public property with shelter overnight, or the use of public property for the purpose of overnight occupancy or longer occupancy. The term "shelter" as used in this definition includes, without limitation, any tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of cover or protection from the elements other than clothing. The term "reside or dwell" includes, without limitation, conducting such activities as eating, sleeping, or the storage of personal possessions. Evidence of unauthorized camps includes, but is not limited to, sleeping, or making preparations to sleep by laying out personal belongings, bedding, bedroll(s), blanket(s), sleeping pad(s), sleeping bag(s), erecting or occupying a tent, makeshift shelter, lean-to, tarpaulin,

enclosure, or other structure used for overnight living purposes, or any form of cover or protection from the elements other than clothing, or making preparations for a fire or making a fire except for fires at sites specifically designated or authorized for a fire by the City of Montrose's Parks Department, setting up or using a camp stove, cooking device, or other type of heating source except for grills and personal grills permitted in designated areas by Parks Department. Camp or camping can include using a vehicle for overnight occupancy where overnight occupancy or overnight camping violates City Code or regulation or is not otherwise authorized by the City. Camping does not include napping during the day or picnicking.

(2) *Public property* means, by way of illustration, but not limited to, a highway, highway median, any street, street median, road, road median, alley, sidewalk, strips of land between streets and sidewalks, lanes, catch basins, pedestrian or transit mall, bike path, greenway, public parking lot, or any other structure or area encompassed within the public right-of-way; any park, parkway, mountain park, open space, natural area, all City owned or managed trails or hard surface trails and areas adjacent to those areas, beach, playground, or other publicly owned recreation facility; a municipal watercourse, bodies of water, watercourses, stormwater infrastructure such as, but not limited to, bridges, pipes, inlets and culverts; or any other grounds, buildings, or other facilities owned or leased by the city or by any other public entity, regardless of whether such public property is vacant or occupied and actively used for any public purpose.

- (E) For a first violation of this Section, the Court shall impose a fine of \$100.00 only. A first violation of this Section shall constitute a civil infraction. An adult defendant convicted of a second or subsequent offense in violation of this Section shall be punished by imprisonment in the county jail for at least 10 days but no more than the penalties in accordance with Section 1-2-3 of the Official Code of the City of Montrose, Colorado.
- (F) Unauthorized camping in violation of this Section is declared a nuisance under Section 6-4-1 of the Official Code of the City of Montrose. If the unauthorized camping occurred in a City park, the Court shall issue, for a first offense, an order of abatement limited to a written exclusion order from the City of Montrose's parks for a period of thirty (30) days. The Court has authority under this Section to issue any other orders for abatement of nuisance under Section 6-4-2 of the Official Code of the City of Montrose for second or subsequent violations. Nothing in this Section limits the discretion of the Municipal Court to enter separate orders it deems appropriate for a separate conviction for Nuisance under Article 4 of this Title.

- (G) A separate offense shall be deemed committed each day on which a violation of this Section continues. The Montrose Municipal Court may impose consecutive sentences for multiple violations proven beyond a reasonable doubt.
- (H) The affirmative defense of necessity, as codified in C.R.S. § 18-1-702, may be raised to a prosecution under this Section should sufficient evidence justify the defense.

SECTION 2:

Title 6, Chapter 1 Section 12. (6-1-12) (Reserved.) of the Official Code of the City of Montrose, Colorado, is hereby repealed and replaced to read in its entirety as follows:

6-1-12. - ~~Reserved. Sleeping on sidewalks, streets, curbs, parking spaces, alleys, public right-of-way or within doorways prohibited.~~

- (A) Sleeping on a public sidewalk, street, curb, parking space, alley, lane, breezeway, public right-of-way or in a space within a doorway or entryway abutting a public sidewalk is prohibited as unsafe, as this conduct may obstruct pedestrian and/or vehicular traffic, may inhibit the use of these spaces by the disabled in violation of federal and state law, and may place the person sleeping and/or the public in danger of harm.
- (B) No person may sleep on a public sidewalk, street, curb, parking space, alley, lane, breezeway or public right-of-way.
- (C) No person may sleep in any pedestrian or vehicular entrance to public or private property abutting a public sidewalk, to include spaces within a doorway or entryway on either public or private property.
- (D) No law enforcement officer shall issue a citation, make an arrest, or otherwise enforce this Section against any person unless a request to cease and desist is first made either verbally or in writing by any police officer or firefighter displaying or presenting indicia of acting under the color of their official authority, or by the property owner or their authorized agent, and the person unlawfully remains in violation of this Section.
- (E) For a first violation of this Section, the Court shall impose a fine of \$100.00 only. A first violation of this Section shall constitute a civil infraction. Second or subsequent offenses in violation of this Section may be punished in accordance with Section 1-2-3 of the Official Code of the City of Montrose, Colorado.

- (F) Any violation of this Section is hereby declared to be a nuisance which may be abated, pursuant to Chapter 4 of this Title of the Official Code of the City of Montrose.
- (G) Notwithstanding any other provision of law, any person found in violation of this Section may be immediately removed from the premises.

SECTION 3:

Title 9, Chapter 10 Section 1. (9-10-1.(A), (B)) (Park hours.) of the Official Code of the City of Montrose, Colorado, are hereby amended to read in their entirety as follows:

9-10-1. Park hours, permitted camping authorized.

- (A) All parks shall be closed between the hours of 11:00 p.m. and 5:00 a.m., unless other hours of closure are posted, in which case the posted hours shall control.
- (B) It shall be unlawful for any person to enter upon or remain upon any of said parks or City property during hours which they are closed pursuant to this Section, and such violation(s) may be cited under Title 6 of the Official Code of the City of Montrose or other applicable law. The official operations of the City of Montrose, persons acting under the direction of the City, and contractors or agents acting with the authorization of the City of Montrose are exempt from this Section. ~~except for authorized overnight campers at Lions Park, persons on authorized City business, persons attending events allowed pursuant to a special permit, or persons traveling the bike paths.~~

SECTION 4:

New subsections (C), (D), (E), (F) and (G) are hereby added to Title 9, Chapter 10 Section 1. (9-10-1.(C), (D), (E), (F), (G)) (Park hours.) of the Official Code of the City of Montrose, Colorado, to read in their entirety as follows:

- (C) Camping is authorized on public property within the City of Montrose year round only at Lions Park. Camping in Lions Park is only authorized with a written permit obtained in advance from the City Clerk's Office.
- (D) Camping may be authorized on public property for persons attending events held at the City parks allowed pursuant to a events use permit or festival event permit obtained in advance from the City Clerk's Office and with the approval of the City Manager's Office.

- (E) Camping may be authorized by the City Manager or designee for those persons on authorized business for the City of Montrose.
- (F) Camping is authorized and no person shall be cited under this Section if a formal declaration of an emergency requires the use of temporary shelter space in accordance with City Charter or a declaration of the Governor of the State of Colorado.
- (G) The City Manager or designee is authorized to make such additional regulations as are necessary and convenient for the administration and enforcement of this Section, including the development of required forms.

SECTION 5:

Except as specifically amended hereby, the Official Code of the City of Montrose, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

SECTION 6:

The City Council hereby finds, determines and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the City of Montrose and the inhabitants thereof by codifying generally recognized law and procedure pertaining to plea bargains and sentencing.

SECTION 7:

The City Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the City of Montrose Charter.

SECTION 8:

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

SECTION 9:

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 10:

This Ordinance shall become effective as set forth in the City of Montrose Charter. You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its adoption on second reading on Tuesday, the ____ day of _____, 2024, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this ____ day of _____, 2024.

J. David Reed, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this ____ day of _____, 2024.

J. David Reed, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk