CITY COUNCIL WORK SESSION
Monday, January 3, 2022 10:00 AM
City Council Chambers, Elks Civic Building - 107 S. Cascade Ave.

Public participation for this meeting will be in person in the City Council Chambers and via Zoom at the following link: https://us02web.zoom.us/webinar/register/WN_zxZ_uhDzRXOewe5-x7RE3A

1) DISCUSSION ITEMS

A) Update to Municipal Code Section 6-1-27 - Underage Possession of Tobacco/Cannabis and Paraphernalia (15 minutes)
Staff: Assistant City Attorney Matthew Magliaro **3-19**

B) 2022 Annual Annexation Report and 3-Mile Plan (15 minutes)
Staff: Senior Planner Amy Sharp **20-32**

C) Mier Addition Annexation (10 minutes)
Staff: Senior Planner Amy Sharp **33-40**

D) Southeast Water Transmission Main Project Contract Award (10 minutes)
Staff: City Engineer Scott Murphy **41-43**

E) Hill Street Extension Project Contract Award (10 minutes)
Staff: City Engineer Scott Murphy **44-46**

F) Cerise Park Waterline Bore Project Change Order (10 minutes)
Staff: City Engineer Scott Murphy **47-49**

G) West Main Complete Streets Project Grant Contract with the Colorado Department of Transportation (10 minutes)
Staff: City Engineer Scott Murphy **50-67**

H) Montrose Public Safety Complex FF&E Contract Award Recommendation (15 minutes)
Staff: Public Works Manager Jim Scheid **68-71**

I) 2022 Equipment Disposal List (10 minutes)
Staff: Public Works Manager Jim Scheid **72-73**

J) Airport Waterline Materials Recommendation (10 minutes)
Staff: Utilities Manager David Bries **74-75**

K) Designation of Official Posting Location for Meeting Notices (5 minutes)
Staff: City Clerk Lisa DelPiccolo

L) 2022 City Council Meeting Schedule (10 minutes)
Staff: City Clerk Lisa DelPiccolo **76-77**

**Please note that the times listed are estimates of approximately how long each item may take. This time is intended to serve as a guide for the Mayor in an effort to help keep the meeting moving.*

**Hearing assistance devices are available for public use. Please let us know if you need accommodation.*

2) GENERAL CITY COUNCIL DISCUSSION

3) STAFF COMMENTS

FUTURE TOPICS

- New Hotel & Restaurant Liquor License Application for Mimo's - January 18
- New Hotel & Restaurant Liquor License Application for Roteman's Cattlemen's Table- January 18
- Sales, Use & Excise Tax Report for November 2021 - January 18
- Introduction of New City Employees - January 31

Zoom Meeting Details
https://us02web.zoom.us/webinar/register/WN_zxZ_uhDzRXOewe5-x7RE3A
Join by phone:
1 253 215 8782
1 346 248 7799
1 669 900 9128
1 301 715 8592
1 312 626 6799
1 646 558 8656
Webinar ID: 899 2610 6370
International numbers available: https://us02web.zoom.us/u/kblU3zbmOx

SESIÓN DE TRABAJO DEL CONSEJO MUNICIPAL
Lunes, enero 3, 2022 10:00 AM
Cámaras del Consejo de la Ciudad, Elks Civic Building - 107 S. Cascade Ave.

La participación pública para esta junta será en persona en las Cámaras del Consejo de la Ciudad y vía Zoom en el siguiente enlace: https://us02web.zoom.us/webinar/register/WN_zxZ_uhDzRXOewe5-x7RE3A

1) PUNTOS DE DISCUSIÓN

A) Actualización Código Municipal Sección 6-1-27 - Menores de edad Posesión de Tabaco/Cannabis y Parafernalia (15 minutos)

Personal: Abogado Asistente de la Ciudad Matthew Magliaro

B) Reporte Anual de Anexión 2022 y Plan 3-Millas (15 minutos)

Personal: Planificadora Senior Amy Sharp

C) Adición de la anexión de Mier (10 minutos)

Personal: Planificadora Senior Amy Sharp

D) Otorgación del Contrato del Proyecto de Transmisión de Agua del Sureste (10 Minutos)

Personal: Ingeniero de la Ciudad Scott Murphy

E) Otorgación del contrato del proyecto de extensión de Hill Street (10 Minutos)

Personal: Ingeniero de la Ciudad Scott Murphy

F) Contrato de subvención del proyecto West Main Complete Streets con el Departamento de Transportación de Colorado (10 Minutos)

Personal: Ingeniero de la Ciudad Scott Murphy

G) Recomendación de otorgación de contrato a FF&E del Complejo de Seguridad Pública de Montrose (15 minutos)

Personal: Gerente de Obras Públicas Jim Scheid

H) Lista de Equipo de Desecho 2022 (10 minutos)

Personal: Gerente de Obras Públicas Jim Scheid

I) Recomendación de materiales para la línea de agua del Aeropuerto (10 minutos)

Personal: Gerente de Servicios Públicos David Bries

J) Designación de la ubicación oficial de publicación para avisos de reuniones (5 minutos)

Personal: Secretaria de la Ciudad Lisa DelPiccolo

K) Calendario 2022 de Juntas del Consejo de la Ciudad (10 minutos)

Personal: Secretaria de la Ciudad Lisa DelPiccolo

**Por favor note que los tiempos en la lista son estimaciones de aproximadamente cuánto tiempo puede tomar cada punto. Este tiempo está destinado a servir como guía para el Alcalde en un esfuerzo de ayudar a mantener la junta en movimiento.*
**Hay aparatos auditivos disponibles para el uso público. Por favor déjenos saber si usted necesita esta adaptación.*

2) DISCUSIÓN GENERAL DEL CONSEJO DE LA CIUDAD

3) COMENTARIOS DEL PERSONAL

FUTUROS TEMAS

- Solicitud de licencia para licor del nuevo Hotel & Restaurante Mimo's - enero 18
- Solicitud de licencia para licor del nuevo Hotel & Restaurante Roteman's Cattlemen's Table - enero 18
- Informe de impuestos sobre ventas, el uso y consumo de noviembre 2021 - enero 18
- Presentación de nuevos empleados de la ciudad - enero 3

Detalles junta Zoom
https://us02web.zoom.us/webinar/register/WN_zxZ_uhDzRXOewe5-x7RE3A
Unirse por teléfono:
1 253 215 8782
1 346 248 7799
1 669 900 9128
1 301 715 8592
1 312 626 6799
1 646 558 8656
Webinar ID: 899 2610 6370
Números de teléfonos internacionales disponibles: https://us02web.zoom.us/u/kblU3zbmOx

MEMORANDUM

TO: Montrose City Council
FROM: Matthew Magliaro, Assistant City Attorney Public Safety
DATE: December 28, 2021
RE: Recodification of Montrose Official Code Section 6-1-27 Underage Possession of Tobacco/Cannabis and Paraphernalia

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Synopsis:

Montrose Code Section 6-1-27 in current form contains four separate crimes: (1) possession, use or consumption of cigarettes or tobacco products (including chewing tobacco) by any person under the age of 18; (2) the knowing possession of 'smoking paraphernalia' at or upon any public place by any person under the age of 18; (3) possession, use or consumption of cannabis or cannabis products by those under the age of 21; and (4) the knowing possession of 'drug paraphernalia' by those under the age of 21 to introduce cannabis or cannabis products into the human body, in violation of the laws of Montrose. The ordinance also contains two separate definition sections all bearing subparts, one affirmative defense, and three separate penalty provisions.

MC § 6-1-27 has a complicated structure that makes it difficult to read and to cite correctly on a charging document. By way of example, the correct legal citation to underage possession of a vape pen containing a tobacco product is MC § 6-1-27(I)(C), (I)(A)(3); for underage consumption of cannabis, MC § 6-1-27(II)(A); and for possession of a glass bong containing a cannabis product, MC § 6-1-27(II)(D)(1)(g)(xi), (II)(D)(3)(a). The uniform citation and complaint form used by Montrose Police Department only lists 'MC 6-1-27' with no subsections specified, requiring the officer to write in the precise subsection of charge or the municipal prosecutor to orally move to clarify the charge at the initial appearance of the defendant for advisement. The latter happens on nearly every municipal court docket.

Council Consideration:

Before City Council is a proposal to repeal MC § 6-1-27 only, and recodify it into two separate sections: Underage Possession of Tobacco and Tobacco Paraphernalia in MC § 6-1-26 and Underage Possession of Cannabis and Cannabis Paraphernalia in MC § 6-1-27. Sections have been moved internally within both as part of the recodification to follow a pattern order: (1) the substantive crimes; (2) definitions, arranged in alphabetical order; and (3) penalty for the substantive crimes. Subheadings on the penalty sections were added for additional clarity. Edits were made for consistency of language, and to express more gender inclusive nomenclature. Substantive edits were made to one section to replace the undefined term 'smoking paraphernalia' with a cross reference to the extensive drug paraphernalia definition and considerations.

Staff Recommendation & Rationale:

Staff recommends this change. This is an ordinance regularly cited incorrectly or incompletely into the municipal court. Breaking the ordinance apart into separate topics enhances readability. The change will hopefully lead to less need to clarify charges orally at advisement. This provides a benefit to the Montrose Municipal Court clerical staff tasked with the preparation of forms for advisement, as well the judge conducting the proceeding. It provides a benefit to the cited defendants of affording a greater chance of adequate notice of the correct charge in advance of court proceedings.

The City Attorney's Office provided a courtesy copy of the proposal clean and redline versions to the Montrose Municipal Court, for its own review.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, UPDATING TITLE 6 CHAPTER 1, MISCELLANEOUS OFFENSES: REPEALING AND RECODIFYING TITLE 6 CHAPTER 1 SECTION 27 (6-1-27) ONLY REGARDING UNDERAGE POSSESSION OF TOBACCO/CANNABIS AND PARAPHERNALIA, ADDING TITLE 6 CHAPTER 1 SECTION 26 (6-1-26) REGARDING UNDERAGE POSSESSION OF TOBACCO AND TOBACCO PARAPHERNALIA; REPEALING AND REPLACING TITLE 6 CHAPTER 1 SECTION 27 (6-1-27) REGARDING UNDERAGE POSSESSION OF CANNABIS AND CANNABIS PARAPHERALIA.

WHEREAS, the City's Police Regulations are updated from time to time; and

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

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

The following Sections of Title 6 Chapter 1 of the Official Code of the City of Montrose, Colorado are hereby repealed, replaced or added: Title 6 Chapter 1 Section 27 (6-1-27) only is hereby repealed and recodified into two separate Sections; Title 6 Chapter 1 Section 26 is hereby added (6-1-26); Title 6 Chapter 1 Section 27 (6-1-27) is hereby repealed and replaced. This version supersedes all previous versions to read in full as follows:

6-1-26. - ~~Reserved.~~ Underage Possession of Tobacco and Tobacco Paraphernalia.

(A) It shall be unlawful for any person under the age of 18 years to possess, use or consume any cigarettes or tobacco products as defined by this ~~Code~~ Section, including chewing tobacco, at or upon any public place.

(B) It ~~is~~ shall be unlawful for any person under the age of 18 years to possess at or upon any public place drug ~~smoking~~ paraphernalia used to ingest, inhale, or otherwise introduce tobacco product into the human body, if ~~he~~ the person knows or reasonably should know that the ~~smoking~~ paraphernalia could be used under circumstances in violation of the laws of the City of Montrose, Colorado as provided herein. Drug paraphernalia has the meaning as defined in Official Code of Montrose § 6-1-27 and includes electronic smoking devices, defined herein ~~as described in this Chapter~~.

(C) Definitions:

(1) The term "electronic smoking device" means any electronic oral device such as one composed of a heating element, battery, and/or electronic circuit which provides a vapor of nicotine or any other substance for inhalation. The term "electronic smoking device" shall include every variation and type of such devices whether they are manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pen, an electronic pipe, an electronic hookah, or a vape pen, or any other product name or descriptor.

(2) The term "public place" includes the following places:

(a) Property owned or leased by the United States of America, the State of Colorado, Montrose County or the City or any agencies or political subdivision thereof.

(b) The entire width of street and alley rights-of-way, parking areas and grounds outside the establishments open to the public such as restaurants, grocery stores, convenience stores, bars and other places of public gathering for amusement and entertainment.

(c) The inside of vehicles located upon any of the above-listed places.

(3) The term "tobacco product" means any product that contains nicotine or tobacco or is derived from nicotine or tobacco and is intended to be ingested or inhaled; or any electronic device that can be used to deliver nicotine to the person inhaling from the device, including, but not limited to, electronic smoking devices, cigarettes, cigars, cheroots, stogies, and Periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. The term "tobacco product" also includes cloves and any other plant matter or product that is packaged for smoking.

(D) Penalty: Any person who commits a violation of Subsection (A) and/or (B) of this Section shall be punished by a fine of not more than $200.00 and/or 20 hours of useful public service.

6-1-27. - Underage Possession of Cannabis and Cannabis Paraphernalia.

~~I. *Tobacco and Paraphernalia.*~~

~~(A) Definitions.~~

~~(1) The term "tobacco product" means any product that contains nicotine or tobacco or is derived from nicotine or tobacco and is intended to be ingested or inhaled; or any electronic device that can be used to deliver nicotine to the person inhaling from the device, including, but not limited to, electronic smoking devices, cigarettes, cigars, cheroots, stogies, and Periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. The term "tobacco product" also includes cloves and any other plant matter or product that is packaged for smoking.~~

~~(2) The term "public place" includes the following places:~~

~~(a) Property owned or leased by the United States of America, the State of Colorado, Montrose County or the City or any agencies or political subdivision thereof.~~

~~(b) The entire width of street and alley rights-of-way, parking areas and grounds outside the establishments open to the public such as restaurants, grocery stores, convenience stores, bars and other places of public gathering for amusement and entertainment.~~

~~(c) The inside of vehicles located upon any of the above-listed places.~~

~~(3) The term "electronic smoking device" means any electronic oral device such as one composed of a heating element, battery, and/or electronic circuit which provides a vapor of nicotine or any other substance for inhalation. The term "electronic smoking device" shall include every variation and type of such devices whether they are manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pen, an electronic pipe, an electronic hookah, or a vape pen, or any other product name or descriptor.~~

~~(B)It shall be unlawful for any person under the age of 18 years to possess, use or consume any cigarettes or tobacco products as defined by this Code, including chewing tobacco, at or upon any public place.~~

~~(C)It is unlawful for any person under the age of 18 years to possess smoking paraphernalia, at or upon any public place, including electronic smoking devices as described in this Chapter, if he knows or reasonably should know that the smoking paraphernalia could be used under circumstances in violation of the laws of the City of Montrose, Colorado as provided herein.~~

~~(D)Any person who commits a violation of Subsection I(B) and/or I(C) of this Section shall be punished by a fine of not more than $200.00 and/or 20 hours of useful public service.~~

~~II. *Cannabis and Paraphernalia.*~~

(A) It shall be unlawful for any person under the age of 21 to possess, use, or consume cannabis or any cannabis products as defined in this Section.

(B)~~(3)(a)~~ It ~~is~~ shall be unlawful for any person under the age of 21 years to possess drug paraphernalia if ~~he~~ the person knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of the City of Montrose, Colorado, as provided herein.

(C)~~(B)~~ Definitions:

(1) For the purposes of this Section, the term "cannabis" shall include all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds, or resin but shall not include the mature stalks of such plant, fiber produced from its stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of its mature stalks, except the resin extracted therefrom, fiber, oil, cake or the sterilized seed of such plant which is incapable of germination.

(2) ~~The term~~ "~~c~~Cannabis concentrate" shall mean hashish, tetrahydrocannabinois, or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized of tetrahydrocannabinois.

(3) ~~(D)(1)~~ For the purposes of this Section, the term "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing cannabis, as defined in Subsection II(B) of this Section, into the human body. The term "drug paraphernalia" includes, but is not limited to:

(a) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of cannabis under circumstances in violation of the laws of this state;

(b) Scales and balances used, intended for use, or designed for use in weighing or measuring cannabis;

(c) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining cannabis;

(d) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding cannabis;

(e) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of cannabis;

(f) Containers and other objects used, intended for use, or designed for use in storing or concealing cannabis;

(g) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cannabis into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips, meaning objects used to hold burning material such as a marijuana or cannabis cigarette that has become too small or too short to be held in the hand;

(vi) Chamber pipes;

(vii) Carburetor pipes;

(viii) Electric pipes;

(ix) Air-driven pipes;

(x) Chillums;

(xi) Bongs; or

(xii) Ice pipes or chillers.

(3.5)~~(2)~~ Determination for Paraphernalia, Considerations

(a) In determining whether an object is drug paraphernalia, the court, in its discretion, may consider, in addition to all other relevant factors, the following:

(i) Statements by an owner or by anyone in control of the object concerning its use.

(ii) The proximity of the object to cannabis.

(iii) The existence of any residue of cannabis on the object.

(iv) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control

of the object or evidence that such person reasonably should know that it will be delivered to persons who he knows or reasonably should know could use the object to facilitate a violation of this Section.

(v) Instructions, oral or written, provided with the object concerning its use.

(vi) Descriptive materials accompanying the object, which explain or depict its use.

(vii) National or local advertising concerning its use.

(viii) Manner in which the object is displayed for sale.

(ix) Whether the owner or anyone in control of the object is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products.

(x) Existence and scope of legal uses for the object in the community.

(xi) Expert testimony concerning its use.

(b) In the event a case brought pursuant to this Section is tried before a jury, the court shall hold an evidentiary hearing on issues raised pursuant to this Section. Such hearing shall be conducted on camera.

(D)~~(3) Violations~~ Penalty:

(1)~~(C)~~Any person who commits a violation of ~~Subsection H(A)~~ Subsection (A) of this Section shall be punished by a fine of not more than $400.00 and/or 40 hours of useful public service.

(2)~~(b)~~ Any person who commits a violation of ~~Subsection H(D)(3)(a)~~ Subsection (B) of this Section shall be punished by a fine of not more than $200.00 and/or 20 hours of useful public service.

(E) ~~(1)~~ It shall be affirmative defense to a violation of this Section 6-1-27 that the defendant is a patient engaged in the medical use of marijuana as declared lawful by paragraph (4)(a) of Section 14 of Article XVIII of the State Constitution, in accordance with the limitations and provisions of said Section 14, Article XVIII, provided that the patient has a current and valid registry identification card and that the possession or use of marijuana was not in plain view of, or in a place open to the general public. ~~(2)~~ For the purposes of this Section, the terms "patient," "medical use," and "registry identification card," shall be defined as set out in said Section 14, Article XVIII.

This Ordinance shall be deemed severable. Should any phrase, term, section, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unlawful, the remainder of the Ordinance shall remain in full force and effect.

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 __ day of _____, 2022, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this _____ day of _____, 2022.

_____
Douglas Glaspell, Mayor

ATTEST:

_____
Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this day of _____, 2022.

_____
Douglas Glaspell, Mayor

ATTEST:

_____
Lisa DelPiccolo, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, UPDATING TITLE 6 CHAPTER 1, MISCELLANEOUS OFFENSES: REPEALING AND RECODIFYING TITLE 6 CHAPTER 1 SECTION 27 (6-1-27) ONLY REGARDING UNDERAGE POSSESSION OF TOBACCO/CANNABIS AND PARAPHERNALIA, ADDING TITLE 6 CHAPTER 1 SECTION 26 (6-1-26) REGARDING UNDERAGE POSSESSION OF TOBACCO AND TOBACCO PARAPHERNALIA; REPEALING AND REPLACING TITLE 6 CHAPTER 1 SECTION 27 (6-1-27) REGARDING UNDERAGE POSSESSION OF CANNABIS AND CANNABIS PARAPHERALIA.

WHEREAS, the City's Police Regulations are updated from time to time; and

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

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6-1-26. - Underage Possession of Tobacco and Tobacco Paraphernalia.

(A) It shall be unlawful for any person under the age of 18 years to possess, use or consume any cigarettes or tobacco products as defined by this Section, including chewing tobacco, at or upon any public place.

(B) It shall be unlawful for any person under the age of 18 years to possess at or upon any public place drug paraphernalia used to ingest, inhale, or otherwise introduce tobacco product into the human body, if the person knows or reasonably should know that the paraphernalia could be used under circumstances in violation of the laws of the City of Montrose, Colorado as provided herein. Drug paraphernalia has the meaning as defined in Official Code of Montrose § 6-1-27 and includes electronic smoking devices, defined herein.

(C) Definitions:

(1) The term "electronic smoking device" means any electronic oral device such as one composed of a heating element, battery, and/or electronic circuit which provides a vapor of nicotine or any other substance for inhalation. The term "electronic smoking device" shall include every variation and type of such devices whether they are manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pen, an electronic pipe, an electronic hookah, or a vape pen, or any other product name or descriptor.

(2) The term "public place" includes the following places:

(a) Property owned or leased by the United States of America, the State of Colorado, Montrose County or the City or any agencies or political subdivision thereof.

(b) The entire width of street and alley rights-of-way, parking areas and grounds outside the establishments open to the public such as restaurants, grocery stores, convenience stores, bars and other places of public gathering for amusement and entertainment.

(c) The inside of vehicles located upon any of the above-listed places.

(3) The term "tobacco product" means any product that contains nicotine or tobacco or is derived from nicotine or tobacco and is intended to be ingested or inhaled; or any electronic device that can be used to deliver nicotine to the person inhaling from the device, including, but not limited to, electronic smoking devices, cigarettes, cigars, cheroots, stogies, and Periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. The term "tobacco product" also includes cloves and any other plant matter or product that is packaged for smoking.

(D) Penalty: Any person who commits a violation of Subsection (A) and/or (B) of this Section shall be punished by a fine of not more than $200.00 and/or 20 hours of useful public service.

6-1-27. - Underage Possession of Cannabis and Cannabis Paraphernalia.

(A) It shall be unlawful for any person under the age of 21 to possess, use, or consume cannabis or any cannabis products as defined in this Section.

(B) It shall be unlawful for any person under the age of 21 years to possess drug paraphernalia if the person knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of the City of Montrose, Colorado, as provided herein.

(C) Definitions:

(1) For the purposes of this Section, the term "cannabis" shall include all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds, or resin but shall not include the mature stalks of such plant, fiber produced from its stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of its mature stalks, except the resin extracted therefrom, fiber, oil, cake or the sterilized seed of such plant which is incapable of germination.

(2) "Cannabis concentrate" shall mean hashish, tetrahydrocannabinois, or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized of tetrahydrocannabinois.

(3) For the purposes of this Section, the term "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing cannabis, as defined in Subsection II(B) of this Section, into the human body. The term "drug paraphernalia" includes, but is not limited to:

(a) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of cannabis under circumstances in violation of the laws of this state;

(b) Scales and balances used, intended for use, or designed for use in weighing or measuring cannabis;

(c) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining cannabis;

(d) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding cannabis;

(e) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of cannabis;

(f) Containers and other objects used, intended for use, or designed for use in storing or concealing cannabis;

(g) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cannabis into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips, meaning objects used to hold burning material such as a marijuana or cannabis

cigarette that has become too small or too short to be held in the hand;

(vi) Chamber pipes;

(vii) Carburetor pipes;

(viii) Electric pipes;

(ix) Air-driven pipes;

(x) Chillums;

(xi) Bongs; or

(xii) Ice pipes or chillers.

(3.5) Determination for Paraphernalia, Considerations

(a) In determining whether an object is drug paraphernalia, the court, in its discretion, may consider, in addition to all other relevant factors, the following:

(i) Statements by an owner or by anyone in control of the object concerning its use.

(ii) The proximity of the object to cannabis.

(iii) The existence of any residue of cannabis on the object.

(iv) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object or evidence that such person reasonably should know that it will be delivered to persons who he knows or reasonably should know could use the object to facilitate a violation of this Section.

(v) Instructions, oral or written, provided with the object concerning its use.

(vi) Descriptive materials accompanying the object, which explain or depict its use.

(vii) National or local advertising concerning its use.

(viii) Manner in which the object is displayed for sale.

(ix) Whether the owner or anyone in control of the object is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products.

(x) Existence and scope of legal uses for the object in the community.

(xi) Expert testimony concerning its use.

(b) In the event a case brought pursuant to this Section is tried before a jury, the court shall hold an evidentiary hearing on issues raised pursuant to this Section. Such hearing shall be conducted on camera.

(D) Penalty:

(1) Any person who commits a violation of Subsection (A) of this Section shall be punished by a fine of not more than $400.00 and/or 40 hours of useful public service.

(2) Any person who commits a violation of Subsection (B) of this Section shall be punished by a fine of not more than $200.00 and/or 20 hours of useful public service.

(E) It shall be affirmative defense to a violation of this Section 6-1-27 that the defendant is a patient engaged in the medical use of marijuana as declared lawful by paragraph (4)(a) of Section 14 of Article XVIII of the State Constitution, in accordance with the limitations and provisions of said Section 14, Article XVIII, provided that the patient has a current and valid registry identification card and that the possession or use of marijuana was not in plain view of, or in a place open to the general public. For the purposes of this Section, the terms "patient," "medical use," and "registry

identification card," shall be defined as set out in said Section 14, Article XVIII.

This Ordinance shall be deemed severable. Should any phrase, term, section, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unlawful, the remainder of the Ordinance shall remain in full force and effect.

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 __ day of _____, 2022, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this _____ day of _____, 2022.

_____
Douglas Glaspell, Mayor

ATTEST:

_____
Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this day of _____, 2022.

_____
Douglas Glaspell, Mayor

ATTEST:

_____
Lisa DelPiccolo, City Clerk

CITY OF MONTROSE

Planning Services

MEMO

TO: City Council
FROM: Amy Sharp, Senior Planner
DATE: January 3, 2022
RE: City of Montrose 2022 Annual Annexation Report and 3-Mile Plan
ATTACHMENTS:

- Exhibit A: Maps

City Council Consideration:
Review the City of Montrose 2022 Annual Annexation Report and 3-Mile Plan, as stipulated by Colorado State Statutes. Consider making a motion to approve the 2022 Annual Annexation Report and 3-Mile Plan.

Background:
Please find attached the City of Montrose 2022 Annual Plan of Annexation and 3-Mile Plan, as stipulated by Colorado State Statutes. The Plan contains verbal policies and maps to illustrate annexation priorities, eligible enclave annexations, existing city limits, growth areas, and transportation routes. The Plan will fulfill the statutory requirement to have a "plan in place" to annex new properties in 2022. Annexation plans must be adopted each year. The Planning Commission reviews this Plan, but no official action is taken by the Planning Commission.

Schedule:

January 3, 2022	City Council Work Session
January 12, 2022	Planning Commission Hearing – no action
January 18, 2022	City Council

CITY OF MONTROSE
2022
ANNUAL ANNEXATION PLAN AND REPORT &
THREE-MILE PLAN

Nature of Plan
This plan generally describes the proposed land uses, location, character, and extent of utility and street infrastructure and service to within 3 miles of the City of Montrose, herein referred to as "City," as required by CRS §31-12-105(1)(e).

The City of Montrose Envision 2040 Comprehensive Plan, as adopted in June 2021, shall be incorporated into this Plan. Master Plans of federal agencies or the County of Montrose, and Montrose County Airport for any public lands under their jurisdiction within the boundaries of the attached 3 Mile Plan map of the City of Montrose shall also be referenced as part of the City of Montrose 3 Mile Plan, except to the extent where inconsistent with City ordinances, regulations, and components in this plan. See Exhibit A.

Annexation Policy
In general, the City of Montrose will annex from the center of the City out into the Growth Areas within the Growth Boundary and 3 Mile Plan. The City will consider areas and properties as requested by property owners for annexation. Qualified enclaves, City owned property, areas expected to develop as urban with City influence, and areas with City utilities or capacity to serve, will also be considered.

Priority for Annexation in 2022
As a matter of establishing priority for annexation in the year 2022, the City shall consider annexation of the following properties subject to the statutory limitations as provided above, and areas that can meet statutory eligibility requirements as set forth in CRS §31-12-104 and CRS §31-12-105.

(1) **Private land owner request.** For private parties meeting the statutory requirements.
(2) **Properties served adequately and properly by City utilities.**

(3) **Highway Corridor properties** south on Highway 550, north on Highway 50, east on Highway 50, and west on Highway 90 where it is feasible to serve such properties with existing infrastructure or where adequate infrastructure could generally be extended to serve such areas.
(4) **Existing enclaves** as identified in red on the attached Exhibit B.
(5) **Growth Areas,** as identified on Exhibit C.

City Utility Infrastructure
Annexations shall be subject to existing City policy, as may be amended, and the City Comprehensive Plan. The extension of City utilities and services to such properties shall be in accordance with the Official Code of the City of Montrose, Chapter 3-5 and Chapter 4-7.

Additionally, potable water service shall be in accordance with the Water Service Area Agreements as executed between the City and the Tri County Water Conservancy District, the City and the Menoken Water District, and the City and the Chipeta Water District. The respective service areas are delineated in the attached Exhibit D.

The extension of sewer service shall also be in accordance with the 201 Plan and the 208 Area Waste Management Plan ("Waste Water Service and Treatment Agreement") as executed by the City, the County of Montrose, and the West Montrose Sanitation District, as amended from time to time.

The City regularly plans for and implements the upsizing and improvement of existing sewer and water lines. The majority of sewer and water line extensions are precipitated by growth through residential, commercial, and industrial subdivision.

The City's current and planned utilities infrastructure is discussed in the 2021 City of Montrose Comprehensive Plan (Chapter 10).

Road Infrastructure
Major Highways within the City of Montrose are: Highway 50 to the north and east, Highway 90 to the west and Highway 550 to the south. The City shall generally adhere to its Transportation Plan as included within the City Comprehensive Plan. Current and proposed roads and streets are shown in the City of Montrose Comprehensive Plan (Chapter 6), and in the County's road and bridge map and plan (Exhibit E).

Parks, Trails, and Open Space
"Encourage and facilitate a variety of public parks, trails, and recreation opportunities in strategic locations", a guiding principle of the City of Montrose Comprehensive Plan (Chapter 8), acts as a guide to the development of a linked, cohesive park and open space system. The Parks Master Plan (Exhibit F) illustrates the locations of regional, community and neighborhood parks currently existing in the City of Montrose, and the conceptual areas where future parks are needed to address current deficits and meet projected needs over the next 10 to 20 years.

The map titled, “Recreation Trail Alignments,” (Exhibit G) shows existing and proposed recreation trails throughout the City.

City and Public Utilities

(1) Electrical Power – Delta Montrose Electric Association
(2) Telephone and Internet Access – Spectrum, Elevate Fiber, and other services
(3) Natural Gas – Black Hills Energy available in the City, and in the fringe areas of the City
(4) Cable Television and Internet Access – Spectrum, DMEA, Elevate Fiber, and others
(5) Sewer – Available in and near the City, by the City of Montrose. Available in the West Montrose Sanitation District. City sewer is extended as per City Ordinances. The City’s 201 and Region’s 208 Plan are hereby incorporated by reference.
(6) Trash Collection – City trash service and recycling services are provided within the City to Sanitation customers. Private trash collection services operate both outside and within the City. The Montrose Area Landfill and other recycling facilities are privately operated.
(7) Water Service – Potable water service within the 3 Mile Area is provided by the City of Montrose, Tri-County Water Conservancy District, Menoken Water District and the Chipeta Water District within their respective service areas as provided by the agreements between the parties.
(8) Transportation Service – No transportation services are provided by the City of Montrose, other than streets, sidewalks, and multi-use trails. All Points Transit currently provides public transportation services.

General Provisions

(1) To the extent that any item mentioned in CRS §31-12-105(1)(e) is not reflected in the documents, maps and plans included as a part of this plan, this plan should be construed to mean that these types of facilities are not provided.
(2) Proposed land uses are residential and agricultural, except as otherwise shown or provided by City zoning, land use plan, or the Comprehensive Plan.

Annexations in Past Three Years

2019 Additions

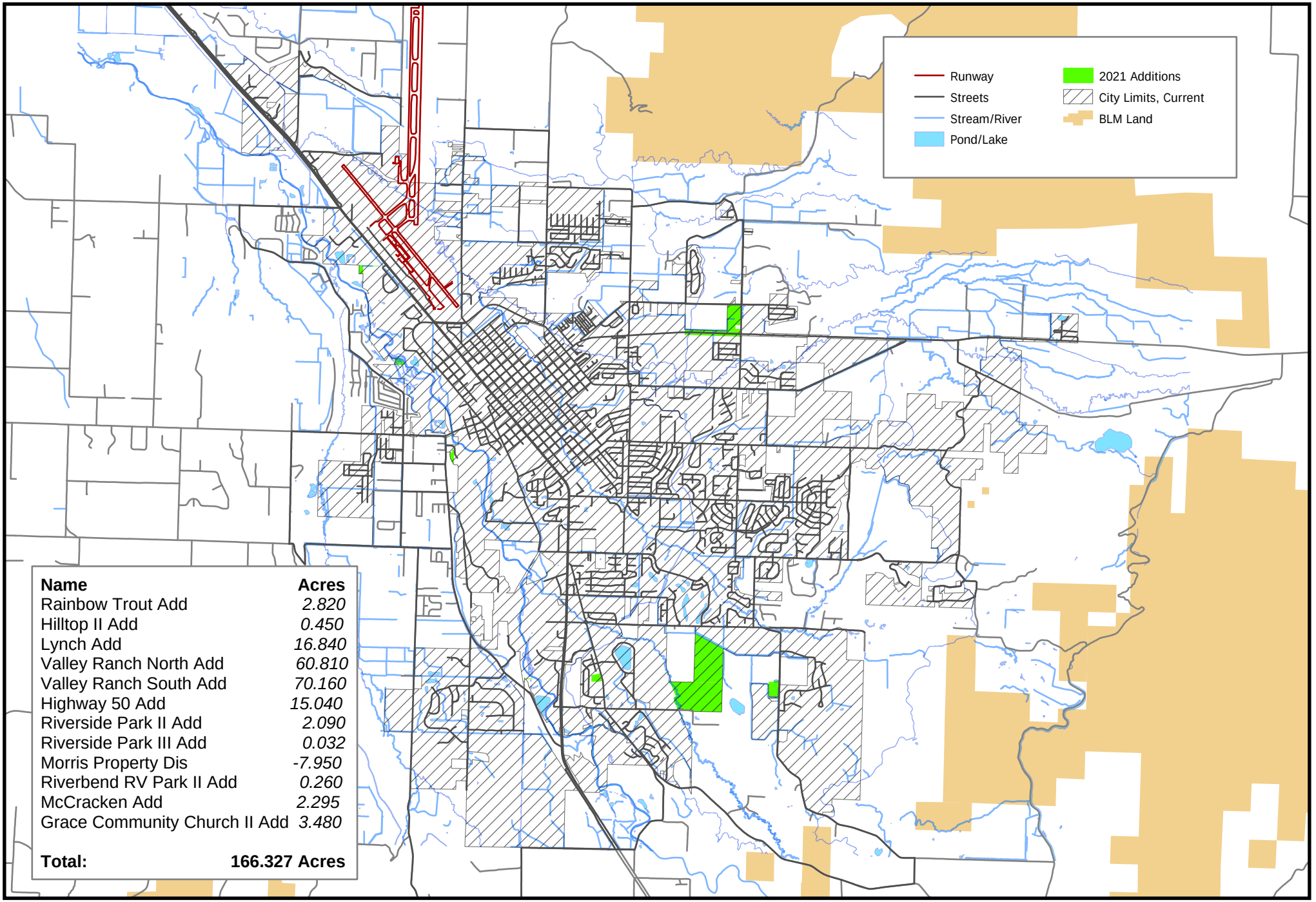
Name	Acres
Horsefly Addition	2.14
Ellsworth Addition	4.08
J and L Jones Addition	1.20
Klippert Addition No. 1	3.37
Klippert Addition No. 2	3.29
Klippert Addition No. 3	3.60
TOTAL	**17.68**

2020 Additions

Name	Acres
4152 N Townsend Addition	10.2
Hilltop Addition	15.7
River Crossing Addition	36.3
Unrein Addition No. 2	1.0
Woodgate Addition No. 4	0.4
TOTAL	**63.6**

2021 Additions

Name	Acres
Rainbow Trout Addition	2.82
Hilltop Addition II	0.45
Lynch Addition	16.84
Valley Ranch Addition North	60.81
Valley Ranch Addition South	70.16
Highway 50 Addition	15.04
Riverside Park Addition II	2.09
Riverside Park Addition III	0.032
Morris Property Disconnection	-7.95
Riverbend RV Park Addition II	0.26
McCracken Addition	2.295
Grace Community Church Addition II	3.48
TOTAL	**166.327**



Name	Acres
Rainbow Trout Add	2.820
Hilltop II Add	0.450
Lynch Add	16.840
Valley Ranch North Add	60.810
Valley Ranch South Add	70.160
Highway 50 Add	15.040
Riverside Park II Add	2.090
Riverside Park III Add	0.032
Morris Property Dis	-7.950
Riverbend RV Park II Add	0.260
McCracken Add	2.295
Grace Community Church II Add	3.480
Total:	**166.327 Acres**

City of Montrose 2021 Annexations

Scale: 1:70,000

Miles
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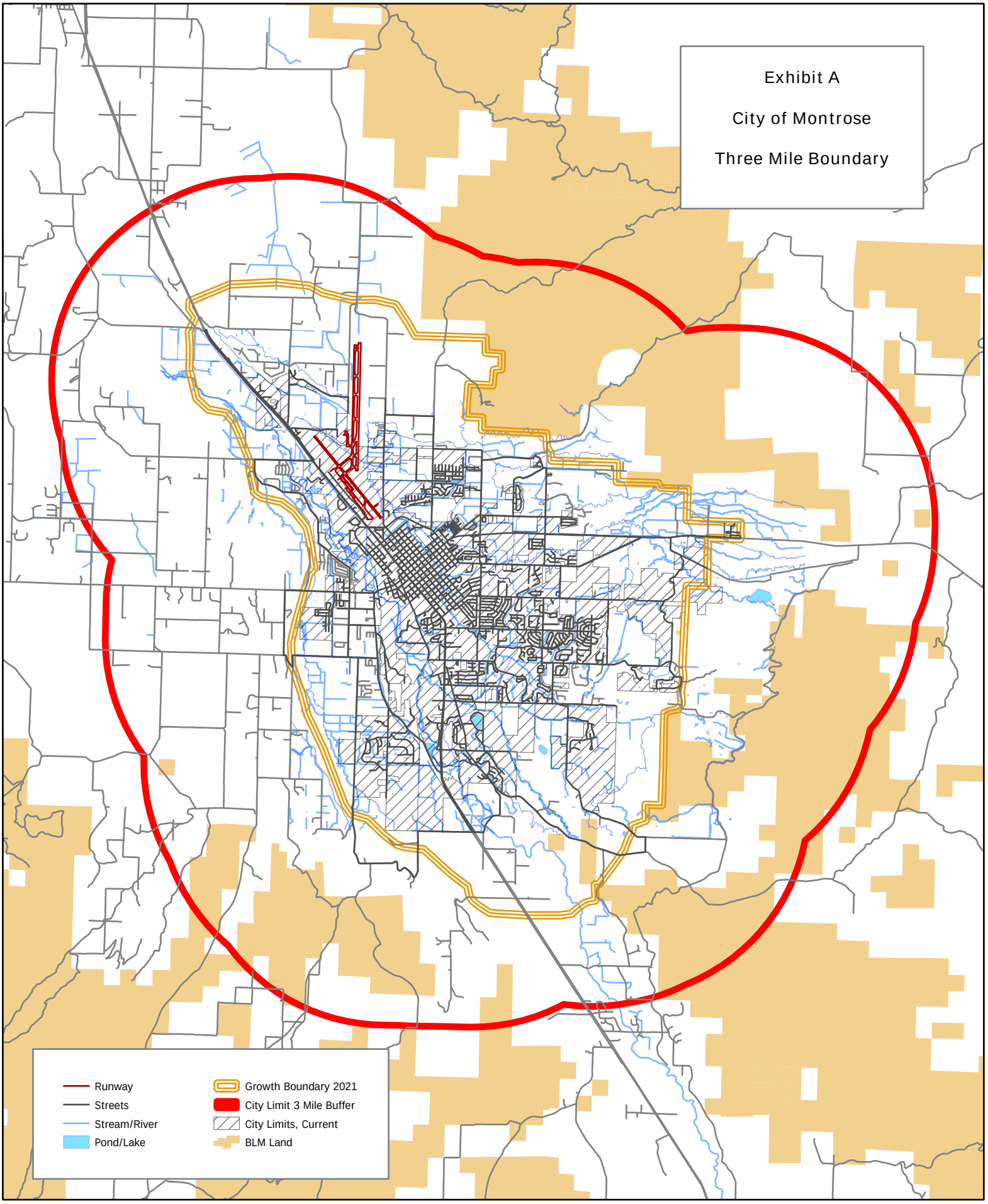

Exhibit A City of Montrose 3 Mile Boundary Map

Scale: 1:118,000

Miles

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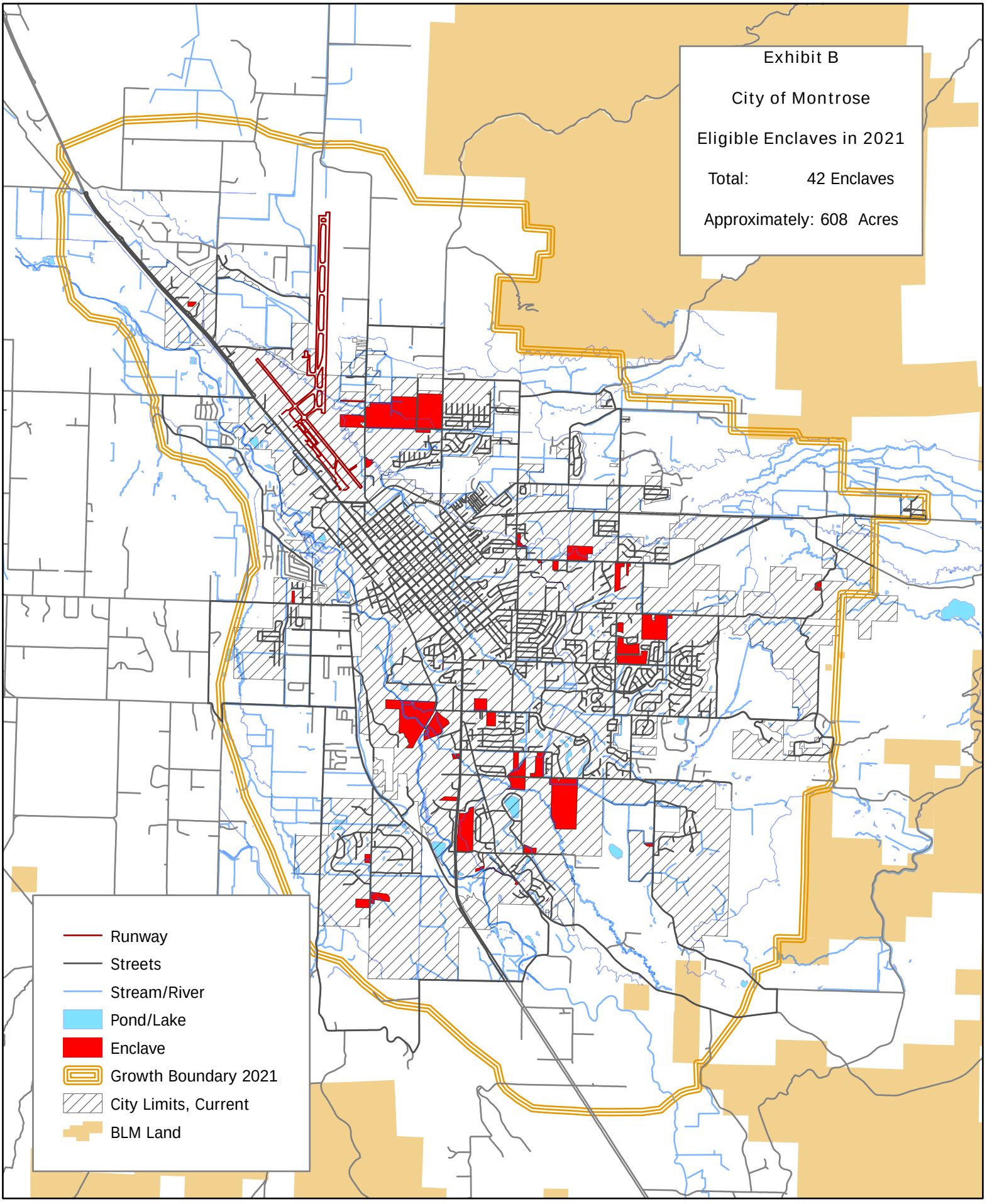

Exhibit B City of Montrose 2021 Eligible Enclaves

Scale: 1:75,000

Miles
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GROWTH AREAS*

MAP **5.2**

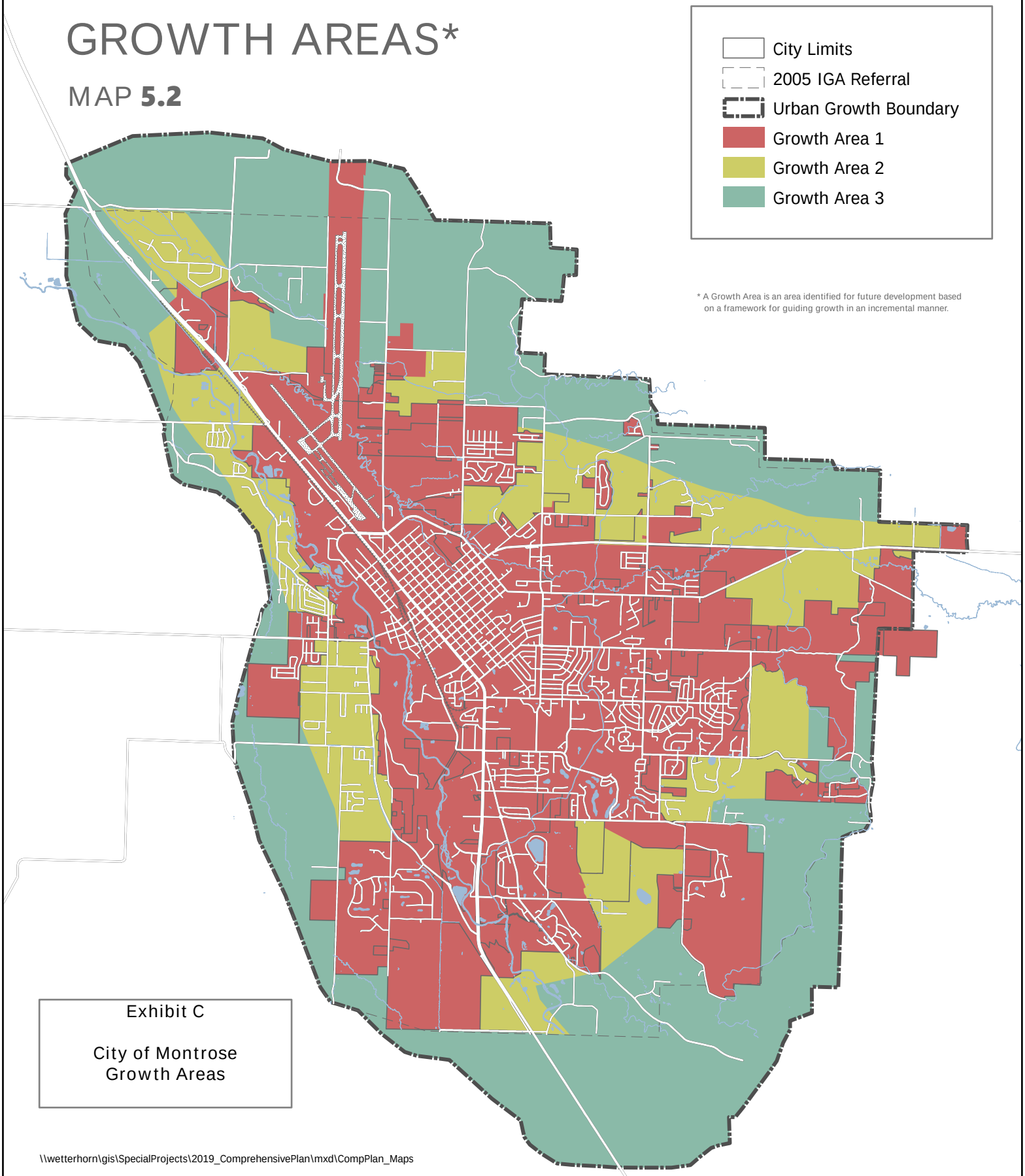

Exhibit C

City of Montrose
Growth Areas

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Exhibit C City of Montrose Growth Areas 1

Scale: 1:75,000

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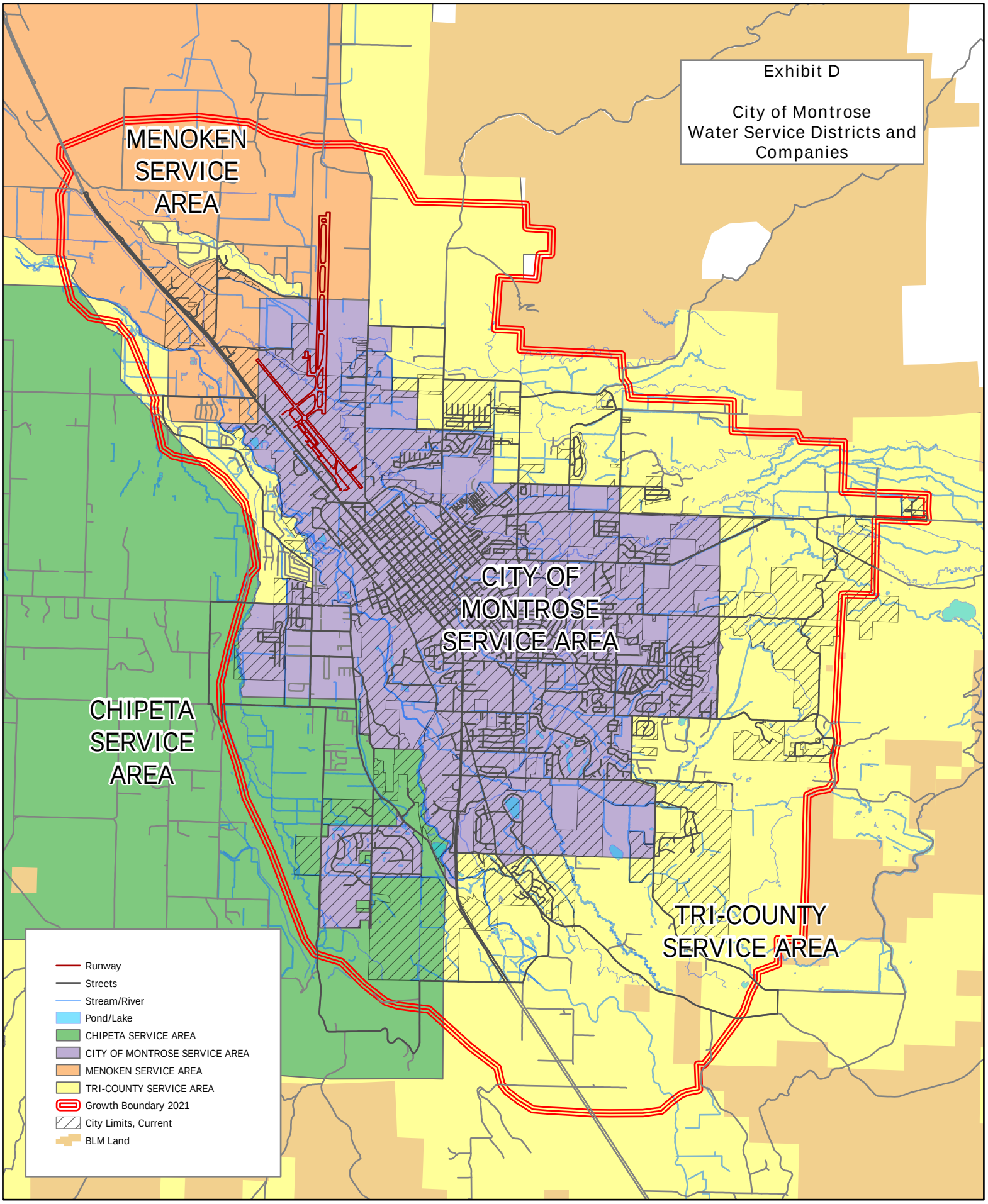

Exhibit D City of Montrose Water Districts and Water Companies

Scale: 1:75,000

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TRANSPORTATION

Proposed Roadway Network and Classification

MAP 6.1

Exhibit **E**

City of Montrose
Proposed Roadway and
Network Classification

k Due to topography, precise alignment of this arterial route will be determined upon development of the area. It is expected that deviations to this route, some of which may be significant, will be made.

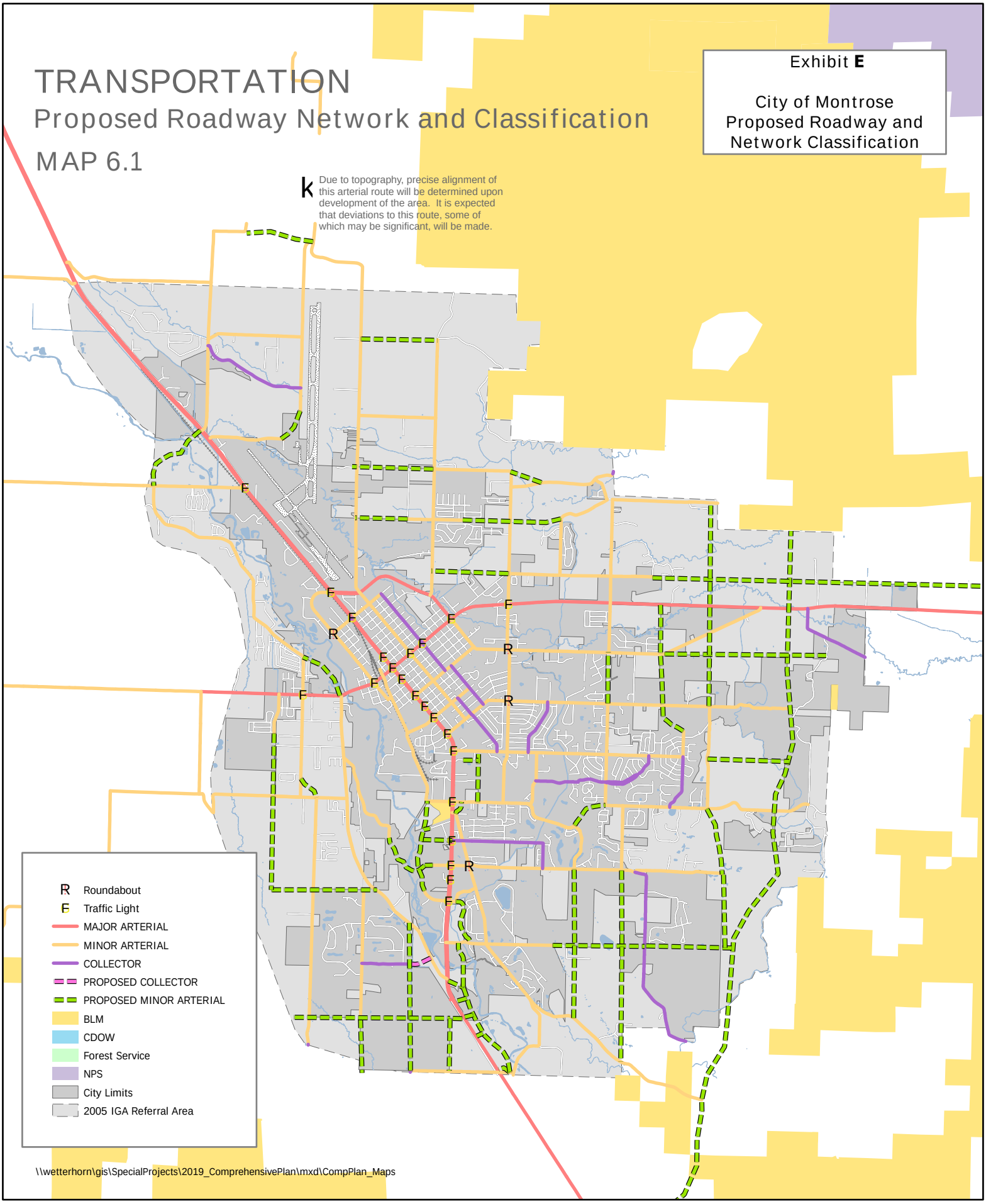

Exhibit E City of Montrose Proposed Roadway and Network Classification

Scale: 1:75,000

Miles
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PARKS MASTER PLAN

MAP **8**.1

Exhibit F

City of Montrose
Parks Master Plan

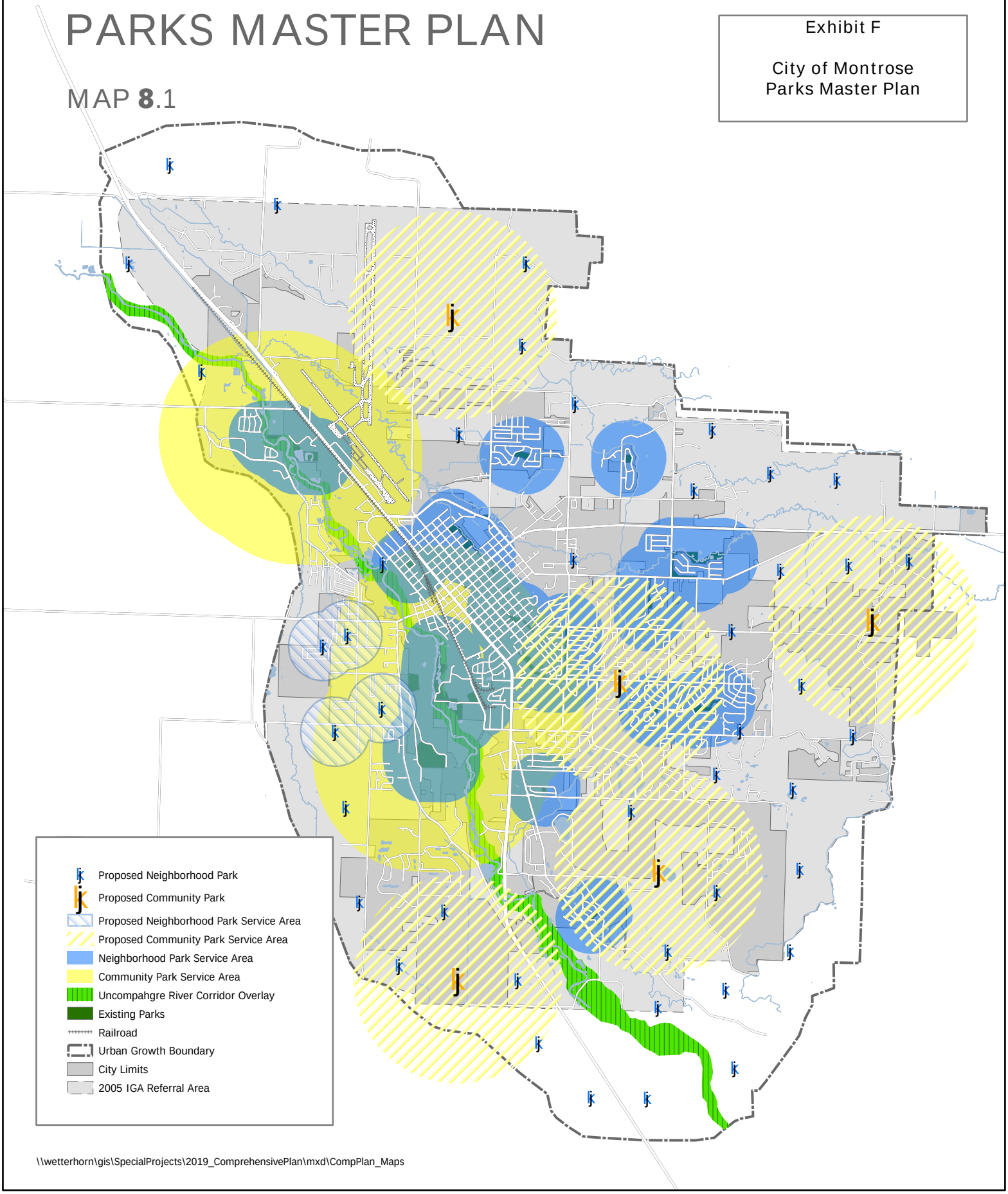

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Exhibit F City of Montrose Parks

Scale: 1:75,000

Miles
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RECREATION TRAIL ALIGNMENTS

MAP **8.2**

Exhibit **G**

City of Montrose
Recreation Trail Alignments

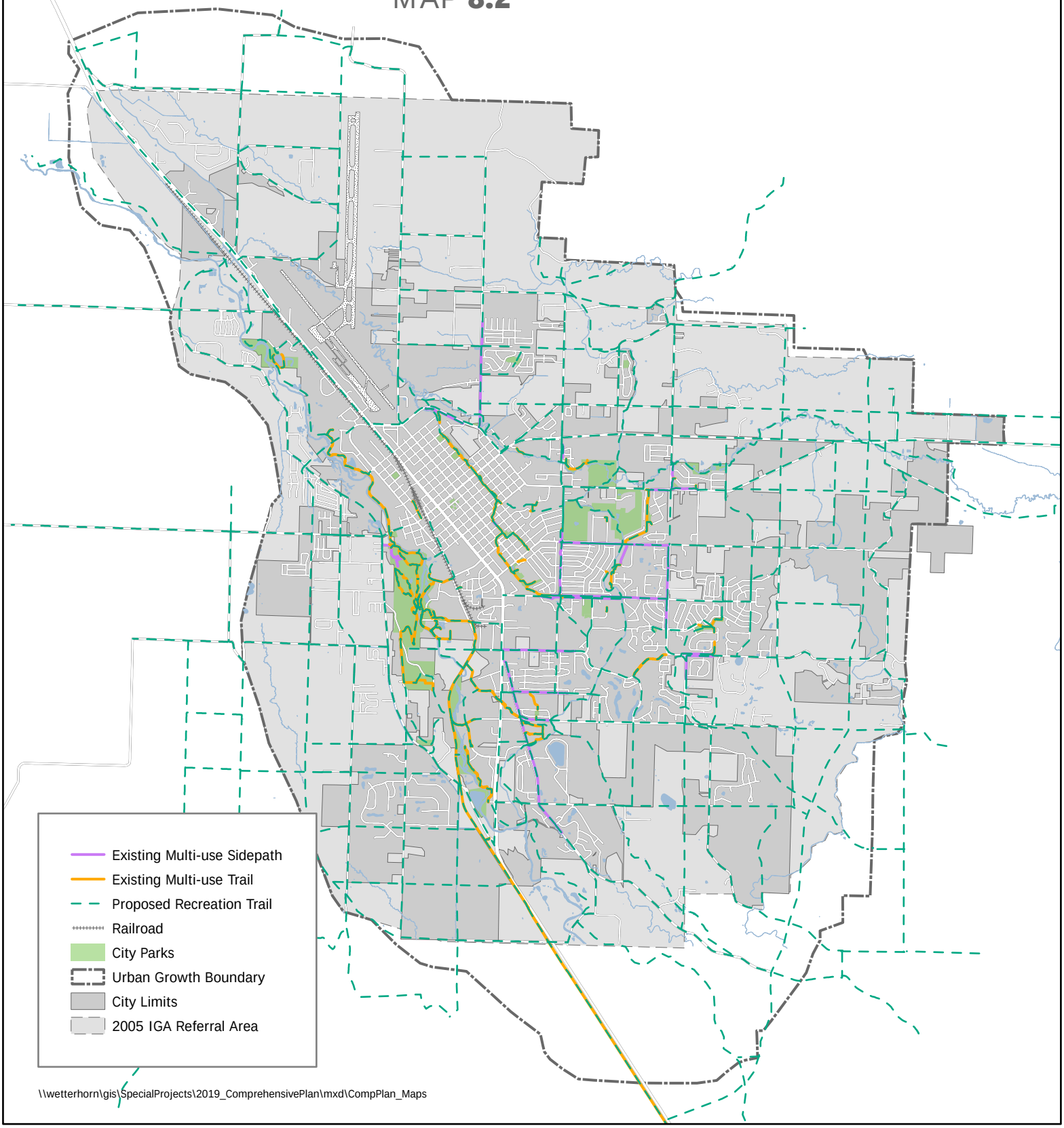

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Exhibit **G** Recreation Trail Alignments

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CITY OF MONTROSE
Planning Services

MEMO

TO: City Council
FROM: Amy Sharp, Senior Planner
DATE: January 3, 2022
RE: 21-0110 Mier Addition
ATTACHMENTS:

- Exhibit A: Maps
- Exhibit B: Zoning Code Excerpt

City Council Consideration:
City Council is considering this annexation application and the associated zoning, which is done by considering approval of an annexation ordinance and a zoning ordinance at a first and second reading. Council will consider all of the information in this memo in making a decision.

Proposed schedule:

January 3:	Council Work Session Overview
January 18:	Council Resolution to set a hearing date
February 9:	Planning Commission zoning hearing
February 16:	Annexation Impact Report filing deadline to Montrose County
March 1:	City Council Annexation hearing, 1st reading of annexation ordinance, and 1st reading of zoning ordinance
March 15:	2nd reading of annexation and zoning ordinances

Application Background:
The Mier Addition is a proposed annexation approximately 14.67 acres in size. The parcel is located east of 6530 Road, west of 6600 Road, and north of Locust Road. It is within the City's Urban Growth Boundary, Tri-County Water Service Area, and the City of Montrose Sewer Service Area. Annexation of this property will allow for future housing development. An Annexation Agreement will be required.

Proposed Zoning: “R-4” High Density District

Applicant: Calvin and Helen Mier

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, 4-4-29(B), Zoning of Additions. “The Planning Commission shall recommend to the Council a zoning district designation for all property annexed to the City not previously subject to City zoning, and shall follow the review procedure set out in Section 4-4-31 in arriving at its recommendation. Proceedings concerning the zoning of property to be annexed may be commenced at any time prior to the effective date of the annexation ordinance or thereafter. *The zoning designation for newly annexed property shall not adversely affect the public health, safety and welfare* (emphasis added).”
    b. Municipal Code, Section 4-4-8(A) Intent: The "R-4" High Density District is intended to provide for high density multiple-family residences and to allow variable densities. This allows variety in the types of residences.
    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-4” High Density District, “R-2” Low Density District, and agricultural (outside City limits).
4. The Comprehensive Plan Future Land Use Map designates the area of the Mier Addition as ***Residential Mixed Density Medium***. This district provides for a variety of residential types, mixed within a neighborhood, including single-family homes, townhomes, duplexes, triplexes, and multi-family housing. 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 consists of some level of infrastructure or moderate proximity to existing infrastructure (existing streets, utilities and public services).
6. The “R-4” zoning does not appear to be adverse to the public health, safety and welfare.

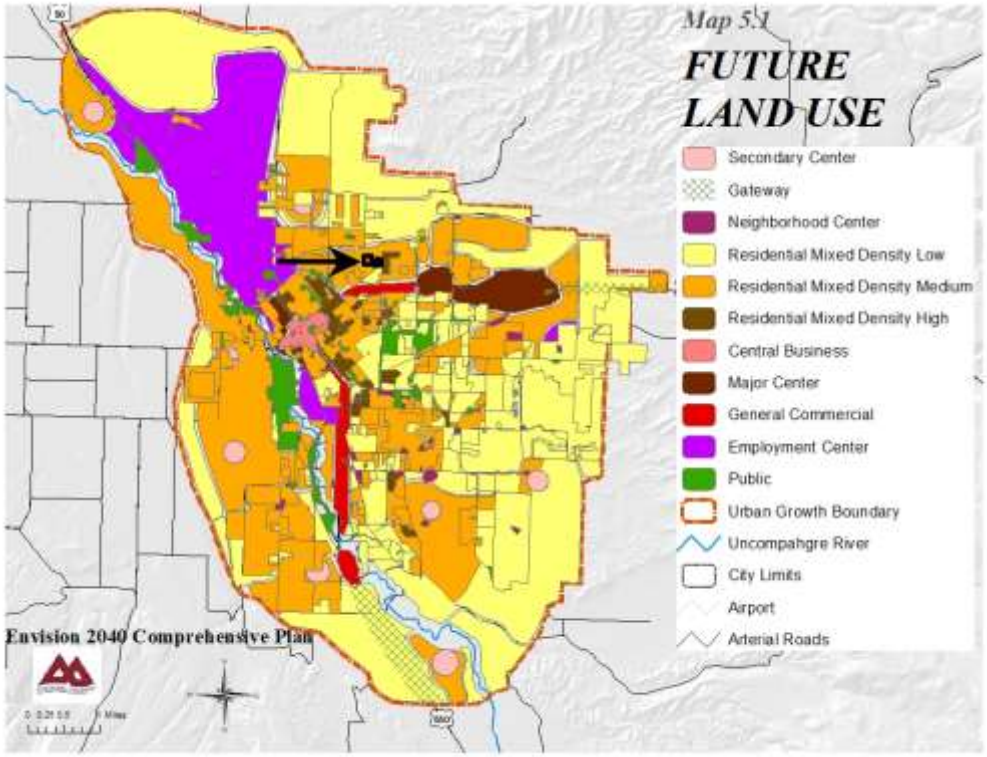
Staff Recommendation:

Staff recommends approval of the annexation and “R-4” High Density District.

EXHIBIT A: Maps

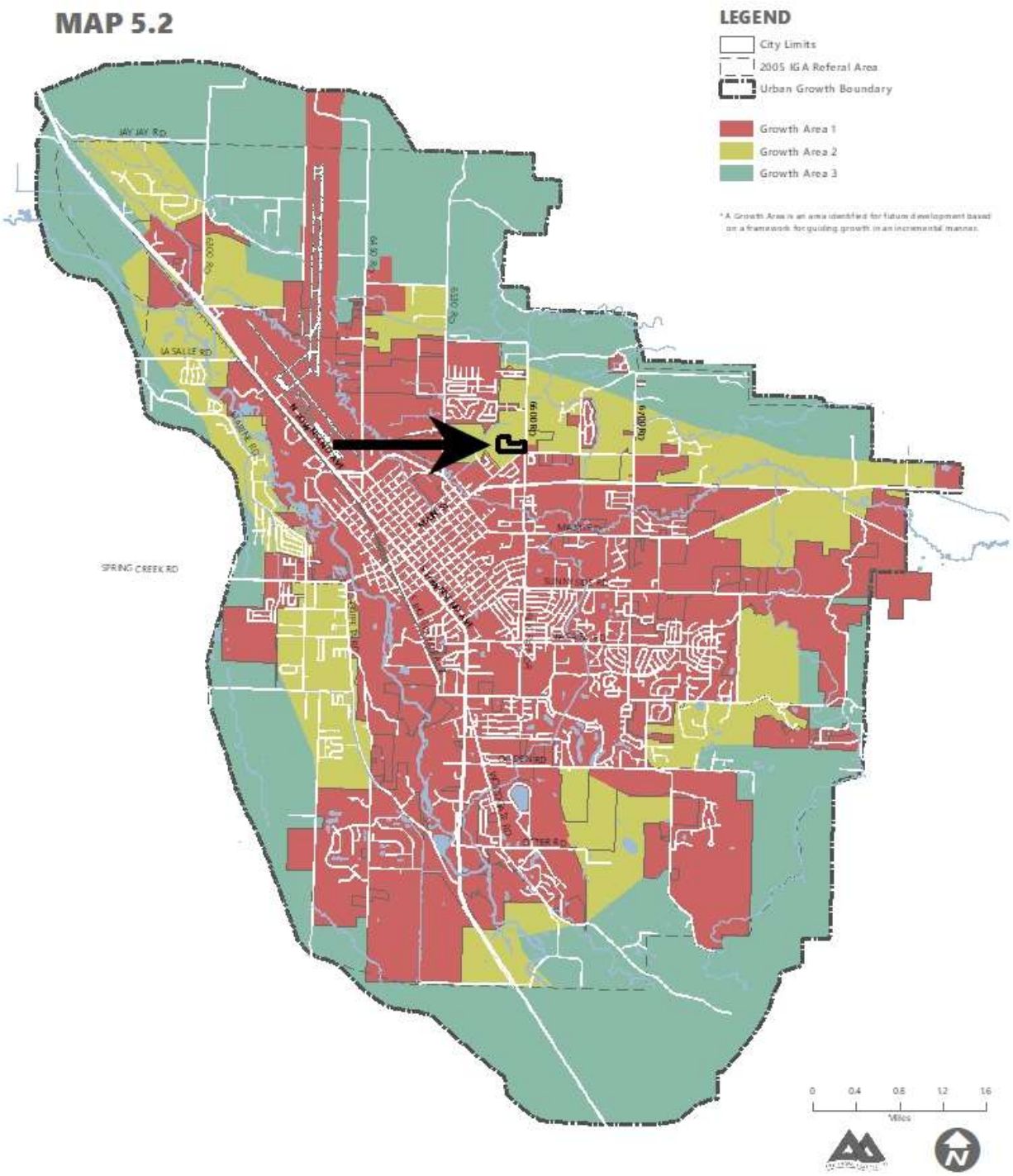
Vicinity Map

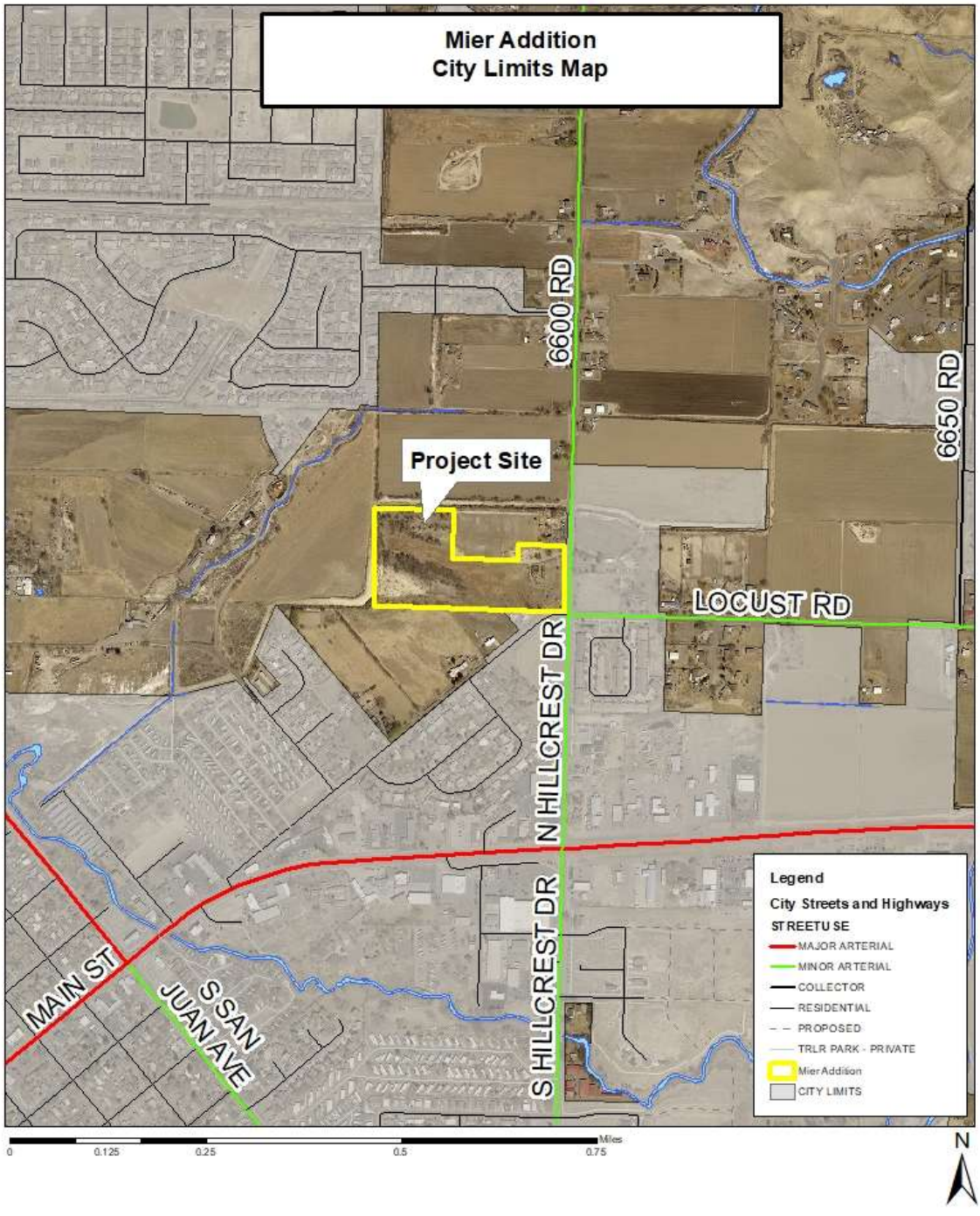
Comprehensive Plan Future Land Use Map



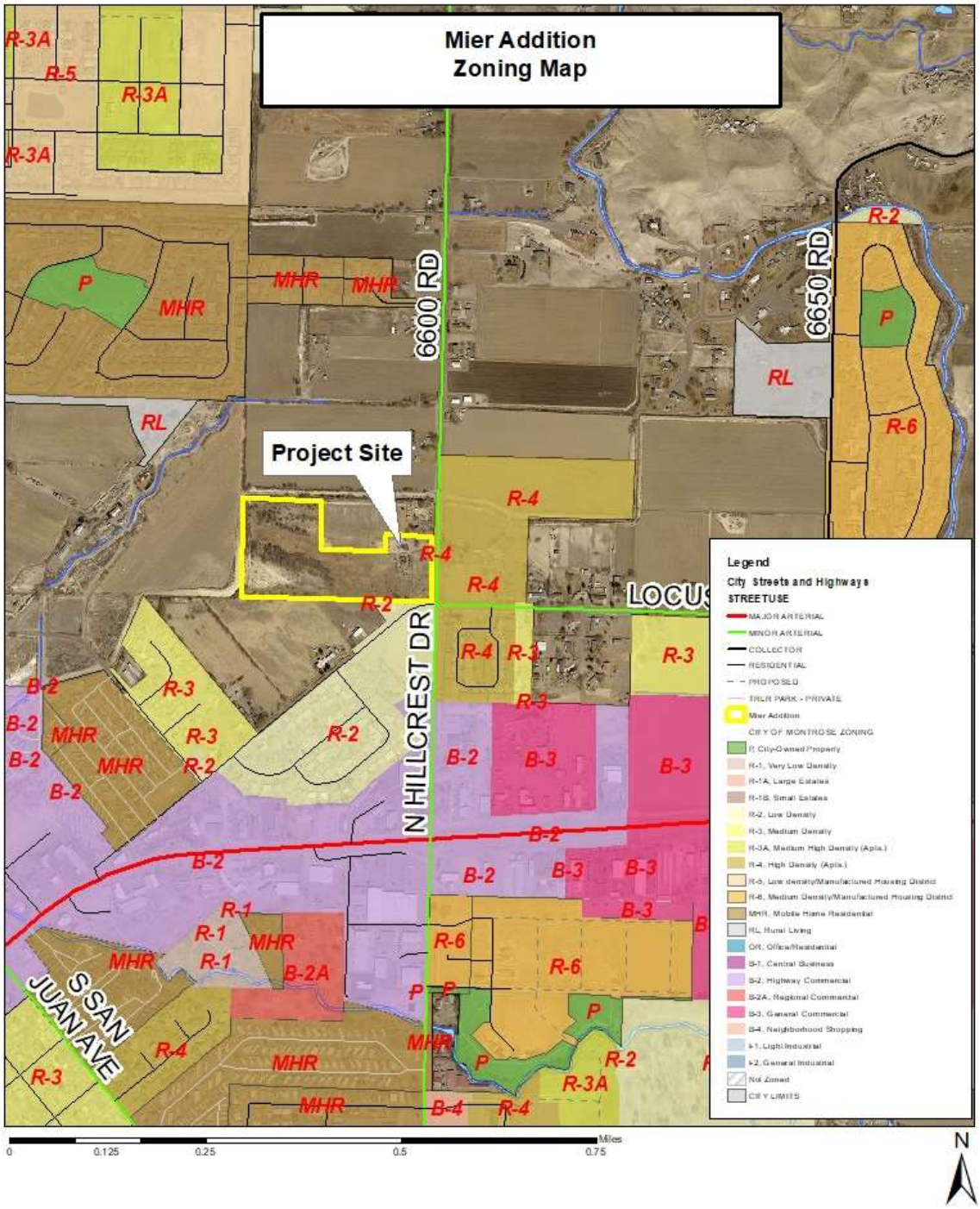
GROWTH AREAS*

MAP 5.2





Map created 11/29/2021

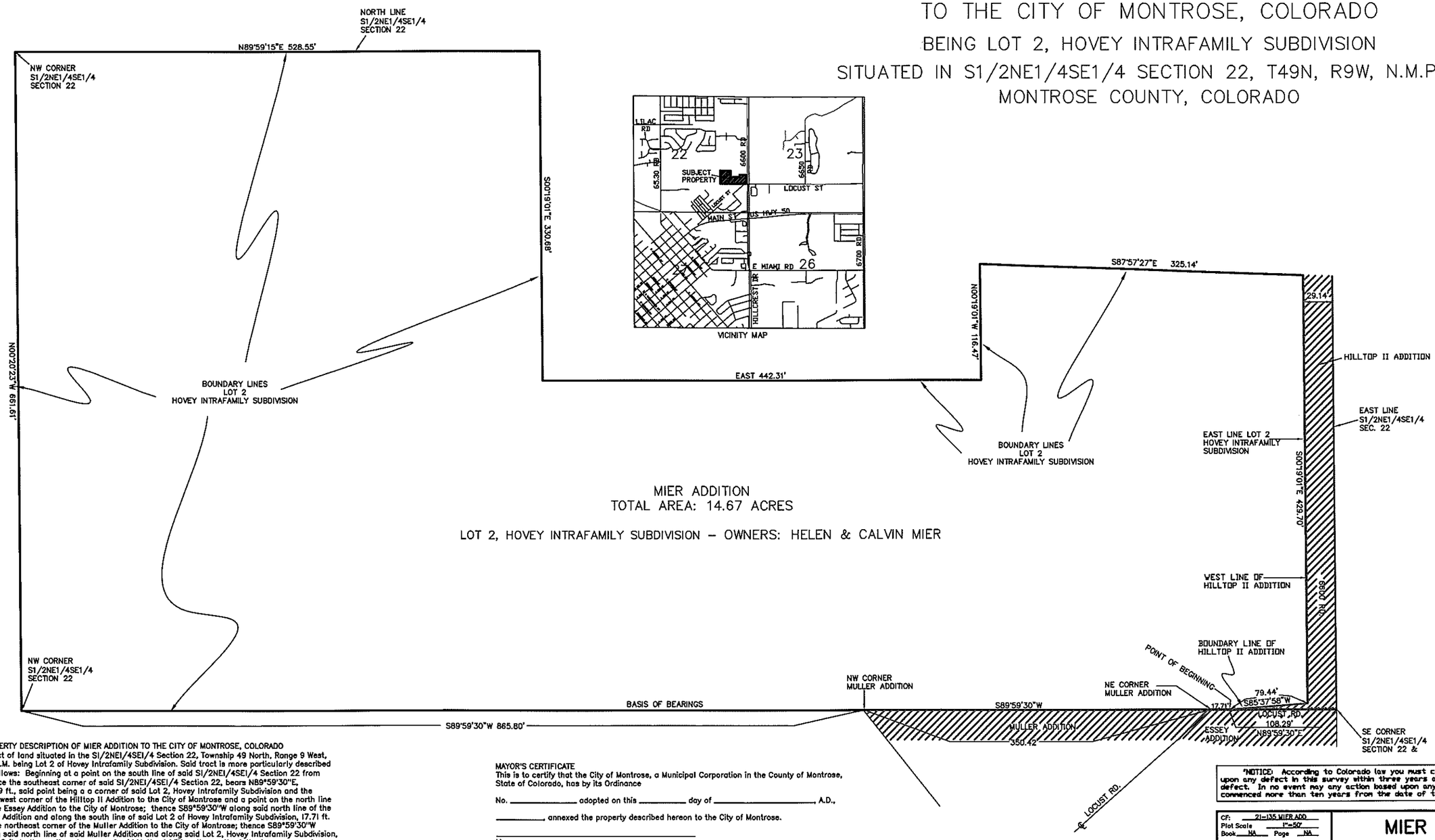


Map created 11/29/2021

MIER ADDITION

TO THE CITY OF MONTROSE, COLORADO

BEING LOT 2, HOVEY INTRAFAMILY SUBDIVISION
SITUATED IN S1/2NE1/4SE1/4 SECTION 22, T49N, R9W, N.M.P.M.
MONTROSE COUNTY, COLORADO



MIER ADDITION
TOTAL AREA: 14.67 ACRES

LOT 2, HOVEY INTRAFAMILY SUBDIVISION – OWNERS: HELEN & CALVIN MIER

PROPERTY DESCRIPTION OF MIER ADDITION TO THE CITY OF MONTROSE, COLORADO
A tract of land situated in the S1/2NE1/4SE1/4 Section 22, Township 49 North, Range 9 West, N.M.P.M. being Lot 2 of Hovey Intrafamily Subdivision. Said tract is more particularly described as follows: Beginning at a point on the south line of said S1/2NE1/4SE1/4 Section 22 from whence the southeast corner of said S1/2NE1/4SE1/4 Section 22, bears N89°59'30"E, 108.29 ft., said point being a a corner of said Lot 2, Hovey Intrafamily Subdivision and the southwest corner of the Hilltop II Addition to the City of Montrose and a point on the north line of the Essey Addition to the City of Montrose; thence S89°59'30"W along said north line of the Essey Addition and along the south line of said Lot 2 of Hovey Intrafamily Subdivision, 17.71 ft. to the northeast corner of the Muller Addition to the City of Montrose; thence S89°59'30"W along said north line of said Muller Addition and along said Lot 2, Hovey Intrafamily Subdivision, 350.42 ft. to the northwest corner of said Muller Addition; thence the following courses along the boundary line of said Lot 2, Hovey Intrafamily Subdivision: S89°59'30"W, 865.80 ft.; N00°20'23"W, 661.61 ft.; N89°59'15"E, 528.55 ft.; S00°19'01"E, 330.68 ft.; East, 442.31 ft.; N00°19'01"W, 116.47 ft.; S87°57'27"E, 324.28 ft. to a point on the west line of the Hilltop II Addition to the City of Montrose; thence S00°19'01"E along said west line, also being the east line of said Lot 2, Hovey Intrafamily Subdivision 429.70 ft.; thence S85°37'58"W along a boundary line of said Hilltop II Addition, also being a boundary line of said Lot 2, Hovey Intrafamily Subdivision, 79.44 ft. to the point of beginning, containing 14.67 acres.

SURVEYOR'S CERTIFICATE
I, William D. Wiley, a Registered Land Surveyor in the State of Colorado, do hereby state the accompanying Annexation Map of MIER ADDITION to the City of Montrose, Colorado has been prepared under my direction and supervision, that it does not constitute a boundary survey and is only a compilation of existing records for the purpose of annexation.

_____ _____
William D. Wiley — Date
Colorado Registered Land Surveyor
#12180

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 this _____ day of _____, A.D.,

_____, annexed the property described hereon to the City of Montrose.

_____
Mayor

ATTEST:

_____
City Clerk

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 _____, 20____,

Reception No. _____.

_____
Montrose County Clerk & Recorder

_____
Deputy

CITY LIMITS

CONTIGUOUS CITY LIMITS: 877.27 SQ. FT.
TOTAL PERIMETER: 4,130.12 SQ. FT
ACRES ANNEXED: 14.67 ACRES

"NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three 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 years from the date of the certification shown hereon."

CF: 21-135 MIER ADD
Plot Scale 1"=50'
Book NA Page NA
BLW
DATE 9/8/2021
REVISIONS:
10/7/21 CITY REVISIONS

MIER ADDITION
TO THE CITY OF MONTROSE, COLORADO

BEING LOT 2, HOVEY INTRAFAMILY SUBDIVISION
SITUATED IN
S1/2NE1/4SE1/4 SECTION 22, T49N, R9W, N.M.P.M.
MONTROSE COUNTY, COLORADO

FOR: HELEN AND CALVIN MIER

MESA SURVEYING ASSOCIATES INC.
P.O. Box 1287 Montrose, CO 81402
(970)-240-9994

Sheet 1 of 1 File No. 21-135

EXHIBIT B: Zoning Code Excerpt

Sec. 4-4-8. "R-4" High Density District.

(A) *Intent.* The "R-4" High Density District is intended to provide for high density multiple-family residences and to allow variable densities. This allows variety in the types of residences.

(B) *Uses by Right.*

(1) Single-family homes, duplexes, and multiple-family residences.

(2) Public utility service facilities.

(3) Government buildings and facilities.

(4) Parks and recreation facilities owned or operated by a homeowner association.

(5) Places of worship.

(6) Accessory uses.

(i) Bed and breakfast operations operated solely by the residents of a residence providing no more than four bedrooms for rent in the dwelling unit, and the only meal provided on the premises shall be breakfast to the renters. The lot shall be at least 6,250 square feet and at least 3,125 square feet per rental bedroom.

(ii) Childcare facilities. A childcare facility shall be considered an accessory use to a residence in all districts, provided no more than eight children under 13 years of age are present on the premises at any one time, including children of the family living in the residence; a childcare facility shall not be considered an accessory use to a residence when a greater number of children is present on the premises at any one time. The facility must comply with all appropriate State Statutes and regulations.

(7) Short-term rentals.

(C) *Conditional Uses.*

(1) Skilled nursing and assisted living facilities.

(2) Childcare facilities. A childcare facility shall be a conditional use in all districts if more than eight but less than 16 children under 13 years of age are present on the premises at any one time, including children of the family living in the residence, in accordance with State Statutes and regulations.

(3) Schools.

(Ord. No. 2472 , § 4-4-8, 5-7-2019)

CONTRACT AWARD CONSIDERATION

TO: Honorable Mayor and Members of the City Council
FROM: Scott Murphy, *City Engineer*
DATE: December 17, 2021
RE: Southeast Water Transmission Main Contract Award
CC: William Bell, Shani Wittenberg

Action

Consider the approval of $3,270,668.26 in expenditures for construction of the Southeast Water Transmission Main Construction Project. This includes the award of a construction contract to Williams Construction in the amount of $3,228,068.26 and a construction stakeout contract to Del-Mont Consultants in the amount of $42,600.00.

Background

The City of Montrose water master plan calls for the installation of a 24 inch diameter transmission line starting at the connection point with Project 7 at Highway 50 near Miami Road and ultimately running to the Sunshine Road Water Tank. In line with this plan, the City has upsized approximately 1.2 miles of existing lines over the past several years coming down Miami Road and turning south to Sunnyside Road along the 6800 alignment. This project will continue these efforts by installing a new 1.8 mile line from the intersection of 6800 and Sunnyside Roads south to the intersection of East Oak Grove and 6700 Roads. The new line will run along open fields, rights of way, open space areas, and through the middle of Fox Park as shown in Figure 1. The transmission main is a dedicated fill line for the tanks and, as a result, will generally run independent of the existing water distribution system. The line is needed in order to keep up within growing water demands.

Project Bidding and Contract Award

Construction of the project was put out for bid on November 15th and bids were publically received on December 14, 2021. Bids were received from four contractors as summarized in Table 1 below. Bid totals presented in this table include a 10% contingency.

TABLE 1
Summary of Bid Results

Contractor	Location	Bid Total
Williams Construction	Norwood, CO	$3,228,068.26
Telluride Gravel/United	Montrose, CO	$3,251,682.50
Ridgway Valley Enterprises	Montrose, CO	$3,694,075.00
Blackeagle Energy Services	Berthoud, CO	$4,499,882.10

The City has recent positive experience working with the low bidder, Williams Construction, on numerous capital projects to include the Airport Trunk Sewer, Sunnyside/Mesa Sewer, and South Hillcrest Extension Project and they are considered qualified to perform the work. As a result, it is recommended that the construction contract be awarded to Williams Construction. It should be noted that the City's local preference policy would not change the outcome of bidding in this case.

The design for this project was performed in house by the City's engineering department. Typically on in-house designs, the City will perform all survey stakeout for the project. However, the scale of this project is large enough that the City does not have available resources to perform the stakeout in house. As a result, we are also recommending the award of a construction stakeout contract to Del-Mont Consultants in the amount of $42,600.00 to support this project. Del-Mont was responsible for the project's vertical design within the Hill Street Extension Project (separate project being constructed concurrently) so they have some of the model built and survey control established for the water project. This work would be performed on an as-needed, time-and-materials basis based on a proposal provided by the consultant.

Schedule and Traffic Control

The construction project is scheduled to begin in late January and extend through the spring of 2023 with a summer shutdown in 2022. Utility work of this nature is generally best performed in winter months when groundwater levels are lower. In this instance, the contract is also setup such that work cannot take place within Fox Park during the summer when park use is highest.

As shown on Figure 1, portions of the project will be taking place within Hill Street and Niagara Roads. Closures of these roadways will be necessary during active construction in these areas. Detours will be established and access will be maintained to all residences during these closures. When working within Fox Park, an allowable 30 foot wide work corridor will be fenced off along the new pipeline and the remainder of the park (including the playground) will remain open. All disturbed areas will be restored to a condition as good as or better than that present prior to construction.

Contract Administration and Project Financials

Contract administration and project management will be performed by the City of Montrose engineering department.

The 2022 water-fund budget included $3M for construction of this project in anticipation that the project would span multiple budget years. Any unexpended balance on the project would be proposed for the 2023 budget.

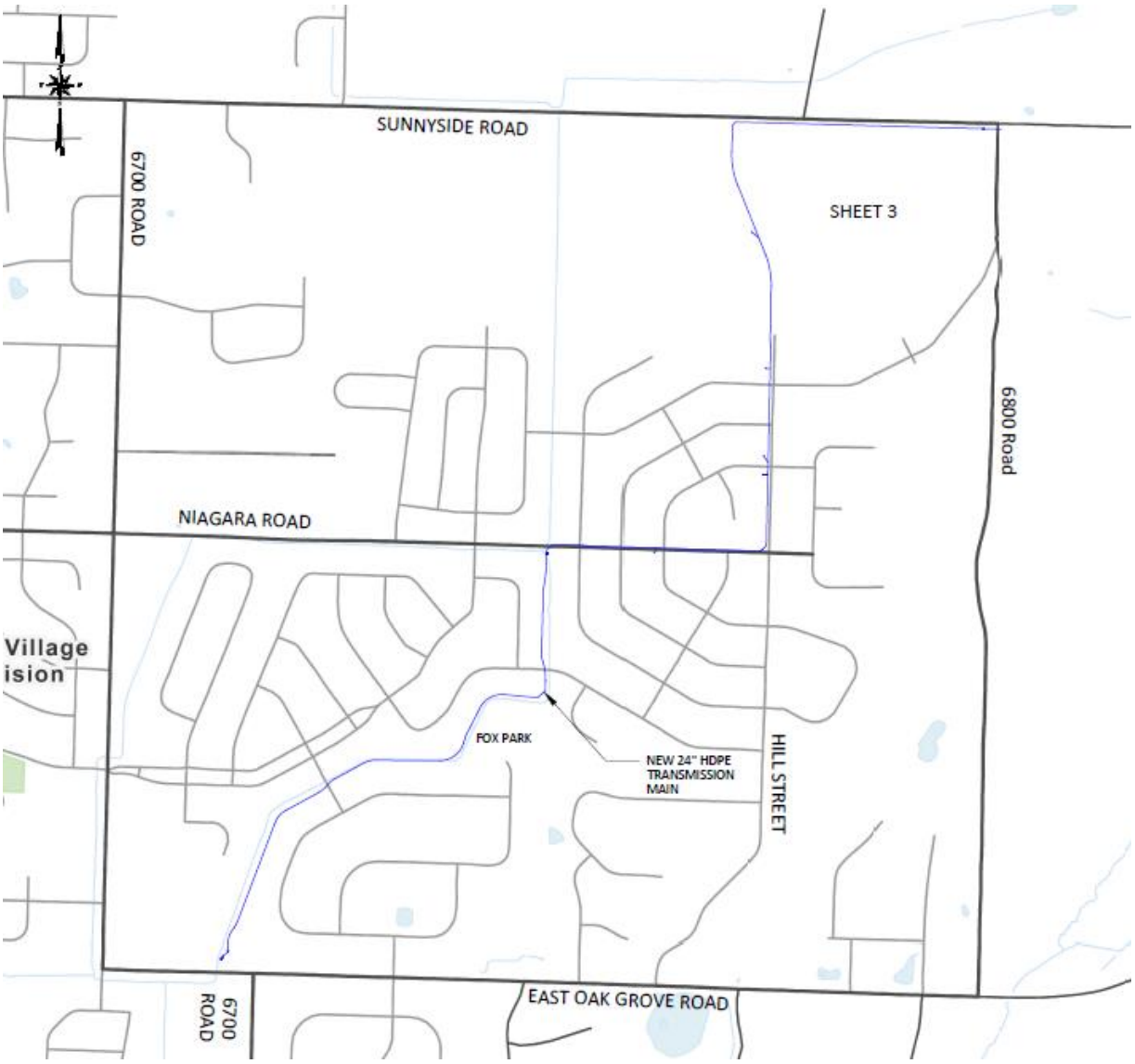


Figure 1: SE Transmission Main Alignment Overview

CONTRACT AWARD CONSIDERATION

TO: Honorable Mayor and Members of the City Council
FROM: Scott Murphy, *City Engineer*
DATE: December 17, 2021
RE: Hill Street Extension Contract Award
CC: William Bell, Shani Wittenberg

Action

Consider the approval of $1,053,379.67 in expenditures for construction of the Hill Street Extension Project. This includes the award of a construction contract to Oldcastle SW Group in the amount of $1,028,279.67 and a construction stakeout contract to Del-Mont Consultants in the amount of $25,100.00.

Background

The City of Montrose comprehensive plan calls for the eventual extension of Hill Street as a minor arterial from where it currently ends up to Miami Road. The project proposed by this contract will implement the first phase of this extension (approximately 1,400 LF) up to Sunnyside Road as shown in the attached excerpt from the comprehensive plan. The road extension is taking place concurrent with development of the adjacent Woods Crossing Subdivision currently under construction on either side of the roadway extension.

Project Bidding and Contract Award

Construction of the project was put out for bid on November 15th and bids were publically received on December 17, 2021. Bids were received from five contractors as summarized in Table 1 below. Bid totals presented in this table include a 10% contingency.

TABLE 1
Summary of Bid Results

Contractor	Location	Bid Total
Oldcastle SW Group	Montrose, CO	$1,028,279.67
Skip Huston Construction	Montrose, CO	$1,072,139.00
Williams Construction	Norwood, CO	$1,119,370.36
Kuboske Construction	Montrose, CO	$1,208,266.40
Rundle Construction	Hotchkiss, CO	$1,306,344.47

The City has recent positive experience working with the low bidder, Oldcastle SW Group, and considers them qualified to perform the work. As a result, it is recommended that the construction contract be awarded to Oldcastle SW Group. It should be noted that the City's local preference policy would not change the outcome of bidding in this case.

In addition to the award of a construction contract, we are also recommending the award of construction stakeout contract to the project designer, Del-Mont Consultants. This scope of work is budgeted at $25,100 on an as-needed, time-and-materials basis based on a proposal provided by the consultant.

Schedule and Traffic Control

The construction project is scheduled to begin in March of 2022 after the SE Water Transmission Main project is completed through the project area. The road extension is scheduled to open in summer 2022.

Because the project is building a new road through an open field, no major impacts to motorists are expected.

Contract Administration and Project Financials

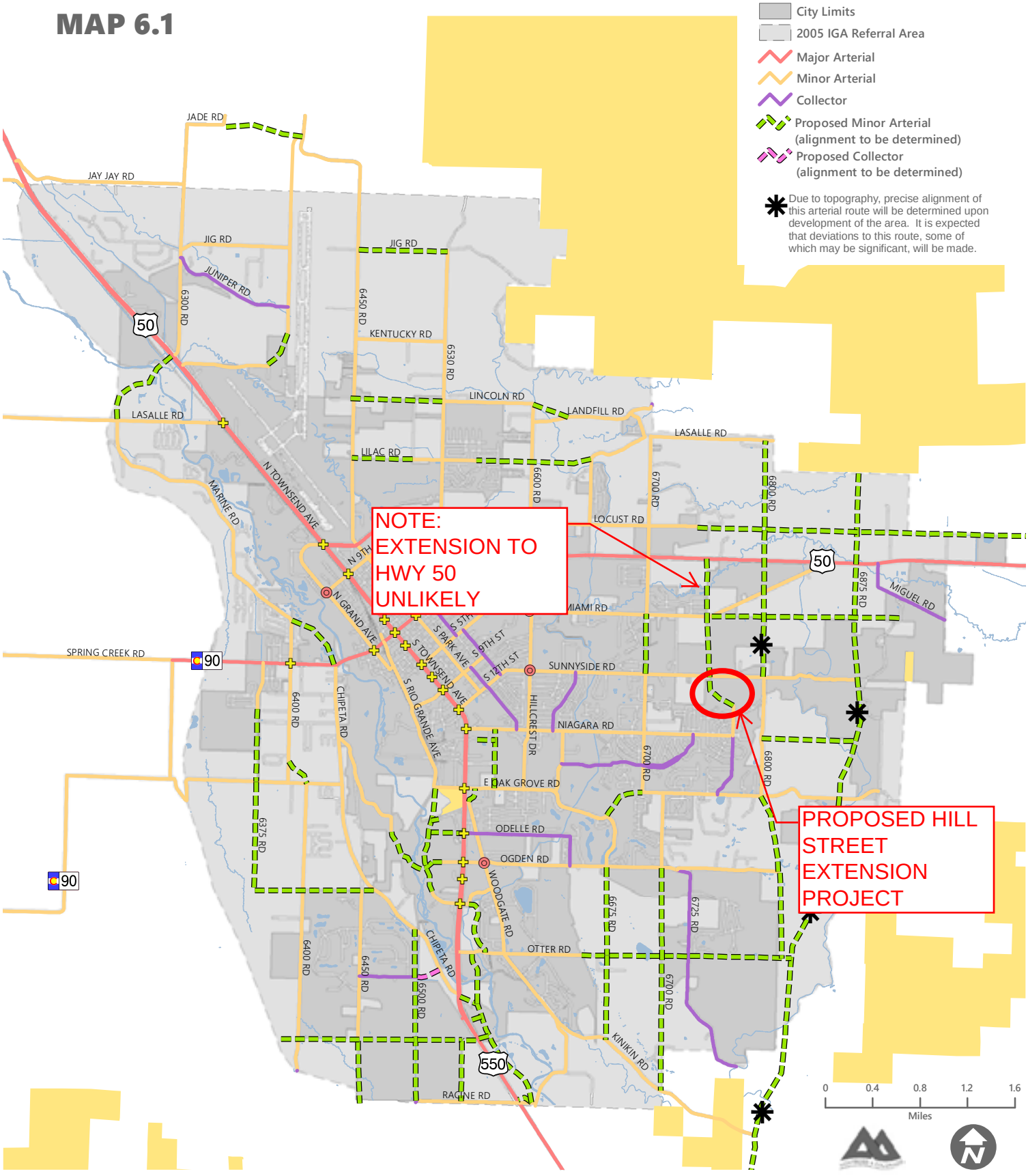
Contract administration and project management will be performed by the City of Montrose engineering department.

The 2022 capital fund budget included $1.2M for construction of this project. This places these expenditures approximately $147k under budget.

TRANSPORTATION

Proposed Roadway Network and Classification

MAP 6.1



CHANGE ORDER CONSIDERATION

TO: Honorable Mayor and Members of the City Council
FROM: Scott Murphy, *City Engineer*
DATE: December 28, 2021
RE: Cerise Park Waterline Bore Change Order No. 1
CC: William Bell, Shani Wittenberg

Action

Consider the award of a change order in the amount of $30,000.00 to Ridgway Valley Enterprises on the Cerise Park Waterline Bore contract to compensate for out-of-scope work elements and unanticipated soil conditions.

Background

The City of Montrose utility department has been working over the past two years to construct a waterline connection from the intersection of Shanes Way/Chipeta Drive, through Cerise Park, across the Uncompahgre River, and connecting to an existing water main in Riverbottom Park. This line provides an additional redundant connection point across the Uncompahgre River (currently the City's water system only has three river crossings) and also provides water service to the new amphitheater. The City's in-house utility crews have completed all reaches of the waterline within Cerise Park and up to the Uncompahgre River.

The final reach of this project was the construction of a bore beneath the Uncompahgre River to connect with an existing water line on Apollo Drive. This project was bid and awarded last summer to Ridgway Valley Enterprises with a low bid of $211,200. The remaining three bids on the project ranged from $485k to $656k. An overview of the bore profile is included as an attachment to this memo.

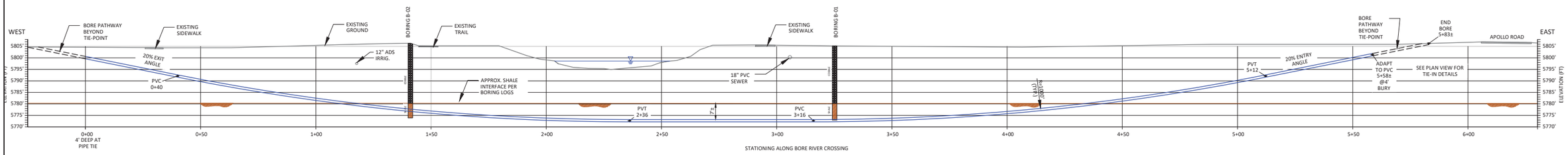
Throughout completion of the bore project, the following out-of-scope work elements and unanticipated conditions were experienced by the construction team:

- As is typical of old waterlines of their era, the existing tie-in waterline on Apollo Road was difficult to locate and required several days of exploratory vacuum excavation. The line ultimately could not be found and will require some follow up work by City of Montrose crews to find and ultimately tie into this project.
- Because the line could not be tied into immediately, the eastern end of the project had to be reconfigured to add an additional fire hydrant and the boring entry point shifted west into areas with higher impact.
- Soil conditions were less favorable than anticipated for drilling operations. This included harder-than-expected bedrock, larger-than-expected boulder materials, and rubble fill in select locations. In total, time spent drilling (drill rig plus crew of at least 3 operators) was approximately double what would be expected for this application.
- With only 40 feet left to go on the final bore pull-back, the cutting head on the directional drill became lodged on a large boulder damaging the equipment and requiring that the area be excavated to free and recover the head. This setback took several days to remedy and resulted in the need to restore additional turf areas within Riverbottom Park.

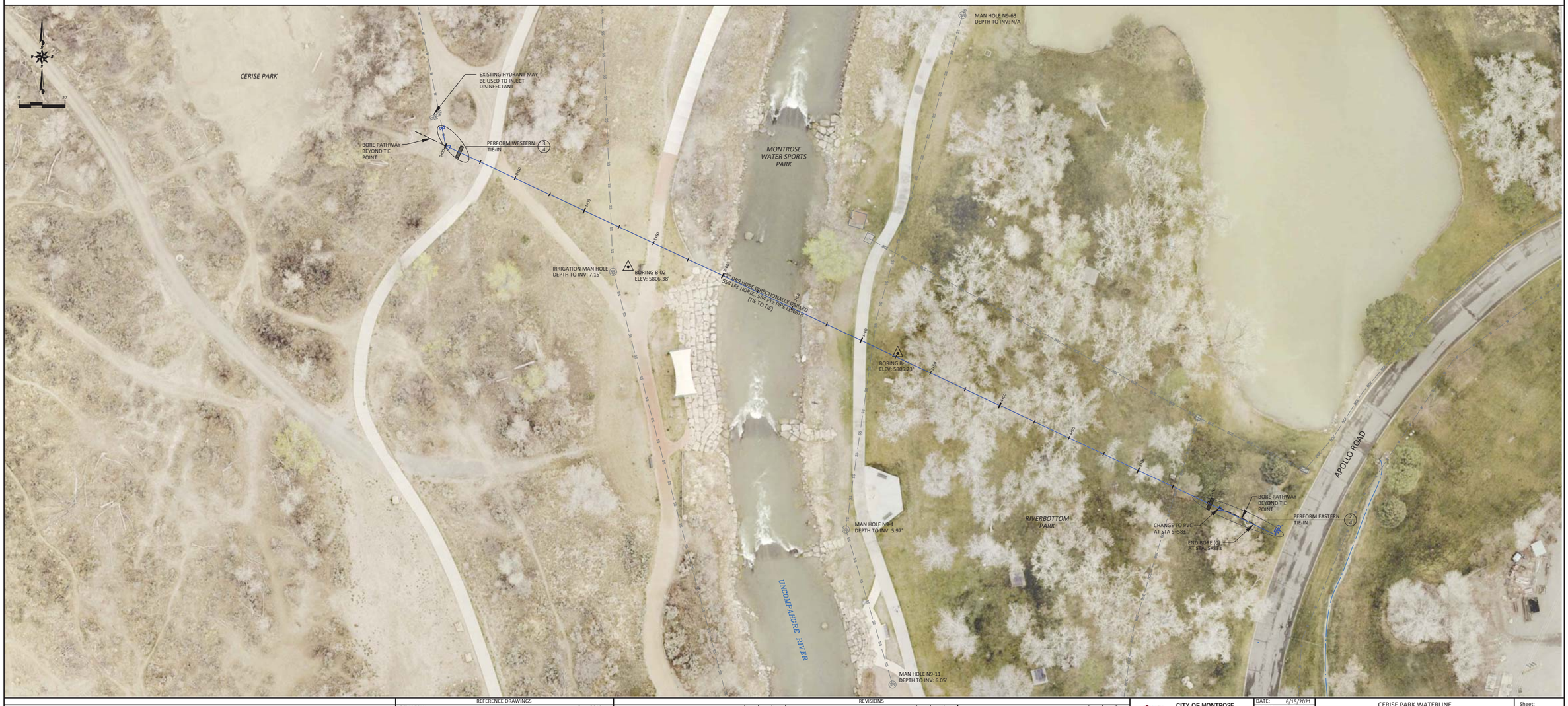
The construction team is requesting an additional $49,200 to cover these unanticipated costs. The City considers these costs reasonable when compared to typical labor and equipment rates for the incremental time spent on the project. The original project contract included a 10% contingency of $19,200, resulting in a net change order of $30,000 to the contract.

Project Financials

As was done for the original project contract, this change order would be funded through the water capital fund as a 2021 expenditure. Savings on other water capital projects have resulted in a 2021 budget surplus within this fund well in excess of the $30,000 requested.



RIVER CROSSING BORE PROFILE



REFERENCE DRAWINGS	
CITY AERIAL	2019

REVISIONS			
A ISSUED FOR BID	6/15/2021	SAM	
0 ISSUED FOR CONSTRUCTION	11/3/2021	SAM	

CITY OF MONTROSE
ENGINEERING DEPARTMENT
1221 E. 6 SO. RD.
MONTROSE, CO 81401
PH: 240-1480 FAX: 252-4780
WWW.CITYOFMONTROSE.ORG

DATE:	6/15/2021
JOB NO:	20.21.1
DRAWN:	JLS
DESIGN:	JLS
CHECKED:	SAM
SCALE:	NTS

CERISE PARK WATERLINE
RIVER BORE
MONTROSE, COLORADO
BORE PLAN AND PROFILE

Sheet: 3 Of: 4

-DOCUMENT PROVIDES CONTRACT LANGUAGE
-FINAL VERSION TO BE EXECUTED ELECTRONICALLY THROUGH STATE CONTRACTING SOFTWARE
- ACTION WILL BE ON RESOLUTION INCLUDED AS EXHIBIT B

OLA #: 331002671
Routing #: 22-HA3-XC-00253

State $LAWRK
PROJECT: C M910-010 (24828),
Montrose West Main Complete Streets Project

REGION: 3
TCH

CONTRACT

THIS CONTRACT made this ___ day of _____ 20___, by and between the State of Colorado for the use and benefit of the Colorado Department of Transportation hereinafter referred to as the State and CITY OF MONTROSE hereinafter referred to as the "Contractor" or the "Local Agency."

RECITALS

Note: Funds to be encumbered with each phase (design and construction) of the project through individual option letters

1. Authority exists in the law and funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for payment of project and Local Agency costs. Contract Encumbrance Amount: $0.00.
2. Required approval, clearance and coordination have been accomplished from and with appropriate agencies.
3. Pursuant to 43-2-104.5 C.R.S. as amended, the State may contract with Local Agencies to provide maintenance and construction of highways that are part of the state (or local agency) highway system.
4. Local Agency anticipates a project for West Main Complete Streets and by the date of execution of this contract, the Local Agency and/or the State has completed and submitted a preliminary version of CDOT form #463 describing the general nature of the Work. The Local Agency understands that before the Work begins, the Local Agency must receive an official written "Notice to Proceed" prior to commencing any part of the Work. The Local Agency further understands, before the Work begins, the form #463 may be revised as a result of design changes made by CDOT, in coordination with the Local Agency, in its internal review process. The Local Agency desires to perform the Work described in form #463, as it may be revised.
5. The Local Agency has requested that State funds be made available for project C M910-010 (24828), West Main Complete Streets Project referred to as the "Project" or the "Work." Such Work will be performed in Montrose, Colorado, specifically described in **Exhibit A**.
6. The State has funds available and desires to provide 80.00% of the funding for the work. Local Agency will provide the other 20.00%. State funds **may** be awarded pursuant to Multimodal Transportation Options Funding ("MMOF"), as applicable. MMOF means money transferred from the general fund to the fund pursuant to C.R.S. §§24-75-219 (5)(a)(III) and (5)(b)(III) and any other money that the general assembly may appropriate or transfer to the fund. These funds are subject to an expiration date. Currently, the expiration date for MMOF is June 30, 2023. If the funds are extended the State will notify the Local Agency of the new expiration date.
7. The Local Agency desires to comply with all state and other applicable requirements, including the State's general administration of the project through this contract, in order to obtain state funds for the project.
8. The Local Agency has estimated the total cost of the work and is prepared to accept the state funding for the work, as may be evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this contract and to complete the work under the project. A copy of any such ordinance or resolution is attached hereto and incorporated herein as **Exhibit B**.
9. This contract is executed under the authority of §§ 29-1-203, 43-1-110; 43-1-116, 43-2-101(4)(c) and 43-2-144, C.R.S. and **Exhibit B**.
10. The Local Agency is adequately staffed and suitably equipped to undertake and satisfactorily complete some or all of the Work.
11. The Local Agency can more advantageously perform the Work.

THE PARTIES NOW AGREE THAT:

Section 1. Scope of Work
The Project or the Work under this contract shall consist of West Main Complete Streets Project, in Montrose, Colorado, as more specifically described in **Exhibit A**.

Section 2. Order of Precedence

In the event of conflicts or inconsistencies between this contract and its exhibits, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. Special Provisions contained in **Section 27** of this contract
2. This contract
3. **Exhibit A** (Scope of Work)
4. **Exhibit B** (Local Agency Resolution)
5. **Exhibit C** (Funding Provisions)
6. **Exhibit D** (Option Letter)

Section 3. Term

This contract shall be effective upon approval of the State Controller or designee, or on the date made, whichever is later. It shall terminate on December 12, 2031, or sooner if any of the State's funding expires, or is sooner terminated or unless performance is extended in accordance with this Contract.

Section 4. Project Funding Provisions

A. The Local Agency has estimated the total cost of the work and is prepared to accept the state funding for the work, as may be evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this contract and to complete the work under the project. A copy of any such ordinance or resolution is attached hereto and incorporated herein as **Exhibit B**.

B. The parties hereto agree that this contract is contingent upon all funds designated for the project herein being made available from state sources, as applicable. Should these sources fail to provide necessary funds as agreed upon herein, the contract may be terminated by either party, provided that any party terminating its interest and obligations herein shall not be relieved of any obligations which existed prior to the effective date of such termination or which may occur as a result of such termination.

C. Funding will be detailed in **Exhibit C** of the funding provisions.

Section 5. Project Payment Provisions

A. The State will reimburse the Local Agency for incurred costs relative to the project following the State's review and approval of such charges, subject to the terms and conditions of this Contract. Provided however, that charges incurred by the Local Agency prior to the date this contract is executed by the State Controller will not be charged by the Local Agency to the project, and will not be reimbursed by the State.

B. The State will reimburse the Local Agency's reasonable, allocable, allowable costs of Performance of the Work, not exceeding the maximum total amount described in **Exhibit C**. The applicable principles described in 49 C.F.R. 18 Subpart C and 49 C.F.R. 18.22 shall govern the allowability and allocability of costs under this contract. The Local Agency shall comply with all such principles. To be eligible for reimbursement, costs by the Local Agency shall be:
   1. In accordance with the provisions of **Section 5** and with the terms and conditions of this contract;
   2. Necessary for the accomplishment of the Work;
   3. Reasonable in the amount for the goods and services provided;
   4. Actual net cost to the Local Agency (i.e. the price paid minus any refunds, rebates, or other items of value received by the Local Agency that have the effect of reducing the cost actually incurred);
   5. Incurred for Work performed after the effective date of this contract;
   6. Satisfactorily documented.

C. The Local Agency shall establish and maintain a proper accounting system in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current accounting scheme) to assure that project funds are expended and costs accounted for in a manner consistent with this contract and project objectives.
   1. All allowable costs charged to the project, including any approved services contributed by the Local Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in detail the nature of the charges.
   2. Any check or order drawn up by the Local Agency, including any item which is or will be chargeable against the project account shall be drawn up only in accordance with a properly signed voucher then on file in the office of the Local Agency, which will detail the purpose for which said check or order is drawn. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents shall be clearly identified, readily accessible, and to the extent feasible, kept separate and apart from all other such documents.

D. If the Local Agency is to be billed for CDOT incurred costs, the billing procedure shall be as follows:

1. Upon receipt of each bill from the State, the Local Agency will remit to the State the amount billed no later than 60 days after receipt of each bill. Should the Local Agency fail to pay moneys due the State within 60 days of demand or within such other period as may be agreed between the parties hereto, the Local Agency agrees that, at the request of the State, the State Treasurer may withhold an equal amount from future apportionment due the Local Agency from the Highway Users Tax Fund and to pay such funds directly to the State. Interim funds, until the State is reimbursed, shall be payable from the State Highway Supplementary Fund (400).
2. If the Local Agency fails to make timely payment to the State as required by this section (within 60 days after the date of each bill), the Local Agency shall pay interest to the State at a rate of one percent per month on the amount of the payment which was not made in a timely manner, until the billing is paid in full. The interest shall accrue for the period from the required payment date to the date on which payment is made.

E. The Local Agency will prepare and submit to the State, no more than monthly, charges for costs incurred relative to the project. The Local Agency's invoices shall include a description of the amounts of services performed, the dates of performance and the amounts and description of reimbursable expenses. The invoices will be prepared in accordance with the State's standard policies, procedures and standardized billing format to be supplied by the State. If the project is funded by MMOF, then billing for all work must be submitted 30 days prior to end of State fiscal year. The State fiscal year ends June 30th. MMOF projects must submit final billing for all work 30 days prior to the end of the State fiscal year that funds expire. If MMOF are used, and the State knows that the funds will expire, the State shall promptly notify Local Agency of the expiration date. The State will promptly notify the Local Agency if that expiration date changes.

F. To be eligible for payment, billings must be received within 60 days after the period for which payment is being requested and final billings on this contract must be received by the State within 60 days after the end of the contract term.
1. Payments pursuant to this contract shall be made as earned, in whole or in part, from available funds, encumbered for the purchase of the described services. The liability of the State, at any time, for such payments shall be limited to the amount remaining of such encumbered funds.
2. In the event this contract is terminated, final payment to the Local Agency may be withheld at the discretion of the State until completion of final audit.
3. Incorrect payments to the Local Agency due to omission, error, fraud or defalcation shall be recovered from the Local Agency by deduction from subsequent payment under this contract or other contracts between the State and Local Agency, or by the State as a debt due to the State.
4. Any costs incurred by the Local Agency that are not allowable under 49 C.F.R. 18 shall be reimbursed by the Local Agency, or offset against current obligations due by the State to the Local Agency, at the State's election.

Section 6. Option Letter Modification

An option letter may be used to authorize the Local Agency to begin a phase without increasing total budgeted funds, increase or decrease the encumbrance amount as shown on Exhibit C, and/or transfer funds from one phase to another. Option letter modification is limited to the specific scenarios listed below. The option letter shall not be deemed valid until signed by the State Controller or an authorized delegate.

A. Option to begin a phase and/or increase or decrease the encumbrance amount.
The State may authorize the Local Agency to begin a phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous (this does not apply to Acquisition/Relocation or Railroads) as detailed in **Exhibit A** and at the same terms and conditions stated in the original Agreement, with the total budgeted funds as shown on **Exhibit C** remaining the same. The State may increase or decrease the encumbrance amount for a particular phase by replacing the original funding exhibit (**Exhibit C**) in the original Agreement with an updated **Exhibit C-1** (subsequent exhibits to Exhibit C-1 shall be labeled C-2, C-3, etc.). The State may exercise this option by providing a fully executed option to the Local Agency within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit D**. If the State exercises this option, the Agreement will be considered to include this option provision.

B. Option to transfer funds from one phase to another phase.
The State may permit the Local Agency to transfer funds from one phase (Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous) to another as a result of changes to state, federal, and local match. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-**

1 (subsequent exhibits to **Exhibit C-1** shall be labeled **C-2**, **C-3**, etc.) and attached to the option letter. The funds transferred from one phase to another are subject to the same terms and conditions stated in the original Agreement with the total budgeted funds remaining the same. The State may unilaterally exercise this option by providing a fully executed option to the Local Agency within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit D**.

C. Option to do both Options A and B.
The State may authorize the Local Agency to begin a phase as detailed in **Exhibit A**, and encumber and transfer funds from one phase to another. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (subsequent exhibits to **Exhibit C-1** shall be labeled **C-2**, **C-3**, etc.) and attached to the option letter. The addition of a phase and encumbrance and transfer of funds are subject to the same terms and conditions stated in the original Agreement with the total budgeted funds remaining the same. The State may unilaterally exercise this option by providing a fully executed option to the Local Agency within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit D**.

Section 7. State and Local Agency Commitments
The Scope of Work in **Exhibit A** describes the Work to be performed and assigns responsibility of that Work to either the Local Agency or the State. The "Responsible Party" referred to in this contract means the Responsible Party as identified in the Scope of Work in **Exhibit A**.

A. Design [if applicable]
1. If the Work includes preliminary design or final design (the "Construction Plans"), or design work sheets, or special provisions and estimates (collectively referred to as the "Plans"), the responsible party shall comply with the following requirements, as applicable:
   a. perform or provide the Plans, to the extent required by the nature of the Work.
   b. prepare final design (Construction Plans) in accord with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by CDOT.
   c. prepare special provisions and estimates in accord with the State's Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by CDOT.
   d. include details of any required detours in the Plans, in order to prevent any interference of the construction work and to protect the traveling public.
   e. stamp the Plans produced by a Colorado Registered Professional Engineer.
   f. provide final assembly of Plans and contract documents.
   g. be responsible for the Plans being accurate and complete.
   h. make no further changes in the Plans following the award of the construction contract except by agreement in writing between the parties. The Plans shall be considered final when approved and accepted by the parties hereto, and when final they shall be deemed incorporated herein.
2. If the Local Agency is the responsible party:
   a. The local agency shall comply with the requirements of the Americans With Disabilities Act (ADA), and applicable federal regulations and standards as contained in the document "ADA Accessibility Requirements in CDOT Transportation Projects".
   b. It shall afford the State ample opportunity to review the Plans and make any changes in the Plans that are directed by the State to comply with State requirements.
   c. It may enter into a contract with a consultant to do all or any portion of the Plans and/or of construction administration. Provided, however, that if federal-aid funds are involved in the cost of such work to be done by a consultant, that consultant contract (and the performance/provision of the Plans under the contract) must comply with all applicable requirements of 23 CFR Part 172 and with any procedures implementing those requirements as provided by the State. If the Local Agency does enter into a contract with a consultant for the Work:
      (1) it shall submit a certification that procurement of any design consultant contract complied with the requirements of 23 CFR 172.5(1) prior to entering into contract. The State shall either approve or deny such procurement. If denied, the Local Agency may not enter into the contract.
      (2) it shall ensure that all changes in the consultant contract have prior approval by the State. Such changes in the contract shall be by written supplement agreement. As soon as the contract with the consultant has been awarded by the Local Agency, one copy of the executed contract shall be submitted to the State. Any amendments to such contract shall also be submitted.

(3) it shall require that all consultant billings under that contract shall comply with the State's standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.
(4) it (or its consultant) shall use the CDOT procedures described in **Exhibit A** to administer that design consultant subcontract, to comply with 23 CFR 172.5(b).
(5) it may expedite any CDOT approval of its procurement process and/or consultant contract by submitting a letter to CDOT from the certifying Local Agency's attorney/authorized representative certifying compliance with 23 CFR 172.5(b).
(6) it shall ensure that its consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:
(a) "The design work under this contract shall be compatible with the requirements of the contract between the Local Agency and the State (which is incorporated herein by this reference) for the design/construction of the project. The State is an intended third party beneficiary of this contract for that purpose."
(b) "Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project."
(c) "The consultant shall review the construction contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, Standard Specifications for Road and Bridge Construction, in connection with this work."
(d) The State, in its discretion, will review construction plans, special provisions and estimates and will cause the Local Agency to make changes therein that the State determines are necessary to assure compliance with State requirements.

B. Construction [if applicable]
1. If the Work includes construction, the responsible party shall perform the construction in accordance with the approved design plans and/or administer the construction all in accord with the Scope of Work in **Exhibit A**. Such administration shall include project inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing contractor claims; construction supervision; and meeting the Quality Control requirements as described in the Scope of Work in **Exhibit A**.
2. The State shall have the authority to suspend the Work, wholly or in part, by giving written notice thereof to the Local Agency, due to the failure of the Local Agency or its contractor to correct project conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
3. If the Local Agency is the responsible party:
a. it shall appoint a qualified professional engineer, licensed in the State of Colorado, as the Local Agency Project Engineer (LAPE), to perform that administration. The LAPE shall administer the project in accordance with this contract, the requirements of the construction contract and applicable State procedures.
b. if bids are to be let for the construction of the project, it shall advertise the call for bids upon approval by the State and award the construction contract(s) to the low responsible bidder(s) upon approval by the State.
(1) The Local Agency has the option to accept or reject the proposal of the apparent low bidder for work on which competitive bids have been received. The Local Agency must declare the acceptance or rejection within 3 working days after said bids are publicly opened.
(2) By indicating its concurrence in such award, the Local Agency, acting by or through its duly authorized representatives, agrees to provide additional funds, subject to their availability and appropriation for that purpose, if required to complete the Work under this project if no additional federal-aid funds will be made available for the project. This paragraph also applies to projects advertised and awarded by the State.
c. If all or part of the construction work is to be accomplished by Local Agency personnel (i.e. by force account), rather than by a competitive bidding process, the Local Agency will ensure that all such force account work is accomplished in accordance with the pertinent State specifications and requirements with 23 CFR 635, Subpart B, Force Account Construction.

(1) Such work will normally be based upon estimated quantities and firm unit prices agreed to between the Local Agency and the Stat in advance of the Work, as provided for in 23 CFR 635.204(c). Such agreed unit prices shall constitute a commitment as to the value of the Work to be performed.
(2) An alternative to the above is that the Local Agency may agree to participate in the Work based on actual costs of labor, equipment rental, materials supplies and supervision necessary to complete the Work. Where actual costs are used, eligibility of cost items shall be evaluated for compliance with 48 CFR Part 31.
(3) Rental rates for publicly owned equipment will be determined in accordance with the State's Standard Specifications for Road and Bridge Construction § 109.04.
(4) All force account work shall have prior approval of the State and shall not be initiated until the State has issued a written notice to proceed.

C. State's obligations
1. The State will perform a final project inspection prior to project acceptance as a Quality Control/Assurance activity. When all Work has been satisfactorily completed, the State will sign a final acceptance form.
2. Notwithstanding any consents or approvals given by the State for the Plans, the State will not be liable or responsible in any manner for the structural design, details or construction of any major structures that are designed by or are the responsibility of the Local Agency as identified in the Scope of Work in **Exhibit A**, within the Work of this contract.

Section 8. ROW Acquisition and Relocation

If the Project includes right of way, prior to this project being advertised for bids, the Responsible Party will certify in writing to the State that all right of way has been acquired in accordance with the applicable state and federal regulations, or that no additional right of way is required.

Any acquisition/relocation activities must comply with: all applicable federal and state statutes and regulations, including but not limited to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (P.L. 91-646) and the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs as amended (49 CFR Part 24); CDOT's Right of Way Manual; and CDOT's Policy and Procedural Directives.

Allocation of Responsibilities are as follows:

- Federal participation in right of way acquisition (3111 charges), relocation (3109 charges) activities, if any, and right of way incidentals (expenses incidental to acquisition/relocation of right of way – 3114 charges);
- Federal participation in right of way acquisition (3111 charges), relocation (3109 charges) but no participation in incidental expenses (3114 charges); or
- No federal participation in right of way acquisition (3111 charges) and relocation activities (3109 expenses).

Regardless of the option selected above, the State retains oversight responsibilities. The Local Agency's and the State's responsibilities for each option is specifically set forth in CDOT's Right of Way Manual. The manual is located at http://www.dot.state.co.us/ROW_Manual/.

If right of way is purchased for a state highway, including areas of influence of the state highway, the local agency shall immediately convey title to such right of way to CDOT after the local agency obtains title.

Section 9. Utilities

If necessary, the Responsible Party will be responsible for obtaining the proper clearance or approval from any utility company, which may become involved in this Project. Prior to this Project being advertised for bids, the Responsible Party will certify in writing to the State that all such clearances have been obtained.

Section 10. Railroads

In the event the Project involves modification of a railroad company's facilities whereby the Work is to be accomplished by railroad company forces, the Responsible Party shall make timely application to the Public Utilities Commission requesting its order providing for the installation of the proposed improvements and not proceed with that part of the Work without compliance. The Responsible Party shall also establish contact with the railroad company involved for the purpose of complying with applicable provisions of 23 CFR 646, subpart B, concerning federal-aid projects involving railroad facilities, including:

A. Executing an agreement setting out what work is to be accomplished and the location(s) thereof, and that the costs of the improvement shall be eligible for federal participation.
B. Obtaining the railroad's detailed estimate of the cost of the Work.
C. Establishing future maintenance responsibilities for the proposed installation.

D. Proscribing future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
E. Establishing future repair and/or replacement responsibilities in the event of accidental destruction or damage to the installation.

Section 11. Environmental Obligations
The Local Agency shall perform all Work in accordance with the requirements of the current federal and state environmental regulations including the National Environmental Policy Act of 1969 (NEPA) as applicable.

Section 12. Maintenance Obligations
The Local Agency will maintain and operate the improvements constructed under this contract at its own cost and expense during their useful life, in a manner satisfactory to the State. The Local Agency will make proper provisions for such maintenance obligations each year. Such maintenance and operations shall be conducted in accordance with all applicable statutes, ordinances and regulations which define the Local Agency's obligations to maintain such improvements. The State will make periodic inspections of the project to verify that such improvements are being adequately maintained.

Section 13. Record Keeping
The Local Agency shall maintain a complete file of all records, documents, communications, and other written materials, which pertain to the costs incurred under this contract. The Local Agency shall maintain such records for a period of three (3) years after the date of termination of this contract or final payment hereunder, whichever is later, or for such further period as may be necessary to resolve any matters which may be pending. The Local Agency shall make such materials available for inspection at all reasonable times and shall permit duly authorized agents and employees of the State to inspect the project and to inspect, review and audit the project records.

Section 14. Termination Provisions
This contract may be terminated as follows:
A. Termination for Convenience. The State may terminate this contract at any time the State determines that the purposes of the distribution of moneys under the contract would no longer be served by completion of the project. The State shall effect such termination by giving written notice of termination to the Local Agency and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination.

B. Termination for Cause. If, through any cause, the Local Agency shall fail to fulfill, in a timely and proper manner, its obligations under this contract, or if the Local Agency shall violate any of the covenants, agreements, or stipulations of this contract, the State shall thereupon have the right to terminate this contract for cause by giving written notice to the Local Agency of its intent to terminate and at least ten (10) days opportunity to cure the default or show cause why termination is otherwise not appropriate. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Local Agency under this contract shall, at the option of the State, become its property, and the Local Agency shall be entitled to receive just and equitable compensation for any services and supplies delivered and accepted. The Local Agency shall be obligated to return any payments advanced under the provisions of this contract.
Notwithstanding the above, the Local Agency shall not be relieved of liability to the State for any damages sustained by the State by virtue of any breach of the contract by the Local Agency, and the State may withhold payment to the Local Agency for the purposes of mitigating its damages until such time as the exact amount of damages due to the State from the Local Agency is determined.
If after such termination it is determined, for any reason, that the Local Agency was not in default or that the Local Agency's action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the parties shall be the same as if the contract had been terminated for convenience, as described herein.
C. Termination Due to Loss of Funding. The parties hereto expressly recognize that the Local Agency is to be paid, reimbursed, or otherwise compensated with federal and/or State funds which are available to the State for the purposes of contracting for the Project provided for herein, and therefore, the Local Agency expressly understands and agrees that all its rights, demands and claims to compensation arising under this contract are contingent upon availability of such funds to the State. In the event that such funds or any part thereof are not available to the State, the State may immediately terminate or amend this contract.

Section 15. Legal Authority
The Local Agency warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind the Local Agency to its terms. The person(s) executing this contract on behalf of the Local Agency warrants that such person(s) has full authorization to execute this contract.

Section 16. Representatives and Notice
Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

If to State	**If to the Local Agency**
CDOT Region: 3	City of Montrose
Michael Konn	Scott Murphy
Project Manager	Project Manager
222 South 6th Street, Room 317	433 South 1st Street
Grand Junction, CO 81501	Montrose, CO 81401
970-549-6608	970-901-1792
michael.konn@state.co.us	smurphy@ci.montrose.co.us

Section 17. Successors
Except as herein otherwise provided, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

Section 18. Third Party Beneficiaries
It is expressly understood and agreed that the enforcement of the terms and conditions of this contract and all rights of action relating to such enforcement, shall be strictly reserved to the State and the Local Agency. Nothing contained in this contract shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the State and the Local Agency that any such person or entity, other than the State or the Local Agency receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

Section 19. Governmental Immunity
Notwithstanding any other provision of this contract to the contrary, no term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as now or hereafter amended. The parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of § 24-10-101, et seq., C.R.S., as now or hereafter amended and the risk management statutes, §§ 24-30-1501, et seq., C.R.S., as now or hereafter amended.

Section 20. Severability
To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

Section 21. Waiver
The waiver of any breach of a term, provision, or requirement of this contract shall not be construed or deemed as a waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision or requirement.

Section 22. Entire Understanding
This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless

embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a writing executed and approved pursuant to the State Fiscal Rules.

Section 23. Survival of Contract Terms
Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this contract and the exhibits and attachments hereto which may require continued performance, compliance or effect beyond the termination date of the contract shall survive such termination date and shall be enforceable by the State as provided herein in the event of such failure to perform or comply by the Local Agency.

Section 24. Modification and Amendment
This contract is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this contract on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this contract shall be effective unless agreed to in writing by both parties in an amendment to this contract that is properly executed and approved in accordance with applicable law.

Section 25. Disputes
Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement will be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, the Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of the Department of Transportation. In connection with any appeal proceeding under this clause, the Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Local Agency shall proceed diligently with the performance of the contract in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals will be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

Section 26. Statewide Contract Management System
If the maximum amount payable to Contractor under this Contract is $100,000 or greater, either on the Effective Date or at any time thereafter, this **§Statewide Contract Management System** applies. Contractor agrees to be governed, and to abide, by the provisions of CRS §24-106-103, §24-102-206, §24-106-106, and §24-106-107 concerning the monitoring of vendor performance on state contracts and inclusion of contract performance information in a statewide contract management system.
Contractor's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Contract, State law, including CRS §24-106-107, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Contractor's performance shall be part of the normal contract administration process and Contractor's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Contractor's obligations under this Contract shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Contractor's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Contract term. Contractor shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.
Should the final performance Evaluation and Review determine that Contractor demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the Department of Transportation and showing of good cause, may debar Contractor and prohibit Contractor from bidding on future contracts. Contractor may contest the final Evaluation, Review and Rating by: **(a)** filing rebuttal statements, which may result in either removal or correction of the evaluation, or **(b)** by exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Contractor, by the Executive Director, upon showing of good cause.

Section 27. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3).

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

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

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

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at

law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

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

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[*Not applicable to intergovernmental agreements*] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(i)** unpaid child support debts or child support arrearages; **(ii)** unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; **(iii)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(iv)** amounts required to be paid to the Unemployment Compensation Fund; and **(v)** other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, *et seq.*, C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a Subcontractor that fails to certify to Contractor that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor **(i)** shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment ("Department Program") to undertake pre-employment screening of job applicants while this Contract is being performed, **(ii)** shall notify the Subcontractor and the contracting State agency or institution of higher education within 3 days if Contractor has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, **(iii)** shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and **(iv)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or §§8-17.5-101, *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, *et seq*., C.R.S.

Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Contractor **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of §§24-76.5-101, *et seq*., C.R.S., and **(iii)** has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Contract.

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Section 28. SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

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

THE LOCAL AGENCY **CITY OF MONTROSE** Name: _____ (print name) Title: _____ (print title) _____ *Signature Date: _____	**STATE OF COLORADO** **Jared S. Polis** **Department of Transportation** By_____ Stephen Harelson, P.E., Chief Engineer (For) Shoshana M. Lew, Executive Director Date: _____
2nd Local Agency Signature if needed Name: _____ (print name) Title: _____ (print title) _____ *Signature Date: _____	**STATE OF COLORADO** **LEGAL REVIEW** **Philip J. Weiser, Attorney General** By_____ Signature – Assistant Attorney General Date: _____

ALL AGREEMENTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement is not valid until signed and dated below by the State Controller or delegate. The Local Agency is not authorized to begin performance until such time. If the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

STATE OF COLORADO
STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Colorado Department of Transportation

Date: _____

EXHIBIT A
SCOPE OF WORK

24828 – City of Montrose – West Main Complete Streets Project (RMS)

RMS - Project – C M910-010

SCOPE OF WORK

The project will provide improvements to the City of Montrose West Main Street corridor and will include roadway conversion, ADA-compliant sidewalks, and new bike lanes in both directions for the full length of the project area.

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EXHIBIT B

LOCAL AGENCY RESOLUTION (IF APPLICABLE)

RESOLUTION NO. 2022-01

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO, as follows:

The attached Contract with the Colorado Department of Transportation is hereby approved. The Mayor and City Clerk are hereby authorized to sign the required copies, enter into this Contract, and to complete the work under the project. A certified copy of this resolution shall be attached as Exhibit B to the Contract.

ADOPTED this 18th day of January, 2022 by the Montrose City Council.

CITY OF MONTROSE, COLORADO

_____
Douglas Glaspell, Mayor

ATTEST:

_____
Lisa DelPiccolo, City Clerk

[City Seal]

EXHIBIT C – FUNDING PROVISIONS

C M910-010 (24828) – RMS

A. Cost of Work Estimate

The Local Agency has estimated the total cost of the Work to be $2,500,000.00, which is to be funded as follows:

1. BUDGETED FUNDS	
a. State Funds (80.00% of Award)	$2,000,000.00
b. Local Agency Matching Funds (20.00% of Award Costs)	$500,000.00
TOTAL BUDGETED FUNDS	$2,500,000.00
2. ESTIMATED PAYMENT TO LOCAL AGENCY	
a. State Funds Budgeted	$2,000,000.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY	$2,000,000.00
3. FOR CDOT ENCUMBRANCE PURPOSES	
a. Total Encumbrance Amount (Only CDOT Funds are encumbered)	$2,000,000.00
b. Less ROW Acquisition 3111 and/or ROW Relocation 3109	$0.00
Net to be encumbered as follows:	$2,000,000.00

Note: No funds are currently available. Design and Construction funds will become available after execution of an Option letter (Exhibit D) or formal Amendment.

WBS Element 24828.10.30	**Performance Period Start*/End Date** N/A / N/A	Design	3020	$0.00
WBS Element 24828.20.10	**Performance Period Start*/End Date** N/A / N/A	Const.	3301	$0.00

***The Local Agency should not begin work until both of the following are in place: The execution of the document encumbering funds for the respective phase; and 1) Local Agency receipt of the official Notice to Proceed. Any work performed before these two (2) milestones are achieved will not be reimbursable.**

B. Matching Funds

The matching ratio for this Work is 80.00% State funds to 20.00% Local Agency funds, it being understood that such ratios applies only to the $2,500,000.00 that is eligible for State funds, it being further understood that all other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds $2,500,000.00, and additional State funds are made available for the Work, the Local Agency shall pay 20.00% of all such costs eligible for State funds and 100% of all other costs; if additional State funds are not made available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than $2,500,000.00, then the amounts of Local Agency and State funds will be decreased in accordance with the funding ratio described herein. **This applies to the entire scope of Work.**

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be $2,000,000.00 (for CDOT accounting purposes, the State Funds of $2,000,000.00 will be encumbered, but the Local Agency matching funds of $500,000.00 will NOT be encumbered), unless such amount is increased by an appropriate written modification to this Agreement executed before any increased cost is incurred. The total budget of this project is $2,500,000.00. It is understood and agreed by the parties hereto that the total cost of the Work stated hereinbefore is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that such cost is subject to revisions (in accord with the procedure in the previous sentence) agreeable to the parties prior to bid and award. The maximum amount payable shall be reduced without amendment when the actual amount of the Local Agency's awarded contract is less than the budgeted total of the State funds and the Local Agency matching funds. The maximum amount payable shall be reduced through the execution of an Option Letter as described in Section 6 of this contract. **This applies to the entire scope of Work.**

Exhibit D

OPTION LETTER

SAMPLE IGA OPTION LETTER

(This option has been created by the Office of the State Controller for CDOT use only)

NOTE: This option is limited to the specific contract scenarios listed below AND may be used in place of exercising a formal amendment.

Date:	**State Fiscal Year:**	**Option Letter No.**	**Option Letter CMS Routing #** **Option Letter SAP #**
Original Contract CMS #		**Original Contract SAP #**	

Vendor name: _____

SUBJECT:

Option to unilaterally authorize the Local Agency to begin a phase which may include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous ONLY (*does not apply to Acquisition/Relocation or Railroads*) and to update encumbrance amounts (*a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.*).

Option to unilaterally transfer funds from one phase to another phase (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

Option to unilaterally do both A and B (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

REQUIRED PROVISIONS:

Option A (*Insert the following language for use with the Option A*):

In accordance with the terms of the original Agreement (*insert CMS routing # of the original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here*), the State hereby exercises the option to authorize the Local Agency to begin a phase that will include (*describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*) and to encumber previously budgeted funds for the phase based upon changes in funding availability and authorization. The encumbrance for (*Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous)* is (*insert dollars here*). A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only, please delete when using this option. Future changes for this option for **Exhibit C** shall be labeled as follows: **C-2**, **C-3**, **C-4**, etc.*).

Option B (*Insert the following language for use with Option B*):

In accordance with the terms of the original Agreement (*insert CMS # of the original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here*), the State hereby exercises the option to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to which funds will be moved*) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only so please delete when using this option: future changes for this option for **Exhibit C** shall be labeled as follows: **C-2**, **C-3**, **C-4**, etc.*).

Option C (*Insert the following language for use with Option C):*
In accordance with the terms of the original Agreement (*insert CMS routing # of original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here)*, the State hereby exercises the option to 1) release the Local Agency to begin a phase that will include (*describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*); 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to which funds will be moved*) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only so please delete when using this option: future changes for this option for **Exhibit C** shall be labeled as follows: **C-2**, **C-3**, **C- 4**, etc*.).

(The following language must be included on ALL options):
The total encumbrance as a result of this option and all previous options and/or amendments is now (*insert total encumbrance amount*), as referenced in **Exhibit** (***C-1***, ***C-2***, *etc., as appropriate*). The total budgeted funds to satisfy services/goods ordered under the Agreement remains the same: (*indicate total budgeted funds*) as referenced in **Exhibit** (***C-1***, ***C-2***, *etc., as appropriate*) of the original Agreement.

The effective date of this option letter is upon approval of the State Controller or delegate.

APPROVALS:

State of Colorado:
Jared S. Polis, Governor

By:_____ Date:_____
Executive Director, Colorado Department of Transportation

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Agreement is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

State Controller Robert Jaros, CPA, MBA, JD

By:_____ Date:_____

CONTRACT AWARD RECOMMENDATION

TO: Honorable Mayor and Members of the City Council
FROM: Jim Scheid, Public Works Manager
DATE: **January 3, 2022**
RE: Montrose Public Safety Complex FFE Contract Award Recommendation
CC: William Bell, Ann Morgenthaler, Shani Wittenberg, Blaine Hall

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Action

Consider the authorization and award of funds in the amount of $559,451.00 for the purchase and installation of the Furniture to be installed in the Montrose Public Safety Complex (MPSC).

Background

The City issued an RFP for the selection of a vendor to provide and install the furniture, fixtures and equipment (FFE). Blythe Group and Company (BG&Co) is the architect for the MPSC project. BG&Co developed and managed the procurement of the FFE vendor through the City's RFP process for procurement.

The scope for this vendor in this project is only the furniture portion of "FFE". This includes all tables, chairs, desks, cabinets, etc throughout the building. The necessary fixtures and equipment needed for the project are included in the scope of a contractor on the construction team or as an anticipated owner expense. A couple examples of furniture packages are attached to this recommendation.

Three proposals were received and all are considered qualified and complete. Office Outfitters had the highest score using the proposal selection criteria and their bid is considered to be the best value to the City of Montrose. These proposals were evaluated by the City of Montrose and BG&Co by assigning a score between 0 and 4 in each of the weighted categories listed below.

1. Price: 60%
2. Qualifications/Similar Project Experience: 20%
3. Reference Reports: 20%

Scoring of the proposals is shown in the table below.

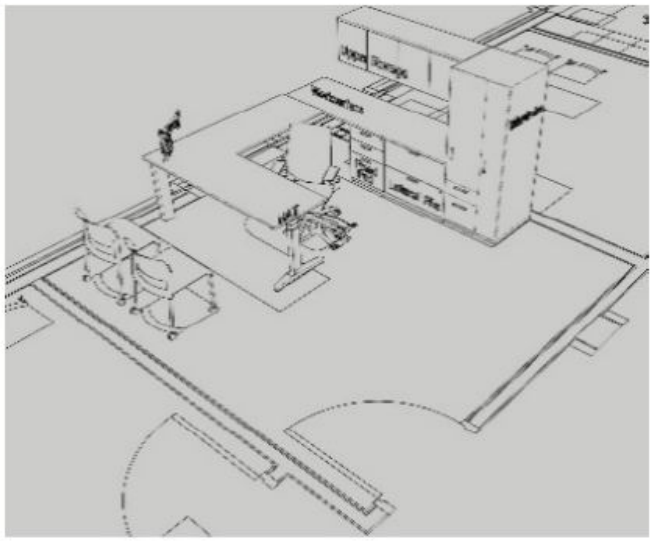
Montrose Public Safety Complex
21-037 FFE

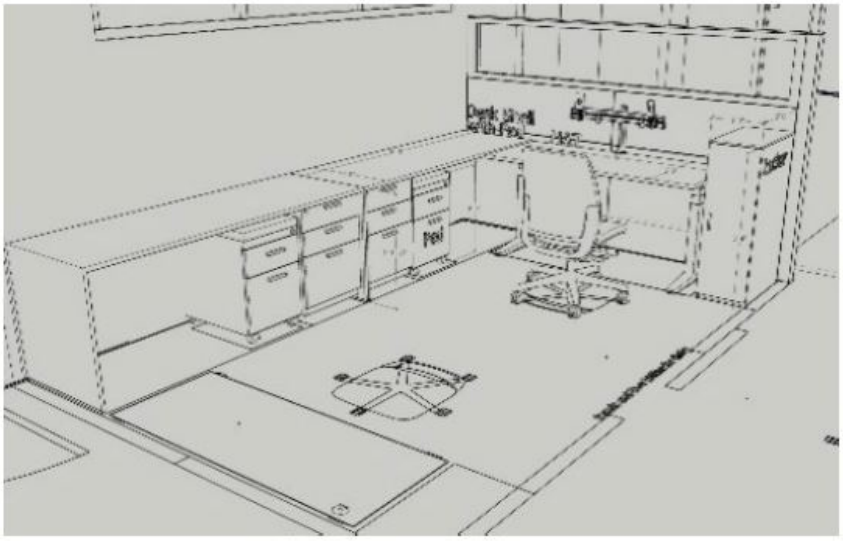
Proposals	Location	Bid Price	Overall Score
Office Outfitters	Grand Junction, CO	$532,811.00	4.00
Prospace	Delta, CO	$532,452.00	3.60
Workspace Innovations	Fort Collins, CO	$539,080.00	3.10

Contract Administration and Project Financials

The total of $559,451.00 that is being recommended for approval includes a contract amount of $532,811.00 with Office Outfitters and a 5% contingency. This contingency is requested for the chance that there may be changes or additions made to the scope of the vendor for unforeseen issues that could arise during installation.

The purchase of furniture is an anticipated cost of the project and a total of $650,000.00 was allocated from the Public Safety Fund for this purchase. This will result in a savings of at least $90,549.00 to the Public Safety Fund.

BLYTHE GROUP + CO.	Montrose Public Safety Complex Grand Junction, CO | 2055 | Data Specifi
Furniture Item:	Private Office
Item Code:	PO-7
Illustration:	

Furniture Item:	Typical Workstation - Report Writing 144
Item Code:	Typ-D
Illustration:	

EQUIPMENT DISPOSAL RECOMMENDATION

TO: Honorable Mayor and Members of the City Council
FROM: Jim Scheid, Public Works Manager
DATE: **January 3, 2022**
RE: 2022 Equipment Disposal List
CC: William Bell, Ann Morgenthaler, Shani Wittenberg, Shane Brandt

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Action

Consider approving the disposal of City owned assets listed below.

Background

The City's procurement process requires City Council's approval of the disposal of City Property valued higher than $1,000.

The items listed below are scheduled for replacement in 2022 and their replacements have been budgeted for from the Fleet Fund.

The replaced items are disposed of after the replacement vehicle or equipment is received. Items will be auctioned through Govdeals.com or at a local reputable auction service.

All items are disposed of in accordance with Section 1-16-5 of the Municipal Code.

Items to be disposed
224-2006 Mack Dump Truck (Streets)
226-2006 Mack Dump Truck (Streets)
17-2004 Caterpillar Roller (Streets)
227-2005 Caterpillar Roller (Streets)
362-2011 Roscoe Roller (Streets)
279-2007 Chevrolet 1500 (Parks)
394-2012 Kubota Mower (Parks)
305-2012 Hustler Mower (Parks)
364-2013 Mack Scorpion trash truck (Trash and Recycle)
382-2011 Ford Crown Vic (Police Patrol)
383-2011 Ford Crown Vic (Police Patrol)
384-2011 Ford Crown Vic (Police Patrol)
385-2011 Ford Crown Vic (Police Patrol)
386-2011 Ford Crown Vic (Police Patrol)
265-2011 Dodge Ram 1500 (Animal Control)
393-2012 Dodge Ram 1500 (Water Distribution)
245-2006 Wanco Message Board (Water Distribution)
361-2011 Mack Vactor (Water Distribution)

287-2007 Ford F-350 (Water Treatment)
402-2013 Ford C-Max (Civic Campus)
444-2016 Chevrolet Suburban (Civic Campus)
717-2006 Toro Procore (Black Canyon Golf Course)
418-2016 Ford Taurus (Police Admin)
Log Cabin on trailer (Santa's Cabin)
Miller Welder (Public Works Shop)
(2) Saber SC17 Floor Cleaners (Public Works Shop)

Contract Administration and Project Financials

The proceeds from the resale of these items will be applied to the Fleet Fund. The Fleet Fund then utilizes the resale amount in the lease calculation that each division will pay to the Fleet Fund for the future replacement of the vehicle received in 2022.

Waterline materials
Recommendation
Bid #21-032
Date: January 3, 2022

To: Honorable Mayor and Members of the City Council

From: David Bries, Utilities Manager

CC: William Bell, City Manager
Ann Morgenthaler, Assistant City Manager
Shani Wittenberg, Finance Director

Date: January 3, 2022

Subject: Airport Waterline Materials

Recommendation

Approve the purchase of water line pipe from Core & Main in the amount of $84,800.08 for 12" C900 PVC pipe for the Airport Road Waterline.

Background

Replacement of an existing 6 inch waterline along Airport Road with a 12 inch waterline is included in the 2022 Water Distribution program budget to improve flows and capacity in the area. A request for bids (RFB #21-032) was issued for 1,840 feet of 12" PVC pipe with restrained joint gaskets and three bids were received from local pipe suppliers. Core & Main submitted the low cost bid. This waterline will be installed by Utilities Department crews over the next 6-8 months.

The bids received for the 12" PVC pipe and Riberlok gaskets are summarized below:

Bidder	Location	Total Cost
Core & Main	Grand Junction, Colorado	$84,800.00
Grand Junction Pipe & Supply	Montrose, Colorado	$90,161.84
Grand Junction WinWater	Grand Junction, Colorado	$90,019.40

Net Financial Result of Contract

$150,000 is included in the 2022 Water Distribution Budget for materials for the Airport Road Waterline.

CITY OF MONTROSE
CITY CLERK

MEMO

DATE: December 28, 2021
TO: City Council
FROM: Lisa DelPiccolo, City Clerk
RE: 2022 City Council Calendar

Listed below are several calendar items for City Council consideration and discussion at the January 3 work session. It is important to note that any changes to the regular meeting schedule require City Council action. Work sessions can be scheduled as Council desires.

Holiday Conflicts
For Monday holidays that conflict with City Council work sessions, protocol has been to schedule the work session at 10 a.m. on the Tuesday of the regular meeting. The holiday conflicts for 2022 are Martin Luther King, Jr. Day on January 17, Independence Day on July 4, and Labor Day on September 5. If Council would like to continue with the current protocol, these work sessions will be rescheduled for January 18, July 5, and September 6 respectively.

Election Day
The date of the municipal election always falls on the day of a regular City Council meeting. In the past, the regular meetings were canceled or rescheduled. Options for 2022 include moving the April 5 regular meeting to Monday, April 4, or to Tuesday, March 29, since March includes an extra Tuesday this year.

Colorado Municipal League Annual Conference
The CML Annual Conference is scheduled for June 21-24, which conflicts with the June 21 regular City Council meeting. In previous years, the meeting has been moved to the preceding Monday which would be June 20.

Candidate Information Session
As part of the municipal election process, a candidate information session is tentatively scheduled for 5:00 p.m. on February 1. City Councilors lead a discussion with candidates on the role of City Councilors, expectations, time commitments, etc., and answer questions. Candidate names are also drawn for ballot position.

City Council Orientation and Retreat
An orientation and retreat is normally scheduled for the week after Election Day and before Councilors take the oath of office on April 19. For 2022, this would be the week of April 11, and we generally schedule several hours for these sessions.

City of Montrose
2022 Calendar

City Holiday | City Council | City Council Work Session | Planning Commission
CML Conference | Election Day | Historic Preservation Commission

JANUARY

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FEBRUARY

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MARCH

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JUNE

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JULY

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AUGUST

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OCTOBER

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NOVEMBER

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DECEMBER

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