***REGULAR CITY COUNCIL MEETING AGENDA***
***Tuesday, December 2, 2025 - 6:00 PM***
***City Council Chambers, Elks Civic Building - 107 S. Cascade Ave.***

*The Montrose City Council is pleased to have residents of the community take time to attend City Council meetings. We encourage your attendance and participation. Individuals wishing to be heard during public hearing proceedings are encouraged to be prepared and will generally be limited to three minutes to allow everyone the opportunity to be heard. Additional written comments are welcome and will be received at any time. The 11:00 p.m. rule will be enforced in accordance with City of Montrose Regulations (Sec. 7-15-2).*

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) City Council meeting called to order by Mayor Dave Frank

2) The Pledge of Allegiance

3) Roll call by the City Clerk

4) Changes to the agenda including additions and deletions

5) **CALL FOR PUBLIC COMMENT FOR NON-AGENDA ITEMS**

   The "Call for Public Comment" agenda item is a time when concerned members of the community may publicly voice their concerns and discuss items of interest. Please note that no formal action will be taken on the matters raised during this time.

Comments made during this time should be addressed to the Council and pertain to matters of at least general importance to the City and its operations. Please be aware that neither City Council nor City staff are expected to respond or engage in discussion or debate.

Please refrain from any personal attacks and disagreements, personnel and employment matters, the use of profanity or ethnic, racial, or gender-oriented slurs as they may be considered "disorderly conduct" which violates state or local law.

6) **APPROVAL OF MINUTES** (5 minutes)

City Council consideration of the minutes of the November 17, 2025, special City Council meeting and the November 18, 2025, regular City Council meeting. *Staff: City Clerk Lisa DelPiccolo*

Action: Consider making a motion to approve the minutes of the November 17, 2025, special City Council meeting and the November 18, 2025, regular City Council meeting as presented.

7) **INTERGOVERNMENTAL AGREEMENT WITH MONTROSE RECREATION DISTRICT** (10 minutes)

City Council consideration of an Intergovernmental Agreement with Montrose Recreation District for Shared Services. *Staff: Deputy City Manager Ann Morgenthaler*

Action: Accept public comment. Consider making a motion to approve an Intergovernmental Agreement with Montrose Recreation District for Shared Services as presented.

8) **ORDINANCE 2698 - SECOND READING** (10 minutes)

City Council consideration of Ordinance 2698 on second reading, an Ordinance of the City of Montrose, Colorado, amending Ordinance No. 2674 which appropriated funds for defraying the expenses and liabilities of the City of Montrose, Colorado, during the fiscal year beginning January 1, 2025; said expenditures of the City of Montrose over and above those anticipated at the time of adoption of the original budget for the fiscal year beginning January 1, 2025. *Staff: Finance Director Shani Wittenberg*

Action: Accept public comment. Consider making a motion to adopt Ordinance 2698 on second reading as presented.

9) **RESOLUTION 2025-23 (15 minutes)**

City Council consideration of Resolution 2025-23, a Resolution of the City of Montrose, Colorado, declaring its official intent to reimburse itself with proceeds of a tax-exempt revenue bond financing for sewer capital expenditures undertaken or to be undertaken by the City; generally identifying the capital expenditures; and providing certain other matters in connection therewith. *Staff: Utilities Director David Bries*

Action: Accept public comment. Consider making a motion to adopt Resolution 2025-23 as presented.

10) **ORDINANCE 2699 - SECOND READING** (15 minutes)

City Council consideration of Ordinance 2699 on second reading, an Ordinance of the City of Montrose, Colorado, authorizing the sale of real property owned by the City of Montrose located off Niagara Road to Volunteers of America. *Staff: City Manager William Bell*

Action: Accept public comment. Consider making a motion to adopt Ordinance 2699 on second reading as presented.

11) **RESOLUTION 2025-21** (10 minutes)

City Council consideration of Resolution 2025-21, a Resolution authorizing the conduct of a mail ballot election for the City of Montrose General Municipal Election of April 7, 2026. *Staff: City Clerk Lisa DelPiccolo and Senior Deputy City Clerk Briceida Ortega*

Action: Accept public comment. Consider making a motion to adopt Resolution 2025-21 as presented.

12) **HAYNES ADDITION ANNEXATION** (15 minutes)

A hearing will be held on the annexation of the Haynes Addition. *Staff: Senior Planner William Reis*

A) **Resolution 2025-22:** City Council consideration of Resolution 2025-22, findings of fact for the Haynes Addition annexation.

Action: Consider making a motion to adopt Resolution 2025-22 as presented.

B) **Ordinance 2700 - First Reading:** City Council consideration of Ordinance 2700 on first reading, an Ordinance of the City of Montrose, Colorado, for the annexation of the Haynes Addition.

Action: Hold a hearing. Consider making a motion to pass Ordinance 2700 on first reading as presented.

13) **ORDINANCE 2701 - FIRST READING** (5 minutes)

City Council consideration of Ordinance 2701 on first reading, an Ordinance of the City of Montrose, Colorado, providing for the zoning of the Haynes Addition as an "R-6," Medium Density/Manufactured Housing District. *Staff: Senior Planner William Reis*

Action: Hold a hearing. Consider making a motion to pass Ordinance 2701 on first reading as presented.

14) **SEASONS SUBDIVISION FILING NO. 2 FINAL PLAT** (15 minutes)

City Council consideration of the Seasons Subdivision Filing No. 2 Final Plat to create 25 residential lots, as well as associated easements and rights-of-way. *Staff: Senior Planner William Reis*

Action: Accept public comment. Consider making a motion to approve the Seasons Subdivision Filing No. 2 Final Plat expressly conditioned upon City staff ensuring that all policies, regulations, ordinances and Municipal Code provisions are met and that the applicant adequately addresses all of staff's concerns prior to the execution of the Final Plat. The City staff is not authorized by this approval to execute the Final Plat prior to all conditions being satisfied.

15) STAFF REPORTS

16) YOUTH CITY COUNCIL REPORT

17) CITY COUNCIL COMMENTS

18) MOTION TO ADJOURN

# MONTROSE CITY COUNCIL

**November 17, 2025**

A special meeting of the Montrose City Council was held on Monday, November 17, 2025, at 12:00 p.m., or immediately following the City Council work session, in the City Council Chambers located in the Elks Civic Building at 107 S. Cascade Avenue. Said meeting was posted in accordance with the Sunshine Law.

## PRESENT

Dave Frank, Judy Ann Files, Doug Glaspell, J. David Reed, Ed Ulibarri, Bill Bell, Matt Magliaro, Greg Stunder, Blaine Hall, Lisa DelPiccolo

## CALL TO ORDER

Mayor Dave Frank called the special meeting to order at 11:21 a.m.

## EXECUTIVE SESSION

At 11:23 a.m., a motion was made by Judy Ann Files, seconded by Doug Glaspell, to enter into an executive session for a conference with the City Attorney's Office for the purpose of receiving legal advice pursuant to C.R.S. Section 24-6-402(4)(b); and the following additional details are provided for identification purposes: litigation update and discussion. All voted yes. Motion passed.

## RECONVENEMENT AND ADJOURNMENT

The special meeting reconvened at 12:46 p.m.

At 12:46 p.m. the meeting adjourned with no further action taken.

ATTEST:

____________________________
Dave Frank, Mayor

____________________________
Lisa DelPiccolo, City Clerk

# MONTROSE CITY COUNCIL

**November 18, 2025**

A regular meeting of the Montrose City Council was held on Tuesday, November 18, 2025, at 6:00 p.m. in the City Council Chambers of the Elks Civic Building at 107 S. Cascade Avenue. Said meeting was posted in accordance with the Sunshine Law.

## PRESENT

Dave Frank, Judy Ann Files, Doug Glaspell, J. David Reed, Ed Ulibarri, Shiloh Warthen, Bill Bell, Matt Magliaro, Greg Story, Lisa DelPiccolo, Tim Cox, Blaine Hall, Shani Wittenberg, Leeanne Whittaker, Joe Wittenberg, William Reis, Jim Scheid, Greg Stunder, Scott Murphy, Jaroden Siedschlag

## GUESTS

Pang Cooper, Katie Graves, Spencer Graves, Sam Aster

## CALL TO ORDER

Mayor Dave Frank called the meeting to order at 6:00 p.m.

## PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

## CHANGES TO THE AGENDA

No changes were made to the agenda.

## YOU MAKE A DIFFERENCE AWARD

Mayor Dave Frank Presented a You Make a Difference Award to Pang Cooper, a dance instructor with Weehawken Dance.

## CALL FOR PUBLIC COMMENT

No comments were received.

## APPROVAL OF MINUTES

City Council considered the minutes of the November 4, 2025, regular City Council meeting.

A motion was made by J. David Reed, seconded by Doug Glaspell, to approve the minutes of the November 4, 2025, regular City Council meeting as presented. All voted yes. Motion passed.

## NEW HOTEL AND RESTAURANT LIQUOR LICENSE APPLICATION

City Council considered an application for a new Hotel and Restaurant liquor license at 232 E. Main Street for Eatery 66 North LLC, doing business as Eatery 66 North, for consumption on the licensed premises. A hearing was held.

Assistant City Attorney Matt Magliaro reported that all fees have been paid, all posting and publication requirements have been met, and a staff review of the application found no issues that would prevent approval of the license.

Applicants Katie and Spencer Graves said they have owned and operated the Eatery 66 restaurant in Ridgeway for the past 10 years, serving local agricultural and farming products. Mr. Graves said they are proud of being a hub in Ridgway. They reside in Montrose and look forward to becoming a hub in Montrose.

The applicants agreed to the determination of the neighborhood as the city limits and stated that issuance of license will help meet the needs and desires of the specified neighborhood. Mr. Magliaro reviewed a summary of petitions circulated. A total of 100 signatures were submitted with 74 determined to be valid and in support of the license.

The applicants stated that they are familiar with Colorado liquor laws, all servers are TIPS certified, and all staff receive extensive training. Ms. Graves said the policy of the establishment will be to require an ID from anyone who appears to be under the age of 40. Customers will be limited to two alcohol beverages to prevent overservice, and servers will be trained to watch for signs of intoxication.

Ms. Graves stated that their Ridgway restaurant holds a liquor license with no infractions on record. The applicants committed to all managers and servers completing the City's alcohol server training.

Mayor Dave Frank opened the hearing.

Public comment was accepted. No comments were received.

Mayor Frank closed the hearing.

A motion was made by J. David Reed, seconded by Doug Glaspell, to approve a new Hotel and Restaurant liquor license at 232 E. Main Street for Eatery 66 North LLC, doing business as Eatery 66 North, for consumption on the licensed premises. All voted yes. Motion passed.

## 2026 BUDGET APPROVAL

Finance Director Shani Wittenberg reported that the proposed 2026 budget was presented in detail at the November 4 City Council meeting where Ordinance 2695 was passed on first reading. Ms. Wittenberg reported no changes to the Ordinance or proposed budget since first reading. Ms. Wittenberg said total appropriations for 2026 total $168 million, including $47 million for the Public Works Facility Project.

**Ordinance 2695 – Second Reading:** City Council considered Ordinance 2695 on second reading, an Ordinance of the City of Montrose, Colorado, providing and appropriating funds for defraying the expenses and liabilities of the City of Montrose, Colorado, during the fiscal year beginning January 2026.

Public comment was accepted. No comments were received.

A motion was made by Doug Glaspell, seconded by Ed Ulibarri, to adopt Ordinance 2695 on second reading as presented. All voted yes. Motion passed.

**Resolution 2025-20:** City Council considered Resolution 2025-20, adoption of the 2026 Municipal Budget.

Public comment was accepted. No comments were received.

A motion was made by J. David Reed, seconded by Doug Glaspell, to adopt Resolution 2025-20 as presented. All voted yes. Motion passed.

## ORDINANCE 2698 – FIRST READING

City Council considered Ordinance 2698 on first reading, an Ordinance of the City of Montrose, Colorado, amending Ordinance No. 2674 which appropriated funds for defraying the expenses and liabilities of the City of Montrose, Colorado, during the fiscal year beginning January 1, 2025; said expenditures of the City of Montrose over and above those anticipated at the time of adoption of the original budget for the fiscal year beginning January 1, 2025. A hearing was held.

Finance Director Shani Wittenberg reported that Ordinance 2698 applies to the current fiscal year and addresses expenditures that were not anticipated during the development of the 2025 budget. Ms. Wittenberg stated that the items were reviewed in detail at the November 17 work session, and details are included in the meeting packet.

Mayor Dave Frank opened the hearing.

Public comment was accepted. No comments were received.

Mayor Frank closed the hearing.

A motion was made by Judy Ann Files, seconded by Doug Glaspell, to pass Ordinance 2698 on first reading as presented. All voted yes. Motion passed.

## ORDINANCE 2699 – FIRST READING

City Council considered Ordinance 2699 on first reading, an Ordinance of the City of Montrose, Colorado, authorizing the sale of real property owned by the City of Montrose located off Niagara Road to Volunteers of America. A hearing was held.

City Manager Bill Bell reported that the Magic Circle Theater would like to undergo a capital expansion, but the organization does not own the land under the building. The land is currently owned by Volunteers of America and leased to Magic Circle. Mr. Bell said that the City owns property on Niagara Road near the Community Garden that is used for construction staging and snow deposits. The property is surrounded by medical offices and is adjacent to VOA. Mr. Bell stated that the City does not have a need for the Niagara parcel and an opportunity exists to trade it for the parcel that houses Magic Circle. Mr. Bell said the Niagara parcel is valued $30,000.00 higher than the VOA parcel, and VOA is willing to pay the difference.

Mr. Bell stated that full details of the transaction are included in the meeting packet and include a timeline.

Mayor Dave Frank opened the hearing.

Public comment was accepted. No comments were received.

Mayor Frank closed the hearing.

A motion was made by Doug Glaspell, seconded by Judy Ann Files, to pass Ordinance 2699 on first reading as presented. All voted yes. Motion passed.

## COMMUNITY DEVELOPMENT BLOCK GRANT MODIFICATION LETTER

City Council considered a grant modification request to a previously awarded Community Development Block Grant in partnership with Haven House.

City Manager Bill Bell reported that the City has partnered with Haven House for many years to provide essential services to the community. The City has assisted with the property purchase and utility costs in the past. Mr. Bell said that an expansion is needed for additional housing and an on-site child care facility.

Mr. Bell stated that the letter authorizes a change in the type of building to a modular construction and authorizes a slight reduction of the square footage. The City serves as the sponsoring pass-through agency for the Community Development Block Grant and must sign off on any changes to the grant.

Public comment was accepted. No comments were received.

A motion was made by Doug Glaspell, seconded by Ed Ulibarri, to approve the mayoral signature on a letter to the State of Colorado requesting a grant modification to a previously awarded Community Development Block Grant as presented. All voted yes. Motion passed.

## ORDINANCE 2696 – SECOND READING

City Council considered Ordinance 2696 on second reading, an Ordinance of the City of Montrose, Colorado, amending the zoning district designation of Lot 1 of the Parsons Subdivision from "R-4," High Density District, to "B-2," Highway Commercial District.

Senior Planner William Reis reviewed the location of the 1.63 acre site as well as rezone criteria and the intent of the B-2 zoning designation. Mr. Reis stated that the property was previously zoned in 1978.

Mr. Reis recommended approval stating that the proposal meets rezone criteria, conditions in the surrounding area have changed since the property was last zoned in 1978, and the proposed zoning is compatible with existing uses in the surrounding area.

Public comment was accepted. No comments were received.

A motion was made by Doug Glaspell, seconded by J. David Reed, to adopt Ordinance 2696 on second reading as presented. Ed Ulibarri voted no. All others voted yes. Motion passed.

## ORDINANCE 2697 – SECOND READING

City Council considered Ordinance 2697 on second reading, an Ordinance of the City of Montrose, Colorado, amending the zoning district designation of 12658 6450 Road from "MHR," Manufactured Housing Residential District, to "R-6," Medium Density/Manufactured Housing District.

Senior Planner William Reis reviewed the location of the 1.1 acre site and stated that staff finds that rezone criteria are met. Mr. Reis reviewed the intent of the R-6 zoning designation which allows for accessory dwelling units. Mr. Reis stated that the minimum lot size for R-6 zoning is larger than MHR zoning which translates to a reduction in allowable density.

Mr. Reis recommended approval stating that the proposal meets rezone criteria, is in compliance with the Comprehensive Plan, and is compatible with existing uses in the surrounding area.

Public comment was accepted. No comments were received.

A motion was made by Doug Glaspell, seconded by Ed Ulibarri, to adopt Ordinance 2697 on second reading as presented. All voted yes. Motion passed.

## STAFF REPORTS

**Sales, Use, and Excise Tax Report:** Sales Tax Manager Leeanne Whittaker gave a sales, use, and excise tax report for the month of September 2025. Ms. Whittaker reported that total General Fund sales and use tax collections were down 0.3 percent as compared to September of 2024 with a negative budget variance of 3.3 percent. Year-to-date collections were up 2.2 percent with a positive budget variance of 0.9 percent.

**Third Quarter Budget Review:** Finance Director Shani Wittenberg reported that the General Fund and Public Safety Fund are collecting revenues above expected with 75 percent of the year completed, and spending is also on track. Ms. Wittenberg said the lodging tax increase to 6 percent in 2025 resulted in collection of $934,975.00 with 17 percent allocated to child care, 33 percent to affordable housing, 5 percent to public transit, 20 percent to tourism, and 25 percent to right of way improvements. Complete details are available on the city website.

Mayor Dave Frank acknowledged Ms. Wittenberg and finance staff for the results of the 2024 audit which were presented at the November 17 work session.

## YOUTH CITY COUNCIL REPORT

Shiloh Warthen reported that revisions to the Youth City Council Manual are underway, and a gun violence awareness proclamation is being drafted for presentation at an upcoming City Council meeting. Ms. Warthen said that several Youth City Councilors are attending the National League of Cities conference in Salt Lake City this week.

## CITY COUNCIL COMMENTS

Mayor Pro Tem Judy Ann Files reported that City Councilors toured the Wastewater Treatment Plant earlier in the day.

Mayor Dave Frank reported that many of the operational components of the Wastewater Treatment Plant are 50 years old and improvements that will be discussed at upcoming meetings are very much needed.

## ADJOURNMENT

The meeting adjourned at 6:54 p.m. with no further action taken.

ATTEST:

_______________________________
Dave Frank, Mayor

_______________________________
Lisa DelPiccolo, City Clerk

CITY OF MONTROSE
Community Development

**MEMO**

TO: City Council
FROM: Ann Morgenthaler, Deputy City Manager
DATE: December 2, 2025
RE: Intergovernmental Agreement with Montrose Recreation District

ATTACHMENTS
- Exhibit A: 2026 IGA with revisions shown
- Exhibit B: Proposed 2026 IGA (clean)

**City Council Consideration:**
City Council is considering approval of an intergovernmental agreement with the Montrose Recreation District for the 2026 calendar year.

**Project Background:**
Each year City of Montrose staff and the Montrose Recreation District staff review the Intergovernmental Agreement between the City of Montrose and the Montrose Recreation District Regarding Shared Services. City and District staff discuss any needed changes to meet the needs of both organizations and the public. The goal of the agreement is collaboration that will save each entity – and therefore our community members – money, and to increase efficiency and partnership. The agreement comes before the City Council and the Recreation District Board annually for approval. The Montrose Recreation District Board reviewed this on November 20, 2025. A redlined document showing changes between the 2025 version and the proposed 2026 version is attached.

Neither entity is proposing significant changes for 2026, but some notable changes include the following:

- Dates are updated to reflect the new year of the agreement.
- Placer AI, an analytics service used to track park and event usage, was removed from the contract. After limited use in 2024 and 2025, both the City and the MRD determined that the return on investment did not justify continuing the service. This has also been removed from the Payment Schedule and Schedule of Costs in Exhibit A.
- Cybersecurity Training (KnowBe4) was added as a service for MRD staff to strengthen awareness and vigilance against potential cyber threats. This ongoing training helps employees recognize and respond appropriately to phishing attempts, data security

risks, and other common cyber vulnerabilities. This has also been added to the Payment Schedule and Schedule of Costs in Exhibit A.

- Schedule A has been updated to reflect applicable fee adjustments. Hourly rates for financial reporting, legal services, and information services were revised to align with current costs, resulting in slight increases to most rates and slight decreases to a few others. Monthly Trash and Recycle Service fees increased from $12,921.79 to $15,506.21. Phone charges were consolidated, removing long-distance fees; however, the phone system rate increased from $4.00 per user per month to $14.16 per user per month. No changes were made to the Facility Services Cost Schedule or the Fleet Management Cost Schedule.
- The document was reformatted slightly to improve compliance with digital accessibility standards.

**Recommendation:**
City staff recommends approval of an intergovernmental agreement with the Montrose Recreation District for the 2026 calendar year.

# INTERGOVERNMENTAL AGREEMENT
## BETWEEN THE CITY OF MONTROSE AND THE MONTROSE RECREATION DISTRICT REGARDING SHARED SERVICES

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is dated _____________, 20254, between the City of Montrose, (the "City") a Colorado home rule municipal corporation, whose address is 400 E. Main Street, P.O. Box 790, Montrose Colorado 81402, and the Montrose Recreation District, (the "District") a Colorado special district, whose address is 16350 Woodgate Road, Montrose, Colorado 81401; the above-named entities may sometimes be collectively referred to herein as the "Parties" and individually as a "Party." The effective date of this Agreement shall be January 1, 2026~~5~~ (the "Effective Date").

WHEREAS, the City, and the District have collaborated in the past to provide a variety of recreational needs serving a diverse population; and

WHEREAS, it is the directive of the governing bodies of the Parties to provide the best services at the lowest possible cost; and

WHEREAS, the Parties shall implement shared services as specified in this Agreement whereby City agencies shall support the District in exchange for payment; and

NOW THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, the Parties hereto agree as follows:

**PART I: SPECIFIC TERMS.**

1. FINANCE

a) On a monthly basis, the City's finance department will import the transactional data provided from the District staff. Monthly budget reports will be provided by the City to the District so that the District has up-to-date knowledge of the state of its finances. The District will handle revenue receipts, provide accounts payable and payroll services in-house. The District shall provide cash receipt, accounts payable and payroll summary data to the City in a format approved by the City on a monthly basis. The District shall bear all expense related to District finances and accounting. A detailed description of the processes for all finance functions is set forth on Exhibit "C", which is attached hereto and incorporated herein.

b) As defined on Exhibit "C", the District shall continue to provide day-to-day accounting and timekeeping functions, including point of sale and deposits, in-house (the "Daily Functions"). The District shall provide reports of the Daily Functions to the City in such a format that allows the City to import journal entry data into the City's financial software.

c) The District will utilize the services as written in sections a and b above until such time as they are able to transition to provide them autonomously. This is planned for completion in early 2026~~5~~. The City will bill for financial services rendered until the district is complete with this transition.

d) The City shall provide administration service to the District for the Recreation Facility Election Intergovernmental Agreement. The agreement specifies the transfer and use of the voter approved sales tax proceeds generated from a 0.3% sales tax increase approved by voters on April 1, 2014. The District shall credit the City as specified in this Part I (7) (E).

2. LEGAL

a) The City Attorney represents the City. The City Attorney may provide general legal services to the District as time and the specific need arises. The Council or the City Attorney may determine on a case-by-case basis that the District shall obtain separate legal advice and/or representation.

b) The Parties shall execute a letter of engagement setting forth the scope of the representation prior to the rendering of legal services under this Agreement. No attorney/client relationship shall be formed until such letter of engagement has been executed.

c) The District shall bear all expense related to the provision of general legal services by the City Attorney for the benefit of the District.

d) The City Council may terminate the provision of the City Attorney's services to the District at any time.

e) Nothing in this provision interferes with the District's right to hire counsel of their own choosing.

3. FACILITY SERVICES

a) The City shall provide sweeping services for District parking lot areas as depicted in Exhibit "A" and at the Community Recreation Center, following prioritized maintenance schedules identified in the City Sweeping Plan. All sweeping shall be requested by the District and scheduled with the City. Advanced notice of two weeks shall be required by the City. The City may provide general support to the District as needed on projects in which the City has specialized equipment. Equipment and labor rates are provided in Schedule "A".

b) The City's personnel policies and insurance coverage shall apply to any City employees working on District property and the District shall not be responsible for any human resource issue or insurance coverage issue pertaining to these City employees.

c) The City shall provide crack sealing, asphalt patching services or a combination of these services at any agreed upon District facility, following prioritized street maintenance scheduling. The estimated value of this work shall be $4,000 as calculated using the rates in Schedule A. The District Maintenance Superintendent shall contact the City Public Works Director to request and schedule such work, with the understanding that two weeks advanced notice is essential for the City to provide services in a timely and resource-efficient manner. Additional work may be scheduled with the City and invoiced to the District according to the rates in Schedule A.

d) MRD's personnel policies and insurance coverage shall apply to any MRD employees working on City property and the City shall not be responsible for any human resource issue or insurance coverage issue pertaining to these MRD employees.

e) The District shall bear all expense related to the provision of facilities services by the City for the benefit of the District.

f) The City shall bear all expense related to the provision of facilities services by MRD for the benefit of the City.

4. CERISE & AMPHITHEATER FIELDS, TRAILS, PUBLIC SPACES AND FLEX PARK

a) DESCRIPTION

i) For the purposes of this Agreement, Cerise Fields shall mean a ten (10) acre, multi-purpose area and a two (2) acre soccer field and related facilities on site, including irrigation systems, storage building and natural surface trails, as depicted in Exhibit "A".

ii) For purposes of this Agreement, Amphitheater Field shall mean the 1.5 acre field located in front of the Montrose Rotary Amphitheater, as depicted in Exhibit "A".

iii) For the purposes of this Agreement, Trails and Public Spaces shall mean other spaces open to the public for non-exclusive use within the Baldridge Regional Park Complex.

iv) For the purposes of this Agreement, Flex Park shall mean the 0.56-acre lot situated adjacent to the west of the Flex Rec facility at 1309 Mayfly Drive occupied by MRD, as depicted in Exhibit "A".

b) ACCESS

i) The City shall grant public access to the Cerise Fields for as long as the City, or its assigns, leases or owns the land encompassing Cerise Fields.

ii) The City hereby grants to the District the right to use the Cerise Fields in accordance with the terms of this Agreement. This right to use is for the purpose of allowing the District, its agents and contractors, access to Cerise Fields for the purpose of conducting the day-to-day programs and activities of the District.

iii) During the term of this Agreement, a Master Scheduling for the use of the Cerise Fields shall be created annually, not later than January 31 of each year. Master scheduling will include key District and City personnel. Both parties will present a calendar of events, collaborating to populate a shared calendar of events that includes community-wide events, Cerise Park programming, and large events (100+ people) at the Montrose Rotary Amphitheater or at the Ute, McNeil, or Holly Park set of fields. Once this Master Schedule has been created, either party may add events into the schedule with 60 days' notice with no required notification of the other party. Within 60 days, modifications or additions of large events (100+ people) to the schedule require notification of the other party prior to finalization. Primary contacts for scheduling are identified as the City Clerk, Lisa DelPiccolo and the District's Facilities Manager, Justin Mashburn.

iv) The District shall provide a layout of the proposed field locations for each sports season as part of the Master Schedule. Except as otherwise provided herein, the District shall have priority in scheduling events in the Master Schedule for Cerise Fields. The City shall have priority in scheduling events thereafter, with the District having secondary scheduling priority after both the City and the District have scheduled their initial events. City Park Use Fees will be exempted for all District activities scheduled. Notwithstanding the foregoing, the following holiday weekends shall be scheduled by the City for special community events: Memorial Day, Independence Day, and Labor Day. Additionally, it is recognized that the second weekend in August shall also be scheduled by the City for the annual Fun on the Uncompahgre River Festival (FUNC Fest) at Riverbottom Park and the Montrose Rotary Amphitheater, the second Saturday in May shall be scheduled by the City for the annual Montrose Mudder at Cerise Fields and Trails and the Montrose Rotary Amphitheater, and the third weekend in August shall be scheduled by the District for the annual Youth Appreciation Day (YAD).

c) MAINTENANCE

i) The District shall maintain the Cerise Fields (said maintenance to include all turf maintenance and ancillary equipment required for District programs) during the growing season, and during any times that the District is sponsoring programs at the Cerise Fields.
ii) The City shall be responsible for all restroom cleaning. The City shall refer to the shared calendar of events in order to ensure that cleaning takes place prior to and after events. The District shall notify the City in advance of upcoming large events that may warrant additional services such as cleaning during an event. The restroom at Cerise Fields will be closed and winterized no earlier than October 15 each year and reopened for use no later than April 15 each year to protect it from freezing.
iii) The District shall be responsible for arranging for temporary toilet facilities if needed during periods when the restroom is closed. Notwithstanding the foregoing, the City shall be responsible for communicating to the District and supplying temporary toilet facilities if restrooms are closed for any reason later than April 15 or prior to October 15.

iv) The District shall be responsible for any "start-up", winterization and draining of the irrigation system serving the Cerise Fields.

v) The District shall provide mowing and trimming services, including labor and equipment, for the Amphitheater Field, following prioritized park maintenance and scheduling. The District shall provide mowing and trimming one (1) day per week during the growing season; the growing season begins on March 1 and concludes on October 31. The estimated value of this work is $4,000. Additional work may be scheduled with the District and invoiced to the City at a rate of $42.67 per hour, including labor and equipment.

vi) The City shall maintain Cerise and Amphitheater Fields after the District has ceased using the Cerise Fields for programs, and during the non-growing season; the non-growing season begins on November 1 of each year and concludes on the last day of February of each following year.

vii) Maintenance shall be performed in accordance with the specifications set forth in Exhibit "B". Maintenance shall be done in accordance with National Recreation and Park Association standards.

viii) The District shall be responsible for maintenance of the Flex Park, including but not limited to, providing turf and ground cover maintenance, inclusive of mowing and trimming services (including associated labor and equipment). The District shall also be responsible for irrigation repairs and maintenance, including any "start-up", winterization and draining of the irrigation system serving the Flex Park. The City will maintain the restroom facility adjacent to the south and will also provide trash service for the Flex Park. It is understood that the District's maintenance of Flex Park is contingent on its occupancy of property ~~Flex Rec~~ at Colorado Outdoors.

d) USE OF THE CERISE FIELDS

i) Use of the multi-purpose field shall be limited to sporting practices, games, and Amphitheater events; all goals and other equipment shall be portable, and shall be supplied either by the user, or by the District and shall be removed after each sports season. Temporary painted stripes may be placed on the multi-purpose field. The District shall be responsible for removing portable equipment at the City's request for other scheduled activities. All portable equipment shall be securely attached to the ground for the purpose of assuring public safety. The District shall assure at all times a minimum of two (2) acres of the multi-purpose field shall be available to the public for use and not scheduled for practice or game use.

ii) Games and international soccer league activities shall be limited to the two-acre field and the 10-acre field, as depicted on Exhibit "A".

5. INFORMATION SERVICES

a) The City Information Services Department shall provide technical support to the District staff and board to assure the smooth operation of the District information services systems in accordance with the standards set forth in Exhibit "D" which is attached hereto and incorporated herein.

b) District shall ensure City staff are provided with orientation and training by the audiovisual equipment installers or manufacturers for routine support and maintenance of all installed products. District shall provide a copy of operations and maintenance manuals and as-built diagram for all District audiovisual equipment which the City will be maintaining.

c) District shall include City staff in future planning and upgrades of audiovisual equipment prior to ordering and installation.

d) ~~The District shall bear all expense related to District information services systems, with the exception of location analytics software, Placer.ai. The District agrees to pay the City 36% of the annual cost of Placer.ai, which can be utilized by both City staff and District staff. This annual payment is to be paid on May 29th of each year unless the City and the District mutually agree to terminate the software contract prior to the annual renewal date.~~

6. FLEET MANAGEMENT

a) The City Fleet Department shall provide fleet management support for District owned vehicles. The City shall be responsible for fleet management in accordance with the standards set forth in Exhibit "E", which is attached hereto and incorporated herein.

b) The District shall bear all expense related to maintaining the District fleet.

7. FACILITY ACCESS FOR EMPLOYEES

a) City Employee and Council Access to the Community Recreation Center. The District shall waive the Tier 3 Corporate Membership fee for the City. The District shall offer the Participant Membership Fees (equivalent to a 25% discount) to City employees and Council for the family and adult annual pass at the effective rate at time of purchase. The District shall share such rates for the upcoming calendar year with the City by November 1. This discount does not apply to youth, senior or any other pass products.

b) The City shall notify the District when employees are terminated and/or when new hires are made on a monthly basis. MRD will remove annual pass privileges for terminated City employees at the end of the current month. New employee annual pass privileges will be effective immediately. Balances for terminated and/or new employees shall be mutually resolved at the end of the current calendar year.

c) District Employee and Board Access to the Black Canyon Golf Course. The City shall offer a 100% discount to Full Time District employees and active Board of Directors members on the regularly priced Black Canyon Card, which is a value of $50, providing access to discounted golf, merchandise, and food.

d) The City shall provide trash and recycling services to the District for the Field House, Community Recreation Center, Holly Park, and McNeil Fields (an annual value of $12,921.79 value as noted in Schedule A). The District shall provide the City with credit, (equivalent to an annual value of $12,921.79 value) which will be used towards the annual pass payment for City Employees and Council.

e) The City shall provide administration of sales tax revenues from the City to the District at no cost (an annual value of $3,000). The District shall provide the City with credit, (equivalent to an annual value of $3,000) which will be used towards the annual pass payment for City Employees and Council.

**PART II: TERM.** The initial term of this Agreement shall commence on the Effective Date and shall continue in effect through December 31, 2026~~5~~ unless otherwise terminated in accordance with the provisions of Part XIII of this Agreement.

**<u>PART III: PAYMENT</u>.** The District shall provide a payment in cash or its equivalent as set forth in Schedule A. In the event that the actual labor hours for a specific task indicated in Schedule A differ from those shown, the actual hours at the associated rate indicated on Schedule A will be paid by the District to the City.

**<u>PART IV: COMMUNICATIONS</u>.** The Parties shall designate authorized representatives and all communications related to the performance of duties defined in this Agreement shall be conducted solely between the representatives so designated. Additionally, the key City staff involved in providing the shared services described in this Agreement shall report as needed to the District's Board of Directors.

**<u>PART V: ASSIGNMENTS</u>.**

a) *No Assignments.* Neither Party may assign any of its rights, duties or obligations arising under this Agreement without the prior written consent of the other Party.
b) *Ramifications of Purported Assignment.* Any purported assignment of the rights, duties or obligations of either Party without the express written consent of the other Party shall be void.

**<u>PART VI: CHOICE OF LAW</u>.** The laws of the State of Colorado (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its interpretation, construction, performance and enforcement.

**<u>PART VII: INDEMNIFICATION (DISTRICT TO CITY)</u>.** The District, to extent allowed under Colorado Constitution Article X, Section 20, and any other law, shall indemnify and defend the City at all times as of the Effective Date of this Agreement against:

a) any liability, loss, damages (including punitive damages), claim, settlement payment, cost and expense, interest, award, judgment, diminution in value, fine, fee, and penalty or other charge, other than any Litigation Expenses (as defined in subsection (b)), arising out of or relating to the activities of the District set forth herein; and

b) any court filing fee, court cost, arbitration fee or cost, witness fee, and each other fee and cost of investigating and defending or asserting any claim for indemnification under this Agreement, including, without limitation, in each case, attorneys' fees, other professionals' fees, and disbursements (collectively, "Litigation Expenses").

**<u>PART VIII: INDEMNIFICATION (CITY TO DISTRICT)</u>.** The City, to the extent allowed under Colorado Constitution Article X, Section 20, and any other law, shall indemnify and defend the District at all times as of the Effective Date of this Agreement against:

a) any liability, loss, damages (including punitive damages), claim, settlement payment, cost and expense, interest, award, judgment, diminution in value, fine, fee, and penalty or other charge, other than any Litigation Expenses (as defined in subsection (b)), arising out of or relating to the activities of the City set forth herein; and

b) any court filing fee, court cost, arbitration fee or cost, witness fee, and each other fee and cost of investigating and defending or asserting any claim for indemnification under this Agreement, including, without limitation, in each case, attorneys' fees, other professionals' fees, and disbursements (collectively, "Litigation Expenses").

**PART IX: NOTICES.**

a) *Requirement of a Writing.* Permitted Methods of Delivery. Each Party giving or making any notice, request, demand or other communication (each, a "Notice") pursuant to this Agreement shall give the Notice in writing and use one of the following methods of delivery, each of which for purposes of this Agreement is a writing: personal delivery, Registered or Certified Mail (in each case, return receipt requested and postage prepaid), nationally recognized overnight courier, (with all fees prepaid), facsimile or e-mail.

b) *Addressees and Addresses.* Any Party giving a Notice shall address the Notice to the appropriate person at the receiving Party (the "Addressee") at the address listed on the first page of this Agreement or to another Addressee or another address as designated by a Party in a Notice pursuant to this section.

c) *Effectiveness of a Notice.* Except as provided elsewhere in this Agreement, a Notice is effective only if the Party giving the Notice has complied with subsections a) and b) and if the Addressee has received the Notice.

**PART X: AMENDMENTS.** The Parties may amend this Agreement only by a written agreement of the Parties that identifies itself as an amendment to this Agreement.

**PART XI: MERGER.** This Agreement constitutes the final agreement between the Parties. It is the complete and exclusive expression of the Parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the Parties on the matters contained in this Agreement, including but not limited to the Intergovernmental Agreement between the Parties in previous years, are expressly merged into and superseded by this Agreement. The provisions of this Agreement may not be explained, supplemented or qualified through evidence of trade usage or a prior course of dealings. In entering into this Agreement, neither Party has relied upon any statement, representation, warranty or agreement of the other Party except for those expressly contained in this Agreement. There are no conditions precedent to the effectiveness of this Agreement other than those expressly stated in this Agreement.

**PART XII: SEVERABILITY.** If any provision of this Agreement is held invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement to fulfill as closely as possible the original intents and purposes of this Agreement.

**PART XIII: FUTURE AGREEMENT.** If District wishes to enter into a contract for 2027~~6~~ with City, District must notify City no later than October 15, 2026~~5~~.

**PART XIV: ESCALATOR.** All costs set forth in Schedule A shall be subject to escalation or de-escalation based on actual increases or decreases in costs incurred by the City. Written documentation of said increases shall be provided by the City to the District as these increases occur.

APPROVED this ______ day of __________________, 2025~~5~~.

**CITY OF MONTROSE** | **ATTEST**:

_____________________________ | _____________________________

David Frank~~Barbara Bynum~~, Mayor | Lisa DelPiccolo, City Clerk

**MONTROSE RECREATION DISTRICT** | **ATTEST:**

_____________________________ | _____________________________

Barb Sharrow~~Allison Howe~~, President | Suzi King, Vice President

# Exhibit A

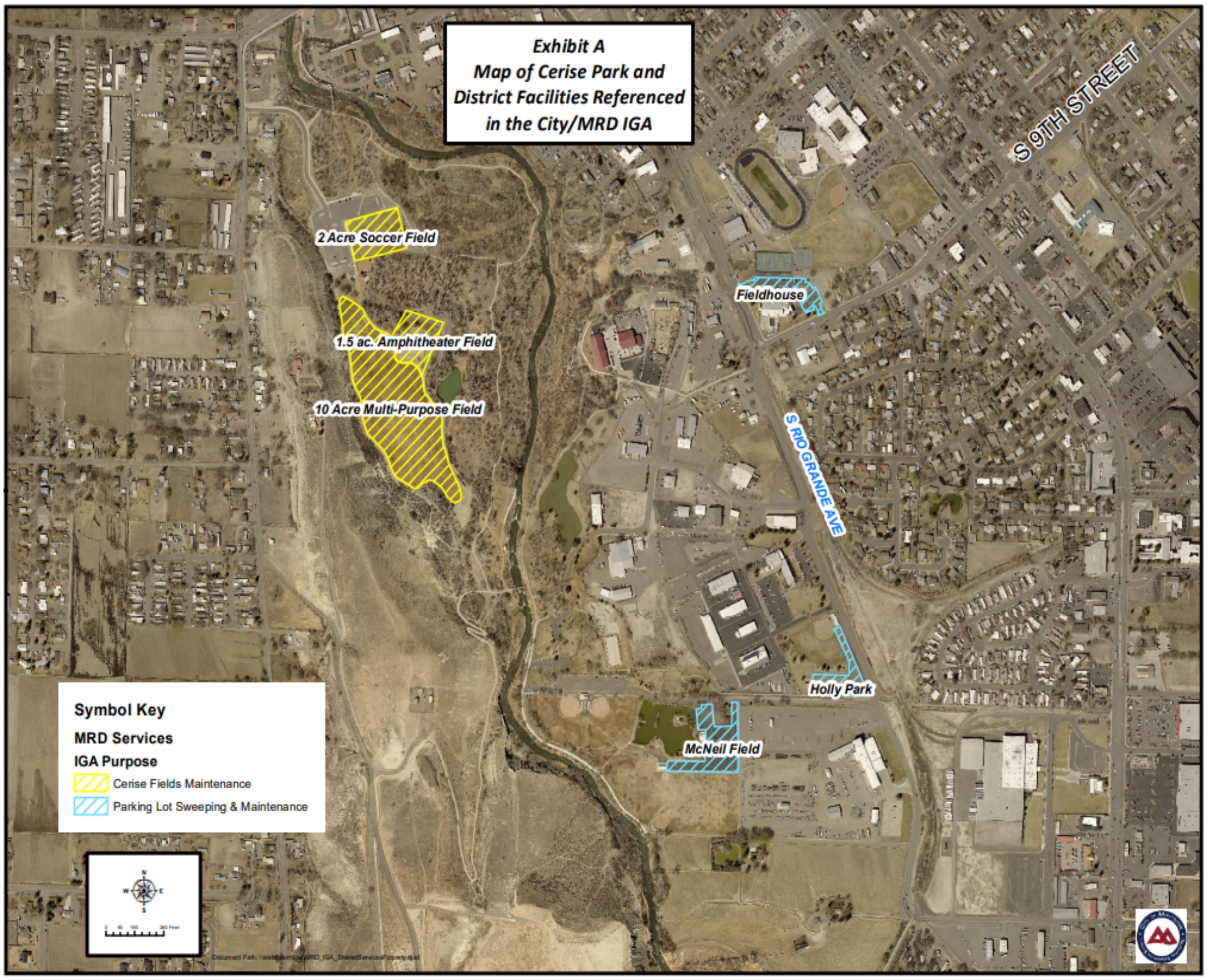
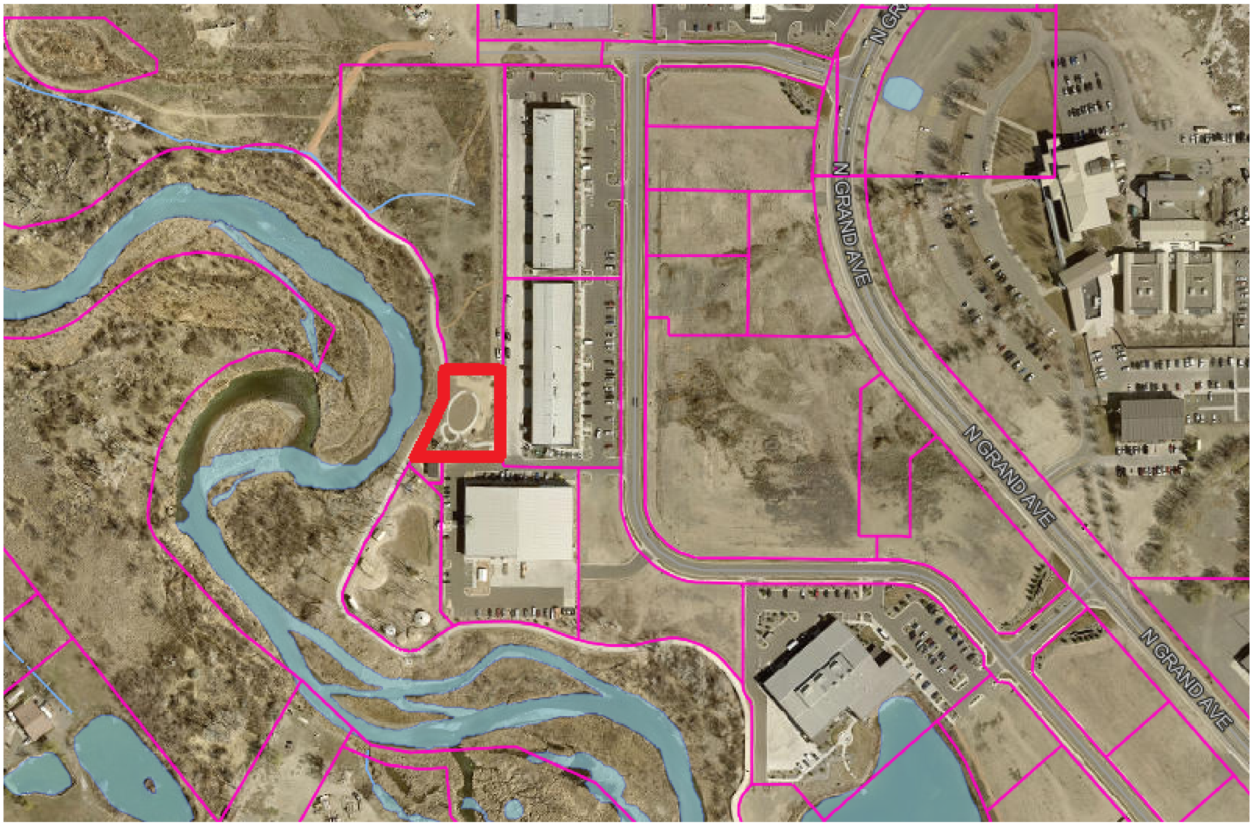


Exhibit A
Map of Cerise Park and
District Facilities Referenced
in the City/MRD IGA
S 9TH STREET
2 Acre Soccer Field
Fieldhouse
1.5 ac. Amphitheater Field
10 Acre Multi-Purpose Field
S RIO GRANDE AVE
Holly Park
McNeil Field
Symbol Key
MRD Services
IGA Purpose
Cerise Fields Maintenance
Parking Lot Sweeping & Maintenance




**Flex Park Location – Also known as Lot 24, Colorado Outdoors Subdivision Amendment No. 7**

# Exhibit B

## FACILITY SERVICES SPECIFICATIONS

I. Facility Support

A. Parking Lot Sweeping - Sweep parking lots at McNeil Fields, Holly Park, and the Field House as shown on Exhibit “A” and the Community Recreation Center, in accordance with City Sweeping Plan. The District may request additional sweeping by the City as needed. All sweeping shall be requested by the District and scheduled with the City. Advanced notice of two weeks shall be required by the City.

B. Irrigation System Winterization – District staff may request the use of City compressor equipment free of charge to complete irrigation system winterization.

C. Crack Sealing and Asphalt Patching - The City shall provide crack sealing, asphalt patching or a combination of these services at any agreed upon District facility, following prioritized street maintenance scheduling. The estimated value of this work shall be $4,000 as calculated using the rates in Schedule A. The District Maintenance Superintendent shall contact the City Public Works Director to request and schedule such work, with the understanding that two weeks advanced notice is essential for the City to provide services in a timely and resource-efficient manner. Additional work may be scheduled with the City and invoiced to the District according to the rates in Schedule A.

D. General Support - At the City’s discretion, the City may provide general support as needed on projects in which the City has specialized equipment and expertise, particularly in the public works department. Rates for equipment commonly requested by the District are included in Schedule A. Self-propelled equipment will require a City operator. Support not identified in Schedule A will be billed to the District as appropriate and necessary.

E. The City shall provide trash and recycling services to the District for the Field House, Community Recreation Center, Holly Park, and McNeil Fields. The District shall provide the City with credit for the value of the services, as detailed in Schedule A, which will be used towards the annual pass payment for City Employees and Council.

# Exhibit C

## Finance Specifications

I. Cash Receipts, Payroll and Accounts Payable

   A. The District shall continue to operate its Point of Sale system and make its own deposits. Daily cash receipt data will be summarized by revenue category (as determined by the District) by day into a spreadsheet format approved by the City and provided to the City for import into the City's general ledger. This includes daily cash receipts and any billing and invoicing distributed by the District. Additionally, the District shall continue to fulfill accounts payable and payroll functions. The District shall prepare and submit a summary accounts payable and payroll spreadsheet in a format, approved by the City, monthly for import into the City's general ledger.

II. Financial Reports and General Ledger

   A. The City shall generate monthly budget reports within 10 business days of receipt of properly formatted data documenting the expenses and revenues for the previous month (period actual), YTD actual, Annual Budget, Variance, and percentage of Budget expended.
   B. The City will also maintain and update a general ledger budget document that captures all District funds, revenues and expenses.

# Exhibit D

## INFORMATION SERVICES SPECIFICATIONS

I. Information Services and Audiovisual Systems Support

A. The City shall provide to the District a support phone number and/or website for the initiation of information services and audiovisual technical support.
B. The City shall prioritize the support request based on the severity of the issue and the current calls already in the work queue.
C. During business hours, the City shall provide an acknowledgment of the support request within four hours. The District shall allow the City to remotely connect to the District computers in order to properly respond to the support request. Support requests initiated after normal business hours should indicate if the problem requires immediate attention or can be resolved on the next regular business day.
D. Any support request requiring work in excess of four hours will be communicated prior to completing the request.
E. Routine maintenance tasks of supported equipment and software shall be initiated and completed by City according to manufacturer recommendations.
F. The City may provide cloud-based backup file storage to the District.
G. The City may provide virus checking and protection on all District computers attached to the City Network. The District shall be responsible for purchase of required virus protection licensing for each District computer.
H. The City will assess a 3% administrative fee for management of procurement or billing of hardware purchased for MRD and long-distanced phone service.

II. Telephone System

A. Equipment shall be installed in the District in order to provide digital voice over Internet Protocol (VOIP) telephones and voicemail. With the exception of one or more public switched telephone network (PTSN) lines to provide emergency communication and support for alarms, all existing District phone numbers shall be moved to the City demarcation location at City Hall. Telephone calls to District numbers will be routed through the City infrastructure to telephones at District facilities.
B. A point-to-point network circuit between the City and District shall be established to provide the VOIP services at District expense.
C. The City shall provide internal phone numbers (extensions) to all District VOIP phones as well as voicemail services.
D. The City shall support the District in setting up call handling routines.
E. The City will notify the District of any planned outages and coordinate best times for planned outages. When the City is contemplating the installation of additional

features and/or upgrades to the telephone system that will result in an additional cost, the District shall have the option to participate in the additions/upgrades of said new feature and/or upgrades and shall share in the cost on a pro-rata basis.

# Exhibit E

## Fleet Management Specifications.

I. Fleet Repair Services

A. The City shall provide to the District a support phone number for the initiation of fleet repair services. This phone number shall be answered during regular City Shop working hours 7 AM to 5:30 PM Monday through Thursday.

B. Repairs to District's vehicles shall be repaired on a priority basis after City police, sanitation, and snow operations vehicles/equipment. This includes the van, bus, and all maintenance equipment.

C. City shall prepare a monthly report and provide a statement of repairs, parts, labor, and supplies to District for each work order by the 14th of the following month.

D. Replacement parts shall be as distributed by original equipment manufacturer, NAPA, Carquest or approved equal.

II. Equipment Maintenance

A. Perform routine maintenance checks and service (including mechanical repairs, tune-ups, filter and oil changes, greasing, power washing) on District owned maintenance equipment such as Jacobson mowers (2), small riding mower (1), Kubota Tractor (1), other tractor (1), ATV (1), field/parking lot painters (2), Diamond Demon field maintainer (1), golf carts (2), chain saws (1)). The District will occasionally send District equipment back to the manufacturers as needed for deep maintenance. The above quantities and types of District maintenance equipment, van and bus are subject to change and provided for reference only. City shall maintain District owned maintenance equipment and vehicles to the extent possible. Specialized maintenance tasks that are outside the expertise of City staff shall be completed by outside vendors at the District's expense. This determination shall be made with communication among the designated representatives of the City and the District with the final decision being made by the District.

B. All District owned maintenance equipment shall be marked with "MRD".

C. All District owned maintenance equipment shall be transported by the District to and from the City Public Works Shop when maintenance is requested.

D. Equipment maintenance records shall be maintained by the City and made available for to the District upon request.

III. Fleet Preventative Maintenance Services

A. The City shall provide to the District preventive maintenance services at regularly scheduled intervals based on usage.

B. The City of Montrose Fleet Superintendent will provide a monthly "Scheduled Maintenance Due Report" of MRD Fleet to the MRD Maintenance Superintendent.

C. Work Outside the scope of Preventative Maintenance Services as defined below in Section F will follow these steps:
   i. City of Montrose Fleet Superintendent will provide an estimated price of parts and labor along with an estimated completion date.
   ii. MRD Maintenance Superintendent will review and approve work.
   iii. MRD Maintenance Superintendent will schedule the approved work with the City Fleet Superintendent.

D. Work can only be requested, submitted, accepted, or approved by the MRD Maintenance Superintendent and the City of Montrose Fleet Superintendent.

E. When vehicles are due for service the District will deliver vehicle to City shop at an assigned date and time.

F. Fleet preventative maintenance services on District vehicles shall include:
   i. Light truck, 5,000 mile service or "A" service includes: Change engine oil and filter, lube chassis and rotate tires. Check brakes, lights, tires, all other fluids, vehicle markings, paint, and glass. Approximate technician time 1.3 hours.

G. Replaceable filters shall be as distributed by NAPA or approved equal.

IV. Fleet Management Services

A. For each District vehicle the City shall maintain service, mileage, parts, fluids and labor costs records in the City's fleet management system. District records shall be kept under a unique organization and separate from City fleet records.

B. Reports from available data shall be provided to the District upon request. Recommended vehicle replacement reporting shall be available as well.

V. Fleet Fueling Services and Fluids

A. City shall allow District to fuel vehicles at City fueling station. City shall provide an access card and fueling key for each District vehicle to allow after-hour access to fueling station. District staff will input an employee identification number and current odometer reading prior to fueling vehicle.

B. Fluids dispensed by City include: 5W/20 motor oil: API classification GF-4/SM, Dexron V1 automatic transmission fluid, 80W-90 gear lube, ASTM D6210 50/50 pre-mix anti-freeze, NLG1 GC-LB moly high temp EP (extreme pressure) grease.

C. Fuels dispensed by City include: E10 Unleaded Gasoline and #2 Ultra Low Sulfur (Diesel) Fuel.

D. City will bill District on a quarterly basis for fuel and fluids dispensed for District vehicles.

VI. Excluded Services

A. The following services are outside of the scope of capability of the City and must be provided by an outside vendor:

i. Transmission overhauls
ii. Axle overhauls
iii. Structural damage
iv. Frame damage
v. Glass Repair
vi. Upholstery Repair
vii. Wrecker service
viii. Paint and body repairs
ix. Engine overhauls

B. At District request and expense, the City may facilitate repairs through an outside vendor.

# Schedule A

## PAYMENT SCHEDULE AND SCHEDULE OF COSTS

City shall receive payment from District on a quarterly basis for all services performed.

Hours shall be tracked in each shared service and communicated to the District on a quarterly basis with the budget reports to communicate hours available in each area.

Hourly billing rates are based on the position’s burden rate with 3% overhead. Rates are adjusted on an annual basis following approval of the city’s annual budget.

| **Table 1 – Financial Services Cost Schedule** | | | |
|---|---|---|---|
| **Task** | **Estimated Labor Hours** | **Hourly Billing Rate** | **Estimated Labor Total** |
| Financial Reporting | ~~80~~40 | $~~93~~108.00 | $~~7,440~~4,320.00 |
| | | | |
| **Table 2 – Legal Services Cost Schedule** | | | |
| **Deliverable** | **Hourly Billing Rate** | | |
| City Attorney | $1~~00~~50.00 | | |
| | | | |
| **Table 3 – Facility Services Cost Schedule** | | | |
| **Task** | **Billing Rate** | **Annual Expense** | |
| Management | $70.32/hr | | |
| Additional Parking Lot Sweeping | $38.48for labor / $232.21for sweeper | | |
| Utility (Cerise Irrigation) | | 70% of the Actual Cost Charged by DMEA | |
| **Crack Sealing** | | | |
| Air spade excavation of debris along seams and cracks in the asphalt mat (Truck, Trailer, Compressor, Two Laborers) | $1.10/linear foot | | |
| Crack Seal (Raw Material) | $1.50 per pound | | |
| Application of Material (H. Truck, Crack Sealer, 2 Laborers) Including | $105/hour | | |

| | | | |
|---|---|---|---|
| placement, conditioning and sanding | | | |
| Additional labor | $32.28/hour | | |
| **Asphalt Patching** | | | |
| Saw or Wheel Cut Neat Line for Asphalt Patching (Excl. length where pavement abuts concrete or edges of existing pavement) | $4.40/linear foot | | |
| Removal and Disposal of Asphalt Mat (Street Patch Areas) (Incl. base course reconditioning, compaction, and proof rolling (where possible) | $9.00/square yard | | |
| Patch Area Over Excavation and Disposal | $26.75/cubic yard | | |
| Aggregate Base Course (CDOT Class 6) (Incl. placement, moisture conditioning, and compaction) | $26.75/ton | | |
| Hot Mix Asphalt (Incl. tack coat, placement, and compaction | $106.45/ton | | |
| Laborers(patching, traffic control, or sweeping) | 32.28/hour | | |
| Additional Potholes Per 50lb Bag (Materials and Labor / Temporary Fix) | $75per 1.5 cu ft | | |
| Tractor & Mower (Equipment #337) | $46.47/hr | | |
| Brush Chipper (Equipment #290) | $32.26/hr | | |
| Ford F350 (Equipment #887) | $25.19/hr | | |
| Backhoe Loader (Equipment #100) | $52.69/hr | | |
| Operator for Self-propelled Equipment | $40.47/hr | | |
| | | | |

| **Trash and Recycle Services** | | | |
|---|---|---|---|
| **Facility** | **Containers "T" Trash/ "R" Recycling** | **Monthly Rate** | **Annual Expense (To be credited to City)** |
| Community Recreation Center | T- 3-350 gal. containers/ R-1-350 gal. container, 2-90 gal. containers. M/Thurs. Collection | $~~364.73~~437.68 | $~~4,376.74~~5,252.11 |
| Holly Park | T- 1-350 gal. container. M/Thurs. Collection | $~~121.58~~145.90 | $~~1,458.91~~1,750.75 |
| McNeil Park | T-1-350 gal. container and 1-420 gal. container. M/Thurs. Collection | $~~267.47~~320.96 | $~~3,209.61~~3,851.57 |
| Field House | T-2-420 gal. containers, R-4-90 gal. container. M/Thurs. Collection | $~~323.04~~387.65 | $~~3,876.54~~4,651.78 |
| | | Total | $~~12,921.79~~15,506.21 |
| | | | |
| **Table 4 – Information Services Cost Schedule** | | | |
| **Task** | **Hourly Billing Rate** | **Annual Expense** | |
| Network Design | $~~65.14~~71.14 | | |
| Network Design – After Hours | $~~97.71~~106.71 | | |
| Computer Support | $~~50.24~~44.38 | | |
| Computer Support – After Hours | $~~75.36~~66.57 | | |
| Network/Server Support | $~~65.14~~65.92 | | |
| Network/Server Support – After Hours | $97.71 | | |
| Phone System Changes | $~~65.14~~65.92 | | |
| Phone System Changes – After Hours | $~~97.71~~98.88 | | |

| | | | |
|---|---|---|---|
| Internet Service | | $6,000.00 | |
| (1 Gbps service provided by City) | | $6,000.00 | |
| Cloud-based offsite backup date storage ($10/month up to 200 GB | | | |
| KnowBe4 Cybersecurity training. $3.75/user/month. 42 users | | $1,890.00 | |
| Vipre virus scanning managed by City at $5/month per computer (optional) 12 computers | | | |
| ~~Long Distance ($0.05 /minute) est. 1000 minutes + 3%~~ | | ~~$618.00~~ | |
| Phone System Charges ($14.16~~4.00~~/user/month) 28~~2~~ phones | | $4,757.76~~1,056~~ | |
| ~~Placer.ai location analytics software (36% share of total annual cost)~~ | | ~~$10,584~~ | |
| **Table 5 Fleet Management Cost Schedule** | | | |
| **District Owned Vehicles** | | | |
| 2001 Dodge Pickup | | | |
| 2004 Chevrolet Van | | | |
| 2012 Dodge Ram 1500 SLT | | | |
| 2013 Ford Eldorado Aerolite Bus (15 Passenger) | | | |
| 2016 Ford F250 Super Duty F-26 | | | |
| 2017 Trailer, VIN 4P5D71420H1258593 | | | |
| 2018 Ford E-350 Bus (15 Passenger) | | | |
| 2019 1500 4x4 Hemi Reg Cab SLT | | | |
| | | | |
| **Fleet Maintenance Cost Schedule** | | | |
| **Deliverable** | | **Hourly Billing Rate** | **Expense** |
| Fleet Repair Services | | $115.00 | Parts Actual Cost |

| | | | |
|---|---|---|---|
| Fleet Preventative Maintenance Services | $115.00 | Parts Actual Cost | |
| Fleet Management Services | $115.00 | | |
| Fleet Fluid and Fueling Cost | NA | Actual Rack Rate | |
| | | | |

# INTERGOVERNMENTAL AGREEMENT
## BETWEEN THE CITY OF MONTROSE AND THE MONTROSE RECREATION DISTRICT REGARDING SHARED SERVICES

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is dated ____________, 2025, between the City of Montrose, (the "City") a Colorado home rule municipal corporation, whose address is 400 E. Main Street, P.O. Box 790, Montrose Colorado 81402, and the Montrose Recreation District, (the "District") a Colorado special district, whose address is 16350 Woodgate Road, Montrose, Colorado 81401; the above-named entities may sometimes be collectively referred to herein as the "Parties" and individually as a "Party." The effective date of this Agreement shall be January 1, 2026 (the "Effective Date").

WHEREAS, the City, and the District have collaborated in the past to provide a variety of recreational needs serving a diverse population; and

WHEREAS, it is the directive of the governing bodies of the Parties to provide the best services at the lowest possible cost; and

WHEREAS, the Parties shall implement shared services as specified in this Agreement whereby City agencies shall support the District in exchange for payment; and

NOW THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, the Parties hereto agree as follows:

**PART I: SPECIFIC TERMS.**

1. FINANCE

a) On a monthly basis, the City's finance department will import the transactional data provided from the District staff. Monthly budget reports will be provided by the City to the District so that the District has up-to-date knowledge of the state of its finances. The District will handle revenue receipts, provide accounts payable and payroll services in-house. The District shall provide cash receipt, accounts payable and payroll summary data to the City in a format approved by the City on a monthly basis. The District shall bear all expense related to District finances and accounting. A detailed description of the processes for all finance functions is set forth on Exhibit "C", which is attached hereto and incorporated herein.

b) As defined on Exhibit "C", the District shall continue to provide day-to-day accounting and timekeeping functions, including point of sale and deposits, in-house (the "Daily Functions"). The District shall provide reports of the Daily Functions to the City in such a format that allows the City to import journal entry data into the City's financial software.

c) The District will utilize the services as written in sections a and b above until such time as they are able to transition to provide them autonomously. This is planned for completion in early 2026. The City will bill for financial services rendered until the district is complete with this transition.

d) The City shall provide administration service to the District for the Recreation Facility Election Intergovernmental Agreement. The agreement specifies the transfer and use of the voter approved sales tax proceeds generated from a 0.3% sales tax increase approved by voters on April 1, 2014. The District shall credit the City as specified in this Part I (7) (E).

2. LEGAL

a) The City Attorney represents the City. The City Attorney may provide general legal services to the District as time and the specific need arises. The Council or the City Attorney may determine on a case-by-case basis that the District shall obtain separate legal advice and/or representation.

b) The Parties shall execute a letter of engagement setting forth the scope of the representation prior to the rendering of legal services under this Agreement. No attorney/client relationship shall be formed until such letter of engagement has been executed.

c) The District shall bear all expense related to the provision of general legal services by the City Attorney for the benefit of the District.

d) The City Council may terminate the provision of the City Attorney's services to the District at any time.

e) Nothing in this provision interferes with the District's right to hire counsel of their own choosing.

3. FACILITY SERVICES

a) The City shall provide sweeping services for District parking lot areas as depicted in Exhibit "A" and at the Community Recreation Center, following prioritized maintenance schedules identified in the City Sweeping Plan. All sweeping shall be requested by the District and scheduled with the City. Advanced notice of two weeks shall be required by the City. The City may provide general support to the District as needed on projects in which the City has specialized equipment. Equipment and labor rates are provided in Schedule "A".

b) The City's personnel policies and insurance coverage shall apply to any City employees working on District property and the District shall not be responsible for any human resource issue or insurance coverage issue pertaining to these City employees.

c) The City shall provide crack sealing, asphalt patching services or a combination of these services at any agreed upon District facility, following prioritized street maintenance scheduling. The estimated value of this work shall be $4,000 as calculated using the rates in Schedule A. The District Maintenance Superintendent shall contact the City Public Works Director to request and schedule such work, with the understanding that two weeks advanced notice is essential for the City to provide services in a timely and resource-efficient manner. Additional work may be scheduled with the City and invoiced to the District according to the rates in Schedule A.

d) MRD's personnel policies and insurance coverage shall apply to any MRD employees working on City property and the City shall not be responsible for any human resource issue or insurance coverage issue pertaining to these MRD employees.

e) The District shall bear all expense related to the provision of facilities services by the City for the benefit of the District.

f) The City shall bear all expense related to the provision of facilities services by MRD for the benefit of the City.

4. CERISE & AMPHITHEATER FIELDS, TRAILS, PUBLIC SPACES AND FLEX PARK

a) DESCRIPTION

i) For the purposes of this Agreement, Cerise Fields shall mean a ten (10) acre, multi-purpose area and a two (2) acre soccer field and related facilities on site, including irrigation systems, storage building and natural surface trails, as depicted in Exhibit "A".

ii) For purposes of this Agreement, Amphitheater Field shall mean the 1.5 acre field located in front of the Montrose Rotary Amphitheater, as depicted in Exhibit "A".

iii) For the purposes of this Agreement, Trails and Public Spaces shall mean other spaces open to the public for non-exclusive use within the Baldridge Regional Park Complex.

iv) For the purposes of this Agreement, Flex Park shall mean the 0.56-acre lot situated adjacent to the west of the Flex Rec facility at 1309 Mayfly Drive occupied by MRD, as depicted in Exhibit "A".

b) ACCESS

i) The City shall grant public access to the Cerise Fields for as long as the City, or its assigns, leases or owns the land encompassing Cerise Fields.

ii) The City hereby grants to the District the right to use the Cerise Fields in accordance with the terms of this Agreement. This right to use is for the purpose of allowing the District, its agents and contractors, access to Cerise Fields for the purpose of conducting the day-to-day programs and activities of the District.

iii) During the term of this Agreement, a Master Scheduling for the use of the Cerise Fields shall be created annually, not later than January 31 of each year. Master scheduling will include key District and City personnel. Both parties will present a calendar of events, collaborating to populate a shared calendar of events that includes community-wide events, Cerise Park programming, and large events (100+ people) at the Montrose Rotary Amphitheater or at the Ute, McNeil, or Holly Park set of fields. Once this Master Schedule has been created, either party may add events into the schedule with 60 days' notice with no required notification of the other party. Within 60 days, modifications or additions of large events (100+ people) to the schedule require notification of the other party prior to finalization. Primary contacts for scheduling are identified as the City Clerk, Lisa DelPiccolo and the District's Facilities Manager, Justin Mashburn.

iv) The District shall provide a layout of the proposed field locations for each sports season as part of the Master Schedule. Except as otherwise provided herein, the District shall have priority in scheduling events in the Master Schedule for Cerise Fields. The City shall have priority in scheduling events thereafter, with the District having secondary scheduling priority after both the City and the District have scheduled their initial events. City Park Use Fees will be exempted for all District activities scheduled. Notwithstanding the foregoing, the following holiday weekends shall be scheduled by the City for special community events: Memorial Day, Independence Day, and Labor Day. Additionally, it is recognized that the second weekend in August shall also be scheduled by the City for the annual Fun on the Uncompahgre River Festival (FUNC Fest) at Riverbottom Park and the Montrose Rotary Amphitheater, the second Saturday in May shall be scheduled by the City for the annual Montrose Mudder at Cerise Fields and Trails and the Montrose Rotary Amphitheater, and the third weekend in August shall be scheduled by the District for the annual Youth Appreciation Day (YAD).

c) MAINTENANCE

i) The District shall maintain the Cerise Fields (said maintenance to include all turf maintenance and ancillary equipment required for District programs) during the growing season, and during any times that the District is sponsoring programs at the Cerise Fields.

ii) The City shall be responsible for all restroom cleaning. The City shall refer to the shared calendar of events in order to ensure that cleaning takes place prior to and after events. The District shall notify the City in advance of upcoming large events that may warrant additional services such as cleaning during an event. The restroom at Cerise Fields will be closed and winterized no earlier than October 15 each year and reopened for use no later than April 15 each year to protect it from freezing.

iii) The District shall be responsible for arranging for temporary toilet facilities if needed during periods when the restroom is closed. Notwithstanding the foregoing, the City shall be responsible for communicating to the District and supplying temporary toilet facilities if restrooms are closed for any reason later than April 15 or prior to October 15.

iv) The District shall be responsible for any "start-up", winterization and draining of the irrigation system serving the Cerise Fields.

v) The District shall provide mowing and trimming services, including labor and equipment, for the Amphitheater Field, following prioritized park maintenance and scheduling. The District shall provide mowing and trimming one (1) day per week during the growing season; the growing season begins on March 1 and concludes on October 31. The estimated value of this work is $4,000. Additional work may be scheduled with the District and invoiced to the City at a rate of $42.67 per hour, including labor and equipment.

vi) The City shall maintain Cerise and Amphitheater Fields after the District has ceased using the Cerise Fields for programs, and during the non-growing season; the non-growing season begins on November 1 of each year and concludes on the last day of February of each following year.

vii) Maintenance shall be performed in accordance with the specifications set forth in Exhibit "B". Maintenance shall be done in accordance with National Recreation and Park Association standards.

viii) The District shall be responsible for maintenance of the Flex Park, including but not limited to, providing turf and ground cover maintenance, inclusive of mowing and trimming services (including associated labor and equipment). The District shall also be responsible for irrigation repairs and maintenance, including any "start-up", winterization and draining of the irrigation system serving the Flex Park. The City will maintain the restroom facility adjacent to the south and will also provide trash service for the Flex Park. It is understood that the District's maintenance of Flex Park is contingent on its occupancy of property at Colorado Outdoors.

d) USE OF THE CERISE FIELDS

i) Use of the multi-purpose field shall be limited to sporting practices, games, and Amphitheater events; all goals and other equipment shall be portable, and shall be supplied either by the user, or by the District and shall be removed after each sports season. Temporary painted stripes may be placed on the multi-purpose field. The District shall be responsible for removing portable equipment at the City's request for other scheduled activities. All portable equipment shall be securely attached to the ground for the purpose of assuring public safety. The District shall assure at all times a minimum of two (2) acres of the multi-purpose field shall be available to the public for use and not scheduled for practice or game use.

ii) Games and international soccer league activities shall be limited to the two-acre field and the 10-acre field, as depicted on Exhibit "A".

5. INFORMATION SERVICES

a) The City Information Services Department shall provide technical support to the District staff and board to assure the smooth operation of the District information services systems in accordance with the standards set forth in Exhibit "D" which is attached hereto and incorporated herein.

b) District shall ensure City staff are provided with orientation and training by the audiovisual equipment installers or manufacturers for routine support and maintenance of all installed products. District shall provide a copy of operations and maintenance manuals and as-built diagram for all District audiovisual equipment which the City will be maintaining.

c) District shall include City staff in future planning and upgrades of audiovisual equipment prior to ordering and installation.

d)

6. FLEET MANAGEMENT

a) The City Fleet Department shall provide fleet management support for District owned vehicles. The City shall be responsible for fleet management in accordance with the standards set forth in Exhibit "E", which is attached hereto and incorporated herein.

b) The District shall bear all expense related to maintaining the District fleet.

7. FACILITY ACCESS FOR EMPLOYEES

a) City Employee and Council Access to the Community Recreation Center. The District shall waive the Tier 3 Corporate Membership fee for the City. The District shall offer the Participant Membership Fees (equivalent to a 25% discount) to City employees and Council for the family and adult annual pass at the effective rate at time of purchase. The District shall share such rates for the upcoming calendar year with the City by November 1. This discount does not apply to youth, senior or any other pass products.

b) The City shall notify the District when employees are terminated and/or when new hires are made on a monthly basis. MRD will remove annual pass privileges for terminated City employees at the end of the current month. New employee annual pass privileges will be effective immediately. Balances for terminated and/or new employees shall be mutually resolved at the end of the current calendar year.

c) District Employee and Board Access to the Black Canyon Golf Course. The City shall offer a 100% discount to Full Time District employees and active Board of Directors members on the regularly priced Black Canyon Card, which is a value of $50, providing access to discounted golf, merchandise, and food.

d) The City shall provide trash and recycling services to the District for the Field House, Community Recreation Center, Holly Park, and McNeil Fields (an annual value of $12,921.79 value as noted in Schedule A). The District shall provide the City with credit, (equivalent to an annual value of $12,921.79 value) which will be used towards the annual pass payment for City Employees and Council.

e) The City shall provide administration of sales tax revenues from the City to the District at no cost (an annual value of $3,000). The District shall provide the City with credit, (equivalent to an annual value of $3,000) which will be used towards the annual pass payment for City Employees and Council.

**PART II: TERM.** The initial term of this Agreement shall commence on the Effective Date and shall continue in effect through December 31, 2026 unless otherwise terminated in accordance with the provisions of Part XIII of this Agreement.

**PART III: PAYMENT.** The District shall provide a payment in cash or its equivalent as set forth in Schedule A. In the event that the actual labor hours for a specific task indicated in Schedule A differ from those shown, the actual hours at the associated rate indicated on Schedule A will be paid by the District to the City.

**PART IV: COMMUNICATIONS.** The Parties shall designate authorized representatives and all communications related to the performance of duties defined in this Agreement shall be conducted solely between the representatives so designated. Additionally, the key City staff involved in providing the shared services described in this Agreement shall report as needed to the District's Board of Directors.

**PART V: ASSIGNMENTS.**

a) *No Assignments.* Neither Party may assign any of its rights, duties or obligations arising under this Agreement without the prior written consent of the other Party.
b) *Ramifications of Purported Assignment.* Any purported assignment of the rights, duties or obligations of either Party without the express written consent of the other Party shall be void.

**PART VI: CHOICE OF LAW.** The laws of the State of Colorado (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its interpretation, construction, performance and enforcement.

**PART VII: INDEMNIFICATION (DISTRICT TO CITY).** The District, to extent allowed under Colorado Constitution Article X, Section 20, and any other law, shall indemnify and defend the City at all times as of the Effective Date of this Agreement against:

a) any liability, loss, damages (including punitive damages), claim, settlement payment, cost and expense, interest, award, judgment, diminution in value, fine, fee, and penalty or other charge, other than any Litigation Expenses (as defined in subsection (b)), arising out of or relating to the activities of the District set forth herein; and

b) any court filing fee, court cost, arbitration fee or cost, witness fee, and each other fee and cost of investigating and defending or asserting any claim for indemnification under this Agreement, including, without limitation, in each case, attorneys' fees, other professionals' fees, and disbursements (collectively, "Litigation Expenses").

**PART VIII: INDEMNIFICATION (CITY TO DISTRICT).** The City, to the extent allowed under Colorado Constitution Article X, Section 20, and any other law, shall indemnify and defend the District at all times as of the Effective Date of this Agreement against:

a) any liability, loss, damages (including punitive damages), claim, settlement payment, cost and expense, interest, award, judgment, diminution in value, fine, fee, and penalty or other charge, other than any Litigation Expenses (as defined in subsection (b)), arising out of or relating to the activities of the City set forth herein; and

b) any court filing fee, court cost, arbitration fee or cost, witness fee, and each other fee and cost of investigating and defending or asserting any claim for indemnification under this Agreement, including, without limitation, in each case, attorneys' fees, other professionals' fees, and disbursements (collectively, "Litigation Expenses").

**PART IX: NOTICES.**

a) *Requirement of a Writing.* Permitted Methods of Delivery. Each Party giving or making any notice, request, demand or other communication (each, a "Notice") pursuant to this Agreement shall give the Notice in writing and use one of the following methods of delivery, each of which for purposes of this Agreement is a writing: personal delivery, Registered or Certified Mail (in each case, return receipt requested and postage prepaid), nationally recognized overnight courier, (with all fees prepaid), facsimile or e-mail.

b) *Addressees and Addresses.* Any Party giving a Notice shall address the Notice to the appropriate person at the receiving Party (the "Addressee") at the address listed on the first page of this Agreement or to another Addressee or another address as designated by a Party in a Notice pursuant to this section.

c) *Effectiveness of a Notice.* Except as provided elsewhere in this Agreement, a Notice is effective only if the Party giving the Notice has complied with subsections a) and b) and if the Addressee has received the Notice.

**PART X: AMENDMENTS.** The Parties may amend this Agreement only by a written agreement of the Parties that identifies itself as an amendment to this Agreement.

**PART XI: MERGER.** This Agreement constitutes the final agreement between the Parties. It is the complete and exclusive expression of the Parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the Parties on the matters contained in this Agreement, including but not limited to the Intergovernmental Agreement between the Parties in previous years, are expressly merged into and superseded by this Agreement. The provisions of this Agreement may not be explained, supplemented or qualified through evidence of trade usage or a prior course of dealings. In entering into this Agreement, neither Party has relied upon any statement, representation, warranty or agreement of the other Party except for those expressly contained in this Agreement. There are no conditions precedent to the effectiveness of this Agreement other than those expressly stated in this Agreement.

**PART XII: SEVERABILITY.** If any provision of this Agreement is held invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement to fulfill as closely as possible the original intents and purposes of this Agreement.

**PART XIII: FUTURE AGREEMENT.** If District wishes to enter into a contract for 2027 with City, District must notify City no later than October 15, 2026 .

**PART XIV: ESCALATOR.** All costs set forth in Schedule A shall be subject to escalation or de-escalation based on actual increases or decreases in costs incurred by the City. Written documentation of said increases shall be provided by the City to the District as these increases occur.

APPROVED this ______ day of ___________________, 2025.

**CITY OF MONTROSE**

______________________________

David Frank, Mayor

**ATTEST:**

______________________________

Lisa DelPiccolo, City Clerk

**MONTROSE RECREATION DISTRICT**

______________________________

Barb Sharrow, President

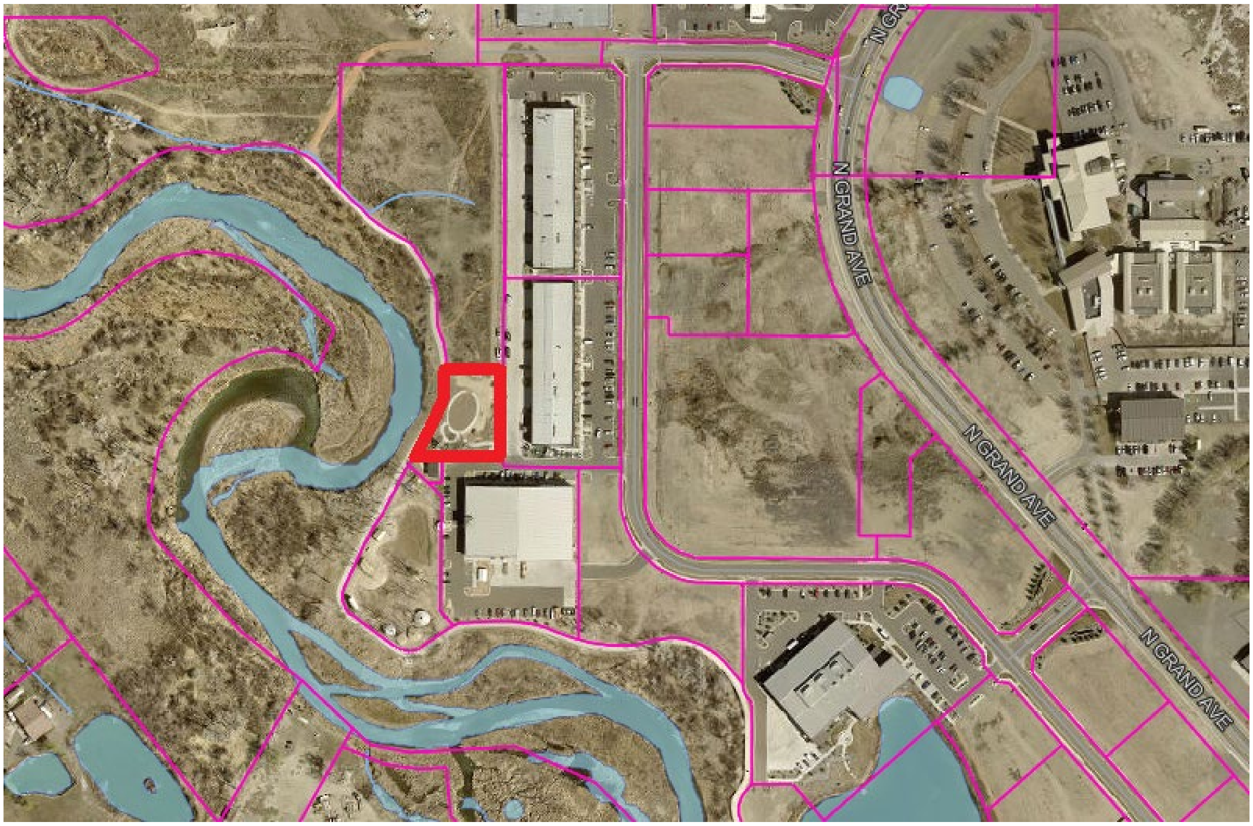
**ATTEST:**

______________________________

Suzi King, Vice President

# Exhibit A


Exhibit A
Map of Cerise Park and
District Facilities Referenced
in the City/MRD IGA
S 9TH STREET
2 Acre Soccer Field
Fieldhouse
1.5 ac. Amphitheater Field
10 Acre Multi-Purpose Field
S RIO GRANDE AVE
Holly Park
McNeil Field
Symbol Key
MRD Services
IGA Purpose
Cerise Fields Maintenance
Parking Lot Sweeping & Maintenance




**Flex Park Location – Also known as Lot 24, Colorado Outdoors Subdivision Amendment No. 7**

# Exhibit B

## FACILITY SERVICES SPECIFICATIONS

I. Facility Support

A. Parking Lot Sweeping - Sweep parking lots at McNeil Fields, Holly Park, and the Field House as shown on Exhibit "A" and the Community Recreation Center, in accordance with City Sweeping Plan. The District may request additional sweeping by the City as needed. All sweeping shall be requested by the District and scheduled with the City. Advanced notice of two weeks shall be required by the City.

B. Irrigation System Winterization – District staff may request the use of City compressor equipment free of charge to complete irrigation system winterization.

C. Crack Sealing and Asphalt Patching - The City shall provide crack sealing, asphalt patching or a combination of these services at any agreed upon District facility, following prioritized street maintenance scheduling. The estimated value of this work shall be $4,000 as calculated using the rates in Schedule A. The District Maintenance Superintendent shall contact the City Public Works Director to request and schedule such work, with the understanding that two weeks advanced notice is essential for the City to provide services in a timely and resource-efficient manner. Additional work may be scheduled with the City and invoiced to the District according to the rates in Schedule A.

D. General Support - At the City's discretion, the City may provide general support as needed on projects in which the City has specialized equipment and expertise, particularly in the public works department. Rates for equipment commonly requested by the District are included in Schedule A. Self-propelled equipment will require a City operator. Support not identified in Schedule A will be billed to the District as appropriate and necessary.

E. The City shall provide trash and recycling services to the District for the Field House, Community Recreation Center, Holly Park, and McNeil Fields. The District shall provide the City with credit for the value of the services, as detailed in Schedule A, which will be used towards the annual pass payment for City Employees and Council.

# Exhibit C

## Finance Specifications

I. Cash Receipts, Payroll and Accounts Payable

   A. The District shall continue to operate its Point of Sale system and make its own deposits. Daily cash receipt data will be summarized by revenue category (as determined by the District) by day into a spreadsheet format approved by the City and provided to the City for import into the City's general ledger. This includes daily cash receipts and any billing and invoicing distributed by the District. Additionally, the District shall continue to fulfill accounts payable and payroll functions. The District shall prepare and submit a summary accounts payable and payroll spreadsheet in a format, approved by the City, monthly for import into the City's general ledger.

II. Financial Reports and General Ledger

   A. The City shall generate monthly budget reports within 10 business days of receipt of properly formatted data documenting the expenses and revenues for the previous month (period actual), YTD actual, Annual Budget, Variance, and percentage of Budget expended.
   B. The City will also maintain and update a general ledger budget document that captures all District funds, revenues and expenses.

# Exhibit D

## INFORMATION SERVICES SPECIFICATIONS

I. Information Services and Audiovisual Systems Support

A. The City shall provide to the District a support phone number and/or website for the initiation of information services and audiovisual technical support.
B. The City shall prioritize the support request based on the severity of the issue and the current calls already in the work queue.
C. During business hours, the City shall provide an acknowledgment of the support request within four hours. The District shall allow the City to remotely connect to the District computers in order to properly respond to the support request. Support requests initiated after normal business hours should indicate if the problem requires immediate attention or can be resolved on the next regular business day.
D. Any support request requiring work in excess of four hours will be communicated prior to completing the request.
E. Routine maintenance tasks of supported equipment and software shall be initiated and completed by City according to manufacturer recommendations.
F. The City may provide cloud-based backup file storage to the District.
G. The City may provide virus checking and protection on all District computers attached to the City Network. The District shall be responsible for purchase of required virus protection licensing for each District computer.
H. The City will assess a 3% administrative fee for management of procurement or billing of hardware purchased for MRD and long-distanced phone service.

II. Telephone System

A. Equipment shall be installed in the District in order to provide digital voice over Internet Protocol (VOIP) telephones and voicemail. With the exception of one or more public switched telephone network (PTSN) lines to provide emergency communication and support for alarms, all existing District phone numbers shall be moved to the City demarcation location at City Hall. Telephone calls to District numbers will be routed through the City infrastructure to telephones at District facilities.
B. A point-to-point network circuit between the City and District shall be established to provide the VOIP services at District expense.
C. The City shall provide internal phone numbers (extensions) to all District VOIP phones as well as voicemail services.
D. The City shall support the District in setting up call handling routines.
E. The City will notify the District of any planned outages and coordinate best times for planned outages. When the City is contemplating the installation of additional

features and/or upgrades to the telephone system that will result in an additional cost, the District shall have the option to participate in the additions/upgrades of said new feature and/or upgrades and shall share in the cost on a pro-rata basis.

# Exhibit E

## FLEET MANAGEMENT SPECIFICATIONS

I. Fleet Repair Services
  A. The City shall provide to the District a support phone number for the initiation of fleet repair services. This phone number shall be answered during regular City Shop working hours 7 AM to 5:30 PM Monday through Thursday.
  B. Repairs to District's vehicles shall be repaired on a priority basis after City police, sanitation, and snow operations vehicles/equipment. This includes the van, bus, and all maintenance equipment.
  C. City shall prepare a monthly report and provide a statement of repairs, parts, labor, and supplies to District for each work order by the $14^{th}$ of the following month.
  D. Replacement parts shall be as distributed by original equipment manufacturer, NAPA, Carquest or approved equal.

II. Equipment Maintenance
  A. Perform routine maintenance checks and service (including mechanical repairs, tune-ups, filter and oil changes, greasing, power washing) on District owned maintenance equipment such as Jacobson mowers (2), small riding mower (1), Kubota Tractor (1), other tractor (1), ATV (1), field/parking lot painters (2), Diamond Demon field maintainer (1), golf carts (2), chain saws (1)). The District will occasionally send District equipment back to the manufacturers as needed for deep maintenance. The above quantities and types of District maintenance equipment, van and bus are subject to change and provided for reference only. City shall maintain District owned maintenance equipment and vehicles to the extent possible. Specialized maintenance tasks that are outside the expertise of City staff shall be completed by outside vendors at the District's expense. This determination shall be made with communication among the designated representatives of the City and the District with the final decision being made by the District.
  B. All District owned maintenance equipment shall be marked with "MRD".
  C. All District owned maintenance equipment shall be transported by the District to and from the City Public Works Shop when maintenance is requested.
  D. Equipment maintenance records shall be maintained by the City and made available for to the District upon request.

III. Fleet Preventative Maintenance Services
  A. The City shall provide to the District preventive maintenance services at regularly scheduled intervals based on usage.
  B. The City of Montrose Fleet Superintendent will provide a monthly "Scheduled Maintenance Due Report" of MRD Fleet to the MRD Maintenance Superintendent.

C. Work Outside the scope of Preventative Maintenance Services as defined below in Section F will follow these steps:
   i. City of Montrose Fleet Superintendent will provide an estimated price of parts and labor along with an estimated completion date.
   ii. MRD Maintenance Superintendent will review and approve work.
   iii. MRD Maintenance Superintendent will schedule the approved work with the City Fleet Superintendent.

D. Work can only be requested, submitted, accepted, or approved by the MRD Maintenance Superintendent and the City of Montrose Fleet Superintendent.

E. When vehicles are due for service the District will deliver vehicle to City shop at an assigned date and time.

F. Fleet preventative maintenance services on District vehicles shall include:
   i. Light truck, 5,000 mile service or "A" service includes: Change engine oil and filter, lube chassis and rotate tires. Check brakes, lights, tires, all other fluids, vehicle markings, paint, and glass. Approximate technician time 1.3 hours.

G. Replaceable filters shall be as distributed by NAPA or approved equal.

IV. Fleet Management Services

A. For each District vehicle the City shall maintain service, mileage, parts, fluids and labor costs records in the City's fleet management system. District records shall be kept under a unique organization and separate from City fleet records.

B. Reports from available data shall be provided to the District upon request. Recommended vehicle replacement reporting shall be available as well.

V. Fleet Fueling Services and Fluids

A. City shall allow District to fuel vehicles at City fueling station. City shall provide an access card and fueling key for each District vehicle to allow after-hour access to fueling station. District staff will input an employee identification number and current odometer reading prior to fueling vehicle.

B. Fluids dispensed by City include: 5W/20 motor oil: API classification GF-4/SM, Dexron V1 automatic transmission fluid, 80W-90 gear lube, ASTM D6210 50/50 pre-mix anti-freeze, NLG1 GC-LB moly high temp EP (extreme pressure) grease.

C. Fuels dispensed by City include: E10 Unleaded Gasoline and #2 Ultra Low Sulfur (Diesel) Fuel.

D. City will bill District on a quarterly basis for fuel and fluids dispensed for District vehicles.

VI. Excluded Services

A. The following services are outside of the scope of capability of the City and must be provided by an outside vendor:

i. Transmission overhauls
ii. Axle overhauls
iii. Structural damage
iv. Frame damage
v. Glass Repair
vi. Upholstery Repair
vii. Wrecker service
viii. Paint and body repairs
ix. Engine overhauls

B. At District request and expense, the City may facilitate repairs through an outside vendor.

# Schedule A

## PAYMENT SCHEDULE AND SCHEDULE OF COSTS

City shall receive payment from District on a quarterly basis for all services performed.

Hours shall be tracked in each shared service and communicated to the District on a quarterly basis with the budget reports to communicate hours available in each area.

Hourly billing rates are based on the position's burden rate with 3% overhead. Rates are adjusted on an annual basis following approval of the city's annual budget.

| **Table 1 – Financial Services Cost Schedule** | | | |
|---|---|---|---|
| **Task** | **Estimated Labor Hours** | **Hourly Billing Rate** | **Estimated Labor Total** |
| Financial Reporting | 40 | $108.00 | $4,320.00 |
| | | | |
| **Table 2 – Legal Services Cost Schedule** | | | |
| **Deliverable** | **Hourly Billing Rate** | | |
| City Attorney | $150.00 | | |
| | | | |
| **Table 3 – Facility Services Cost Schedule** | | | |
| **Task** | **Billing Rate** | **Annual Expense** | |
| Management | $70.32/hr | | |
| Additional Parking Lot Sweeping | $38.48for labor / $232.21for sweeper | | |
| Utility (Cerise Irrigation) | | 70% of the Actual Cost Charged by DMEA | |
| **Crack Sealing** | | | |
| Air spade excavation of debris along seams and cracks in the asphalt mat (Truck, Trailer, Compressor, Two Laborers) | $1.10/linear foot | | |
| Crack Seal (Raw Material) | $1.50 per pound | | |
| Application of Material (H. Truck, Crack Sealer, 2 Laborers) Including | $105/hour | | |

| | | | |
|---|---|---|---|
| placement, conditioning and sanding | | | |
| Additional labor | $32.28/hour | | |
| **Asphalt Patching** | | | |
| Saw or Wheel Cut Neat Line for Asphalt Patching (Excl. length where pavement abuts concrete or edges of existing pavement) | $4.40/linear foot | | |
| Removal and Disposal of Asphalt Mat (Street Patch Areas) (Incl. base course reconditioning, compaction, and proof rolling (where possible) | $9.00/square yard | | |
| Patch Area Over Excavation and Disposal | $26.75/cubic yard | | |
| Aggregate Base Course (CDOT Class 6) (Incl. placement, moisture conditioning, and compaction) | $26.75/ton | | |
| Hot Mix Asphalt (Incl. tack coat, placement, and compaction | $106.45/ton | | |
| Laborers(patching, traffic control, or sweeping) | 32.28/hour | | |
| Additional Potholes Per 50lb Bag (Materials and Labor / Temporary Fix) | $75per 1.5 cu ft | | |
| Tractor & Mower (Equipment #337) | $46.47/hr | | |
| Brush Chipper (Equipment #290) | $32.26/hr | | |
| Ford F350 (Equipment #887) | $25.19/hr | | |
| Backhoe Loader (Equipment #100) | $52.69/hr | | |
| Operator for Self-propelled Equipment | $40.47/hr | | |
| | | | |

| **Trash and Recycle Services** | | | |
|---|---|---|---|
| **Facility** | **Containers "T" Trash/ "R" Recycling** | **Monthly Rate** | **Annual Expense (To be credited to City)** |
| Community Recreation Center | T- 3-350 gal. containers/ R-1-350 gal. container, 2-90 gal. containers. M/Thurs. Collection | $437.68 | $5,252.11 |
| Holly Park | T- 1-350 gal. container. M/Thurs. Collection | $145.90 | $1,750.75 |
| McNeil Park | T-1-350 gal. container and 1-420 gal. container. M/Thurs. Collection | $320.96 | $3,851.57 |
| Field House | T-2-420 gal. containers, R-4-90 gal. container. M/Thurs. Collection | $387.65 | $4,651.78 |
| | | Total | $15,506.21 |
| | | | |
| **Table 4 – Information Services Cost Schedule** | | | |
| **Task** | **Hourly Billing Rate** | **Annual Expense** | |
| Network Design | $71.14 | | |
| Network Design – After Hours | $106.71 | | |
| Computer Support | $44.38 | | |
| Computer Support – After Hours | $66.57 | | |
| Network/Server Support | $65.92 | | |
| Network/Server Support – After Hours | $97.71 | | |
| Phone System Changes | $65.92 | | |
| Phone System Changes – After Hours | $98.88 | | |
| Internet Service | | $6,000.00 | |
| (1 Gbps service provided by City) | | $6,000.00 | |
| Cloud-based offsite backup date storage ($10/month up to 200 GB | | | |

| | | | |
|---|---|---|---|
| KnowBe4 Cybersecurity training. $3.75/user/month. 42 users | | $1,890.00 | |
| Vipre virus scanning managed by City at $5/month per computer (optional) 12 computers | | | |
| | | | |
| Phone System Charges ($14.16 /user/month) 28 phones | | $4,757.76 | |
| | | | |
| **Table 5 Fleet Management Cost Schedule** | | | |
| **District Owned Vehicles** | | | |
| 2001 Dodge Pickup | | | |
| 2004 Chevrolet Van | | | |
| 2012 Dodge Ram 1500 SLT | | | |
| 2013 Ford Eldorado Aerolite Bus (15 Passenger) | | | |
| 2016 Ford F250 Super Duty F-26 | | | |
| 2017 Trailer, VIN 4P5D71420H1258593 | | | |
| 2018 Ford E-350 Bus (15 Passenger) | | | |
| 2019 1500 4x4 Hemi Reg Cab SLT | | | |
| | | | |
| **Fleet Maintenance Cost Schedule** | | | |
| **Deliverable** | | **Hourly Billing Rate** | **Expense** |
| Fleet Repair Services | | $115.00 | Parts Actual Cost |
| Fleet Preventative Maintenance Services | $115.00 | Parts Actual Cost | |
| Fleet Management Services | $115.00 | | |
| Fleet Fluid and Fueling Cost | NA | Actual Rack Rate | |
| | | | |

ORDINANCE NO. 2698

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, AMENDING ORDINANCE NO. 2674 WHICH APPROPRIATED FUNDS FOR DEFRAYING THE EXPENSES AND LIABILITIES OF THE CITY OF MONTROSE, COLORADO DURING THE FISCAL YEAR BEGINNING JANUARY 1, 2025; SAID EXPENDITURES OF THE CITY OF MONTROSE OVER AND ABOVE THOSE ANTICIPATED AT THE TIME OF THE ADOPTION OF THE ORIGINAL BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2025.

WHEREAS these additional appropriations are deemed necessary for the public health, peace, or safety of the city's residents.

WHEREAS the funds below have either additional revenues or a fund balance to cover these additional expenses.

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

Section 1: The amounts appropriated for the following funds by Section 1 of Ordinance No. 2674 are hereby amended to read according to the column entitled "Final Budget", below:

| Fund# | Fund Title | Final Budget |
|---|---|---|
| 100 | General Fund | 40,479,181 |
| 150 | Public Safety Fund | 17,588,748 |
| 260 | Montrose URA | 22,500 |
| 290 | Tourism Promotional Fund | 1,135,645 |
| 370 | General Debt Service | 3,427,843 |
| 420 | Cemetery Perpetual Care Fund | 5,430 |
| 440 | Special Improvements Fund | 1,527 |
| 465 | Capital Infrastructure Fund | 35,900,000 |
| 500 | Water Fund | 10,503,024 |
| 600 | Internal Service Fund | 10,196,566 |
| 610 | Medical and Dental Self Insurance Fund | 3,954,605 |

Please take note that Montrose City Council will hold a hearing upon the above Ordinance and on the question of its adoption on first reading on Tuesday, the 18th day of November 2025, at the hour of 6:00 p.m. in the City Council Chambers at 107 S. Cascade.

INTRODUCED, READ, and PASSED on first reading this 18th day of November 2025.

Dave Frank, Mayor

Attest:

Lisa DelPiccolo

Lisa DelPiccolo, City Clerk

CITY OF MONTROSE
CITY SEAL
COLORADO

INTRODUCED, READ, AND ADOPTED on second reading this 2nd day of December 2025.

Dave Frank, Mayor

Attest:

Lisa DelPiccolo, City Clerk

Backup for Ordinance # 2698 which appropriates additional funds and supplements the original appropriating Ordinance # 2674
A supplemental budget is necessary to appropriate funds for projects, grants, and other unanticipated expenditures that occurred during the fiscal year which are deemed necessary for the public health, peace or safety of the city's residents.

| Fund # | Fund Name | Original Budget Ordinance 2674 | Final Budget Ordinance 2698 | Difference | Funded by Grants or other sources | Explanation |
|---|---|---|---|---|---|---|
| 100 | GENERAL FUND | $ 38,638,083 | $ 40,479,181 | $ 1,841,098 | $ 96,000 | Real Property purchases; Economic Incentives; Public Defenders for Municipal Court; vehicles ordered in previous years were received and Year 2 funding for the CMU endowment |
| 150 | PUBLIC SAFETY FUND | $ 17,505,720 | $ 17,588,748 | $ 83,028 | | Axon Fusus Camera Bundle |
| 260 | MONTROSE URA | $ - | $ 22,500 | $ 22,500 | $ - | Fees to Montrose County for collection of the tax increment for MURA |
| 290 | TOURISM PROMOTIONAL FUND | $ 910,293 | $ 1,135,645 | $ 225,352 | $ - | Increased marketing efforts for community events, Increase to the cost of fireworks and the purchase of DreamCO software. |
| 370 | GENERAL DEBT SERVICE | $ 1,531,251 | $ 3,427,843 | $ 1,896,592 | | Addition of the debt service on the public works new facility |
| 420 | CEMETERY PERPETUAL CARE FUND | $ 2,700 | $ 5,430 | $ 2,730 | | Additional Interest Earned that is transferred to the General Fund |
| 440 | SPECIAL IMPROVEMENTS FUND | $ - | $ 1,527 | $ 1,527 | | Fees to Montrose County for collection of the Riverwood and Otter Pond Improvement District payments |
| 465 | CAPITAL INFRASTRUCTURE FUND | $ 13,900,000 | $ 35,900,000 | $ 22,000,000 | $ 22,000,000 | Construction on the new public works facility |
| 500 | WATER FUND | $ 9,913,522 | $ 10,503,024 | $ 589,502 | $ 730,000 | 6600 Road water line interconnect project - Grant funded by DOLA |
| 600 | INTERNAL SERVICE FUNDS | $ 9,287,643 | $ 10,196,566 | $ 908,923 | | Vehicles received from previous budgeted years |
| 610 | HEALTH & DENTAL MGMT FUND | $ 3,388,761 | $ 3,954,605 | $ 565,844 | | Increase in premiums due to more participants on the Health, Dental and Vision insurance |

**Council Transmittal Memo**
**Date: November 25, 2025**

**To:** Mayor and City Council

**From:** David Bries, Utilities Director

**CC:** William Bell, City Manager
Shani Wittenberg, Finance Director
Hyrum Webb, WWTP Superintendent

**Subject:** Sewer Bond Issue Reimbursement Resolution

## Recommendation

Consider authorization of the attached Resolution No. 2025-23 to allow the future borrowing of funding for the Wastewater Treatment Plant Project to reimburse City Sewer Utility Fund.

## Background

Sewer Utility Revenue Bonds are proposed to fund the wastewater treatment project which consists of replacement of the aging Ultraviolet disinfection system, influent screw pumps, oxidation ditch aerators and the backup generator as well as construction on an anaerobic basin to provide biological phosphorus removal as required to meet proposed permit limits within the next few years. The total project cost for the wastewater treatment project at 90% design is just over $34 million with approximately $3 million being funded with sewer fund reserves in 2025 and 2026.

Additionally, the existing sewer interceptor serving the eastern part of town has segments that are exceeding capacity and needs increased capacity to serve proposed developments. The cost of the interceptor is estimated at $6.5 million.

The sewer fund’s portion of the Public Works facility is also proposed to be included in the bond issue to spread these costs out and minimize the rate impact that cash funding would require.

## Financial Impact

The anticipated Design work and equipment prepurchase contract have been issued and it is possible that the contractor is ready to start construction prior to the funds being available. This would be initially funded from Sewer Utility Fund Reserves and then reimbursed by the borrowed funds for the project.

**RESOLUTION NO. 2025 - 23**

**A RESOLUTION OF THE CITY OF MONTROSE, COLORADO, DECLARING ITS OFFICIAL INTENT TO REIMBURSE ITSELF WITH PROCEEDS OF A TAX-EXEMPT REVENUE BOND FINANCING FOR SEWER CAPITAL EXPENDITURES UNDERTAKEN OR TO BE UNDERTAKEN BY THE CITY; GENERALLY IDENTIFYING THE CAPITAL EXPENDITURES; AND PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH.**

**WHEREAS,** the of Montrose (the "City") is a home rule municipality and political subdivision duly organized and existing pursuant to a city charter (the "Charter") and the constitution and laws of the State of Colorado (the "State"); and

**WHEREAS,** pursuant to Article VI, Section 5 of the Charter the City is authorized to issue bonds for the purpose of improving the sewer system provided that the bonds are made payable solely out of the net revenues derived from the operation of such system; and

**WHEREAS,** the City Council of the City (the "City Council") currently intends and reasonably expects to participate in a tax-exempt financing in calendar year 2026 to finance improvements, repairs and upgrades to the City's sewer collection and treatment system (the "Capital Projects") in an amount up to $40,000,000 (the "Financed Amount"), and to reimburse the City for the portion of such capital expenditures incurred or to be incurred subsequent to a period commencing 60 days prior to the date hereof, and ending prior to the later of 18 months of the date of such capital expenditures or the placing in service of the Capital Projects (but in no event more than 3 years after the date of the original expenditure of such moneys); and

**WHEREAS,** the City Council hereby desires to declare its official intent, pursuant to 26 C.F.R. § 1.150-2, to reimburse the City for such capital expenditures with the proceeds of the City's general obligation bond financing.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, as follows:**

**Section 1.** ***Declaration of Official Intent***. The City shall, presently intends, and reasonably expects to finance a portion of the Capital Projects with legally available funds.

**Section 2.** ***Dates of Capital Expenditures***. All of the capital expenditures covered by this Resolution were or will be made on and after the date which is 60 days prior to the effective date of this Resolution.

**Section 3.** ***Issuance of Utility Revenue Bonds***. The City presently intends and reasonably expects to participate in a utility revenue bond financing within 18 months of the date of the expenditure of moneys on the Capital Projects or the date upon which the Capital Projects is placed in service, whichever is later (but in no event more than 3 years after the date of the original expenditure of such moneys), and to allocate from said financing an amount not to exceed the Financed Amount to reimburse the City for its expenditures in connection with the Capital Projects.

**<u>Section 4.</u>** ***Confirmation of Prior Acts***. All prior acts and doings of the officials, agents and employees of the City which are in conformity with the purpose and intent of this Resolution, and in furtherance of the Capital Projects, shall be and the same hereby are in all respects ratified, approved and confirmed.

**<u>Section 5.</u>** ***Effective Date of Resolution***. This Resolution shall take effect immediately upon its passage.

ADOPTED by the City Council of the City of Montrose, Colorado this 2nd day of December, 2025.

CITY OF MONTROSE, COLORADO

______________________________________
Dave Frank, Mayor

ATTEST

______________________________
Lisa DelPiccolo, City Clerk

CITY OF MONTROSE
Community Development

**MEMO**

TO: City Council
FROM: William Bell, City Manager
DATE: December 2, 2025
RE: Purchase & Sale Agreement with Volunteers of America

ATTACHMENTS
- Exhibit A: Proposed Ordinance 2699
- Exhibit B: Purchase and Sale Agreement Documentation

**City Council Consideration:**
City Council is considering approval of purchase and sale agreements between the City and Volunteers of America for a land transaction of two properties within the City of Montrose.

**Project Background:**
In the summer of 2025, City staff met with City Council in executive session to discuss the possibility of pursuing a land exchange with Volunteers of America (VOA). The City currently owns two vacant parcels located off Niagara Road, adjacent to VOA's existing campus. Together, these parcels total approximately 4.14 acres and are zoned "P" Public District.

Separately, VOA owns the property at 420 S. 12th Street, which is the site of the Magic Circle Players theatre. The property is approximately 1.15 acres and contains a 9,014-square-foot building. The site is zoned "B-2" Highway Commercial. Under the current arrangement, VOA owns the land, while Magic Circle Players holds a long-term land lease and owns the building improvements on the property.

Following Council's direction to evaluate the feasibility of a land exchange, the City obtained appraisals for both properties. The City-owned Niagara Road property was appraised at approximately $530,000, while the VOA-owned 420 S. 12th Street property was appraised at approximately $500,000 (land only). After discussing the appraisal results, VOA expressed interest in moving forward with a land transaction and agreed to cover the $30,000 difference in property value.

City staff then prepared a Memorandum of Understanding (MOU) between the City, Volunteers of America, and Magic Circle Players to establish the general framework of the transaction and define each party's responsibilities. Under the proposed arrangement, the City would acquire the property at 420 S. 12th Street and, once Magic Circle Players have secured sufficient fundraising, sell the property to them directly. In the meantime, Magic Circle Players would lease the building from the City at a nominal cost. VOA would acquire the Niagara property with plans to expand its campus in the future. The MOU was reviewed by City Council during the September 2, 2025 Work Session and has since been executed by all parties.

The next step is consideration and approval of a Purchase and Sale Agreement. Under the proposed structure, the City will sell the 4.14-acre Niagara Road property to VOA for $30,000, and VOA will deed the 420 S. 12th Street property to the City at no additional cost. The $30,000 difference reflects the appraised value gap between the two properties. The acceptance date for the agreement is December 10, 2025 which is eight days after the second reading of the ordinance authorizing the sale, at which point the ordinance will be in effect.

Once the Purchase and Sale Agreement is executed, VOA will have a four-month due diligence period to conduct necessary site investigations, such as surveys, and site and environmental inspections. Closing is currently scheduled for April 8, 2026.

During the due diligence period, the City will initiate a rezone request for the Niagara Road property from "P" Public to "R-3A" Medium High-Density District, which would allow for the types of residential and supportive uses proposed by VOA. The rezoning will come before Planning Commission and City Council at a later date through the standard public hearing process.

**Recommendation:**
City staff recommends approval of an ordinance approving purchase and sale agreements between the City and Volunteers of America for a land transaction of two properties within the City of Montrose.

**ORDINANCE NO. 2699**

**AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, AUTHORIZING THE SALE OF REAL PROPERTY PURSUANT TO § 1-9-2 OF THE OFFICIAL CODE OF THE CITY OF MONTROSE**

WHEREAS, the properties described and shown on the plats in **Exhibit A** is not required for any public purpose by the City of Montrose; and

WHEREAS, the City of Montrose will obtain a parcel of land through this transaction that will give greater community benefit; and

WHEREAS, the City of Montrose, which currently owns these properties, has no use for the same and is desirous of conveying said property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO, that the real properties, more particularly shown in **Exhibit A**, attached hereto and incorporated herein by this reference, may be conveyed, on forms acceptable to the City for reasonable consideration. The real property shown on **Exhibit A** is described as Open Space of the Final Plat of the Elder Homestead at Montrose and Open Space of the Final Plat of East Pavilion Complex. Further, the City Council hereby authorizes the Mayor and City Staff to execute all documents required to consummate said conveyance.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and the question of its passage on first reading on Tuesday, the 18th day of November 2025, at the hour of 6:00 p.m. at the at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 18th day of November 2025.

CITY OF MONTROSE CITY SEAL COLORADO

ATTEST:

Lisa DelPiccolo

Lisa DelPiccolo, City Clerk

David Frank, Mayor

INTRODUCED, READ and ADOPTED on second reading this 2nd day of December 2025.

ATTEST:

David Frank, Mayor

Lisa DelPiccolo, City Clerk

# EXHIBIT A

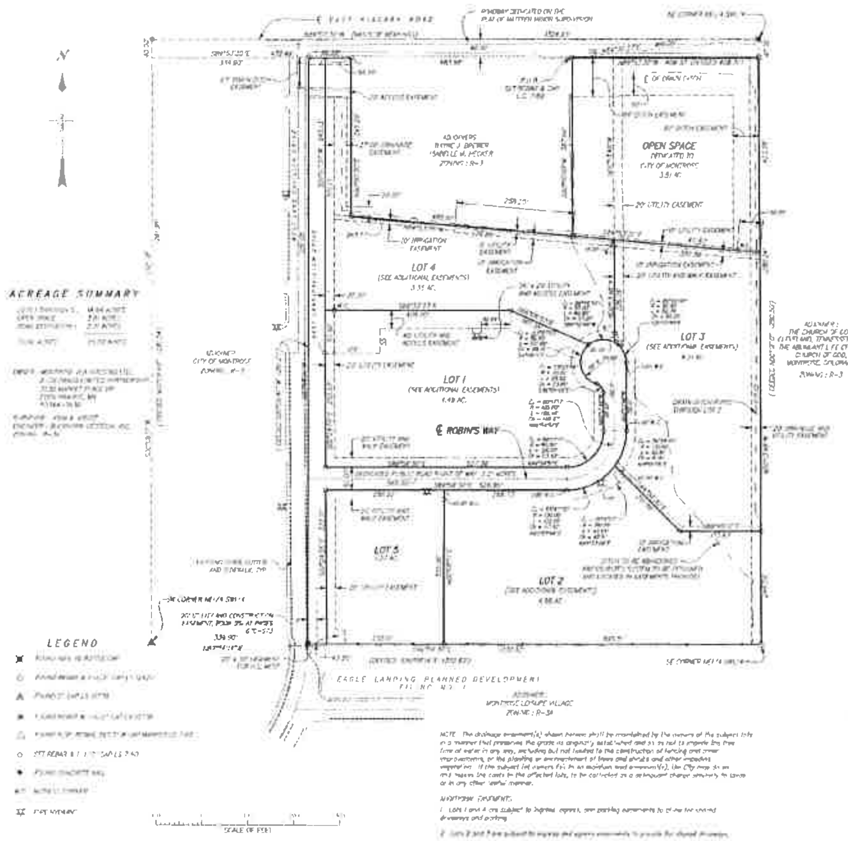
## PLATS DESCRIBING PROPERTIES

13-405

13-405

# FINAL PLAT OF
# THE ELDER HOMESTEAD AT MONTROSE

IN THE NE 1/4 SW 1/4 SECTION 35, TOWNSHIP 49 NORTH, RANGE 9 WEST, N.M.P.M.
CITY OF MONTROSE, MONTROSE COUNTY, COLORADO




ACREAGE SUMMARY

LEGEND

### CERTIFICATE OF DEDICATION AND OWNERSHIP

### PLAT CONDITIONS :


VICINITY MAP

### SURVEYOR'S CERTIFICATE

### ENGINEER'S CERTIFICATE

### CERTIFICATE OF COMPLETED IMPROVEMENTS

### CERTIFICATE OF RECEIPT OF SECURITY

### APPROVAL OF PLANNING COMMISSION

### APPROVAL OF CITY MANAGER

### APPROVAL OF CITY COUNCIL

### APPROVAL OF CITY ATTORNEY

### ATTORNEY'S CERTIFICATE

### RECORDER'S CERTIFICATE

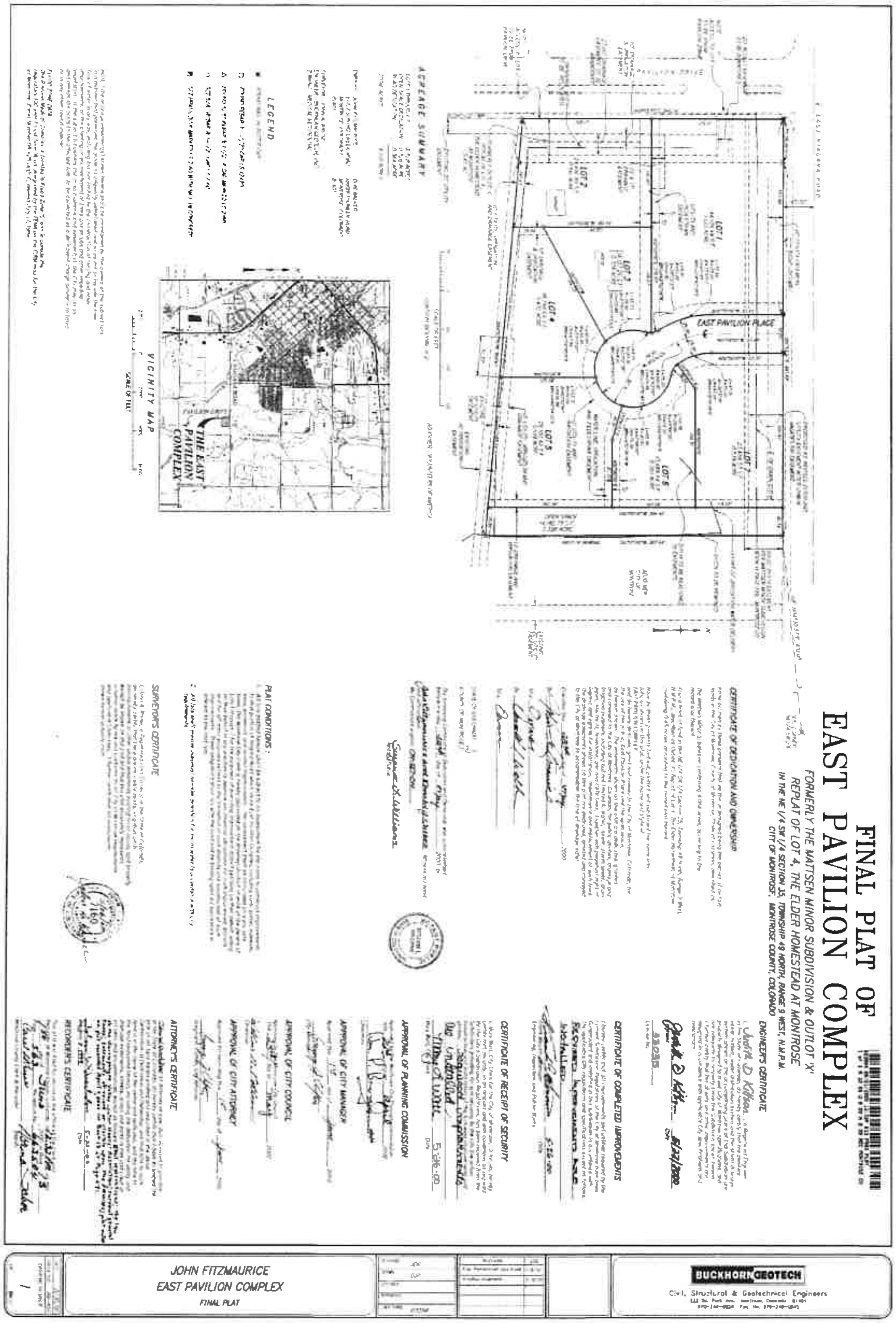
VOLUNTEERS OF AMERICA
THE ELDER HOMESTEAD AT MONTROSE
FINAL PLAT

BUCKHORN GEOTECH
Civil, Structural & Geotechnical Engineers

1

13-563

13-563


FINAL PLAT OF
EAST PAVILION COMPLEX
FORMERLY THE MATTSEN MINOR SUBDIVISION & OUTLOT 'X'
REPLAT OF LOT 4, THE ELDER HOMESTEAD AT MONTROSE
IN THE NE 1/4 SW 1/4 SECTION 35, TOWNSHIP 49 NORTH, RANGE 9 WEST, N.M.P.M.
CITY OF MONTROSE, MONTROSE COUNTY, COLORADO
EAST PAVILION PLACE
LOT 1
LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
LOT 7
ACREAGE SUMMARY
LEGEND
VICINITY MAP
SCALE OF FEET
THE EAST PAVILION COMPLEX
CERTIFICATE OF DEDICATION AND OWNERSHIP
PLAT CONDITIONS :
SURVEYOR'S CERTIFICATE
ENGINEER'S CERTIFICATE
CERTIFICATE OF COMPLETED IMPROVEMENTS
CERTIFICATE OF RECEIPT OF SECURITY
APPROVAL OF PLANNING COMMISSION
APPROVAL OF CITY MANAGER
APPROVAL OF CITY COUNCIL
APPROVAL OF CITY ATTORNEY
ATTORNEY'S CERTIFICATE
RECORDER'S CERTIFICATE
JOHN FITZMAURICE
EAST PAVILION COMPLEX
FINAL PLAT
BUCKHORN GEOTECH
Civil, Structural & Geotechnical Engineers

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (CBS3-8-24) (Mandatory 8-24)

**THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.**

# CONTRACT TO BUY AND SELL REAL ESTATE (COMMERCIAL)

**(☒ Property with No Residences)**

**(☐ Property with Residences-Residential Addendum Attached)**

Date: November 18, 2025

## AGREEMENT

**1. AGREEMENT.** Buyer agrees to buy and Seller agrees to sell the Property described below on the terms and conditions set forth in this contract (Contract).

**2. PARTIES AND PROPERTY.**

**2.1. Buyer.** City of Montrose, a Colorado home rule municipal corporation (Buyer) will take title to the Property described below as ☐ **Joint Tenants** ☒ **Tenants In Common** ☐ **Other** ______________.

**2.2. No Assignability.** This Contract **IS NOT** assignable by Buyer unless otherwise specified in **Additional Provisions**.

**2.3. Seller.** Volunteers of America National Services, a Minnesota nonprofit corporation (Seller) is the current owner of the Property described below.

**2.4. Property.** The Property is the following l~~egally~~ described real estate in the County of Montrose, Colorado (insert ~~legal~~ description):

Approximately 1.15 acres zoned B-2 within the City of Montrose

known as: 420 S. 12th Street, Montrose, Colorado 81401,

| Street Address | City | State | Zip |
|---|---|---|---|
| 420 S. 12th Street | Montrose | Colorado | 81401 |

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

**2.5. Inclusions.** The Purchase Price includes the following items (Inclusions):

**2.5.1. Inclusions – Attached.** If attached to the Property on the date of this Contract, the following items are included unless excluded under **Exclusions**: lighting, heating, plumbing, ventilating and air conditioning units, TV antennas, inside telephone, network and coaxial (cable) wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls, built-in vacuum systems (including accessories) and garage door openers (including N/A remote controls). If checked, the following are owned by the Seller and included: ☐ **Solar Panels** ☐ **Water Softeners** ☐ **Security Systems** ☐ **Satellite Systems** (including satellite dishes). Leased items should be listed under § 2.5.8. (Leased Items). If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

**2.5.2. Inclusions – Not Attached.** If on the Property, whether attached or not, on the date of this Contract, the following items are included unless excluded under **Exclusions**: storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings and treatments, curtain rods, drapery rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, carbon monoxide alarms, smoke/fire detectors and all keys.

**2.5.3. Other Inclusions.** The following items, whether fixtures or personal property, are also included in the Purchase Price**:**

N/A

**2.5.4. Encumbered Inclusions.** Any Inclusions owned by Seller (e.g., owned solar panels) must be conveyed at Closing by Seller free and clear of all taxes (except personal property and general real estate taxes for the year of Closing), liens and encumbrances, except:

N/A

Buyer ☐ **Will** ▣ **Will Not** assume the debt and obligations on the Encumbered Inclusions subject to Buyer's review under §10.6. (Encumbered Inclusion Documents) and Buyer's receipt of written approval by such lender before Closing. If Buyer does not receive such approval this Contract terminates.

**2.5.5. Personal Property Conveyance.** Conveyance of all personal property will be by bill of sale or other applicable legal instrument.

**2.5.6. Parking and Storage Facilities.** The use or ownership of the following parking facilities: N/A; and the use or ownership of the following storage facilities: N/A.
Note to Buyer: If exact rights to the parking and storage facilities is a concern to Buyer, Buyer should investigate.

**2.5.7. Trade Fixtures.** With respect to trade fixtures, Seller and Buyer agree as follows:

N/A

The trade fixtures to be conveyed at Closing will be conveyed by Seller free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except . Conveyance will be by bill of sale or other applicable legal instrument.

**2.5.8. Leased Items.** The following personal property is currently leased to Seller which will be transferred to Buyer at Closing (Leased Items):

N/A

Buyer ☐ **Will** ▣ **Will Not** assume Seller's debt and obligations under such leases for the Leased Items subject to Buyer's review under §10.6. (Leased Items Documents) and Buyer's receipt of written approval by such lender before Closing. If Buyer does not receive such approval this Contract terminates.

☐ **2.5.9. Solar Power Plan.** If the box is checked, Seller has entered into a solar power purchase agreement, regardless of the name or title, to authorize a third-party to operate and maintain a photovoltaic system on the Property and provide electricity (Solar Power Plan) that will remain in effect after Closing. Buyer ☐ **Will** ▣ **Will Not** assume Seller's obligations under such Solar Power Plan subject to Buyer's review under §10.6. (Solar Power Plan) and Buyer's receipt of written approval by the third-party before Closing. If Buyer does not receive such approval this Contract terminates.

**2.6. Exclusions.** The following items are excluded (Exclusions):

N/A

**2.7. Water Rights/Well Rights.**

☐ **2.7.1. Deeded Water Rights.** The following legally described water rights:

N/A

Any deeded water rights will be conveyed by a good and sufficient N/A deed at Closing.

☐ **2.7.2. Other Rights Relating to Water.** The following rights relating to water not included in §§ 2.7.1., 2.7.3. and 2.7.4., will be transferred to Buyer at Closing:

N/A

☐ **2.7.3. Well Rights.** Seller agrees to supply required information to Buyer about the well. Buyer understands that if the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water Well" used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer must complete a registration of existing well form for the well and pay the cost of registration. If no person will be providing a closing service in connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The Well Permit # is N/A.

☐ **2.7.4. Water Stock.** The water stock to be transferred at Closing are as follows:

N/A

**2.7.5. Conveyance.** If Buyer is to receive any rights to water pursuant to § 2.7.2. (Other Rights Relating to Water), § 2.7.3. (Well Rights), or § 2.7.4. (Water Stock Certificates), Seller agrees to convey such rights to Buyer by executing the applicable legal instrument at Closing.

**2.7.6. Water Rights Review.** Buyer has a Right to Terminate if examination of the Water Rights is unsatisfactory to Buyer on or before the **Water Rights Examination Deadline**.

**3. DATES, DEADLINES AND APPLICABILITY.**

**3.1. Dates and Deadlines.**

| Item No. | Reference | Event | Date or Deadline |
|---|---|---|---|
| 1 | § 3 | Time of Day Deadline | N/A |
| 2 | § 4 | Alternative Earnest Money Deadline | N/A |
| | | **Title** | |
| 3 | § 8 | Record Title Deadline (and Tax Certificate) | 10 Business Days from MEC |
| 4 | § 8 | Record Title Objection Deadline | 90 Days from MEC |
| 5 | § 8 | Off-Record Title Deadline | 10 Business Days from MEC |
| 6 | § 8 | Off-Record Title Objection Deadline | 90 Days from MEC |
| 7 | § 8 | Title Resolution Deadline | 90 Business Days from MEC |
| 8 | § 8 | Third Party Right to Purchase/Approve Deadline | N/A |
| | | **Owners' Association** | |
| 9 | § 7 | Association Documents Deadline | 10 Business Days from MEC |
| 10 | § 7 | Association Documents Termination Deadline | 90 Days from MEC |
| | | **Seller's Disclosures** | |
| 11 | § 10 | Seller's Property Disclosure Deadline | 10 Business Days from MEC |
| 12 | § 10 | Lead-Based Paint Disclosure Deadline (if Residential Addendum attached) | N/A |
| | | **Loan and Credit** | |
| 13 | § 5 | New Loan Application Deadline | N/A |
| 14 | § 5 | New Loan Terms Deadline | N/A |
| 15 | § 5 | New Loan Availability Deadline | N/A |
| 16 | § 5 | Buyer's Credit Information Deadline | N/A |
| 17 | § 5 | Disapproval of Buyer's Credit Information Deadline | N/A |
| 18 | § 5 | Existing Loan Deadline | N/A |
| 19 | § 5 | Existing Loan Termination Deadline | N/A |
| 20 | § 5 | Loan Transfer Approval Deadline | N/A |
| 21 | § 4 | Seller or Private Financing Deadline | N/A |
| | | **Appraisal** | |
| 22 | § 6 | Appraisal Deadline | N/A |
| 23 | § 6 | Appraisal Objection Deadline | N/A |
| 24 | § 6 | Appraisal Resolution Deadline | N/A |
| | | **Survey** | |
| 25 | § 9 | New ILC or New Survey Deadline | N/A |
| 26 | § 9 | New ILC or New Survey Objection Deadline | N/A |
| 27 | § 9 | New ILC or New Survey Resolution Deadline | N/A |
| | | **Inspection and Due Diligence** | |
| 28 | § 2 | Water Rights Examination Deadline | N/A |
| 29 | § 8 | Mineral Rights Examination Deadline | N/A |
| 30 | § 10 | Inspection Termination Deadline | 90 Days from MEC |
| 31 | § 10 | Inspection Objection Deadline | 90 Days from MEC |
| 32 | § 10 | Inspection Resolution Deadline | 95 Days from MEC |
| 33 | § 10 | Property Insurance Termination Deadline | 90 Days from MEC |

| | | | |
|---|---|---|---|
| 34 | § 10 | Due Diligence Documents Delivery Deadline | 10 Business Days from MEC |
| 35 | § 10 | Due Diligence Documents Objection Deadline | 90 Days from MEC |
| 36 | § 10 | Due Diligence Documents Resolution Deadline | 95 Days from MEC |
| 37 | § 10 | Environmental Inspection Termination Deadline | 90 Days from MEC |
| 38 | § 10 | ADA Evaluation Termination Deadline | N/A |
| 39 | § 10 | Conditional Sale Deadline | N/A |
| 40 | § 10 | Lead-Based Paint Termination Deadline (if Residential Addendum attached) | N/A |
| 41 | § 11 | Estoppel Statements Deadline | 90 Days from MEC |
| 42 | § 11 | Estoppel Statements Termination Deadline | 95 Days from MEC |
| | | **Closing and Possession** | |
| 43 | § 12 | Closing Date | April 8, 2026 |
| 44 | § 17 | Possession Date | Day of Closing |
| 45 | § 17 | Possession Time | Delivery of Deed |
| 46 | § 27 | **Acceptance Deadline Date** | December 10, 2025 |
| 47 | § 27 | **Acceptance Deadline Time** | 6:00 PM MT |
| | | | |
| | | | |

**3.2. Applicability of Terms.** If any deadline blank in § 3.1. (Dates and Deadlines) is left blank or completed with "N/A", or the word "Deleted," such deadline is not applicable and the corresponding provision containing the deadline is deleted. Any box checked in this Contract means the corresponding provision applies. If no box is checked in a provision that contains a selection of "None", such provision means that "None" applies.

The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract. The abbreviation "N/A" as used in this Contract means not applicable.

**3.3. Day; Computation of Period of Days; Deadlines.**

**3.3.1. Day.** As used in this Contract, the term "day" means the entire day ending at 11:59 p.m., United States Mountain Time (Standard or Daylight Savings, as applicable). Except however, if a **Time of Day Deadline** is specified in § 3.1. (Dates and Deadlines), all Objection Deadlines, Resolution Deadlines, Examination Deadlines and Termination Deadlines will end on the specified deadline date at the time of day specified in the **Time of Day Deadline**, United States Mountain Time. If **Time of Day Deadline** is left blank or "N/A" the deadlines will expire at 11:59 p.m., United States Mountain Time.

**3.3.2. Computation of Period of Days.** In computing a period of days (e.g., three days after MEC), when the ending date is not specified, the first day is excluded and the last day is included.

**3.3.3. Deadlines.** If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline ☐ **Will** ☐ **Will Not** be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be checked, the deadline will not be extended.

**4. PURCHASE PRICE AND TERMS.**

**4.1. Price and Terms.** The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

| Item No. | Reference | Item | Amount | Amount |
|---|---|---|---|---|
| 1 | § 4.1. | Purchase Price | $ 0.00 | |
| 2 | § 4.3. | Earnest Money | | $ 0.00 |
| 3 | § 4.5. | New Loan | | $ 0.00 |
| 4 | § 4.6. | Assumption Balance | | $ 0.00 |
| 5 | § 4.7. | Private Financing | | $ 0.00 |
| 6 | § 4.7. | Seller Financing | | $ 0.00 |
| 7 | | | | |
| 8 | | | | |
| 9 | § 4.4. | Cash at Closing | | $ 0.00 |
| 10 | | **TOTAL** | $ 0.00 | $ 0.00 |

**4.2. Seller Concession.** At Closing, Seller will credit to Buyer $ N/A (Seller Concession). The Seller Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer's lender and is included in the Closing Statement or Closing Disclosure at Closing. Examples of allowable items to be paid for by the Seller Concession include, but are not limited to: Buyer's closing costs, loan discount points, loan origination fees, prepaid items and any other fee, cost, charge, expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract.

**4.3. Earnest Money.** The Earnest Money set forth in this Section, in the form of a N/A ____________________, will be payable to and held by N/A ______________________________________ (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually agree to an **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest Money Holder in this transaction will be transferred to such fund.

**4.3.1. Alternative Earnest Money Deadline.** The deadline for delivering the Earnest Money, if other than at the time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

**4.3.2. Disposition of Earnest Money.** If Buyer has a Right to Terminate and timely terminates, Buyer is entitled to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 24 and, except as provided in § 23 (Earnest Money Dispute), if the Earnest Money has not already been returned following receipt of a Notice to Terminate, Seller agrees to execute and return to Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within three days of Seller's receipt of such form. If Seller is entitled to the Earnest Money, and, except as provided in § 23 (Earnest Money Dispute), if the Earnest Money has not already been paid to Seller, following receipt of an Earnest Money Release form, Buyer agrees to execute and return to Seller or Broker working with Seller, written mutual instructions (e.g., Earnest Money Release form), within three days of Buyer's receipt.

**4.3.2.1. Seller Failure to Timely Return Earnest Money.** If Seller fails to timely execute and return the Earnest Money Release Form, or other written mutual instructions, Seller is in default and liable to Buyer as set forth in "**If Seller is in Default", § 20.2. and § 21,** unless Seller is entitled to the Earnest Money due to a Buyer default.

**4.3.2.2. Buyer Failure to Timely Release Earnest Money.** If Buyer fails to timely execute and return the Earnest Money Release Form, or other written mutual instructions, Buyer is in default and liable to Seller as set forth in "**If Buyer is in Default, § 20.1. and § 21**, unless Buyer is entitled to the Earnest Money due to a Seller Default**.**

**4.4. Form of Funds; Time of Payment; Available Funds.**

**4.4.1. Good Funds.** All amounts payable by the parties at Closing, including any loan proceeds, Cash at Closing and closing costs, must be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds).

**4.4.2. Time of Payment.** All funds, including the Purchase Price to be paid by Buyer, must be paid before or at Closing or as otherwise agreed in writing between the parties to allow disbursement by Closing Company at Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT**.

**4.4.3. Available Funds.** Buyer represents that Buyer, as of the date of this Contract, ☐ **Does** ☐ **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

**4.5. New Loan.**

**4.5.1.** ~~**Buyer to Pay Loan Costs.** Buyer, except as otherwise permitted in § 4.2. (Seller Concession), if applicable, must timely pay Buyer's loan costs, loan discount points, prepaid items and loan origination fees as required by lender.~~

~~**4.5.2. Buyer May Select Financing.** Buyer may pay in cash or select financing appropriate and acceptable to Buyer, including a different loan than initially sought, except as restricted in § 4.5.3. (Loan Limitations) or § 30 (Additional Provisions).~~

~~**4.5.3. Loan Limitations.** Buyer may purchase the Property using any of the following types of loans:~~ ☐ ~~**Conventional**~~ ☐ ~~**Other**~~ ________________________________________________________________~~.~~

~~**4.6. Assumption.** Buyer agrees to assume and pay an existing loan in the approximate amount of the Assumption Balance set forth in § 4.1. (Price and Terms), presently payable at $~~ ________________ ~~per~~ __________ ~~including principal and interest presently at the rate of~~ ________~~% per annum and also including escrow for the following as indicated:~~ ☐ ~~**Real Estate Taxes**~~ ☐ ~~**Property Insurance Premium** and~~ ☐ ________________________________________~~.~~

~~Buyer agrees to pay a loan transfer fee not to exceed $~~______________~~. At the time of assumption, the new interest rate will not exceed~~ ________~~% per annum and the new payment will not exceed $~~_____________ ~~per~~ _________________~~principal and interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption Balance, which causes the amount of cash required from Buyer at Closing to be increased by more than $~~_____________~~, or if any other terms or provisions of the loan change, Buyer has the Right to Terminate under § 24.1. on or before **Closing Date**.~~

~~Seller~~ ☐ ~~**Will**~~ ☐ ~~**Will Not** be released from liability on said loan. If applicable, compliance with the requirements for release from liability will be evidenced by delivery~~ ☐ ~~on or before **Loan Transfer Approval Deadline**~~ ☐ ~~at **Closing** of an appropriate letter of commitment from lender. Any cost payable for release of liability will be paid by~~ ______________________ ~~in an amount not to exceed $~~ _____________~~.~~

~~This Contract terminates if written consent from Seller's lender for Buyer's assumption of Seller's existing loan is not received by all parties and the Closing Company on or before Closing.~~

~~**4.7. Seller or Private Financing.**~~

~~**WARNING:** Unless the transaction is exempt, federal and state laws impose licensing, other requirements and restrictions on sellers and private financiers. Contract provisions on financing and financing documents, unless exempt, should be prepared by a licensed~~

~~Colorado attorney or licensed mortgage loan originator. Brokers should not prepare or advise the parties on the specifics of financing, including whether or not a party is exempt from the law.~~

~~**4.7.1. Seller Financing.** If Buyer is to pay all or any portion of the Purchase Price with Seller financing,~~ ☐ ~~**Buyer**~~ ☐ ~~**Seller** will deliver the proposed Seller financing documents to the other party on or before __________ days before **Seller or Private Financing Deadline**.~~

~~**4.7.1.1. Seller May Terminate.** If Seller is to provide Seller financing, this Contract is conditional upon Seller determining whether such financing is satisfactory to the Seller, including its payments, interest rate, terms, conditions, cost, and compliance with the law. Seller has the Right to Terminate under § 24.1., on or before **Seller or Private Financing Deadline**, if such Seller financing is not satisfactory to Seller, in Seller's sole subjective discretion.~~

~~**4.7.2. Buyer May Terminate.** If Buyer is to pay all or any portion of the Purchase Price with Seller or private financing, this Contract is conditional upon Buyer determining whether such financing is satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions, and cost. Buyer has the Right to Terminate under § 24.1, on or before **Seller or Private Financing Deadline**, if such Seller or private financing is not satisfactory to Buyer, in Buyer's sole subjective discretion.~~

## TRANSACTION PROVISIONS

~~**5. FINANCING CONDITIONS AND OBLIGATIONS.**~~

~~**5.1. New Loan, Assumption Application.** If Buyer is to pay all or part of the Purchase Price by obtaining one or more new loans (New Loan), or if an existing loan is not to be released at Closing, Buyer, if required by such lender, must make an application verifiable by such lender, on or before **New Loan Application Deadline** and exercise reasonable efforts to obtain such loan or approval.~~

~~**5.2. New Loan Terms; New Loan Availability.**~~

~~**5.2.1. New Loan Terms.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer determining, in Buyer's sole subjective discretion, whether the proposed New Loan's payments, interest rate, conditions and costs or any other loan terms (New Loan Terms) are satisfactory to Buyer. This condition is for the sole benefit of Buyer. Buyer has the Right to Terminate under § 24.1., on or before **New Loan Terms Deadline**, if the New Loan Terms are not satisfactory to Buyer, in Buyer's sole subjective discretion.~~

~~**5.2.2. New Loan Availability.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer's satisfaction with the availability of the New Loan based on the lender's review and underwriting of Buyer's New Loan Application (New Loan Availability). Buyer has the Right to Terminate under § 24.1., on or before the **New Loan Availability Deadline** if the New Loan Availability is not satisfactory to Buyer. Buyer does not have a Right to Terminate based on the New Loan Availability if the termination is based on the New Loan Terms, Appraised Value (defined below), the Lender Property Requirements (defined below), Insurability (§ 10.5. below) or the Conditional Upon Sale of Property (§ 10.7. below). **IF SELLER IS NOT IN DEFAULT AND DOES NOT TIMELY RECEIVE BUYER'S WRITTEN NOTICE TO TERMINATE, BUYER'S EARNEST MONEY WILL BE NONREFUNDABLE,** except as otherwise provided in this Contract (e.g., Appraisal, Title, Survey).~~

~~**5.3. Credit Information.** This Contract is conditional (for the sole benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which approval will be in Seller's sole subjective discretion. Accordingly: (1) Buyer must supply to Seller by **Buyer's Credit Information Deadline**, at Buyer's expense, information and documents (including a current credit report) concerning Buyer's financial, employment and credit condition; (2) Buyer consents that Seller may verify Buyer's financial ability and creditworthiness; and (3) any such information and documents received by Seller must be held by Seller in confidence and not released to others except to protect Seller's interest in this transaction. If the Cash at Closing is less than as set forth in § 4.1. of this Contract, Seller has the Right to Terminate under § 24.1., on or before Closing. If Seller disapproves of Buyer's financial ability or creditworthiness, in Seller's sole subjective discretion, Seller has the Right to Terminate under § 24.1., on or before **Disapproval of Buyer's Credit Information Deadline**.~~

~~**5.4. Existing Loan Review.** Seller must deliver copies of the loan documents (including note, deed of trust and any modifications) to Buyer by **Existing Loan Deadline**. For the sole benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the provisions of such loan documents. Buyer has the Right to Terminate under § 24.1., on or before **Existing Loan Termination Deadline**, based on any unsatisfactory provision of such loan documents, in Buyer's sole subjective discretion. If the lender's approval of a transfer of the Property is required, this Contract is conditional upon Buyer obtaining such approval without change in the terms of such loan, except as set forth in § 4.6. If lender's approval is not obtained by **Loan Transfer Approval Deadline**, this Contract will terminate on such deadline. Seller has the Right to Terminate under § 24.1., on or before Closing, in Seller's sole subjective discretion~~, if Seller is to be released from liability under such existing loan and Buyer does not obtain such compliance as set forth in § 4.6.

**6. APPRAISAL PROVISIONS.**

~~**6.1. Appraisal Definition.** An "Appraisal" is an opinion of value prepared by a licensed or certified appraiser, engaged on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised Value). The Appraisal may also set forth~~

~~certain lender requirements, replacements, removals or repairs necessary on or to the Property as a condition for the Property to be valued at the Appraised Value.~~

~~**6.2. Appraised Value.** The applicable appraisal provision set forth below applies to the respective loan type set forth in § 4.5.3., or if a cash transaction (i.e., no financing), § 6.2.1. applies.~~

~~**6.2.1. Conventional/Other.** Buyer has the right to obtain an Appraisal. If the Appraised Value is less than the Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline** Buyer may, on or before **Appraisal Objection Deadline**:~~

~~**6.2.1.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated; or~~

~~**6.2.1.2. Appraisal Objection.** Deliver to Seller a written objection accompanied by either a copy of the Appraisal or written notice from lender that confirms the Appraised Value is less than the Purchase Price (Lender Verification).~~

~~**6.2.1.3. Appraisal Resolution.** If an Appraisal Objection is received by Seller, on or before **Appraisal Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Appraisal Resolution Deadline**, this Contract will terminate on the **Appraisal Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the Appraisal Objection before such termination, (i.e., on or before expiration of **Appraisal Resolution Deadline**).~~

~~**6.3. Lender Property Requirements.** If the lender imposes any written requirements, replacements, removals or repairs, including any specified in the Appraisal (Lender Property Requirements) to be made to the Property (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, this Contract terminates on the earlier of three days following Seller's receipt of the Lender Property Requirements, or Closing, unless prior to termination: (1) the parties enter into a written agreement to satisfy the Lender Property Requirements; (2) the Lender Property Requirements have been completed; or (3) the satisfaction of the Lender Property Requirements is waived in writing by Buyer.~~

~~**6.4. Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be timely paid by~~ ☐ ~~**Buyer**~~ ☐ ~~**Seller**. The cost of the Appraisal may include any and all fees paid to the appraiser, appraisal management company, lender's agent or all three.~~

**7. OWNERS' ASSOCIATIONS.** This Section is applicable if the Property is located within one or more Common Interest Communities and subject to one or more declarations (Association).

**7.1. Common Interest Community Disclosure. THE PROPERTY IS LOCATED WITHIN A COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY. THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS' ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.**

**7.2. Association Documents to Buyer.** Seller is obligated to provide to Buyer the Association Documents (defined below), at Seller's expense, on or before **Association Documents Deadline**. Seller authorizes the Association to provide the Association Documents to Buyer, at Seller's expense. Seller's obligation to provide the Association Documents is fulfilled upon Buyer's receipt of the Association Documents, regardless of who provides such documents.

**7.3. Association Documents.** Association documents (Association Documents) consist of the following:

**7.3.1.** All Association declarations, articles of incorporation, bylaws, articles of organization, operating agreements, rules and regulations, party wall agreements and the Association's responsible governance policies adopted under § 38-33.3-209.5, C.R.S.;

**7.3.2.** Minutes of: (1) the annual owners' or members' meeting and (2) any executive boards' or managers' meetings; such minutes include those provided under the most current annual disclosure required under § 38-33.3-209.4, C.R.S. (Annual Disclosure) and minutes of meetings, if any, subsequent to the minutes disclosed in the Annual Disclosure. If none of the preceding minutes exist, then the most recent minutes, if any (§§ 7.3.1. and 7.3.2., collectively, Governing Documents); and

**7.3.3.** List of all Association insurance policies as provided in the Association's last Annual Disclosure, including, but not limited to, property, general liability, association director and officer professional liability and fidelity policies. The list must include the company names, policy limits, policy deductibles, additional named insureds and expiration dates of the policies listed (Association Insurance Documents);

**7.3.4.** A list by unit type of the Association's assessments, including both regular and special assessments as disclosed in the Association's last Annual Disclosure;

**7.3.5.** The Association's most recent financial documents which consist of: (1) the Association's operating budget for the current fiscal year, (2) the Association's most recent annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the Association's last Annual Disclosure, (3) the results of the Association's most recent available financial audit or review, (4) list of the fees and charges (regardless of name or title of such fees or charges) that the Association's community association manager or Association will charge in connection with the Closing including, but not limited to, any fee incident to the issuance of the Association's statement of assessments (Status Letter), any rush or update fee charged for the Status Letter, any record change fee or ownership record transfer fees (Record Change Fee), fees to access documents, (5) list of all assessments required to be paid in advance, reserves or working capital due at Closing and (6) reserve study, if any (§§ 7.3.4. and 7.3.5., collectively, Financial Documents);

**7.3.6.** Any written notice from the Association to Seller of a "construction defect action" under § 38-33.3-303.5, C.R.S. within the past six months and the result of whether the Association approved or disapproved such action (Construction Defect Documents). Nothing in this Section limits the Seller's obligation to disclose adverse material facts as required under § 10.2. (Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition) including any problems or defects in the common elements or limited common elements of the Association property.

**7.4. Conditional on Buyer's Review.** Buyer has the right to review the Association Documents. Buyer has the Right to Terminate under § 24.1., on or before **Association Documents Termination Deadline**, based on any unsatisfactory provision in any of the Association Documents, in Buyer's sole subjective discretion. Should Buyer receive the Association Documents after **Association Documents Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive the Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Association Documents as satisfactory and Buyer waives any Right to Terminate under this provision, notwithstanding the provisions of § 8.6. (Third Party Right to Purchase/Approve).

**8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.**

**8.1. Evidence of Record Title.**

■ **8.1.1. Seller Selects Title Insurance Company.** If this box is checked, Seller will select the title insurance company to furnish the owner's title insurance policy at Seller's expense. On or before **Record Title Deadline**, Seller must furnish to Buyer, a current commitment for an owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price, or if this box is checked, □ an **Abstract of Title** certified to a current date. Seller will cause the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after Closing.

□ **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline**, Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price.

If neither box in § 8.1.1. or § 8.1.2. is checked, § 8.1.1. applies.

**8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment ■ **Will** □ **Will Not** contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by ■ **Buyer** □ **Seller** □ **One-Half by Buyer and One-Half by Seller** □ **Other**__________________________.

Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.7. (Right to Object to Title, Resolution).

**8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats, declarations, covenants, conditions and restrictions burdening the Property and (2) copies of any other documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in the Title Commitment furnished to Buyer (collectively, Title Documents).

**8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**, copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the documents required in this Section will be at the expense of the party or parties obligated to pay for the owner's title insurance policy.

**8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title Deadline**.

**8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the Title Documents as set forth in § 8.7. (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2. (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required by § 8.1. (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title Commitment and Title Documents as satisfactory.

**8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other title matters not shown by public records, of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New Survey** governed under § 9 (New ILC, New Survey**)**. Buyer has the right to inspect the Property to investigate if any third party has any right in the Property not shown by public records (e.g., unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2. (Record Title) and § 13 (Transfer of Title)), in Buyer's sole subjective discretion, must be received by Seller on or before **Off-Record Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the **Off-Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection pursuant to this § 8.3. (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters and rights, if any, of third parties not shown by public records of which Buyer has actual knowledge.

**8.4. Special Taxing and Metropolitan Districts. Intentionally Deleted.**

**8.5. Tax Certificate.** A tax certificate paid for by ■ **Seller** □ **Buyer**, for the Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the content of the Tax Certificate is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may terminate, on or before **Record Title Objection Deadline**. Should Buyer receive the Tax Certificate after **Record Title Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Tax Certificate. If Buyer does not receive the Tax Certificate, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the content of the Tax Certificate as satisfactory and Buyer waives any Right to Terminate under this provision. If Buyer's loan specified in §4.5.3. (Loan Limitations) prohibits Buyer from paying for the Tax Certificate, the Tax Certificate will be paid for by Seller.

**8.6. Third Party Right to Purchase/Approve.** If any third party has a right to purchase the Property (e.g., right of first refusal on the Property, right to purchase the Property under a lease or an option held by a third party to purchase the Property) or a right of a third party to approve this Contract, Seller must promptly submit this Contract according to the terms and conditions of such right. If the third-party holder of such right exercises its right this Contract will terminate. If the third party's right to purchase is waived explicitly or expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly notify Buyer in writing of the foregoing. If the third party right to purchase is exercised or approval of this Contract has not occurred on or before **Third Party Right to Purchase/Approve Deadline**, this Contract will then terminate. Seller will supply to Buyer, in writing, details of any Third Party Right to Purchase the Property on or before the Record Title Deadline.

**8.7. Right to Object to Title, Resolution.** Buyer has a right to object or terminate, in Buyer's sole subjective discretion, based on any title matters including those matters set forth in § 8.2. (Record Title), § 8.3. (Off-Record Title), § 8.5. (Tax Certificate) and § 13 (Transfer of Title). If Buyer exercises Buyer's rights to object or terminate based on any such title matter, on or before the applicable deadline, Buyer has the following options:

**8.7.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any title matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on the expiration of **Title Resolution Deadline**, unless Seller receives Buyer's written withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2. (Record Title) or § 8.3. (Off-Record Title) the Title Resolution Deadline also will be automatically extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or

**8.7.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under § 24.1., on or before the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole subjective discretion.

**8.8. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property, including, without limitation, boundary lines and encroachments, set-back requirements, area, zoning, building code violations, unrecorded easements and claims of easements, leases and other unrecorded agreements, water on or under the Property and various laws and governmental regulations concerning land use, development and environmental matters.

**8.8.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE MINERAL ESTATE OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.**

**8.8.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER.**

**8.8.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING OF CURRENT WELLS AND GAS GATHERING AND PROCESSING FACILITIES.**

**8.8.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY, INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL AND GAS CONSERVATION COMMISSION.**

**8.8.5. Title Insurance Exclusions.** Matters set forth in this Section and others, may be excepted, excluded from, or not covered by the owner's title insurance policy.

**8.9. Mineral Rights Review.** Buyer has a Right to Terminate if examination of the Mineral Rights is unsatisfactory to Buyer on or before the **Mineral Rights Examination Deadline**.

**9. NEW ILC, NEW SURVEY.**

**9.1. New ILC or New Survey.** If the box is checked, (1) ☐ **New Improvement Location Certificate (New ILC)**; or, (2) ☐ **New Survey** in the form of N/A; is required and the following will apply:

**9.1.1. Ordering of New ILC or New Survey.** ☐ **Seller** ☐ **Buyer** will order the New ILC or New Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form, certified and updated as of a date after the date of this Contract.

**9.1.2. Payment for New ILC or New Survey.** The cost of the New ILC or New Survey will be paid, on or before Closing, by: ☐ **Seller** ☐ **Buyer** or:

N/A

**9.1.3. Delivery of New ILC or New Survey.** Buyer, Seller, the issuer of the Title Commitment (or the provider of the opinion of title if an Abstract of Title) and N/A will receive a New ILC or New Survey on or before **New ILC or New Survey Deadline**.

**9.1.4. Certification of New ILC or New Survey.** The New ILC or New Survey will be certified by the surveyor to all those who are to receive the New ILC or New Survey.

**9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection.** Buyer may select a New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion, waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.

**9.3. New ILC or New Survey Objection.** Buyer has the right to review and object based on the New ILC or New Survey. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection Deadline**, notwithstanding § 8.3. or § 13:

**9.3.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1, that this Contract is terminated; or

**9.3.2. New ILC or New Survey Objection.** Deliver to Seller a written description of any matter that was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires Seller to correct.

**9.3.3. New ILC or New Survey Resolution.** If a **New ILC or New Survey Objection** is received by Seller, on or before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the New ILC or New Survey Objection before such termination (i.e., on or before expiration of **New ILC or New Survey Resolution Deadline**).

## DISCLOSURE, INSPECTION AND DUE DILIGENCE

**10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE AND SOURCE OF WATER.**

**10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's Seller's Property Disclosure form completed by Seller to Seller's actual knowledge and current as of the date of this Contract.

**10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition.** Seller must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract. Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an adverse material fact after the date of this Contract, Seller must timely disclose such adverse fact to Buyer. Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges that Seller is conveying the Property and Inclusions to Buyer in an "**As Is**" condition, "**Where Is**" and "**With All Faults**."

**10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right to have inspections (by one or more third parties, personally or both) of the Property, Leased Items, and Inclusions (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of the Property, (2) the physical condition of the Inclusions and Leased Items, (3) service to the Property (including utilities and communication services), systems and components of the Property (e.g., heating and plumbing), (4) any proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise (whether on or off the Property) and its effect or expected effect on the Property or its occupants is unsatisfactory, in Buyer's sole subjective discretion, Buyer may:

**10.3.1. Inspection Termination.** On or before the **Inspection Termination Deadline**, notify Seller in writing, pursuant to § 24.1., that this Contract is terminated due to any unsatisfactory condition, provided the Buyer did not previously deliver an Inspection Objection. Buyer's Right to Terminate under this provision expires upon delivery of an Inspection Objection to Seller pursuant to § 10.3.2.; or

**10.3.2. Inspection Objection.** On or before the **Inspection Objection Deadline**, deliver to Seller a written description of any unsatisfactory condition that Buyer requires Seller to correct.

**10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before **Inspection Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination (i.e., on or before expiration of **Inspection Resolution Deadline**). Nothing in this provision prohibits the Buyer and the Seller from mutually terminating this Contract before the Inspection Resolution Deadline passes by executing an Earnest Money Release.

**10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other written agreement between the parties, is responsible for payment for all inspections, tests, surveys, engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to defend against any such liability, damage, cost or expense, or to enforce this Section, including Seller's reasonable attorney fees, legal fees and expenses. The provisions of this Section survive the termination of this Contract. This § 10.4. does not apply to items performed pursuant to an Inspection Resolution.

**10.5. Insurability.** Buyer has the Right to Terminate under § 24.1., on or before **Property Insurance Termination Deadline**, based on any unsatisfactory provision of the availability, terms and conditions and premium for property insurance (Property Insurance) on the Property, in Buyer's sole subjective discretion.

**10.6. Due Diligence.**

**10.6.1. Due Diligence Documents.** Seller agrees to deliver copies of the following documents and information pertaining to the Property and Leased Items (Due Diligence Documents) to Buyer on or before **Due Diligence Documents Delivery Deadline**:

**10.6.1.1. Occupancy Agreements.** All current leases, including any amendments or other occupancy agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the Property that survive Closing are as follows (Leases):

Building lease to Magic Circle Players, Ltd.

**10.6.1.2. Leased Items Documents.** If any lease of personal property (§ 2.5.8., Leased Items) will be transferred to Buyer at Closing, Seller agrees to deliver copies of the leases and information pertaining to the personal property to Buyer on or before **Due Diligence Documents Delivery Deadline**.

**10.6.1.3. Encumbered Inclusions Documents.** If any Inclusions owned by Seller are encumbered pursuant to § 2.5.4. (Encumbered Inclusions) above, Seller agrees to deliver copies of the evidence of debt, security and any other documents creating the encumbrance to Buyer on or before **Due Diligence Documents Delivery Deadline**.

**10.6.1.4. Solar Power Plan.** Copy of any Solar Power Plan not included in Leased Items (regardless of its name or title).

**10.6.1.5. Septic Use Permit.** If required by the local health department or other applicable government entity, on or before the local health department's applicable deadline, Seller must pay for and furnish to Buyer a Septic Use Permit.

**10.6.1.6. Other Documents.** If the respective box is checked, Seller agrees to additionally deliver copies of the following:

☐ **10.6.1.6.1.** All contracts relating to the operation, maintenance and management of the Property;

☐ **10.6.1.6.2.** Property tax bills for the last _________ years;

☐ **10.6.1.6.3.** As-built construction plans to the Property and the tenant improvements, including architectural, electrical, mechanical and structural systems; engineering reports; and permanent Certificates of Occupancy, to the extent now available;

☐ **10.6.1.6.4.** A list of all Inclusions to be conveyed to Buyer;

☐ **10.6.1.6.5.** Operating statements for the past _____________ years;

☐ **10.6.1.6.6.** A rent roll accurate and correct to the date of this Contract;

☐ **10.6.1.6.7.** A schedule of any tenant improvement work Seller is obligated to complete but has not yet completed and capital improvement work either scheduled or in process on the date of this Contract;

☐ **10.6.1.6.8.** All insurance policies pertaining to the Property and copies of any claims which have been made for the past _____ years;

☐ **10.6.1.6.9.** Soils reports, surveys and engineering reports or data pertaining to the Property (if not delivered earlier under § 8.3.);

☐ **10.6.1.6.10.** Any and all existing documentation and reports regarding Phase I and II environmental reports, letters, test results, advisories and similar documents respective to the existence or nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances and/or underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller warrants that no such reports are in Seller's possession or known to Seller;

☐ **10.6.1.6.11.** Any *Americans with Disabilities Act* reports, studies or surveys concerning the compliance of the Property with said Act;

☐ **10.6.1.6.12.** All permits, licenses and other building or use authorizations issued by any governmental authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use authorizations, if any; and

☐ **10.6.1.6.13.** Other:

See Section 30.2

**10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and object based on the Due Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are unsatisfactory, in Buyer's sole subjective discretion, Buyer may, on or before **Due Diligence Documents Objection Deadline**:

**10.6.2.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated; or

**10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description of any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

**10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents Objection is received by Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution Deadline**, this Contract will terminate on **Due Diligence Documents Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination (i.e., on or before expiration of **Due Diligence Documents Resolution Deadline**).

**10.6.2.4. Automatic Due Diligence Extension.** If a Due Diligence Document is not delivered on or before the Due Diligence Documents Deadline, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to such Due Diligence Document. If Buyer's right to review and object to such Due Diligence Document is extended due to such Due Diligence Document not being delivered on or before the Due Diligence Documents Deadline, the Due Diligence Document Resolution Deadline will also be extended to the earlier of Closing or fifteen days after Buyer's receipt of such Due Diligence Document.

**10.6.3. Zoning.** Buyer has the Right to Terminate under § 24.1., on or before Due Diligence Documents **Objection** Deadline, based on any unsatisfactory zoning and any use restrictions imposed by any governmental agency with jurisdiction over the Property, in Buyer's sole subjective discretion.

**10.6.4. Due Diligence – Environmental.** Buyer has the right to obtain environmental inspections of the Property including a Phase I Environmental Site Assessment. ☐ **Seller** ☒ **Buyer** will order or provide a current Phase I Environmental Site Assessment (compliant with the most current version of the applicable ASTM E1527 standard practices for Environmental Site Assessments) and/or N/A, at the expense of ☐ **Seller** ☒ **Buyer** (Environmental Inspection).

If the Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the **Environmental Inspection Termination Deadline** will be extended by N/A days (Extended Environmental Inspection Termination Deadline) and if such Extended Environmental Inspection Termination Deadline extends beyond the Closing **Date**, the **Closing Date** will be extended a like period of time. In such event, ☐ **Seller** ☐ **Buyer** must pay the cost for such Phase II Environmental Site Assessment.

Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this § 10.6.4., Buyer has the Right to Terminate under § 24.1., on or before **Environmental Inspection Termination Deadline**, or if applicable, the Extended Environmental Inspection Termination Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.

**10.6.5. Due Diligence – ADA.** Buyer, at Buyer's expense, may also conduct an evaluation whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and evaluations must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants' business uses of the Property, if any.

Buyer has the Right to Terminate under § 24.1., on or before **ADA Evaluation Termination Deadline**, based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

**10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of that certain property owned by Buyer and commonly known as See Section 30.6. Buyer has the Right to Terminate under § 24.1. effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if such property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller does not receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right to Terminate under this provision.

**10.8. Source of Potable Water (Residential Land and Residential Improvements Only). [Intentionally Deleted - See Residential Addendum if applicable]**

**10.9. Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none of the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller will not amend, alter, modify, extend or cancel any of the Leases nor will Seller enter into any new leases affecting the Property without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed.

**10.10. Lead-Based Paint. [Intentionally Deleted - See Residential Addendum** if **applicable]**

**10.11. Carbon Monoxide Alarms. [Intentionally Deleted - See Residential Addendum if applicable]**

**10.12. Methamphetamine Disclosure. [Intentionally Deleted - See Residential Addendum if applicable]**

**11. TENANT ESTOPPEL STATEMENTS.**

**11.1. Estoppel Statements Conditions.** Buyer has the right to review and object to any Estoppel Statements. Seller must request from all tenants of the Property and if received by Seller, deliver to Buyer on or before **Estoppel Statements Deadline**, statements in a form and substance reasonably acceptable to Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of the Lease stating:

**11.1.1.** The commencement date of the Lease and scheduled termination date of the Lease;

**11.1.2.** That said Lease is in full force and effect and that there have been no subsequent modifications or amendments;

**11.1.3.** The amount of any advance rentals paid, rent concessions given and deposits paid to Seller;

**11.1.4.** The amount of monthly (or other applicable period) rental paid to Seller;

**11.1.5.** That there is no default under the terms of said Lease by landlord or occupant; and

**11.1.6.** That the Lease to which the Estoppel Statement is attached is a true, correct and complete copy of the Lease demising the premises it describes.

**11.2. Seller Estoppel Statement.** In the event Seller does not receive from all tenants of the Property a completed signed Estoppel Statement, Seller agrees to complete and execute an Estoppel Statement setting forth the information and documents required in §11.1. above and deliver the same to Buyer on or before **Estoppel Statements Deadline.**

**11.3. Estoppel Statements Termination.** Buyer has the Right to Terminate under § 24.1., on or before **Estoppel Statements Termination Deadline**, based on any unsatisfactory Estoppel Statement, in Buyer's sole subjective discretion, or if

Seller fails to deliver the Estoppel Statements on or before **Estoppel Statements Deadline**. Buyer also has the unilateral right to waive any unsatisfactory Estoppel Statement.

## CLOSING PROVISIONS

**12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

**12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and Seller and their designees. If Buyer is obtaining a loan to purchase the Property, Buyer acknowledges Buyer's lender is required to provide the Closing Company, in a timely manner, all required loan documents and financial information concerning Buyer's loan. Buyer and Seller will furnish any additional information and documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller will sign and complete all customary or reasonably required documents at or before Closing.

**12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions ☐ **Are** ☒ **Are Not** executed with this Contract.

**12.3. Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the date specified as the **Closing Date** or by mutual agreement at an earlier date. At Closing, Seller must provide Buyer with the ability to access the Property (e.g. keys, access code, garage door opener). The hour and place of Closing will be as designated by See Section 30.5.

**12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality and extent of service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title companies).

**12.5. Assignment of Leases.** Seller must assign to Buyer all Leases at Closing that will continue after Closing and Buyer must assume Seller's obligations under such Leases. Further, Seller must transfer to Buyer all Leased Items and assign to Buyer such leases for the Leased Items accepted by Buyer pursuant to § 2.5.8. (Leased Items).

**13. TRANSFER OF TITLE.** Subject to Buyer's compliance with the terms and provisions of this Contract, including the tender of any payment due at Closing, Seller must execute and deliver the following good and sufficient deed to Buyer, at Closing: ☒ special warranty deed ☐ general warranty deed ☐ bargain and sale deed ☐ quit claim deed ☐ personal representative's deed ☐ N/A deed. Seller, provided another deed is not selected, must execute and deliver a good and sufficient special warranty deed to Buyer, at Closing.

Unless otherwise specified in § 30 (Additional Provisions), if title will be conveyed using a special warranty deed or a general warranty deed, title will be conveyed "subject to statutory exceptions" as defined in §38-30-113(5)(a), C.R.S.

**14. PAYMENT OF LIENS AND ENCUMBRANCES.** Unless agreed to by Buyer in writing, any amounts owed on any liens or encumbrances securing a monetary sum against the Property and Inclusions, including any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not, and previous years' taxes, will be paid at or before Closing by Seller from the proceeds of this transaction or from any other source.

**15. CLOSING COSTS, FEES, ASSOCIATION STATUS LETTER AND DISBURSEMENTS, TAXES AND WITHHOLDING.**

**15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs and all other items required to be paid at Closing, except as otherwise provided herein.

**15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by ☐ **Buyer** ☐ **Seller** ☒ **One-Half by Buyer and One-Half by Seller** ☐ **Other** ________.

**15.3. Association Fees and Required Disbursements.** At least fourteen days prior to **Closing Date**, Seller agrees to promptly request that the Closing Company or the Association deliver to Buyer a current Status Letter, if applicable. Any fees associated with or specified in the Status Letter will be paid as follows:

**15.3.1. Status Letter Fee.** Any fee incident to the issuance of Association's Status Letter must be paid by Seller.

**15.3.2. Record Change Fee.** Any Record Change Fee must be paid by ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** ☒ **N/A**.

**15.3.3. Reserves or Working Capital.** Unless agreed to otherwise, all reserves or working capital due (or other similar cost not addressed in § 16.2. (Association Assessments)) at Closing must be paid by ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** ☒ **N/A**.

**15.3.4. Other Fees.** Any other fee listed in the Status Letter as required to be paid at Closing will be paid by ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** ☐ **N/A**.

**15.4. Local Transfer Tax.** Any Local Transfer Tax must be paid at Closing by ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** ☒ **N/A**.

**15.5. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction must be paid when due by ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** ☒ **N/A**.

**15.6. Private Transfer Fee.** Any private transfer fees and other fees due to a transfer of the Property, payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at Closing by ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** ☒ **N/A**.

**15.7. Water Transfer Fees.** Water Transfer Fees can change**.** The fees, as of the date of this Contract, do not exceed $ N/A for:

☐ Water District/Municipality ☐ Water Stock
☐ Augmentation Membership ☐ Small Domestic Water Company ☐ N/A

and must be paid at Closing by ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** ☒ **N/A.**

**15.8. Utility Transfer Fees.** Utility transfer fees can change**.** Any fees to transfer utilities from Seller to Buyer must be paid by ☒ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** ☐ **N/A.**

**15.9. FIRPTA and Colorado Withholding.**

**15.9.1. FIRPTA.** The Internal Revenue Service (IRS) may require a substantial portion of the Seller's proceeds be withheld after Closing when Seller is a foreign person. If required withholding does not occur, the Buyer could be held liable for the amount of the Seller's tax, interest and penalties. If the box in this Section is checked, Seller represents that Seller ☐ **IS** a foreign person for purposes of U.S. income taxation. If the box in this Section is not checked, Seller represents that Seller is not a foreign person for purposes of U.S. income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

**15.9.2. Colorado Withholding.** The Colorado Department of Revenue may require a portion of the Seller's proceeds be withheld after Closing when Seller will not be a Colorado resident after Closing, if not otherwise exempt. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

## 16. PRORATIONS AND ASSOCIATION ASSESSMENTS.

**16.1. Prorations.** The following will be prorated to the **Closing Date**, except as otherwise provided:

**16.1.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of Closing, based on ☐ **Taxes for the Calendar Year Immediately Preceding Closing** ☒ **Most Recent Mill Levy and Most Recent Assessed Valuation**, adjusted by any applicable qualifying seniors property tax exemption, qualifying disabled veteran exemption or ☐ **Other** ________________.

**16.1.2. Rents.** Rents based on ☐ **Rents Actually Received** ☒ **Accrued**. At Closing, Seller will transfer or credit to Buyer the security deposits for all Leases assigned to Buyer, or any remainder after lawful deductions, and notify all tenants in writing of such transfer and of the transferee's name and address.

**16.1.3. Other Prorations.** Water and sewer charges, propane, interest on continuing loan and Those that are customary in Colorado.

**16.1.4. Final Settlement.** Unless otherwise specified in Additional Provisions, these prorations are final.

**16.2. Association Assessments.** Current regular Association assessments and dues (Association Assessments) paid in advance will be credited to Seller at Closing. All Association Assessments accrued before Closing must be paid by Seller and all Association Assessments accrued after Closing must be paid by Buyer. Cash reserves held out of the regular Association Assessments for deferred maintenance by the Association will not be credited to Seller except as may be otherwise provided by the Governing Documents. Any special assessment assessed prior to **Closing Date** by the Association will be the obligation of ☐ **Buyer** ☒ **Seller**. Except however, any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller unless otherwise specified in Additional Provisions. Seller represents there are no unpaid regular or special assessments against the Property except the current regular assessments and N/A. Association Assessments are subject to change as provided in the Governing Documents.

**17. POSSESSION.** Possession of the Property and Inclusions will be delivered to Buyer on **Possession Date** at **Possession Time**, subject to the Leases as set forth in § 10.6.1.1.

If Seller, after Closing occurs, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable to Buyer, notwithstanding § 20.2. (If Seller is in Default), for payment of $ 100.00 per day (or any part of a day notwithstanding § 3.3., Day) from **Possession Date** and **Possession Time** until possession is delivered. Additionally, Buyer may pursue a claim against Seller for any of Buyer's actual additional damages incurred by Buyer in excess of such amount.

## GENERAL PROVISIONS

**18. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION; AND WALK-THROUGH.** Except as otherwise provided in this Contract, the Property and Inclusions will be delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.

**18.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other perils or causes of loss prior to Closing (Property Damage) in an amount of not more than ten percent of the total Purchase Price and if the repair of the damage will be paid by insurance (other than the deductible to be paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller's reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the parties or their attorney requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the insurance claim.

**18.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement of such Inclusion or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the Association, if any, will survive Closing.

**18.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of the Property or Inclusions, but such credit will not include relocation benefits or expenses or exceed the Purchase Price.

**18.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

**19. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller acknowledge that their respective broker has advised that this Contract has important legal consequences and has recommended: (1) legal examination of title; (2) consultation with legal and tax or other counsel before signing this Contract as this Contract may have important legal and tax implications; (3) to consult with their own attorney if Water Rights, Mineral Rights or Leased Items are included or excluded in the sale; and (4) to consult with legal counsel if there are other matters in this transaction for which legal counsel should be engaged and consulted. Such consultations must be done timely as this Contract has strict time limits, including deadlines, that must be complied with.

**20. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines in this Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including Earnest Money, is not paid, honored or tendered when due, or if any obligation is not performed timely as provided in this Contract or waived, the non-defaulting party has the following remedies:

**20.1. If Buyer is in Default:**

☐ **20.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money is not a penalty, and the parties agree the amount is fair and reasonable. Seller may recover such additional damages as may be proper. Alternatively, Seller may elect to treat this Contract as being in full force and effect and Seller has the right to specific performance or damages, or both.

**20.1.2. Liquidated Damages, Applicable. This § 20.1.2. applies <u>unless the box in § 20.1.1. is checked</u>.** Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money amount specified in § 4.1. is LIQUIDATED DAMAGES and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4. and 21), such amount is SELLER'S ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional damages.

**20.2. If Seller is in Default:**

**20.2.1. Specific Performance, Damages or Both.** Buyer may elect to treat this Contract as canceled, in which case all Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be proper. Alternatively, in addition to the per diem in § 17 (Possession) for failure of Seller to timely deliver possession of the Property after Closing occurs, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the right to specific performance or damages, or both.

**20.2.2. Seller's Failure to Perform.** In the event Seller fails to perform Seller's obligations under this Contract, to include, but not limited to, failure to timely disclose Association violations known by Seller, failure to perform any replacements or repairs required under this Contract or failure to timely disclose any known adverse material facts, Seller remains liable for any such failures to perform under this Contract after Closing. Buyer's rights to pursue the Seller for Seller's failure to perform under this Contract are reserved and survive Closing.

**21. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and expenses.

**22. MEDIATION.** If a dispute arises relating to this Contract (whether prior to or after Closing) and is not resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at that party's last known address (physical or electronic as provided in § 26). Nothing in this Section prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the date of written notice requesting mediation. This Section will not alter any date in this Contract, unless otherwise agreed.

**23. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to release the Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1) wait for any proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a court of competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable attorney and legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder is authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit and has not interpled the monies at the time of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of § 22 (Mediation). This Section will survive cancellation or termination of this Contract.

**24. TERMINATION.**

**24.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to Terminate), the termination is effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right to Terminate accepts the specified matter, document or condition as satisfactory and waives the Right to Terminate under such provision. Any Notice to Terminate delivered after the applicable deadline specified in the Contract is ineffective and does not terminate this Contract.

**24.2. Effect of Termination.** In the event this Contract is terminated, all Earnest Money received hereunder must be timely returned to Buyer and the parties are then relieved of all obligations hereunder, subject to §§ 10.4. and 21.

**25. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS.** This Contract, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject hereof and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right or obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing survives the same. Any successor to a party receives the predecessor's benefits and obligations of this Contract.

**26. NOTICE, DELIVERY AND CHOICE OF LAW.**

**26.1. Physical Delivery and Notice.** Any document or notice to Buyer or Seller must be in writing, except as provided in § 26.2. and is effective when physically received by such party, any individual named in this Contract to receive documents or notices for such party, Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm).

**26.2. Electronic Notice.** As an alternative to physical delivery, any notice may be delivered in electronic form to Buyer or Seller, any individual named in this Contract to receive documents or notices for such party, Broker or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing, cancellation or Termination must be received by the party, not Broker or Brokerage Firm) at the electronic address of the recipient by facsimile, email or N/A.

**26.3. Electronic Delivery**. Electronic Delivery of documents and notice may be delivered by: (1) email at the email address of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to access the documents, or (3) facsimile at the facsimile number (Fax No.) of the recipient.

**26.4. Choice of Law.** This Contract and all disputes arising hereunder are governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property located in Colorado.

**27. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal will expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below and the offering party receives notice of such acceptance pursuant to § 26 on or before **Acceptance Deadline Date** and **Acceptance Deadline Time**. If accepted, this document will become a contract between Seller and Buyer. A copy of this Contract may be executed by each party, separately and when each party has executed a copy thereof, such copies taken together are deemed to be a full and complete contract between the parties.

**28. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith including, but not limited to, exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations**; **Title Insurance, Record Title and Off-Record Title**; **New ILC, New Survey**; and **Property Disclosure**, **Inspection**, **Indemnity**, **Insurability and Due Diligence**.

**29. BUYER'S BROKERAGE FIRM COMPENSATION.** Buyer's brokerage firm's compensation will be paid, at Closing, as follows:

☐ **29.1.** N/A % of the Purchase Price or $ N/A by Seller. Buyer's brokerage firm is an intended third-party beneficiary under this provision only. The amount paid by Seller under this provision is in addition to any other amounts Seller is paying on behalf of Buyer elsewhere in this Contract.

☐ **29.2.** N/A % of the Purchase Price or $ N/A by Buyer pursuant to a separate agreement between Buyer and Buyer's brokerage firm. This amount may be modified between Buyer and Buyer's brokerage firm outside of this Contract.

☐ **29.3.** N/A % of the Purchase Price or $ N/A by a separate agreement between Buyer's brokerage firm and Seller's brokerage firm.

## ADDITIONAL PROVISIONS AND ATTACHMENTS

**30. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate Commission.)

See Addendum 30 attached hereto, which is incorporated into, and made a part of this Contract by reference.

**31. OTHER DOCUMENTS.**

**31.1. Documents Part of Contract.** The following documents **are a part** of this Contract:

N/A

**31.2. Documents Not Part of Contract.** The following documents have been provided but are **not** a part of this Contract:

N/A

## SIGNATURES

| | |
|---|---|
| Buyer's Name: City of Montrose | Buyer's Name: |
| Buyer's Signature Date | Buyer's Signature Date |
| Address: P.O. Box 790<br>Montrose, CO 22314 | Address: |
| Phone No.: | Phone No.: |
| Fax No.: | Fax No.: |
| Email Address: | Email Address: |

**[NOTE: If this offer is being countered or rejected, do not sign this document.]**

| | |
|---|---|
| Seller's Name: Volunteers of America National Services | Seller's Name: |
| Seller's Signature Date | Seller's Signature Date |
| Address: 1660 Duke Street<br>Alexandria, VA 22314 | Address: |
| Phone No.: | Phone No.: |
| Fax No.: | Fax No.: |
| Email Address: | Email Address: |

# END OF CONTRACT TO BUY AND SELL REAL ESTATE

## BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

~~**A. Broker Working With Buyer**~~

~~Broker~~ ☐ ~~**Does**~~ ☐ ~~**Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.~~

~~Broker is working with Buyer as a~~ ☐ ~~**Buyer's Agent**~~ ☐ ~~**Transaction-Broker** in this transaction.~~

☐ ~~**Customer.** Broker has no brokerage relationship with Buyer. See § B for Broker's brokerage relationship with Seller.~~

~~Brokerage Firm's compensation or commission is to be paid as specified in §29 above.~~

~~This Broker's Acknowledgments and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.~~

~~Brokerage Firm's Name:~~ __________
~~Brokerage Firm's License #:~~ __________
~~Broker's Name:~~ __________

~~Broker's License #:~~ ____________________

____________________
~~Broker's Signature~~ ~~Date~~

~~Address:~~ ____________________

~~Phone No.:~~ ____________________
~~Fax No.:~~ ____________________
~~Email Address:~~ ____________________

---

**~~B. Broker Working with Seller~~**

~~Broker~~ ☐ **~~Does~~** ☐ **~~Does Not~~** ~~acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.~~

~~Broker is working with Seller as a~~ ☐ **~~Seller's Agent~~** ☐ **~~Transaction-Broker~~** ~~in this transaction.~~

☐ **~~Customer.~~** ~~Broker has no brokerage relationship with Seller. See § A for Broker's brokerage relationship with Buyer.~~

~~Brokerage Firm's compensation or commission is to be paid by~~ ☐ **~~Seller~~** ☐ **~~Buyer~~** ☐ **~~Other~~** ____________________~~.~~

~~This Broker's Acknowledgments and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any agreement to pay compensation must be entered into separately and apart from this provision.~~

~~Brokerage Firm's Name:~~ ____________________
~~Brokerage Firm's License #:~~ ____________________
~~Broker's Name:~~ ____________________
~~Broker's License #:~~ ____________________

____________________
~~Broker's Signature~~ ~~Date~~

~~Address:~~ ____________________

~~Phone No.:~~ ____________________
~~Fax No.:~~ ____________________
~~Email Address:~~ ____________________

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# ADDENDUM TO
## CONTRACT TO BUY AND SELL REAL ESTATE (COMMERCIAL)
## BETWEEN VOLUNTEERS OF AMERICA NATIONAL SERVICES, A MINNESOTA NONPROFIT CORPORATION ("SELLER") AND THE CITY OF MONTROSE, A COLORADO HOME RULE MUNICIPAL CORPORATION ("BUYER")

**30. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate Commission.)

**30.1. Conflicts.** In the event of any conflict between the terms and provisions which are set forth in the various subsections of Section 30 of this Contract and the preprinted portions of this Contract approved by the Colorado Real Estate Commission as amended herein, the terms and provisions of the various subsections of this Section 30 shall govern.

**30.2. Due Diligence Package.** Within ten (10) business days of mutual execution of the Contract, Seller shall provide Buyer with a customary "Due Diligence Package" which shall include, but shall not necessarily be limited to, the following items that are in Seller's possession:

A. Current title commitment from Title Company;
B. All building and site plans including but not limited to building plans and site plans, civil engineering plans, and landscape plans ("Plans");
C. All surveys;
D. All environmental, soil, and geotechnical reports;
F. All governance documents, and
E. Other such items in Seller's possession that a reasonable and diligent buyer would wish to review, including but not limited to any off-record contracts and agreements.

**30.3. Due Diligence Period.** Buyer shall have ninety (90) days following mutual execution of the Contract to conduct due diligence and inspect Property ("Due Diligence Period"). Buyer's due diligence may include, but shall not be limited to, its review of Due Diligence Package, title, survey, and physical inspection of the Property, including a Phase I report. At the end of the Due Diligence Period, Buyer may accept the Property "as-is" and move forward with Closing or terminate this Contract in its sole discretion.

**30.4. Representations and Warranties**. Seller represents and warrants to Buyer as of the Effective Date, and again as of the Closing Date, the following: 1) Seller is a Minnesota nonprofit corporation; 2) Seller has the right and authority to enter into this Contract and consummate the transaction contemplated by this Contract; 3) Seller has taken all action required to enter into this Contract and the instruments referenced in this Contract and to consummate the transaction contemplated by this agreement; 4) the person signing this Contract on Seller's behalf is authorized to do so; 5) Seller has good and marketable fee simple title to the surface only, specifically exempting any mineral, oil, or gas rights, to the Property and clear of all liens, security interests, incumbrances, leases, and restrictions except for the Permitted Exceptions and as may otherwise be determined by the Title Commitment; 6) at Closing, title to the Property is free and clear of all liens, mortgages, encumbrances, leases, options, rights of first refusal, covenants, restrictions, easements, or other matters adversely affecting title, except for those Permitted Exceptions specifically disclosed and accepted by Buyer; 7) to Seller's knowledge, there has been no dumping, storage, burial, or release of hazardous substances, underground storage tanks, or other environmental contamination on or under the Property; 8) there are no pending or threatened condemnation proceedings, special assessments, code enforcement actions, or governmental investigations related to the Property; 9) there are no actual or threatened actions, suits, arbitrations, or pending proceedings against Seller or the Property that would impair Buyer's ownership of the Property; and 10) there are no liens, unpaid assessments, mechanic's liens, or other similar claims against the Property.

These representations and warranties set forth by Seller shall survive closing. If any representation or warranty is found to be untrue, Buyer shall have the right to indemnification from the Seller for all losses, damages, costs incurred, or any other remedy available at law or equity.

**30.5. Closing.** Unless the Contract is terminated, or the terms of the Contract amended by mutual written consent, Closing shall occur on, or before April 8, 2026 ("Closing Date"). In addition to all other documents customarily provided at closing, Seller agrees to provide the following to Buyer at closing:

A. Special Warranty Deed (the form of which shall be mutually agreed to by the parties concurrent with execution of the Contract and attached thereto as Exhibit B);
B. Bill of sale for any, and all, personal property to be transferred;
C. Lien Affidavit; and
D. Final title commitment and/or title policy (if the latter is ready for issuance by Title Company).

**30.6. Contingency.** The purchase and sale of this Property is tied to another transaction between the Buyer and Seller where Buyer is selling Seller a separate property of approximately 4.14 acres located in Montrose, Colorado known as Open Space of the Elder Homestead at Montrose and Open Space of the East Pavilion Complex: County Parcels 376735304900 and 376735306900 ("Buyer's Property"). The Closing of this transaction is contingent upon the Seller closing on the Buyer's Property and is part of the consideration for this Contract.

**30.7. "AS IS," "WHERE IS" and "WITH ALL FAULTS."** Except as otherwise specifically provided in this Contract, Seller shall convey the Property and Buyer shall accept the Property, and all matters relating to the Property, in "AS IS," "WHERE IS" and "WITH ALL FAULTS" condition or status. Except as otherwise specifically provided in this Contract, Seller has not made and Buyer is not relying, either directly or indirectly, upon any representations with respect to the Property, the value of the Property, the existence or preservation of any view or vista with respect to the Property or any other matter relating to the Property or its suitability for Buyer's anticipated use. Except for the warranties expressly stated in this Contract and in any documents delivered at Closing, Buyer hereby waives any other warranties, express, implied, including, but not limited to, any and all implied warranties of merchantability, habitability, suitability for habitation, fitness, fitness for a particular purpose or absence of radon, radiation or electromagnetic fields. Seller expressly disclaims all warranties except only for warranties expressly stated in this Contract and in any documents delivered at Closing.

**30.8. Relationship of Parties:** Notwithstanding any provision in this Contract to the contrary, this Contract shall not be construed as making Seller or Buyer the partner, agent or joint venturer of the other and the parties shall have no relationship to each other, other than as set forth herein as seller and buyer of real property.

**30.9. Time Is of Essence:** Time is of the essence of this Contract.

**30.10. Cooperation:** Seller and Buyer agree to cooperate in good faith with one another in taking any reasonable actions necessary or helpful to accomplish the transaction contemplated by this Contract, including, but not limited to, the satisfaction of any conditions to Closing set forth in this Contract.

**30.11. Allocation of Liability**. It is expressly understood and agreed that Seller shall be liable to third parties for any and all obligations, claims, losses, damages, liabilities, and expenses arising out of events, contractual obligations, acts, or omissions of the Seller that occurred in connection with the ownership or operation of the Property prior to the Closing, and Buyer shall be liable to third parties for any and all obligations, claims, losses, damages, liabilities, and expenses arising out of events, contractual obligations, acts, or omissions of Buyer that occur in connection with the ownership or operation of the Property after the Closing. The provisions of this Section will survive Closing.

**30.12. Confidentiality.** Buyer and Seller shall keep the contents of their negotiations and terms of this Contract as confidential as possible, subject to applicable State, Federal, and Local Law.

**30.13. Attorneys' Fees:** In the event any action is commenced to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its litigation costs and attorneys' fees from the non-prevailing party.

**30.14. WAIVER OF TRIAL BY JURY/VENUE/GOVERNING LAW. SELLER AND BUYER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER AS TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF THE SELLER OR BUYER OR ANY OTHER CLAIM OR STATUTORY REMEDY. VENUE FOR ANY ACTION BROUGHT UNDER THIS AGREEMENT SHALL BE IN THE DISTRICT COURT OF THE COUNTY OF MONTROSE, STATE OF COLORADO. THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF COLORADO, WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAWS PRINCIPLES.**

**EXHIBIT A**


Seller Property highlighted in green: approximately 1.15 acres

## EXHIBIT B

## FORM OF SPECIAL WARRANTY DEED

When recorded, return to:
__________________________
__________________________
__________________________
Attention:____________________

### SPECIAL WARRANTY DEED

STATUTORY FORM – C.R.S. § 38-30-113(1)(b)

[MONTH] [DATE], [YEAR]

Volunteers of America National Services, a Minnesota nonprofit corporation, whose street address is 1660 Duke Street, City of Alexandria, and State of Virginia (“Grantor”), for the consideration of $[10.00], in hand paid, hereby sells and conveys to City of Montrose, a Colorado home rule municipal corporation (“Grantee”), whose street address is P.O. Box 1897, City of Montrose, County of Montrose, and State of Colorado, the real property legally described in **Error! Reference source not found.**, with all its appurtenances, and warrants the title to the same against all persons claiming under the Grantor, subject to the matters set forth on 0.

[*signature page follows*]

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (CBS4-8-24) (Mandatory 8-24)

**THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.**

# CONTRACT TO BUY AND SELL REAL ESTATE (LAND)

**(☒ Property with No Residences)**

**(☐ Property with Residences-Residential Addendum Attached)**

Date: **November 18, 2025**

## AGREEMENT

**1. AGREEMENT.** Buyer agrees to buy and Seller agrees to sell the Property described below on the terms and conditions set forth in this contract (Contract).

**2. PARTIES AND PROPERTY.**

**2.1. Buyer. Volunteers of America National Services, a Minnesota nonprofit corporation** (Buyer) will take title to the Property described below as ☐ **Joint Tenants** ☒ **Tenants In Common** ☐ **Other** ____________________________.

**2.2. No Assignability.** This Contract **IS NOT** assignable by Buyer unless otherwise specified in **Additional Provisions.**

**2.3. Seller. City of Montrose, a Colorado home rule municipal corporation** (Seller) is the current owner of the Property described below.

**2.4. Property.** The Property is the following ~~legally~~ described real estate in the County of **Montrose**, Colorado (~~insert legal description~~):

**Approximately 4.14 acres known as Open Space of the Elder Homestead at Montrose and Open Space of the East Pavilion Complex: County Parcels 376735304900 and 376735306900. See Exhibit A for visual depictions.**

| | | | | |
|---|---|---|---|---|
| known as: | **TBD/Vacant Land** | **Montrose** | **CO** | |
| | Street Address | City | State | Zip |

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

**2.5. Inclusions.** The Purchase Price includes the following items (Inclusions):

**2.5.1. Inclusions.** The following items, whether fixtures or personal property, are included in the Purchase Price unless excluded under **Exclusions:**

**N/A**

If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

**2.5.2. Encumbered Inclusions.** Any Inclusions owned by Seller (e.g., owned solar panels) must be conveyed at Closing by Seller free and clear of all taxes (except personal property and general real estate taxes for the year of Closing), liens and encumbrances, except:

**N/A**

Buyer ☐ **Will** ☒ **Will Not** assume the debt and obligations on the Encumbered Inclusions subject to Buyer's review under §10.6. (Encumbered Inclusion Documents) and Buyer's receipt of written approval by such lender before Closing. If Buyer does not receive such approval this Contract terminates.

**2.5.3. Personal Property Conveyance.** Conveyance of all personal property will be by bill of sale or other applicable legal instrument.

**2.5.4. Leased Items.** The following personal property is currently leased to Seller which will be transferred to Buyer at Closing (Leased Items):

**N/A**

Buyer ☐ Will ☒ Will Not assume Seller's debt and obligations under such leases for the Leased Items subject to Buyer's review under §10.6. (Leased Items Documents) and Buyer's receipt of written approval by such lender before Closing. If Buyer does not receive such approval this Contract terminates.

☐ **2.5.5 Solar Power Plan.** If the box is checked, Seller has entered into a solar power purchase agreement, regardless of the name or title, to authorize a third-party to operate and maintain a photovoltaic system on the Property and provide electricity (Solar Power Plan) that will remain in effect after Closing. Buyer ☐ **Will** ☒ **Will Not** assume Seller's obligations under such Solar Power Plan subject to Buyer's review under §10.6. (Solar Power Plan) and Buyer's receipt of written approval by the third-party before Closing. If Buyer does not receive such approval this Contract terminates.

**2.6. Exclusions**. The following items are excluded (Exclusions):

**N/A**

**2.7. Water Rights, Well Rights, Water and Sewer Taps.**

☐ **2.7.1 Deeded Water Rights.** The following legally described water rights:

**N/A**

Any deeded water rights will be conveyed by a good and sufficient ___________________deed at Closing.

☐ **2.7.2 Other Rights Relating to Water**. The following rights relating to water not included in §§ 2.7.1., 2.7.3., 2.7.4. and 2.7.5., will be transferred to Buyer at Closing:

**N/A**

☐ **2.7.3 Well Rights**. Seller agrees to supply required information to Buyer about the well. Buyer understands that if the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water Well" used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer must complete a registration of existing well form for the well and pay the cost of registration. If no person will be providing a closing service in connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The Well Permit # is _________________.

☐ **2.7.4 Water Stock.** The water stock to be transferred at Closing are as follows:

**N/A**

**2.7.5. Water and Sewer Taps.** The parties agree that water and sewer taps listed below for the Property are being conveyed as part of the Purchase Price as follows:

**N/A**

**If any water or sewer taps are included in the sale, Buyer is advised to obtain, from the provider, written confirmation of the amount remaining to be paid, if any, time and other restrictions for transfer and use of the taps.**

**2.7.6. Conveyance**. If Buyer is to receive any rights to water pursuant to § 2.7.2. (Other Rights Relating to Water), § 2.7.3. (Well Rights), § 2.7.4. (Water Stock), or § 2.7.5. (Water and Sewer Taps), Seller agrees to convey such rights to Buyer by executing the applicable legal instrument at Closing.

**2.7.7. Water Rights Review.** Buyer has a Right to Terminate if examination of the Water Rights is unsatisfactory to Buyer on or before the **Water Rights Examination Deadline.**

**2.8. Growing Crops.** With respect to growing crops, Seller and Buyer agree as follows:

**3. DATES, DEADLINES AND APPLICABILITY.**

**3.1. Dates and Deadlines**.

| Item No. | Reference | Event | Date or Deadline |
|---|---|---|---|
| 1 | § 3 | Time of Day Deadline | **N/A** |
| 2 | § 4 | Alternative Earnest Money Deadline | **10 Business Days from MEC** |
| | | **Title** | |
| 3 | § 8 | Record Title Deadline (and Tax Certificate) | **10 Business Days from MEC** |
| 4 | § 8 | Record Title Objection Deadline | **90 Days from MEC** |
| 5 | § 8 | Off-Record Title Deadline | **10 Business Days from MEC** |
| 6 | § 8 | Off-Record Title Objection Deadline | **90 Days from MEC** |
| 7 | § 8 | Title Resolution Deadline | **90 Days from MEC** |
| 8 | § 8 | Third Party Right to Purchase/Approve Deadline | **N/A** |
| | | **Owners' Association** | |
| 9 | § 7 | Association Documents Deadline | **10 Business Days from MEC** |
| 10 | § 7 | Association Documents Termination Deadline | **90 Days from MEC** |
| | | **Seller's Disclosures** | |
| 11 | § 10 | Seller's Property Disclosure Deadline | **N/A** |
| 12 | § 10 | Lead-Based Paint Disclosure Deadline (if Residential Addendum attached) | **N/A** |
| | | **Loan and Credit** | |
| 13 | § 5 | New Loan Application Deadline | **N/A** |
| 14 | § 5 | New Loan Terms Deadline | **N/A** |
| 15 | § 5 | New Loan Availability Deadline | **N/A** |
| 16 | § 5 | Buyer's Credit Information Deadline | **N/A** |
| 17 | § 5 | Disapproval of Buyer's Credit Information Deadline | **N/A** |
| 18 | § 5 | Existing Loan Deadline | **N/A** |
| 19 | § 5 | Existing Loan Termination Deadline | **N/A** |
| 20 | § 5 | Loan Transfer Approval Deadline | **N/A** |
| 21 | § 4 | Seller or Private Financing Deadline | **N/A** |
| | | **Appraisal** | |
| 22 | § 6 | Appraisal Deadline | **N/A** |
| 23 | § 6 | Appraisal Objection Deadline | **N/A** |
| 24 | § 6 | Appraisal Resolution Deadline | **N/A** |
| | | **Survey** | |
| 25 | § 9 | New ILC or New Survey Deadline | **90 Days from MEC** |
| 26 | § 9 | New ILC or New Survey Objection Deadline | **90 Days from MEC** |
| 27 | § 9 | New ILC or New Survey Resolution Deadline | **95 Days from MEC** |
| | | **Inspection and Due Diligence** | |
| 28 | § 2 | Water Rights Examination Deadline | **N/A** |
| 29 | § 8 | Mineral Rights Examination Deadline | **N/A** |
| 30 | § 10 | Inspection Termination Deadline | **90 Days from MEC** |
| 31 | § 10 | Inspection Objection Deadline | **90 Days from MEC** |
| 32 | § 10 | Inspection Resolution Deadline | **95 Days from MEC** |
| 33 | § 10 | Property Insurance Termination Deadline | **90 Days from MEC** |
| 34 | § 10 | Due Diligence Documents Delivery Deadline | **10 Business Days from MEC** |
| 35 | § 10 | Due Diligence Documents Objection Deadline | **90 Days from MEC** |

| | | | |
|---|---|---|---|
| 36 | § 10 | Due Diligence Documents Resolution Deadline | **95 Days from MEC** |
| 37 | § 10 | Environmental Inspection Termination Deadline | **90 Days from MEC** |
| 38 | § 10 | ADA Evaluation Termination Deadline | **N/A** |
| 39 | § 10 | Conditional Sale Deadline | **N/A** |
| 40 | § 10 | Lead-Based Paint Termination Deadline (if Residential Addendum attached) | **N/A** |
| 41 | § 11 | Estoppel Statements Deadline | **N/A** |
| 42 | § 11 | Estoppel Statements Termination Deadline | **N/A** |
| | | **Closing and Possession** | |
| 43 | § 12 | Closing Date | **April 8 2026** |
| 44 | § 17 | Possession Date | **Day of Closing** |
| 45 | § 17 | Possession Time | **Delivery of Deed** |
| 46 | § 27 | **Acceptance Deadline Date** | **December 10. 2025** |
| 47 | § 27 | **Acceptance Deadline Time** | **6:00 PM MT** |
| | | | |
| | | | |

**3.2. Applicability of Terms.** If any deadline blank in § 3.1. (Dates and Deadlines) is left blank or completed with ‘‘N/A”, or the word “Deleted,” such deadline is not applicable and the corresponding provision containing the deadline is deleted. Any box checked in this Contract means the corresponding provision applies. If no box is checked in a provision that contains a selection of ‘‘None”, such provision means that ‘‘None” applies.

The abbreviation “MEC” (mutual execution of this Contract) means the date upon which both parties have signed this Contract. The abbreviation “N/A” as used in this Contract means not applicable.

**3.3. Day; Computation of Period of Days; Deadlines**.

**3.3.1. Day.** As used in this Contract, the term “day” means the entire day ending at 11:59 p.m., United States Mountain Time (Standard or Daylight Savings, as applicable). Except however, if a **Time of Day Deadline** is specified in § 3.1. (Dates and Deadlines), all Objection Deadlines, Resolution Deadlines, Examination Deadlines and Termination Deadlines will end on the specified deadline date at the time of day specified in the **Time of Day Deadline,** United States Mountain Time. If **Time of Day Deadline** is left blank or “’N/A” the deadlines will expire at 11:59 p.m., United States Mountain Time.

**3.3.2. Computation of Period of Days.** In computing a period of days (e.g., three days after MEC), when the ending date is not specified, the first day is excluded and the last day is included.

**3.3.3. Deadlines**. If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline ☒ **Will** ☐ **Will Not** be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be checked, the deadline will not be extended.

**4. PURCHASE PRICE AND TERMS.**

**4.1. Price and Terms.** The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

| Item No. | Reference | Item | Amount | Amount |
|---|---|---|---|---|
| 1 | § 4.1. | Purchase Price | $ **30,000.00** | |
| 2 | § 4.3. | Earnest Money | | **$5,000.00** |
| 3 | § 4.5. | New Loan | | **$N/A** |
| 4 | § 4.6. | Assumption Balance | | **$N/A** |
| 5 | § 4.7. | Private Financing | | **$N/A** |
| 6 | § 4.7. | Seller Financing | | $ |
| 7 | | | | |
| 8 | | | | |
| 9 | § 4.4. | Cash at Closing | | **$25,000.00** |
| 10 | | **TOTAL** | **$30,000.00** | **$30,000.00** |

**4.2. Seller Concession.** At Closing, Seller will credit to Buyer $**N/A** (Seller Concession). The Seller Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer's lender and is included in the Closing Statement or Closing Disclosure at Closing. Examples of allowable items to be paid for by the Seller Concession include, but are not limited to: Buyer's closing costs, loan discount points, loan origination fees, prepaid items and any other fee, cost, charge, expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract.

**4.3. Earnest Money.** The Earnest Money set forth in this Section, in the form of ~~a~~ **good funds** , will be payable to and held by **Land Title Guarantee Company** (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually agree to an **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest Money Holder in this transaction will be transferred to such fund.

**4.3.1. Alternative Earnest Money Deadline.** The deadline for delivering the Earnest Money, if other than at the time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

**4.3.2. Disposition of Earnest Money.** If Buyer has a Right to Terminate and timely terminates, Buyer is entitled to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 24 and, except as provided in § 23 (Earnest Money Dispute), if the Earnest Money has not already been returned following receipt of a Notice to Terminate, Seller agrees to execute and return to Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within three days of Seller's receipt of such form. If Seller is entitled to the Earnest Money, and, except as provided in § 23 (Earnest Money Dispute), if the Earnest Money has not already been paid to Seller, following receipt of an Earnest Money Release form, Buyer agrees to execute and return to Seller or Broker working with Seller, written mutual instructions (e.g., Earnest Money Release form), within three days of Buyer's receipt.

**4.3.2.1. Seller Failure to Timely Return Earnest Money.** If Seller fails to timely execute and return the Earnest Money Release Form, or other written mutual instructions, Seller is in default and liable to Buyer as set forth in "**If Seller is in Default", § 20.2. and § 21,** unless Seller is entitled to the Earnest Money due to a Buyer default.

**4.3.2.2. Buyer Failure to Timely Release Earnest Money.** If Buyer fails to timely execute and return the Earnest Money Release Form, or other written mutual instructions, Buyer is in default and liable to Seller as set forth in "**If Buyer is in Default, § 20.1. and § 21**, unless Buyer is entitled to the Earnest Money due to a Seller Default.

**4.4. Form of Funds; Time of Payment; Available Funds.**

**4.4.1. Good Funds.** All amounts payable by the parties at Closing, including any loan proceeds, Cash at Closing and closing costs, must be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds).

**4.4.2. Time of Payment.** All funds, including the Purchase Price to be paid by Buyer, must be paid before or at Closing or as otherwise agreed in writing between the parties to allow disbursement by Closing Company at Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT**.

**4.4.3. Available Funds.** Buyer represents that Buyer, as of the date of this Contract, ☐ **Does** ☐ **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

**4.5. New Loan**.

~~**4.5.1. Buyer to Pay Loan Costs.** Buyer, except as otherwise permitted in § 4.2. (Seller Concession), if applicable, must timely pay Buyer's loan costs, loan discount points, prepaid items and loan origination fees as required by lender.~~

~~**4.5.2. Buyer May Select Financing.** Buyer may pay in cash or select financing appropriate and acceptable to Buyer, including a different loan than initially sought, except as restricted in § 4.5.3. (Loan Limitations) or § 30 (Additional Provisions).~~

~~**4.5.3. Loan Limitations.** Buyer may purchase the Property using any of the following types of loans: ☐ **Conventional** ☐ **Other**~~ ________________________________

~~**4.6. Assumption.** Buyer agrees to assume and pay an existing loan in the approximate amount of the Assumption Balance set forth in § 4.1. (Price and Terms), presently payable at $ ___per ____________including principal and interest presently at the rate of _______% per annum and also including escrow for the following as indicated: ☐ **Real Estate Taxes Property Insurance Premium** and ☐ _________.~~

~~Buyer agrees to pay a loan transfer fee not to exceed $_______. At the time of assumption, the new interest rate will not exceed _______% per annum and the new payment will not exceed $________per ____________principal and interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption Balance, which causes the amount of cash required from Buyer at Closing to be increased by more than $________, or if any other terms or provisions of the loan change, Buyer has the Right to Terminate under § 24.1. on or before **Closing Date**.~~

~~Seller ☐ **Will** ☐ **Will Not** be released from liability on said loan. If applicable, compliance with the requirements for release from liability will be evidenced by delivery ☐ on or before **Loan Transfer Approval Deadline** ☐ at **Closing** of an appropriate letter of commitment from lender. Any cost payable for release of liability will be paid by ____in an amount not to exceed $______.~~

~~This Contract terminates if written consent from Seller's lender for Buyer's assumption of Seller's existing loan is not received by all parties and the Closing Company on or before Closing.~~

~~**4.7. Seller or Private Financing**.~~

~~**WARNING:** Unless the transaction is exempt, federal and state laws impose licensing, other requirements and restrictions on sellers and private financiers. Contract provisions on financing and financing documents, unless exempt, should be prepared by a licensed Colorado attorney or licensed mortgage loan originator. Brokers should not prepare or advise the parties on the specifics of financing, including whether or not a party is exempt from the law.~~

~~**4.7.1. Seller Financing.** If Buyer is to pay all or any portion of the Purchase Price with Seller financing, ☐ **Buyer** ☐ **Seller** will deliver the proposed Seller financing documents to the other party on or before _______________days before **Seller or Private Financing Deadline**.~~

~~**4.7.1..1. Seller May Terminate.** If Seller is to provide Seller financing, this Contract is conditional upon Seller determining whether such financing is satisfactory to the Seller, including its payments, interest rate, terms, conditions, cost, and compliance with the law. Seller has the Right to Terminate under § 24.1., on or before **Seller or Private Financing Deadline**, if such Seller financing is not satisfactory to Seller, in Seller's sole subjective discretion.~~

~~**4.7.2. Buyer May Terminate.** If Buyer is to pay all or any portion of the Purchase Price with Seller or private financing, this Contract is conditional upon Buyer determining whether such financing is satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions, and cost. Buyer has the Right to Terminate under § 24.1, on or before **Seller or Private Financing Deadline**, if such Seller or private financing is not satisfactory to Buyer, in Buyer's sole subjective discretion.~~

## TRANSACTION PROVISIONS

### 5. FINANCING CONDITIONS AND OBLIGATIONS.

~~**5.1. New Loan, Assumption Application.** If Buyer is to pay all or part of the Purchase Price by obtaining one or more new loans (New Loan), or if an existing loan is not to be released at Closing, Buyer, if required by such lender, must make an application verifiable by such lender, on or before **New Loan Application Deadline** and exercise reasonable efforts to obtain such loan or approval.~~

~~**5.2. New Loan Terms; New Loan Availability**.~~

~~**5.2.1 New Loan Terms.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer determining, in Buyer's sole subjective discretion, whether the proposed New Loan's payments, interest rate, conditions and costs or any other loan terms (New Loan Terms) are satisfactory to Buyer. This condition is for the sole benefit of Buyer. Buyer has the Right to Terminate under § 24.1., on or before **New Loan Terms Deadline**, if the New Loan Terms are not satisfactory to Buyer, in Buyer's sole subjective discretion.~~

~~**5.2.2 New Loan Availability.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer's satisfaction with the availability of the New Loan based on the lender's review and underwriting of Buyer's New Loan Application (New Loan Availability). Buyer has the Right to Terminate under § 24.1., on or before the **New Loan**~~

~~**Availability Deadline** if the New Loan Availability is not satisfactory to Buyer. Buyer does not have a Right to Terminate based on the New Loan Availability if the termination is based on the New Loan Terms, Appraised Value (defined below), the Lender Property Requirements (defined below), Insurability (§ 10.5. below) or the Conditional Upon Sale of Property (§ 10.7. below). **IF SELLER IS NOT IN DEFAULT AND DOES NOT TIMELY RECEIVE BUYER'S WRITTEN NOTICE TO TERMINATE, BUYER'S EARNEST MONEY WILL BE NONREFUNDABLE,** except as otherwise provided in this Contract (e.g., Appraisal, Title, Survey).~~

~~**5.3. Credit Information.** This Contract is conditional (for the sole benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which approval will be in Seller's sole subjective discretion. Accordingly: (1) Buyer must supply to Seller by **Buyer's Credit Information Deadline**, at Buyer's expense, information and documents (including a current credit report) concerning Buyer's financial, employment and credit condition; (2) Buyer consents that Seller may verify Buyer's financial ability and creditworthiness; and (3) any such information and documents received by Seller must be held by Seller in confidence and not released to others except to protect Seller's interest in this transaction. If the Cash at Closing is less than as set forth in § 4.1. of this Contract, Seller has the Right to Terminate under § 24.1., on or before Closing. If Seller disapproves of Buyer's financial ability or creditworthiness, in Seller's sole subjective discretion, Seller has the Right to Terminate under § 24.1., on or before **Disapproval of Buyer's Credit Information Deadline**.~~

~~**5.4. Existing Loan Review.** Seller must deliver copies of the loan documents (including note, deed of trust and any modifications) to Buyer by **Existing Loan Deadline**. For the sole benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the provisions of such loan documents. Buyer has the Right to Terminate under § 24.1., on or before **Existing Loan Termination Deadline**, based on any unsatisfactory provision of such loan documents, in Buyer's sole subjective discretion. If the lender's approval of a transfer of the Property is required, this Contract is conditional upon Buyer obtaining such approval without change in the terms of such loan, except as set forth in § 4.6. If lender's approval is not obtained by **Loan Transfer Approval Deadline**, this Contract will terminate on such deadline. Seller has the Right to Terminate under § 24.1., on or before Closing, in Seller's sole subjective discretion, if Seller is to be released from liability under such existing loan and Buyer does not obtain such compliance as set forth in § 4.6.~~

## 6. APPRAISAL PROVISIONS.

~~**6.1. Appraisal Definition.** An "Appraisal" is an opinion of value prepared by a licensed or certified appraiser, engaged on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised Value). The Appraisal may also set forth certain lender requirements, replacements, removals or repairs necessary on or to the Property as a condition for the Property to be valued at the Appraised Value.~~

~~**6.2. Appraised Value.** The applicable appraisal provision set forth below applies to the respective loan type set forth in § 4.5.3., or if a cash transaction (i.e., no financing), § 6.2.1. applies.~~

**6.2.1.** ~~**Conventional/Other.** Buyer has the right to obtain an Appraisal. If the Appraised Value is less than the Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline** Buyer may, on or before **Appraisal Objection Deadline**:~~

**6.2.1.1.** ~~**Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated; or~~

**6.2.1.2.** ~~**Appraisal Objection.** Deliver to Seller a written objection accompanied by either a copy of the Appraisal or written notice from lender that confirms the Appraised Value is less than the Purchase Price (Lender Verification).~~

**6.2.1.3.** ~~**Appraisal Resolution.** If an Appraisal Objection is received by Seller, on or before **Appraisal Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Appraisal Resolution Deadline**, this Contract will terminate on the **Appraisal Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the Appraisal Objection before such termination, (i.e., on or before expiration of **Appraisal Resolution Deadline**).~~

~~**6.3. Lender Property Requirements.** If the lender imposes any written requirements, replacements, removals or repairs, including any specified in the Appraisal (Lender Property Requirements) to be made to the Property (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, this Contract terminates on the earlier of three days following Seller's receipt of the Lender Property Requirements, or Closing, unless prior to termination: (1) the parties enter into a written agreement to satisfy the Lender Property Requirements; (2) the Lender Property Requirements have been completed; or (3) the satisfaction of the Lender Property Requirements is waived in writing by Buyer.~~

~~**6.4. Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be timely paid by ☐ **Buyer** ☐ **Seller**. The cost of the Appraisal may include any and all fees paid to the appraiser, appraisal management company, lender's agent or all three.~~

**7. OWNERS' ASSOCIATIONS.** This Section is applicable if the Property is located within one or more Common Interest Communities and subject to one or more declarations (Association).

**7.1. Common Interest Community Disclosure. THE PROPERTY IS LOCATED WITHIN A COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY. THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS' ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.**

**7.2. Association Documents to Buyer.** Seller is obligated to provide to Buyer the Association Documents (defined below), at Seller's expense, on or before **Association Documents Deadline**. Seller authorizes the Association to provide the Association Documents to Buyer, at Seller's expense. Seller's obligation to provide the Association Documents is fulfilled upon Buyer's receipt of the Association Documents, regardless of who provides such documents.

**7.3. Association Documents.** Association documents (Association Documents) consist of the following:

**7.3.1.** All Association declarations, articles of incorporation, bylaws, articles of organization, operating agreements, rules and regulations, party wall agreements and the Association's responsible governance policies adopted under § 38-33.3-209.5, C.R.S.;

**7.3.2.** Minutes of: (1) the annual owners' or members' meeting and (2) any executive boards' or managers' meetings; such minutes include those provided under the most current annual disclosure required under § 38-33.3-209.4, C.R.S. (Annual Disclosure) and minutes of meetings, if any, subsequent to the minutes disclosed in the Annual Disclosure. If none of the preceding minutes exist, then the most recent minutes, if any (§§ 7.3.1. and 7.3.2., collectively, Governing Documents); and

**7.3.3.** List of all Association insurance policies as provided in the Association's last Annual Disclosure, including, but not limited to, property, general liability, association director and officer professional liability and fidelity policies. The list must include the company names, policy limits, policy deductibles, additional named insureds and expiration dates of the policies listed (Association Insurance Documents);

**7.3.4.** A list by unit type of the Association's assessments, including both regular and special assessments as disclosed in the Association's last Annual Disclosure;

**7.3.5.** The Association's most recent financial documents which consist of: (1) the Association's operating budget for the current fiscal year, (2) the Association's most recent annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the Association's last Annual Disclosure, (3) the results of the Association's most recent available financial audit or review, (4) list of the fees and charges (regardless of name or title of such fees or charges) that the Association's community association manager or Association will charge in connection with the Closing including, but not limited to, any fee incident to the issuance of the Association's statement of assessments (Status Letter), any rush or update fee charged for the Status Letter, any record change fee or ownership record transfer fees (Record Change Fee), fees to access documents, (5) list of all assessments required to be paid in advance, reserves or working capital due at Closing and (6) reserve study, if any(§§ 7.3.4. and 7.3.5., collectively, Financial Documents);

**7.3.6.** Any written notice from the Association to Seller of a "construction defect action" under § 38-33.3-303.5, C.R.S. within the past six months and the result of whether the Association approved or disapproved such action (Construction Defect Documents). Nothing in this Section limits the Seller's obligation to disclose adverse material facts as required under § 10.2. (Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition) including any problems or defects in the common elements or limited common elements of the Association property.

**7.4. Conditional on Buyer's Review.** Buyer has the right to review the Association Documents. Buyer has the Right to Terminate under § 24.1., on or before **Association Documents Termination Deadline,** based on any unsatisfactory provision in any of the Association Documents, in Buyer's sole subjective discretion. Should Buyer receive the Association Documents after **Association Documents Deadline,** Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive the Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date,** Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Association Documents as satisfactory and Buyer waives any Right to Terminate under this provision, notwithstanding the provisions of § 8.6. (Third Party Right to Purchase/Approve).

## 8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.

**8.1. Evidence of Record Title**.

☐ **8.1.1. Seller Selects Title Insurance Company.** If this box is checked, Seller will select the title insurance company to furnish the owner's title insurance policy at Seller's expense. On or before **Record Title Deadline,** Seller must furnish to Buyer, a current commitment for an owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price, or if this box is checked, ☐ an **Abstract of Title** certified to a current date. Seller will cause the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after Closing.

☒ **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline,** Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price.

If neither box in § 8.1.1.or § 8.1.2. is checked, § 8.1.1. applies.

**8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment ☒ **Will** ☐ **Will Not** contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard exceptions which relate to: **(**1**)** parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by ☒ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer·and One-Half by Seller·** ☐ **Other N/A** _________________________.

Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.7. (Right to Object to Title, Resolution).

**8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats, declarations, covenants, conditions and restrictions burdening the Property and (2) copies of any other documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in the Title Commitment furnished to Buyer (collectively, Title Documents).

**8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline,** copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the documents required in this Section will be at the expense of the party or parities obligated to pay for the owner's title insurance policy.

**8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title Deadline.**

**8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the Title Documents as set forth in § 8.7. (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline.** Buyer's objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are not received by Buyer on or before the **Record Title Deadline,** or if there is an endorsement to the Title Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2. (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required by § 8.1. (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title Commitment and Title Documents as satisfactory.

**8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline,** true copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other title matters not shown by public records, of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New Survey** governed under § 9 (New ILC, New Survey). Buyer has the right to inspect the Property to investigate if any third party has any right in the Property not shown by public records (e.g., unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2. (Record Title) and § 13 (Transfer of Title)), in Buyer's sole subjective discretion, must be received by Seller on or before **Off-Record Title Objection Deadline.** If an Off-Record Matter is received by Buyer after the **Off-Record Title Deadline,** Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection pursuant to this § 8.3. (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters and rights, if any, of third parties not shown by public records of which Buyer has actual knowledge.

**8.4. Special Taxing and Metropolitan Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR. The official website for the Metropolitan District, if any, is: N/A _______________.**

**8.5. Tax Certificate.** A tax certificate paid for by ☐ **Seller** ☒ **Buyer,** for the Property listing any special taxing or metropolitan districts that affect the Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline.** If the content of the Tax Certificate is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may terminate, on or before **Record Title Objection Deadline.** Should Buyer receive the Tax Certificate after **Record Title Deadline,** Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Tax Certificate. If Buyer does not receive the Tax Certificate, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date,** Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the content of the Tax Certificate as satisfactory and Buyer waives any Right to Terminate under this provision. If Buyer's loan specified in §4.5.3. (Loan Limitations) prohibits Buyer from paying for the Tax Certificate, the Tax Certificate will be paid for by Seller.

**8.6. Third Party Right to Purchase/Approve.** If any third party has a right to purchase the Property (e.g., right of first refusal on the Property, right to purchase the Property under a lease or an option held by a third party to purchase the Property) or a right of a third party to approve this Contract, Seller must promptly submit this Contract according to the terms and conditions of such right. If the third-party holder of such right exercises its right this Contract will terminate. If the third party's right to purchase is waived explicitly or expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly notify Buyer in writing of the foregoing. If the third party right to purchase is exercised or approval of this Contract has not occurred on or before Third Party Right to Purchase/Approve Deadline, this Contract will then terminate. Seller will supply to Buyer, in writing, details of any Third Party Right to Purchase the Property on or before the Record Title Deadline.

**8.7. Right to Object to Title, Resolution.** Buyer has a right to object or terminate, in Buyer's sole subjective discretion, based on any title matters including those matters set forth in § 8.2. (Record Title), § 8.3.(Off-Record Title), § 8.5.(Tax Certificate) and § 13 (Transfer of Title). If Buyer exercises Buyer's rights to object or terminate based on any such title matter, on or before the applicable deadline, Buyer has the following options:

**8.7.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any title matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not agreed to a written settlement thereof on or before **Title Resolution Deadline,** this Contract will terminate on the expiration of **Title Resolution Deadline,** unless Seller receives Buyer's written withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to Terminate for that reason), on or before expiration of **Title Resolution Deadline.** If either the Record Title Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2. (Record Title) or § 8.3. (Off-Record Title) the Title Resolution Deadline also will be automatically extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or

**8.7.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under § 24.1., on or before the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole subjective discretion.

**8.8. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property, including, without limitation, boundary lines and encroachments, set-back requirements, area, zoning, building code violations, unrecorded easements and claims of easements, leases and other unrecorded agreements, water on or under the Property and various laws and governmental regulations concerning land use, development and environmental matters.

**8.8.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE MINERAL ESTATE OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.**

**8.8.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER.**

**8.8.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING OF CURRENT WELLS AND GAS GATHERING AND PROCESSING FACILITIES.**

**8.8.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY, INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL AND GAS CONSERVATION COMMISSION.**

**8.8.5. Title Insurance Exclusions.** Matters set forth in this Section and others, may be excepted, excluded from, or not covered by the owner's title insurance policy.

**8.9. Mineral Rights Review.** Buyer has a Right to Terminate if examination of the Mineral Rights is unsatisfactory to Buyer on or before the **Mineral Rights Examination Deadline.**

**9. NEW ILC, NEW SURVEY.**

**9.1.** New ILC or New Survey. If the box is checked, (1) ☐ **New Improvement Location Certificate (New ILC)**; or, (2) ☒ **New Survey** in the form of **<u>Survey acceptable to Earnest Money Holder for title insurance purposes</u>**.; is required and the following will apply:

**9.1.1. Ordering of New ILC or New Survey**. ☐ **Seller** ☐ **Buyer** will order the New ILC or New Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form, certified and updated as of a date after the date of this Contract.

**9.1.2. Payment for New ILC or New Survey.** The cost of the New ILC or New Survey will be paid, on or before Closing, by: ☐ **Seller** ☐ **Buyer** or: **See Section 30.5**

**9.1.3. Delivery of New ILC or New Survey**. Buyer, Seller, the issuer of the Title Commitment (or the provider of the opinion of title if an Abstract of Title) and **N/A**_____ will receive a New ILC or New Survey on or before **New ILC or New Survey Deadline.**

**9.1.4. Certification of New ILC or New Survey.** The New ILC or New Survey will be certified by the surveyor to all those who are to receive the New ILC or New Survey.

**9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection**. Buyer may select a New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion, waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.

**9.3. New ILC or New Survey Objection.** Buyer has the right to review and object based on the New ILC or New Survey. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection Deadline,** notwithstanding § 8.3. or § 13:

**9.3.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1, that this Contract is terminated; or

**9.3.2. New ILC or New Survey Objection.** Deliver to Seller a written description of any matter that was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires Seller to correct.

**9.3.3. New ILC or New Survey Resolution.** If a **New ILC or New Survey Objection** is received by Seller, on or before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the New ILC or New Survey Objection before such termination (i.e., on or before expiration of **New ILC or New Survey Resolution Deadline**).

## DISCLOSURE, INSPECTION AND DUE DILIGENCE

**10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE AND SOURCE OF WATER.**

**10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's Seller's Property Disclosure form completed by Seller to Seller's actual knowledge and current as of the date of this Contract.

**10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition.** Seller must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract. Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an adverse material fact after the date of this Contract, Seller must timely disclose such adverse fact to Buyer. Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges that Seller is conveying the Property and Inclusions to Buyer in an "**As Is**" condition, "**Where Is**" and "**With All Faults**."

**10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right to have inspections (by one or more third parties, personally or both) of the Property, Leased Items, and Inclusions (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of the Property, (2) the physical condition of the Inclusions and Leased Items, (3) service to the Property (including utilities and communication services), systems and components of the Property (e.g., heating and plumbing), (4) any proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise (whether on or off the Property) and its effect or expected effect on the Property or its occupants is unsatisfactory, in Buyer's sole subjective discretion, Buyer may:

**10.3.1. Inspection Termination.** On or before the **Inspection Termination Deadline**, notify Seller in writing, pursuant to § 24.1., that this Contract is terminated due to any unsatisfactory condition, provided the Buyer did not previously deliver an Inspection Objection. Buyer's Right to Terminate under this provision expires upon delivery of an Inspection Objection to Seller pursuant to § 10.3.2.; or

**10.3.2. Inspection Objection.** On or before the **Inspection Objection Deadline**, deliver to Seller a written description of any unsatisfactory condition that Buyer requires Seller to correct.

**10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before **Inspection Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination (i.e., on or before expiration of **Inspection Resolution Deadline**). Nothing in this provision prohibits the Buyer and the Seller from mutually terminating this Contract before the Inspection Resolution Deadline passes by executing an Earnest Money Release.

**10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other written agreement between the parties, is responsible for payment for all inspections, tests, surveys, engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to defend against any such liability, damage, cost or expense, or to enforce this Section, including Seller's reasonable attorney fees, legal fees and expenses. The provisions of this Section survive the termination of this Contract. This § 10.4. does not apply to items performed pursuant to an Inspection Resolution.

**10.5. Insurability.** Buyer has the Right to Terminate under § 24.1., on or before **Property Insurance Termination Deadline**, based on any unsatisfactory provision of the availability, terms and conditions and premium for property insurance (Property Insurance) on the Property, in Buyer's sole subjective discretion.

**10.6. Due Diligence**.

**10.6.1. Due Diligence Documents.** Seller agrees to deliver copies of the following documents and information pertaining to the Property and Leased Items (Due Diligence Documents) to Buyer on or before **Due Diligence Documents Delivery Deadline**:

**10.6.1.1. Occupancy Agreements.** All current leases, including any amendments or other occupancy agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the Property that survive Closing are as follows (Leases): N/A

**10.6.1.2. Leased Items Documents.** If any lease of personal property (§ 2.5.4., Leased Items) will be transferred to Buyer at Closing, Seller agrees to deliver copies of the leases and information pertaining to the personal property to Buyer on or before **Due Diligence Documents Delivery Deadline**.

**10.6.1.3. Encumbered Inclusions Documents.** If any Inclusions owned by Seller are encumbered pursuant to § 2.5.2. (Encumbered Inclusions) above, Seller agrees to deliver copies of the evidence of debt, security and any other documents creating the encumbrance to Buyer on or before **Due Diligence Documents Delivery Deadline**.

**10.6.1.4. Solar Power Plan.** Copy of any Solar Power Plan not included in Leased Items (regardless of its name or title).

**10.6.1.5. Septic Use Permit.** If required by the local health department or other applicable government entity, on or before the local health department's applicable deadline, Seller must pay for and furnish to Buyer a Septic Use Permit.

**10.6.1.6. Other Documents.** If the respective box is checked, Seller agrees to additionally deliver copies of the following:

☐ **10.6.1.6.1.** All contracts relating to the operation, maintenance and management of the Property;

☐ **10.6.1.6.2.** Property tax bills for the last ________ years;

☐ **10.6.1.6.3.** As-built construction plans to the Property and the tenant improvements, including architectural, electrical, mechanical and structural systems; engineering reports; and permanent Certificates of Occupancy, to the extent now available;

☐ **10.6.1.6.4.** A list of all Inclusions to be conveyed to Buyer;

☐ **10.6.1.6.5.** Operating statements for the past _______ years;

☐ **10.6.1.6.6.** A rent roll accurate and correct to the date of this Contract;

☐ **10.6.1.6.7.** A schedule of any tenant improvement work Seller is obligated to complete but has not yet completed and capital improvement work either scheduled or in process on the date of this Contract;

☐ **10.6.1.6.8.** All insurance policies pertaining to the Property and copies of any claims which have been made for the past ______ years;

☐ **10.6.1.6.9.** Soils reports, surveys and engineering reports or data pertaining to the Property (if not delivered earlier under § 8.3.);

☐ **10.6.1.6.10.** Any and all existing documentation and reports regarding Phase I and II environmental reports, letters, test results, advisories and similar documents respective to the existence or nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances and/or underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller warrants that no such reports are in Seller's possession or known to Seller;

☐ **10.6.1.6.11.** Any *Americans with Disabilities Act* reports, studies or surveys concerning the compliance of the Property with said Act;

☐ **10.6.1.6.12.** All permits, licenses and other building or use authorizations issued by any governmental authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use authorizations, if any; and

☒ **10.6.1.6.13.** Other: **See Section 30.3**

**10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and object based on the Due Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are unsatisfactory, in Buyer's sole subjective discretion, Buyer may, on or before **Due Diligence Documents Objection Deadline**:

**10.6.2.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated; or

**10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description of any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

**10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents Objection is received by Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution Deadline**, this Contract will terminate on **Due Diligence Documents Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination (i.e., on or before expiration of **Due Diligence Documents Resolution Deadline**).

**10.6.2.4. Automatic Due Diligence Extension.** If a Due Diligence Document is not delivered on or before the Due Diligence Documents Deadline, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to such Due Diligence Document. If Buyer's right to review and object to such Due Diligence Document is extended due to such Due Diligence Document not being delivered on or before the Due Diligence Documents Deadline, the Due Diligence Document Resolution Deadline will also be extended to the earlier of Closing or fifteen days after Buyer's receipt of such Due Diligence Document.

**10.6.3. Zoning.** Buyer has the Right to Terminate under § 24.1., on or before Due Diligence Documents **Objection** Deadline, based on any unsatisfactory zoning and any use restrictions imposed by any governmental agency with jurisdiction over the Property, in Buyer's sole subjective discretion.

**10.6.4. Due Diligence - Environmental.** Buyer has the right to obtain environmental inspections of the Property including a Phase I Environmental Site Assessment. ☐ **Seller** ☒ **Buyer** will order or provide a current Phase I Environmental Site

Assessment (compliant with the most current version of the applicable ASTM E1527 standard practices for Environmental Site Assessments) and/or **N/A** at the expense of ☐ **Seller** ☒ **Buyer** (Environmental Inspection). If the Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the **Environmental Inspection Termination Deadline** will be extended by **60** days (Extended Environmental Inspection Termination Deadline) and if such Extended Environmental Inspection Termination Deadline extends beyond the Closing **Date,** the **Closing Date** will be extended a like period of time. In such event, ☐ **Seller** ☒ **Buyer** must pay the cost for such Phase II Environmental Site Assessment.

Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this § 10.6.4., Buyer has the Right to Terminate under § 24.1., on or before **Environmental Inspection Termination Deadline,** or if applicable, the Extended Environmental Inspection Termination Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.

**10.6.5. Due Diligence** - **ADA.** Buyer, at Buyer's expense, may also conduct an evaluation whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and evaluations must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants' business uses of the Property, if any.

Buyer has the Right to Terminate under § 24.1., on or before **ADA Evaluation Termination Deadline,** based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

**10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of that certain property owned by Buyer and commonly known as **See Section 30.10______** Buyer has the Right to Terminate under § 24.1. effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if such property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller does not receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline,** Buyer waives any Right to Terminate under this provision.

**10.8. Source of Potable Water (Residential Land and Residential Improvements Only).** Buyer ☐ **Does** ☒ **Does Not** acknowledge receipt of a copy of Seller's Property Disclosure or Source of Water Addendum disclosing the source of potable water for the Property. ☒ There is **No Well.** Buyer ☐ **Does** ☒ **Does Not** acknowledge receipt of a copy of the current well permit.

**Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED SOURCE) TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.**

**10.9. Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none of the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller will not amend, alter, modify, extend or cancel any of the Leases nor will Seller enter into any new leases affecting the Property without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed.

**10.10. Lead-Based Paint. [Intentionally Deleted - See Residential Addendum if applicable]**

**10.11. Carbon Monoxide Alarms. [Intentionally Deleted - See Residential Addendum if applicable]**

**10.12. Methamphetamine Disclosure. [Intentionally Deleted - See Residential Addendum if applicable]**

## 11. TENANT ESTOPPEL STATEMENTS.

**11.1. Estoppel Statements Conditions.** Buyer has the right to review and object to any Estoppel Statements. Seller must request from all tenants of the Property and if received by Seller, deliver to Buyer on or before **Estoppel Statements Deadline,** statements in a form and substance reasonably acceptable to Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of the Lease stating:

**11.1.1.** The commencement date of the Lease and scheduled termination date of the Lease;

**11.1.2.** That said Lease is in full force and effect and that there have been no subsequent modifications or amendments;

**11.1.3.** The amount of any advance rentals paid, rent concessions given and deposits paid to Seller;

**11.1.4.** The amount of monthly (or other applicable period) rental paid to Seller;

**11.1.5.** That there is no default under the terms of said Lease by landlord or occupant; and

**11.1.6.** That the Lease to which the Estoppel Statement is attached is a true, correct and complete copy of the Lease demising the premises it describes.

**11.2. Seller Estoppel Statement.** In the event Seller does not receive from all tenants of the Property a completed signed Estoppel Statement, Seller agrees to complete and execute an Estoppel Statement setting forth the information and documents required in §11.1. above and deliver the same to Buyer on or before **Estoppel Statements Deadline.**

**11.3. Estoppel Statements Termination.** Buyer has the Right to Terminate under § 24.1., on or before **Estoppel Statements Termination Deadline,** based on any unsatisfactory Estoppel Statement, in Buyer's sole subjective discretion, or if Seller fails to deliver the Estoppel Statements on or before **Estoppel Statements Deadline.** Buyer also has the unilateral right to waive any unsatisfactory Estoppel Statement.

## CLOSING PROVISIONS

## 12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.

**12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing Company to enable the Closing Company to prepare and deliver Documents required for Closing to Buyer and Seller and their designees. If Buyer is obtaining a loan to purchase the Property, Buyer acknowledges Buyer's lender is required to provide the Closing Company, in a timely manner, all required loan documents and financial information concerning Buyer's loan. Buyer and Seller will furnish any additional information and documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller will sign and complete all customary or reasonably required documents at or before Closing.

**12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions ☐**Are**☒ **Are Not** executed with this Contract.

**12.3. Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the date specified as the **Closing Date** or by mutual agreement at an earlier date. At Closing, Seller must provide Buyer with the ability to access the Property. The hour and place of Closing will be as designated by **See Section 30.9.**

**12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality and extent of service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title companies).

**12.5. Assignment of Leases.** Seller must assign to Buyer all Leases at Closing that will continue after Closing and Buyer must assume Seller's obligations under such Leases. Further, Seller must transfer to Buyer all Leased Items and assign to Buyer such leases for the Leased Items accepted by Buyer pursuant to § 2.5.4.(Leased Items).

**13. TRANSFER OF TITLE.** Subject to Buyer's compliance with the terms and provisions of this Contract, including the tender of any payment due at Closing, Seller must execute and deliver the following good and sufficient deed to Buyer, at Closing: ☒ special warranty deed ☐ general warranty deed ☐ bargain and sale deed ☐ quit claim deed ☐ personal representative's deed ☐ **N/A**________________ deed. Seller, provided another deed is not selected, must execute and deliver a good and sufficient special warranty deed to Buyer, at Closing.

Unless otherwise specified in § 30 (Additional Provisions), if title will be conveyed using a special warranty deed or a general warranty deed, title will be conveyed "subject to statutory exceptions" as defined in §38-30-113(5)(a), C.R.S.

**14. PAYMENT OF LIENS AND ENCUMBRANCES.** Unless agreed to by Buyer in writing, any amounts owed on any liens or encumbrances securing a monetary sum against the Property and Inclusions, including any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not, and previous years' taxes, will be paid at or before Closing by Seller from the proceeds of this transaction or from any other source

## 15. CLOSING COSTS, FEES, ASSOCIATION STATUS LETTER AND DISBURSEMENTS, TAXES AND WITHHOLDING.

**15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs and all other items required to be paid at Closing, except as otherwise provided herein.

**15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by ☐ **Buyer** ☐ **Seller** ☒ **One-Half by Buyer and One-Half by Seller** ☐ **Other________________________________**.

**15.3. Association Fees and Required Disbursements.** At least fourteen days prior to **Closing Date,** Seller agrees to promptly request that the Closing Company or the Association deliver to Buyer a current Status Letter, if applicable. Any fees associated with or specified in the Status Letter will be paid as follows:

**15.3.1. Status Letter Fee.** Any fee incident to the issuance of Association's Status Letter must be paid by Seller.

**15.3.2. Record Change Fee**. Any Record Change Fee must be paid by ☐ **Buyer** ☐ **Seller**·☐ **One-Half by Buyer and One-Half by Seller** ☒ **N/A.**

**15.3.3. Reserves or Working Capital.** Unless agreed to otherwise, all reserves or working capital due (or other similar cost not addressed in § 16.2. (Association Assessments)) at Closing must be paid by ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller**·☒ **N/A.**

**15.3.4. Other Fees.** Any other fee listed in the Status Letter as required to be paid at Closing will be paid by ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer·and One-Half by Seller** ☒ **N/A.**

**15.4. Local Transfer Tax**. Any Local Transfer Tax must be paid at Closing by ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** ☒ **N/A**.

**15.5. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction must be paid when due by ☐ **Buyer** ☐ **Seller**· ☐ **One-Half by Buyer and One-Half by Seller** ☒ **N/A.**

**15.6. Private Transfer Fee.** Any private transfer fees and other fees due to a transfer of the Property, payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at Closing by ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** ☒ **N/A.**

**15.7. Water· Transfer Fees.** Water Transfer Fees can change. The fees, as of the date of this Contract, do not exceed $ N/A____for: ☐ Water District/Municipality ☐ Water Stock ☐ Augmentation Membership ☐ Small Domestic Water Company ☐ N/A ________ and must be paid at Closing by ☐ **Buyer** ☐ **Seller**·☐ **One-Half by Buyer and One-Half by Seller**·☐ **N/A.**

**15.8.** Utility Transfer Fees. Utility transfer fees can change. Any fees to transfer utilities from Seller to Buyer must be paid by ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** D **N/A.**

**15.9. FIRPTA and Colorado Withholding**.

**15.9.1. FIRPTA.** The Internal Revenue Service (IRS) may require a substantial portion of the Seller's proceeds be withheld after Closing when Seller is a foreign person. If required withholding does not occur, the Buyer could be held liable for the amount of the Seller's tax, interest and penalties. If the box in this Section is checked, Seller represents that Seller ☐ **IS** a foreign person for purposes of U.S. income taxation. If the box in this Section is not checked, Seller represents that Seller is not a foreign person for purposes of U.S. income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

**15.9.2. Colorado Withholding.** The Colorado Department of Revenue may require a portion of the Seller's proceeds be withheld after Closing when Seller will not be a Colorado resident after Closing, if not otherwise exempt. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

**16. PRORATIONS AND ASSOCIATION ASSESSMENTS.**

**16.1. Prorations.** The following will be prorated to the **Closing Date,** except as otherwise provided:

**16.1.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of Closing, based on ☐ **Taxes for the Calendar·Year·Immediately Preceding Closing** ☒ **Most Recent Mill Levy and Most Recent Assessed Valuation,** ☐ **Other·_________________________**.

**16.1.2. Rents.** Rents based on ☐ **Rents Actually Received** ☐ **Accrued.** At Closing, Seller will transfer or credit to Buyer the security deposits for all Leases assigned to Buyer, or any remainder after lawful deductions, and notify all tenants in writing of such transfer and of the transferee's name and address.

**16.1.3. Other Prorations.** Water and sewer charges, propane, interest on continuing loan and ________________________________.

**16.1.4. Final Settlement.** Unless otherwise specified in Additional Provisions, these prorations are final.

**16.2. Association Assessments.** Current regular Association assessments and dues (Association Assessments) paid in advance will be credited to Seller at Closing. All Association Assessments accrued before Closing must be paid by Seller and all Association Assessments accrued after Closing must be paid by Buyer. Cash reserves held out of the regular Association Assessments for deferred maintenance by the Association will not be credited to Seller except as may be otherwise provided by the Governing Documents. Any special assessment assessed prior to **Closing Date** by the Association will be the obligation of ☐ **Buyer**☒ **Seller.** Except however, any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller unless otherwise specified in Additional Provisions. Seller represents there are no unpaid regular or special assessments against the Property except the current regular assessments and **N/A**__________ Association Assessments are subject to change as provided in the Governing Documents.

**17. POSSESSION.** Possession of the Property and Inclusions will be delivered to Buyer on **Possession Date** at **Possession Time,** subject to the Leases as set forth in § 10.6.l. l.

If Seller, after Closing occurs, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable to Buyer, notwithstanding § 20.2. (If Seller is in Default), for payment of $ **100.00**______ per day (or any part of a day notwithstanding § 3.3., Day) from **Possession Date** and **Possession Time** until possession is delivered. Additionally, Buyer may pursue a claim against Seller for any of Buyer's actual additional damages incurred by Buyer in excess of such amount.

## GENERAL PROVISIONS

**18. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION; AND WALK-THROUGH.** Except as otherwise provided in this Contract, the Property and Inclusions will be delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.

**18.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other perils or causes of loss prior to Closing (Property Damage) in an amount of not more than ten percent of the total Purchase Price and if the repair of the damage will be paid by insurance (other than the deductible to be paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller's reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the parties or their attorney requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the insurance claim.

**18.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement of such Inclusion or

Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the Association, if any, will survive Closing.

**18.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of the Property or Inclusions, but such credit will not include relocation benefits or expenses or exceed the Purchase Price.

**18.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

**18.5. Risk of Loss – Growing Crops.** The risk of loss for damage to growing crops by fire or other casualty will be borne by the party entitled to the growing crops as provided in § 2.8. and such party is entitled to such insurance proceeds or benefits for the growing crops.

**19. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller acknowledge that their respective broker has advised that this Contract has important legal consequences and has recommended: (1) legal examination of title; (2) consultation with legal and tax or other counsel before signing this Contract as this Contract may have important legal and tax implications; (3) to consult with their own attorney if Water Rights, Mineral Rights or Leased Items are included or excluded in the sale; and (4) to consult with legal counsel if there are other matters in this transaction for which legal counsel should be engaged and consulted. Such consultations must be done timely as this Contract has strict time limits, including deadlines, that must be complied with.

**20. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines in this Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including Earnest Money, is not paid, honored or tendered when due, or if any obligation is not performed timely as provided in this Contract or waived, the non-defaulting party has the following remedies:

**20.1. If Buyer is in Default**:

☐ **20.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money is not a penalty, and the parties agree the amount is fair and reasonable. Seller may recover such additional damages as may be proper. Alternatively, Seller may elect to treat this Contract as being in full force and effect and Seller has the right to specific performance or damages, or both.

**20.1.1. Liquidated Damages, Applicable. This § 20.1.2. applies <u>unless the box in § 20.1.1. is checked</u>.** Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money amount specified in § 4.1. is LIQUIDATED DAMAGES and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4. and 21), such amount is SELLER'S ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional damages.

**20.2. If Seller is in Default**:

**20.2.1. Specific Performance, Damages or Both.** Buyer may elect to treat this Contract as canceled, in which case all Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be proper. Alternatively, in addition to the per diem in § 17 (Possession) for failure of Seller to timely deliver possession of the Property after Closing occurs, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the right to specific performance or damages, or both.

**20.2.2. Seller's Failure to Perform.** In the event Seller fails to perform Seller's obligations under this Contract, to include, but not limited to, failure to timely disclose Association violations known by Seller, failure to perform any replacements or repairs required under this Contract or failure to timely disclose any known adverse material facts, Seller remains liable for any such failures to perform under this Contract after Closing. Buyer's rights to pursue the Seller for Seller's failure to perform under this Contract are reserved and survive Closing.

**21. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and expenses.

**22. MEDIATION.** If a dispute arises relating to this Contract (whether prior to or after Closing) and is not resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at that party's last known address (physical or electronic as provided in § 26). Nothing in this Section prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the date of written notice requesting mediation. This Section will not alter any date in this Contract, unless otherwise agreed.

**23. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to release the Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1) wait for any proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a court of competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable attorney and legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder is authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit and has not interpled the monies at the time of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of § 22 (Mediation). This Section will survive cancellation or termination of this Contract.

**24. TERMINATION.**

**24.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to Terminate), the termination is effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right to Terminate accepts the specified matter, document or condition as satisfactory and waives the Right to Terminate under such provision. Any Notice to Terminate delivered after the applicable deadline specified in the Contract is ineffective and does not terminate this Contract.

**24.2. Effect of Termination.** In the event this Contract is terminated, all Earnest Money received hereunder must be timely returned to Buyer and the parties are then relieved of all obligations hereunder, subject to §§ 10.4. and 21.

**25. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS.** This Contract, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject hereof and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right or obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing survives the same. Any successor to a party receives the predecessor's benefits and obligations of this Contract.

**26. NOTICE, DELIVERY AND CHOICE OF LAW.**

**26.1. Physical Delivery and Notice.** Any document or notice to Buyer or Seller must be in writing, except as provided in § 26.2. and is effective when physically received by such party, any individual named in this Contract to receive documents or notices for such party, Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm).

**26.2. Electronic Notice.** As an alternative to physical delivery, any notice may be delivered in electronic form to Buyer or Seller, any individual named in this Contract to receive documents or notices for such party, Broker or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing, cancellation or Termination must be received by the party, not Broker or Brokerage Firm) at the electronic address of the recipient by facsimile, email or **N/A** ________________________.

**26.3. Electronic Delivery**. Electronic Delivery of documents and notice may be delivered by: (1) email at the email address of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to access the documents, or (3) facsimile at the facsimile number (Fax No.) of the recipient.

**26.4. Choice of Law.** This Contract and all disputes arising hereunder are governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property located in Colorado.

**27. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal will expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below and the offering party receives notice of such acceptance pursuant to § 26 on or before **Acceptance Deadline Date** and **Acceptance Deadline Time**. If accepted, this document will become a contract between Seller and Buyer. A copy of this Contract may be executed by each party, separately and when each party has executed a copy thereof, such copies taken together are deemed to be a full and complete contract between the parties.

**28. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith including, but not limited to, exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations**; **Title Insurance, Record Title and Off-Record Title**; **New ILC, New Survey**; and **Property Disclosure**, **Inspection**, **Indemnity**, **Insurability, Due Diligence and Source of Water**.

**29. BUYER'S BROKERAGE FIRM COMPENSATION.** Buyer's brokerage firm's compensation will be paid, at Closing, as follows:

**29.1.** N/A % of the Purchase Price or $ **N/A** by Seller. Buyer's brokerage firm is an intended third-party beneficiary under this provision only. The amount paid by Seller under this provision is in addition to any other amounts Seller is paying on behalf of Buyer elsewhere in this Contract.

**29.2.** N/A____ % of the Purchase Price or $**N/A**___ by Buyer pursuant to a separate agreement between Buyer and Buyer's brokerage firm. This amount may be modified between Buyer and Buyer's brokerage firm outside of this Contract.

**29.3.** N/A____ % of the Purchase Price or $**N/A**___ by a separate agreement between Buyer's brokerage firm and Seller's brokerage firm.

## ADDITIONAL PROVISIONS AND ATTACHMENTS

**30. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate Commission.) **See Addendum 30 attached hereto, which is incorporated into, and made a part of this Contract by reference.**

**31. OTHER DOCUMENTS.**

**31.1. Documents Part of Contract.** The following documents **are a part** of this Contract: **N/A**

**31.2. Documents Not Part of Contract.** The following documents have been provided but are **not** a part of this Contract: **N/A**

## SIGNATURES

| | | | |
|---|---|---|---|
| Buyer's Name: | **Volunteers of America National Services** | Buyer's Name: | ______ |
| ______ Buyer's Signature | ______ Date | ______ Buyer's Signature | ______ Date |
| Address: | **1660 Duke Street Alexandria, VA 22314** | Address: | ______ |
| Phone No.: | ______ | Phone No.: | ______ |

| | | | |
|---|---|---|---|
| Fax No.: | | Fax No.: | |
| Email Address: | | Email Address: | |

**[NOTE: If this offer is being countered or rejected, do not sign this document.]**

| | | | |
|---|---|---|---|
| **Seller's Name:** | **City of Montrose** | Seller's Name: | |
| Seller's Signature | Date | Seller's Signature | Date |
| Address: | **P.O. Box 790 Montrose, CO 81402** | Address: | |
| Phone No.: | | Phone No.: | |
| Fax No.: | | Fax No.: | |
| Email Address: | | Email Address: | |

**END OF CONTRACT TO BUY AND SELL REAL ESTATE**

~~**BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.**~~

~~**A. Broker Working With Buyer**~~

~~Broker ☐ **Does** ☐ **Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.~~

~~Broker is working with Buyer as a ☐ **Buyer's Agent** ☐ **Transaction-Broker** in this transaction.~~

~~☐ **Customer**. Broker has no brokerage relationship with Buyer. See § B for Broker's brokerage relationship with Seller.~~

~~Brokerage Firm's compensation or commission is to be paid as specified in §29 above.~~

~~This Broker's Acknowledgments and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.~~

~~Brokerage Firm's Name:~~ ____________________
~~Brokerage Firm's License #:~~ ____________________
~~Broker's Name:~~ ____________________
~~Broker's License #:~~ ____________________

____________________ ____________________
~~Broker's Signature~~ ~~Date~~

~~Address:~~ ____________________

~~Phone No.:~~ ____________________
~~Fax No.:~~ ____________________
~~Email Address:~~ ____________________

~~**B. Broker Working with Seller**~~

~~Broker ☐ **Does** ☐ **Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.~~

~~Broker is working with Seller as a ☐ **Seller's Agent** ☐ **Transaction-Broker** in this transaction.~~

~~☐ **Customer**. Broker has no brokerage relationship with Seller. See § A for Broker's brokerage relationship with Buyer.~~

~~Brokerage Firm's compensation or commission is to be paid by ☐ **Seller** ☐ **Buyer** ☐ **Other**~~ ____________________.

~~This Broker's Acknowledgments and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any agreement to pay compensation must be entered into separately and apart from this provision.~~

~~Brokerage Firm's Name:~~ ______________________________
~~Brokerage Firm's License #:~~ ______________________________
~~Broker's Name:~~ ______________________________
~~Broker's License #:~~ ______________________________

______________________________ ____________
~~Broker's Signature~~ ~~Date~~

~~Address:~~ ______________________________
______________________________
~~Phone No.:~~ ______________________________
~~Fax No.:~~ ______________________________
~~Email Address:~~ ______________________________

## ADDENDUM TO

### CONTRACT TO BUY AND SELL REAL ESTATE (LAND) BETWEEN THE CITY OF MONTROSE, A COLORADO HOME RULE MUNICIPAL CORPORATION ("SELLER") AND VOLUNTEERS OF AMERICA NATIONAL SERVICES, A MINNESOTA NONPROFIT CORPORATION AND/OR ITS AFFILIATED ASSIGNS ("BUYER")

**30. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate Commission.)

**30.1. Conflicts.** In the event of any conflict between the terms and provisions which are set forth in the various subsections of Section 30 of this Contract and the preprinted portions of this Contract approved by the Colorado Real Estate Commission as amended herein, the terms and provisions of the various subsections of this Section 30 shall govern.

**30.2. Earnest Money.** Within five (5) business days of mutual execution of the Contract, Buyer shall deposit Five Thousand and 00/100 dollars ($5,000.00) of Earnest Money which shall be payable to and held by Earnest Money Holder. The Earnest Money shall be applicable to Purchase Price, and shall be refundable to Buyer in the event the Contract terminates before the expiration of the Due Diligence Period or as otherwise provided in the Contract. Seller's sole remedy in the event of Buyer's default shall be retention of the Earnest Money as liquidated damages.

**30.3. Due Diligence Package.** Within ten (10) business days of mutual execution of the Contract, Seller shall provide Buyer with a customary "Due Diligence Package" which shall include, but shall not necessarily be limited to, the following items that are in Seller's possession:

A. Current title commitment from Title Company;
B. All building and site plans including but not limited to building plans and site plans, civil engineering plans, and landscape plans ("Plans");
C. All surveys;
D. All environmental, soil, and geotechnical reports;
E. All planning and zoning documents;
F. All governance documents, and
E. Other such items in Seller's possession that a reasonable and diligent buyer would wish to review, including but not limited to any off-record contracts and agreements.

**30.4. Due Diligence Period.** Buyer shall have ninety (90) days following mutual execution of the Contract to conduct due diligence and inspect Property ("Due Diligence Period"). Buyer's due diligence may include, but shall not be limited to, its review of Due Diligence Package, title, survey, and physical inspection of the Property, including a Phase I report. If any negative conditions are found on the Property, including but not limited to soils or environmental conditions, that will impact Buyer's contemplated affordable housing development, the Due Diligence Period will be extended by sixty (60) days, and Buyer and Seller shall work cooperatively to mitigate any identified negative conditions or issues. At the end of the Due Diligence Period, Buyer may accept the Property "as-is" and move forward with Closing or terminate this Contract in its sole discretion.

**30.5. New Survey.** Buyer shall initiate a new survey of the Property. Buyer and Seller shall each pay 50% of the cost of the new survey. Seller shall not be responsible for more than Five Thousand Dollars and 00/100 ($5,000.00) for the new survey.

**30.6. Property Zoning**. Seller shall initiate and support the rezoning of the Property from "P" Public to "R-3A" "Medium High Density District" prior to Closing. Closing shall be contingent on completion of rezoning of the Property to "R-3A" "Medium High Density District". Should the rezoning not happen prior to April 8, 2026, Buyer may terminate the Contract and receive a full Earnest Money refund. Closing shall take place within seven (7) days of the rezoning of the Property to "R-3A" "Medium High Density District", provided that all of the contingencies and obligations of this Contract have been fulfilled. Buyer shall have the option to extend the closing date by thirty (30) days by providing written notice to the Seller and depositing an additional Five Thousand Dollars and 00/100 ($5,000.00) of earnest money ("Additional Earnest Money"). Should Buyer extend the closing date by thirty (30) days, the purchase price of the Property shall increase by Five Thousand Dollars and 00/100 ($5,000.00) to a total of Thirty-Five Thousand Dollars and 00/100 ($35,000.00). The Additional Earnest Money shall be applied to the Purchase Price at Closing.

**30.7. Buyer Board Approval**. Buyer's governance structure consists of a national real estate loan committee, a finance committee, and a national board. This Contract is contingent upon Buyer receiving approval from its Board of Directors and Buyer may be terminate the Contract should the Board of Directors not provide such approval.

**30.8. Representations and Warranties**. Seller represents and warrants to Buyer as of the Effective Date, and again as of the Closing Date, the following: 1) Seller is a Colorado home rule municipal corporation; 2) Seller has the right and authority to enter into this Contract and consummate the transaction contemplated by this Contact; 3) Seller has taken all action required to enter into this Contract and the instruments referenced in this Contract and to consummate the transaction contemplated by this agreement; 4) the person signing this Contract on Seller's behalf is authorized to do so; 5) Seller has good and marketable fee simple title to the surface only, specifically exempting any mineral, oil, or gas rights, to the Property and clear of all liens, security interests, incumbrances, leases, and restrictions except for the Permitted Exceptions and as may otherwise be determined by the Title Commitment; 6) at Closing, title to the Property is free and clear of all liens, mortgages, encumbrances, leases, options, rights of first refusal, covenants, restrictions, easements, or other matters adversely affecting title, except for those Permitted Exceptions specifically disclosed and accepted by Buyer; 7) to Seller's knowledge, there has been no dumping, storage, burial, or release of hazardous substances, underground storage tanks, or other environmental contamination on or under the Property; 8) there are no pending or threatened condemnation proceedings, special assessments, code enforcement actions, or governmental investigations related to the Property; 9) there are no actual or threatened actions, suits, arbitrations, or pending proceedings against Seller or the Property that would impair Buyer's ownership of the Property; and 10) there are no liens, unpaid assessments, mechanic's liens, or other similar claims against the Property.

These representations and warranties set forth by Seller shall survive closing. If any representation or warranty is found to be untrue, Buyer shall have the right to indemnification from the Seller for all losses, damages, costs incurred, or any other remedy available at law or equity.

**30.9. Closing.** Unless the Contract is terminated, or the terms of the Contract amended by mutual written consent, Closing shall occur on, or before April 8, 2026 ("Closing Date"). In addition to all other documents customarily provided at closing, Seller agrees to provide the following to Buyer at closing:

A. Special Warranty Deed (the form of which shall be mutually agreed to by the parties concurrent with execution of the Contract and attached thereto as Exhibit B);
B. Bill of sale for any, and all, personal property to be transferred;
C. Lien Affidavit; and
D. Final title commitment and/or title policy (if the latter is ready for issuance by Title Company).

**30.10. Contingency.** The purchase and sale of this Property is tied to another transaction between the Buyer and Seller where Buyer is selling Seller a separate property located in Montrose, Colorado commonly known as 420 S. 12th Street, Montrose, CO 81401 ("Buyer's Property"). The Closing of this transaction is contingent upon the Seller closing on the Buyer's Property and is part of the consideration for this Contract.

**30.11. "AS IS," "WHERE IS" and "WITH ALL FAULTS."** Except as otherwise specifically provided in this Contract, Seller shall convey the Property and Buyer shall accept the Property, and all matters relating to the Property, in "AS IS," "WHERE IS" and "WITH ALL FAULTS" condition or status. Except as otherwise specifically provided in this Contract, Seller has not made and Buyer is not relying, either directly or indirectly, upon any representations with respect to the Property, the value of the Property, the existence or preservation of any view or vista with respect to the Property or any other matter relating to the Property or its suitability for Buyer's anticipated use. Except for the warranties expressly stated in this Contract and in any documents delivered at Closing, Buyer hereby waives any other warranties, express, implied, including, but not limited to, any and all implied warranties of merchantability, habitability, suitability for habitation, fitness, fitness for a particular purpose or absence of radon, radiation or electromagnetic fields. Seller expressly disclaims all warranties except only for warranties expressly stated in this Contract and in any documents delivered at Closing.

**30.12. Assignment by Buyer:** Buyer may, at any time after MEC, assign or otherwise transfer all of Buyer's right, title and interest in and to this Contract to a related entity controlled by principals of Buyer, or under common control with Buyer, provided that no such assignment shall release Buyer from its obligations under the Contract.

**30.13. Relationship of Parties:** Notwithstanding any provision in this Contract to the contrary, this Contract shall not be construed as making Seller or Buyer the partner, agent or joint venturer of the other and the parties shall have no relationship to each other, other than as set forth herein as seller and buyer of real property.

**30.14. Time Is of Essence:** Time is of the essence of this Contract.

**30.15. Cooperation:** Seller and Buyer agree to cooperate in good faith with one another in taking any reasonable actions necessary or helpful to accomplish the transaction contemplated by this Contract, including, but not limited to, the satisfaction of any conditions to Closing set forth in this Contract.

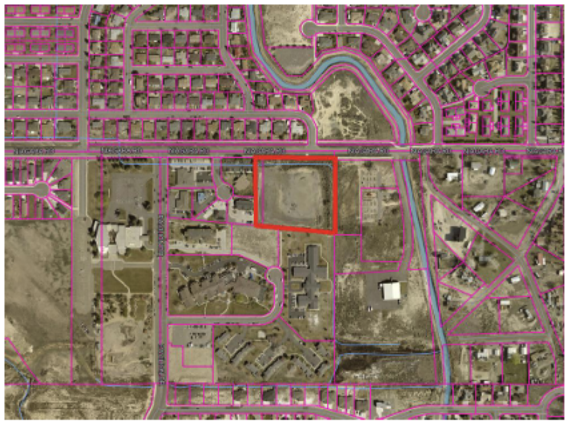
**30.16. Allocation of Liability**. It is expressly understood and agreed that Seller shall be liable to third parties for any and all obligations, claims, losses, damages, liabilities, and expenses arising out of events, contractual obligations, acts, or omissions of the Seller that occurred in connection with the ownership or operation of the Property prior to the Closing, and Buyer shall be liable to third parties for any and all obligations, claims, losses, damages, liabilities, and expenses arising out of events, contractual obligations, acts, or omissions of Buyer that occur in connection with the ownership or operation of the Property after the Closing. The provisions of this Section will survive Closing.

**30.17. Confidentiality.** Buyer and Seller shall keep the contents of their negotiations and terms of this Contract as confidential as possible, subject to applicable State, Federal, and Local Law.

**30.18. Attorneys' Fees:** In the event any action is commenced to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its litigation costs and attorneys' fees from the non-prevailing party.

**30.19. WAIVER OF TRIAL BY JURY/VENUE/GOVERNING LAW. SELLER AND BUYER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER AS TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF THE SELLER OR BUYER OR ANY OTHER CLAIM OR STATUTORY REMEDY. VENUE FOR ANY ACTION BROUGHT UNDER THIS AGREEMENT SHALL BE IN THE DISTRICT COURT OF THE COUNTY OF MONTROSE, STATE OF COLORADO. THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF COLORADO, WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAWS PRINCIPLES.**

# EXHIBIT A



Seller Property – approximately 4.14 acres


Seller Property highlighted in green

**EXHIBIT B**

**<u>FORM OF SPECIAL WARRANTY DEED</u>**

When recorded, return to:
___________________________
___________________________
___________________________
Attention:__________________

**SPECIAL WARRANTY DEED**

STATUTORY FORM – C.R.S. § 38-30-113(1)(b)

[MONTH] [DATE], [YEAR]

City of Montrose, a Colorado home rule municipal corporation, whose street address is P.O. Box 790, City of Montrose, County of Montrose, and State of Colorado ("Grantor"), for the consideration of $[10.00], in hand paid, hereby sells and conveys to Volunteers of America National Services, a Minnesota nonprofit corporation ("Grantee"), whose street address is 1660 Duke Street, City of Alexandria, and State of Virgina the real property legally described in **<u>Error! Reference source not found.</u>**, with all its appurtenances, and warrants the title to the same against all persons claiming under the Grantor, subject to the matters set forth on <u>0</u>.

[*signature page follows*]

# CITY OF MONTROSE
CITY CLERK'S OFFICE

DATE: November 26, 2025
TO: City Council
FROM: Lisa DelPiccolo, City Clerk
Briceida Ortega, Senior Deputy City Clerk
RE: 2026 Municipal Election Plan

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In accordance with the City Charter, the 2026 Municipal Election is scheduled for Tuesday, April 7, 2026. The following City Council seats will be included on the 2026 ballot:

- District I - four-year term
- District II - four-year term
- At-Large - two-year term

The procedures and timelines for the 2026 election are unchanged from 2024. Candidate information will be available on the City website on or before Monday, December 8.

The City is planning to contract with the Montrose County Elections Office for production of the ballot packets and tabulation of the election results as in previous years. An election plan and calendar are attached.

Adoption of a resolution authorizing a mail ballot election is requested.

# RESOLUTION NO. 2025-21

**A RESOLUTION AUTHORIZING THE CONDUCT OF A MAIL BALLOT ELECTION FOR THE CITY OF MONTROSE GENERAL MUNICIPAL ELECTION OF APRIL 7, 2026**

**WHEREAS,** pursuant to the requirements of the City of Montrose Charter, a general municipal election for the City of Montrose is to be conducted on April 7, 2026; and

**WHEREAS,** the General Assembly of the State of Colorado has enacted provisions, Colorado Revised Statute Sections 1-7.5-104 and 31-10-908, for the governing board of any political subdivision may determine that an election may be held by mail ballot; and

**WHEREAS,** the City Council of the City of Montrose desires that the registered electors of the City of Montrose have the opportunity to vote by mail in said election.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTROSE AS FOLLOWS:**

**Section 1. Authorization of a mail ballot election for the April 7, 2026, General Municipal Election.** The Montrose City Clerk is authorized and directed to conduct a mail ballot election in accordance with Colorado Revised Statutes, Title 31, Article 10 and applicable City ordinances and regulations.

**Section 2. Adoption of the Mail Ballot Election Provision of the Municipal Election Code for the April 7, 2026, General Municipal Election.** The City of Montrose hereby adopts the mail ballot election provisions of the Municipal Election Code (C.R.S., Title 31-10-908 through 31-10-913) pertaining to mail ballot elections for the conduct of the April 7, 2026, General Municipal Election. In the event a procedure for the election is not provided for in the Mail Ballot Election Act, the City shall comply with the applicable provisions of Title 1 C.R.S., and applicable City ordinances and regulations.

**ADOPTED** this 2nd day of December, 2025, by the Montrose City Council.

**CITY OF MONTROSE, COLORADO**

____________________________________
Dave Frank, Mayor

ATTEST:

____________________________________
Lisa DelPiccolo, City Clerk

# CITY OF MONTROSE
# 2026 MAIL BALLOT ELECTION PLAN

**Date of Election:** April 7, 2026

**Description of Election:** General Municipal Election to Determine City Council Members

**Designated Election Official:** Lisa DelPiccolo, City Clerk

**Statute and Home Rule Charter Provision Authorizing an Election:**

- Title 31, Article 10 of the Colorado Revised Statutes
- Article III, City of Montrose Home Rule Charter

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## NUMBER OF ELIGIBLE ELECTORS

The estimated number of eligible electors is 17,000.

## ASSISTANCE PROVIDED BY MONTROSE COUNTY CLERK AND RECORDER

- Generate lists of registered electors
- Prepare ballot packets in accordance with State Statutes
- Mail UOCAVA ballot packets to U.S. Military personnel and citizens living abroad by February 20, 2026
- Mail ballot packets to all registered voters between March 16 and March 23, 2026
- Provide ballot counts and tabulate election results

## RESPONSIBILITIES OF THE CITY CLERK

- Issue and collect candidate petitions, verify petition signatures, and send letters of petition sufficiency
- Certify ballot language to the County Clerk by February 4, 2026
- Issue absentee and replacement ballots after the initial mailing of ballot packets and maintain a log of ballots dispersed
- Supervise election judges daily and issue an oath to each before the deadline of March 23, 2026

- Maintain daily receipt and reconciliation records for both voted ballots and ballots returned as undeliverable
- Notify voters of missing and discrepant signatures

**BALLOT DEPOSIT LOCATIONS**

- A ballot box will be available in the lobby of City Hall, 400 E. Main Street, during office hours, 8:00 a.m. until 6:00 p.m. Monday through Thursday, and 7:00 a.m. until 7:00 p.m. on Election Day. The ballot box will be monitored at all times by two or more election judges and will be locked in the vault overnight.

- A ballot box will be available in the Elections Office of the Montrose County Building, 317 S. Second Street, during office hours, 7:30 a.m. until 5:30 p.m. Monday through Thursday. This ballot box will be monitored by the Elections Office staff and locked in a secure location when the office is closed. City Clerk's Office staff will collect the ballots from this location daily Monday through Thursday.

- Ballots may be deposited in the locked 24-hour drop box with video surveillance located near the entrance of the Montrose County Elections Office at 317 S. Second Street. City Clerk's Office staff will collect the ballots from this location daily Monday through Thursday.

**BALLOT SECURITY PROCEDURES**

- City Clerk's Office staff and election judges will ensure that returned ballots are batched and continually secured until Election Day.

- The doors to the election office will be locked with keys available only to City Clerk's Office personnel.

- Ballot boxes will be secured with single-use numbered locks. A signed log will be affixed to each locked ballot box indicating the time and date the box is unlocked and resealed.

**BALLOT SECRECY PROCEDURES**

Each ballot packet will include a secrecy sleeve with voting instructions. Election judges will be instructed that any ballot received outside of a secrecy sleeve will be immediately placed into a secrecy sleeve and any knowledge of the vote shall be kept confidential.

**PROCESSING VOTED BALLOTS**

- All ballots received will be date stamped on the outer envelope upon receipt via U.S. Mail, or upon removal from an official ballot box.
- Daily receipt records will be maintained for both voted ballots in their verification envelopes and ballots returned as undeliverable.
- Voted ballots will be processed as follows:
    - Voted ballots will be scanned into the database as received before the envelope is opened. An election judge will verify that the number on the ballot envelope matches the number in the database.
    - An election judge will confirm that a signature is present and matches the name on the ballot envelope.
    - An election judge will verify that the signature on the envelope matches the voter's signature on file with the Secretary of State.
    - The return envelopes will be opened and separated from the secrecy sleeve while still containing the voted ballot.
    - A different election judge will remove the ballot from the secrecy sleeve.
    - Any ballot received outside of a secrecy sleeve will be immediately placed into a secrecy sleeve. Election judges will be instructed that any knowledge of the vote shall be kept confidential.
    - Ballots will be stacked in groups of fifty and placed in a transfer case for delivery to the County Elections Office Counting Center. A copy of the daily total sheets will also be included in the transfer cases.
    - Any person whose eligibility cannot be determined will be issued a provisional ballot. Provisional ballots will be verified according to 1-8.5-105, C.R.S.

**PROCEDURES FOR UNDELIVERABLE BALLOTS**

- The mailing envelope of the ballot packet will be printed with the instruction, "Do Not Forward, Address Correction Requested."
- The outer envelopes will be stamped with the date returned to the City, alphabetized, noted in the poll book, and secured.
- Ballots will not be re-mailed unless requested by the elector.

**PROCEDURES FOR REPLACEMENT BALLOTS**

- Replacement ballot applications may be made in writing, by mail, by email, or by telephone.
- Voters seeking replacement ballots will be required to complete a sworn statement in compliance with state statute.

- Voters requesting a replacement ballot in person must present an acceptable form of identification identifying the name and address of the elector.
- If an elector requests a replacement ballot by mail, the sworn statement will be included in the ballot packet and must be received by the Election Official, along with a copy of an acceptable form of identification, by 7:00 p.m. on Election Day.
- Both the mailing envelope and return envelope for replacement ballots will be marked with the words “Replacement Ballot.”
- If an eligible elector spoils a ballot, the eligible elector may obtain a replacement ballot, with a maximum of three replacement ballots total.
- A log will be kept of all replacement ballots distributed.

**PROCEDURES FOR REJECTED BALLOTS**

- Ballots rejected for missing or discrepant signatures will be marked “rejected” and kept separate from processed and undeliverable ballots.
- The City Clerk will send a letter notifying the voter of the error. The voter may claim the ballot at City Hall, with proper identification, and correct the error.
- The ballot will then be placed in an official ballot box for processing.

**ACCEPTABLE FORMS OF IDENTIFICATION**

According to 1-1-104 (19.5) C.R.S.

- A valid Colorado driver’s license;
- A valid identification card issued by the Department of Revenue in accordance with the requirements of Part 3 of Article 2 of Title 42, C.R.S.;
- A valid U.S. Passport;
- A valid employee identification card with a photograph of the eligible elector issued by any branch, department, agency, or entity of the United States government or of this state, or by any country, municipality, board, authority, or other political subdivision of this state;
- A valid pilot’s license issued by the Federal Aviation Administration or other authorized agency of the United States;
- A valid U.S. Military identification card with a photograph of the eligible elector;
- A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector;
- A valid Medicare or Medicaid card issued by the Centers for Medicare and Medicaid Services;
- A certified copy of a U.S. birth certificate for the elector issued in the United States;
- Certified documentation of naturalization
- A valid student identification card with a photograph of the eligible elector issued by an institute of higher education in Colorado;

- A valid veteran identification card issued by the United States Department of Veterans Affairs Veterans Health Administration with a photograph of the eligible elector;
- A valid identification card issued by a federally recognized tribal government certifying tribal membership;
- Any form of identification listed above that is in digital format

**ELECTION RESULTS**

- Election judges will process ballots in preparation for counting beginning March 23, 2026.
- Ballots will be counted and tabulated at the Montrose County Elections Office Counting Center.
- On Election Day, staff will be on duty from 7:00 a.m. until all ballots are counted, tabulated, and secured.
- Unofficial results will be posted on the City web site, and posted on the doors of City Hall when tabulation is complete.
- In accordance with state statute, UOCAVA ballots will be accepted via U.S. Mail and rejected ballots with discrepant signatures may be reconciled until April 15, 2026.
- A canvass of votes will be conducted on or before Friday, April 17, 2026.
- Elected City Councilors will take the oath of office on Tuesday, April 21, 2026.

**ELECTION CALENDAR**

An election calendar is attached.

# CITY OF MONTROSE
# MUNICIPAL MAIL BALLOT ELECTION CALENDAR
# APRIL 7, 2026

## DECEMBER 2025

2 Resolution authorizing a mail ballot election submitted to City Council for adoption

8 Candidate Information will be available on the City of Montrose website and at City Hall

## JANUARY 2026

6 First day candidates may pick up and circulate nomination petitions

7 First day absentee ballots may be requested

26 Last day to file candidate nomination petitions with the City Clerk

30 Last day to file an affidavit of intent to be a write-in candidate

## FEBRUARY 2026

2 Last day to amend a candidate nomination petition

3 Last day for the City Clerk to certify the ballot content

20 Last day to mail UOCAVA ballots to active U.S. Military and citizens living abroad

## MARCH 2026

6 Last day to mail TABOR ballot issue notices (if applicable)

6 Last day for County Clerk to provide a preliminary list of registered voters

16 Fair Campaign Practices Act filing deadline

16 Ballot packets must be available at the election official's office

16-23 Ballot packets must be mailed during this timeframe

18 Website TABOR notice deadline (if applicable)

18 Last day for County Clerk to provide a supplemental voter registration list

23 Last day to mail a ballot package

23 Last day for the election official to appoint election judges

23 Processing of mail ballots may begin

28 Last day for the election official to publish a notice of election

## APRIL 2026

1 Fair Campaign Practices Act Filing Deadline

3 Last day to apply for absentee ballot

7 **ELECTION DAY** - Unofficial results announced and posted after 7 pm

15 Last day to count UOCAVA ballots received by mail and resolve discrepant signatures

17 Last day a recount may be requested

17 Deadline for Canvass of Votes

22 Optional and mandatory recounts must be completed

## MAY 2026

5 Fair Campaign Practices Act filing deadline

CITY OF MONTROSE
Planning Services

# MEMO

TO: City Council
FROM: William Reis, Senior Planner
DATE: December 2, 2025
RE: Haynes Addition Annexation
ATTACHMENTS:
- Exhibit A: Maps
- Exhibit B: Zoning Code Excerpt

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**City Council Consideration:**
City Council is considering the annexation and the initial zoning for the Haynes Addition, a proposed annexation to the city limits of Montrose. City Council will consider all of the information in this memo in making a decision.

**Proposed schedule:**

| | |
|---|---|
| October 6: | Council Work Session Overview |
| October 21: | Council Resolution to set a hearing date |
| October 22: | Planning Commission zoning hearing |
| December 2: | City Council Annexation hearing, 1st reading of annexation ordinance, and 1st reading of zoning ordinance |
| January 6: | 2nd reading of annexation and zoning ordinances |

**Application Background:**
The Haynes Addition is a proposed annexation approximately 0.59 acres in size. The annexation consists of a portion of property located at 12736 6450 Rd, as a result of a boundary line adjustment with a neighboring property, as well as a portion of right-of-way. It is within the City's Urban Growth Boundary, City of Montrose Sewer Service Area, and City of Montrose Water Service Area. An Annexation Agreement is required.

**Proposed Zoning:** "R-6" Medium Density/Manufactured Housing District

**Applicant:** Brian Haynes

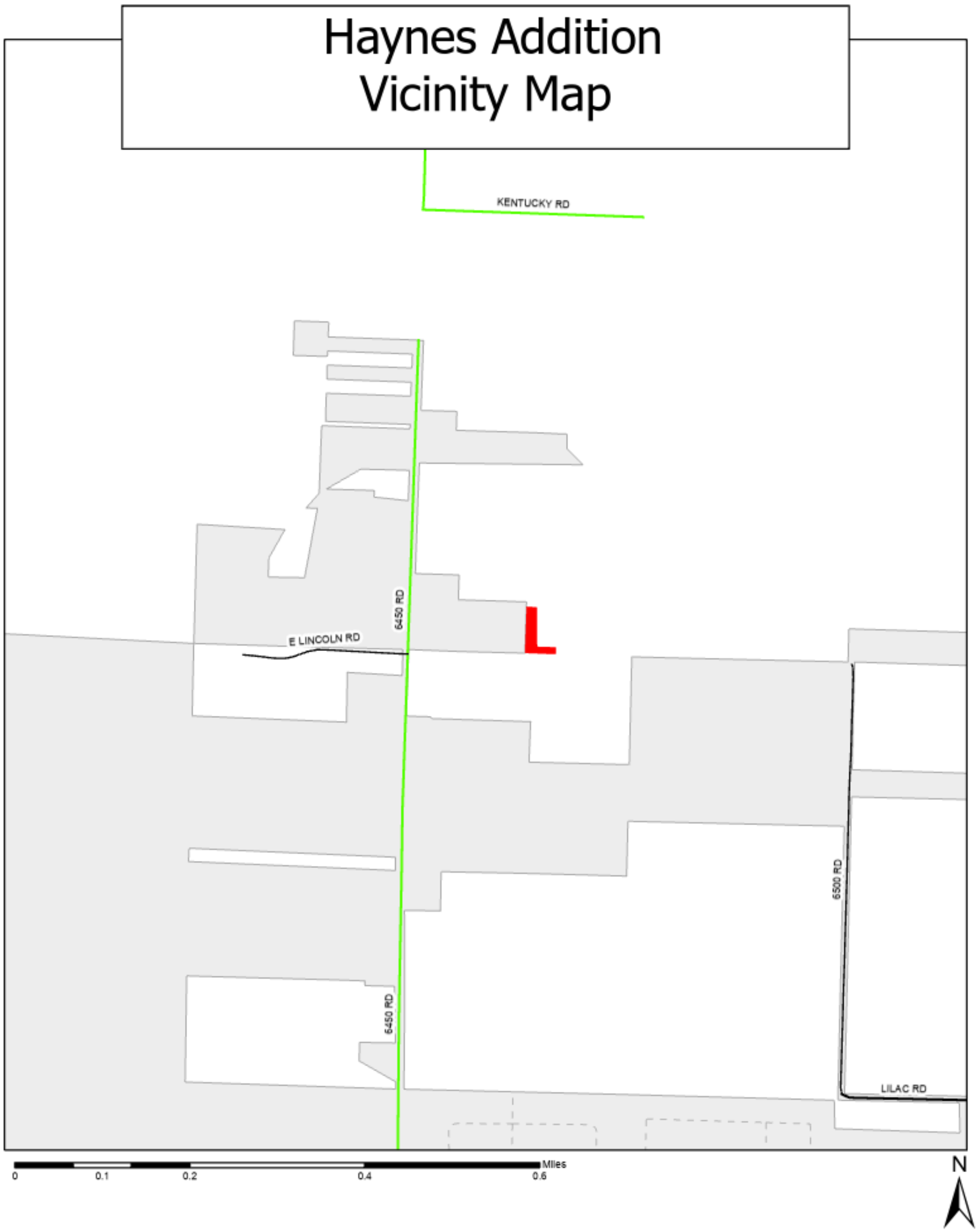
**Staff Analysis:**

1. The City-County IGA gives the City the option to annex properties within the IGA. The area is urbanizing and more than 1/6 of the perimeter is contiguous to the city limits. These factors support annexation.
2. An annexation agreement is required as a condition of this annexation.
3. Zoning Regulations
    a. Municipal Code, Section, 11-7-12 (B), Zoning of Additions. "The zoning of additions for all property annexed to the City not previously subject to City zoning may be requested or initiated by the City Manager or the owner of any legal interest in the property or such owner's representative. Proceedings concerning the zoning of property to be annexed may commence at any time prior to the effective date of the annexation ordinance, or thereafter as allowed by law. The Planning Commission shall either recommend approval or denial of the requested zoning to the City Council, which can either ratify the Planning Commission's decision, or reverse it. The zoning of additions shall be subject to the review procedures of Chapter 11-4 and standards of Section 11-7-4 of this Title, and shall be allowed only upon findings as follows:
        i. The amendment is not averse to the public health, safety and welfare; and
        ii. The amendment is in substantial conformity with the Comprehensive Plan, or such zoning is compatible with conditions in the area, which have changed materially since the Comprehensive Plan was last updated."
    b. Municipal Code, Section 11-7-5: The "R-6" Medium Density/Manufactured Housing District is intended to provide primarily for medium-density development for single-household attached, triplex and fourplex manufactured home dwellings, along with certain other compatible land uses.
    c. The proposed zoning is compatible with existing zoning and general conditions in the area. The property is adjacent to properties that are zoned "R-6" Medium Density/Manufactured Housing District and properties outside of City limits.
4. The Comprehensive Plan Future Land Use Map designates the area of the Haynes Addition as Residential Mixed Density Medium. The Residential Mixed Density Medium District provides for a variety of residential types, mixed within a neighborhood, including single-family homes, townhomes, duplexes and triplexes. The majority of the mixed-density medium residential land uses are designated in areas that are not yet developed.
5. The property is located within Growth Area 2. According to the Comprehensive Plan, Growth Area 2 has some level of, or moderate proximity to, existing infrastructure.

6. The “R-6” zoning does not appear to be averse to the public health, safety and welfare. The Planning Commission made a unanimous recommendation of approval of the “R-6” zoning designation during the October 22, 2025 Planning Commission meeting.

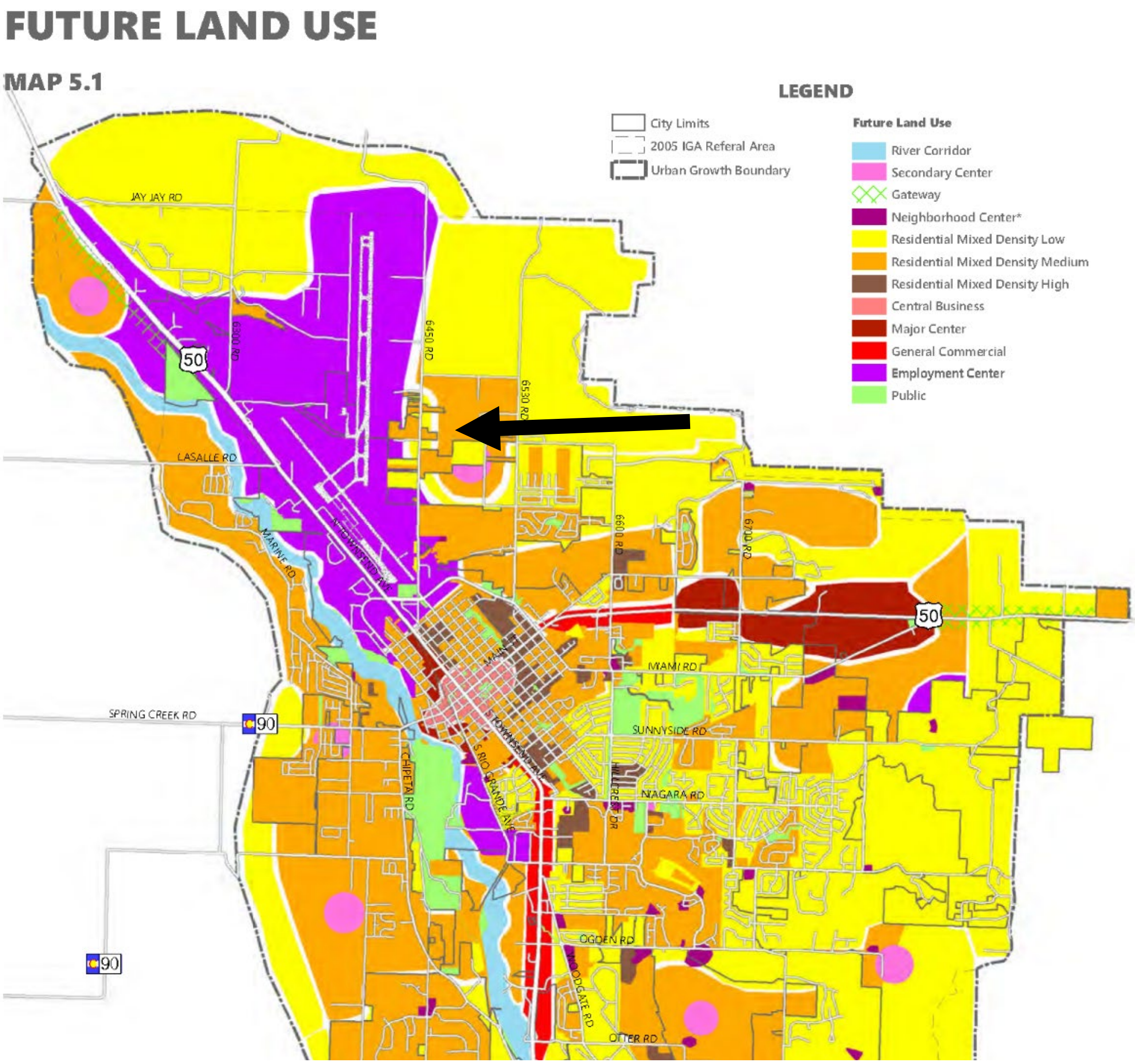
**Staff Recommendation:**
Staff finds that the initial zoning request is in compliance with the Comprehensive Plan; it is compatible with existing uses in the surrounding area; and therefore, recommends approval of the annexation and the "R-6" Medium Density/Manufactured Housing District.

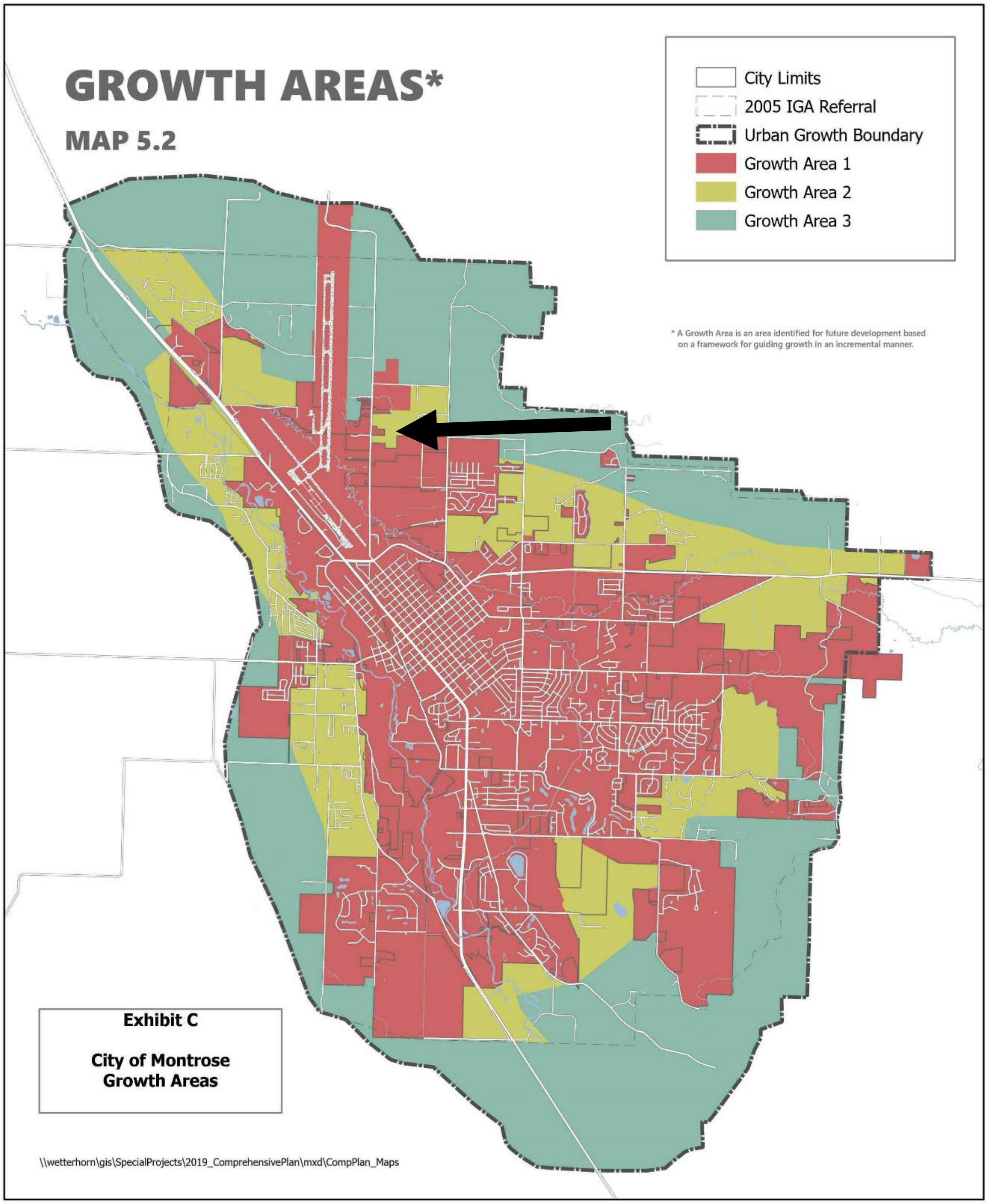
**EXHIBIT A: Maps**




Haynes Addition
Proposed Zoning: "R-6" Medium Density/
Manufactured Housing District
MHR
MHR
MHR
6450 RD
R-6
E LINCOLN RD
R-6
RL
RL
R-6
RL
Maxar, Microsoft
0
0.05
0.1
0.19
0.29
Miles
N

**Comprehensive Plan Future Land Use Map**

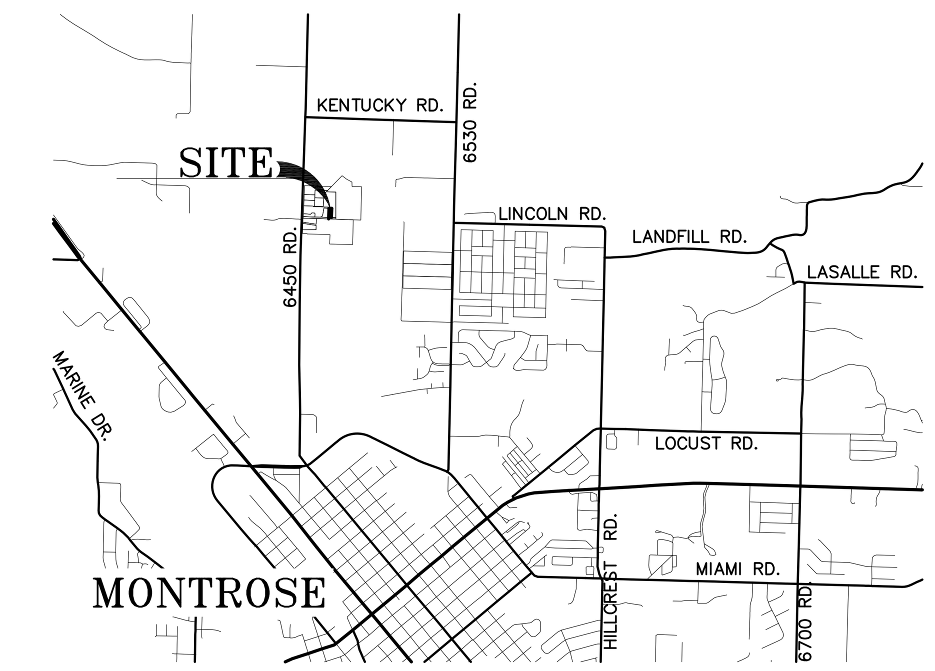





Stay here. Play everywhere.
MONTROSE COLORADO

# HAYNES ADDITION

SITUATED IN NW1/4SE1/4 SECTION 16, TOWNSHIP 49 NORTH, RANGE 9 WEST, NEW MEXICO PRINCIPAL MERIDIAN
COUNTY OF MONTROSE, STATE OF COLORADO


VICINITY MAP
N.T.S.

LEGEND

CITY LIMITS

PROPERTY BOUNDARY/LIMITS OF ANNEXATION

CITY LIMITS

TOTAL PERIMETER = 921.66'
PERIMETER CONTIGUOUS TO CITY LIMITS = 280.07'

NOTE: THIS PLAT DOES NOT CONSTITUTE A BOUNDARY SURVEY. IT IS A COMPILATION OF EXISTING RECORDS FOR THE PURPOSE OF ANNEXATION.

PROPERTY DESCRIPTION

A TRACT OF LAND SITUATED IN THE NW¼SE¼ SECTION 18, TOWNSHIP 49 NORTH, RANGE 9 WEST, NEW MEXICO PRINCIPAL MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 2R ROBERT & BARBARA HAYNES REPLAT RECORDED AT RECEPTION NO._________, MONTROSE COUNTY RECORDS; THENCE SOUTH 00°25'20" EAST, 239.36 FEET ALONG THE EAST LINE OF SAID LOT 2R TO THE SOUTHEAST CORNER OF SAID LOT 2R AND A POINT OF THE NORTH LINE OF THE LINCOLN ROAD ROW RECORDED AT RECEPTION NO. 908645, MONTROSE COUNTY RECORDS; THENCE SOUTH 88°22'09" EAST, 103.71 FEET ALONG NORTH LINE OF SAID LINCOLN ROAD ROW; THENCE SOUTH 00°08'44" EAST, 40.02 FEET ALONG THE EAST LINE OF SAID LINCOLN ROAD ROW; THENCE NORTH 88°22''09" WEST, 186.58 FEET ALONG THE SOUTH LINE OF SAID LINCOLN ROAD ROW TO THE EAST LINE OF 6450 ROAD NO. 5 ADDITION RECEPTION NO. 670725, THENCE ALONG SAID EAST LINE NORTH 01°51'49" EAST, 280.07 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 2R; THENCE SOUTH 87°40'41" EAST, 71.92 FEET TO THE POINT OF BEGINNING.

SURVEYOR'S CERTIFICATE

I, Frederick A. Ballard, a Registered Land Surveyor in the State of Colorado, do hereby certify that the survey represented by this plat was made under my responsible charge and that this plat accurately reflects said survey.

FOR REVIEW

Frederick A. Ballard, PLS37690

MAYOR'S CERTIFICATE

This is to certify that the City of Montrose, a municipal corporation in the County of Montrose, State of Colorado has by its Ordinance No. ________________ adopted on the ______day of________________, 2025, annexed the property hereon to the City of Montrose.

______________________________
Mayor

Attest:______________________________
City Clerk

RECORDER'S CERTIFICATE

This plat was filed for record in the office of the Clerk and Recorder of Montrose County at ________________.m.

on the__________ day of __________________, 2025 under Reception No. __________________.

______________________________, by ______________________________
Clerk and Recorder Deputy

NOTICE: According to Colorado Law (13-80-105, CRS) you must commence any legal action based upon any defect in this survey within three (3) years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten (10) years from the date of the certification shown hereon.


DEL-MONT CONSULTANTS, INC.
ENGINEERING ▼ SURVEYING
125 Colorado Ave.▼ Montrose, CO 81401 ▼ (970) 249-2251 ▼ (970) 249-2342 FAX
www.del-mont.com ▼ service@del-mont.com


| | | |
|---|---|---|
| FIELD BOOK: | DRAWN BY: ELB | DATE: 2-27-2025 |
| SHEET: 1 of 1 | FILE: 25010V_ANNEX | JOB NO.: 25010 |

| | |
|---|---|
| TITLE: | HAYNES ADDITION |
| CLIENT: | HAYNES PROPERTIES LLC |
| ADDRESS & PHONE: | 12696 6450 ROAD MONTROSE, CO 81401 |
| TYPE: | ANNEX |

## EXHIBIT B: Zoning Code Excerpt

### Sec. 11-7-6. District uses.

(A) *Permitted uses*. Those uses designated as permitted uses on the schedule of uses in Subsections 11-7-6(G) and 11-7-6(H) are allowed as a matter of right subject to approval of a site development plan per Section 11-8-1 of this Title.

(B) *Conditional uses*. Uses listed as conditional uses on the schedule of uses in Subsections 11-7-6(G) and 11-7-6(H) shall be allowed only if the Planning Commission determines, following review pursuant to Chapter 11-4 of this Title, that the following criteria are substantially met with respect to the type of use and its dimensions:

(1) The use will not be contrary to the public health, safety, or welfare.

(2) The use is not materially adverse to the City's Comprehensive Plan.

(3) Streets, pedestrian facilities, and bikeways in the area are adequate to handle traffic generated by the use with safety and convenience.

(4) The use is compatible with existing uses in the area and other allowed uses in the district.

(5) The use will not have an adverse effect upon other property values.

(6) Adequate off-street parking will be provided for the use.

(7) The location of curb cuts and access to the premises will not create traffic hazards.

(8) The use will not generate light, noise, odor, vibration, or other effects which would unreasonably interfere with the reasonable enjoyment of adjacent property.

(9) Landscaping of the grounds and the architecture of any buildings will be reasonably compatible with that existing in the neighborhood.

(C) *Principal uses*. The primary use of a lot is referred to as a principal use which may be a land use or a structure. Only one principal use per lot is allowed except where a mix of residential and nonresidential uses may be permitted in a specified zone district.

(D) *Accessory uses*. Accessory uses shall comply with all requirements for the principal use, except where specifically modified by this Chapter, and shall also comply with the following limitations:

(1) An accessory use shall be clearly incidental, customary to and commonly associated with the operation of the permitted use.

(2) An accessory use shall be operated and maintained under the same ownership as the permitted use.

(3) An accessory use shall be located on the same lot as a principal use.

(E) *Temporary Use Permits.*

(1) The City Manager or his designee may issue a permit authorizing a temporary use of premises in a district for a use which is otherwise not allowed in such a district for a period of up to one year in accordance with this Subsection.

(2) The temporary use permit may be issued by the City Manager only after it determines that unusual circumstances exist, not created by the applicant, such as damage, destruction or delay in construction

of applicant's permanent premises, which results in significant hardship, and that the temporary use will not unreasonably interfere with the use of other property, or result in any permanent adverse effects to other property, or create a safety or health hazard.

(3) The City Manager or his designee shall hold such hearings concerning the application and provide such notice thereof as the circumstances merit in his opinion. The permit may be granted subject to conditions appropriate to ensure compliance with this Subsection.

(4) *Temporary Construction or Sales Office.* A building within a subdivision may be utilized as a temporary construction or sales office for a period up to one year by the developer of that subdivision during the period of the construction and initial sales respectively of the building and improvements within the area encompassed by the preliminary plat for each subdivision. The City Manager may authorize additional one-year periods for use as a construction office if construction is continuing in the area after the preceding year, or as a sales office if not all of the houses in the area have been sold during the year preceding.

(F) *Uses Not Listed.*

(1) Uses not listed in a zone district are prohibited except that such uses may be approved by the City Manager provided such uses are found to be similar to a permitted use.

(2) Any person aggrieved by a decision of the City Manager pursuant to this Subsection may appeal that decision to the City Council under the following procedure:

(a) The appeal must be made in writing and filed within 30 days of the decision being appealed.

(b) The City Council shall consider he appeal at a public hearing held within 30 days of receipt of the written appeal, notice of which shall be given to the appellant by US mail at least 15 days prior to the hearing.

(c) The City Council shall approve or deny the appeal.

(d) The decision of the City Council shall be the final decision of the City on the matter, appealable only to the district court.

(G) *Schedule of Residential Zone District Uses.*

| Land Use | RL | R-1 | R-1A/B | R-2 | R-3 | R-3A | R-4 | R-5 | R-6 | MHR |
|---|---|---|---|---|---|---|---|---|---|---|
| Bed and breakfast (See Sec. 11-11-1) | | | | | C | | C | | C | |
| Farms and ranches, excluding commercial greenhouses, and commercial feedlots, fur farms, fish farms, poultry houses, hog farms, dairies and similar operations with a high density of animals. | P | | | | | | | | | |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Rental storage units with a maximum rental unit size of 200 square feet. | | | | | | | | | | C |
| Short-term rentals | P | P | P | P | P | P | P | P | P | P |
| Assisted living facilities | | | | | C | C | C | | C | C |
| Childcare facilities | C | C | C | C | C | C | C | C | C | C |
| Family childcare home | P | P | P | P | P | P | P | P | P | P |
| Government buildings and facilities | P | P | P | P | P | P | P | P | P | P |
| Religious assembly | C | C | C | C | P | P | P | C | C | P |
| Schools | C | C | C | C | C | C | C | C | C | C |
| Golf courses | P | | | | | | | | | |
| Parks, open space and recreation facilities | P | P | P | P | | P | P | P | P | P |
| Duplex | | | | | P | P | P | | P | |
| Group homes—handicapped/disabled 8 persons or less (see Sec. 11-11-2) | P | P | P | P | P | P | P | P | P | P |
| Group homes—handicapped/disabled > 9 persons (see Sec. 11-11-2) | C | C | C | C | C | C | C | C | C | C |
| Group homes, other (see Sec. 11-11-2) | C | C | C | C | C | C | C | C | C | C |
| Home occupation (See Sec. 11-11-3) | A | A | A | A | A | A | A | A | A | A |
| Manufactured housing | | | | 1 | | | | P | P | P |
| Mobile homes (See Sec. 11-13) | | | | | | | | | | P |
| Mobile home parks (See Sec. 11-13) | | | | | | | | | | P |
| Modular housing | | | | | | | | P | P | P |
| Multi-family dwelling | | | | | C | P | P | | C | |
| Single-family dwelling | P | P | P | P | P | P | P | P | P | P |
| Antennas (See Sec. 11-14-6) | C | C | C | C | C | C | C | C | C | C |
| Public utility service facilities | P | P | P | P | P | P | P | P | P | P |
| Towers (See Sec. 11-14-5) | C | C | C | C | C | C | C | C | C | C |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Accessory uses (See Sec. 11-7-6(D)) | A | A | A | A | A | A | A | A | A | A |
| Temporary use (See Sec. 11-7-6(E)(1-3)) | T | T | T | T | T | T | T | T | T | T |
| Temporary Construction or Sales Office (See Sec. 11-7-6(E)(4)) | T | T | T | T | T | T | T | T | T | T |
| Travel home (See Sec. 11-13-6(2)) | | T | T | T | T | T | T | T | T | T |

[1] Manufactured housing is prohibited except for the following subdivision which was under development on July 1, 1998: Rainbow Meadows Subdivision.

(H) *Schedule of Mixed Use, Commercial and Industrial Zone District Uses.*

| Land Use | OR | P | B-1 | B-2 | B-2A | B-3 | B-4 | I-1 | I-2 |
|---|---|---|---|---|---|---|---|---|---|
| Automobile and vehicle sales, repair or service establishments | | | C | C | P | P | | | |
| Automobile body shops | | | C | C | P | P | | | |
| Bed and breakfast (See Sec. 11-11-1) | P | | | | | | | | |
| Building materials businesses | | | C | P | P | P | | | |
| Car washes | | | | P | P | P | C | | |
| Commercial businesses | | C | | | | | | | |
| Commercial uses other than the uses by right in this zone district which comply with the performance standards of Chapter 11-11-4 and are consistent with Sec. 11-7-5(D)(1). | | | | | | | | C | |
| Farm implement sales or service establishments | | | | | P | P | | | |
| Fueling stations or other retail uses having fuel pumps which comply with the following criteria:<br>(a)All fuel storage, except propane, shall be located underground.<br>(b)All fuel pumps, lubrication and service facilities shall be located at | | | P | P | P | P | C | | |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| least 20 feet from any street right-of-way line. | | | | | | | | | |
| Funeral homes | | | C | C | C | C | | | |
| Hotels and motels | | | P | P | P | P | | | |
| Laundry facilities, self-service | | | | P | P | P | P | | |
| Mobile and travel home sales or service establishments | | | | | P | P | | | |
| Offices for medically related and professional service providers including doctors, dentists, chiropractors, lawyers, engineers, surveyors, accountants, bookkeepers, secretarial services, title companies, social service providers and other similar professional service providers. | P | | | | | | | | |
| Offices not allowed as a use by right. | C | | | | | | | | |
| Travel home parks and campgrounds (See Sec. 11-13) | | | | C | C | C | | | |
| Rental businesses | | | | | P | P | | | |
| Restaurants | | | P | P | P | P | P | | P |
| Restaurants, drive-in or drive-through | | | C | C | C | C | C | | |
| Retail sales and services establishments which cater to the general shopping public | C | | | | | | | | |
| Retail stores, business and professional offices, and service establishments which cater to the general shopping public. | | | P | P | P | P | P | | P |
| Retail stores, business and service establishments serving the general public but which also involve | | | | C | C | C | | | |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| limited manufacturing of the products supplied | | | | | | | | | |
| Sexually oriented business (See Sec. 11-12-1) | | | | | | | | | P |
| Short-term rentals | P | | P | P | P | P | P | P | P |
| Taverns | | | P | P | P | P | C | | |
| Theaters | | | P | P | P | P | | | |
| Veterinary clinics or hospitals for small animals | | | | P | P | P | | | |
| Veterinary clinics or hospitals for large animals | | | | | P | P | | | |
| Above ground storage facilities for hazardous fuels | | | | | | P | | | P |
| Aircraft support services, including, but not limited to, aircraft maintenance and passenger and crew services. | | | | | | | | P | P |
| Construction and contractor's office and equipment storage facilities | | | | | | P | | | P |
| Feed storage and sales establishments | | | | | | P | | | P |
| Manufacturing and non-manufacturing uses including: food processing; metal finishing and fabrication; paper, plastic and wood manufacturing (excluding processing of any raw materials), fabric manufacturing and similar activities. (See Sec. 11-11-4) | | | | | C | C | | P | P |
| Other industrial uses | | | | | | | | | P |
| Storage facilities, indoor | | | C | P | P | P | C | | P |
| Storage facilities, outdoor | | | | | C | P | | P | P |
| Warehouse and wholesale distribution operations | | | C | C | C | C | | P | P |
| Airport | | | | | | | | P | P |
| Assisted living facilities | C | | | P | P | P | | | |
| Childcare facilities | P | C | P | P | P | P | P | P | P |
| College or other place of adult education | | | P | P | P | P | | | |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Daytime social service activities by a social service provider, to include food storage; food distribution without monetary remuneration as a food pantry and/or food service without monetary remuneration as a soup kitchen; laundry facilities not for profit; showers; and counseling to include alcohol and/or substance abuse counseling. This use by right expressly excludes the overnight sheltering of people. For the purposes of this use by right authorization, "daytime" shall mean from 6:00 a.m. to 6:00 p.m. Mountain Standard Time. "Night" shall mean from 6:00 p.m. to 6:00 a.m. Mountain Standard Time. | | | P | P | P | P | | | |
| Family child care home | P | C | P | P | P | P | P | P | P |
| Government buildings and facilities | P | P | P | P | P | P | P | P | P |
| Hospitals | P | | | | | | | | |
| Libraries | | P | P | P | P | P | | | |
| Museums and visitor centers | | P | P | P | P | P | | | |
| Parking facilities | P | P | P | P | P | P | | | |
| Private and fraternal clubs | | | P | P | P | P | C | | |
| Public transportation facilities | | | P | P | P | P | | | |
| Religious assembly | P | P | P | P | P | P | P | | |
| Schools | C | P | C | C | C | C | C | | |
| Golf courses | | C | | | | | | | |
| Parks, open space and recreation facilities | P | P | P | P | P | P | P | P | P |
| Private recreation facilities | | P | | | | | | | |
| Duplex | P | | P | P | P | P | P | P | P |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Group homes—handicapped/disabled 8 persons or less (see Sec. 11-11-2) | P | | P | P | P | P | P | P | P |
| Group homes—handicapped/disabled > 8 persons (see Sec. 11-11-2) | C | | C | C | C | C | C | C | C |
| Group homes, other (See Sec. 11-11-2) | C | | C | C | C | C | C | C | C |
| Home occupation (See Sec. 11-11-3) | A | | A | A | A | A | A | A | A |
| Multifamily dwelling | C | C | P | P | P | P | P | P | P |
| Single-family dwelling | P | C | P | P | P | P | P | P | P |
| Supportive housing | C | | | | | C | | C | |
| Antennas (See Sec. 11-14-6) | C | C | C | C | C | C | C | C | C |
| Public utility service facilities | P | P | P | P | P | P | P | P | P |
| Towers (See Sec. 11-14-5) | C | C | C | C | C | C | C | C | C |
| Accessory uses (See Sec. 11-7-6(D)) | A | A | A | A | A | A | A | A | A |
| Temporary use (See Sec. 11-7-6(E)(1—3)) | T | T | T | T | T | T | T | T | T |
| Temporary Construction or Sales Office (See Sec. 11-7-6(E)(4)) | T | T | T | T | T | T | T | T | T |
| Travel home (See Sec. 11-13-6(2)) | T | | T | T | T | T | T | T | T |

(Ord. No. 2626 , § 3(exh. A), 5-16-2023)

## RESOLUTION NO. 2025-22

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO, as follows:

The City Council hereby set forth its findings of fact and conclusions based thereon with respect to the annexation of the **Haynes Addition** based on the evidence contained in the official file, the official records of the City of Montrose, Colorado and the evidence produced at the Hearing held on December 2, 2025.

### FINDINGS OF FACT

1. The requirements of the applicable parts of C.R.S. §§ 31-12-104, 105 have been met including the following:

   A. Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City as can be seen from the annexation map.

   B. A community of interest exists between the area proposed to be annexed and the City, due to the proximity of the area to the City, the desire the owners to annex and existing City services in the area.

   C. The area is urban or will be urbanized in the near future and the area is already substantially integrated with, and is capable of being fully integrated with the City.

   D. It is practical to extend City services to the area on the same terms and conditions on which services are available to City citizens generally.

   E. No land held in identical ownership has been divided into separate parts. No tract over 20 acres with a valuation of over $200,000 has been included without written consent. No annexation proceedings concerning this area have been commenced by any other municipality.

   F. This annexation will not result in any detachment of area from the Montrose School District No. RE-lJ. No part of the area to be annexed extends any more than three miles from the existing City boundaries. The City has in place a plan for that area as required by C.R.S. § 31-12-105.

   G. The entire width of any streets to be annexed are included within the annexation.

   H. Access shall be allowed to annexed portions of the street to the owners of unincorporated property adjoining annexed streets on a reasonable basis.

2. No petition for annexation election has been submitted and an election is not required pursuant to C.R.S. § 31-12-107(2).

3. The City Council has determined that additional terms and conditions will not be imposed.

4. The Petition was signed by the owners of 100% of the property to be annexed exclusive of streets and alleys.

5. Proper notice of this hearing was published and mailed as required by C.R.S. § 31-12-108.

6. An Annexation Impact Report is not required.

## CONCLUSIONS

1. The area proposed for annexation as the **Haynes Addition** is eligible for annexation pursuant to applicable parts of C.R.S. § 31-12-104.

2. None of the limitations of C.R.S. § 31-12-105 apply to restrict annexation.

3. Said Addition may be annexed by Ordinance pursuant to C.R.S. § 31-12-111, without election.

ADOPTED this 2nd day of December, 2025, by the Montrose City Council.

CITY OF MONTROSE, COLORADO

By ______________________________
David Frank, Mayor

ATTEST:

______________________________
Lisa DelPiccolo, City Clerk

## ORDINANCE NO. 2700

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, FOR THE ANNEXATION OF THE **HAYNES ADDITION.**

WHEREAS, a petition for the annexation of a tract of land known as the **Haynes Addition** has been submitted to the City of Montrose and has been found by the City Council to be in substantial compliance with C.R.S. § 31-12-107(1); and

WHEREAS, said petition has been signed by the owners of 100% of the area proposed to be annexed exclusive of streets and alleys; and

WHEREAS, the property is eligible for annexation in accordance with the Municipal Annexation Act of 1965, as amended.

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

**SECTION 1:**

The property described in **Exhibit A**, known as the **HAYNES ADDITION,** is hereby annexed to the City of Montrose, Colorado.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its passage on first reading on Tuesday, the 2nd day of December, 2025, at the hour of 6:00 p.m. at the Montrose City Council Chambers, Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 2nd day of December, 2025.

______________________________
David Frank, Mayor

ATTEST:

______________________________
Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this 6th day of January, 2026.

________________________________
David Frank, Mayor

ATTEST:

________________________________
Lisa DelPiccolo, City Clerk

# <u>EXHIBIT A</u>

## Legal Description

A TRACT OF LAND SITUATED IN THE NW¼SE¼ SECTION 18, TOWNSHIP 49 NORTH, RANGE 9 WEST, NEW MEXICO PRINCIPAL MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 2R ROBERT & BARBARA HAYNES REPLAT RECORDED AT RECEPTION NO.__________, MONTROSE COUNTY RECORDS; THENCE SOUTH 00°25'20" EAST, 239.36 FEET ALONG THE EAST LINE OF SAID LOT 2R TO THE SOUTHEAST CORNER OF SAID LOT 2R AND A POINT OF THE NORTH LINE OF THE LINCOLN ROAD ROW RECORDED AT RECEPTION NO. 908645, MONTROSE COUNTY RECORDS; THENCE SOUTH 88°22'09" EAST, 103.71 FEET ALONG NORTH LINE OF SAID LINCOLN ROAD ROW; THENCE SOUTH 00°08'44" EAST, 40.02 FEET ALONG THE EAST LINE OF SAID LINCOLN ROAD ROW; THENCE NORTH 88°22''09" WEST, 186.58 FEET ALONG THE SOUTH LINE OF SAID LINCOLN ROAD ROW TO THE EAST LINE OF 6450 ROAD NO. 5 ADDITION RECEPTION NO. 670725, THENCE ALONG SAID EAST LINE NORTH 01°51'49" EAST, 280.07 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 2R; THENCE SOUTH 87°40'41" EAST, 71.92 FEET TO THE POINT OF BEGINNING.

**ORDINANCE NO. 2701**

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, PROVIDING FOR THE ZONING OF THE **HAYNES ADDITION** AS AN "R-6," MEDIUM DENSITY/MANUFACTURED HOUSING DISTRICT**.**

WHEREAS, the **Haynes Addition** has been recently annexed to the City of Montrose, Colorado; and

WHEREAS, the owners of such property have requested zoning which the Planning Commission has reviewed and recommended in accordance with the requirements of the City Code; and

WHEREAS, the proposed recommendation is substantially in accord with the City's Master Plan, is compatible with existing zoning in nearby or adjoining properties, and is in the public interest.

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

The Official Zoning Map is hereby amended to designate the **Haynes Addition,** according to the Official Annexation Map thereof, as an "R-6", Medium Density/Manufactured Housing District.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its passage on first reading on Tuesday, the 2nd day of December 2025, at the hour of 6:00 p.m. at the Montrose City Council Chambers, Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 2nd day of December, 2025.

______________________________
David Frank, Mayor

ATTEST:

______________________________
Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this 6th day of January, 2026.

________________________________
David Frank, Mayor

ATTEST:

________________________________
Lisa DelPiccolo, City Clerk

CITY OF MONTROSE
Planning Services

**MEMO**

TO: City Council
FROM: William Reis, Senior Planner
DATE: December 2, 2025
RE: Seasons Subdivision Filing No. 2 Final Plat
ATTACHMENTS
- Exhibit A: Maps
- Exhibit B: Code Excerpts for Subdivisions

**City Council Consideration:**
City Council is considering approval of this final plat application. Council will consider all of the information in this memo in making a decision.

**Application Background:**
The Seasons Subdivision Filing No. 2 Final Plat is located at the end of Oregon Street. The property is approximately 3.68 acres in size, and is zoned “R-3A” Medium High Density District. City Council approved the Eagle Ranch South Preliminary Plat on November 5, 2024. This final plat application would formally create 25 residential lots.

**Applicant:** Motown Investment, LLC

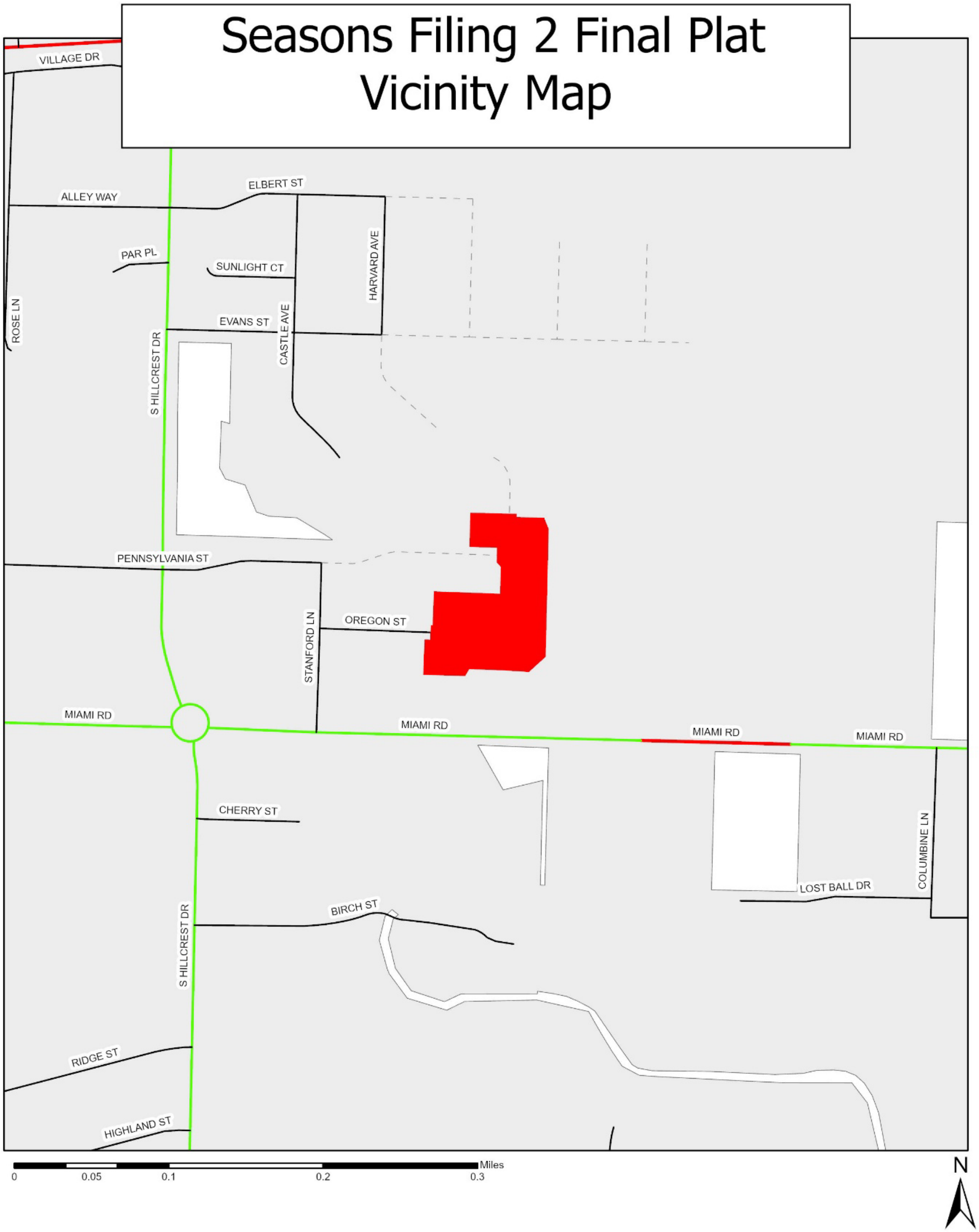
**Staff Analysis:**
1. Lots/blocks:
    a. All lots meet the minimum lot size and setback requirements per the approved deviations from City standards as recorded in the Seasons Subdivision 2$^{nd}$ Amended Preliminary Plat/PD Plan, Reception #798375.
2. Streets
    a. Surrounding streets must be in place, inspected and approved by the City Engineer prior to final approval. Improvements will receive a Preliminary Letter of Infrastructure Completion.
3. Utilities
    a. Easements are shown.
    b. City sewer and other utilities must be installed and available to serve all lots prior to final approval.

**Staff Recommendation: Conditional Approval**

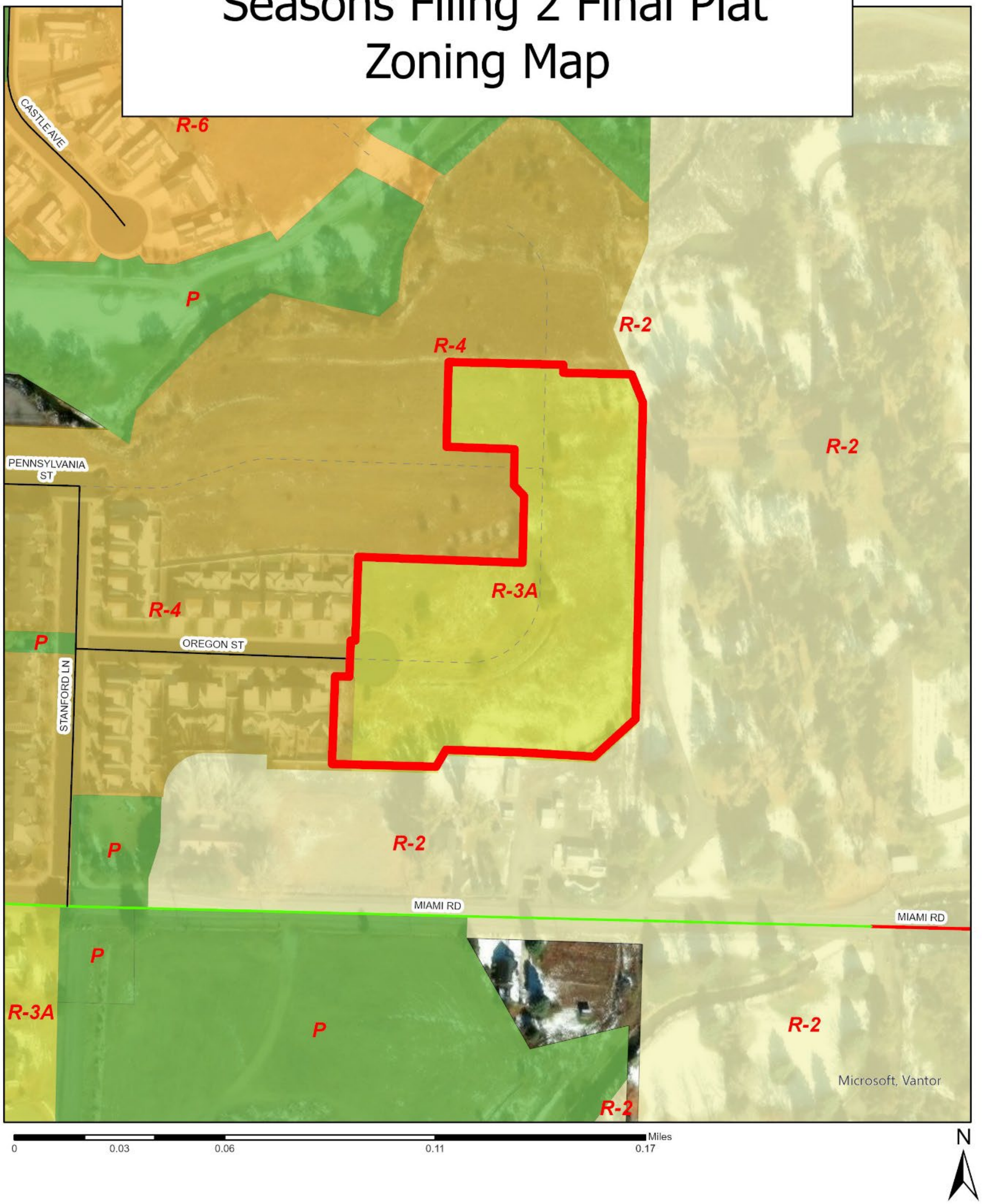
Conditions:

1. [Standard Condition]: The approval of this Final Plat is expressly conditioned upon City staff ensuring that all policies, regulations, ordinances and municipal code provisions are met and that the Applicant adequately addresses all of staff's concerns prior to the execution of the Final Plat. The City staff is not authorized by this approval to execute the Final Plat prior to all conditions being satisfied.

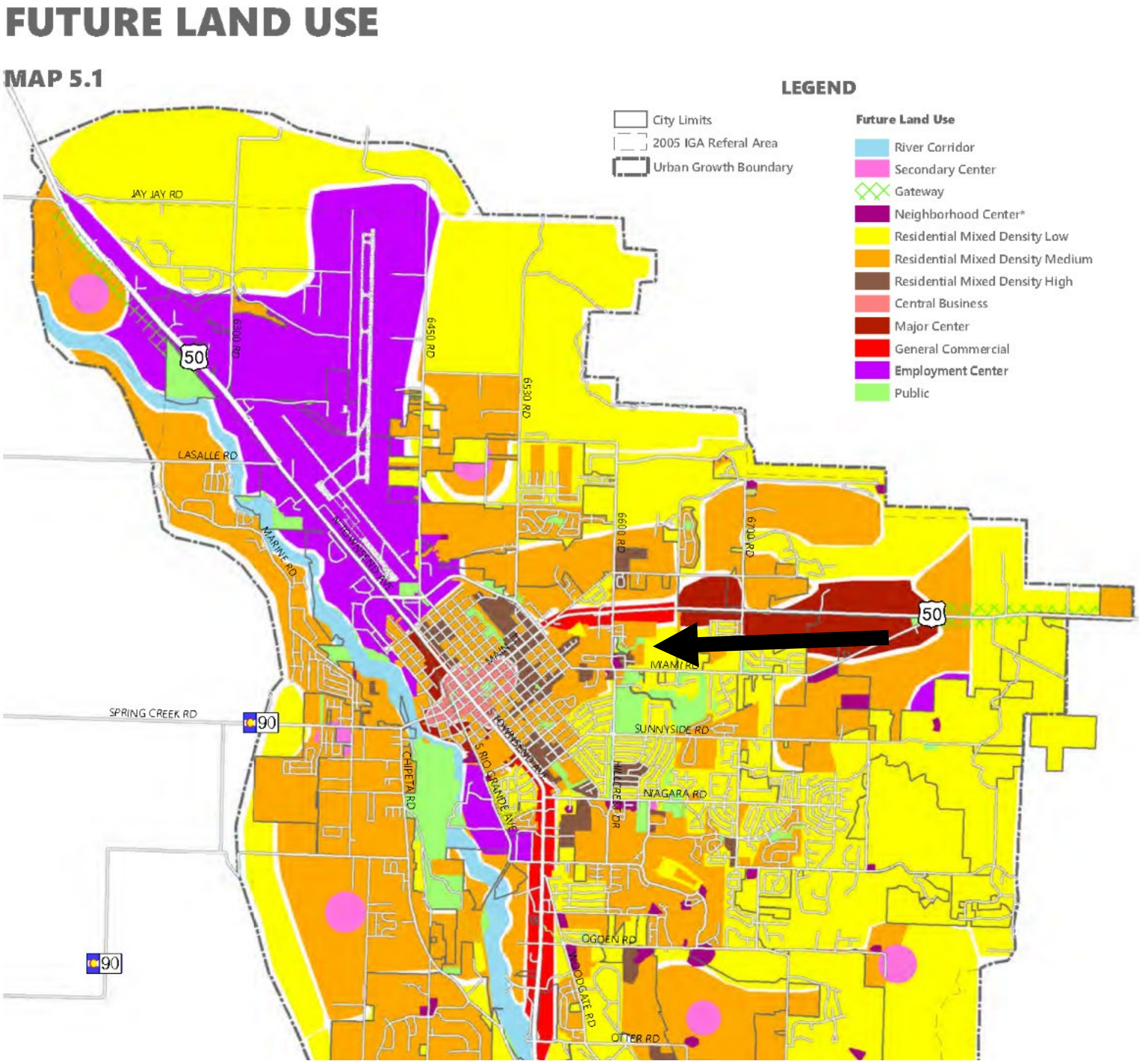
**EXHIBIT A: Area Maps**



# Seasons Filing 2 Final Plat
# Zoning Map



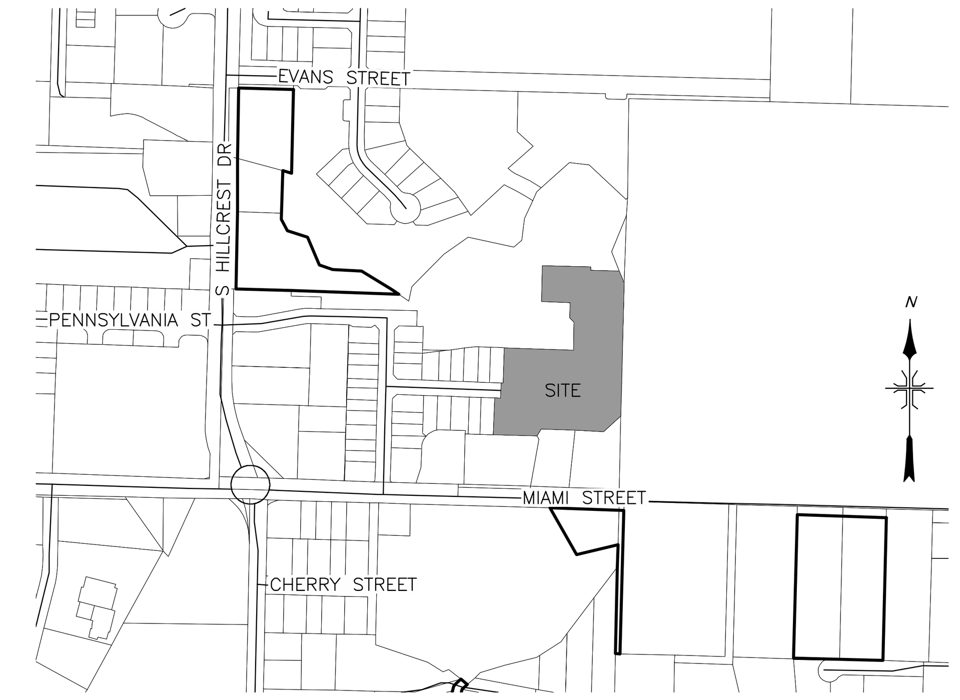
## Comprehensive Plan Future Land Use Map



# SEASONS SUBDIVISION FILING NO. 2

## FINAL PLAT

### SITUATED IN SW¼ NW¼ SECTION 26, TOWNSHIP 49 NORTH, RANGE 9 WEST, NEW MEXICO PRINCIPAL MERIDIAN
### CITY OF MONTROSE, COUNTY OF MONTROSE, STATE OF COLORADO




VICINITY MAP
N.T.S.

County Cler

**CERTIFICATE OF DEDICATION AND OWNERSHIP**

KNOW ALL YE BY THESE PRESENTS that the undersigned being the owners of certain lands in the City of Montrose, County of Montrose and State of Colorado to wit:

OUTLOT A, MCCALL REPLAT, COUNTY OF MONTROSE, STATE OF COLORADO.

Have by these presents laid out, platted and subdivided the same into lots, as shown on this plat, under the name and style of Seasons Subdivision Filing No. 2, and do hereby dedicate, grant and convey to the City of Montrose, Colorado, for the use of the public, Oregon Street as hereon shown.

The public utility easements shown on this plat are dedicated, granted and conveyed to the City of Montrose, Colorado for public utility purposes, including but not limited to water, sewer, electrical, telephone, gas, communications, fiber optic, and CATV lines, and drainage easements specifically labeled for dedication, together with perpetual right of ingress and egress for installation, maintenance and replacement of such facilities. The dedication of easements as herein provided shall not include those easements exclusively utilized for irrigation improvements, or otherwise subject to a previously recorded conveyance.

Executed this ____ day of ______________________, 20__.

Motown investment, LLC

_______________________________________________.
Signature

STATE OF COLORADO )
) ss.
COUNTY OF MONTROSE )

The above Certificate of Dedication and Ownership was acknowledged before me on this _____ day of _____________, 20_______, by _______________________.

Witness my hand and official seal.
My commission expires

Notary
(SEAL)

Dean McCall

_______________________________________________.
Signature

STATE OF COLORADO )
) ss.
COUNTY OF MONTROSE )

The above Certificate of Dedication and Ownership was acknowledged before me on this _____ day of _____________, 20_______, by Dean McCall.

Witness my hand and official seal.
My commission expires

Notary
(SEAL)

Tanner Rentals, LLC

_______________________________________________.
Signature

STATE OF COLORADO )
) ss.
COUNTY OF MONTROSE )

The above Certificate of Dedication and Ownership was acknowledged before me on this _____ day of _____________, 20_______, by _______________________.

Witness my hand and official seal.
My commission expires

Notary
(SEAL)

**MISCELLANEOUS PLAT NOTES:**

1. The drainage easements shown hereon shall be maintained by the owners of the lots encumbered by the easement, in a manner that preserves the grade as originally established and so as to not impede the free flow of water in any way, including but not limited to the construction of fencing and other improvements, or the planting or encroachment of trees and shrubs and other impeding vegetation. The City is not responsible or liable in any manner for the maintenance, repair, or operation of any pipelines, ditches or improvements as located within said easements. Upon failure to properly maintain the drainage easements shown hereon, or in the need to abate a nuisance or public hazard, the City may cause the maintenance or repair to be performed and assess the costs thereof to such owners, and may certify such charges as a delinquent charge to the County Treasurer to be collected similarly to taxes or in any lawful manner.

2. All residential lots or residential units hereon shall be required to make payment of money in lieu of school land dedication, at the time of issuance of building permit or certificate of occupancy relative to improvements upon said lot. The payment of money in lieu of school land dedication is subject to §11-5-9(C) of the Municipal Code. Payments shall be made to the City, to be later disbursed to the RE-1J School District.

3. Party Walls exist over and along the common boundaries between the units. The unit owners shall be deemed to own the necessary easements for the perpetual lateral and subjacent support, maintenance, and repair of the respective Party Walls and utilities therein, with equal rights of joint use.

4. The 20 foot private utility easement shown hereon is for the benefit of Lots 5 to 25.

5. Individual lot corner monuments to be set prior to individual sale of lots.

**FINAL PLAT CONDITIONAL APPROVAL**

The approval of the Seasons Subdivision Filing No. 2 is expressly conditioned upon City staff ensuring that all policies, regulations, ordinances and municipal code provisions are met, and that the Applicant adequately addresses all of staff's concerns.

**BASIS OF BEARINGS:**

The bearing between the found 2" aluminum cap on a 3/4" rebar LS12180 at the NW1/16 corner of Section 26, Township 49 North, Range 9 West, New Mexico Principal Meridian, County of Montrose, State of Colorado and the found 2" aluminum cap on 3/4" rebar LS12180 W.C. for the CW1/16 corner of said Section 26 bears S01°20'42"W (ASSUMED).

**LINEAL UNITS STATEMENT:**

The Lineal Unit used on this plat is U.S. Survey Feet

**SURVEYORS CERTIFICATE**

I, Frederick Ballard, a Registered Land Surveyor in the State of Colorado, do hereby certify that there are no roads, pipelines, irrigation ditches or other easements or rights-of-way in evidence or known to me to exist on or across said property except as shown on this plat. I certify that I have made the survey represented by this plat and that this plat accurately represents said survey, and conforms to all applicable requirements of the City Subdivision Regulations and applicable law. I further certify that all monuments shown hereon actually exist and their positions are as shown.

C.R.S. Section 38-51-106 Statement: this plat does not represent a title search by the Surveyor, nor by any professional corporation or business entity with which said Surveyor may be associated. Information regarding the title work performed for and used in producing this plat may be found in the title repot issued by ALTA Commitment dated June 27, 2025, bearing policy number MRR87026048.

Frederick Ballard
Colorado Registered Land Surveyor:
Registration No. 37690
Date: ______________

**ENGINEER'S CERTIFICATE**

I, David Schieldt, a Registered Engineer in the State of Colorado, do hereby certify that the sanitary sewer system, water distribution system and the storm drainage system shown on the accompanying plans of this Subdivision are properly designed, meet City of Montrose specifications, and are adequate to properly serve the Subdivision shown hereon. I further certify that the sanitary sewer system, water distribution system, storm drainage system, streets, parks, and other improvements are designed and constructed in accordance with applicable City specifications and regulations.

**FOR REVIEW**

______________________________________
David Schieldt, P.E. Registration No. 47195

Date:__________________________

**CERTIFICATE OF COMPLETED IMPROVEMENTS**

I, Scott Murphy, City Engineer, certify that all improvements and utilities required by the current Subdivision Regulations of the City of Montrose, have been constructed, inspected and approved in this Subdivision in accordance with applicable City ordinances, regulations and specifications, and a Letter of Substantial Completion has been issued, as required by the City's Municipal Code.

______________________________________
City Engineer
Registration No. ______________

Date:______________________

**ATTORNEY'S CERTIFICATE**

I, _______________________, an Attorney at Law, duly licensed to practice in Colorado, do hereby certify that I have examined the title of all land herein platted and described in the above Certificate of Ownership and Dedication, and that title to such land is in the owners and dedicators, and that the title to all dedicated property therein described, is free and clear of all liens and encumbrances except ______________________________
______________________________________________________________________________

______________________________________
Attorney
Registration No.________________

Date:______________________

**APPROVAL OF CITY MANAGER**

Approved this _________ day of__________________, 20__, by ____________________________, Deputy City Manager of the City of Montrose.

______________________________________
Deputy City Manager

**APPROVAL OF CITY ATTORNEY**

Approved for recording this ________ day of______________, 20__, by ____________________________, City Attorney of the City of Montrose.

______________________________________
City Attorney
Atty. Reg. No. ___________

**APPROVAL OF CITY COUNCIL**

Approved this _________ day of _________________, 20__, by ___________________________________,
Mayor of the City of Montrose; all conveyances of interests in real property made on this plat are hereby accepted by the City.

______________________________________
Mayor

NOTICE: According to Colorado Law (13-80-105, CRS) you must commence any legal action based upon any defect in this survey within three (3) years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten (10) years from the date of the certification shown hereon.

\\DMS14\PROJECTS\ACTIVE PROJECTS\2024\24059-SEASONS SUB FILING 2\C3D\24059V_PLAT-FIN.DWG

**AREA SUMMARY:**

| | |
|---|---|
| RIGHT-OF WAY | 0.45 ACRES |
| OUTLOT 1 | 1.15 ACRES |
| LOTS | 2.08 ACRES |
| TOTAL | 3.68 ACRES |

**DEVELOPER:** SEASONS CONSTRUCTION
60803 MAPLE GROVE RD
MONTROSE, CO 81403

**ENGINEER:** DEL-MONT CONSULTANTS, INC.
125 COLORADO AVE.
MONTROSE, CO 81401
(970) 249-2251

**RECORDER'S CERTIFICATE**

This plat was filed for record in the office of the Clerk and Recorder of Montrose County, Colorado, at the time of ______________, on the ___ day of ________________, 20__,
under Reception No. __________________________.

______________________ ______________________

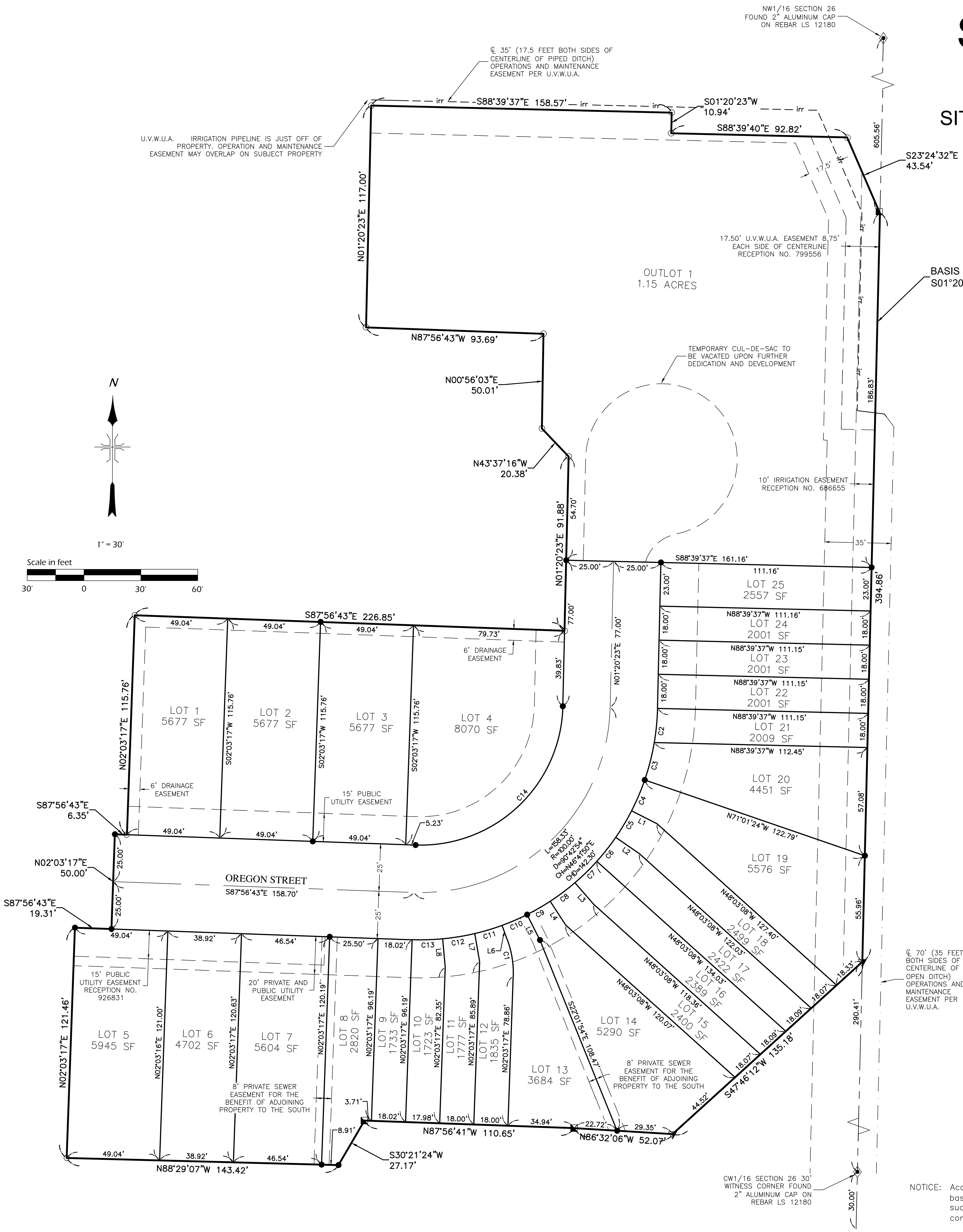
DEL-MONT CONSULTANTS, INC.
ENGINEERING ▼ SURVEYING
125 Colorado Ave.▼ Montrose, CO 81401 ▼ (970) 249-2251
www.del-mont.com ▼ service@del-mont.com

| | | | |
|---|---|---|---|
| TITLE: SEASONS SUBDIVISION FILING NO. 2 | | | |
| CLIENT: DEAN MCCALL & STANFORD GROUP LLC | | | |
| ADDRESS & PHONE: | | | |
| FIELD BOOK: | DRAWN BY: BAJ | DATE: 2025-11-03 | |
| SHEET: 1 of 2 | FILE: 24059V_PLAT-FIN | JOB NO.: 24059 | TYPE: FINAL PLAT |

# SEASONS SUBDIVISION FILING NO. 2

## FINAL PLAT

SITUATED IN SW$\frac{1}{4}$ NW$\frac{1}{4}$ SECTION 26, TOWNSHIP 49 NORTH, RANGE 9 WEST, N.M.P.M., CITY OF MONTROSE, COUNTY OF MONTROSE, STATE OF COLORADO




### LEGEND

- ○ = FOUND 1 1/2" ALUMINUM CAP ON 5/8" REBAR (PLS 36054)
- ◩ = FOUND 1 1/2" ALUMINUM CAP ON 5/8" REBAR (LS 12180)
- ● = SET 5/8" REBAR, 18" LONG, WITH A 1 1/2" ALUMINUM CAP STAMPED "DEL-MONT, PLS 37690"
- ◈ = FOUND 2" ALUMINUM CAP ON 3/4" REBAR (LS 12180)
- ▼ = FOUND 1 1/2" ALUMINUM CAP ON 5/8" REBAR PLS 37690

LINE TABLE

| LINE # | DIRECTION | LENGTH |
|---|---|---|
| L1 | N62°56'37"W | 15.00' |
| L2 | N55°26'21"W | 15.00' |
| L3 | N40°39'55"W | 15.00' |
| L4 | N33°09'39"W | 15.00' |
| L5 | S26°42'40"E | 15.00' |
| L6 | S20°06'28"E | 8.31' |
| L7 | N09°43'19"W | 15.02' |
| L8 | N05°19'34"W | 15.00' |

CURVE DATA

| CURVE | LENGTH | RADIUS | DELTA | CHORD BEARING | CHORD LENGTH |
|---|---|---|---|---|---|
| C1 | 19.34' | 50.00' | 022°09'45" | N09°01'36"W | 19.22' |
| C2 | 18.06' | 125.00' | 008°16'46" | N05°28'46"E | 18.05' |
| C3 | 20.41' | 125.00' | 009°21'27" | N14°17'52"E | 20.39' |
| C4 | 17.63' | 125.00' | 008°04'47" | N23°00'59"E | 17.61' |
| C5 | 16.37' | 125.00' | 007°30'16" | N30°48'31"E | 16.36' |
| C6 | 16.12' | 125.00' | 007°23'13" | N38°15'15"E | 16.10' |
| C7 | 16.12' | 125.00' | 007°23'13" | N45°38'29"E | 16.10' |
| C8 | 16.37' | 125.00' | 007°30'16" | N53°05'13"E | 16.36' |
| C9 | 14.07' | 125.00' | 006°26'59" | N60°03'51"E | 14.06' |
| C10 | 14.41' | 125.00' | 006°36'12" | N66°35'26"E | 14.40' |
| C11 | 15.04' | 125.00' | 006°53'38" | N73°20'21"E | 15.03' |
| C12 | 17.21' | 125.00' | 007°53'16" | N80°43'48"E | 17.20' |
| C13 | 16.10' | 125.00' | 007°22'51" | N88°21'52"E | 16.09' |
| C14 | 118.75' | 75.00' | 090°42'54" | S46°41'50"W | 106.73' |

DEVIATIONS FROM CITY STANDARDS PER SEASONS SUBDIVISION 2ND AMENDED PRELIMINARY PLAT/PD PLAN, RECEPTION #798375:

1. ZERO FOOT SIDE LOT SETBACKS ON ALL RESIDENTIAL LOTS; WITH THE PROVISION THAT NO TWO BUILDINGS SHALL BE SEPARATED BY LESS THAN 10'.
2. GARAGES SHALL BE SET BACK AT MINIMUM 20' FROM THE FRONT OF PROPERTY LINE

NOTICE: According to Colorado Law (13-80-105, CRS) you must commence any legal action based upon any defect in this survey within three (3) years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten (10) years from the date of the certification shown hereon.

\\DMS14\PROJECTS\ACTIVE PROJECTS\2024\24059-SEASONS SUB FILING 2\C3D\24059V_PLAT-FIN.DWG

DEL-MONT CONSULTANTS, INC.
ENGINEERING ▼ SURVEYING
125 Colorado Ave. ▼ Montrose, CO 81401 ▼ (970) 249-2251
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| | | |
|---|---|---|
| FIELD BOOK: | DRAWN BY: BAJ | DATE: 2025-11-03 |
| SHEET: 2 of 2 | FILE: 24059V_PLAT-FIN | JOB NO.: 24059 |

SEASONS SUBDIVISION
FILING NO. 2

CLIENT: DEAN MCCALL & STANFORD GROUP LLC

ADDRESS & PHONE:

TYPE: FINAL PLAT

## EXHIBIT B: Code Excerpts for Subdivisions

### Sec. 11-5-2. Major subdivisions.

(A) *New Subdivisions.* A subdivision shall be classified as a major subdivision and governed by this Section when an applicant proposes to create four or more new tracts, lots, or interests; or less than four new tracts, lots or interests if not eligible as a minor subdivision in accordance with Section 11-5-3.

(B) *Resubdivisions or Major Plat Amendments.* Resubdivisions and major plat amendments are reviewed in the same manner as a major subdivision with the same purposes. A major plat amendment is any plat amendment that does not qualify as a minor plat amendment under Section 11-5-3 (C). To the extent that submittal information was submitted as part of the original subdivision proposal and is adequate by current standards, the applicant for approval of a resubdivision or major plat amendment does not need to submit the information again and may reference such submittal information in the new application. The City Manager will determine the technical adequacy of previously submitted information.

(C) *Procedure.* The major subdivision procedure shall consist of three separate phases, sketch plan, preliminary plat and final plat, in accordance with Sections 11-5-4, 11-5-5, and 11-5-6, respectively.

(Ord. No. 2626 , § 3(exh. A), 5-16-2023)

### Sec. 11-5-4. Sketch plan.

(A) *Purpose.* Sketch plan review provides an opportunity to determine whether an application will comply with the City's subdivision review and approval criteria, and to address any issues of concern early in the review process. The sketch plan is a conceptual version of the preliminary plat showing the general subdivision layout, access, street and lot pattern, location of parks, open space tracts, trail corridors, and other tracts for utilities or services.

(B) *Review Procedure.* The sketch plan application shall be reviewed by the City in accordance with Section 11-4-2 of this Title. The Planning Commission shall take no formal action at the conclusion of its public hearing on the sketch plan; however, comments by the public and the Commission shall be reflected in the minutes of the hearing as a part of the record on the application as it moves through the entire review process.

(C) *Review Criteria.* A sketch plan shall comply with the following review criteria:

- (1) The proposal shall be consistent with the City subdivision and zoning regulations, standards and other applicable ordinances and regulations and will be reviewed, considering the following at a minimum.
  - (a) Relationship of development to topography, soils, drainage, flooding, potential natural hazard areas and other physical characteristics;
  - (b) Availability of water, means of sewage collection and treatment, stormwater drainage, access and other utilities and services;
  - (c) Compatibility with the natural environment, wildlife, vegetation and unique natural features;
  - (d) Adjacent streets and traffic flow, including pedestrian access; and
  - (e) Availability of fire, police and other emergency services protection.
- (2) An applicant who intends to immediately develop only a portion of a full tract shall nevertheless submit an informal sketch plan for the entire tract showing their present plans for its eventual development.

(Ord. No. 2626 , § 3(exh. A), 5-16-2023)

## Sec. 11-5-13. Minimum design standards.

(A) *Minimum Standards, Conformity to Preliminary Plat, and Approval Required.* All public improvements shall be constructed in accordance with the minimum standards set forth below or other applicable City design and construction specifications and standards, and other applicable City ordinances or regulations. All public and private improvements shall be in substantial conformity with the preliminary plat as approved, the City Comprehensive Plan and amendments thereto, and in accordance with good engineering and construction practices. All plans must be approved in advance by the City Engineer.

(B) *Minimum Standards.*

(1) *Streets.*

(a) Subdivider shall be required to make and install improvements to existing streets within and abutting the subdivision and/or other areas outside the subdivision or any filing thereof being considered, including, but not limited to, curbs, gutters, sidewalks and street paving improvements, when the subdivision and developments thereof will directly create a need for said improvements outside the subdivision itself, or a need to expand or improve existing public improvements to current standards in order to properly serve future residents of the subdivision, or if the subdivider or their predecessors of interest by virtue of their actions and the timing and scope of developing the subdivision or other property have created a situation where the needed improvements were not previously improved or installed. It shall be presumed that existing streets and sidewalks directly abutting the subdivision must be improved to current City standards in order to properly serve the subdivision.

(b) In those cases where the City determines that the immediate improvement of the abutting street, or other on-site or off-site improvements, is not currently practical, or should be delayed, or the costs of such improvements should be shared with additional property likely to use and be benefited by the improvements, the developer may be allowed to execute recordable covenants on the plat or separately in a form provided by the City, binding the lots in the subdivision to future assessments or participation in an improvement district for the construction of such improvements.

(c) Wherever topography will permit, the arrangement of the streets shall provide for the dedication and construction of street stubs to align with existing or future streets to adjoining developing or developable areas.

(d) Cul-de-sacs shall terminate in a circular turn-around having a minimum right-of-way of at least 100 feet in diameter, and a paved turn-around with a minimum outside diameter of 80 feet. Cul-de-sacs shall be not less than 100 feet long, and not more than 500 feet long, as measured from the center of the cul-de-sac bulb to the center of the intersecting street; use of cul-de-sacs is limited to places where street connections would be impractical.

(i) Cul-de-sacs longer than 300 feet shall require a recreation trail connection at the end that provides connectivity to the nearest City street.

(e) Temporary dead-end streets which extend for a distance greater than the depth of one abutting lot shall be provided with a temporary turn-around having a diameter of at least 80 feet.

(f) Whenever a new street is proposed along the edge of the subdivision, the entire street shall be dedicated and improved within the subdivision.

(g) No more than two streets shall intersect at any point. Intersections shall be as near as practicable to 90 degrees. A street shall have a minimum straight distance of 100 feet from the intersection before it may be curved.

(h) A straight section of 100 feet shall be provided between reverse curves on all streets.

(i) All lots in the subdivision will have direct access to a dedicated street, subject to the following exceptions:

  (i) One or more private shared access drives may be used to provide access up to no more than four dwelling units each, subject to City approval, in residential zoning districts. In general, shared access drives shall not be used as an extension to a cul-de-sac.

  (ii) Reciprocal access easements may be approved to accommodate subdivisions with multiple commercial units with contiguous parking area in commercial zoning districts.

(j) Any two local streets which intersect a common third local or collector street shall have centerlines no closer than 175 feet from one another. Any two local streets which intersect a common third minor arterial or major arterial street, shall have centerlines no closer than 350 feet from one another.

  (i) The City may limit access to major arterial or minor arterial streets to facilitate traffic flows, or to promote public safety.

(k) The maximum block length, as measured from the centerline of the nearest intersecting streets, shall be a maximum of 700 feet.

(l) Street names must be approved by the City.

(m) All streets, alleys, sidewalks, recreation paths, parks of two acres or larger, and other public ways or places must be dedicated to the City by the owners of any interest therein except the owners of severed mineral or water interests.

(n) Streets shall be developed in accordance with the City's Comprehensive Plan roadway cross sections, the City's engineering specifications, as applicable, and the table below. The minimum dedicated rights-of-way and street widths shall be as shown in Table 5.2.

Table 5.2
Minimum Dedicated Rights-Of-Way and Street Widths

| Street Classification | Minimum Right-of-Way | Minimum Street Width Urban = Width between Curb Flowlines Rural = Paved Width (asphalt or Concrete) |
|---|---|---|
| Major Arterial—Urban | 124 feet * | 92 feet *** |
| Major Arterial—Rural | 124 feet * | 76 feet *** |
| Minor Arterial—Urban | 112 feet ** | Varies with traffic volume and whether parking is allowed, see engineering specifications for road widths *** |
| Minor Arterial—Rural | 112 feet ** | Varies with traffic volume and whether parking is allowed, see engineering specifications for road widths *** |
| Collector | 70 feet | 46 feet |

| | | |
|---|---|---|
| Local—Boulevard Style Alternative 2 | 50 feet; 50 feet | 28 feet with detached 5-foot sidewalk; 36 feet with attached 6-foot sidewalk |
| Planned Developments | 40 feet | 24 feet with attached 6-foot sidewalks in addition to curb and gutter. Supplemental off-street parking may be required. |

(o) Subdivisions which include any part of an existing platted street which does not conform to the minimum right-of-way requirements of these regulations may be required to provide additional width necessary to meet the minimum right-of-way requirements of these regulations.

(p) No street grade shall be less than one-half of one percent or exceed the maximum grade shown in Table 5.3.

Table 5.3
Maximum Street Grade

| Street Classification | Maximum Percent Grade | Minimum Radius of Curve | Minimum Sight Distance* |
|---|---|---|---|
| Major Arterial | 5 percent | 400 feet | 500 feet |
| Minor Arterial | 5 percent | 400 feet | 500 feet |
| Collector | 8 percent | 300 feet | 300 feet |
| Local | 8 percent | 100 feet | 200 feet |

(q) Alleys shall be provided at the rear of lots within the commercial zoning districts, or as otherwise approved by the City. Alleys shall be 20 feet in width and shall be paved in accordance with City specifications.

(2) *Curb, Gutter, Sidewalks and Trails.*

(a) Curb, gutter, and sidewalks or recreation trails shall be provided along all roadways consistent with the City's Comprehensive Plan.

(i) A minimum ten-foot-wide concrete recreation trail with the addition of two-foot obstacle-free recovery zones, constructed of Class 6 gravel aggregate, or a City-approved alternative, on each side of said trail shall be located along one side of the roadway, as determined by the City. Recreation trails shall be designed in accordance with the AASHTO "Guide for the Development of Bicycle Facilities."

(ii) A minimum six-foot-wide sidewalk shall be provided on the side of the roadway not occupied by the recreation trail described above. Greater sidewalk widths may be required in commercial areas.

(iii) Recreation trail lighting may be required in more heavily populated or urbanized areas, travel corridors, and commuter routes, as determined by the City. Recreation trail lighting shall provide a minimum 0.4 to 0.5 footcandles of illumination at all points along the length of the trail. The City's provisions, standards, and specifications regarding outdoor lighting shall also apply.

(iv) Recreation trails with alternative non-hard surfaces and narrower widths may be approved in those instances where such trails are secondary to existing or proposed concrete recreation trails, and do not serve as connectors to the City's recreation trail system, as denoted within the City's Comprehensive Plan.

(v) Curb, gutter, and sidewalks shall be provided along collector and local streets. Six-foot detached sidewalks are required on collector streets. Five-foot detached or six-foot attached sidewalks are required for local streets.

(b) Sidewalks shall be located and constructed as necessary to interconnect the subdivision and lots therein with the network of City sidewalks and recreation trails.

(c) Accessibility ramps shall be provided in accordance with the Americans with Disabilities Act.

(d) The City may elect to require over-sizing of any sidewalk and participate in cost sharing thereof.

(e) The City may require any sidewalk to be wider than those standards set forth herein, upon a finding that such greater widths are necessary to serve the subdivision, due to:

(i) High density of the subdivision;

(ii) Special needs of the residents of the subdivision; or

(iii) Connection to existing wider sidewalks or recreation trails.

(3) *Blocks and Lots.*

(a) In residentially zoned districts, blocks shall be wide enough to permit two lots between lengthwise streets.

(b) The building line for residential lots on collector streets shall be set back 25 feet from the front property line.

(c) The building line on corner lots shall be set back 25 feet from both street front property lines.

(d) Lots which abut a street in the front and the rear shall be avoided except where a railroad right-of-way, a major arterial or minor arterial street is located to the rear of the lot, in which case such a lot shall have a minimum depth of 125 feet. Lots abutting cul-de-sacs shall have a minimum frontage of 25 feet.

(e) Every lot shall front on a designated collector or local street, subject however, to the following exceptions:

(i) One or more private shared access drives may be used to provide access up to no more than four dwelling units each, subject to City approval, in residential zoning districts;

(ii) Private access easements may be provided, subject to City approval, in subdivisions within commercial zoning districts across parking lot areas;

(iii) In such instances, the shared access improvements shall be subject to City specifications and the restrictions set forth in Section 11-5-11 (B).

(f) No residential lot shall front on a major arterial or minor arterial street. No access shall be permitted directly from a residential lot to a major arterial or minor arterial street.

(g) The lot depth shall not be more than three times the lot width at the front building line.

(h) Access drives and intersections shall comply with City access standards and the transportation plan. In addition, accesses onto County roads shall comply with applicable County regulations.

(i) Lots shall be at least 50 feet in width at the front building line. Lots abutting cul-de-sacs shall have at least 25 feet of linear frontage to the cul-de-sac.

(j) Sight triangles shall be shown on the plat as per the engineering specifications.

(4) *Public Utilities.*

(a) All utilities shall be installed underground unless the City Engineer determines that soil or topographic conditions make that impracticable.

(b) Utilities shall be installed prior to the paving of any street under which they are to be located and the individual service lines shall be connected and stubbed out prior to paving, in order to avoid the necessity of cutting into the pavement to connect any abutting lots.

(c) Utilities will be sized and placed as necessary to facilitate connection with future subdivisions and developments. At a minimum, six-inch water main lines shall be provided in residential zoning districts, and eight-inch water main lines shall be provided in commercial and industrial zoning districts. At a minimum, eight-inch sewer main lines shall be provided in all zoning districts. Multiple buildings within a single lot shall each require a singular water and sewer lateral connection to a main line.

(d) The City may elect to require over-sizing of the extended utility and pay for the cost of such materials accordingly.

(e) City water and sewer systems shall be provided except where the City has required an alternative supplier by service area agreement with such alternative provider. In cases where alternative utilities are provided on a temporary basis, connection to City services shall be required at such time they are made available to the subject property.

(f) In the event that City sewer service will not be available within a reasonable time period following final plat approval, engineered individual sewage disposal systems may be authorized by the City for those subdivisions occurring within the residential rural living zoning districts with lot sizes of five acres or greater. Advance City approval shall be required in each case.

(g) All extension of City utilities shall require City approval and proper execution of City utility extension agreements. The extension of utilities shall be at the sole expense of the subdivider.

(h) Prior to any installation or construction of utility extensions, the subdivider shall first submit proposed alignment location maps and engineered drawings for City approval. The subdivider shall acquire all necessary easements for the proposed utility location from all affected properties. The easements shall be conveyed to the City and executed on applicable City forms.

(i) All utility extensions shall be subject to City inspection and approval. The City may elect to contract inspection services at the subdivider's expense.

(j) All utility main line extensions, once approved by the City, shall be dedicated to the City with applicable utility easements. As-built plans and data shall be provided on hard copy in accordance with these provisions and on diskette in a digital format compatible with City computer systems.

(k) Following the completion of any utility extension and submission of the as-built plans, the City Engineer shall conduct an inspection, and if the improvements are in accordance with the requirements of these and other applicable regulations and good engineering and construction standards, shall issue a Preliminary Letter of Infrastructure Completion.

(i) For a period of two calendar years thereafter, the subdivider shall be responsible for correcting all defects or failures that appear in such improvements.

(ii) At the completion of this two-calendar-year construction warranty period, upon written request from the subdivider, all public and necessary on- and off-site improvements shall again be inspected by the City Engineer, and upon final approval, may be accepted by the City, as evidenced by issuance of a Letter of Infrastructure Completion and Acceptance. The provisions set forth in Section 11-5-12(D) shall apply to improvements and construction covered by this Section.

(5) *Piped Drainage Facilities and Waterways.*

(a) Stormwater discharge improvements shall be engineered and approved in accordance with City specifications. stormwater retention on site shall be discouraged. When feasible to do so and when requested by the City Engineer, all ditches shall be piped and subject to platted easements to be dedicated either to the City or to the applicable owner of the ditch facilities. The City may elect to allow the location of piped ditch facilities within its rights-of-way at its discretion. Perpetual maintenance shall be provided pursuant to plat notes and/or City-approved covenants.

(b) Permission shall be acquired, in writing, from all applicable owners of ditch facilities prior to improvements thereto.

(c) No discharges of urban stormwater into any irrigation ditch facilities shall be allowed. No discharges of urban stormwater into agricultural drainage ditch facilities shall be allowed, unless otherwise approved by the owning interest in said drainage facilities.

(6) *Monuments.* Monuments shall be set in concrete and placed at all corners of all street intersections, at the intersections of the boundary of the subdivision with street right-of-way lines, at angle points and points of curve in each street and at points of change in direction of the exterior boundaries of the subdivision. The top of the monument shall have a metal cap set flush to identify the location. All lot corners shall be monumented with a minimum of a #5 rebar 18 inches in length and metal cap.

(7) *Berms, Screening and Buffers.* Buffers and/or screening shall be provided between incompatible uses both within the subdivision and adjoining the subdivision in accordance with City design standards and specifications.

(8) *Street Lights.*

(a) In all subdivisions, except for residential zoned rural living and estate subdivisions, streetlights shall be provided at all intersections and at intervals between intersections in accordance with City specifications.

(b) In residential rural living zoning districts and estate subdivisions, street lights shall only be required at street intersections, with no interval requirements.

(c) All streetlights shall conform to City standards and specifications, and with Chapter 11-9 of this Title.

(9) *Outdoor Lighting.* All outdoor and exterior lighting shall conform with Chapter 11-9 of this Title.

(10) *Flood Hazard Prevention*. All subdivision proposals shall conform to the flood hazard reduction standards in Section 11-6-5 (G) of this Title.

(Ord. No. 2626 , § 3(exh. A), 5-16-2023)