

Greeley City Council Agenda

Regular Meeting
Tuesday, September 5, 2023 at 6:00 PM

City Council Chambers at City Center South, 1001 11th Avenue, Greeley, CO 80631
via Zoom at: <https://greeleygov.zoom.us/j/86218464323>

NOTICE:

City Council Meetings are held on the 1st and 3rd Tuesdays of each month in the City Council Chambers. Meetings are conducted in a hybrid format, with a Zoom webinar in addition to the in person meeting in Council Chambers.

City Council members may participate in this meeting via electronic means pursuant to their adopted policies and protocol.

Members of the public are also invited to choose how to participate in Council meetings in the manner that works best for them.

Watch Meetings:



Meetings are open to the public and can be attended in person by anyone.



Meetings are televised live on GTV8 on cable television.



Meetings are livestreamed on the City's website, Greeleygov.com as well as YouTube at [Youtube.com/CityofGreeley](https://www.youtube.com/CityofGreeley)

For more information about this meeting or to request reasonable accommodations, contact the City Clerk's Office at 970-350-9740 or by email at cityclerk@greeleygov.com.

Meeting agendas, minutes, and archived videos are available on the City's meeting portal at <https://greeleyco.portal.civicclerk.com/>

Comment in real time:

During the public input portion of the meeting and public hearings:



In person attendees can address the Council in the Chambers.



The public can join the Zoom Webinar and comment from the remote meeting.

Submit written comments:



Email comments about any item on the agenda before Noon on the day of the meeting to cityclerk@greeleygov.com



Written comments can be mailed or Dropped off at the City Clerk's office at City Hall, at 1000 10th St. Greeley, CO 80631



Mayor

John Gates

Councilmembers

Tommy Butler - Ward I

Deb DeBoutez - Ward II

Johnny Olson - Ward III

Dale Hall - Ward IV

Brett Payton - At-Large

Ed Clark - At-Large



City Council Regular Meeting Agenda

September 5, 2023 at 6:00 PM

City Council Chambers at City Center South, 1001 11th Avenue, Greeley, CO 80631

via Zoom at: <https://greeleygov.zoom.us/j/86218464323>

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Agenda
5. Recognitions and Proclamations
6. Citizen Input
7. Reports from Mayor and Councilmembers
8. Initiatives from Mayor and Councilmembers

Consent Agenda

The Consent Agenda is a meeting management tool to allow the City Council to handle several routine items with one action.

Council Members may request an item be pulled off the Consent Agenda and considered separately under the next agenda item in the order they were listed.

9. A motion to approve the City Council Proceedings from the August 8, 2023 work session and August 15, 2023 regular meeting
10. A resolution of the City Council of the City of Greeley authorizing the city to enter into an Intergovernmental Agreement with the United States Department of Transportation for a Connected Greeley – Emergency Vehicle Preemption (CG-EVP) Pilot
11. An ordinance annexing to the City of Greeley, Colorado, certain unincorporated territory located in Weld County, Colorado, known as the Wake Annexation, generally located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street, a parcel totaling 61.613 acres (Wake Annexation No. 1)

12. An ordinance annexing to the City of Greeley, Colorado, certain unincorporated territory located in Weld County, Colorado, known as the Wake Annexation, generally located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street, a parcel totaling 45.409 acres (Wake Annexation two)
13. An ordinance annexing to the City of Greeley, Colorado, certain unincorporated territory located in Weld County, Colorado, known as the Wake Annexation, generally located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street, a parcel totaling 13.075 acres. (Wake Annexation No. 3)
14. An ordinance changing the official zoning map of the City of Greeley, Colorado, to establish H-A (Holding-Agriculture) for certain property located in Weld County, Colorado, generally located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street, three properties totaling 120.097

End of Consent Agenda

15. Pulled Consent Agenda Items
16. Public hearing and second reading of an ordinance annexing to the City of Greeley, Colorado, certain unincorporated territory located in Weld County, Colorado, known as the Schneider Annexation, generally located north of 10th Street and West of 83rd Avenue
17. Public hearing and second reading ordinance appropriating additional sums to defray the expenses and liabilities of the City of Greeley for the balance of the fiscal year of 2023 (4th Appropriation)
18. Public hearing and second reading ordinance adding Chapter 14 to Title 8 of the Greeley Municipal Code, relating to shared micromobility
19. Scheduling of Meetings, Other Events
20. A motion authorizing the City Attorney to prepare any required resolutions, agreements, and ordinances to reflect action taken by the City Council at this meeting and any previous meetings, and authorizing the Mayor and City Clerk to sign all such resolutions, agreements, and ordinances
21. Adjournment



Council Agenda Summary

Title

Recognitions and Proclamations

Summary

Mayor Gates will present the following proclamations:

Colorado GRIT Day

Assistance League of Greeley 50th Anniversary

Suicide Awareness and Prevention Month

Sunrise Community Health 50th Anniversary

Councilmember DeBoutez will present the *What's Great about Greeley* Report.

Attachments

Colorado GRIT Day

Assistance League of Greeley 50th Anniversary

Suicide Awareness and Prevention Month

Sunrise Community Health 50th Anniversary

What's Great about Greeley Report

Colorado GRIT Day

WHEREAS, The Colorado Grit is Colorado's first ever junior team in the North American Hockey League; and,

WHEREAS, Players range from 16-20 years old, and many will go on to play Division 1 National Collegiate Athletic Association hockey at the collegiate level; and

WHEREAS, We have an elite coaching staff and many scouts who have played professionally; and,

WHEREAS, The athletes will be in the community regularly, volunteering with local businesses, supporting the youth, and working to serve as positive role models in Greeley and the greater Northern Colorado area; and,

WHEREAS, A large part of our mission is not only developing great hockey players, but also developing character and maturity among our athletes. We will do this by supporting local nonprofits and having our players volunteer in schools and youth groups.

NOW, THEREFORE, I, John Gates, by virtue of the authority vested in me as Mayor of the City of Greeley, do hereby proclaim September 8, 2023, as Colorado GRIT Day.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the City of Greeley, Colorado, this 5th day, September 2023.

Mayor



50th Anniversary of the Assistance League

WHEREAS, Eleven Greeley women fifty years ago bravely decided to form a philanthropic organization to serve the unmet needs of the citizens of Greeley and Weld County. Nancy Waldo, learned of a national organization dedicated to providing for local communities; and

WHEREAS, Upon further research these ladies formed a Guild, which was a pre-requisite for joining the National Assistance League. After reaching a membership of 60, along with other requirements, the Guild became a Charter Member of Assistance League in 2023. Greeley became the 54th Charter Member out of 120 Chapters in the United States today; and

WHEREAS, Unique among national philanthropic organizations, Assistance Leagues serve only local communities. Each member pays dues to the national organization, but no funds raised by the local chapter leave Weld County. The Assistance League is a total volunteer organization; and

WHEREAS, Dedicated volunteer members work diligently at the Bargain Box Thrift Store to provide the necessary funding for our philanthropic programs. The store is located at 1706 9th Street. The residents of Weld County donate amazing goods to the store. The members of Assistance League of Greeley sort, mark, price and display the merchandise for purchase. Our loyal customers buy quality goods at reasonable prices. An online presence was created which generates an income to support our programs. The combination of donations and community support has resulted in revenue that has grown exponentially. This has allowed us to generously fund our philanthropic programs; and

WHEREAS, we also participate in “Colorado Gives Day” which is an online giving event. Coloradoans come together with the common goal to strengthen the community by helping to power nonprofits. This organization has raised more than \$415 million for Colorado nonprofits since 2010; and

WHEREAS, the members of Assistance League of Greeley administer operations of six philanthropic programs:

- **Warm Up Weld** - provides blankets and bedding to those in need throughout Weld County
- **Operation School Bell** - provides school uniforms to Title I schools in Greeley-Evans School District 6
- **Single Parent Scholarships** - provides funding for single parents who attend AIMS and UNC
- **Assault Survivor Kits** - provide new clothing to men, women, and children who are victims of assault, funded by Victims and Law Enforcement grants

- **Color Me Weld** - provides tools such as Etch a Sketches, doodle pads, and coloring activities to children being evaluated by nurses at Medical Center of the Rockies and Northern Colorado Medical Center
- **File of Life** - provides free medical information packets to all citizens of Weld County.

WHEREAS, with 70 members, we are tasked with the responsibility of being good stewards of all ideals the original women envisioned for Assistance League of Greeley. Our work is never done. Welcome new members, donors, and customers!

NOW, THEREFORE, I, John Gates, by virtue of the authority vested in me as Mayor of the City of Greeley, do hereby proclaim September 5, 2023, as Assistance League of Greeley Day in recognition of the 50th Anniversary of the organization.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the City of Greeley, Colorado, this 5th day, September 2023.

Mayor



Suicide Awareness and Prevention Month

WHEREAS, Suicide is a complex issue that can affect anyone, regardless of age, gender, race, orientation, income level, or background; and

WHEREAS, Over 48,000 deaths annually are attributed to suicide; with suicide rates in Colorado ranking 6th nationally, and 66 lives lost to suicide in Weld County during 2022; and

WHEREAS, being a trusted person to turn to when someone is feeling isolated or hopeless is one of the most important things we can do to prevent suicide; and

WHEREAS, actively challenging stigma around mental health and building skills that increase the likelihood of someone feeling safe to open up without fear of shame or judgement is the first step; and

WHEREAS, because of the collaborative prevention and education efforts of North Range, Suicide Education and Support Services (SESS), Imagine Zero of Weld County, numerous survivors, and community partners, hope exists in Greeley, and

WHEREAS, North Range Behavioral Health's Suicide Education and Support Services (SESS) program supports those who have lost someone to suicide and provides education to Greeley residents that help build critical suicide prevention skills; and

WHEREAS, September is recognized as National Suicide Awareness and Prevention Month with the goal of promoting awareness surrounding suicide prevention resources and support available to us and our community; and

WHEREAS, we encourage all residents to learn how to talk about mental health; research suicide prevention resources available nationally and throughout Weld County; check in on the wellbeing of your family, friends, and neighbors; and share genuine appreciation for the people in your life by any gesture you deem appropriate.

NOW, THEREFORE, I, John Gates, by virtue of the authority vested in me as Mayor of the City of Greeley, do hereby proclaim do hereby proclaim **September 2023 as Suicide Awareness and Prevention Month** and call upon the citizens, government agencies, public and private institutions, businesses, and schools to recommit our community to increasing awareness and understanding of behavioral health, and the need for appropriate and accessible services for all citizens.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the City of Greeley, Colorado, this 5th day of September 2023.

Mayor



Sunrise Community Health 50th Anniversary

WHEREAS, for 50 years, Sunrise Community Health has provided high-quality, affordable, comprehensive primary and preventive health care in Greeley, delivering value to, and having a significant impact on the community; and

WHEREAS, Sunrise Community Health is the health care home of over 40,000 in Northern Colorado; and

WHEREAS, Sunrise Community Health is a critical element of the health system, providing an accessible and dependable source of primary care in the community; and

WHEREAS, Sunrise Community Health played a vital part in pandemic response, supplying critical outpatient respiratory care, serving as the leading vaccinator in Weld County, and effectively reaching racial and ethnic minorities (73% for vaccines and 85% for testing); and

WHEREAS, Sunrise Community Health integrates services beyond primary medical care, including oral health, vision, behavioral health, telehealth, pharmacy, laboratory, radiology, health education, care management, and English as a Second Language and Citizenship classes; and

WHEREAS, Sunrise Community Health is governed by a patient-majority board, ensuring that patients are engaged in their own health care decisions; and

WHEREAS, Sunrise Community Health is a locally owned and operated small business that generates millions in economic activity and contributes millions in local, state, and federal taxes; and

WHEREAS, Sunrise Community Health supports over 400 direct jobs in the community, including physicians, nurse practitioners, physician assistants, dentists, hygienists, pharmacists, and licensed family therapists; and

WHEREAS, Sunrise Community Health's model effectively overcomes barriers to healthcare access, including geography, income, education, transportation; and insurance status – improving health outcomes and reducing healthcare system costs; and

WHEREAS, Sunrise Community Health saves the overall health system millions of dollars each year by managing patients' chronic conditions to keep them out of more expensive healthcare settings like hospital emergency rooms and reduce the overall cost of care; and

WHEREAS, Sunrise Community Health operates twelve clinics across Weld and Larimer counties, including a mobile outreach unit that serves vulnerable populations and rural communities; and

WHEREAS, Since 1973, Sunrise Community Health has remained firmly rooted in Northern Colorado, responding to the needs of our most vulnerable and building a healthier place to live. We honor their dedicated staff, board members, patients, and all those responsible for their continued growth and success; and

WHEREAS, During this 50th anniversary, please join us in celebrating the legacy of Sunrise Community Health and its vital role in shaping the past, present, and future of health care in northern Colorado.

NOW, THEREFORE, I, John Gates, by virtue of the authority vested in me as Mayor of the City of Greeley, do hereby proclaim **September as Sunrise Community Health Month**. I encourage the people of Greeley to take part in this milestone celebration by visiting Sunrise Community Health clinics and honoring the enduring partnership between this health center and our community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the City of Greeley, Colorado, this 5th day of September 2023.

By: Mayor



City Council Meeting
September 5, 2023

A Story Best Lived In.

An aerial photograph of a city, likely Denver, with a large white banner overlaid in the center. The banner contains the text of the Athenian Oath. The background shows a vast cityscape with various buildings, green spaces, and a range of mountains in the distance under a clear sky.

***In all ways, we will transmit
this City not only, not less, but
greater and more beautiful than
it was transmitted to us.***

- Athenian Oath

School District 6 Finance Department Wins National Recognition

- District 6 received Certificate of Achievement for Excellence in Financial Reporting
- Awarded by the Government Finance Officers Association of the United States and Canada



UNC Alumna Leah Crenshaw Receives NSF Graduate Fellowship for Avian Conservation Research

- Awarded National Science Foundation Graduate Research Fellowship Program
- While at UNC, Leah studied the western meadowlark found along the Poudre River Trail.





A Story Best Lived In.



Council Agenda Summary

Title

Citizen Input

Summary

During this 15-minute portion of the meeting, anyone may address the Council on any item of City Business appropriate for Council consideration that is not already listed as a public hearing on this evening's agenda.

As this meeting is being conducted in a hybrid format, citizen input will be accepted first from those in the City Council Chambers, and then from the virtual meeting audience via the meeting's webinar.

Written comments submitted for any item on the agenda will be placed in the public record and provided to the Council for their review and should include the name and city of residence of the person submitting the comments for the record.



Council Agenda Summary

Title

Reports from Mayor and Councilmembers

Summary

During this portion of the meeting any Councilmember may offer announcements or reports on recent events and happenings. These reports should be a summary of the Councilmember's attendance at assigned board/commission meetings and should include key highlights and points that may require additional decision and discussion by the full Council at a future time.



Council Agenda Summary

Title

Initiatives from Mayor and Councilmembers

Summary

During this portion of the meeting any Councilmember may bring before the Council any business that the member feels should be deliberated upon by the Council. These matters need not be specifically listed on the Agenda, but formal action on such matters shall be deferred until a subsequent Council meeting.

Initiatives will generally fall into three categories:

- 1) A policy item for Council deliberation and direction for a future Worksession, Committee meeting, or regular/special Council meeting;
- 2) A request to the City Manager for information or research;
- 3) A request involving administrative processes or procedures.

At the close of this portion of the meeting, the Mayor will confirm Council's consensus that the individual requests be pursued.

Attachments

Status Report of Council Initiatives and Related Information



Council Agenda Summary

September 5, 2023

Key Staff Contact: Heidi Leatherwood, City Clerk

Title:

A motion to approve the City Council Proceedings from the August 8, 2023 work session and August 15, 2023 regular meeting

Summary:

The City Council held the following meetings in Council Chambers: August 8, 2023 Work Session and August 15, 2023 Regular City Council Meeting. The draft proceedings of each meeting have been prepared and are being presented for the Council's review and approval.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	NA
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Legal Issues:

Other issues and Considerations:

Strategic Focus Area:



High-Performance Government

Decision Options:

1. Approve the proceedings as presented.
2. Amend the proceedings and approve as amended.

Council's Recommended Action:

A motion approving the City Council meeting proceedings for August 8 and August 15, 2023.

Attachments:

1. Council Work Session Minutes August 8, 2023 - draft
2. City Council Meeting - August 15, 2023 - draft

City of Greeley, Colorado
CITY COUNCIL WORK SESSION REPORT
August 8, 2023

1. Call to Order

Mayor Pro Tem Brett Payton called the meeting to order at 6:00 p.m. in the City Council Chambers at 1001 11th Ave, Greeley, Colorado, with hybrid participation available via the City's Zoom platform.

2. Pledge of Allegiance

Mayor Pro Tem Brett Payton led the Pledge of Allegiance.

3. Roll Call

City Clerk Heidi Leatherwood called the roll.

The following members of Council were present:

Councilmember Tommy Butler

Councilmember Deb DeBoutez

Councilmember Dale Hall – attended remotely via the City's Zoom platform

Mayor Pro Tem Brett Payton

Councilmember Ed Clark

Councilmember Johnny Olson

Mayor John Gates – excused

4. Reports from Mayor and Council Members

Councilmember Olson summarized the report provided by Paul Trombino, outlining a call for projects for the fiscal years 2026 and 2027.

Councilmember Butler acknowledged that Monster Day is coming this weekend, in downtown Greeley.

Councilmember Clark gave an update on the neighborhood meeting at

5. Initiative 07-2023: Neighborhood noticing standards for land use hearings

Planner II Caleb Jackson presented the item at 6:04 p.m.

Community Development Director Brian McBroom and Planning Manager Don Threewitt were available remotely, via the City's Zoom platform, to address Council questions.

Mr. Jackson presented a review of staff research regarding a change to the code requiring notification to affected owners of personal property (structures) in mobile home parks within 500 feet of new zoning changes. Staff expanded the scope to look at equitable notification to tenants in addition to owners. This item reports findings and recommends an expansion of Director discretion in lieu of a formal code change to optimize the mailed notification process.

Staff recommends no change to Development Code, however, would like to rely on Director discretion for mailed notice to consider the following:

- Continue mailed notice to record owner
- Add mailing to non-owner residents on a case-specific basis
- Considering the nature of the proposal, context of the area, and existing development patterns.

Councilmember Clark requested a matrix that will be used for Director discretion.

Councilmember Butler expressed that 500' is not enough, specifically for rezoning and suggested at least 1000'.

Councilmember DeBoutez noted that residents should be responsible for reading the posted colored development signs alerting residents of new development being considered.

Councilmember Olson suggested that technology could be used to increase transparency and communication.

Mr. McBroom committed to looking into these issues.

6. Mobility Expansion for Regional Growth and Equity (MERGE) project update & Multimodal Project Discretionary Grant (MPDG) application

Public Works Director Paul Trombino introduced the item at 6:21 p.m.

Mr. Trombino provided updates on the planned Interchanges on US 34 Bypass and 35th and 47th Avenues and the Mobility Hub at Centerplace titled the Mobility Expansion for Regional Growth and Equity (MERGE) project. The United States Department of Transportation (USDOT) has opened the Multimodal Project Discretionary Grant (MPDG) program for applications. The purpose of this item is to provide council with an update of the project design, cost information and an overview of the proposed grant application.

Councilmember DeBoutez inquired why the City isn't asking for more money. Mr. Lee responded that this is the importance of the conversation today, identifying what Council thinks about Transportation Infrastructure Finance and Innovation Act (TIFIA).

Councilmember Olson commented on the importance of priority-based requests. Mr. Trombino added that a secondary goal is to free up funding for other projects. Councilmember Butler inquired why the City hasn't applied for TIFIA in the past. Mr. Trombino replied that there have been substantial changes, including the addition of transit. Councilmember Olson added that this is a laborious process needing someone who specializes in TIFIA to assist the City. Mr. Marek advised this is a utility enterprise fund, subject to Taxpayer's Bill of Rights (TABOR). Mr. Lee added, as the City expands, we need to think about increasing costs and how the City will repay the debt. It may be difficult to adequately predict costs with the amount of growth, and long-term financial planning. Mayor Pro Tem Payton added, as infrastructure needs go, we need to consider our ability to respond to future infrastructure needs.

Councilmember Butler inquired about the timeline. Councilmember Olson confirmed August 25, 2023, is the deadline. Mayor Pro Tem Payton confirmed that Council does not have to decide on TIFIA tonight, but rather confirmation for grant support.

Councilmember Olson spoke about telling the story and Council can designate and decide what funding we're applying for while exercising caution to not create too much debt. He asserted that we are not going to get the Colorado Department of Transportation (CDOT) support because of competing projects with I-25.

Mr. Trombino expressed that investigations into strategy will continue and confirmed there isn't a pre-payment penalty on TIFIA funding.

Councilmember Butler commented on the effects on the constituents in his Ward, and he is glad to see this is finally getting done.

Councilmember Clark added that this is an important project, the City needs additional infrastructure.

8. Colorado Grit Agreement (The item was moved up by Mayor Pro Tem Payton due to accommodate third party consultants present.)

Culture, Parks and Recreation Department Deputy Director Diana Frick introduced the item at 7:06 p.m.

Representatives from Player Development, CEO/Owner Bob Bowden, Director Dave Clarkson, and Brooke Wilfley were available for questions.

The primary goals of this agreement are to:

- Elevate Greeley's brand through enhanced livability and economic prosperity in Downtown Greeley.
- Honor the public value of the current Ice Haus program with continued community access for existing programs while supporting the Grit's needs at the Ice Haus.

- Generate enough city revenue to sustain the Ice Haus operations and precipitate an expansion of the Ice Haus.
- Establish Grit and the City of Greeley as financial partners, with fairness to both parties and publicly defensible.

Councilmember Butler inquired if improvements to the facility are part of the contract. Ms. Frick responded that some of them are, and Mr. Lee added that they are not necessarily called out in the contract.

Councilmember Clark inquired why the team is not called Greeley Grit. Ms. Wilfley replied that this is being considered for the near future, but that uniforms and other marketing items are already

Mr. Clarkson shared his coaching experience and highlighted the benefits to the children in the community. The program keeps the kids at home, we can do this as locally, family-friendly activity. Important for families to use local businesses. It is a steppingstone; the kids don't pay to play.

Councilmember Olson inquired about the budget and where funds are coming from. Ms. Frick replied the funds are coming from Capital Improvement Project (CPI) funds.

Councilmember Butler inquired when first home game will be. Ms. Frick mentioned that it is September 8, 2023.

And Councilmember Clark inquired if the City is intending to offer liquor in the concession areas. Mr. Lee replied that the City is pursuing this option.

7. Initiative 01-2023: Costs and feasibility of translation services for Council meetings and agendas

Communications & Engagement Director Winna MacLaren and City Clerk Heidi Leatherwood introduced the item at 7:20 p.m.

Ms. Leatherwood provided a summary of staff research on costs and feasibility of translating agendas, agenda packets, live meetings and closed caption options for Spanish. Ms. MacLaren presented on staff research into other predominant languages in Greeley, the percentage of residents who prefer Spanish as their first language and best practices.

Councilmember DeBoutez wanted clarification on what additional services could be provided upon request of residents. Ms. Leatherwood suggested that additional services could include in-person translators for a particular agenda item or public hearing item at council meetings or even written materials.

Councilmembers Butler, Hall, and DeBoutez commented that this is a great first step in reaching out to support members of the community.

Councilmember Olson would like metrics in place to identify how the community is responding to the investment of translating and posting agendas.

Councilmember Butler asked where the Spanish agendas would be posted. Ms. Leatherwood responded that she hopes it will be available in the same location as the other agendas, but will investigate and reach out to the vendor, if needed.

9. Scheduling of Meetings, Other Events

None.

10. Scheduling of Meetings and Other Events

None.

11. Adjournment

Mayor Pro Tem Brett Payton adjourned the meeting at 7:31 p.m.

Approved:

Brett Payton, Mayor Pro Tem

Attest:

Heidi Leatherwood, City Clerk

City of Greeley, Colorado
CITY COUNCIL PROCEEDINGS
Regular Meeting
August 15, 2023
6 p.m.

1. Call to Order

Mayor Gates called the meeting to order at 6:00 p.m. in the City Council Chambers at 1001 11th Ave, Greeley, Colorado, with hybrid participation available via the City's Zoom platform.

2. Pledge of Allegiance

Mayor Gates led the Pledge of Allegiance.

3. Roll Call

City Clerk Heidi Leatherwood called the roll.

Present:

Mayor John Gates

Councilmember Tommy Butler

Councilmember Deb DeBoutez

Councilmember Dale Hall

Mayor Pro Tem Brett Payton

Councilmember Ed Clark

Councilmember Johnny Olson

4. Approval of the Agenda

City Manager Lee has no changes to the agenda.

5. Recognitions and Proclamations

Councilmember Hall presented *What's Great about Greeley?*

John Hall, Director, read the introduction for Economic Development and Urban Revitalization.

6. Citizen Input

1. Ross Lightsey Spoke about Community Development and Public Works staff providing great customer service. Mr. Lightsey spoke about the need for a footbridge by Sheep Draw due to pedestrians crossing the busy 10th Street with high traffic.
2. Cheryl Lee spoke about Sheep Draw and the need for a pedestrian bridge or safe way to cross 10th Street. Ms. Lee spoke about the need for a light at the intersection of 10th & 63rd Avenue. Ms. Lee stated many residences in her community are opposed to the new proposed path where the "path to nowhere".

3. Sonia Miller spoke about a code citation she received for weeds and landscaping and her disagreement with the citation and process. Ms. Miller spoke about the mayor's reelection.

7. Reports from Mayor and Councilmembers

Councilmember Butler spoke about his attendance at Island Grove Board August 17th Regional Dog Show, one of the largest, Councilmember Butler gave a shout out to the DDA for Monster Day over 4,000 attendees estimated.

8. Initiatives from Mayor and Councilmembers

None.

Consent Agenda

9. **A motion to approve the City Council Proceedings from the July 11, 2023, Special Meeting, the July 25, 2023, Work Session, and the August 1, 2023, Regular Meeting**
10. **A resolution authorizing the mayor to enter a Memorandum of Understanding (MOU) between the City of Greeley's Police Department and the Weld County Sheriff's Office regarding distribution of joint funding provided by the Bureau of Justice Assistance**
11. **A resolution finding substantial compliance with State Annexation laws for the properties collectively known as Wake Annexation 1-3**
12. **A resolution supporting the Mobility Expansion for Regional Growth and Equity (MERGE) Project and Multimodal Project Discretionary Grant (MPDG) Program Application**
13. **Introduction and first reading of an ordinance, adding Chapter 14 to Title 8 of the Greeley Municipal Code relating to shared micro mobility**
14. **Introduction and first reading of an ordinance appropriating additional sums to defray the expenses and liabilities of the City of Greeley for the balance of the fiscal year of 2023 (4th Appropriation)**

Councilmember Olson moved to approve the Consent Agenda Items 9-14. Councilmember DeBoutez seconded the motion. The motion passed 7-0 at 6:23 p.m.

End of Consent Agenda

15. Pulled Consent Agenda Items

None.

16. **Public hearing and second reading of an Ordinance submitting to the registered electors of the City of Greeley at the November 7, 2023, Coordinated Municipal Election, a question regarding an amendment to the Greeley Municipal Charter regarding collective bargaining for police officers.**

Human Resources Director, Noel Mink introduced the item with a presentation at 6:23 p.m.

Section 14-4(b) of the Greeley Charter currently defines "Police Officer" to exclude those holding rank of Sergeant and above. The request for Council to consider a Council-initiated ballot measure to

amend the Charter for the purpose of inclusion within the members of civil service with the right to organize and bargain collectively.

If an amendment to the definition is passed, Sergeants would become members of the existing bargaining unit. The Greeley Police Officers Association (GPOA) is the sole and exclusive bargaining agent for the Police Officers. The current collective bargaining agreement is through the end of 2024 and bargaining sessions begin in approximately May 2024. If Sergeants are added to the bargaining unit, they will be included in the contract beginning January 1, 2025. If passed, the City Clerk will place the measure on the ballot.

Councilmember Clark asked for clarification on if Sergeants and Commanders are included. In response to the question Ms. Mink replied that only Sergeants will be included.

The public hearing opened at 6:26 p.m.

With no public comment the public hearing closed at 6:26 p.m.

Councilmember Butler asked if the Sergeants in Greeley Police Department support this measure. In response to the question, Ms. Mink replied they are in support.

Mayor Pro Tem Payton spoke in opposition of this item and believes City Council should not be placing the item on the ballot and it should be brought forward by the public with an initiative.

Councilmember Clark moved to adopt the ordinance and publish with reference to title only. Councilmember Olson seconded the motion. The motion passed 6-1, with Mayor Pro Tem Payton voting nay at 6:28 p.m.

17. Public hearing and second reading of an ordinance submitting to the registered electors of the City of Greeley at the November 7, 2023, Coordinated Municipal Election, a question regarding an amendment to the Greeley Municipal Charter regarding the titles of specific ranks of firefighters.

Interim Fire Chief Chis Ellmer introduced the item with a presentation at 6:28 p.m.

The ordinance is an administrative change and will update Charter language, the collective bargaining agreement and City policy and procedure.

The language of Deputy Fire Chief does not exist in the Greeley Charter. This process to update the City Charter to match both the job description and the language in the collective bargaining agreement is needed. The update is supported by local leadership and Local 888. The request to amend the Charter regarding the titles of specific ranks:

- Change “Division Chief” to “Deputy Chief”
- Change “Captain” to “Battalion Chief”
- Change “Chief” to “Fire Chief”
- Add “Assistant Chief”

The public hearing opened at 6:30 p.m.

With no speakers present, the public hearing closed at 6:30 p.m.

Councilmember Butler asked why the previous item was published with reference to title only and this one isn't. City Attorney Doug Marek replied to the question with the motion could read "publish with reference to title only". Councilmember Hall moved to amend his motion to add the language.

Councilmember Hall moved to adopt the ordinance and publish with reference to title only.
Councilmember DeBoutez seconded the motion. The motion passed 7-0 at 6:32 p.m.

18. Public hearing and second reading of an ordinance amending portions of the Greeley Municipal Code Title 22, Chapter 11 Electrical Code as it relates to adopting the 2023 Edition of the National Electrical Code

Community Development Director, Brian McBroom introduced items 18 and 19 with a presentation at 6:32 p.m.

The National Electrical Code (NEC) is published, and the City of Greeley adopts the NEC on a three-year cycle. In this cycle, the request is to adopt the 2023 NEC and amending the current Municipal Code with three deletions of current amendments to the Code. These deletions are amendments which have since been written into the current code.

Mayor Pro Tem Payton spoke about the packet for the ordinance references Appendix A on the electrical code and is missing in the packet and does not know what the changes are. Chief Building Official, Ken Haring was present to answer questions. Mr. Marek replied to the question with an option of holding the public hearing today and continue the item for the decision. Mayor Pro Tem Payton spoke of his concern of the information not properly being noticed to the public. In response to Mayor Pro Tem Payton's concern, Mr. Marek replied that the entire electrical code is available in the City Clerk's Office and meets that legal requirement of having it available to the public for review.

Councilmember Clark spoke about his concern of extra costs to the developer which are passed onto the homeowner. In response to the concern, Mr. Haring replied the two major changes are the whole house will need to be GCI protected and kitchen island receptacle requirement have changed adding about \$200 total to the costs of new build only construction.

Councilmember Butler spoke about being in favor of continuing this item.

The public hearing was opened at 6:38 p.m.

With no speakers present, the public hearing closed at 6:38 p.m.

Mayor Pro Tem moved to continue consideration of the ordinance to September 19, 2023.
Councilmember Butler second the motion, The motion passed 7-0 at 6:40 p.m.

19. Public hearing and second reading of an ordinance amending Title 22, Chapter 1 of the Greeley Municipal Code relating to master heating, air-conditioning, and gas pipe fitting certification (Mechanical Code)

Mr. McBroom introduced the item at 6:41 p.m. with Item 19.

Councilmember Butler asked how much this change would the overall cost of the housing. In response to the question, Mr. Haring replied there will be no additional cost.

The public hearing was opened at 6:42 pm.

With no speakers present, the public hearing was closed at 6:42 p.m.

Councilmember Olson asked if this would reduce costs to the city. Mr. Haring replied to the question with this change will save the city time and money.

Mayor Pro Tem Payton moved to adopt the ordinance and publish with reference to title only. Councilmember Hall seconded the motion. The motion passed 7-0 at 6:43 p.m.

20. Public hearing and second reading of an ordinance to annex Seeley Lake Annexation Number 1, a parcel totaling 0.10 acres

Planner III, Doug May introduced items 20 -25 with a presentation at 6:43 p.m.

This is a request for serial annexation of five pieces totaling 160.62 and must meet specific state statute requirements of which the City Attorney's Office has determined the proposal meets the statutory requirements. The Planning Commission held a public hearing on June 27, 2023, voted 5-1

The request is to zone the property as Holding Agriculture (H-A) which is created for property undeveloped agricultural land until development is proposed. The current surrounding zoning and land uses include agricultural, Planned Unit Development, Residential, Seeley Lake, and residential high density. The property located in the Urban Reserve in the Greeley Comprehensive Plan the area is not planned to develop within the next 20 years; however, is a development is proposed the city should consult with property owners, developers and residents to complete sub area plans.

There were 75 notice letters mailed, and two posted signs on the property. The city received 34 emails and six phone calls in opposition. The Planning Commission recommends approval with a 4-2 vote.

Councilmember Hall asked if there are utilities in the area or are, they planned? Mr. May replied to the question with infrastructure would need to be developed.

Councilmember Butler asked if costs of the infrastructure development would be paid for through development impact fees or would there be additional costs? In response to the question, Mr. May replied he would defer the question to Civil Engineer III, Don Kirby. In response to the question, Mr. Kirby replied to the infrastructure has well water and the meters would be issued off the system which would be built-out to Greeley's standard and the roads would need to be improved.

Councilmember Olson asked what roads would need to be improved. In response to the question, the internal roads would need to be subdivision standards and the external current County Roads would need to be annexed in and brought to current standards.

Councilmember DeBoutez asked Mr. May what the sub area developed entails. Mr. May replied there will be community outreach, data collecting and could result in working with a consultant to collect data.

Applicant representative Heather Vidlock, Development Services Project Manager with Galloway introduced her presentation at 6:54 p.m.

The proposed annexation for H-A have littler or no immediate development potential. The city code requirements for the annexation and zoning have been met and are conformance with comprehensive plan and future land use growth area. The proposed annexation promotes the geographic balance of the City's land use patter as shown on growth area maps. Adequate services are or will be available to support development, as no development is proposed. The annexation provides a continual and rational boundary as shown on the Growth Area Maps and is needed to accommodate future land use requirements.

Councilmember Butler asked the applicant if they don't want to develop the property why are they requesting to annex the property into Greeley. Ms. Vidlock answered annexing the property is consistent with future water plans and coming will need water in the future and would need to utilize City resources.

Councilmember DeBoutez asked for clarification about using city utilities. In response to the question, the only source of water is city utilities.

Councilmember Hall asked about timeline for development plans. Ms. Vidlock replied they have been working with city staff since last year to get the property annexed and do not have development plans at the moment.

Councilmember Butler asked city staff about rezoning and timeline. Mr. May replied there isn't a timeline for zoned districts and the rezoning criteria is the same.

Councilmember Clark spoke about public letters and reference to the "flagpole". Mr. May replied to the comment with AA Street is in right of way section and must be annexed in per state statute.

Councilmember Hall asked about adjacent right of way. Mr. May replied that there is contiguity requirement.

The public hearing was opened at 6:59 p.m.

1. Leona Kepler lives in Sunny View Estates and spoke about the increase of traffic. Ms. Kepler spoke about the need for four-lanes if the annexation is passed and believes the wildlife will disappear and opposes this annexation.
2. Stephanie Arries spoke about being a resident since 1989, and the traffic across 392 has increased and believes if this annexation passes the traffic will increase more. Ms. Arries, spoke about concerns of water resources. Ms. Arries spoke in opposition.
3. Bill Arries spoke about increased accidents with the increase of traffic of the development and opposition to this annexation.
4. Donn Parmelee spoke about traffic, sanitation and pollution concerns and is opposed to this annexation.

5. Ken Adams spoke in opposition and has concerns about increased traffic, need for more schools to support the increase of residence when they build homes. Mr. Adams spoke about sanitation and farming concerns.
6. Virginia Zech Spoke in opposition and lake safety and wildlife concerns. Ms. Zech asked why annex at this point.
7. Tyler Kennedy spoke in opposition and described nothing connecting this annexation except one road and asks Council if this should happen. The minimum requirement has been met, and Mr. Kennedy asks what the benefit to the community and City of Greeley.
8. Silas Kennedy spoke in opposition of the annexation and the requirements haven't been met, safety concerns and the future development of the property would require more schools and road improvements which would bring more traffic and accidents.
9. Adam Frazier spoke in support of the annexation.
10. Mark Sponsler spoke in opposition of the annexation and supports the previous speakers' comments.
11. Karen Lohmann spoke in opposition of the annexation, spoke of the traffic accidents that already exists and would increase with development.
12. Barb Stork Spoke in opposition of the annexation and mentioned the traffic concerns and increased needs of the community if developed.
13. (Virtual speaker) Lois Pringle spoke in opposition of the annexation and agreed with what previous speakers concerns.
14. (Virtual speaker) Brandon Garza spoke in opposition and did not receive notice of the annexation. Mr. Garza agreed with previous speakers' comments and utilities will cause issues.

The public hearing was closed at 7:33 p.m.

Mayor Pro Tem Payton asked Mr. May if current state statute requires to connect to municipal sewer and septic does the state law requiring connecting to the city sewer. Mr. Kirby replied that the septic is issued by the County with a minimum of one-acre parcel and demonstrate it will work and there is room for a second if it fails. Mayor Pro Tem Payton asked if there is a current application for development. In response, Mr. May replied there is not an application to develop the property.

Councilmember Hall asked for clarification on the contiguity for the annexation. Mr. May replied to the question with contiguity is being determined at the right of way through AA Street and will establish contiguity for the other annexations.

Councilmember Butler spoke about if the city developed the property, the city would need a traffic plan. Councilmember Butler asked about which school district this would fall into annexation? Mr. May replied to the question that part of the process of an annexation is to create an annexation impact report to Weld County and Special Districts which include the school district. Councilmember Butler asked about appeals and options. Mr. Marek replied that it would depend on the Council's decision and the allegation would need to be that the city didn't follow the appropriate procedures.

Councilmember DeBoutez asked Mr. May about the annexation and contiguity regarding Councilmember Hall's comment about the west annexation area and would like to confirm that is touching this proposal. In response to the question Mr. May replied the previously annexed property is the section that abuts the Seeley Lake Annexation property.

Councilmember Olson spoke about citizen concerns, first response, schools, traffic, noise and these are all items that are taken into consideration during development.

Councilmember Butler added to what Councilmember Olson spoke about mentioning Council follows the requirements set my state statute and does take the public comments into consideration. Council will do their diligence if a development plan is submitted.

DeBoutez agrees with what Councilmember Butler spoke about.

Mayor Gates spoke in opposition and does not like the contiguity of parcels and believes the citizen input has been overwhelming in opposition. For those reasons, Mayor Gates will not support this annexation.

Councilmember Clark spoke in support of the annexation, and mentions the city is growing. However, traffic safety is a concern of Councilmember Clark's.

Mayor Pro Tem Payton moved to adopt the ordinance and publish with reference to title only. Councilmember Clark seconded the motion. The motion passed 6-1, with Mayor Gates voting nay at 7:41 p.m.

21. Public hearing and second reading of an Ordinance to annex Seeley Lake Annexation Number 2, a parcel totaling 0.41 acres

The presentation for items 20-25 was given at 6:43 p.m.

The public hearing was opened at 7:45 p.m.

With no additional speakers present, the public hearing closed at 7:45 p.m.

Mayor Pro Tem Payton moved to adopt the Ordinance and publish with reference to title only. Councilmember Butler seconded the motion. The motion passed 6-1, with Mayor Gates voting nay at 7:46 p.m.

22. Public hearing and second reading of an ordinance to annex Seeley Lake Annexation Number 3, a parcel totaling 4.95 acres

The presentation for items 20-25 was given at 6:43 p.m.

The public hearing was opened at 7:46 p.m.

With no additional speakers present, the public hearing closed at 7:46 p.m.

Mayor Pro Tem Payton moved to adopt the ordinance and publish with reference to title only. Councilmember Clark seconded the motion. The motion passed 6-1, with Mayor Gates voting nay at 7:49 p.m.

23. Public hearing and second reading of an ordinance to annex Seeley Lake Annexation Number 4, a parcel totaling 87.53 acres

The presentation for items 20-25 was given at 6:43 p.m.

The public hearing was opened at 7:47 p.m.

With no additional speakers present, the public hearing closed at 7:47 p.m.

Mayor Pro Tem Payton moved to adopt the ordinance and publish with reference to title only. Councilmember Olson seconded the motion. The motion passed 6-1, with Mayor Gates voting nay at 7:49 p.m.

- 24. Public hearing and second reading of an ordinance to annex Seeley Lake Annexation Number 5, a parcel totaling 72.66 acres**

The presentation for items 20-25 was given at 6:43 p.m.

The public hearing was opened at 7:49 p.m.

With no additional speakers present, the public hearing closed at 7:49 p.m.

Mayor Pro Tem Payton moved to adopt the ordinance and publish with reference to title only. Councilmember DeBoutez seconded the motion. The motion passed 6-1, with Mayor Gates voting nay at 7:51 p.m.

- 25. Public hearing and second reading of an ordinance to establish zoning of 160.62 acres of newly annexed land, located North of AA Street and West of Seeley Lake**

The presentation for items 20-25 was given at 6:43 p.m.

The public hearing was opened at 7:50 p.m.

With no additional speakers present, the public hearing closed at 7:50 p.m.

Mayor Pro Tem Payton moved to adopt the ordinance and publish with reference to title only. Councilmember Olson seconded the motion. The motion passed 6-1, with Mayor Gates voting nay at 7:51 p.m.

- 26. Appointments to Boards & Commissions**

City Clerk Heidi Leatherwood announced the appointments:

Commission on Disabilities –William Pratt was appointed for a three-year term.

Youth Commission –Molly Shawcross was appointed for a two-year term.

Union Colony Civic Center Advisory Board –Daniel Knopf was appointed for a three-year term.

- 27. A motion authorizing the City Attorney to prepare any required resolutions, agreements, and ordinances to reflect action taken by the City Council at this meeting and any previous meetings and authorizing the Mayor and City Clerk to sign all such resolutions, agreements, and ordinances.**

Mayor Pro Tem Payton moved to approve the motion. Councilmember Butler seconded the motion. The motion passed 7-0 at 7:52 p.m.

28. Scheduling of Meetings, Other Events

None.

29. Adjournment

Mayor Gates adjourned the meeting at 7:52 p.m.

Approved:

John D. Gates, Mayor

Attest:

Heidi Leatherwood, City Clerk



Council Agenda Summary

September 5, 2023

Key Staff Contact: Paul Trombino, Public Works Director

Title:

A resolution of the City Council of the City of Greeley authorizing the city to enter into an Intergovernmental Agreement with the United States Department of Transportation for a Connected Greeley – Emergency Vehicle Preemption (CG-EVP) Pilot

Summary:

Through a competitive grant process, facilitated by the United States Department of Transportation (USDOT), the City of Greeley has been awarded a Strengthening Mobility and Revolutionizing Transportation (SMART) Grant for a Connected Greeley – Emergency Vehicle Preemption (CG-EVP) Pilot.

In the City of Greeley's 2045 Transportation Master Plan (TMP), Greeley on the Go, the City envisions updating its existing transportation infrastructure to accommodate emerging technologies that promote resilience and safety. This SMART Grant will fund the Connected Greeley – Emergency Vehicle Preemption (CG-EVP) Pilot to evaluate and install connected vehicle (CV) technologies to provide emergency vehicle preemption (EVP) for emergency vehicles (e.g., firetrucks and ambulances) and preemption for snowplows; Vulnerable Road User (VRU) detection and warning system using CV technology in emergency and snowplow vehicles.

The pilot would retire the legacy Opticom system and use ATC Controllers and Roadside Units (RSUs) to facilitate safe passage of emergency vehicles and snowplows through signalized intersections and to integrate pedestrian detection at select high pedestrian intersections. The CG-EVP Pilot will install RSUs at 43 intersections, 50 On-Board Units (OBUs) on snowplows and emergency vehicles (i.e., fire and ambulances) and VRU detection systems at three study area intersections in the pilot project study area. The adoption of this resolution will facilitate staff's ability to receive reimbursement for this CG-EVP project.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	No
Is there grant funding for this item?	Yes
If yes, does this grant require a match?	No
Is this grant onetime or ongoing?	Onetime
Additional Comments:	Reimbursable Federal Grant for \$1,382,150

Legal Issues:

The City may enter into intergovernmental agreements for cooperative or joint activities with other

governmental bodies. Approval is by City Council resolution or ordinance when the agreement involves direct monetary payment of more than \$100,000. GMC § 2-186.

Other issues and Considerations:

Strategic Focus Area:



Infrastructure and Mobility



Quality of Life



Safe and Secure Communities

Decision Options:

- 1) Adopt the resolution as presented; or
- 2) Amend the resolution and adopt as amended; or
- 3) Deny the resolution; or
- 4) Continue consideration of the resolution to a date certain.

Council's Recommended Action:

A motion to adopt the resolution.

Attachments:

1. Res 30, 2023
2. Exhibit A

**CITY OF GREELEY, COLORADO
RESOLUTION 30, 2023**

**RESOLUTION AUTHORIZING THE CITY TO ENTER INTO
AN INTERGOVERNMENTAL AGREEMENT WITH THE UNITED STATES
DEPARTMENT OF TRANSPORTATION FOR A CONNECTED GREELEY –
EMERGENCY VEHICLE PREEMPTION (CG-EVP) PILOT**

WHEREAS, in accordance with C.R.S. §29-1-203, governments may cooperate or contract with one another to provide function, service or facility lawfully authorized to each of the cooperating or contracting units of government; and

WHEREAS, through a competitive SMART grant process with the United States Department of Transportation (USDOT), the City has been awarded a Connected Greeley – Emergency Vehicle Preemption (CG-EVP) Pilot grant, in the total amount of One Million Three Hundred Eight Two Thousand One Hundred Fifty Dollars (\$1,382,150.00); and

WHEREAS, USDOT will be responsible for the general administration and supervision of the performance of the Project, and is willing to provide One Million Three Hundred Eight Two Thousand One Hundred Fifty Dollars (\$1,382,150.00); and

WHEREAS, the Project will require no matching funding from the City (\$0); and

WHEREAS, the City desires to comply with the applicable requirements for USDOT's general administration and supervision of the Project through this IGA, in order to obtain federal funds; and

WHEREAS, the City is adequately staffed and suitably equipped to undertake and satisfactorily complete some or all of the work on the Project; and

WHEREAS, it is in the best interest of the citizens of the City for Council to enter into this IGA, reduce rear-end crashes at this Intersection, thus maintaining a safe, competitive, appealing, and successful community; and

WHEREAS, this IGA with USDOT is authorized by C.R.S. §§43-2-103, and 43-2-144; and

WHEREAS, the City and USDOT have agreed to the terms and conditions of the IGA attached hereto and incorporated herein as Exhibit A.

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

Section 1. The City Council hereby authorizes the City to enter into this IGA.

Section 2. City staff is hereby authorized to make changes and modifications to the Agreement, so long as the substance of the IGA remains unchanged.

Section 3. This Resolution shall become effective immediately upon its passage, as provided by the Greeley City Charter.

PASSED AND ADOPTED, SIGNED AND APPROVED THIS _____ day of _____, 2023.

ATTEST:

THE CITY OF GREELEY, COLORADO

By: City Clerk

By: Mayor

STRENGTHENING MOBILITY AND REVOLUTIONIZING TRANSPORTATION (SMART) GRANTS PROGRAM

- | | | |
|---|---|---|
| 1. Award No.
69A3552341024 SMARTFY22N1P1G15 | 2. Effective Date
See No. 17 Below | 3. Assistance Listings No.
20.941 |
| 4. Award To
City of Greeley | 5. Sponsoring Office
U.S. Department of Transportation
Office of the Assistant Secretary for Research and Technology
1200 New Jersey Avenue, SE
Washington, DC 20590 | |

Unique Entity Id:

VJG3QJJKZ1X6

- | | |
|--|--|
| 6. Period of Performance
09/15/23 to 03/15/25 | 7. Total Amount
Federal Share: \$1,382,150
Recipient Share:
Other Federal Funds:
Other Funds:
Total: \$1,382,150 |
| 8. Type of Agreement
Grant | 9. Authority
Section 25005 of the Infrastructure Investment and Jobs Act (Pub. L. 117–58, November 15, 2021; also referred to as the “Bipartisan Infrastructure Law” or “BIL”) |
| 10. Procurement Request No.
69A3552341024 | 11. Federal Funds Obligated
\$1,382,150 |
| 12. Submit Payment Requests To
See article 19. | 13. Payment Office
See article 19. |

14. Accounting and Appropriations Data 69A3552341024

- 15. Description of Project** Provide Emergency Vehicle Preemption (EVP), snowplow priority, and a Vulnerable Road User (VRU) detection and warning system at intersections in Greeley.

RECIPIENT

16. Signature of Person Authorized to Sign

Signature
Name:
Title:

Date

17. OFFICE OF THE ASSISTANT SECRETARY FOR RESEARCH AND TECHNOLOGY Signature of Agreement Officer

Signature
Name: Roxanne Ledesma
Title: Supervisory Grant Management Specialist (Agreement Officer)

U.S. DEPARTMENT OF TRANSPORTATION

**GRANT AGREEMENT UNDER THE
FISCAL YEAR 2023 STRENGTHENING MOBILITY AND REVOLUTIONIZING
TRANSPORTATION (SMART) GRANTS PROGRAM**

This agreement is between the [United States Department of Transportation (the “USDOT”)] and the City of Greeley (the “**Recipient**”).

This agreement reflects the selection of the Recipient to receive a Strengthening Mobility and Revolutionizing Transportation (SMART) Grant for the Connected Greeley – Emergency Vehicle Preemption (CG-EVP) Pilot
The parties therefore agree to the following:

**ARTICLE 1
GENERAL TERMS AND CONDITIONS**

- (1) In this agreement, “General Terms and Conditions” means the content of the document titled “General Terms and Conditions Under the Fiscal Year Strengthening Mobility and Revolutionizing Transportation (SMART) Grants Program,” dated June 20, 2023, which is available at <https://www.transportation.gov/grants/smart/grants-management>. Articles 7–30 are in the General Terms and Conditions. The General Terms and Conditions are part of this agreement.
- (2) The Recipient states that it has knowledge of the General Terms and Conditions. Recipient also states that it is required to comply with all applicable Federal laws and regulations including, but not limited to, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200); National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.); and Build America, Buy America Act (BIL, div. G §§ 70901-27).
- (3) The Recipient acknowledges that the General Terms and Conditions impose obligations on the Recipient and that the Recipient’s non-compliance with the General Terms and Conditions may result in remedial action, termination of the SMART Grant, disallowing costs incurred for the Project, requiring the Recipient to refund to the USDOT the SMART Grant, and reporting the non-compliance in the Federal-government-wide integrity and performance system.

**ARTICLE 2
APPLICATION, PROJECT, AND AWARD**

a. Application.

Application Title: Connected Greeley – Emergency Vehicle Preemption (CG-EVP) Pilot

Application Date: November 18, 2022

b. Award Amount.

SMART Grant Amount: \$1,382,150

c. Award Dates.

Period of Performance End Date: 03/15/2025

d. Budget Period

Budget Period End Date: 03/15/2025

FEDERAL AWARD IDENTIFICATION NUMBER.

The Federal Award Identification Number is listed on page 1, line 1.

ARTICLE 3 SUMMARY PROJECT INFORMATION

a. Summary of Project's Statement of Work.

Provide Emergency Vehicle Preemption (EVP), snowplow priority, and a Vulnerable Road User (VRU) detection and warning system at intersections in Greeley.

b. Project's Estimated Schedule.

Milestone	Schedule Date
Evaluation & Data Management Plan (NLT 3mo after start)	12/15/2023
Draft Implementation Report (NLT 1 yr after start)	09/15/2024
Final Implementation Report (by the end of the POP)	03/15/2025

Project's Estimated Costs.

(1) Eligible Project Costs

Eligible Project Costs	
SMART Grant Amount:	\$1,382,150
Other Federal Funds:	
State Funds:	
Local Funds:	
In-Kind Match:	
Other Funds:	
Total Eligible Project Cost:	\$1,382,150

(2) Supplemental Estimated Budget

Cost Element	Federal Share	Non-Federal Share	Total Budget Amount
Direct Labor	97,000	\$0	97,000
Fringe Benefits	\$0	\$0	\$0
Travel	3,000	\$0	3,000
Equipment	74,6500	\$0	746,500
Supplies	40,000	\$0	40,000
Contractual/Consultant	370,000	\$0	370,000
Construction	\$0	\$0	\$0
Other	125,650	\$0	125,650
Indirect Costs	\$0	\$0	\$0

STRENGTHENING MOBILITY AND REVOLUTIONIZING TRANSPORTATION (SMART) GRANTS PROGRAM

Total Budget	\$1,382,150	\$0	\$1,382,150
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(3) Cost Classification Table -Implementation Grants Only

Utilize the descriptions from the SF-424c to determine what cost goes in each row.

Cost Classification	Total Costs	Non-SMART Previously Incurred Costs	Eligible Costs
Administrative and legal expenses	0	0	0
Land, structures, rights-of-way, appraisals, etc.	0	0	0
Relocation expenses and payments	0	0	0
Architectural and engineering fees	0	0	0
Other architectural and engineering fees	0	0	0
Project inspection fees	0	0	0
Site work	0	0	0
Demolition and removal	0	0	0
Construction	0	0	0
Equipment	0	0	0
Miscellaneous	0	0	0
Contingency	0	0	0
Project Total	0	0	0

**ARTICLE 4
RECIPIENT INFORMATION**

a. Recipient's Unique Entity Identifier.

VJG3QJJKZ1X6

b. Recipient Contact(s).

Steven Younkin
Deputy Chief Engineer
2835 10th Street,
Greeley, CO, 80634-5424
(970) 373-6281
steven.younkin@greeleygov.com

c. Recipient Key Personnel.

Name	Title or Position
Steven Younkin	Deputy Chief Engineer

d. USDOT Project Contact(s).

Roxanne Ledesma
Strengthening Mobility and Revolutionizing Transportation Grants Program Manager
U.S. Department of Transportation
Office of the Assistant Secretary for Research and Technology 1200 New Jersey Avenue,
S.E.
Washington, DC 20590
(202) 774-8003
Roxanne.Ledesma@dot.gov

ARTICLE 5 USDOT ADMINISTRATIVE INFORMATION

5.1 Office for Subaward and Contract Authorization.

- (a) USDOT Office for Subaward and Contract Authorization: Office of the Assistant Secretary for Research and Technology SUBAWARDS AND CONTRACTS APPROVAL

Note: See 2 CFR § 200.331, Subrecipient and contractor determinations, for definitions of subrecipient (who is awarded a subaward) versus contractor (who is awarded a contract).

Note: Recipients with a procurement system deemed approved and accepted by the Government or by the AO are exempt from the requirements of this clause. See 2 CFR 200.317 through 200.327.

- (b) Unless described in the application and funded in the approved award, the Recipient must obtain prior written approval from the AO for the subaward, transfer, or contracting out of any work under this award above the Simplified Acquisition Threshold. This provision does not apply to the acquisition of supplies, material, equipment, or general support services. Approval of each subaward or contract is contingent upon the Recipient's submittal of a written fair and reasonable price determination, and approval by the AO for each proposed contractor/sub-recipient. Consent to enter into subawards or contracts will be issued through written notification from the AO or a formal amendment to the Agreement.
- (c) The following subawards and contracts are currently approved under the Agreement by the AO. This list does not include supplies, material, equipment, or general support services which are exempt from the pre-approval requirements of this clause.

(Fill in at award or by amendment)

5.2 Reimbursement Requests

- (a) The Recipient may request reimbursement of costs incurred in the performance of this agreement if those costs do not exceed the funds available under section 2.2 and are allowable under the applicable cost provisions of 2 C.F.R. Part 200, Subpart E. The Recipient shall not request reimbursement more frequently than monthly.
- (b) The Recipient shall use the DELPHI eInvoicing System to submit requests for reimbursement to the payment office. When requesting reimbursement of costs incurred or credit for cost share incurred, the Recipient shall electronically submit supporting cost detail with the SF 271 (Outlay Report and Request for Reimbursement for Construction Programs) to clearly document all costs incurred.

- (c) The Recipient's supporting cost detail shall include a detailed breakout of all costs incurred, including direct labor, indirect costs, other direct costs, travel, etc., and the Recipient shall identify the Federal share and the Recipient's share of costs. If the Recipient does not provide sufficient detail in a request for reimbursement, the AO may withhold processing that request until the Recipient provides sufficient detail.
- (d) The USDOT shall not reimburse costs unless the Agreement Officer's Representative (the "AOR") reviews and approves the costs to ensure that progress on this agreement is sufficient to substantiate payment.
- (e) The USDOT may waive the requirement in section 19.7(a) that the Recipient use the DELPHI eInvoicing System. The Recipient may obtain waiver request forms on the DELPHI eInvoicing website (<http://www.dot.gov/cfo/delphi-einvoicing-system.html>) or by contacting the AO. A Recipient who seeks a waiver shall explain why they are unable to use or access the Internet to register and enter payment requests and send a waiver request to

Director of the Office of Financial Management
US Department of Transportation,
Office of Financial Management B-30, Room W93-431
1200 New Jersey Avenue SE
Washington DC 20590-0001

or

DOTElectronicInvoicing@dot.gov.

- (f) To seek reimbursement from DOT, the Recipient shall submit documentary evidence of all expenditures associated with the Grant Project (those to be covered by the local and/or state contribution, as well as those covered by the Federal contribution) on a monthly basis. All reimbursement requests to DOT shall include sufficient documentation to justify reimbursement of the Recipient, including invoices and proof of payment of the invoice. In seeking reimbursements, grant recipients must provide invoices or other evidence of the expenditure, details about the expenditure and how it relates to the grant project, and evidence of payment.

The requirements set forth in these terms and conditions supersede previous financial invoicing requirements for Recipients.

**ARTICLE 6
SPECIAL GRANT TERMS**

- 6.1** SMART funds must be expended by the budget period end date in section 10.3 of the Terms and Conditions.
- 6.2** The Recipient should demonstrate compliance with civil rights obligations and nondiscrimination laws, including Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act, and implementing regulations. This should include a current Title VI plan, completed Community Participation Plan, and a plan to address any legacy infrastructure or facilities that are not compliant with ADA standards. The Department's and the applicable Operating Administrations' Offices of Civil Rights may work with awarded grant recipients to ensure full compliance with Federal civil rights requirements.
- 6.3** There are no other special grant requirements for this award.

ATTACHMENT A
PERFORMANCE MEASUREMENT INFORMATION

Baseline Measurement Date: Due 90 days after award

Baseline Report Date: Due 90 days after award

Table 1: Performance Measure Table

Measure	Category and Description	Measurement Frequency
Safety and Reliability	Qualitative Project Benefits: Qualitative description of the anticipated impacts of at-scale implementation on emergency response and the safety of systems for pedestrians, bicyclists, and the broader traveling public	End of period of performance
Resiliency	Qualitative Project Benefits: Qualitative description of the anticipated impacts of at-scale implementation on the reliability and resiliency of the transportation system including cybersecurity and climate change	End of period of performance
Equity and Access	Qualitative Project Benefits: Qualitative description of the anticipated impacts of at-scale implementation on connecting or expanding access to jobs, education, and essential services for underserved or disadvantaged populations	End of period of performance
Climate	Qualitative Project Benefits: Qualitative description of the anticipated impacts of at-scale implementation on congestion, air pollution, emissions, and energy efficiency	End of period of performance
Partnerships	Qualitative Project Benefits: Qualitative description of the anticipated impacts of	End of period of performance

STRENGTHENING MOBILITY AND REVOLUTIONIZING TRANSPORTATION (SMART) GRANTS PROGRAM

Measure	Category and Description	Measurement Frequency
	at-scale implementation on the economic competitiveness and private sector investments or partnerships including technical and financial commitments	
Integration	Qualitative Project Benefits: Qualitative description of the anticipated impacts of at-scale implementation on the integration of systems and the connectivity of infrastructure, connected vehicles, pedestrians, bicyclists, and the broader traveling public	End of period of performance
Costs	Project Costs: Quantification of the cost of the proof-of-concept or prototype carried out using the grant (Stage 1)	End of period of performance
Costs	Project Costs: Quantification of the anticipated cost of at-scale implementation (Stage 2)	End of period of performance
Lessons Learned and Recommendations	Lessons Learned and Recommendations: Description of lessons learned and recommendations for future deployment strategies	End of period of performance

ATTACHMENT B CHANGES FROM APPLICATION

INSTRUCTIONS FOR COMPLETING ATTACHMENT B: Describe all material differences between the scope, schedule, and budget described in the application and the scope, schedule, and budget described in Article 3. The purpose of this attachment B is to document the differences clearly and accurately in scope, schedule, and budget to establish the parties' knowledge and acceptance of those differences. See section 10.1.

Scope:

Schedule:

Budget:

The table below provides a summary comparison of the project budget.

Fund Source	Application		Section 3.3	
	\$	%	\$	%
Previously Incurred Costs (Non-Eligible Project Costs)				
Federal Funds				
Non-Federal Funds				
Total Previously Incurred Costs				
Future Eligible Project Costs				
SMART Funds	\$1,382,150	100	\$1,382,150	100
Other Federal Funds				
Non-Federal Funds				
Total Future Eligible Project Costs				
Total Project Costs	\$1,382,150	100	\$1,382,150	100

ATTACHMENT C

CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE IMPACTS

1. Consideration of Climate Change and Environmental Justice Impacts.

The Recipient states that rows marked in the following table are accurate:

☐	The Project directly supports a Local/Regional/State Climate Action Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
☐	The Project directly supports a Local/Regional/State Equitable Development Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
☐	The Project directly supports a Local/Regional/State Energy Baseline Study that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
☐	The Recipient or a project partner used environmental justice tools, such as the EJSCREEN, to minimize adverse impacts of the Project on environmental justice communities. <i>(Identify the tool(s) in the supporting narrative below.)</i>
☒	The Project supports a modal shift in freight or passenger movement to reduce emissions or reduce induced travel demand. <i>(Describe that shift in the supporting narrative below.)</i>
☐	The Project utilizes demand management strategies to reduce congestion, induced travel demand, and greenhouse gas emissions. <i>(Describe those strategies in the supporting narrative below.)</i>
☐	The Project incorporates electrification infrastructure, zero-emission vehicle infrastructure, or both. <i>(Describe the incorporated infrastructure in the supporting narrative below.)</i>
☐	The Project supports the installation of electric vehicle charging stations. <i>(Describe that support in the supporting narrative below.)</i>
☐	The Project promotes energy efficiency. <i>(Describe how in the supporting narrative below.)</i>
☐	The Project serves the renewable energy supply chain. <i>(Describe how in the supporting narrative below.)</i>
☒	The Project improves disaster preparedness and resiliency <i>(Describe how in the supporting narrative below.)</i>
☐	The Project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, such as through reduction in Clean Air Act criteria pollutants and greenhouse gases, improved stormwater management, or improved habitat connectivity. <i>(Describe how in the supporting narrative below.)</i>
☐	The Project repairs existing dilapidated or idle infrastructure that is currently causing environmental harm. <i>(Describe that infrastructure in the supporting narrative below.)</i>
☐	The Project supports or incorporates the construction of energy- and location-efficient buildings. <i>(Describe how in the supporting narrative below.)</i>

☐	The Project includes recycling of materials, use of materials known to reduce or reverse carbon emissions, or both. <i>(Describe the materials in the supporting narrative below.)</i>
☐	The Recipient has taken other actions to consider climate change and environmental justice impacts of the Project, as described in the supporting narrative below.
☐	The Recipient has not yet taken actions to consider climate change and environmental justice impacts of the Project but, before beginning construction of the Project, will take relevant actions described in Attachment A. <i>(Identify the relevant actions from Attachment A in the supporting narrative below.)</i>
☐	The Recipient has not taken actions to consider climate change and environmental justice impacts of the Project and will not take those actions under this award.

2. Supporting Narrative.

[Recipient - Insert supporting text in last page, as described in the table above.]

ATTACHMENT D RACIAL EQUITY AND BARRIERS TO OPPORTUNITY

1. Efforts to Improve Racial Equity and Reduce Barriers to Opportunity.

The Recipient states that rows marked with “X” in the following table are accurate:

☐	A racial equity impact analysis has been completed for the Project. <i>(Identify a report on that analysis or, if no report was produced, describe the analysis and its results in the supporting narrative below.)</i>
☒	The Recipient or a project partner has adopted an equity and inclusion program/plan or has otherwise instituted equity-focused policies related to project procurement, material sourcing, construction, inspection, hiring, or other activities designed to ensure racial equity in the overall delivery and implementation of the Project. <i>(Identify the relevant programs, plans, or policies in the supporting narrative below.)</i>
☐	The Project includes physical-barrier-mitigating land bridges, caps, lids, linear parks, and multimodal mobility investments that either redress past barriers to opportunity or that proactively create new connections and opportunities for underserved communities that are underserved by transportation. <i>(Identify the relevant investments in the supporting narrative below.)</i>
☐	The Project includes new or improved walking, biking, and rolling access for individuals with disabilities, especially access that reverses the disproportional impacts of crashes on people of color and mitigates neighborhood bifurcation. <i>(Identify the new or improved access in the supporting narrative below.)</i>
☐	The Project includes new or improved freight access to underserved communities to increase access to goods and job opportunities for those underserved communities. <i>(Identify the new or improved access in the supporting narrative below.)</i>
☐	The Recipient has taken other actions related to the Project to improve racial equity and reduce barriers to opportunity, as described in the supporting narrative below.
☐	The Recipient has not yet taken actions related to the Project to improve racial equity and reduce barriers to opportunity but, before beginning construction of the project, will take relevant actions described in Attachment A. <i>(Identify the relevant actions from Attachment A in the supporting narrative below.)</i>
☐	The Recipient has not taken actions related to the Project to improve racial equity and reduce barriers to opportunity and will not take those actions under this award.

2. Supporting Narrative.

[Recipient- Insert supporting text in last page, as described in the table above.]

ATTACHMENT E LABOR AND WORKFORCE

1. **Efforts to Support Good-Paying Jobs and Strong Labor Standards. Successful projects will also support the creation of good-paying jobs with the free and fair choice to join a union.**

As outlined in the Notice of Funding Opportunity, applicants are evaluated and selected based on criteria including the extent to which applicants identify the necessary planning and engagement activities that, as projects are fully implemented during Stage 2, will ensure high-quality job creation by supporting good-paying jobs with a free and fair choice to join a union, incorporating strong labor standards (e.g., wages and benefits at or above prevailing, use of project labor agreements, registered apprenticeship programs, pre-apprenticeships tied to 16 registered apprenticeships, etc.), and/or providing workforce opportunities for historically underrepresented groups (e.g., workforce development program, etc.). The table below enables The Recipient to demonstrate how this criteria is addressed.

The Recipient states that rows marked with “X” in the following table are accurate:

☐	The Recipient demonstrate, to the full extent possible consistent with the law, an effort to create good-paying jobs with the free and fair choice to join a union and incorporation of high labor standards. <i>(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)</i>
☒	The Recipient or a project partner has adopted the use of local and economic hiring preferences in the overall delivery and implementation of the Project. <i>(Describe the relevant provisions in the supporting narrative below.)</i>
☐	The Recipient or a project partner has adopted the use of registered apprenticeships in the overall delivery and implementation of the Project. <i>(Describe the use of registered apprenticeship in the supporting narrative below.)</i>
☐	The Recipient or a project partner will provide training and placement programs for underrepresented workers in the overall delivery and implementation of the Project. <i>(Describe the training programs in the supporting narrative below.)</i>
☐	The Recipient or a project partner will support free and fair choice to join a union in the overall delivery and implementation of the Project by investing in workforce development services offered by labor-management training partnerships or setting expectations for contractors to develop labor-management training programs. <i>(Describe the workforce development services offered by labor-management training partnerships in the supporting narrative below.)</i>

☐	The Recipient or a project partner will provide supportive services and cash assistance to address systemic barriers to employment to be able to participate and thrive in training and employment, including childcare, emergency cash assistance for items such as tools, work clothing, application fees and other costs of apprenticeship or required pre-employment training, transportation and travel to training and work sites, and services aimed at helping to retain underrepresented groups like mentoring, support groups, and peer networking. <i>(Describe the supportive services and/or cash assistance provided to trainees and employees in the supporting narrative below.)</i>
☐	The Recipient or a project partner has documented agreements or ordinances in place to hire from certain workforce programs that serve underrepresented groups. <i>(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)</i>
☒	The Recipient or a project partner participates in a State/Regional/Local comprehensive plan to promote equal opportunity, including removing barriers to hire and preventing harassment on work sites, and that plan demonstrates action to create an inclusive environment with a commitment to equal opportunity, including: a. affirmative efforts to remove barriers to equal employment opportunity above and beyond complying with Federal law; b. proactive partnerships with the U.S. Department of Labor's Office of Federal Contract Compliance Programs to promote compliance with EO 11246 Equal Employment Opportunity requirements and meet the requirements as outlined in the Notice of Funding Opportunity to make good faith efforts to meet the goals of 6.9 percent of construction project hours being performed by women and goals that vary based on geography for construction work hours and for work being performed by people of color; c. no discriminatory use of criminal background screens and affirmative steps to recruit and include those with former justice involvement, in accordance with the Fair Chance Act and equal opportunity requirements; d. efforts to prevent harassment based on race, color, religion, sex, sexual orientation, gender identity, and national origin; e. training on anti-harassment and third-party reporting procedures covering employees and contractors; and f. maintaining robust anti-retaliation measures covering employees and contractors. <i>(Describe the equal opportunity plan in the supporting narrative below.)</i>
☐	The Recipient has taken other actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards. <i>(Describe those actions in the supporting narrative below.)</i>

STRENGTHENING MOBILITY AND REVOLUTIONIZING TRANSPORTATION (SMART) GRANTS PROGRAM

☐	The Recipient has not yet taken actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards but, before beginning construction of the project, will take relevant actions described in schedule B. <i>(Identify the relevant actions from schedule B in the supporting narrative below.)</i>
☐	The Recipient has not taken actions related to the Project to improving good-paying jobs and strong labor standards and will not take those actions under this award.

a. Supporting Narrative.

[Recipient- Insert supporting text in last page, as described in the table above.]

ATTACHMENT F
CRITICAL INFRASTRUCTURE SECURITY AND RESILIENCE

1. Efforts to strengthen the Security and Resilience of Critical Infrastructure against both Physical and Cyber Threats.

The Recipient states that rows marked with “X” in the following table are accurate:

☒	The Recipient demonstrates, prior to the signing of this agreement, effort to consider and address physical and cyber security risks relevant to the transportation mode and type and scale of the activities.
☐	The Recipient appropriately considered and addressed physical and cyber security and resilience in the planning, design and oversight of the project, as determined by the Department and the Department of Homeland Security.
☒	The Recipient complies with 2 CFR 200.216 and the prohibition on certain telecommunications and video surveillance services or equipment.
☐	For projects in floodplains: The Recipient appropriately considered whether the project was upgraded consistent with the Federal Flood Risk Management Standard, to the extent consistent with current law, in Executive Order 14030, Climate-Related Financial Risk (86 FR 27967), and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Solicit and Considering Stakeholder Input (80 FR 6425).

2. Supporting Narrative.

[Recipient- Insert supporting text in last page as described in the table above.]

SUPPORTING TEXT FOR CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE IMPACTS

The Project supports a modal shift in freight or passenger movement to reduce emissions or reduce induced travel demand.

Supporting text: The Project is a pilot study to evaluate the to evaluate and install connected vehicle (CV) technologies to, provide emergency vehicle preemption (EVP) for emergency vehicles (e.g., firetrucks and ambulances) and preemption for snowplows and; Vulnerable Road User (VRU) detection and warning system using CV technology in emergency and snowplow vehicles. Upon successful completion of the pilot, the next phase will not only expand the footprint of the program but also expand to include low priority preemption for transit vehicles. This will lead to a modal shift for local and regional transit services and consequently reduce emissions due to less idling times at signals.

The Project improves disaster preparedness and resiliency

Supporting text: The CG-EVP Pilot will track the performance of deployed infrastructure using key performance indicators (KPIs), such as average response time, detection accuracy, and KPIs to be identified by stakeholders. System effectiveness will be tested using various scenarios including during inclement weather, day and nighttime, and a range of emergency vehicle use cases.

SUPPORTING TEXT FOR RACIAL EQUITY AND BARRIERS TO OPPORTUNITY

The Recipient or a project partner has adopted an equity and inclusion program/plan or has otherwise instituted equity-focused policies related to project procurement, material sourcing, construction, inspection, hiring, or other activities designed to ensure racial equity in the overall delivery and implementation of the Project.

Supporting text: The City of Greeley uses the following language in procurement.

1. CIVIL RIGHTS REQUIREMENTS

(29 U.S.C. § 623, 42 U.S.C. § 2000 42 U.S.C. § 6102, 42 U.S.C. § 12112 42 U.S.C. § 12132, 49 U.S.C. § 5332 29 CFR Part 1630, 41 CFR Parts 60 et seq.)

Applicability to Contracts

The Civil Rights Requirements apply to all contracts.

Flow Down

The Civil Rights requirements flow down to all third-party contractors and their contracts at every tier.

Model Clause/Language

The following clause was predicated on language contained at 49 CFR Part 19, Appendix A, but FTA has shortened the lengthy text.

Civil Rights - The following requirements apply to the underlying contract:

1. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

SUPPORTING TEXT FOR LABOR AND WORKFORCE

Refer to Attachment D for City of Greeley policies.

SUPPORTING TEXT FOR CRITICAL INFRASTRUCTURE SECURITY AND RESILIENCE

The City of Greeley continues to make strides in efforts to strengthen security and resiliency of Information Security and Critical Infrastructure. This progress includes the enrollment and implementation of Microsoft Security and Compliance across the enterprise tenant. The new features allow the adoption of Multi-Factor Authentication to all employees, a unified experience of endpoint protection and management with Defender for Endpoints and Cloud, insight of vulnerability management, enhanced email protection against zero-day threats, phishing attacks, and spoofed priority accounts. In addition, new Data Loss Prevention policies will be adopted that include features for information protection, data lifecycle management, and insider threats.

The above tools will be used for the SMART Grant to better enforce least privilege to ensure data integrity by allowing access to only what is needed based on assigned duties. Control to traffic devices and information will be strictly enforced using Role Based Access and need-to-know. Data Loss Prevention enforcement will ensure trusted information will be encrypted with rights access to only assigned individuals to ensure confidentiality is maintained from creation to archive. Further security measures include segmented channels between the traffic and enterprise network with robust next-generation firewalls between the network, transport, and application layers.

U.S. DEPARTMENT OF TRANSPORTATION

**GENERAL TERMS AND CONDITIONS UNDER THE
FISCAL YEAR 2022 STRENGTHENING MOBILITY AND REVOLUTIONIZING
TRANSPORTATION (SMART) GRANT PROGRAM:**

Revision date: June 20, 2023

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GENERAL TERMS AND CONDITIONS

The Infrastructure Investment and Jobs Act (Pub. L. 117–58, November 15, 2021; also referred to as the “Bipartisan Infrastructure Law” or “BIL”) established the Strengthening Mobility and Revolutionizing Transportation (SMART) Discretionary Grant Program (BIL Section 25005) and appropriated additional funds to the United States Department of Transportation (the “USDOT”) under Division J, Title VIII of BIL to implement the program. The funding will be implemented, as appropriate and consistent with law, in alignment with the priorities in Executive Order 14052, Implementation of the Infrastructure Investment and Jobs Act (86 FR 64355). The funds are available to conduct demonstration projects focused on advanced smart city or community technologies and systems in a variety of communities to improve transportation efficiency and safety. The program funds projects that are focused on using technology interventions to solve real-world challenges and build data and technology capacity and expertise in the public sector.

The USDOT published a Notice of Funding Opportunity (the “NOFO”) to solicit applications for Federal financial assistance in Fiscal Year 2022 for the Strengthening Mobility and Revolutionizing Transportation (SMART) (87 FR 58187).

These general terms and conditions are incorporated by reference in a project-specific grant agreement under the fiscal year 2022 SMART Grants Program. Articles 1–6 are in the project-specific portion of the agreement. The term “Recipient” is defined in the project-specific portion of the agreement. Attachments A through D are project-specific attachments.

ARTICLE 7

PURPOSE

7.1 **Purpose.** The purpose of this award is to is to conduct demonstration projects focused on advanced smart city or community technologies and systems in a variety of communities to improve transportation efficiency and safety. The program funds projects that are focused on using technology interventions to solve real-world challenges and build data and technology capacity and expertise in the public sector. The parties will accomplish that purpose by achieving the following objectives:

- (a) timely completing the Project; and
- (b) ensuring that this award does not substitute for non-Federal investment in the Project, except as proposed in the Grant Application, as modified by section 3.3 and Attachment B.

ARTICLE 8 USDOT ROLE

8.1 Division of USDOT Responsibilities.

The Office of the Secretary of Transportation is ultimately responsible for the USDOT's administration of the SMART Grant Program.

USDOT Program Contacts.

U.S. Department of Transportation
Office of the Assistant Secretary for Research and Technology
1200 New Jersey Avenue, SE
Washington, DC 20590
SMART@dot.gov

ARTICLE 9 RECIPIENT ROLE

9.1 Statements on the Project. The Recipient states that:

- (a) all material statements of fact in the Grant Application were accurate when that application was submitted; and
- (b) Attachment B documents all material changes in the information contained in that application.

9.2 Statements on Authority and Capacity. The Recipient states that:

- (a) it has the authority to receive Federal financial assistance under this agreement;
- (b) it has the legal authority to complete the Project;
- (c) it has the capacity, including institutional, managerial, and financial capacity, to comply with its obligations under this agreement;
- (d) not less than the difference between the “Total Eligible Project Cost” and the “SMART Grant Amount” listed in section 3.3 are committed to fund the Project;
- (e) the individual executing this agreement on behalf of the Recipient has authority to enter this agreement and make the statements in this article 9 and in section 24.7 on behalf of the Recipient.

9.3 USDOT Reliance. The Recipient acknowledges that:

- (a) the USDOT relied on statements of fact in the Grant Application to select the Project to receive this award;
- (b) the USDOT relied on statements of fact in both the Grant Application and this agreement to determine that the Recipient and the Project are eligible under the terms of the NOFO;
- (c) the USDOT relied on statements of fact in both the Grant Application and this agreement to establish the terms of this agreement; and
- (d) the USDOT’s selection of the Project to receive this award prevented awards under the NOFO to other eligible applicants.

9.4 Project Delivery.

- (a) The Recipient shall complete the Project under the terms of this agreement.

- (b) The Recipient shall ensure that the Project is financed, constructed, operated, and maintained in accordance with all applicable Federal laws, regulations, and policies.
- (c) The Recipient shall provide any certifications or assurances deemed necessary by the USDOT in ensuring the Recipient's compliance with all applicable laws, regulations, and policies.
- (d) The Recipient shall provide access to records as provided at 2 CFR 200.337.

9.5 Rights and Powers Affecting the Project.

- (a) The Recipient shall not take or permit any action that deprives it of any rights or powers necessary to the Recipient's performance under this agreement without written approval of the USDOT.
- (b) The Recipient shall act, in a manner acceptable to the USDOT, promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with the Recipient's performance under this agreement.
- (c) The Recipient shall ensure that the funds provided by DOT are not misappropriated or misdirected to any other account, need, project, line-item, or the like.

9.6 Notification of Changes to Key Personnel. The Recipient shall notify all USDOT representatives who are identified in Section 4.4 in writing within 30 calendar days of any change in key personnel who are identified in Section 4.3.

ARTICLE 10
AWARD AMOUNT, OBLIGATION, AND TIME PERIODS

10.1 **Federal Award Amount** The USDOT hereby awards a SMART Grant to the Recipient in the amount listed in Section 2.2 as the SMART Grant Amount.

10.2 **Federal Obligations.**

This agreement obligates for the period of performance listed in section 2.3 of the grant agreement.

10.3 **Budget Period**

The budget period for this award begins on the date of this agreement and ends on the budget period end date that is listed in section 2.4, which shall be no later than 2 years from the date of grant execution. In this agreement, “budget period” is used as defined at 2 C.F.R. 200.1.

10.4 **Period of Performance.**

(a) The period of performance for this award begins on the effective date of award listed in page 1 item 2 and ends on the period of performance end date that is listed in Section 2.3.

(b) In this agreement, “period of performance” is used as defined at 2 C.F.R. 200.1.

ARTICLE 11
STATEMENT OF WORK, SCHEDULE, AND BUDGET CHANGES

- 11.1 **Notification Requirement.** The Recipient shall notify all USDOT representatives who are identified in section 4.4 in writing within 30 calendar days of any change in circumstances or commitments that adversely affect the Recipient's plan to complete the Project. In that notification, the Recipient shall describe the change and what actions the Recipient has taken or plans to take to ensure completion of the Project. This notification requirement under this section 11.1 is separate from any requirements under this article 11 that the Recipient request amendment of this agreement.
- 11.2 **Statement of Work Changes.** If the Project's activities differ from the statement of work that is described in section 3.1 and Attachment B, then the Recipient shall request an amendment of this agreement to update section 3.1.
- 11.3 **Schedule Changes.** If one or more of the following conditions are satisfied, then the Recipient shall request an amendment of this agreement to update the relevant dates:
- (a) a substantial completion date for the Project or a component of the Project is listed in section 3.2 and the Recipient's estimate for that milestone changes to a date that is more than six months after the date listed in section 3.2; or
 - (b) a schedule change would require the period of performance to continue after the period of performance end date listed in section 2.3.

For other schedule changes, the Recipient shall request an amendment of this agreement unless the USDOT has consented, in writing consistent with applicable requirements, to the change.

- 11.4 **Budget Changes.**
- (a) The Recipient acknowledges that if the cost of completing the Project increases:
 - (1) that increase does not affect the Recipient's obligation under this agreement to complete the Project; and
 - (2) the USDOT will not increase the amount of this award to address any funding shortfall.
 - (b) The Recipient shall request an amendment of this agreement to update section 3.3 and Attachment B if, in comparing the Project's budget to the amounts listed in section 3.3:
 - (1) the "Non-Federal Funds" amount decreases; or
 - (2) the "Total Eligible Project Cost" amount decreases.

- (c) For budget changes that are not identified in section 11.4(b), the Recipient shall request an amendment of this agreement to update section 3.3 and Attachment B unless the USDOT has consented, in writing consistent with applicable requirements, to the change.
- (d) If the actual eligible project costs are less than the “Total Eligible Project Cost” that is listed in section 3.3, then the Recipient may propose to the USDOT, in writing consistent with applicable requirements, specific additional activities that are within the scope of this award, as defined in sections 7.1 and 3.1, and that the Recipient could complete with the difference between the “Total Eligible Project Cost” that is listed in section 3.3 and the actual eligible project costs.
- (e) If the actual eligible project costs are less than the “Total Eligible Project Cost” that is listed in section 3.3 and either the Recipient does not make a proposal under section 11.4(d) or the USDOT does not accept the Recipient’s proposal under section 11.4(d), then:
 - (1) in a request under section 11.4(b), the Recipient shall reduce the Federal Share by the difference between the “Total Eligible Project Cost” that is listed in section 3.3 and the actual eligible project costs; and
 - (2) if that amendment reduces this award and the USDOT had reimbursed costs exceeding the revised award, the Recipient shall request to add additional project work that is within the scope of this project.

In this agreement, “**Federal Share**” means the sum of the “SMART Action Plan or Implementation Grant Amount” and the “Other Federal Funds” amounts that are listed in section 3.3.

- (a) The Recipient acknowledges that amounts that are required to be refunded under section 11.4(e)(2) constitute a debt to the Federal Government that the USDOT may collect under 2 C.F.R. 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).
- (b) The Recipient shall ensure compliance with Federal regulations requiring conduct of a Federally approved audit of any expenditure of funds of \$750,000 or more in a year in Federal awards.

11.5 USDOT Acceptance of Changes. The USDOT may accept or reject amendments requested under this article 11, and in doing so may elect to consider only the interests of the SMART grant program and the USDOT. The Recipient acknowledges that requesting an amendment under this article 11 does not amend, modify, or supplement this agreement unless the USDOT accepts that amendment request and the parties modify this agreement under section 21.1.

ARTICLE 12 GENERAL REPORTING TERMS

12.1 **Report Submission.** The Recipient shall send all reports required by this agreement to smartreports@dot.gov.

12.2 **Paperwork Reduction Act Notice.**

Under 5 C.F.R. 1320.6, the Recipient is not required to respond to a collection of information that does not display a currently valid control number issued by the Office of Management and Budget (the “OMB”). Collections of information conducted under this agreement are approved under OMB Control No. 2105-0520.

ARTICLE 13
PROGRESS AND FINANCIAL REPORTING

- 13.1 **Quarterly Program Performance Reports.** The recipient shall submit to USDOT Quarterly Project Progress Reports in the format and with the content described in Exhibit-C. Due dates for reporting periods are 3/31, 6/30, 9/30, or 12/31, regardless of budget period start dates. Recipients shall submit quarterly reports no later than 30 days after the end of the reporting period. Annual reports are due no later than 90 days after the end of the reporting period.
- 13.2 **Quarterly Financial Status.** Recipient shall submit a Federal Financial Report using SF-425 in accordance with specified due dates.

ARTICLE 14

PERFORMANCE REPORTING

14.1 Evaluation and Data Management Plan

The Recipient shall submit to the USDOT, not later than 90 days after receiving the grant award, a report that provides an overview of how the project will be evaluated and how the data collected will be managed and stored including

- (a) an overview of how the proof-of-concept or prototype will be evaluated and how the data collected will be managed and stored;
- (b) a description of the anticipated impact areas (i.e. goals) of the project if implemented at scale and the methods that will be used to estimate the anticipated benefits and costs associated with implementation;
- (c) robust performance metrics and measurable targets based on the project goals to inform whether the proof-of-concept or prototype meets expectations and whether full implementation would meet program goals; and
- (d) the baseline data for each performance measure that is identified in the Performance Measure Table in Attachment A, accurate as of the Baseline Measurement Date that is identified in Attachment A and a detailed description of the data sources, assumptions, variability, and estimated levels of precision for each performance measure that is identified in the Performance Measure Table in Attachment A.

14.2 Implementation Report

The Recipient shall submit to the USDOT, not later than 1 year after receiving the grant award, a report that describes, consistent with section 25005(f) of BIL:

- (a) the deployment and operational costs of the project, as compared to the benefits and savings from the project;
- (b) the means by which the project has met the original expectation, as projected in the SMART grant application, including data describing the means by which the project met the specific goals for the project;
- (c) lessons learned and recommendations for future deployment strategies to optimize transportation efficiency and multimodal system performance; and
- (d) a description of the requirements for a successful at-scale deployment, an assessment of the feasibility of at-scale implementation, and an analysis of the success, challenges, and validity of the initial approach.

- (e) the performance measurement data for each performance measure that is identified in the Performance Measure Table in Attachment A.

14.3 Performance Reporting Survival.

The data collection and reporting requirements in this article 14 survive the termination of this agreement which is three years post period of performance.

14.4 Program Evaluation.

As a condition of grant award, the recipient may be required to participate in an evaluation undertaken by USDOT, or another agency or partner. The evaluation may take different forms such as an implementation assessment across grant recipients, an impact and/or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. The Department may require applicants to collect data elements to aid the evaluation. As a part of the evaluation, as a condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor or USDOT staff; (2) provide access to program records, and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or USDOT staff.

ARTICLE 15

NONCOMPLIANCE AND REMEDIES

15.1 Noncompliance Determinations.

- (a) If the USDOT determines that the Recipient may have failed to comply with the United States Constitution, Federal law, or the terms and conditions of this agreement, the USDOT may notify the Recipient of a proposed determination of noncompliance. For the notice to be effective, it must be written and the USDOT must include an explanation of the nature of the noncompliance, describe a remedy, state whether that remedy is proposed or effective at an already determined date, and describe the process through and form in which the Recipient may respond to the notice.
- (b) If the USDOT notifies the Recipient of a proposed determination of noncompliance under section 15.1(a), the Recipient may, not later than 7 calendar days after the notice, respond to that notice in the form and through the process described in that notice. In its response, the Recipient may:
 - (1) accept the remedy;
 - (2) acknowledge the noncompliance, but propose an alternative remedy; or
 - (3) dispute the noncompliance.

To dispute the noncompliance, the Recipient must include in its response documentation or other information supporting the Recipient's compliance.

- (c) The USDOT may make a final determination of noncompliance only:
 - (1) after considering the Recipient's response under section 15.1(b); or
 - (2) if the Recipient fails to respond under section 15.1(b), after the time for that response has passed.
- (d) To make a final determination of noncompliance, the USDOT must provide a notice to the Recipient that states the bases for that determination.

15.2 Remedies.

- (a) If the USDOT makes a final determination of noncompliance under section 15.1(d), the USDOT may impose a remedy, including:
 - (1) additional conditions on the award;
 - (2) any remedy permitted under 2 C.F.R. 200.339–200.340, including withholding of payments; disallowance of previously reimbursed costs,

requiring refunds from the Recipient to USDOT; suspension or termination of the award; or suspension and disbarment under 2 C.F.R. part 180; or

(3) any other remedy legally available.

- (b) To impose a remedy, the USDOT must provide a written notice to the Recipient that describes the remedy, but the USDOT may make the remedy effective before the Recipient receives that notice.
- (c) If the USDOT determines that it is in the public interest, the USDOT may impose a remedy, including all remedies described in section 15.2(a), before making a final determination of noncompliance under section 15.1(d). If it does so, then the notice provided under section 15.1(d) must also state whether the remedy imposed will continue, be rescinded, or modified.
- (d) In imposing a remedy under this section 15.2 or making a public interest determination under section 15.2(c), the USDOT may elect to consider the interests of only the USDOT.
- (e) The Recipient acknowledges that amounts that the USDOT requires the Recipient to refund to the USDOT due to a remedy under this section 15.2 constitute a debt to the Federal Government that the USDOT may collect under 2 C.F.R. 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).

15.3 **Other Oversight Entities.**

Nothing in this article 15 limits any party's authority to report activity under this agreement to the United States Department of Transportation Inspector General or other appropriate oversight entities.

ARTICLE 16

AGREEMENT TERMINATION

16.1 USDOT Termination.

- (a) The USDOT may terminate this agreement and all of its obligations under this agreement if any of the following occurs:
 - (1) the Recipient fails to obtain or provide any non-SMART Grant contribution (all eligible project costs other than the SMART Grant Amount, as described in section 3.2 table (a) of the grant agreement) or alternatives approved by the USDOT as provided in this agreement and consistent with article 3;
 - (2) a construction start date for the Project or Strategy is listed in section 3.2 and the Recipient fails to meet that milestone by six months after the date listed in section 3.2;
 - (3) a substantial completion date for the Project or Strategy is listed in section 3.2 and the Recipient fails to meet that milestone by six months after the date listed in section 3.2;
 - (4) the Recipient fails to comply with the terms and conditions of this agreement, including a material failure to comply with the schedule in section 3.2 even if it is beyond the reasonable control of the Recipient; or,
 - (5) the USDOT determines that termination of this agreement is in the public interest.
 - (6) the Recipient fails to expend the funds within 2 years after the date on which the government executes the grant agreement, which is the date funds are provided for the project.
- (b) In terminating this agreement under this section, the USDOT may elect to consider only the interests of the USDOT.
- (c) This section 16.1 does not limit the USDOT's ability to terminate this agreement as a remedy under section 15.2.
- (d) The Recipient may request that the USDOT terminate the agreement under this section 16.1.

16.2 Closeout Termination.

- (a) This agreement terminates on Project Closeout.
- (b) In this agreement, "**Project Closeout**" means the date that the USDOT notifies the Recipient that the award is closed out. Under 2 C.F.R. 200.344, Project

Closeout should occur no later than one year after the end of the period of performance.

- 16.3 **Post-Termination Adjustments.** The Recipient acknowledges that under 2 C.F.R. 200.345–200.346, termination of the agreement does not extinguish the USDOT’s authority to disallow costs, including costs that USDOT reimbursed before termination, and recover funds from the Recipient.
- 16.4 **Non-Terminating Events.**
- (a) The end of the period of performance described under section 10.4 does not terminate this agreement or the Recipient’s obligations under this agreement.
 - (b) The liquidation of funds under section 20.1 does not terminate this agreement or the Recipient’s obligations under this agreement.
- 16.5 **Other Remedies.** The termination authority under this article 16 supplements and does not limit the USDOT’s remedial authority under article 15 or 2 C.F.R. part 200, including 2 C.F.R. 200.339–200.340.

ARTICLE 17
MONITORING, FINANCIAL MANAGEMENT, CONTROLS, AND RECORDS

17.1 Recipient Monitoring and Record Retention.

- (a) The Recipient shall monitor activities under this award, including activities under subawards and contracts, to ensure:
 - (1) that those activities comply with this agreement; and
 - (2) that funds provided under this award are not expended on costs that are not allowable under this award or not allocable to this award.
- (b) If the Recipient makes a subaward under this award, the Recipient shall monitor the activities of the subrecipient in compliance with 2 C.F.R. 200.332(d).
- (c) The Recipient shall retain records relevant to the award as required under 2 C.F.R. 200.334.

17.2 Financial Records and Audits.

- (a) The Recipient shall keep all project accounts and records that fully disclose the amount and disposition by the Recipient of the award funds, the total cost of the Project, and the amount or nature of that portion of the cost of the Project supplied by other sources, and any other financial records related to the project.
- (b) The Recipient shall keep accounts and records described under section 17.2(a) in accordance with a financial management system that meets the requirements of 2 C.F.R. 200.301–200.303, 2 C.F.R. part 200, subpart F, and title 23, United States Code, and will facilitate an effective audit in accordance with 31 U.S.C. 7501–7506.
- (c) The Recipient shall separately identify expenditures under the fiscal year 2022 SMART. A grants program in financial records required for audits under 31 U.S.C. 7501–7506. Specifically, the Recipient shall:
 - (1) list expenditures under that program separately on the schedule of expenditures of Federal awards required under 2 C.F.R. part 200, subpart F, including “FY 2022” in the program name; and
 - (2) list expenditures under that program on a separate row under Part II, Item 1 (“Federal Awards Expended During Fiscal Period”) of Form SF-SAC, including “FY 2022” in column c (“Additional Award Identification”).

17.3 Internal Controls. The Recipient shall establish and maintain internal controls as required under 2 C.F.R. 200.303.

17.4 **USDOT Record Access.** The USDOT may access Recipient records related to this award under 2 C.F.R. 200.337.

ARTICLE 18 CONTRACTING AND SUBAWARDS

For domestic sourcing compliance purposes and to ensure proper procurement, recipients shall coordinate with the SMART Program office to identify if their project is considered an Infrastructure project. If USDOT determines that a project is a "project for infrastructure," the recipient will comply with Build America Buy America requirements. If USDOT determines that a project is not a "project for infrastructure," the recipient will comply with Buy American Act requirements. The Recipient may participate in planning activities before project identification, as long as it does not include the purchasing of physical materials or a commitment to do so.

18.1 **Build America, Buy America.**

This award term implements § 70914(a) of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1294 (2021) and Office of Management and Budget (OMB) Memorandum M-22-11, "Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure."

For BABA compliance purposes and to ensure proper procurement, recipients shall coordinate with the SMART Program office to identify if their project is considered an Infrastructure project. If USDOT determines that a project is a "project for infrastructure," the recipient will comply with Build America Buy America requirements. If USDOT determines that a project is not a "project for infrastructure," the recipient will comply with Buy American Act requirements. The Recipient may participate in planning activities before project identification, as long as it does not include the purchasing of physical materials or a commitment to do so.

Requirement to Use Iron, Steel, Manufactured Products, and Construction Materials Produced in the United States.

The Recipient shall not use funds provided under this award for a project for infrastructure unless:

- (a) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- (b) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product; and

- (c) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

Inapplicability.

The domestic content procurement preference in this award term only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers.

When necessary, the Recipient may apply for, and the USDOT may grant, a waiver from the domestic content procurement preference in this award term.

A request to waive the application of the domestic content procurement preference must be in writing. The USDOT will provide instructions on the waiver process and on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Office of Management and Budget (OMB) Made in America Office.

When the USDOT has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the USDOT determines that:

- (a) applying the domestic content procurement preference would be inconsistent with the public interest;
- (b) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (c) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at <https://www.transportation.gov/office-policy/transportation-policy/made-in-america>.

Definitions

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Primarily iron or steel” means that the cost of the iron and steel content in the article, material, or supply exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components. The origin of the elements of the iron or steel is not relevant to the determination of whether it is domestic or foreign.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

- (a) Construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1294 (2021), as implemented by OMB, USDOT, and FHWA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).
- (b) Under 2 C.F.R. 200.322, as appropriate and to the extent consistent with law, the Recipient should, to the greatest extent practicable under this award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 C.F.R. 200.322 in all subawards including all contracts and purchase orders for work or products under this award.

18.2 Buy American Act

The Recipient shall apply, comply with, and implement all provisions of the Buy American Act, 41 U.S.C. §§ 8301-8305.

For the purpose of Article 18 of this agreement, the Project is deemed a public work of the Federal Government under 41 U.S.C. § 8301.

Article 18 implements 41 U.S.C. §§ 8301-8305, the Buy American Act, by providing a preference for domestic construction material.

The Recipient shall not use foreign construction materials in performing this agreement, except that:

- (a) the Recipient may use a commercially available off-the-shelf item under 41 U.S.C. § 1907 regardless of its components if the item is manufactured in the United States;
- (b) the Recipient may use information technology that is a commercial item;
- (c) the Recipient may use foreign construction materials that are listed at 48 C.F.R. 25.104; and
- (d) the Recipient may use foreign construction materials if the USDOT has authorized their use under subsection (d) of Article 18.

If the Recipient uses foreign construction material in violation of Article 18, the USDOT may disallow and deny reimbursement of costs incurred by the Recipient and take other remedial actions under article 15 and 2 C.F.R. 200.339.

The USDOT may authorize the Recipient to use foreign construction material, by modifying this agreement under section 21.1, if the USDOT determines that:

- (a) applying the Buy American statute to the construction material would be impracticable or inconsistent with the public interest;
- (b) the construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or
- (c) the cost of domestic construction material is unreasonable. To determine if a cost is unreasonable, the USDOT will follow processes described in 48 C.F.R. 25.106.

The Recipient may request that the USDOT authorize the Recipient to use foreign construction material under subsection (d) of Article 18. If the Recipient makes a request under this subsection (e), the Recipient shall provide adequate information for the USDOT to evaluate the request, including:

- (a) a description of the foreign and domestic construction materials;
- (b) unit of measure;
- (c) quantity;

- (d) price, including all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued);
- (e) time of delivery or availability;
- (f) location of the construction project;
- (g) name and address of the proposed supplier;
- (h) a detailed justification of the reason for use of foreign construction materials identifying the specific basis for an exception under subsection (d) of this term;
- (i) if the Recipient requests authorization under subsection (d)(3) of Article 18, a reasonable survey of the market and a full price comparison measuring the relative costs of the available domestic and foreign construction materials; and
- (j) if the Recipient submits the request after contract award, an explanation why the Recipient could not have, before contract award:
 - (1) reasonably foreseen the need for the determination and
 - (2) requested the determination.

The Recipient acknowledges that:

- (a) this agreement is not a Government procurement contract;
- (b) acquisitions of supplies, services, or construction materials by the Recipient under this agreement are not acquisitions by the Government; and
- (c) the Free Trade Agreement exceptions to the Buy American Act as provided by 48 C.F.R. Part 25, Subpart 25.4 are inapplicable to this agreement.

In Article 18, the following definitions apply: “commercially available off-the-shelf (COTS) item”

- (a) means any item of supply (including construction material) that is:
 - (1) a commercial item as defined by 48 C.F.R. § 2.101;
 - (2) sold in substantial quantities in the commercial marketplace; and
 - (3) offered to the Government, under an agreement, without modification, in the same form in which it is sold in the commercial marketplace; and
- (b) does not include bulk cargo, as defined in 46 U.S.C. § 40102(4), such as agricultural products and petroleum products. “construction material” means an article, material, or supply brought to the construction site by the Recipient for incorporation into the building or work. The term also includes an item brought to

the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site.

“cost of components” means—

- (a) For components purchased by the Recipient, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (b) For components manufactured by the Recipient, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

“domestic construction material” means—

- (a) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both—
 - (1) An unmanufactured construction material mined or produced in the United States; or
 - (2) A construction material manufactured in the United States, if:
 - (i) the cost of its components mined, produced, or manufactured in the United States exceeds 60 percent of the cost of all its components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered in calendar year 2029 or later. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or
 - (ii) the construction material is a COTS item manufactured in the United States; or
- (b) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of foreign iron and steel constitutes less than 5 percent of the cost of all the components used in such construction material. The cost of foreign iron and steel includes but is not limited to the cost of foreign iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the construction material and a good faith estimate of the cost of

all foreign iron or steel components excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of “cost of components” in this term.

“foreign construction material” means a construction material other than a domestic construction material.

“predominantly of iron or steel or a combination of both” means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.

“United States” means the 50 States, the District of Columbia, and outlying areas.

- 18.3 **Small and Disadvantaged Business Requirements.** The Recipient shall expend all funds under this award in compliance with the requirements at 2 C.F.R. 200.321 (“Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms”).
- 18.4 **Engineering and Design Services.** The Recipient shall award each contract or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project in the same manner that a contract for architectural and engineering services is negotiated under 2 CFR 200.320 or an equivalent qualifications-based requirement prescribed for or by the Recipient.
- 18.5 **Foreign Market Restrictions.** The Recipient shall not allow funds provided under this award to be used to fund the use of any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
- 18.6 **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.** The Recipient acknowledges that Section 889 of Pub. L. No. 115-232, 2 C.F.R. 200.216 and 2 C.F.R. 200.471 prohibit the Recipient and all subrecipients from procuring or obtaining certain telecommunications and video surveillance services or equipment under this award.
- 18.7 **Recipient Responsibilities for Subawards.** If the Recipient makes a subaward under this award, the Recipient shall comply with the requirements on pass-through entities under 2 C.F.R. parts 200 and 1201, including 2 C.F.R. 200.331–200.333.

ARTICLE 19
COSTS, PAYMENTS, AND UNEXPENDED FUNDS

- 19.1 **Limitation of Federal Award Amount.** Under this award, the USDOT shall not provide funding greater than the amount obligated on the SMART Grant cover page, Item 11, Federal Funds Obligated. The Recipient acknowledges that USDOT is not liable for payments exceeding that amount, and the Recipient shall not request reimbursement of costs exceeding that amount.
- 19.2 **Projects Costs.** This award is subject to the cost principles at 2 C.F.R. part 200 subpart E, including provisions on determining allocable costs and determining allowable costs.
- 19.3 **Timing of Project Costs.**
- (a) The Recipient shall not charge to this award costs that are incurred after the period of performance.
 - (b) The Recipient shall not charge to this award costs that were incurred before the effective date of award of this agreement,
- 19.4 **Recipient Recovery of Federal Funds.** The Recipient shall make all reasonable efforts, including initiating litigation, if necessary, to recover Federal funds if the USDOT determines, after consultation with the Recipient, that those funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner under this award. The Recipient shall not enter a settlement or other final position, in court or otherwise, involving the recovery of funds under the award unless approved in advance in writing by the USDOT.
- 19.5 **Unexpended Federal Funds.** Any Federal funds that are awarded at section 10.1 but not expended on allocable, allowable costs remain the property of the United States.
- 19.6 **Timing of Payments to the Recipient.**
- (a) When reimbursement is used, the Recipient shall not request reimbursement of a cost before the Recipient has entered an obligation for that cost.
 - (b) Pursuant to 2 CFR 200.305, advance payments to Recipient must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the Recipient in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the Recipient for direct program or project costs and the proportionate share of any allowable indirect costs. The Recipient must make timely payment to contractors in accordance with the contract provisions.
- 19.7 **Payment Method.**

- (a) If the USDOT Payment System identified in section 5.2 is “DELPHI eInvoicing,” then the Recipient shall use the DELPHI eInvoicing System to request reimbursement or advance payment under this award unless the USDOT agreement officer provides written approval for the Recipient to use a different request and payment method.
- (b) The USDOT may deny a payment request that is not submitted using the method identified in section 5.2.

19.8 Information Supporting Expenditures.

- (a) If the USDOT Payment System identified in section 5.2 is “DELPHI eInvoicing,” then when requesting reimbursement of costs incurred or credit for cost share incurred, the Recipient shall electronically submit the SF 270 (Request for Advance or Reimbursement), shall identify the Federal share and the Recipient’s share of costs, and shall submit supporting cost detail to clearly document all costs incurred. As supporting cost detail, the Recipient shall include a detailed breakout of all costs incurred, including direct labor, indirect costs, other direct costs, and travel.
- (b) If the Recipient submits a request for reimbursement that the USDOT determines does not include or is not supported by sufficient detail, the USDOT may deny the request or withhold processing the request until the Recipient provides sufficient detail.

19.9 Reimbursement Frequency. If the USDOT Payment System identified in section 5.2 is “DELPHI eInvoicing,” then the Recipient shall not request reimbursement more frequently than monthly.

ARTICLE 20
LIQUIDATION, ADJUSTMENTS, AND FUNDS AVAILABILITY

20.1 Liquidation of Recipient Obligations.

- (a) The Recipient shall liquidate all obligations of award funds under this agreement not later than the earlier of (1) 120 days after the end of the period of performance or (2) 2 years after the date on which the grant is provided.
- (b) Liquidation of obligations and adjustment of costs under this agreement follow the requirements of 2 C.F.R. 200.344–200.346.

ARTICLE 21 AGREEMENT MODIFICATIONS

21.1 **Bilateral Modifications.** The parties may amend, modify, or supplement this agreement by mutual agreement in writing signed by the USDOT and the Recipient. Either party may request to amend, modify, or supplement this agreement by written notice to the other party.

21.2 **Unilateral Contact Modifications.**

- (a) The USDOT may update the contacts who are listed in sections 4.4 by written notice to all of the Recipient contacts who are listed in section 4.3.

21.3 **USDOT Unilateral Modifications.**

- (a) The USDOT may unilaterally modify this agreement to comply with Federal law, including the Program Statute.
- (b) To unilaterally modify this agreement under this section 21.3(a), the USDOT must provide a notice to the Recipient that includes a description of the modification and state the date that the modification is effective.

21.4 **Other Modifications.** The parties shall not amend, modify, or supplement this agreement except as permitted under sections 21.1, 21.2, or 21.3. If an amendment, modification, or supplement is not permitted under section 21.1, not permitted under section 21.2, and not permitted under section 21.3, it is void.

ARTICLE 22
CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE

- 22.1 **Climate Change and Environmental Justice.** Consistent with Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad” (Jan. 27, 2021), Attachment C documents the consideration of climate change and environmental justice impacts of the Project.

ARTICLE 23
RACIAL EQUITY AND BARRIERS TO OPPORTUNITY

- 23.1 **Racial Equity and Barriers to Opportunity.** Consistent with Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government” (Jan. 20, 2021), Attachment D documents activities related to the Project to improve racial equity and reduce barriers to opportunity.

ARTICLE 24
FEDERAL FINANCIAL ASSISTANCE, ADMINISTRATIVE, AND NATIONAL
POLICY REQUIREMENTS

- 24.1 **Uniform Administrative Requirements for Federal Awards.** The Recipient shall comply with the obligations on non-Federal entities under 2 C.F.R. parts 200 and 1201.
- 24.2 **Federal Law and Public Policy Requirements.**
- (a) The Recipient shall ensure that Federal funding is expended in full accordance with the United States Constitution, Federal law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.
 - (b) The failure of this agreement to expressly identify Federal law applicable to the Recipient or activities under this agreement does not make that law inapplicable.
- 24.3 **Federal Freedom of Information Act.**
- (a) The USDOT is subject to the Freedom of Information Act, 5 U.S.C. 552.
 - (b) The Recipient acknowledges that the Technical Application and materials submitted to the USDOT by the Recipient related to this agreement may become USDOT records subject to public release under 5 U.S.C. 552.
- 24.4 **History of Performance.** Under 2 C.F.R 200.206, any Federal awarding agency may consider the Recipient's performance under this agreement when evaluating the risks of making a future Federal financial assistance award to the Recipient.
- 24.5 **Whistleblower Protection.**
- (a) The Recipient acknowledges that it is a "grantee" within the scope of 41 U.S.C. 4712, which prohibits the Recipient from taking certain actions against an employee for certain disclosures of information that the employee reasonably believes are evidence of gross mismanagement of this award, gross waste of Federal funds, or a violation of Federal law related this this award.
 - (b) The Recipient shall inform its employees in writing of the rights and remedies provided under 41 U.S.C. 4712, in the predominant native language of the workforce.
- 24.6 **External Award Terms and Obligations.**
- (a) In addition to this document and the contents described in article 29, this agreement includes the following additional terms as integral parts:

- (1) Appendix A to 2 C.F.R. part 25: System for Award Management and Universal Identifier Requirements;
- (2) Appendix A to 2 C.F.R. part 170: Reporting Subawards and Executive Compensation;
- (3) 2 C.F.R. 175.15(b): Trafficking in Persons; and
- (4) Appendix XII to 2 C.F.R. part 200: Award Term and Condition for Recipient Integrity and Performance Matters.

(b) The Recipient shall comply with:

- (1) 49 C.F.R. part 20: New Restrictions on Lobbying;
- (2) 49 C.F.R. part 21: Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964;
- (3) 49 C.F.R. part 27: Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance; and
- (4) Subpart B of 49 C.F.R. part 32: Governmentwide Requirements for Drug-free Workplace (Financial Assistance).

24.7 **Incorporated Certifications.** The Recipient makes the statements in the following certifications, which are incorporated by reference:

- (a) Appendix A to 49 CFR part 20 (Certification Regarding Lobbying).

ARTICLE 25 ASSIGNMENT

- 25.1 **Assignment Prohibited.** The Recipient shall not transfer to any other entity any discretion granted under this agreement, any right to satisfy a condition under this agreement, any remedy under this agreement, or any obligation imposed under this agreement.

ARTICLE 26 WAIVER

26.1 Waivers.

- (a) A waiver granted by USDOT under this agreement will not be effective unless it is in writing and signed by an authorized representative of USDOT.
- (b) A waiver granted by USDOT under this agreement on one occasion will not operate as a waiver on other occasions.
- (c) If USDOT fails to require strict performance of a provision of this agreement, fails to exercise a remedy for a breach of this agreement, or fails to reject a payment during a breach of this agreement, that failure does not constitute a waiver of that provision or breach.

ARTICLE 27 ADDITIONAL TERMS AND CONDITIONS

27.1 **Disclaimer of Federal Liability.** The USDOT shall not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this agreement.

27.2 **Environmental Review**

(a) In this section, “Environmental Review Entity” means:

- (1) if the Project is located in a State that has assumed responsibilities for environmental review activities under 23 U.S.C. 326 or 23 U.S.C. 327 and the Project is within the scope of the assumed responsibilities, the State; and
- (2) for all other cases, an operating agency within the Department of Transportation will be identified to conduct NEPA evaluations.

(b) Except as authorized under section 27.3(c), the Recipient shall not begin final design; acquire real property, construction materials, or equipment; begin construction; or take other actions that represent an irretrievable commitment of resources for the Project unless and until:

- (1) the Environmental Review Entity complies with the National Environmental Policy Act, 42 U.S.C. 4321 to 4370m-12, and any other applicable environmental laws and regulations; and
- (2) if the Environmental Review Entity is not the Recipient, the Environmental Review Entity provides the Recipient with written notice that the environmental review process is complete.

(c) If the Recipient is using procedures for early acquisition of real property under 23 C.F.R. 710.501 or hardship and protective acquisitions of real property 23 C.F.R. 710.503, the Recipient shall comply with 23 C.F.R. 771.113(d)(1).

(d) The Recipient acknowledges that:

- (1) the Environmental Review Entity’s actions under section 27.3(a) depend on the Recipient conducting necessary environmental analyses and submitting necessary documents to the Environmental Review Entity; and
- (2) applicable environmental statutes and regulation may require the Recipient to prepare and submit documents to other Federal, State, and local agencies.

(e) Consistent with 23 C.F.R. 771.105(a), to the extent practicable and consistent with Federal law, the Recipient shall coordinate all environmental investigations, reviews, and consultations as a single process.

- (f) The activities described in this agreement may inform environmental decision-making processes, but the parties do not intend this agreement to document the alternatives under consideration under those processes. If a build alternative is selected that does not align information in this agreement, then:
 - (1) the parties may amend this agreement under section 21.1 for consistency with the selected build alternative; or
 - (2) if the USDOT determines that the condition at section 16.1(a)(5) is satisfied, the USDOT may terminate this agreement under section 16.1(a)(5).
- (g) The Recipient shall complete any mitigation activities described in the environmental document or documents for the Project, including the terms and conditions contained in the required permits and authorizations for the Project.
- (h) The Recipient may not expend any of the funds provided in this Agreement or incur expenses under this Agreement on final design, construction, or other activities that represent an irretrievable commitment of resources unless and until it complies with the National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (“NEPA”), Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) (“NHPA”), and any other applicable environmental laws and regulations, and DOT has provided the Recipient with a written notice that the environmental review process is complete. At that time, DOT may authorize the distribution and expenditure of funds. The Recipient may not obligate or expend any funds (federal, state or private) for final design, construction, or other activities that represent an irretrievable commitment of resources for the Project, or commence any part of final design, construction, or other activities that represent an irretrievable commitment of resources for the Project or any component of the Project, without receiving such written confirmation from DOT. The Recipient may participate in planning activities, as long as it doesn’t constitute an irretrievable commitment to a specific course of action. Depending on the outcome of the environmental review process, DOT may rescind this Agreement or may pursue any other permissible remedy under 2 C.F.R. § 200.338-200.342.

27.3 **Railroad Coordination.**

- (a) If the agreement includes one or more milestones identified as a “Railroad Coordination Agreement,” then for each of those milestones, the Recipient shall enter a standard written railroad coordination agreement, consistent with 23 C.F.R. 646.216(d), no later than the deadline date identified for that milestone, with the identified railroad for work and operation within that railroad’s right-of-way.

27.4 **Relocation and Real Property Acquisition.**

- (a) The Recipient shall comply with the land acquisition policies in 49 C.F.R. part 24 subpart B and shall pay or reimburse property owners for necessary expenses as specified in that subpart.

- (b) The Recipient shall provide a relocation assistance program offering the services described in 49 C.F.R. part 24 subpart C and shall provide reasonable relocation payments and assistance to displaced persons as required in 49 C.F.R. part 24 subparts D–E.
- (c) The Recipient shall make available to displaced persons, within a reasonable period of time prior to displacement, comparable replacement dwellings in accordance with 49 C.F.R. part 24 subpart E.

27.5 Equipment Disposition.

- (a) In accordance with 2 C.F.R. 200.313 and 1201.313, if the Recipient or a subrecipient acquires equipment under this award, then when that equipment is no longer needed for the Project that entity shall request disposition instructions from the FHWA.
- (b) In accordance with 2 C.F.R. 200.443(d), the distribution of the proceeds from the disposition of equipment must be made in accordance with 2 C.F.R. 200.313–200.316 and 2 C.F.R. 1201.313.
- (c) The Recipient shall ensure compliance with this section 27.6 for all tiers of subawards under this award.

ARTICLE 28
MANDATORY AWARD INFORMATION

28.1 Information Contained in a Federal Award. For 2 C.F.R. 200.211:

- (a) the “Federal Award Date” is the date of this agreement, as defined under section 30.2;
- (b) the “Assistance Listings Number” is 20.941 and the “Assistance Listings Title” is “Strengthening Mobility and Revolutionizing Transportation (SMART) Grants Program”; and
- (c) this award is not for research and development.

ARTICLE 29 CONSTRUCTION AND DEFINITIONS

29.1 **Attachments.** This agreement includes the following attachments as integral parts:

Attachment A Performance Measurement Information
Attachment B Changes from Application
Attachment C Climate Change and Environmental Justice Impacts
Attachment D Racial Equity and Barriers to Opportunity
Attachment E Labor and Workforce
Attachment F Critical Infrastructure Security and Resilience

29.2 **Exhibits.** The following exhibits, which are in the document titled “Exhibits to Grant Agreements Under the Fiscal Year 2022 SMART Grant Program”, available at <https://www.transportation.gov/grants/SMART>, are part of this agreement

Exhibit A Applicable Federal Laws and Regulations
Exhibit B Additional Standard Terms
Exhibit C Quarterly Reports and Recertifications: Format and Content
Exhibit D Certification for Contracts, Grants, Loans, And Cooperative Agreements
Exhibit E FAA Regulations
Exhibit F Communications Technology
Exhibit G Equipping or Retrofitting Motor Vehicles
Exhibit H Eligible Cost
Exhibit I Data Collection Requirements

29.3 **Construction.**

- (a) If a provision in the exhibits or the attachments conflicts with a provision in articles 1–30, then the provision in articles 1–30 prevails. If a provision in the attachments conflicts with a provision in the exhibits, then the provision in the attachments prevails.

29.4 **Integration.**

- (a) This agreement constitutes the entire agreement of the parties relating to the SMART grant program and awards under that program and supersedes any previous agreements, oral or written, relating to the SMART grant program and awards under that program.

29.5 **Definitions.** In this agreement, the following definitions apply:

“**Program Statute**” means the BIL Section 25005 of the Infrastructure Investment and Jobs Act (Pub. L. 117–58, November 15, 2021; and statutory text under the heading “Strengthening mobility and revolutionizing transportation grant program” in title I of division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (November

15, 2021), and all other provisions of that act that apply to amounts appropriated under that heading.

“Project” means the project proposed in the Grant Application, as modified by the negotiated provisions of this agreement, including article 3 and Attachments A–E.

“SMART Grant” means an award of funds that were made available under the NOFO.

“Grant Application” means the application identified in section 2.1, including Standard Form 424 and all information and attachments submitted with that form through Grants.gov.

ARTICLE 30
AGREEMENT EXECUTION AND EFFECTIVE DATE

- 30.1 **Counterparts.** This agreement may be executed in counterparts, which constitute one document. The parties intend each countersigned original to have identical legal effect.
- 30.2 **Effective Date.** The agreement will become effective when all parties have signed it. The date of this agreement will be the date this agreement is signed by the last party to sign it. This instrument constitutes a SMART Grant when the USDOT's authorized representative signs it.
- 30.3 **Termination.** Should this Grant Agreement be terminated prior to the end date of the Period of Performance, DOT reserves the right to require that the Recipient return to DOT any of the funds reimbursed for expenses subsequently deemed ineligible.

U.S. DEPARTMENT OF TRANSPORTATION
EXHIBITS TO USDOT/OST GRANT AGREEMENTS UNDER THE
FISCAL YEAR 2022 SMART GRANT PROGRAM

EXHIBIT A

APPLICABLE FEDERAL LAWS AND REGULATIONS

By entering into this agreement for a SMART Grant, the Recipient assures and certifies, with respect to this Grant, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Project. Performance under this agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Recipient and any applicable sub-recipients. The applicable provisions to this agreement include, but are not limited to, the following:

General Federal Legislation

- a. Federal Fair Labor Standards Act - 29 U.S.C. §§ 201, et seq.
- b. Hatch Act - 5 U.S.C. §§ 1501, et seq.
- c. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 - 42 U.S.C. §§ 4601, et seq.
- d. National Historic Preservation Act of 1966 - 54 U.S.C. § 306108
- e. Archeological and Historic Preservation Act of 1974 - 54 U.S.C. §§ 312501, et seq.
- f. Native American Graves Protection and Repatriation Act - 25 U.S.C. §§ 3001, et seq.
- g. Clean Air Act – 42 U.S.C. §§ 7401, et seq.
- h. Clean Water Act - 33 U.S.C. §§ 1251, et seq.
- i. Endangered Species Act – 16 U.S.C. §§ 1531 et seq.
- j. Coastal Zone Management Act – 16 U.S.C. §§ 1451 et seq.
- k. Flood Disaster Protection Act of 1973 – 42 U.S.C. §§ 4001 et seq.
- l. Age Discrimination Act of 1975, as amended - 42 U.S.C. §§ 6101, et seq.
- m. American Indian Religious Freedom Act, 42 U.S.C. 1996
- n. Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101, et seq.
- o. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended - 42 U.S.C. §§ 4541, et seq.
- p. Sections 523 and 527 of the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2
- q. Architectural Barriers Act of 1968 - 42 U.S.C. §§ 4151, et seq.
- r. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 - Section 403 - 42 U.S.C. § 8373
- s. Contract Work Hours and Safety Standards Act - 40 U.S.C. §§ 3701, et seq.
- t. Copeland Anti-kickback Act, as amended - 18 U.S.C. § 874 and 40 U.S.C. § 3145
- u. National Environmental Policy Act of 1969 - 42 U.S.C. §§ 4321, et seq.
- v. Wild and Scenic Rivers Act – 16 U.S.C. §§ 1271, et seq.
- w. Federal Water Pollution Control Act, as amended – 33 U.S.C. 1251-1376
- x. Single Audit Act of 1984 - 31 U.S.C. §§ 7501, et seq.
- y. Americans with Disabilities Act of 1990 - 42 U.S.C. § 12101, et seq.
- z. Title IX of the Education Amendments of 1972, as amended - 20 U.S.C. §§ 1681–1683 and §§ 1685–1687
- aa. Section 504 of the Rehabilitation Act of 1973, as amended - 29 U.S.C. § 794
- bb. Title VI of the Civil Rights Act of 1964 - 42 U.S.C. §§ 2000d, et seq.
- cc. Title IX of the Federal Property and Administrative Services Act of 1949 - 40 U.S.C.

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- dd. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. § 1352
- ee. Freedom of Information Act - 5 U.S.C. § 552, as amended
- ff. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. §§ 1801, et seq.
- gg. Farmland Protection Policy Act of 1981 – 7 U.S.C. §§ 4201, et seq.
- hh. Noise Control Act of 1972 – 42 U.S.C. §§ 4901, et seq.
- ii. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. §§ 661, et seq.
- jj. Section 9 of the Rivers and Harbors Act and the General Bridge Act of 1946 - 33 U.S.C. §§ 401 and 525
- kk. Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. § 303 and 23 U.S.C. § 138
- ll. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) – 42 U.S.C. §§ 9601, et seq.
- mm. Safe Drinking Water Act – 42 U.S.C. §§ 300f, et seq.
- nn. The Wilderness Act – 16 U.S.C. §§ 1131, et seq.
- oo. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 – 42 U.S.C. 6901, et seq.
- pp. Migratory Bird Treaty Act 16 U.S.C. §§ 703, et seq.
- qq. The Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109–282, as amended by section 6202 of Public Law 110–252)
- rr. Cargo Preference Act of 1954 – 46 U.S.C. § 55305
- ss. Build America, Buy America Act – Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298
- tt. Section 889 of the John D. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232

Executive Orders

- a. Executive Order 11246 – Equal Employment Opportunity
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11988 – Floodplain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12549 – Debarment and Suspension
- f. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- g. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- h. Executive Order 13985 – Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 14005 – Ensuring the Future is Made in All of America by All of America’s Workers
- j. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

General Federal Regulations

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 C.F.R. Parts 200, 1201
- b. Non-procurement Suspension and Debarment – 2 C.F.R. Parts 180, 1200
- c. Investigative and Enforcement Procedures – 14 C.F.R. Part 13
- d. Procedures for predetermination of wage rates – 29 C.F.R. Part 1
- e. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States – 29 C.F.R. Part 3
- f. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) – 29 C.F.R. Part 5
- g. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) – 41 C.F.R. Parts 60, et seq.
- h. New Restrictions on Lobbying – 49 C.F.R. Part 20
- i. Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 C.F.R. Part 21
- j. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs – 49 C.F.R. Part 24
- k. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 C.F.R. Part 25
- l. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance – 49 C.F.R. Part 27
- m. DOT's implementation of DOJ's ADA Title II regulations compliance procedures for all programs, services, and regulatory activities relating to transportation under 28 C.F.R. Part 35
- n. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 C.F.R. Part 28
- o. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors – 49 C.F.R. Part 30
- p. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 C.F.R. Part 32
- q. DOT's implementing ADA regulations for transit services and transit vehicles, including the DOT's standards for accessible transportation facilities in Part 37, Appendix A – 49 C.F.R. Parts 37 and 38
- r. Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs – 49 C.F.R. Part 26 (as applicable under section 18.3 of this agreement)

Specific assurances required to be included in the FY 2022 SMART Grant agreement by any of the above laws, regulations, or circulars are hereby incorporated by reference into this agreement.

EXHIBIT B
ADDITIONAL STANDARD TERMS

TERM B.1
TITLE VI ASSURANCE
(Implementing Title VI of the Civil Rights Act of 1964, as amended)

**ASSURANCE CONCERNING NONDISCRIMINATION IN FEDERALLY-ASSISTED
PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL
FINANCIAL ASSISTANCE**

(Implementing the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities
Act, as amended)

49 C.F.R. Parts 21, 25, 27, 37 and 38

The United States Department of Transportation (USDOT)

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

By signing and submitting the Technical Application and by entering into this agreement under the FY 2022 SMART grant program, the Recipient **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Office of the Secretary (OST), it is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Non-discrimination in Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of the Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Recipient receives Federal financial assistance from DOT.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

SMART award recipients should demonstrate compliance with civil rights obligations and nondiscrimination laws, including Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act, and implementing regulations. This should include a current Title VI plan, completed Community Participation Plan, and a plan to address any legacy infrastructure or facilities that are not compliant with ADA standards. The Department's and the applicable Operating Administrations' Offices of Civil Rights may work with awarded grant recipients to ensure full compliance with Federal civil rights requirements.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FY 2022 SMART grant program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with the FY 2022 SMART Grant and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The Recipient, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer

of real property, structures, use, or improvements thereon or interest therein to a Recipient.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.
11. The Recipient shall retain all documents relevant to this Grant Agreement and the Grant Project for a period of three (3) years after completion of all projects undertaken pursuant to the Grant Agreement and receipt of final reimbursement from the U.S. Treasury, whichever is later. It shall furnish DOT, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement,

litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Recipient, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by DOT.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing DOT/OST's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by DOT/OST. You must keep records, reports, and submit the material for review upon request to DOT/OST, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FY 2022 SMART grant program. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FY 2022 SMART grant program.

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Maritime Administration (DOT/OST), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or DOT/OST to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or DOT/OST, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or DOT/OST may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or DOT/OST may direct as a means of enforcing such provisions including

sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Specific Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the Recipient will accept title to the lands and maintain the project constructed thereon in accordance with the Consolidated Appropriations Act, 2022 (Pub. L. 116-260, Dec. 27, 2020) the Regulations for the Administration of FY 2022 SMART grant program, and the policies and procedures prescribed by the Maritime Administration (DOT/OST) of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto Recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Recipient, its successors and assigns.

The Recipient, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the Recipient will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Recipient pursuant to the provisions of Specific Assurance 7(a):

- A. The (Recipient, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (Recipient, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Recipient pursuant to the provisions of Specific Assurance 7(b):

- A. The (Recipient, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (Recipient, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, Recipient will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, Recipient will there upon revert to and vest in and become the absolute property of Recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

A. Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 et seq).

TERM B.2
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS

2 C.F.R. Parts 180 and 1200

These assurances and certifications are applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring DOT/OST approval or that is estimated to cost \$25,000 or more – as defined in 2 C.F.R. Parts 180 and 1200.

By signing and submitting the Technical Application and by entering into this agreement under the FY 2022 SMART grant program, the Recipient is providing the assurances and certifications for First Tier Participants and Lower Tier Participants in the FY 2022 SMART Grant, as set out below.

1. Instructions for Certification – First Tier Participants:

(Applicable to all first-tier subawards regardless of potential value and require first tier-subrecipients and lower-tier subrecipients to similarly check SAM.gov; and, for all first-tier procurement contracts with a value of \$25,000 or more and all lower tiers of subcontracts under covered non-procurement transactions (2 CFR § 180.220).

- a. The prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "civil judgment," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 C.F.R. Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a Recipient or subrecipient of Federal funds

and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a Recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions,” provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration.
- i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
– First Tier Participants:**

- a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
 - 2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment, including a civil settlement, rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and
 - 4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior DOT/OST approval or estimated to cost \$25,000 or more - 2 C.F.R. Parts 180 and 1200)

- a. The prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms “covered transaction,” “civil settlement,” “debarred,” “suspended,” “ineligible,” “participant,” “person,” “principal,” and “voluntarily excluded,” as used in

this clause, are defined in 2 C.F.R. Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a Recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a Recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
-- Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

TERM B.3
REQUIREMENTS REGARDING DELINQUENT TAX LIABILITY OR A FELONY
CONVICTION UNDER ANY FEDERAL LAW

As required by sections 744 and 745 of Title VII, Division E of the Consolidated Appropriations Act, 2023 (Pub. L. 116-260), and implemented through USDOT Order 4200.6, the funds provided under this award shall not be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that:

1. Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or
2. Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless a Federal agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government.

The Recipient therefore agrees:

1. **Definitions.** For the purposes of this exhibit, the following definitions apply:

“**Covered Transaction**” means a transaction that uses any funds under this award and that is a contract, memorandum of understanding, cooperative agreement, grant, loan, or loan guarantee.

“**Execution of Grant Agreement**” Signing of this Grant Agreement by DOT and the Recipient.

“**Felony Conviction**” means a conviction within the preceding 24 months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the United States Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. 3559.

“**Participant**” means the Recipient, an entity who submits a proposal for a Covered Transaction, or an entity who enters into a Covered Transaction.

“**Tax Delinquency**” means an unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed,

and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

2. **Mandatory Check in the System for Award Management.** Before entering a Covered Transaction with another entity, a Participant shall check the System for Award Management (the “SAM”) at <http://www.sam.gov/> for an entry describing that entity.
3. **Mandatory Certifications.** Before entering a Covered Transaction with another entity, a Participant shall require that entity to:
 - 1) Certify whether the entity has a Tax Delinquency; and
 - 2) Certify whether the entity has a Felony Conviction.
4. **Prohibition.** If
 - 1) the SAM entry for an entity indicates that the entity has a Tax Delinquency or a Federal Conviction;
 - 2) an entity provides an affirmative response to either certification in section 3; or
 - 3) an entity’s certification under section 3 was inaccurate when made or became inaccurate after being madethen a Participant shall not enter or continue a Covered Transaction with that entity unless the USDOT has determined in writing that suspension or debarment of that entity are not necessary to protect the interests of the Government.
5. **Mandatory Notice to the USDOT.**
 - 1) If the SAM entry for a Participant indicates that the Participant has a Tax Delinquency or a Felony Conviction, the Recipient shall notify the USDOT in writing of that entry.
 - 2) If a Participant provides an affirmative response to either certification in section 1, the Recipient shall notify the USDOT in writing of that affirmative response.
 - 3) If the Recipient knows that a Participant’s certification under section 1 was inaccurate when made or became inaccurate after being made, the Recipient shall notify the USDOT in writing of that inaccuracy.
6. **Flow Down.** For all Covered Transactions, including all tiers of subcontracts and subawards, the Recipient shall:
 - a. require the SAM check in section 2;

- b. require the certifications in section 3;
- c. include the prohibition in section 4; and
- d. require all Participants to notify the Recipient in writing of any information that would require the Recipient to notify the USDOT under section 5.

TERM B.4

RECIPIENT POLICY TO BAN TEXT MESSAGING WHILE DRIVING

Definitions. The following definitions are intended to be consistent with the definitions in DOT Order 3902.10, Text Messaging While Driving (Dec. 30, 2009) and Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving (Oct. 1, 2009). For clarification purposes, they may expand upon the definitions in the executive order.

For the purpose of this Term B.3, “**Motor Vehicles**” means any vehicle, self-propelled or drawn by mechanical power, designed and operated principally for use on a local, State or Federal roadway, but does not include a military design motor vehicle or any other vehicle excluded under Federal Management Regulation 102-34-15.

For the purpose of this Term B.3, “**Driving**” means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic congestion, a traffic signal, a stop sign, another traffic control device, or otherwise. It does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

For the purpose of this Term B.3, “**Text messaging**” means reading from or entering data into any handheld or other electronic device (including, but not limited to, cell phones, navigational tools, laptop computers, or other electronic devices), including for the purpose of Short Message Service (SMS) texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless this practice is prohibited by State or local law. The term also does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to remain stationary.

For the purpose of this Term B.3, the “**Government**” includes the United States Government and State, local, and tribal governments at all levels.

Workplace Safety. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving (Oct. 1, 2009) and DOT Order 3902.10, Text Messaging While Driving (Dec. 30, 2009), the Recipient, subrecipients, contractors, and subcontractors are encouraged to:

(1) adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving—

(i) Company-owned or -rented vehicles or Government-owned, leased or rented vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as—

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(c) *Subawards and Contracts*. To the extent permitted by law, the Recipient shall insert the substance of this exhibit, including this paragraph (c), in all subawards, contracts, and subcontracts under this award that exceed the micro-purchase threshold, other than contracts and subcontracts for the acquisition of commercially available off-the-shelf items.

EXHIBIT C

QUARTERLY REPORTS AND RECERTIFICATIONS: FORMAT AND CONTENT

1. **Purpose.** The purpose of the Quarterly Reports and Recertifications under this agreement for the FY 2022 SMART grant program are to ensure that the project scope, schedule, and budget will be maintained to the maximum extent possible.
2. **Format and Content.** The Recipient shall produce a quarterly cost, schedule, and status report that contains the sections enumerated in the following list. At the discretion of the USDOT, modifications or additions can be made to produce a quarterly reporting format that will most effectively serve both the Recipient and the USDOT. Some projects will have a more extensive quarterly status than others. For smaller projects, the USDOT may determine that the content of the quarterly reports will be streamlined, and project status meetings will be held on a less-frequent basis. The first quarterly progress report should include a detailed description and, where appropriate, drawings of the items funded.
 - a. **Project Overall Status.** This section provides an overall status of the project's scope, schedule and budget. The Recipient shall note and explain any deviations from the scope of work, the schedule, or the budget that are described in this agreement.
 - b. **Project Significant Activities and Issues.** This section provides highlights of key activities, accomplishments, and issues occurring on the project during the previous quarter. Activities and deliverables to be reported on should include meetings, audits and other reviews, design packages submitted, advertisements, awards, construction submittals, construction completion milestones, submittals related to any applicable Recovery Act requirements, media or Congressional inquiries, value engineering/constructability reviews, and other items of significance. This section should specifically address progress towards compliance and issues related to the National Environmental Policy Act (NEPA), the Build America Buy America Act, and the high labor standards prioritized in Executive Order 14052, "Implementation of the Infrastructure Investments and Jobs Act."
 - c. **Action Items/Outstanding Issues.** This section should draw attention to, and track the progress of, highly significant or sensitive issues requiring action and direction in order to resolve. The Recipient should include administrative items and outstanding issues that could have a significant or adverse effect on the project's scope, schedule, or budget. Status, responsible person(s), and due dates should be included for each action item/outstanding issue. Action items requiring action or direction should be included in the quarterly status meeting agenda. The action items/outstanding issues may be dropped from this section upon full implementation of the remedial action, and upon no further monitoring anticipated.

- d. **Project Scope Overview.** The purpose of this section is to provide a further update regarding the project scope. If the original scope contained in the grant agreement is still accurate, this section can simply state that the scope is unchanged.
- e. **Project Schedule.** An updated master program schedule reflecting the current status of the program activities should be included in this section. A Gantt (bar) type chart is probably the most appropriate for quarterly reporting purposes, with the ultimate format to be agreed upon between the Recipient and the USDOT. It is imperative that the master program schedule be integrated, i.e., the individual contract milestones tied to each other, such that any delays occurring in one activity will be reflected throughout the entire program schedule, with a realistic completion date being reported. Narratives, tables, and/or graphs should accompany the updated master program schedule, basically detailing the current schedule status, delays and potential exposures, and recovery efforts. The following information should also be included:
- Current overall project completion percentage vs. latest plan percentage.
 - Completion percentages vs. latest plan percentages for major activities such as right-of-way, major or critical design contracts, major or critical construction contracts, and significant force accounts or task orders. A schedule status description should also be included for each of these major or critical elements.
 - Any delays or potential exposures to milestone and final completion dates. The delays and exposures should be quantified, and overall schedule impacts assessed. The reasons for the delays and exposures should be explained, and initiatives being analyzed or implemented in order to recover the schedule should be detailed.
- f. **Project Cost.** An updated cost spreadsheet reflecting the current forecasted cost vs. the latest approved budget vs. the baseline budget should be included in this section. One way to track project cost is to show: (1) Baseline Budget, (2) Latest Approved Budget, (3) Current Forecasted Cost Estimate, (4) Expenditures or Commitments to Date, and (5) Variance between Current Forecasted Cost and Latest Approved Budget. Line items should include all significant cost centers, such as prior costs, right-of-way, preliminary engineering, environmental mitigation, general engineering consultant, section design contracts, construction administration, utilities, construction packages, force accounts/task orders, wrap-up insurance, construction contingencies, management contingencies, and other contingencies. The line items can be broken-up in enough detail such that specific areas of cost change can be sufficiently tracked, and future improvements made to the overall cost estimating methodology. A Program Total line should be included at the bottom of the spreadsheet. Narratives, tables, and/or graphs should accompany the updated cost spreadsheet, basically detailing the current cost status, reasons for cost deviations, impacts of cost overruns, and efforts to mitigate cost overruns. The following information should be provided:

- Reasons for each line-item deviation from the approved budget, impacts resulting from the deviations, and initiatives being analyzed or implemented in order to recover any cost overruns.
- Transfer of costs to and from contingency line items, and reasons supporting the transfers.
- Speculative cost changes that potentially may develop in the future, a quantified dollar range for each potential cost change, and the current status of the speculative change. Also, a comparison analysis to the available contingency amounts should be included, showing that reasonable and sufficient amounts of contingency remain to keep the project within the latest approved budget.
- Detailed cost breakdown of the general engineering consultant (GEC) services (if applicable), including such line items as contract amounts, task orders issued (amounts), balance remaining for tasks, and accrued (billable) costs.
- Federal obligations and/or disbursements for the project, compared to planned obligations and disbursements.

g. Certifications.

- i. A certification that the Recipient is in compliance with 2 C.F.R. 200.303 (Internal Controls) and 2 C.F.R. Part 200, Subpart F (Audit Requirements).
 - ii. The certification required under 2 C.F.R. 200.415(a).
3. Recipients are required to complete post-award reports per the terms and conditions of the award. The types of reports include financial, performance, and other types of required reports.
 4. End dates for reporting periods are 3/31, 6/30, 9/30, or 12/31, regardless of budget period start dates. Deadlines for quarterly and semi-annual reports are no later than 30 days after the end of the reporting period. Annual reports are due no later than 90 days after the end of the reporting period. The Recipient shall provide all reporting deliverables detailed below. Reports should be submitted/mailed to smartreports@dot.gov.

Deliverable	Due Date
Milestone Progress Performance Reports Submit progress reports to monitor project progress and ensure accountability and financial transparency, as well as to document activities performed, anticipated activities, and any changes to schedule or anticipated issues.	Quarterly (or semi-annual if directed)
Federal Financial Report (FFR) (SF-425) The Federal Financial Report (SF-425) is a financial reporting form used throughout the Federal Government Grant system. Recipients shall complete this form and attach it to each quarterly Milestone Progress Performance Reports. The form is available at https://www.grants.gov/forms/post-award-reporting-forms.html.	Quarterly (or semi-annual if directed)
Evaluation and Data Management Plan The Recipient shall submit an evaluation and data management plan that provides an overview of how the project will be evaluated and how the data collected will be managed and stored. The Evaluation and Data Management Plan shall include the following three sections: - An overview of how the proof-of-concept or prototype will be evaluated and how the data collected will be managed and stored. - A description of the anticipated impact areas (i.e. goals) of the project if implemented at scale and the methods that will be used to estimate the anticipated benefits and costs associated with implementation. - Robust performance metrics and measurable targets based on the project goals to inform whether the proof-of-concept or prototype meets expectations and whether full implementation would meet program goals - The baseline data for each performance measure that is identified in the Performance Measure Table in Attachment A and a detailed description of the data sources, assumptions, variability, and estimated levels of precision for each performance measure.	Within 90 calendar days after execution of this Agreement.
Implementation Report The Recipient shall submit an implementation report that assesses the anticipated costs and benefits of the project and demonstrates the feasibility of at-scale implementation. The Implementation Report shall include the following five sections:	Annual- Stage 1 grants require a Draft report due within 1 year of the grant award.

a. A description of the anticipated deployment and operational costs of the project as compared to the benefits and savings from the project if implemented at scale. b. The means by which the project has met the original expectation, as projected in the grant application, including data describing the means by which the project met the specific goals. c. Lessons learned and recommendations for future deployment strategies to optimize transportation efficiency and multimodal system performance. d. A description of the requirements for a successful at-scale deployment and an assessment of the feasibility of at-scale implementation. e. An analysis of the success, challenges and validity of the initial approach, any changes or improvements they would make in Stage 2 if recommended for award and any challenges to continued maintenance and operations in stage 2. f. The performance measurement data for each performance measure that is identified in the Performance Measure Table in Attachment A.	
Program Evaluation As a condition of grant award, grant recipients may be required to participate in an evaluation undertaken by USDOT or another agency or partner. Evaluation may take different forms such as an implementation assessment across grant recipients, an impact and/or outcomes analysis of all the selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. As a part of the evaluation, as a condition of award, grant recipients must agree to a. Make records available to the evaluation contractor or USDOT staff. b. Provide access to program records, and any other relevant documents to calculate costs and benefits. c. In case of an impact analysis, facilitate the access to relevant information as requested. d. Follow evaluation procedures as specified by the evaluation contractor or USDOT staff.	As applicable

Reporting of Matters Related to Recipient Integrity and Performance If the total value of a selected applicant's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then the applicant during that period of time must maintain the currency of information reported to the SAM that is made available in the designated integrity and performance system (currently FAPIIS) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111- 212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.	As applicable
Tangible Personal Property Report (SF-428) The recipient must report on the status of personal property in which the Federal Government retains an interest. Interim property reports may be required at DOT discretion. A final personal property report is required at closeout.	As applicable
Real Property Status Report (SF-429) The report is a multi-purpose form that DOT may require for general reporting about real property acquired or constructed under a federal award, as well as for recipients to make a request related to acquisition or improvement of real property or to request disposition instructions. If applicable, recipients shall submit this report in accordance with the terms provided in 2 CFR § 200.329, no less frequently than annually.	As applicable
Final Report The Recipient shall submit (in a format to be provided by DOT) the Recipient's assessment of the Grant Project to DOT within the Closeout process of the grant agreement.	Final report shall be submitted not later than 120 days after the end of the period of performance
Additional Reporting may be required	As applicable

EXHIBIT D

CERTIFICATION REGARDING INFLUENCING ACTIVITIES CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Influencing Activities," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

EXHIBIT E

FAA REGULATIONS

Innovative aviation projects must comply with all FAA and other federal, state, and local regulations relevant to the technologies and usages thereof. For instance, in the case of innovative aviation projects involving small, unmanned aircraft systems (UAS), applicants are responsible for complying with regulations which may include, and are not limited to the following, as necessary to achieve desired outcomes:

- 14 CFR Part 91 General Operating and Flight Rules
- 14 CFR Part 107 small UAS rule; Small UAS
- UAS Operations over People rule; Operations Over People General Overview
- UAS Remote identification rule; UAS Remote Identification Overview

Proponents of innovative aviation projects are also responsible for using U.S. government tools and resources which may include, and are not limited to the following, as necessary to fulfill requirements to operate technologies and achieve desired outcomes:

- FAA DroneZone, used to register UAS
- FAA Low Altitude Authorization and Notification Capability (LAANC), used to obtain airspace authorization to fly in controlled airspace
- Part 107 Waiver Resources, used to enable more complex UAS operations

EXHIBIT F

Communications Technology

Projects that use communications technologies must either:

- 1) use Vehicle-to-Everything (V2X) services that utilize Cellular Vehicle-to-Everything (C-V2X) based technology designed to operate within the 30 MHz of spectrum (5.895 - 5.925 GHz) that are consistent with the rules established in waivers associated with Federal Communications Commission (FCC) ET Docket No. 19-138 and future Report and Orders effective at the time when the Department selects projects for funding under the FY22-SMART Grants Program; or
- 2) leverage other communications technologies that can support V2X services and operate in spectrum outside of the 5.895 -5.925 GHz range.

EXHIBIT G

Equipping or Retrofitting Motor Vehicles

Projects that involve equipping or retrofitting motor vehicles with additional technologies are only eligible if the vehicles are publicly owned, leased or used in a contracted service; equipping privately owned and operated vehicles outside of a leased or contracted service is not an eligible activity. Projects involving motor vehicles must involve only vehicles that comply with all applicable Federal Motor Vehicle Safety Standards (FMVSSs) and Federal Motor Carrier Safety Regulations (FMCSRs), or vehicles that are exempt from the requirements in a manner that allows for the legal acquisition and operation of the vehicles in the proposed project.

EXHIBIT H

Eligible Costs

Broadly, eligible activity costs must comply with the cost principles set forth in 2 CFR Part 200, Subpart E (i.e., 2 CFR § 200.403 and § 200.405). USDOT reserves the right to make cost eligibility determinations on a case-by-case basis. Eligible development and construction activities for grant funding are the following:

- planning;
- feasibility analyses;
- revenue forecasting;
- environmental review;
- permitting;
- preliminary engineering and design work;
- systems development or information technology work;
- acquisition of real property (including land and improvements to land relating to an eligible project);
- construction;
- reconstruction;
- rehabilitation;
- replacement;
- environmental mitigation;
- construction contingencies; and
- acquisition of equipment, including vehicles.

The following are not eligible costs for SMART Grants Program funding:

- reimbursement of any pre-award costs or application preparation costs of the SMART grant application;
- traffic or parking enforcement activity; or
- purchase or lease of a license plate reader.

Federal funds may not be used to support or oppose union organizing, whether directly or as an offset for other funds.

EXHIBIT I

Data Collection Requirements Data Management

To fulfill the reporting requirements and in accordance with the USDOT Public Access Plan, award recipients must consider, budget for, and implement appropriate data management for data and information outputs acquired or generated during the grant. Applicants are expected to account for data and performance reporting in their budget submission. Projects must:

- Defaulting to open access when appropriate (exceptions include protecting personally identifiable information [PII], Indigenous data sovereignty, or confidential business information [CBI]);
- Protecting PII, intellectual property rights, and CBI;
- Utilize, when possible, open licenses and protect USDOT's non-exclusive copyright to data and corresponding outputs;
- Make the source code or tools necessary to analyze the data available to the public, if relevant;
- Provide relevant metadata (in a DCAT-US file, and, optionally, a discipline-appropriate metadata standard file), and data documentation (README.txt files, data dictionaries, code books, supporting files, imputation tables, etc.); and
- Where applicable, consider contributing data to voluntary resources such as NHTSA's AV TEST Initiative.

Projects should implement data management best practices including, but not limited to, implementation of published data specifications and standards (formal and informal); increasing data discoverability and data sharing; and enabling interaction of systems, interoperability, and integration of data system



Council Agenda Summary

September 5, 2023

Key Staff Contact: Douglas May, Planner III

Title:

An ordinance annexing to the City of Greeley, Colorado, certain unincorporated territory located in Weld County, Colorado, known as the Wake Annexation, generally located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street, a parcel totaling 61.613 acres (Wake Annexation No. 1)

Summary:

Introduction and first reading of an Ordinance to annex Wake Annexation Number 1, a parcel totaling 61.613 acres located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street. Richmark Real Estate Partners, LLC petitions to annex a total of 120.097 acres of land to the City of Greeley. The properties are located in proximity to N. 6th Avenue, F Street and Highway 85, east of the Cache la Poudre River. Wake Annexation Number 1 is the first of three serial annexations. Notices were sent to 72 properties within 1,000 feet of the subject site, public hearing signs were posted on the property, and to date, no comments have been received.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	No
Is there grant funding for this item?	NA

Legal Issues:

Consideration of this matter is a legislative process.

Other issues and Considerations:

Strategic Focus Area:



Community Vitality



Quality of Life

Decision Options:

- 1) Introduce the ordinance as presented; or
- 2) Amend the ordinance and introduce as amended; or
- 3) Deny the ordinance; or
- 4) Continue consideration of the ordinance to a date certain.

Council's Recommended Action:

A motion to introduce the ordinance and schedule the public hearing and second reading for September 19, 2023.

Attachments:

1. Ord 41, 2023
2. Exhibit A
3. Impact Report
4. Vicinity Map
5. Annexation Map
6. Site Analysis Map
7. Land Use Guidance Map
8. Planning Commission Staff Report

**CITY OF GREELEY, COLORADO
ORDINANCE NO. 41
CASE NO. ANX2022-0008**

**AN ORDINANCE ANNEXING TO THE CITY OF GREELEY, COLORADO, CERTAIN
UNINCORPORATED TERRITORY LOCATED IN WELD COUNTY, COLORADO,
KNOWN AS THE WAKE ANNEXATION, GENERALLY LOCATED EAST OF 6TH
AVENUE, WEST OF HIGHWAY 85 BYPASS, NORTH OF 5TH STREET**

BE IT ORDAINED BY THE CITY COUNCIL OF GREELEY, COLORADO:

Section 1. The City Council of Greeley, Colorado, hereby finds that the property, which is legally described in section 2 below, for which one hundred percent (100%) of the landowners have petitioned for annexation to the City of Greeley, is in all respects eligible for annexation and that said annexation proceedings have been conducted in compliance with the laws of the State of Colorado.

Section 2. The territories described below in this section are hereby approved for annexations and are hereby annexed to the City of Greeley. These territories referred to are described as follows:

SEE ATTACHED LEGAL DESCRIPTION

Said described parcels of land contains 61.613 Acres, more or less, and is subject to any easements or rights-of-way as granted by instruments of record, or as now existing on said described parcel of land.

Section 3. Pursuant to §C.R.S. 31 -12 -113 of the Colorado Revised Statutes, one (1) copy of the map of the above –described territory and the original of the annexation ordinance shall be filed with the City Clerk of the City of Greeley, Colorado. Two (2) certified copies of this annexation ordinance and map of the area annexed shall be filed for recording with the Clerk and Recorder of Weld County, Colorado, within thirty (30) days after the effective date of this ordinance. The Clerk and Recorder of Weld County, Colorado, is required to file one (1) certified copy of the annexation ordinance and map with the Division of Local Government of the Colorado Department of Local Affairs, as required by section §13- 12- 113(2)(a) of the Colorado Revised Statutes.

Section 4. This ordinance shall be effective five (5) days after its final publication as provided by the Greeley City Charter.

**PASSED AND ADOPTED, SIGNED AND APPROVED, THIS _ DAY OF SEPTEMBER
2023.**

ATTEST:

THE CITY OF GREELEY

By: City Clerk

By: Mayor

EXHIBIT "A"
(LEGAL DESCRIPTIONS)

WAKE ANNEXATION NO. 1

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER, SOUTHEAST QUARTER, AND NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/16 CORNER BETWEEN SECTIONS 32 AND 33, TOWNSHIP 6 NORTH, RANGE 65 WEST; THENCE N84° 54' 03"W A DISTANCE OF 706.65 FEET ON THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 32 TO THE **POINT OF BEGINNING**;

THENCE CONTINUING ON SAID SOUTH LINE N84° 54' 03"W A DISTANCE OF 1386.38 FEET;

THENCE N0° 16' 24"E A DISTANCE OF 297.11 FEET;

THENCE N89° 20' 24"W A DISTANCE OF 129.00 FEET;

THENCE N0° 22' 34"E A DISTANCE OF 400.00 FEET ON THE EAST LINE OF THE THERMO COGENERATION PLANT ANNEXATION RECORDED AT REC. #2467353;

THENCE N89° 47' 22"W A DISTANCE OF 477.15 FEET ON THE NORTH LINE OF SAID THERMO COGENERATION PLANT ANNEXATION;

THENCE N5° 03' 53"E A DISTANCE OF 53.58 FEET ON THE EAST LINE OF THE MONFORT LAMB PLANT ANNEXATION RECORDED AT REC. #2181908;

THENCE N2° 35' 05"E A DISTANCE OF 203.34 FEET ON THE EAST LINE OF SAID MONFORT LAMB PLANT ANNEXATION;

THENCE N1° 02' 25"E A DISTANCE OF 422.15 FEET ON THE EAST LINE OF SAID MONFORT LAMB PLANT ANNEXATION;

THENCE S84° 15' 54"E A DISTANCE OF 33.45 FEET ON THE EAST LINE OF SAID MONFORT LAMB PLANT ANNEXATION;

THENCE N1° 00' 20"W A DISTANCE OF 344.18 FEET ON THE EAST LINE OF SAID MONFORT LAMB PLANT ANNEXATION;

THENCE S84° 18' 04"E A DISTANCE OF 909.75 FEET TO THE SOUTHWEST RIGHT OF WAY FOR THE HIGHWAY 85 BY-PASS;

THENCE N67° 42' 53"E A DISTANCE OF 299.44 FEET TO THE NORTHEAST RIGHT OF WAY FOR THE HIGHWAY 85 BY-PASS;

THENCE ON SAID NORTHEAST RIGHT OF WAY S23°10'17"E A DISTANCE OF 475.25 FEET;

THENCE N88° 44' 10"E A DISTANCE OF 479.74 FEET;

THENCE S1° 08' 17"E A DISTANCE OF 821.58 FEET;

THENCE $50^{\circ} 04' 41''$ W A DISTANCE OF 358.82 FEET TO THE NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS;

THENCE 268.77 FEET ON SAID NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT 268.77 FEET, THE ARC OF SAID CURVE HAVING A RADIUS OF 2956.24 FEET, A CENTRAL ANGLE OF $5^{\circ} 12' 33''$ AND BEING SUB-TENDED BY A CHORD WHICH BEARS $S14^{\circ} 57' 22''$ E A DISTANCE OF 268.68 FEET TO THE **POINT OF BEGINNING**.

SAID WAKE ANNEXATION NO. 1 HAS A PERIMETER OF 7,359.70 FEET, AND AN AREA OF 2,683,882 SQUARE FEET, 61.613 ACRES, MORE OR LESS.

BASIS OF BEARINGS

THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO AS REFERENCED TO THE COLORADO STATE PLANE NORTH, NORTH AMERICAN DATUM 1983, BEARS NORTH $84^{\circ} 54' 03''$ WEST FOR 2618.50 FEET BETWEEN THE SOUTH SIXTEENTH CORNER OF SAID SOUTHEAST QUARTER OF SECTION 32 AND 33 MONUMENTED WITH A #6 REBAR AND $3 \frac{1}{4}''$ ALUMINUM CAP STAMPED 33200, 2012 AND THE SOUTH CENTER SIXTEENTH CORNER OF SAID SECTION 32 MONUMENTED WITH #5 REBAR AND $2''$ ALUMINUM CAP STAMPED PLS 28259, 1996 WITH ALL OTHER BEARINGS REFERENCED THERETO.

For reference only: Parcel 080332400004 and 080332000023 and the Highway 85 right of way between said parcels.

ANNEXATION IMPACT REPORT

Wake Annexation Nos. 1-3

PROPERTY OWNERS	Richmark Real Estate Partners LLC
LOCATION	East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street
SIZE IN ACRES	120.097 Acres
CONTIGUITY	ANX2022-0008 Wake No. 1 - 27% ANX2022-0009 Wake No. 2 – 18% ANX2022-0010 Wake No. 3 – 22% Wake Combined – 23%
MINIMUM REQUIRED CONTIGUITY	16.67%
EXISTING USES	Vacant land and oil and gas wellheads with associated equipment
SURROUNDING LAND USES	North: Industrial South: Agriculture/Vacant East: Agriculture, Residential and Vacant West: Industrial
CURRENT ZONING	I-3 (Industrial – County) and R-1 (Residential – County)
SURROUNDING ZONING:	North: I-3 (Industrial - County) Northeast: R-1 (Residential – County) South: I-3 (Industrial - County) East: R-1 (Residential - County) West: C-D (Conservation District – City); I-H, I-M (Industrial – Medium – City) & I-3 (Industrial – County)
AVAILABLE UTILITIES	City of Greeley Water, City of Greeley Sewer, telecommunications, gas, and electric extensions would be needed at the time utility services are needed.

TAXING DISTRICTS & MILL LEVIES

<u>Taxing District</u>	<u>Mill Levy</u>
Aims Community College	6.307
High Plains Library District	3.181
Northern Colorado Water	1.000
Greeley School District No. 6	50.399
Weld County	15.038
Western Hills Fire Protection District	5.910

INTENDED/PROPOSED USES

The applicant, Richmark Real Estate Partners, is requesting to annex approximately 108.018 acres of unincorporated property to the City of Greeley (see Exhibits A & B). The intended use is to continue the existing oil and gas development for the next approximately 15-20 years. No further plans for the site are proposed at the time of annexation, but the Land Use Guidance Map indicates natural uses for the site, so it is likely to remain open space following completion of the oil and gas development.

Following the annexation, the establishment of zoning for Holding – Agriculture (H-A) zoning will be completed at the April 4th Council meeting. The property must be zoned within 90 days of annexation. The zoning request will be evaluated during that process.

COMPREHENSIVE PLAN

The property is entirely within the City of Greeley's Long-Range Expected Growth Area (LREGA) and complies with City of Greeley Comprehensive Plan policies. Portions of the annexation are in the floodway, 100-year floodplain and 500-year floodplain.

ANALYSIS

The proposed annexations have 23% combined contiguity with existing municipal limits which meets the State of Colorado one-sixth (16.67%) contiguity standard regarding annexations.

The annexations provide growth in the northeast part of Greeley, which has not grown as much as the western portion of Greeley. It provides balance to the City's growth and land use pattern.

The annexations would be consistent with present growth patterns and Comprehensive Plan policies. There is evidence that this site shares a common interest with the City's future. The requirements of State statutes and City of Greeley guidelines for annexation appear to have been met by this requested annexation.

Since the site is currently used for oil and gas development, there should be zero additional students coming to School District 6 as a result of these annexations.

ATTACHMENTS:

Exhibit A - Vicinity Map

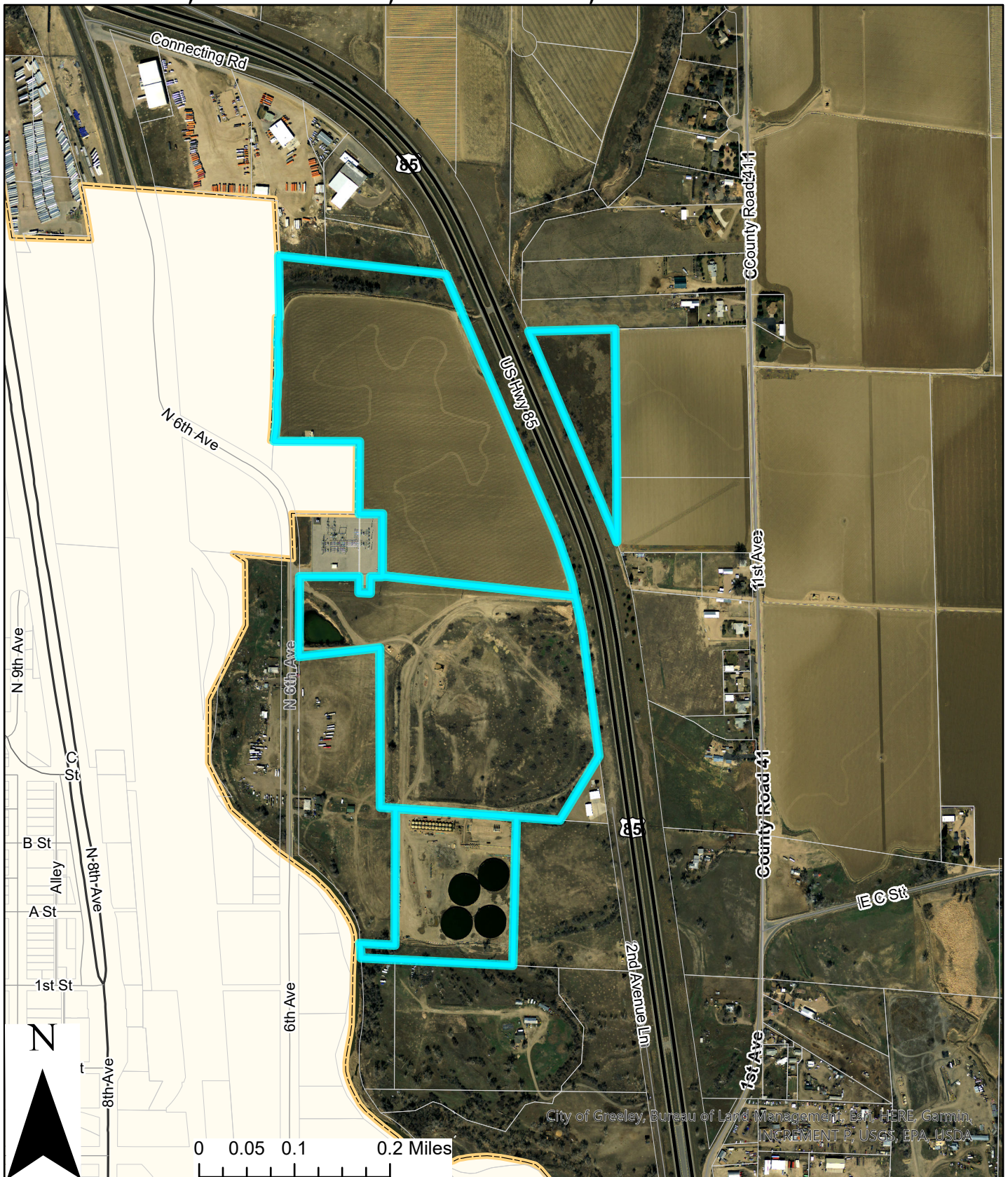
Exhibit B - Annexation Plats

Exhibit C - Site Analysis Map

Exhibit D - Legal Descriptions

Wake Annexation and Zoning Vicinity Map

ANX2022-0008, ANX2022-0009, ANX2022-0010, ZON2023-0001



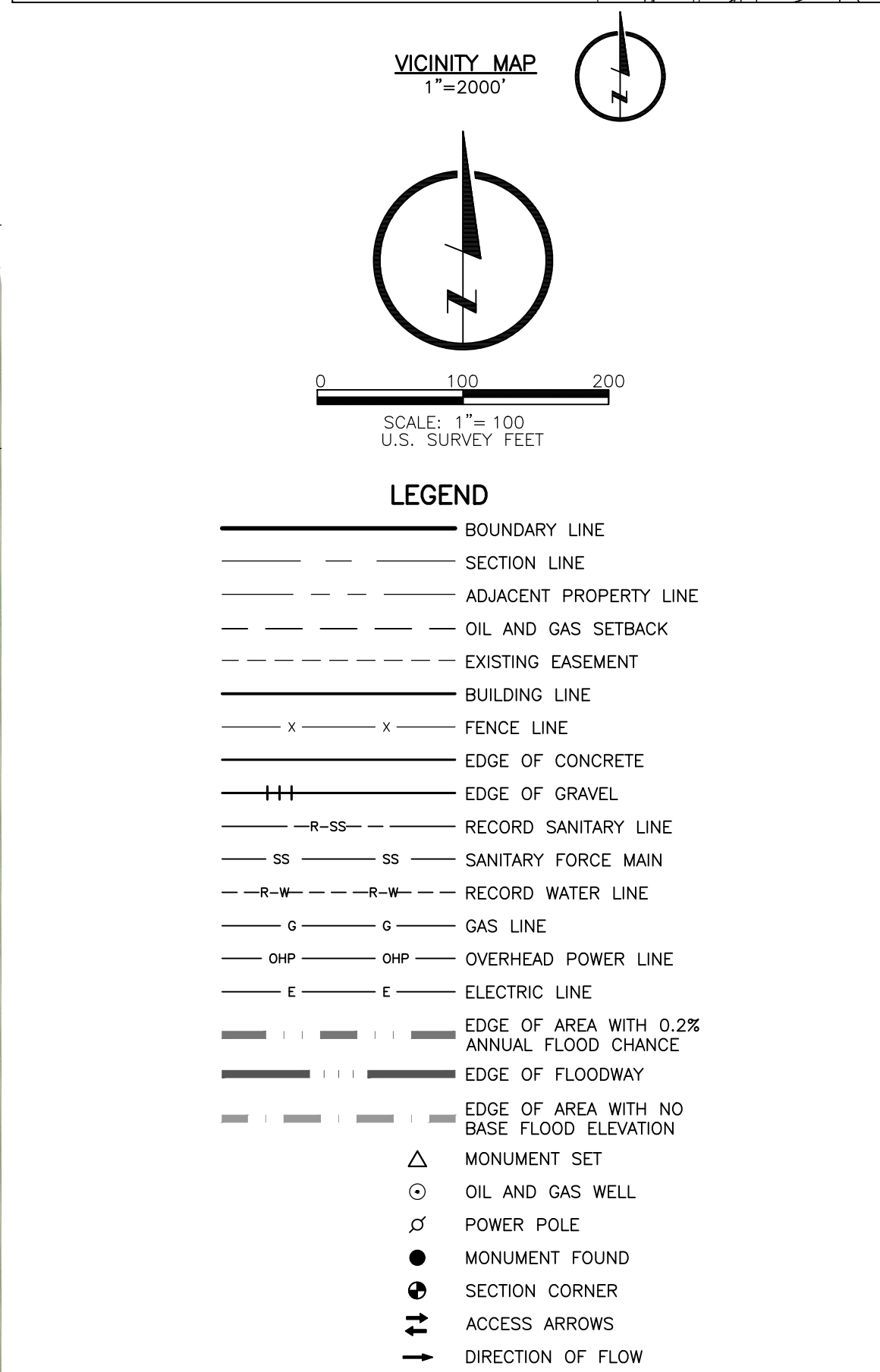
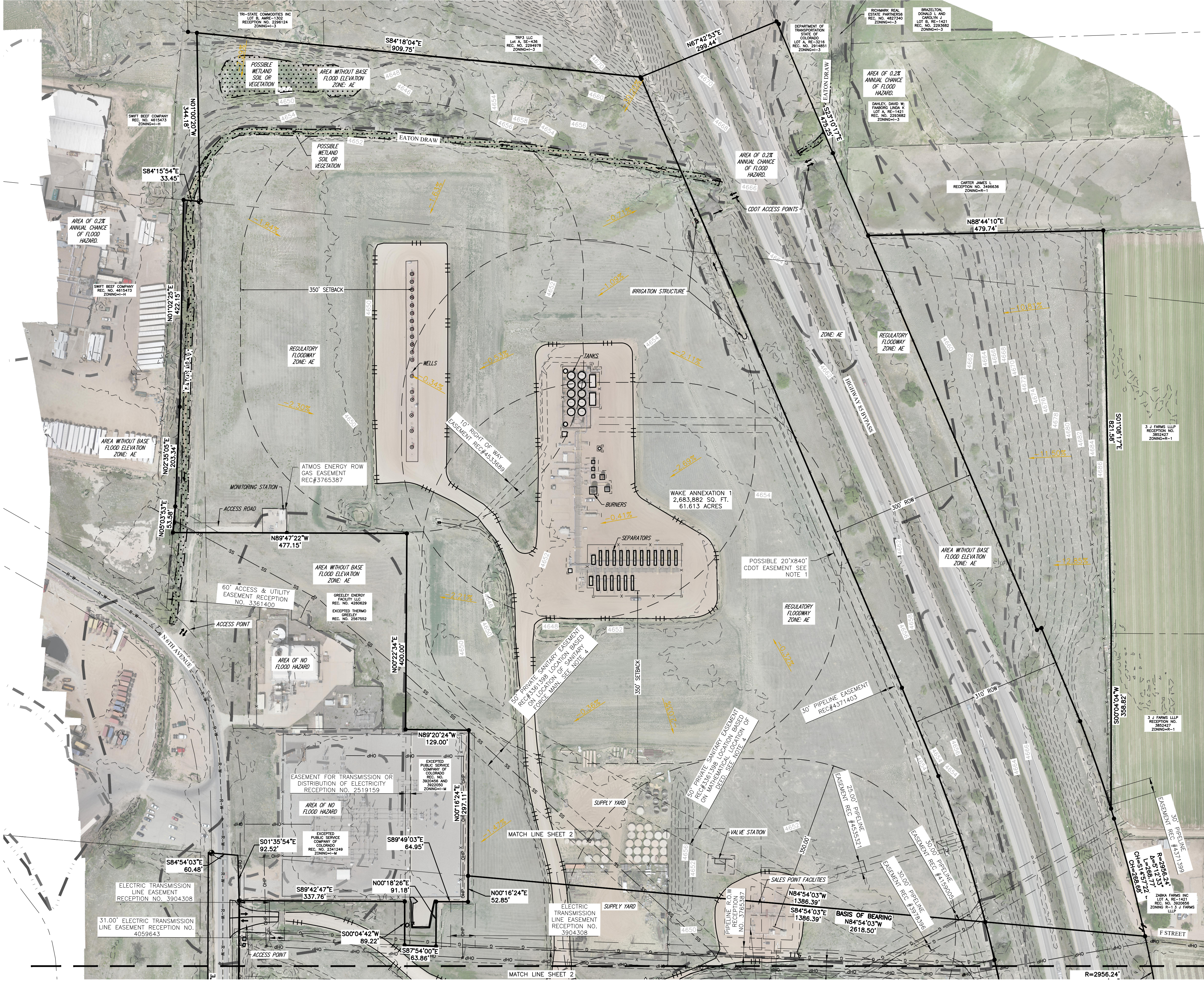


ANNEXATION TABLE:			
TOTAL ANNEXATION BOUNDARY PERIMETER:	7359.70	LINEAR FEET	
LENGTH CONTIGUOUS TO EXISTING CITY OF GREELEY BOUNDARY:	1,933.85	LINEAR FEET	
TOTAL ALLOWABLE PERIMETER (CONTIGUOUS x 6):	11,603.10	LINEAR FEET	
MINIMUM ONE-SIXTH (1/6) OF TOTAL ANNEXATION PERIMETER:	1226.62	LINEAR FEET	

The map displays the proposed site location in Greeley, Colorado. The site is marked with a black rectangle and labeled 'SITE'. It is situated east of the Union Pacific Railroad tracks, north of Highway 85, and between N 6th Ave and N 8th Ave. The map also shows the City of Greeley and Unincorporated Weld County boundaries, as well as other streets like H Street and O Street.

WAKE ANNEXATIONS NO. 1, 2 AND 3
TO THE CITY OF GREELEY

LOCATED IN THE SOUTHWEST, SOUTHEAST AND NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH, RANGE 65 WEST, AND THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M.,
COUNTY OF WELD, STATE OF COLORADO
ANX2022-0008, ANX2022-0009, ANX2022-0010



- NOTES:
- CDOT PLANS FOR PROJECT U006-1(22) SHOWS A 40' EASEMENT PARCEL E10A ALONG THE EAST LINE OF SUBJECT PROPERTY. A DOCUMENT WAS NOT FOUND FOR THIS EASEMENT IN THE PUBLIC RECORD. SAID EASEMENT HAS BEEN SHOWN HEREON IN THE LOCATION DEPICTED ON SAID HIGHWAY PLANS.
 - BASIS OF BEARING: THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO AS REFERENCED TO THE COLORADO STATE PLANE NORTH, NORTH AMERICAN DATUM 1983, BEARS NORTH 84° 54' 03" WEST FOR 2618.50 FEET BETWEEN THE SOUTH SIXTEENTH CORNER OF SAID SOUTHEAST QUARTER OF SECTION 32 AND 33 MONUMENTED WITH A #6 REBAR AND 3" ALUMINUM CAP STAMPED 33200, 2012 AND THE SOUTH CENTER SIXTEENTH CORNER OF SAID SECTION 32 MONUMENTED WITH #5 REBAR AND 2" ALUMINUM CAP STAMPED PLS 28259, 1996 WITH ALL OTHER BEARINGS REFERENCED THERETO.
 - THIS DRAWING INCLUDES OBSERVED EVIDENCE OF VISIBLE SERVICES AND UTILITIES. NO RESPONSIBILITY OR LIABILITY IS ASSUMED BY THE SURVEYOR FOR THE FAILURE TO SHOW ANY BURIED SERVICE AND/OR UTILITY LINES EVEN THOUGH THEY MAY EXIST. CONTACT "ONE CALL" (811) PRIOR TO ANY EXCAVATION ON THIS SITE.
 - THE PRIVATE SANITARY FORCE MAIN SHOWN DOES NOT FALL WITHIN THE MATHEMATICAL POSITION DESCRIBED IN RECEPTION NO. 3361398. THE LOCATION OF THE SANITARY FORCE MAIN AND RELATED PRIVATE EASEMENT IS ASSUMED TO BE A STRAIGHT LINE BETWEEN LIMITED POTHOLE LOCATIONS EXCAVATED AS SUPPLEMENTED BY "WITCHING" THE LINE.
 - BENCHMARK: LAMP RYNEARSON CONTROL POINT #94 - 5/8" REBAR WITH A 1 1/4" ORANGE PLASTIC CAP STAMPED "CONTROL POINT" ELEVATION: 4649.44' ELEVATION DERIVED FROM TRIMBLE VRS NETWORK (NAV888)
 - HORIZONTAL DATUM: BASED ON THE NORTH AMERICAN DATUM OF 1983(2011), COLORADO STATE PLANE SYSTEM, NORTH ZONE. PROJECT IS IN MODIFIED STATE PLANE COORDINATES. TO ACHIEVE GRID COORDINATES AND GRID DISTANCES SCALE ENTIRE PROJECT BY 0.999734758 FROM GRID COORDINATE (0,0) AS THE SCALE LOCATION.
 - THE SUBJECT PROPERTY IS LOCATED IN ZONE A, REGULATORY FLOODWAY, ZONE AE, AN AREA WITH A BASE FLOOD ELEVATION, AND SHADED ZONE X, AN AREA WITH A 0.2% ANNUAL CHANCE FLOOD HAZARD, AND UN-SHADED ZONE X, AREA OF MINIMAL FLOOD HAZARD, BASED ON THE FEMA FLOOD MAP 08123C1633E EFFECTIVE 01/20/2016, AND EFFECTED BY LOMR 15-08-0573P EFFECTIVE 07/14/2016. FLOOD INFORMATION IS SUBJECT TO CHANGE.
 - AERIAL IMAGE WAS TAKEN ON 06/10/2022 BY DRONE AND IS GEO-REFERENCED TO THE SITE.
 - CONTOURS SHOWN AT 2' INTERVALS WERE DERIVED FROM DRONE DATA.
 - THE AREA OF THE OIL AND GAS OPERATIONS SETBACKS WITHIN COMBINED ANNEXATION PROPERTY IS 3,137,720 SQUARE FEET, 72.032 ACRES MORE OR LESS.

LAMP RYNEARSON
LAMP RYNEARSON.COM
OMAHA, NEBRASKA
14710 W. DODGE RD., STE. 100 (402)496.2498
FORT COLLINS, COLORADO
4715 INNOVATION DR., STE. 100 (970)228.0342
KANSAS CITY, MISSOURI
9001 STATE LINE RD., STE. 200 (816)351.0440

SITE ANALYSIS MAP

RICHMARK WAKE
GREELEY, COLORADO

811
Know what's below.
Call before you dig.

REVISIONS

LAL/JAC	10/17/2022	REV PER CITY COMMENTS
LAL	11/23/2022	REV PER CITY COMMENTS
LAL	12/13/2022	REV PER CITY COMMENTS
LAL	03/28/2023	BOUNDARY REVISION

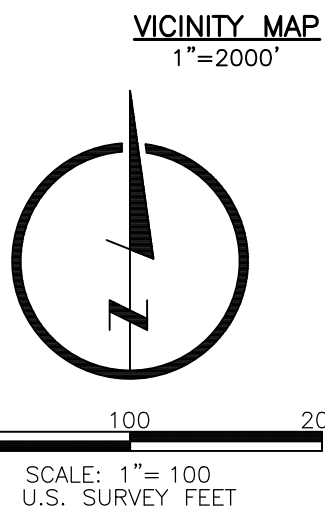
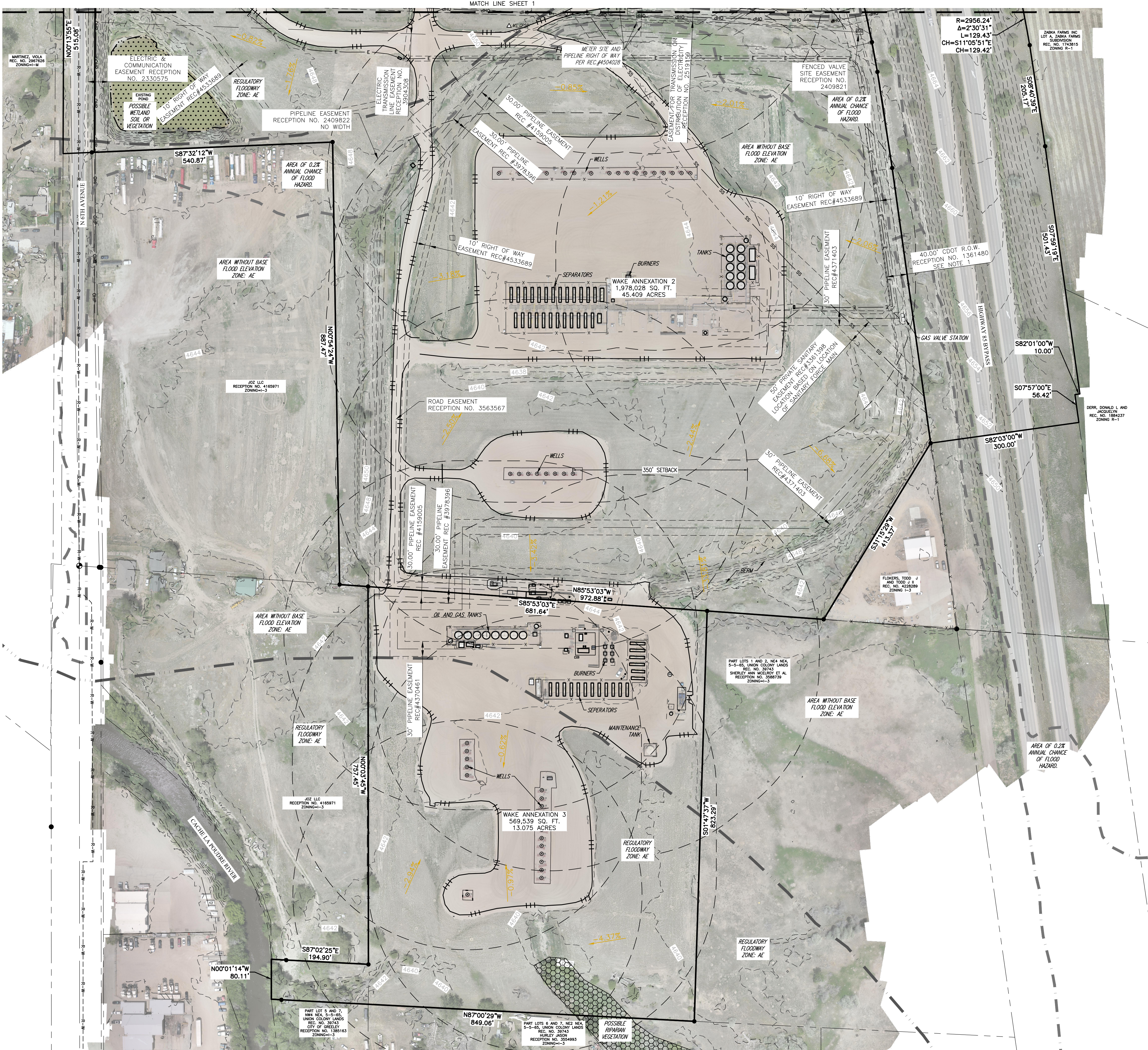
DESIGNER / DRAFTER
LAINE LANDAU/JOSH CROAK
DATE
08/04/2022
PROJECT NUMBER
0222030
BOOK AND PAGE

SHEET
1 OF 2

WAKE ANNEXATIONS NO. 1, 2 AND 3 TO THE CITY OF GREELEY

LOCATED IN THE SOUTHWEST, SOUTHEAST AND NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH, RANGE 65 WEST, AND THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO
ANX2022--0008, ANX2022--0009, ANX2022--0010

SITE ANALYSIS MAP



- LEGEND**
- BOUNDARY LINE
 - SECTION LINE
 - ADJACENT PROPERTY LINE
 - OIL AND GAS SETBACK
 - EXISTING EASEMENT
 - BUILDING LINE
 - FENCE LINE
 - EDGE OF CONCRETE
 - EDGE OF GRAVEL
 - RECORD SANITARY LINE
 - SANITARY FORCE MAIN
 - RECORD WATER LINE
 - GAS LINE
 - OVERHEAD POWER LINE
 - ELECTRIC LINE
 - EDGE OF AREA WITH 0.2% ANNUAL FLOOD CHANCE
 - EDGE OF FLOODWAY
 - EDGE OF AREA WITH NO BASE FLOOD ELEVATION
 - MONUMENT SET
 - OIL AND GAS WELL
 - POWER POLE
 - MONUMENT FOUND
 - SECTION CORNER
 - ACCESS ARROWS
 - DIRECTION OF FLOW

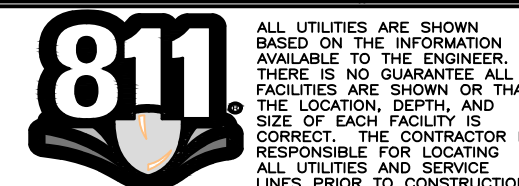
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9001 STATE LINE RD., STE. 200 (816)351.0440

STIE ANALYSIS
MAP

RICHMARK WAKE
GREELEY, COLORADO



Know what's below.
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REVISIONS
10/17/2022 LAL/JAC REV PER CITY COMMENTS
11/23/2022 LAL REV PER CITY COMMENTS
12/13/2022 LAL REVISE PER CITY COMMENTS
03/27/2023 LAL BOUNDARY REVISION

DESIGNER / DRAFTER
LAINE LANDAU/JOSH CROAK
DATE
08/04/2022
PROJECT NUMBER
0222030
BOOK AND PAGE

SHEET
2 OF 2

PLANNING COMMISSION SUMMARY

ITEM: Wake Annexation

PROJECT: Wake Annexation Nos. 1 -3

CASE NO: ANX2022-0008
ANX2022-0009
ANX2022-0010

LOCATION: East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street

APPLICANT: Richmark Real Estate Partners, LLC

CASE PLANNER: Doug May, Planner III

PLANNING COMMISSION HEARING DATE: August 22, 2023

PLANNING COMMISSION FUNCTION: To review the proposed annexations for compliance with Section 24-214 of the Greeley Development Code and make a recommendation to the City Council.

EXECUTIVE SUMMARY

Richmark Real Estate Partners, LLC petitions to annex a total of 120.097 acres of land to the City of Greeley. The properties are located in proximity to N. 6th Avenue, F Street and Highway 85, east of the Cache la Poudre River.

A. REQUEST

Richmark Real Estate Partners, LLC is requesting approval to annex Richmark-owned properties, known as the Wake Annexations Nos. 1-3. The annexations include: Wake Annexation No. 1 consisting of 61.613 acres, Wake Annexation No. 2 consisting of 45.409 acres, and Wake Annexation No. 3 consisting of 13.075 acres for total combined area of 120.097 acres (see Attachment E).

B. STAFF RECOMMENDATION

Approval

C. LOCATION

N. 6th Avenue, F Street, and including a portion of Highway 85 bypass that bisects Wake

Annexation 1; parcels located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street.

Current Zoning: I-3 (Industrial – County) and R-1 (Residential – County)

Proposed Zoning: H-A (Holding Agriculture – City)

Abutting Zoning: North: I-3 (Industrial - County); Northeast: R-1 (Residential – County)
 South: I-3 (Industrial - County)
 East: R-1 (Residential - County)
 West: C-D (Conservation District – City); I-H, I-M (Industrial – Medium – City) & I-3 (Industrial – County)

Site Conditions: The site is mostly undeveloped; the majority of the site is within the Cache la Poudre River floodplain, with the northern portion of Wake Annexation 1 in the floodway and most of Wake Annexation 3 in the floodway. A small portion of the western boundary of Wake 3 abuts the river. All three Wake Annexations include multiple oil and gas wellheads, tanks, burners and separators.

Lot Size: 120.097 Acres

Contiguity:	1 st Annexation	Required	16.7%
		Provided	27%
	2 nd Annexation	Required	16.7%
	Provided	18%	
	3 rd Annexation	Required	16.7%
		Provided	22%

Abutting Land Uses: North: Industrial
 South: Agriculture/Vacant
 East: Agriculture, Residential and Vacant
 West: Industrial

D. BACKGROUND

The property owner has petitioned the City to annex a total of 120.097 acres of unincorporated property, including a portion of the right of way for the Highway 85 Bypass, in a total of three annexations. The first annexation, Wake Annexation No. 1, consists of two parcels and the portion of Highway 85 Bypass right of way between said parcels, and is 61.613 acres. The second annexation, Wake Annexation No. 2, consists of one parcel and is 45.409 acres. The third annexation, Wake Annexation No. 3, consists of one parcel and is 13.075 acres. Each annexation contains oil and gas facilities. Eaton Draw runs through the north portion of Annexation No. 1 and along a portion of the west boundary of Annexation No. 1. The parcels are located within the Long-Range Expected Growth Area and are designated as Natural uses, including parklands and open space. All three annexations are within the floodplain, with No. 1 and No. 3 also in the floodway.

The applicant requests the annexation be zoned Holding – Agriculture (H-A), in accordance with Section 24-214 of the Development Code. Following approval of the annexations, the establishment of zoning will be considered as a separate hearing item and must, per state statutes, take place within 90 days of the annexation.

Colorado Revised Statutes §31-12-104 and §31-12-105 establish the legal requirements for annexation, and include: (1) not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is contiguous with the City of Greeley; (2) a community of interest exists between the territory proposed to be annexed and the City of Greeley; (3) the territory sought to be annexed is urban or will be urbanized in the near future and; (4) the territory sought to be annexed is integrated or is capable of being integrated with the City of Greeley. The City Attorney's Office has determined the proposal meets the statutory requirements to be considered for annexation (see Attachment F), and City Council adopted a resolution on August 8, 2023, making a finding to this effect, scheduling the introduction of the ordinance concerning the annexation for September 5, 2023, and the final reading on September 19, 2023.

Due to the state contiguity requirements, the applications are a combination of three stand-alone annexations, which constitute a serial annexation. The first Annexation, if approved, would provide contiguity for the second Annexation, and so on.

E. APPROVAL CRITERIA

The Commission shall consider comments from review agencies and offices, the staff recommendation, citizen comments, and the following criteria (found in Section 24-214 of the Greeley Development Code) in taking action to recommend approval, denial, or to table the annexation for future consideration:

1. The proposed annexation is in conformance with the Comprehensive Plan.

The following Imagine Greeley: The City of Greeley Comprehensive Plan, policies apply to

this request:

Growth Framework – Annexation Consideration

The following will be considered when evaluating annexation proposals:

1. The proposed annexation meets state requirements for annexations.
2. The proposed annexation meets the requirements for annexations set forth in the Greeley Municipal Code.
3. The proposed annexation is in conformance with the Imagine Greeley Comprehensive Plan.
4. The proposed annexation promotes a geographic balance of land uses.
5. The proposed annexation increases the City's supply of developable employment land or other future land use requirements.
6. Adequate services are or will be available to support the development expected to result from the proposed annexation.
7. The proposed annexation provides for a continuous and rational municipal boundary, and at least one-sixth of the annexation's perimeter is contiguous with the city's current boundary.
8. The area is urban or will be urbanized in the near future. However, annexation of undeveloped land is appropriate if another community goal is achieved, such as procurement of open land for a community separator, for open space, or for the conservation of farmland.

Comprehensive Plan Policies & Objectives:

GC-1.5 Annexations: When considering a proposed annexation, the City should find persuasive evidence that the inclusion of the property into the City's jurisdiction meets the goals and objectives of the Comprehensive Plan, and that the property can be developed in a manner that will be a positive addition to the City, improve the quality of Greeley's neighborhoods, and can be provided with municipal services.

Staff Comment: The subject properties are primarily undeveloped except for oil and gas facilities in each annexation. It is anticipated that this area will develop as open space and outdoor recreation.

The site is within the Long-Range Expected Growth Area (LREGA) and the Land Use Guidance Map identifies this area for natural uses, including park lands and open space. The LREGA includes those lands anticipated to accommodate the City of Greeley's urban development typically beyond a five (5) year time frame. This typically means that full urban services are

not currently available to the site. The properties can be fully serviced if needed in the future.

Because the subject properties are primarily located in the floodplain and include the riparian Eaton Draw and it is in the area demarcated for natural uses on the Land Use Guidance Map, the property can provide buffering between the river and the area to the east of Highway 85 bypass. It will also provide for the area to the east to be annexed in the future and would buffer industrial uses from the downtown area, as depicted on the Land Use Guidance Map.

This request complies with this criterion.

2. The proposed annexation promotes geographical balance of the City's land use pattern.

Staff Comment: The proposed annexations provide growth in the northeast part of Greeley, which has not grown as much as the western portion of Greeley. It provides balance to the City's growth and land use pattern.

This request complies with this criterion.

3. Adequate services are, or will be, available to support the development expected to result from the proposed annexation.

Staff Comment: If annexed, the subject site would be served by the Greeley Fire Department and the City of Greeley Police Department. The site would be served by Weld School District 6, but it will not add students to the district as no residential use is contemplated at this time.

Currently no City-level utilities are needed at the site. The extension of services is not required for this annexation.

This request complies with this criterion.

4. The proposed annexation provides for a continual and rational boundary.

Staff Comment: As proposed, all three annexations would exceed the State’s one-sixth contiguity requirements. The combined contiguity of the three annexations is 23%, based on approval of annexation No.1, which has 27% contiguity, which would be required for annexation of No. 2 (18% contiguity), which would be required for annexation of No. 3 (22% contiguity). These properties inclusion would also help provide a continual and rational boundary by adding an area of unincorporated land within the Long Range Expected Growth Area.

This request complies with this criterion.

5. The proposed annexation is needed to accommodate future land use requirements.

Staff Comment: There are no current plans to develop the property at this time, and it would continue to be utilized for oil and gas development and natural open space. Future development would need to meet the City’s Development Code, Imagine Greeley Comprehensive Plan and Adequate Public Facilities requirements.

The establishment of Holding – Agriculture (H-A) zoning is being considered as a separate request following successful annexations.

This request complies with this criterion.

F. PHYSICAL SITE CHARACTERISTICS

1. SUBDIVISION HISTORY

The Weld County Board of County Commissioners approved a Site Specific Development Plan for the western parcel of Wake Annexation No. 1 for a major facility for a public utility transmission line through the Use by Special Review process in June 2014 (Recording number 4023037).

2. HAZARDS

The Eaton Draw runs through the western parcel of Annexation No. 1. Most of the site is within the FEMA designated floodplain with portions in the floodway. Flooding hazards may exist from time to time. The site also contains multiple oil and gas wells and associated equipment.

3. WILDLIFE

The site is partially located in areas of highly sensitive and moderately sensitive areas of ecological significance. An ecological report will be required at the time of any proposed development.

4. FLOODPLAIN

The Poudre River flows along and directly through this site; portions of the site are within the floodway, the 100-year floodplain and the 500-year floodplain.

5. DRAINAGE AND EROSION

The site is slightly developed with drainage patterns expected to continue to follow the existing lay of the land. However, drainage patterns would be examined in greater detail through the Site Plan Review application and the subsequent permitting processes.

6. TRANSPORTATION

The site is located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street.

H. SERVICES

Because the site is currently being used for oil and gas development, future development of the site is limited in the next 15 to 20 years, following completion of oil and gas operations and reclamation of the site. It is anticipated to be left as open space or developed for natural uses.

1. WATER

There is an existing 12-inch water line located in N 6th Avenue adjacent to the west of the subject site. Annexation No. 1, No. 2, and No. 3 are shown on the Adequate Public Facilities Map as being “near an 8” or larger water line,” excepting the smaller parcel of No. 1 that is east of Highway 85 bypass.

2. SANITATION

The nearest sewer line is located less than 300’ west of the subject site. The Adequate Public Facilities Map for Sewer shows Annexation No. 3 “near an 8” or larger sewer line.” Following annexation of No. 1 and then No. 2, annexation of No. 2 would be contiguous to an area “near an 8” or larger sewer line, and No. 1 would then be contiguous to an area contiguous to an area “near an 8” or larger sewer line.” The portion of Annexation No. 1 located east of Highway 85 bypass is within a half mile of an area “near an 8” or larger sewer line.”

3. EMERGENCY SERVICES

The subject site is currently served by the Eaton Fire Protection District and the Western Hills Fire Protection District. With the successful annexations, the applicant would withdraw the property from those Fire Protection Districts. The City of Greeley Fire Department would take over fire services for the site once annexed.

The closest fire station, Fire Station #1 (1155 10th Avenue), is approximately 2 miles away. The City of Greeley Police Department would also serve this area with the completion of the annexations.

4. PARKS/OPEN SPACES

The site is approximately 2.2 miles from Island Grove Regional Park and includes Eaton Draw riparian corridor.

5. SCHOOLS

The subject site is within the Greeley School District 6 boundary.

I. NEIGHBORHOOD IMPACTS

1. VISUAL

The site contains oil and gas development equipment at the time of review for annexation. No known new visual impacts would be created by the annexation. Potential impacts would be reviewed at time of development.

2. NOISE

The site contains oil and gas development equipment at the time of review for annexation. Staff does not anticipate that the proposed annexation would create any significant increase in noise.

H. NOTIFICATION:

Mailed notice is not required, per the Development Code effective as of October 1, 2021. However, as a courtesy a mailed notice was sent on July 28, 2023 to 72 surrounding properties within 1000 feet of the subject property. The applicant posted signs in three locations on the property on August 3, 2023. As of August 10, 2023, no comments or concerns have been received.

I. PLANNING COMMISSION RECOMMENDED MOTION:

There are three separate annexation applications for the Wake Annexations. Therefore, the Planning Commission will need to consider and vote individually on each of the below applications, in the order listed below.

Recommended motion for:

1. A motion that, based on the project summary and analysis, the Planning Commission find that the request for an annexation meets approval criteria found in Section 24-204.b.2.(a-e). And, the proposed Wake Annexation #1, File number ANX2022-0008, meets State statutory requirements. And, therefore, recommend approval of the annexation to the City Council.
2. A motion that, based on the project summary and analysis, the Planning Commission find that the request for an annexation meets approval criteria found in Section 24-204.b.2.(a-e). And, the proposed Wake Annexation #2, File number ANX2022-0009, meets State statutory requirements. And, therefore, recommend approval of the annexation to the City Council.
3. A motion that, based on the project summary and analysis, the Planning Commission find that the request for an annexation meets approval criteria found in Section 24-204.b.2.(a-e). And, the proposed Wake Annexation #3, File number ANX2022-0010, meets State statutory requirements. And, therefore, recommend approval of the annexation to the City Council.

J. ATTACHMENTS:

Attachment A-	Vicinity Map
Attachment B-	Annexation Plats Nos. 1-3
Attachment C-	Annexation Petitions
Attachment D-	Site Analysis Map
Attachment E-	Annexation Impact Report
Attachment F-	Land Use Guidance Map



Council Agenda Summary

September 5, 2023

Key Staff Contact: Douglas May, Planner III

Title:

An ordinance annexing to the City of Greeley, Colorado, certain unincorporated territory located in Weld County, Colorado, known as the Wake Annexation, generally located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street, a parcel totaling 45.409 acres (Wake Annexation two)

Summary:

Introduction and first reading of an Ordinance to annex Wake Annexation Number 2, a parcel totaling 45.409 acres located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street. Richmark Real Estate Partners, LLC petitions to annex a total of 120.097 acres of land to the City of Greeley. The properties are located in proximity to N. 6th Avenue, F Street and Highway 85, east of the Cache la Poudre River. Wake Annexation Number 2 is the second of three serial annexations. Notices were sent to 72 properties within 1,000 feet of the subject site, public hearing signs were posted on the property, and to date, no comments have been received.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	No
Is there grant funding for this item?	NA

Legal Issues:

Consideration of this matter is a legislative process.

Other issues and Considerations:

Strategic Focus Area:



Community Vitality



Quality of Life

Decision Options:

- 1) Introduce the ordinance as presented; or
- 2) Amend the ordinance and introduce as amended; or
- 3) Deny the ordinance; or
- 4) Continue consideration of the ordinance to a date certain.

Council's Recommended Action:

A motion to introduce the ordinance and schedule the public hearing and second reading for September 19, 2023.

Attachments:

1. Ord 42, 2023
2. Exhibit A
3. Annexation Map
4. Impact Report (See Wake Annexation 1)
5. Vicinity Map (See Wake Annexation 1)
6. Annexation Map (See Wake Annexation 1)
7. Site Analysis Map (See Wake Annexation 1)
8. Land Use Guidance Map (See Wake Annexation 1)
9. Planning Commission Staff Report (See Wake Annexation 1)

**CITY OF GREELEY, COLORADO
ORDINANCE NO. 42, 2023
CASE NO. ANX2022-0009**

**AN ORDINANCE ANNEXING TO THE CITY OF GREELEY, COLORADO, CERTAIN
UNINCORPORATED TERRITORY LOCATED IN WELD COUNTY, COLORADO,
KNOWN AS THE WAKE ANNEXATION, GENERALLY LOCATED EAST OF 6TH
AVENUE, WEST OF HIGHWAY 85 BYPASS, NORTH OF 5TH STREET**

BE IT ORDAINED BY THE CITY COUNCIL OF GREELEY, COLORADO:

Section 1. The City Council of Greeley, Colorado, hereby finds that the property, which is legally described in section 2 below, for which one hundred percent (100%) of the landowners have petitioned for annexation to the City of Greeley, is in all respects eligible for annexation and that said annexation proceedings have been conducted in compliance with the laws of the State of Colorado.

Section 2. The territories described below in this section are hereby approved for annexations and are hereby annexed to the City of Greeley. These territories referred to are described as follows:

SEE ATTACHED LEGAL DESCRIPTION

Said described parcels of land contains 45.409 Acres, more or less, and is subject to any easements or rights-of-way as granted by instruments of record, or as now existing on said described parcel of land.

Section 3. Pursuant to §C.R.S. 31 -12 -113 of the Colorado Revised Statutes, one (1) copy of the map of the above –described territory and the original of the annexation ordinance shall be filed with the City Clerk of the City of Greeley, Colorado. Two (2) certified copies of this annexation ordinance and map of the area annexed shall be filed for recording with the Clerk and Recorder of Weld County, Colorado, within thirty (30) days after the effective date of this ordinance. The Clerk and Recorder of Weld County, Colorado, is required to file one (1) certified copy of the annexation ordinance and map with the Division of Local Government of the Colorado Department of Local Affairs, as required by section §13- 12- 113(2)(a) of the Colorado Revised Statutes.

Section 4. This ordinance shall be effective five (5) days after its final publication as provided by the Greeley City Charter.

**PASSED AND ADOPTED, SIGNED AND APPROVED, THIS _ DAY OF SEPTEMBER
2023.**

ATTEST:

THE CITY OF GREELEY

By: City Clerk

By: Mayor

EXHIBIT "A"
(LEGAL DESCRIPTIONS)

WAKE ANNEXATION NO. 2

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/16 CORNER BETWEEN SECTIONS 32 AND 33, TOWNSHIP 6 NORTH, RANGE 65 WEST; THENCE N84° 54' 03"W A DISTANCE OF 706.65 FEET ON THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 32 TO THE NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS, SAID POINT BEING THE **POINT OF BEGINNING**;

THENCE 129.43 FEET ON SAID NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 2956.24 FEET, A CENTRAL ANGLE OF 2°30'31", AND BEING SUB-TENDED BY A CHORD WHICH BEARS S11° 05' 51"E A DISTANCE OF 129.42 FEET;

THENCE CONTINUING ON SAID NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS S8° 40' 39"E A DISTANCE OF 205.17 FEET;

THENCE CONTINUING ON SAID NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS S7° 59' 19"E A DISTANCE OF 501.43 FEET;

THENCE CONTINUING ON SAID NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS S82°01'00"W A DISTANCE OF 10.00 FEET;

THENCE CONTINUING ON SAID NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS S07°57'00"E A DISTANCE OF 56.42 FEET;

THENCE SOUTH 82°03'00"W A DISTANCE OF 300.00 FEET TO THE SOUTHWEST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS;

THENCE S31° 15' 29"W A DISTANCE OF 413.37 FEET;

THENCE N85° 53' 03"W A DISTANCE OF 972.88 FEET;

THENCE N0° 54' 24"W A DISTANCE OF 887.47 FEET;

THENCE S87°32' 12"W A DISTANCE OF 540.87 FEET TO THE APPARENT WEST RIGHT OF WAY OF 6TH AVENUE;

THENCE ON THE APPARENT WEST RIGHT OF WAY OF 6TH AVENUE N0°13' 55"E A DISTANCE OF 515.08 FEET;

THENCE S84°54'03"E A DISTANCE OF 60.48 FEET TO THE EAST RIGHT OF WAY OF 6TH AVENUE;

THENCE ON THE EAST RIGHT OF WAY OF 6TH AVENUE S01°35'54"E A DISTANCE OF 92.52 FEET;

THENCE S89° 42' 47"E A DISTANCE OF 337.76 FEET;

THENCE S0° 04' 42"W A DISTANCE OF 89.22 FEET;

THENCE S87° 54' 00"E A DISTANCE OF 63.86 FEET;

THENCE N0° 18' 26"E A DISTANCE OF 91.18 FEET;

THENCE S89° 49' 03"E A DISTANCE OF 64.95 FEET;'

THENCE N0° 16' 24"E A DISTANCE OF 52.85 FEET TO THE SOUTH LINE OF WAKE ANNEXATION NO. 1;

THENCE S84° 54' 03"E A DISTANCE OF 1386.38 FEET ON THE SOUTH LINE OF WAKE ANNEXATION NO. 1
TO THE **POINT OF BEGINNING**.

SAID WAKE ANNEXATION NO. 2 HAS A PERIMETER OF 6,771.34 FEET, AND AN AREA OF 1,978,028
SQUARE FEET, 45.409 ACRES, MORE OR LESS.

BASIS OF BEARINGS

THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 6
NORTH, RANGE 65 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO AS REFERENCED TO THE
COLORADO STATE PLANE NORTH, NORTH AMERICAN DATUM 1983, BEARS NORTH 84° 54' 03" WEST
FOR 2618.50 FEET BETWEEN THE SOUTH SIXTEENTH CORNER OF SAID SOUTHEAST QUARTER OF
SECTION 32 AND 33 MONUMENTED WITH A #6 REBAR AND 3 ¼" ALUMINUM CAP STAMPED 33200,
2012 AND THE SOUTH CENTER SIXTEENTH CORNER OF SAID SECTION 32 MONUMENTED WITH #5 REBAR
AND 2" ALUMINUM CAP STAMPED PLS 28259, 1996 WITH ALL OTHER BEARINGS REFERENCED THERETO.

*For reference only: Parcel 080332400005 and the Highway 85 right of way and 6th Avenue apparent right
of way adjacent to said parcels.*



Council Agenda Summary

September 5, 2023

Key Staff Contact: Douglas May, Planner III

Title:

An ordinance annexing to the City of Greeley, Colorado, certain unincorporated territory located in Weld County, Colorado, known as the Wake Annexation, generally located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street, a parcel totaling 13.075 acres. (Wake Annexation three)

Summary:

Introduction and first reading of an Ordinance to annex Wake Annexation Number 3, a parcel totaling 13.075 acres, located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street. Richmark Real Estate Partners, LLC petitions to annex a total of 120.097 acres of land to the City of Greeley. The properties are located in proximity to N. 6th Avenue, F Street and Highway 85, east of the Cache la Poudre River. Wake Annexation Number 3 is the third of three serial annexations. Notices were sent to 72 properties within 1,000 feet of the subject site, public hearing signs were posted on the property, and to date, no comments have been received.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	No
Is there grant funding for this item?	NA

Legal Issues:

Consideration of this matter is a legislative process.

Other issues and Considerations:

Strategic Focus Area:



Community Vitality



Quality of Life

Decision Options:

- 1) Introduce the ordinance as presented; or
- 2) Amend the ordinance and introduce as amended; or
- 3) Deny the ordinance; or
- 4) Continue consideration of the ordinance to a date certain.

Council's Recommended Action:

A motion to introduce the ordinance and schedule the public hearing and second reading for September 19, 2023.

Attachments:

1. Ord 43, 2023
2. Exhibit A
3. Annexation Map
4. Impact Report (See Wake Annexation 1)
5. Vicinity Map (See Wake Annexation 1)
6. Annexation Map (See Wake Annexation 1)
7. Site Analysis Map (See Wake Annexation 1)
8. Land Use Guidance Map (See Wake Annexation 1)
9. Planning Commission Staff Report (See Wake Annexation 1)

**CITY OF GREELEY, COLORADO
ORDINANCE NO. 43, 2023
CASE NO. ANX2022-0010**

**AN ORDINANCE ANNEXING TO THE CITY OF GREELEY, COLORADO, CERTAIN
UNINCORPORATED TERRITORY LOCATED IN WELD COUNTY, COLORADO,
KNOWN AS THE WAKE ANNEXATION, GENERALLY LOCATED EAST OF 6TH
AVENUE, WEST OF HIGHWAY 85 BYPASS, NORTH OF 5TH STREET**

BE IT ORDAINED BY THE CITY COUNCIL OF GREELEY, COLORADO:

Section 1. The City Council of Greeley, Colorado, hereby finds that the property, which is legally described in section 2 below, for which one hundred percent (100%) of the landowners have petitioned for annexation to the City of Greeley, is in all respects eligible for annexation and that said annexation proceedings have been conducted in compliance with the laws of the State of Colorado.

Section 2. The territories described below in this section are hereby approved for annexations and are hereby annexed to the City of Greeley. These territories referred to are described as follows:

SEE ATTACHED LEGAL DESCRIPTION

Said described parcels of land contains 13.075 Acres, more or less, and is subject to any easements or rights-of-way as granted by instruments of record, or as now existing on said described parcel of land.

Section 3. Pursuant to §C.R.S. 31 -12 -113 of the Colorado Revised Statutes, one (1) copy of the map of the above –described territory and the original of the annexation ordinance shall be filed with the City Clerk of the City of Greeley, Colorado. Two (2) certified copies of this annexation ordinance and map of the area annexed shall be filed for recording with the Clerk and Recorder of Weld County, Colorado, within thirty (30) days after the effective date of this ordinance. The Clerk and Recorder of Weld County, Colorado, is required to file one (1) certified copy of the annexation ordinance and map with the Division of Local Government of the Colorado Department of Local Affairs, as required by section §13- 12- 113(2)(a) of the Colorado Revised Statutes.

Section 4. This ordinance shall be effective five (5) days after its final publication as provided by the Greeley City Charter.

**PASSED AND ADOPTED, SIGNED AND APPROVED, THIS _ DAY OF SEPTEMBER
2023.**

ATTEST:

THE CITY OF GREELEY

By: City Clerk

By: Mayor

EXHIBIT "A"
(LEGAL DESCRIPTIONS)

WAKE ANNEXATION NO. 3

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 5; THENCE S85° 53' 03"E A DISTANCE OF 580.28 FEET ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 5 TO THE **POINT OF BEGINNING**;

THENCE CONTINUING ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 5 S85° 53' 03"E A DISTANCE OF 681.64 FEET ON THE SOUTH LINE OF WAKE ANNEXATION NO. 2;

THENCE S1° 47' 37"W A DISTANCE OF 823.29 FEET;

THENCE N87° 00' 29"W A DISTANCE OF 849.06 FEET;

THENCE N0° 01' 14"W A DISTANCE OF 80.11 FEET ON AN EAST LINE OF THE CITY OF GREELEY;

THENCE S87° 02' 25"E A DISTANCE OF 194.90 FEET;

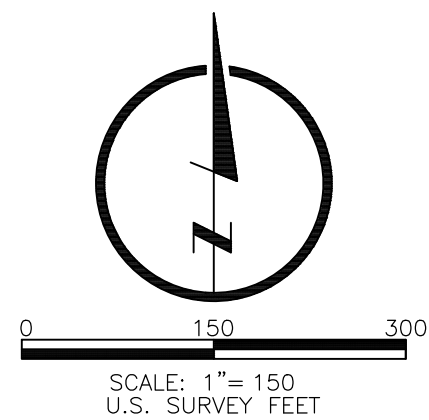
THENCE N0° 03' 45"W A DISTANCE OF 757.45 FEET TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 5, SAID POINT BEING THE **POINT OF BEGINNING**.

SAID WAKE ANNEXATION NO. 3 HAS A PERIMETER OF 3,386.45 FEET, AND AN AREA OF 569,539 SQUARE FEET, 13.075 ACRES, MORE OR LESS.

BASIS OF BEARINGS

THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO AS REFERENCED TO THE COLORADO STATE PLANE NORTH, NORTH AMERICAN DATUM 1983, BEARS S85° 53' 03"E FOR 2619.21 FEET BETWEEN THE NORTH QUARTER CORNER OF SAID SECTION 5 MONUMENTED WITH A 3 ¼" ALUMINUM CAP STAMPED PLS 28259 IN A MONUMENT BOX AND THE NORTHEAST CORNER OF SAID SECTION 5 MONUMENTED WITH A 2 1/2" ALUMINUM CAP STAMPED LS 17500 IN A MONUMENT BOX WITH ALL OTHER BEARINGS REFERENCED THERETO.

For reference only: Parcel 096105102006



WAKE ANNEXATION NO. 3 TO THE CITY OF GREELEY

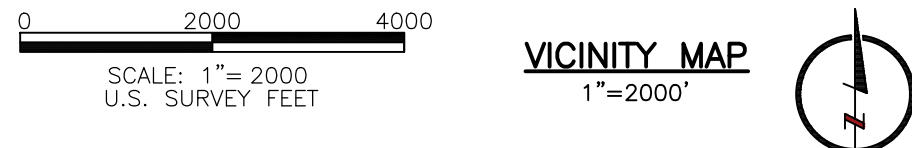
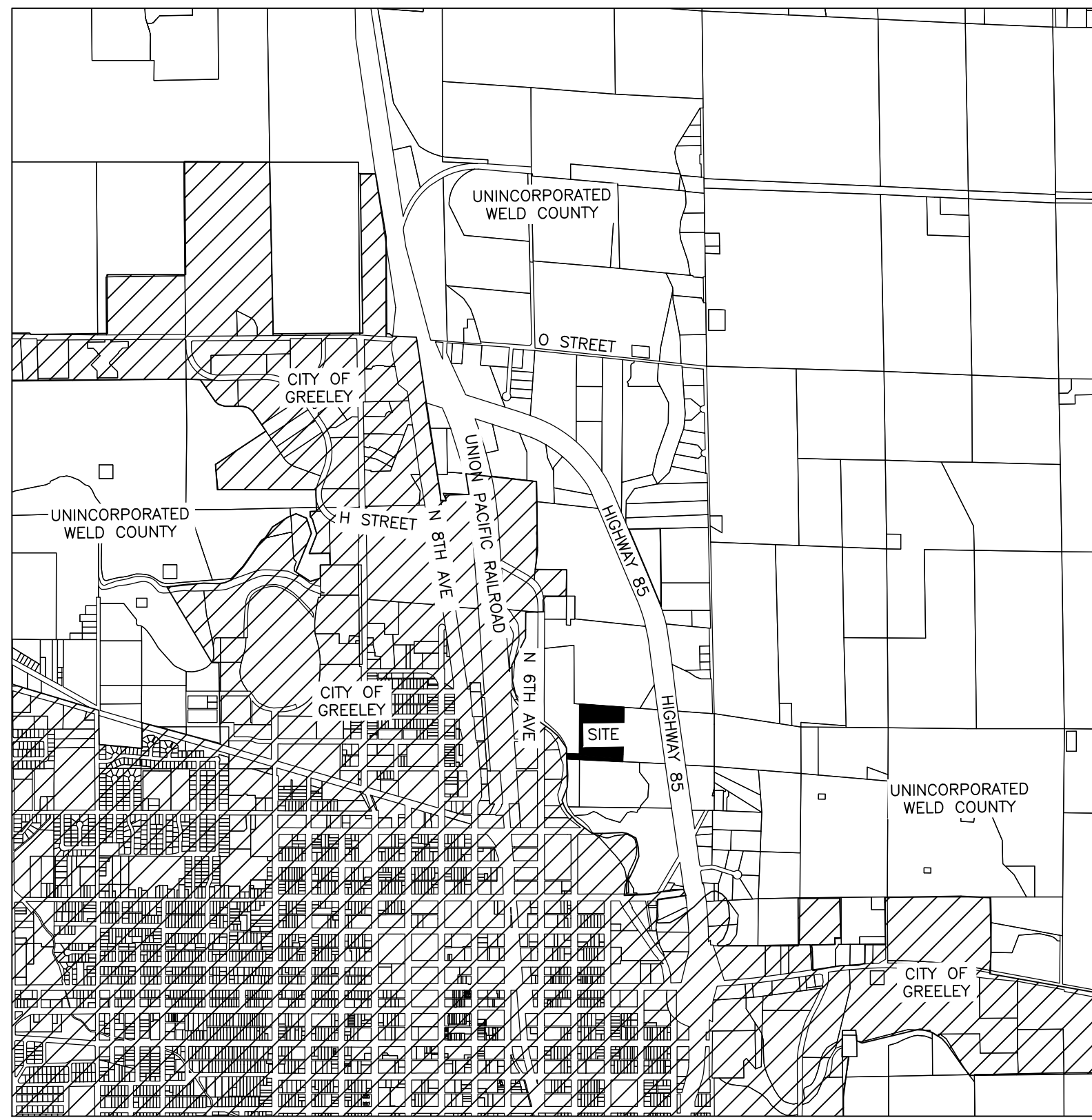
LOCATED IN THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M.,
COUNTY OF WELD, STATE OF COLORADO
ANX2022-0010

- LEGEND**
- SUBJECT PROPERTY LINE
 - ADJACENT LOT LINE
 - ANNEXATION/GREELEY TOWN LIMITS
 - CONTIGUOUS PERIMETER
 - SECTION LINE
 - RIGHT OF WAY
 - FOUND PROPERTY CORNER
 - SECTION CORNER, AS DESCRIBED
 - PER RECORD
 - CALCULATED PER RECORD
 - PER RECORD - CDOT ROW MAPS

ANNEXATION TABLE:

TOTAL ANNEXATION BOUNDARY PERIMETER:	3386.45	LINEAR FEET
CONTIGUOUS LENGTH TO EXISTING CITY OF GREELEY BOUNDARY:	761.75	LINEAR FEET
TOTAL ALLOWABLE PERIMETER (CONTIGUOUS x 6):	4570.50	LINEAR FEET
MINIMUM ONE-SIXTH (1/6) OF TOTAL ANNEXATION PERIMETER:	564.41	LINEAR FEET

AS SHOWN ABOVE, THE ANNEXATION PERIMETER CONTIGUOUS TO CITY OF GREELEY BOUNDARY EXCEEDS THE MINIMUM REQUIRED 1/6 CONTIGUITY. THEREFORE, WAKE ANNEXATION #3 IS IN COMPLIANCE WITH THE STATE CONTIGUITY REQUIREMENT.



WAKE ANNEXATION NO. 3 PERIMETER DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 5; THENCE S85° 53' 03"E A DISTANCE OF 580.28 FEET ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 5 TO THE POINT OF BEGINNING;

THENCE CONTINUING ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 5 S85° 53' 03"E A DISTANCE OF 681.64 FEET ON THE SOUTH LINE OF WAKE ANNEXATION NO. 2;

THENCE S1° 47' 37"W A DISTANCE OF 823.29 FEET;

THENCE N87° 00' 29"W A DISTANCE OF 849.06 FEET;

THENCE N0° 01' 14"W A DISTANCE OF 80.11 FEET ON AN EAST LINE OF THE CITY OF GREELEY;

THENCE S87° 02' 25"E A DISTANCE OF 194.90 FEET;

THENCE N0° 03' 45"W A DISTANCE OF 757.45 FEET TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 5, SAID POINT BEING THE POINT OF BEGINNING.

SAID WAKE ANNEXATION NO. 3 HAS A PERIMETER OF 3,386.45 FEET, AND AN AREA OF 569,539 SQUARE FEET, 13.075 ACRES, MORE OR LESS.

OWNERS: RICHMARK REAL ESTATE PARTNERS LLC, A COLORADO LIMITED LIABILITY COMPANY

BY: TYLER RICHARDSON
AUTHORIZED AGENT

STATE OF COLORADO))SS
COUNTY OF WELD)

THE FOREGOING ANNEXATION PLAT WAS ACKNOWLEDGED BEFORE ME BY

TYLER RICHARDSON AS AUTHORIZED AGENT OF RICHMARK REAL ESTATE PARTNERS LLC, A COLORADO LIMITED LIABILITY COMPANY.

ON THIS ____ DAY OF _____, 20____.

WITNESS MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC

MY COMMISSION EXPIRES _____

GENERAL NOTES:

1. 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.

2. ALL EASEMENTS AND RIGHT-OF-WAYS ARE REFERENCED FROM: FIRST AMERICAN TITLE INSURANCE COMPANY, ORDER NUMBER NCS-1109108-CO, WITH AN EFFECTIVE DATE OF JANUARY 25, 2022 AT 5:00 P.M. AND STEWART TITLE GUARANTY COMPANY, ORDER NUMBER 1723690, WITH AN EFFECTIVE DATE OF JUNE 2, 2022 AT 8:00 A.M.

3. BASIS OF BEARINGS: THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO AS REFERENCED TO THE COLORADO STATE PLANE NORTH, NORTH AMERICAN DATUM 1983, BEARS S85° 53' 03"E FOR 2619.21 FEET BETWEEN THE NORTH QUARTER CORNER OF SAID SECTION 5 MONUMENTED WITH A 3' X' ALUMINUM CAP STAMPED PLS 28259 IN A MONUMENT BOX AND THE NORTHEAST CORNER OF SAID SECTION 5 MONUMENTED WITH A 2 1/2" ALUMINUM CAP STAMPED LS 17500 IN A MONUMENT BOX WITH ALL OTHER BEARINGS REFERENCED THERETO.

ACCEPTANCE:

THIS ANNEXATION MAP WAS ACCEPTED BY THE CITY OF GREELEY, WELD COUNTY, COLORADO AND THE TERRITORY THEREIN DESIGNATED AND MADE A PART OF THE CITY OF GREELEY, AND INCLUDED WITHIN THE LIMITS AND JURISDICTION THEREON THIS ____ DAY OF _____, 2023.

ATTEST: CITY CLERK MAYOR

CERTIFICATE OF APPROVAL BY ENGINEERING DEVELOPMENT REVIEW AND CIVIL INSPECTIONS MANAGER OR THEIR DESIGNEE:

APPROVED THIS ____ DAY OF _____, 2023, BY THE ENGINEERING DEVELOPMENT REVIEW AND CIVIL INSPECTIONS' MANAGER OR THEIR DESIGNEE OF THE CITY OF GREELEY, COLORADO.

ENGINEERING DEVELOPMENT REVIEW AND CIVIL INSPECTIONS MANAGER

COMMUNITY DEVELOPMENT DIRECTOR'S APPROVAL:

APPROVED THIS ____ DAY OF _____, 2023, BY THE COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF GREELEY, COLORADO.

COMMUNITY DEVELOPMENT DIRECTOR

LAND SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY THAT THIS PLAT OF WAKE ANNEXATION NO. 3 IS BASED UPON A FIELD SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF COLORADO, AND THAT AT LEAST 1/6 OF THE PERIMETER OF THE ABOVE-DESCRIBED PROPERTY IS CONTIGUOUS TO THE CURRENT BOUNDARY OF THE CITY OF GREELEY, COLORADO

LAINE A. LANDAU, COLORADO PLS 31159
LAMP RYNEARSON
LAINE.LANDAU@LAMPRYNEARSON.COM
DATE OF SIGNATURE: _____

**LAMP
RYNEARSON**

LAMPRYNEARSON.COM

OMAHA, NEBRASKA
14710 W. DODGE RD., STE. 100 (402)496.2498
FORT COLLINS, COLORADO
4715 INNOVATION DR., STE. 100 (970)228.0342
KANSAS CITY, MISSOURI
9001 STATE LINE RD., STE. 200 (816)351.0440

WAKE ANNEXATION NO. 3
A PORTION OF THE NORTHEAST QUARTER OF SECTION 5
TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M.,
COUNTY OF WELD, STATE OF COLORADO

RICHMARK WAKE ANNEXATION
GREELEY, COLORADO



Know what's below.
Call before you dig.

REVISIONS
08/09/2022 REMOVED OVERLAPPING TEXT
10/17/2022 REVISED PER CITY COMMENTS
12/13/2022 REVISED PER CITY COMMENTS
03/28/2023 BOUNDARY REVISION

DESIGNER / DRAFTER
LAINE LANDAU/JOSH CROAK
DATE
08/04/2022
PROJECT NUMBER
0222030
BOOK AND PAGE

SHEET



Council Agenda Summary

September 5, 2023

Key Staff Contact: Douglas May, Planner III

Title:

An ordinance changing the official zoning map of the City of Greeley, Colorado, to establish H-A (Holding-Agriculture) for certain property located in Weld County, Colorado, generally located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street, three properties totaling 120.097

Summary:

Introduction and first reading of an Ordinance establishing the zoning of three (3) properties totaling 120.097 acres as Holding-Agriculture (H-A), located East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street. Per Sec. 24-201.b.4. annexed areas shall be included in the City's zoning ordinance and map within ninety (90) days after the effective date of the annexation ordinance. As such, this application has been submitted in conjunction with two petitions to annex land to the City. The applicant proposes the establishment of H-A (Holding Agriculture) zoning. The property is currently in the process of being annexed into the City of Greeley, with final reading of the annexation ordinance scheduled before City Council on September 19, 2023. Notices were sent to 72 properties within 1,000 feet of the subject site, public hearing signs were posted on the property, and to date, no comments have been received.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	No
Is there grant funding for this item?	NA

Legal Issues:

Consideration of this matter is a legislative process.

Other issues and Considerations:

Strategic Focus Area:



Community Vitality

Decision Options:

- 1) Introduce the ordinance as presented; or
- 2) Amend the ordinance and introduce as amended; or
- 3) Deny the ordinance; or
- 4) Continue consideration of the ordinance to a date certain.

Council's Recommended Action:

A motion to introduce the ordinance and schedule the public hearing and second reading for September 19, 2023.

Attachments:

1. Ord 44, 2023
2. Exhibit A
3. Establishment of Zoning Map
4. Site Analysis Map
5. Land Use Guidance Map
6. Planning Commission Summary

**CITY OF GREELEY, COLORADO
ORDINANCE NO. 44, 2023
CASE NO. ZON2022-0003**

**AN ORDINANCE CHANGING THE OFFICIAL ZONING MAP OF THE CITY OF
GREELEY, COLORADO, TO ESTABLISH H-A (HOLDING-AGRICULTURE) FOR
CERTAIN PROPERTY LOCATED IN WELD COUNTY, COLORADO, GENERALLY
LOCATED EAST OF 6TH AVENUE, WEST OF HIGHWAY 85 BYPASS, NORTH OF
5TH STREET**

BE IT ORDAINED BY THE CITY COUNCIL OF GREELEY, COLORADO:

Section 1. The following described property located in the City of Greeley known as the Wake Annexation is hereby placed into the H-A (Holding-Agriculture) zoning district in the City of Greeley, County of Weld, State of Colorado and is described as follows:

SEE ATTACHED LEGAL DESCRIPTION

Said described parcels of land contains 120.097 Acres, more or less.

Section 2. The boundaries of the pertinent zoning districts as shown on the official zoning map are hereby changed so as to accomplish the above-described zoning changes, and the Mayor and City Clerk are hereby authorized and directed to sign and attest an entry which shall be made on the official zoning map to reflect this change.

Section 3. This ordinance shall become effective five (5) days after its final publication as provided by the Greeley City Charter.

PASSED AND ADOPTED, SIGNED AND APPROVED, THIS __ DAY OF SEPTEMBER 2023.

ATTEST:

THE CITY OF GREELEY, COLORADO

By: City Clerk

By: Mayor

EXHIBIT "A"

WAKE ZONING PERIMETER DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER, SOUTHEAST QUARTER, AND NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/16 CORNER BETWEEN SECTIONS 32 AND 33, TOWNSHIP 6 NORTH, RANGE 65 WEST; THENCE N84° 54' 03"W A DISTANCE OF 706.65 FEET ON THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 32 TO THE **POINT OF BEGINNING**;

THENCE CONTINUING ON SAID SOUTH LINE N84° 54' 03"W A DISTANCE OF 1386.38 FEET;

THENCE N0° 16' 24"E A DISTANCE OF 297.11 FEET;

THENCE N89° 20' 24"W A DISTANCE OF 129.00 FEET;

THENCE N0° 22' 34"E A DISTANCE OF 400.00 FEET ON THE EAST LINE OF THE THERMO COGENERATION PLANT ANNEXATION RECORDED AT REC. #2467353;

THENCE N89° 47' 22"W A DISTANCE OF 477.15 FEET ON THE NORTH LINE OF SAID THERMO COGENERATION PLANT ANNEXATION;

THENCE N5° 03' 53"E A DISTANCE OF 53.58 FEET ON THE EAST LINE OF THE MONFORT LAMB PLANT ANNEXATION RECORDED AT REC. #2181908;

THENCE N2° 35' 05"E A DISTANCE OF 203.34 FEET ON THE EAST LINE OF SAID MONFORT LAMB PLANT ANNEXATION;

THENCE N1° 02' 25"E A DISTANCE OF 422.15 FEET ON THE EAST LINE OF SAID MONFORT LAMB PLANT ANNEXATION;

THENCE S84° 15' 54"E A DISTANCE OF 33.45 FEET ON THE EAST LINE OF SAID MONFORT LAMB PLANT ANNEXATION;

THENCE N1° 00' 20"W A DISTANCE OF 344.18 FEET ON THE EAST LINE OF SAID MONFORT LAMB PLANT ANNEXATION;

THENCE S84° 18' 04"E A DISTANCE OF 909.75 FEET TO THE SOUTHWEST RIGHT OF WAY FOR THE HIGHWAY 85 BY-PASS;

THENCE N67° 42' 53"E A DISTANCE OF 299.44 FEET TO THE NORTHEAST RIGHT OF WAY FOR THE HIGHWAY 85 BY-PASS;

THENCE ON SAID NORTHEAST RIGHT OF WAY S23°10'17"E A DISTANCE OF 475.25 FEET;

THENCE N88° 44' 10"E A DISTANCE OF 479.74 FEET;

THENCE S1° 08' 17"E A DISTANCE OF 821.58 FEET;

THENCE S0° 04' 41"W A DISTANCE OF 358.82 FEET TO THE NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS;

THENCE 268.77 FEET ON SAID NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT 268.77 FEET, THE ARC OF SAID CURVE HAVING A RADIUS OF 2956.24 FEET, A CENTRAL ANGLE OF $5^{\circ}12'33''$ AND BEING SUB-TENDED BY A CHORD WHICH BEARS $S14^{\circ}57'22''E$ A DISTANCE OF 268.68 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL HAS AN AREA OF 2,683,882 SQUARE FEET, 61.613 ACRES, MORE OR LESS.

AND

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/16 CORNER BETWEEN SECTIONS 32 AND 33, TOWNSHIP 6 NORTH, RANGE 65 WEST; THENCE $N84^{\circ}54'03''W$ A DISTANCE OF 706.65 FEET ON THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 32 TO THE NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS, SAID POINT BEING THE **POINT OF BEGINNING**;

THENCE 129.43 FEET ON SAID NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 2956.24 FEET, A CENTRAL ANGLE OF $2^{\circ}30'31''$, AND BEING SUB-TENDED BY A CHORD WHICH BEARS $S11^{\circ}05'51''E$ A DISTANCE OF 129.42 FEET;

THENCE CONTINUING ON SAID NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS $S8^{\circ}40'39''E$ A DISTANCE OF 205.17 FEET;

THENCE CONTINUING ON SAID NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS $S7^{\circ}59'19''E$ A DISTANCE OF 501.43 FEET;

THENCE CONTINUING ON SAID NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS $S82^{\circ}01'00''W$ A DISTANCE OF 10.00 FEET;

THENCE CONTINUING ON SAID NORTHEAST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS $S07^{\circ}57'00''E$ A DISTANCE OF 56.42 FEET;

THENCE SOUTH $82^{\circ}03'00''W$ A DISTANCE OF 300.00 FEET TO THE SOUTHWEST RIGHT OF WAY FOR HIGHWAY 85 BY-PASS;

THENCE $S31^{\circ}15'29''W$ A DISTANCE OF 413.37 FEET;

THENCE $N85^{\circ}53'03''W$ A DISTANCE OF 972.88 FEET;

THENCE $N0^{\circ}54'24''W$ A DISTANCE OF 887.47 FEET;

THENCE $S87^{\circ}32'12''W$ A DISTANCE OF 540.87 FEET TO THE APPARENT WEST RIGHT OF WAY OF 6TH AVENUE;

THENCE ON THE APPARENT WEST RIGHT OF WAY OF 6TH AVENUE $N0^{\circ}13'55''E$ A DISTANCE OF 515.08 FEET;

THENCE S84°54'03"E A DISTANCE OF 60.48 FEET TO THE EAST RIGHT OF WAY OF 6TH AVENUE;
THENCE ON THE EAST RIGHT OF WAY OF 6TH AVENUE S01°35'54"E A DISTANCE OF 92.52 FEET;
THENCE S89° 42' 47"E A DISTANCE OF 337.76 FEET;
THENCE S0° 04' 42"W A DISTANCE OF 89.22 FEET;
THENCE S87° 54' 00"E A DISTANCE OF 63.86 FEET;
THENCE N0° 18' 26"E A DISTANCE OF 91.18 FEET;
THENCE S89° 49' 03"E A DISTANCE OF 64.95 FEET;
THENCE N0° 16' 24"E A DISTANCE OF 52.85 FEET TO THE SOUTH LINE OF WAKE ANNEXATION NO. 1;
THENCE S84° 54' 03"E A DISTANCE OF 1386.38 FEET ON THE SOUTH LINE OF WAKE ANNEXATION NO. 1
TO THE **POINT OF BEGINNING**.

SAID PARCEL HAS AN AREA OF 1,978,028 SQUARE FEET, 45.409 ACRES, MORE OR LESS.

AND

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 5; THENCE S85° 53' 03"E A DISTANCE OF 580.28 FEET ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 5 TO THE **POINT OF BEGINNING**;

THENCE CONTINUING ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 5 S85° 53' 03"E A DISTANCE OF 681.64 FEET ON THE SOUTH LINE OF WAKE ANNEXATION NO. 2;

THENCE S1° 47' 37"W A DISTANCE OF 823.29 FEET;

THENCE N87° 00' 29"W A DISTANCE OF 849.06 FEET;

THENCE N0° 01' 14"W A DISTANCE OF 80.11 FEET ON AN EAST LINE OF THE CITY OF GREELEY;

THENCE S87° 02' 25"E A DISTANCE OF 194.90 FEET;

THENCE N0° 03' 45"W A DISTANCE OF 757.45 FEET TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 5, SAID POINT BEING THE **POINT OF BEGINNING**.

SAID PARCEL HAS A PERIMETER OF 3,386.45 FEET, AND AN AREA OF 569,539 SQUARE FEET, 13.075 ACRES, MORE OR LESS.

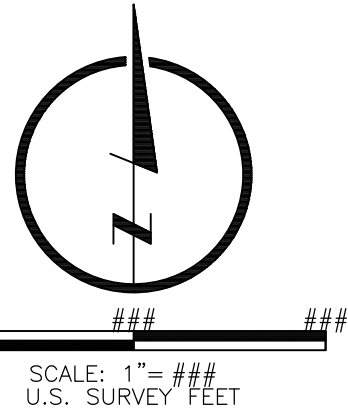
THE PERIMETER OF THE COMBINED PARCEL HAS AN AREA OF 5,231,449 SQUARE FET, 120.098 ACRES, MORE OR LESS.

BASIS OF BEARINGS

THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO AS REFERENCED TO THE COLORADO STATE PLANE NORTH, NORTH AMERICAN DATUM 1983, BEARS S85° 53' 03"E FOR 2619.21 FEET BETWEEN THE NORTH QUARTER CORNER OF SAID SECTION 5 MONUMENTED WITH A 3 ¼" ALUMINUM CAP STAMPED PLS 28259 IN A MONUMENT BOX AND THE NORTHEAST CORNER OF SAID SECTION 5 MONUMENTED WITH A 2 1/2" ALUMINUM CAP STAMPED LS 17500 IN A MONUMENT BOX WITH ALL OTHER BEARINGS REFERENCED THERETO.

PROPERTY BOUNDARY MAP

ZON2023-0001



LEGEND

- | | |
|----------|------------------------------|
| ===== | SUBJECT PROPERTY LINE |
| ----- | ADJACENT LOT LINE |
| ----- | SECTION LINE |
| ===== | RIGHT OF WAY |
| ● | FOUND PROPERTY CORNER |
| ⊙ | SECTION CORNER, AS DESCRIBED |
| (R) | PER RECORD |
| (C) | CALCULATED PER RECORD |
| (R-CDOT) | PER CDOT ROW MAP |

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9001 STATE LINE RD., STE. 200 (816)361.0440

WAKE ZONING PLAT PROPERTY BOUNDARY MAP
A PORTION OF THE SOUTHWEST, SOUTHEAST, AND NORTHEAST QUARTER
SECTION 32, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE 6TH P.M.,
COUNTY OF WELD, STATE OF COLORADO

**RICHMARK WAKE ANNEXATION
GREELEY, COLORADO**



REVISIONS

DESIGNER / DRAFTER
LAINE LANDAU/JOSH CROA
DATE
05/24/2023
PROJECT NUMBER
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BOOK AND PAGE

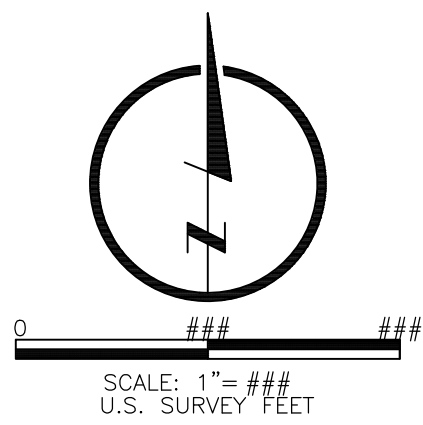
SHEET

2 OF 6

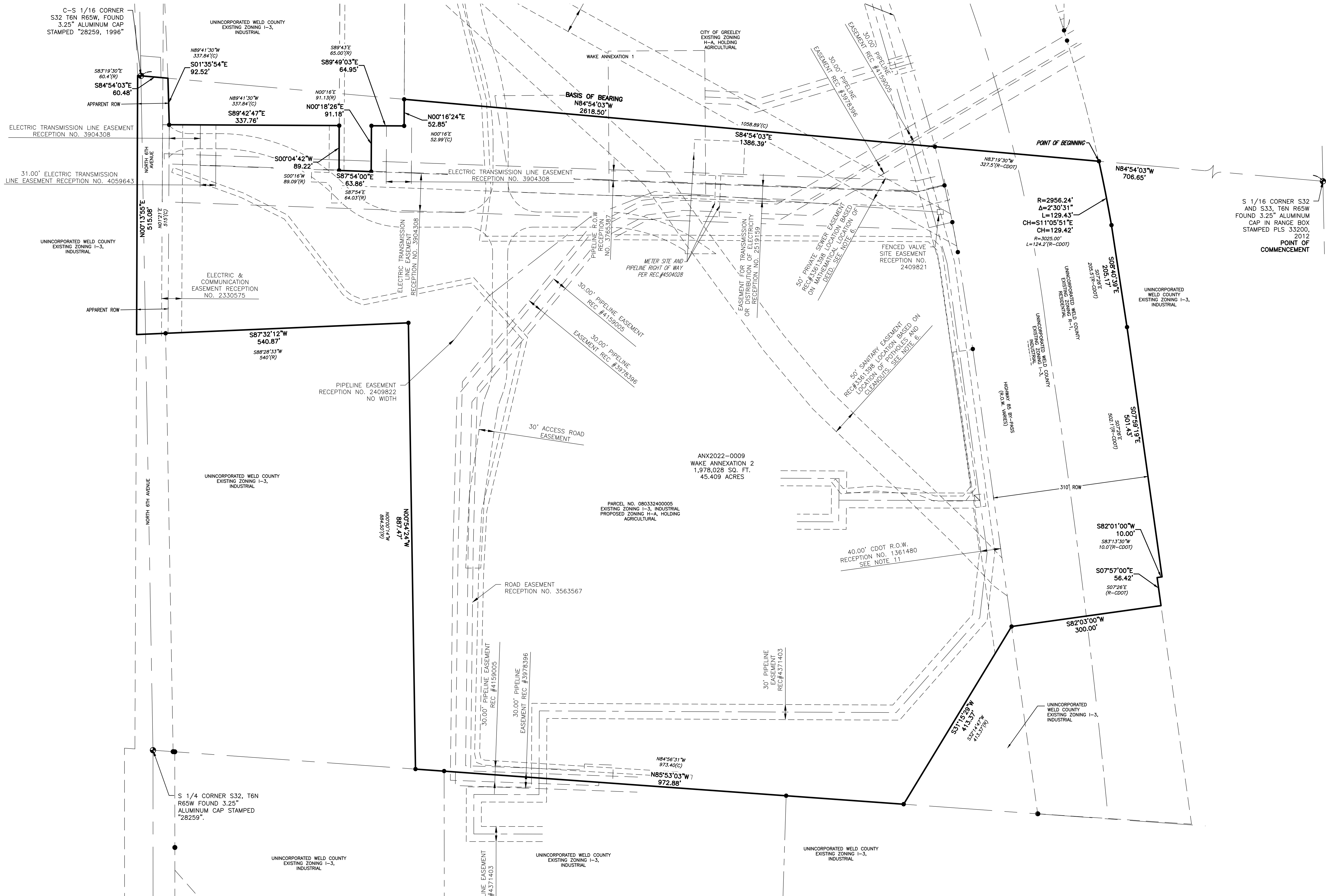
PROPERTY BOUNDARY MAP

WAKE ZONING PLAT

LOCATED IN THE SOUTHWEST, SOUTHEAST AND NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH,
RANGE 65 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO
ZON2023-0001

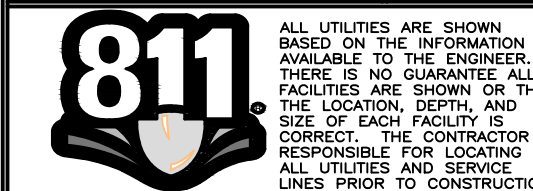


LEGEND	
	SUBJECT PROPERTY LINE
	ADJACENT LOT LINE
	SECTION LINE
	RIGHT OF WAY
	FOUND PROPERTY CORNER
	SECTION CORNER, AS DESCRIBED
(R)	PER RECORD
(C)	CALCULATED PER RECORD
(R-CDOT)	PER CDOT ROW MAP



WAKE ZONING PLAT PROPERTY BOUNDARY MAP
A PORTION OF THE SOUTHEAST QUARTER OF SECTION 32,
TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE 6TH P.M.
COUNTY OF WELD, STATE OF COLORADO

RICHMARK WAKE ANNEXATION
GREELEY, COLORADO

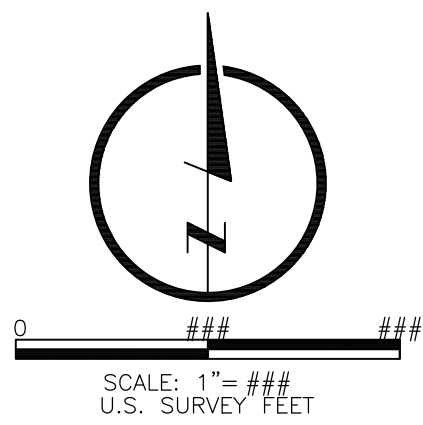


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3 OF 6



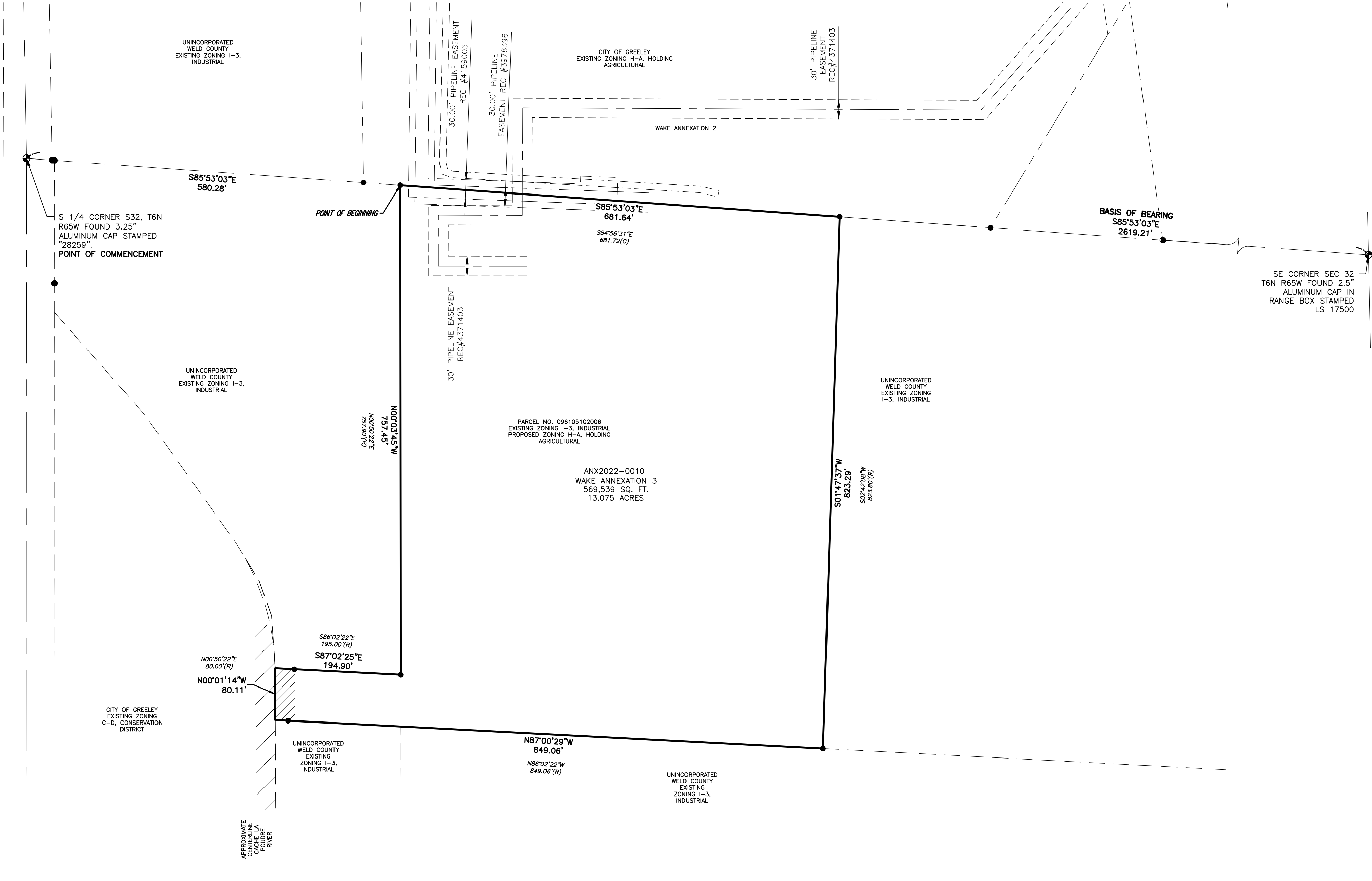
PROPERTY BOUNDARY MAP

WAKE ZONING PLAT

LOCATED IN THE SOUTHWEST, SOUTHEAST AND NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH,
RANGE 65 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO
ZON2023-0001

LEGEND

- SUBJECT PROPERTY LINE
- ADJACENT LOT LINE
- SECTION LINE
- RIGHT OF WAY
- FOUND PROPERTY CORNER
- SECTION CORNER, AS DESCRIBED
- (R) PER RECORD
- (C) CALCULATED PER RECORD
- (R-CDOT) PER RECORD - CDOT ROW MAPS



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WAKE ZONING PLAT PROPERTY BOUNDARY MAP
A PORTION OF THE NORTHEAST QUARTER OF SECTION 5
TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M.,
COUNTY OF WELD, STATE OF COLORADO

RICHMARK WAKE ANNEXATION
GREELEY, COLORADO



ALL UTILITIES ARE SHOWN
BASED ON THE INFORMATION
AVAILABLE TO THE ENGINEER.
THERE IS NO GUARANTEE ALL
UTILITIES ARE SHOWN OR THAT
THE LOCATION, DEPTH, AND
SIZE OF EACH FACILITY IS
CORRECT. THE CONTRACTOR IS
RESPONSIBLE FOR LOCATING
ALL UTILITIES AND SERVICE
LINES PRIOR TO CONSTRUCTION.

REVISIONS

DESIGNER / DRAFTER
LAINE LANDAU/JOSH CROAK
DATE
05/24/2023
PROJECT NUMBER
0222030
BOOK AND PAGE

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4 OF 6

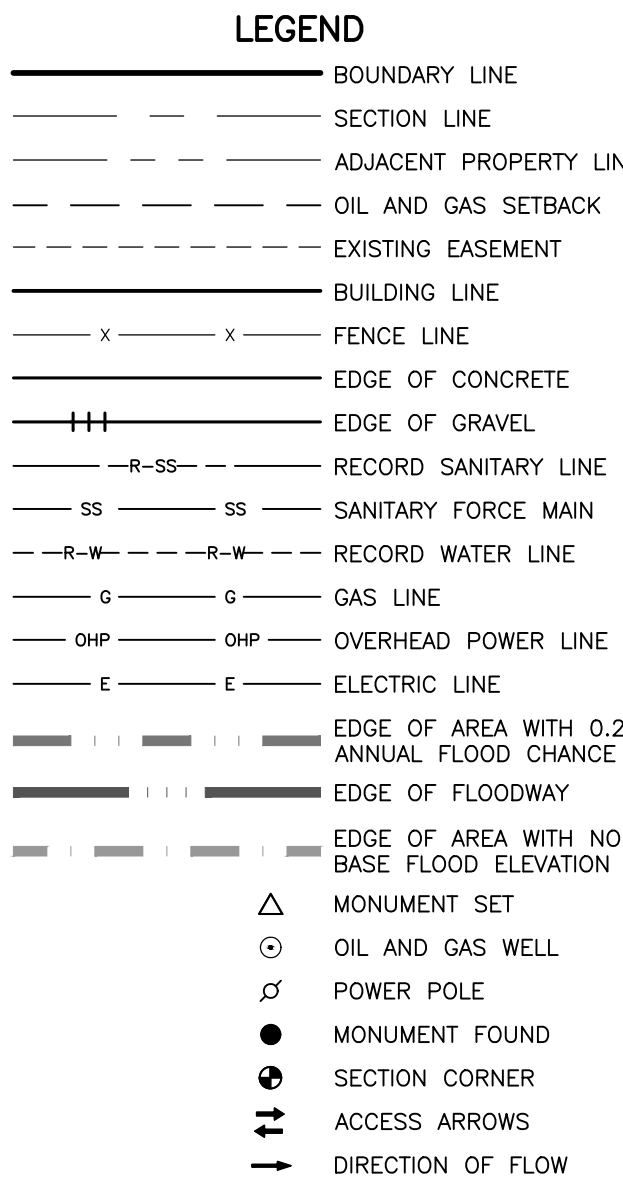
EXISTING CONDITIONS AND ZONING SUITABILITY MAP

WAKE ZONING PLAT

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1. CDOT PLANS FOR PROJECT U006-(122) SHOWS A 40' EASEMENT PARCEL E10A ALONG THE EAST LINE OF SUBJECT PROPERTY. A DOCUMENT WAS NOT FOUND FOR THIS EASEMENT IN THE PUBLIC RECORD. SUBSEQUENT SEARCH HAS BEEN SHOWN HEREIN IN THE LOCATION DEPICTED ON SAID HIGHWAY PLANS.
2. BASIS OF BEARING: THE NORTH OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE 6TH P.M., WELDER COUNTY, COLORADO AS REFERENCED TO THE COLORADO STATE PLANE NORTH, NORTH AMERICAN DATUM 1983, BEARS NORTH 84° 54' 03" WEST FOR 2618.0 ± FEET BETWEEN THE SOUTH SIXTEENTH CORNER OF SAID SOUTHEAST QUARTER OF SECTION 32 AND 33 MONUMENTED WITH #5 REBAR AND 3" X 3" ALUMINUM CAP STAMPED 33200, 2012 AND THE SOUTH CENTER SIXTEENTH CORNER OF SAID SECTION 32 MONUMENTED WITH #5 REBAR AND 2" ALUMINUM CAP STAMPED PLS 28259, 1996 WITH ALL OTHER BEARINGS REFERENCED THERETO.
3. THIS DRAWING INCLUDES OBSERVED EVIDENCE OF VISIBLE SERVICES AND UTILITIES. NO RESPONSIBILITY OR LIABILITY IS ASSUMED BY THE SURVEYOR FOR THE FAILURE TO DISCOVER ANY BURIED SERVICE AND/OR UTILITY LINES EVEN THOUGH THEY MAY EXIST. CONTACT "ONE CALL" (811) PRIOR TO ANY EXCAVATION ON THIS SITE.
4. THE PRIVATE SANITARY FORCE MAIN SHOWN DOES NOT FALL WITHIN THE MATHEMATICAL POSITION DESCRIBED IN RECEPTION NO. 3361398. THE LOCATION OF THE SANITARY FORCE MAIN AND RELATED PRIVATE FORCE MAIN IS ASSUMED TO BE A STRAIGHT LINE BETWEEN LIMITED POTHOLE LOCATIONS EXCAVATED AS SUPPLEMENTED BY "WITCHING" THE LINE.
5. BENCHMARK: LAMP RYNEARSON CONTROL POINT #94 - 5/8" REBAR WITH A 1 1/4" ORANGE PLASTIC CAP STAMPED "CONTROL POINT"
ELEVATION: 4649.44'
ELEVATION DERIVED FROM TRIMBLE VRS NETWORK (NAVD88)
6. HORIZONTAL DATUM: BASED ON THE NORTH AMERICAN DATUM OF 1983(2011). COLORADO STATE PLANE SYSTEM, NORTH ZONE. PROJECT IS IN MODIFIED STATE PLANE COORDINATES. TO ACHIEVE GRID COORDINATES AND GRID DISTANCES SCALE ENTIRE PROJECT BY 0.999734758 FROM GRID COORDINATE (0,0) AS THE SCALE LOCATION.
7. THE SUBJECT PROPERTY IS LOCATED IN ZONE A, REGULATORY FLOODWAY, ZONE AE, A AREA WITH A BASE FLOOD ELEVATION, AND SHADED ZONE X, AN AREA WITH A 0.2% ANNUAL EXCEEDANCE FLOOD HAZARD AND UN-SHADED ZONE X, AREA OF MINIMAL FLOOD HAZARD, BASED ON THE FEMA FLOOD MAP 08123C1533C EFFECTIVE 01/20/2016, AND EFFECTED BY LOMR 15-08-05873P EFFECTIVE 07/14/2016. FLOOD INFORMATION IS SUBJECT TO CHANGE.
8. AERIAL IMAGE WAS TAKEN ON 06/10/2022 BY DRONE AND IS GEO-REFERENCED TO THE SITE.
9. ENCLOSURES SHOWN AT 2' INTERVALS WERE DERIVED FROM DRONE DATA.
10. THE AREA OF THE OIL AND GAS OPERATIONS SETBACKS WITHIN COMBINED ANNEXATION PROPERTY IS 3,137,720 SQUARE FEET, 72.032 ACRES MORE OR LESS.

A PORTION OF THE NORTHEAST QUARTER OF SECTION 5

TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M.,
COUNTY OF WYOMING, STATE OF WYOMING.

COUNTY OF WELD, STATE OF COLORADO

**RICHMARK WAKE
GREELEY, COLORADO**



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REVISIONS

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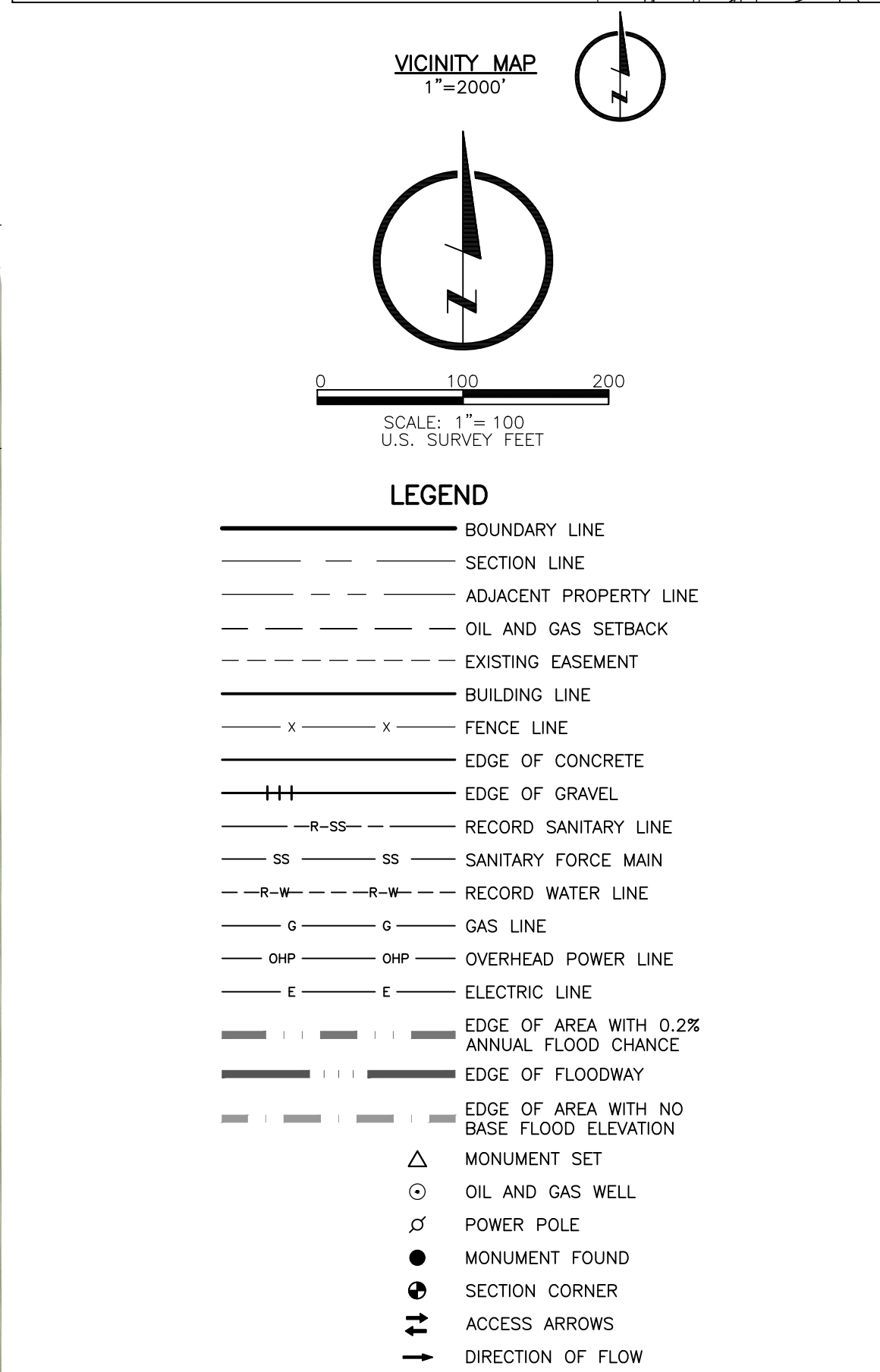
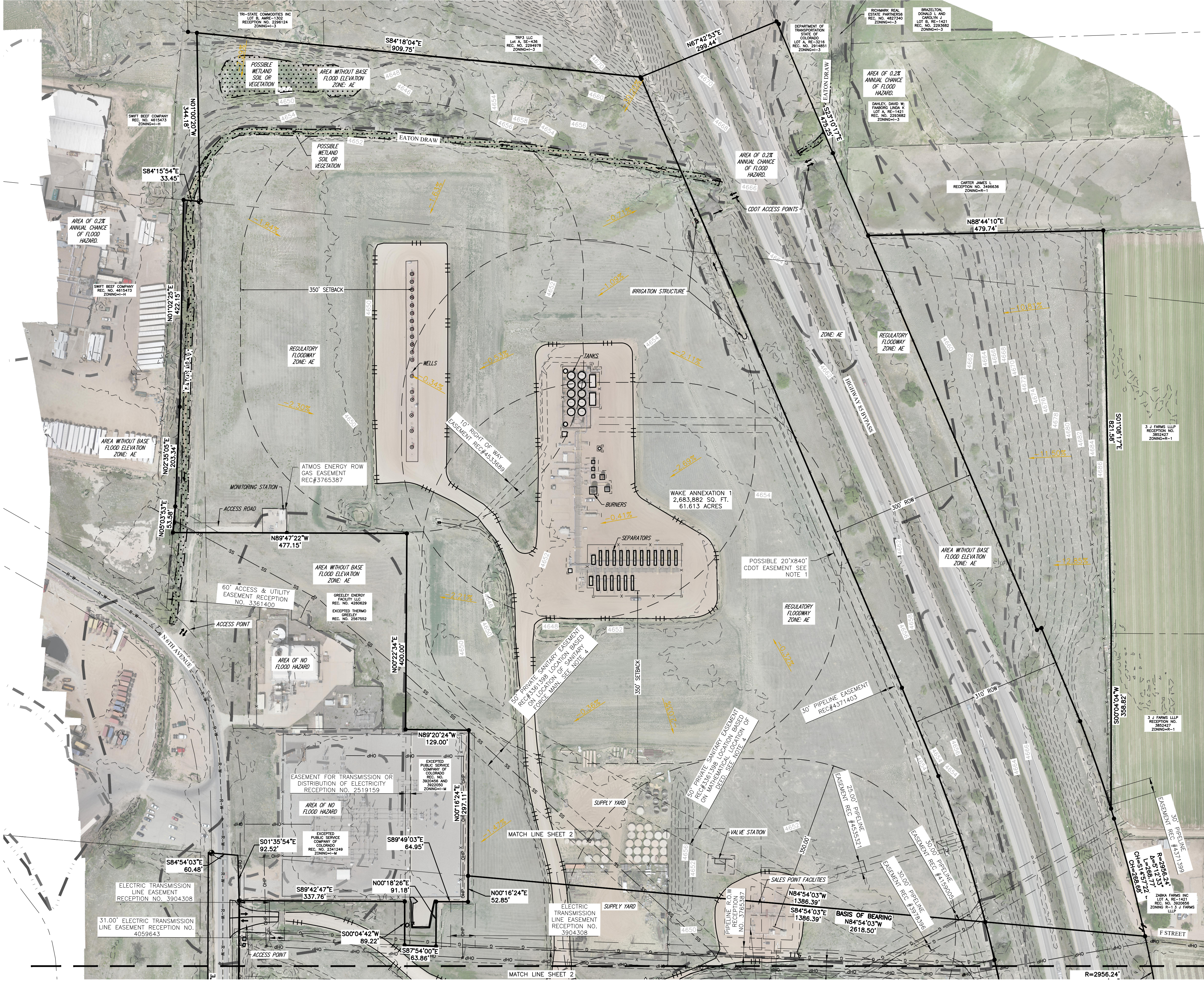
SHEET

6 OF 6

SITE ANALYSIS MAP

WAKE ANNEXATIONS NO. 1, 2 AND 3 TO THE CITY OF GREELEY

LOCATED IN THE SOUTHWEST, SOUTHEAST AND NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH, RANGE 65
WEST, AND THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M.,
COUNTY OF WELD, STATE OF COLORADO
ANX2022-0008, ANX2022-0009, ANX2022-0010



- NOTES:
- CDOT PLANS FOR PROJECT U006-1(22) SHOWS A 40' EASEMENT PARCEL E10A ALONG THE EAST LINE OF SUBJECT PROPERTY. A DOCUMENT WAS NOT FOUND FOR THIS EASEMENT IN THE PUBLIC RECORD. SAID EASEMENT HAS BEEN SHOWN HEREON IN THE LOCATION DEPICTED ON SAID HIGHWAY PLANS.
 - BASIS OF BEARING: THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO AS REFERENCED TO THE COLORADO STATE PLANE NORTH, NORTH AMERICAN DATUM 1983, BEARS NORTH 84° 54' 03" WEST FOR 2618.50 FEET BETWEEN THE SOUTH SIXTEENTH CORNER OF SAID SOUTHEAST QUARTER OF SECTION 32 AND 33 MONUMENTED WITH A #6 REBAR AND 3" ALUMINUM CAP STAMPED 33200, 2012 AND THE SOUTH CENTER SIXTEENTH CORNER OF SAID SECTION 32 MONUMENTED WITH #5 REBAR AND 2" ALUMINUM CAP STAMPED PLS 28259, 1996 WITH ALL OTHER BEARINGS REFERENCED THERETO.
 - THIS DRAWING INCLUDES OBSERVED EVIDENCE OF VISIBLE SERVICES AND UTILITIES. NO RESPONSIBILITY OR LIABILITY IS ASSUMED BY THE SURVEYOR FOR THE FAILURE TO SHOW ANY BURIED SERVICE AND/OR UTILITY LINES EVEN THOUGH THEY MAY EXIST. CONTACT "ONE CALL" (811) PRIOR TO ANY EXCAVATION ON THIS SITE.
 - THE PRIVATE SANITARY FORCE MAIN SHOWN DOES NOT FALL WITHIN THE MATHEMATICAL POSITION DESCRIBED IN RECEPTION NO. 3361398. THE LOCATION OF THE SANITARY FORCE MAIN AND RELATED PRIVATE EASEMENT IS ASSUMED TO BE A STRAIGHT LINE BETWEEN LIMITED POTHOLE LOCATIONS EXCAVATED AS SUPPLEMENTED BY "WITCHING" THE LINE.
 - BENCHMARK: LAMP RYNEARSON CONTROL POINT #94 - 5/8" REBAR WITH A 1 1/4" ORANGE PLASTIC CAP STAMPED "CONTROL POINT" ELEVATION: 4649.44' ELEVATION DERIVED FROM TRIMBLE VRS NETWORK (NAV888)
 - HORIZONTAL DATUM: BASED ON THE NORTH AMERICAN DATUM OF 1983(2011), COLORADO STATE PLANE SYSTEM, NORTH ZONE. PROJECT IS IN MODIFIED STATE PLANE COORDINATES. TO ACHIEVE GRID COORDINATES AND GRID DISTANCES SCALE ENTIRE PROJECT BY 0.999734758 FROM GRID COORDINATE (0,0) AS THE SCALE LOCATION.
 - THE SUBJECT PROPERTY IS LOCATED IN ZONE A, REGULATORY FLOODWAY, ZONE AE, AN AREA WITH A BASE FLOOD ELEVATION, AND SHADED ZONE X, AN AREA WITH A 0.2% ANNUAL CHANCE FLOOD HAZARD, AND UN-SHADED ZONE X, AREA OF MINIMAL FLOOD HAZARD, BASED ON THE FEMA FLOOD MAP 08123C1633E EFFECTIVE 01/20/2016, AND EFFECTED BY LOMR 15-08-0573P EFFECTIVE 07/14/2016. FLOOD INFORMATION IS SUBJECT TO CHANGE.
 - AERIAL IMAGE WAS TAKEN ON 06/10/2022 BY DRONE AND IS GEO-REFERENCED TO THE SITE.
 - CONTOURS SHOWN AT 2' INTERVALS WERE DERIVED FROM DRONE DATA.
 - THE AREA OF THE OIL AND GAS OPERATIONS SETBACKS WITHIN COMBINED ANNEXATION PROPERTY IS 3,137,720 SQUARE FEET, 72.032 ACRES MORE OR LESS.

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SITE ANALYSIS
MAP

RICHMARK WAKE
GREELEY, COLORADO

811

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REVISIONS

LAL/JAC 10/17/2022 REV PER CITY COMMENTS

LAL 11/23/2022 REV PER CITY COMMENTS

LAL 12/13/2022 REV PER CITY COMMENTS

LAL 03/28/2023 BOUNDARY REVISION

DESIGNER / DRAFTER
LAINE LANDAU/JOSH CROAK

DATE
08/04/2022

PROJECT NUMBER
0222030

BOOK AND PAGE

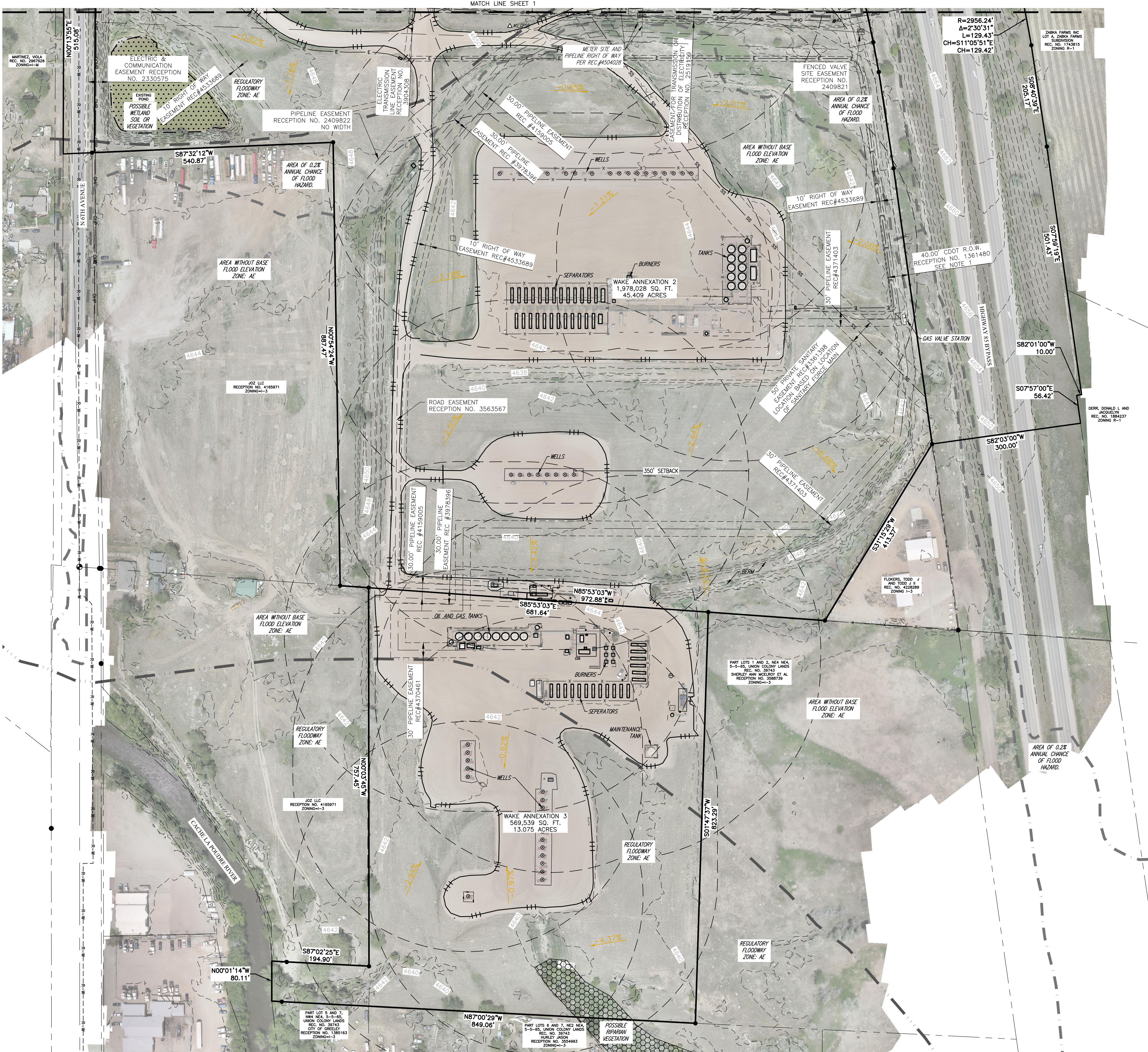
SHEET

1 OF 2

WAKE ANNEXATIONS NO. 1, 2 AND 3 TO THE CITY OF GREELEY

LOCATED IN THE SOUTHWEST, SOUTHEAST AND NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH, RANGE 65 WEST, AND THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO
ANX2022-0008, ANX2022-0009, ANX2022-0010

SITE ANALYSIS MAP



VICINITY MAP

1"=2000'

0 100 200

SCALE: 1"=100

U.S. SURVEY FEET

LEGEND

- BOUNDARY LINE
- SECTION LINE
- ADJACENT PROPERTY LINE
- OIL AND GAS SETBACK
- EXISTING EASEMENT
- BUILDING LINE
- FENCE LINE
- EDGE OF CONCRETE
- EDGE OF GRAVEL
- RECORD SANITARY LINE
- SANITARY FORCE MAIN
- RECORD WATER LINE
- GAS LINE
- OVERHEAD POWER LINE
- ELECTRIC LINE
- EDGE OF AREA WITH 0.2% ANNUAL FLOOD CHANCE
- EDGE OF FLOODWAY
- EDGE OF AREA WITH NO BASE FLOOD ELEVATION
- MONUMENT SET
- OIL AND GAS WELL
- POWER POLE
- MONUMENT FOUND
- SECTION CORNER
- ACCESS ARROWS
- DIRECTION OF FLOW

NOTES:

- CDOT PLANS FOR PROJECT U006-1(22) SHOWS A 40' EASEMENT PARCEL E10A ALONG THE EAST LINE OF SUBJECT PROPERTY. A DOCUMENT WAS NOT FOUND FOR THIS EASEMENT IN THE PUBLIC RECORD. SAID EASEMENT HAS BEEN SHOWN HEREON IN THE LOCATION DEPICTED ON SAID HIGHWAY PLANS.
- BASIS OF BEARING: THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO AS REFERENCED TO THE COLORADO STATE PLANE NORTH, NORTH AMERICAN DATUM 1983, BEARS NORTH 84° 54' 03" WEST FOR 2618.50 FEET BETWEEN THE SOUTH SIXTEENTH CORNER OF SAID SOUTHEAST QUARTER OF SECTION 32 AND 33 MONUMENTED WITH A #6 REBAR AND 3" ALUMINUM CAP STAMPED 33200, 2012 AND THE SOUTH CENTER SIXTEENTH CORNER OF SAID SECTION 32 MONUMENTED WITH #5 REBAR AND 2" ALUMINUM CAP STAMPED PLS 28259, 1996 WITH ALL OTHER BEARINGS REFERENCED THERETO.
- THIS DRAWING INCLUDES OBSERVED EVIDENCE OF VISIBLE SERVICES AND UTILITIES. NO RESPONSIBILITY OR LIABILITY IS ASSUMED BY THE SURVEYOR FOR THE FAILURE TO SHOW ANY BURIED SERVICE AND/OR UTILITY LINES EVEN THOUGH THEY MAY EXIST. CONTACT "ONE CALL" (811) PRIOR TO ANY EXCAVATION ON THIS SITE.
- THE PRIVATE SANITARY FORCE MAIN SHOWN DOES NOT FALL WITHIN THE MATHEMATICAL POSITION DESCRIBED IN RECEPTION NO. 3361398. THE LOCATION OF THE SANITARY FORCE MAIN AND RELATED PRIVATE EASEMENT IS ASSUMED TO BE A STRAIGHT LINE BETWEEN LIMITED POTHOLE LOCATIONS EXCAVATED AS SUPPLEMENTED BY "WITCHING" THE LINE.
- BENCHMARK: LAMP RYNEARSON CONTROL POINT #94 - 5/8" REBAR WITH A 1 1/4" ORANGE PLASTIC CAP STAMPED "CONTROL POINT" ELEVATION: 4649.44' ELEVATION DERIVED FROM TRIMBLE VRS NETWORK (NAVOD88)
- HORIZONTAL DATUM: BASED ON THE NORTH AMERICAN DATUM OF 1983(2011), COLORADO STATE PLANE SYSTEM, NORTH ZONE. PROJECT IS IN MODIFIED STATE PLANE COORDINATES. TO ACHIEVE GRID COORDINATES AND GRID DISTANCES SCALE ENTIRE PROJECT BY 0.999734758 FROM GRID COORDINATE (0,0) AS THE SCALE LOCATION.
- THE SUBJECT PROPERTY IS LOCATED IN ZONE A, REGULATORY FLOODWAY, ZONE AE, AN AREA WITH A BASE FLOOD ELEVATION, AND SHADED ZONE X, AN AREA WITH A 0.2% ANNUAL CHANCE FLOOD HAZARD, AND UN-SHADED ZONE X, AREA OF MINIMAL FLOOD HAZARD, BASED ON THE FEMA FLOOD MAP 08123C1533E EFFECTIVE 01/20/2016, AND EFFECTED BY LOMR 15-08-0573P EFFECTIVE 07/14/2016. FLOOD INFORMATION IS SUBJECT TO CHANGE.
- AERIAL IMAGE WAS TAKEN ON 06/10/2022 BY DRONE AND IS GEO-REFERENCED TO THE SITE.
- CONTOURS SHOWN AT 2' INTERVALS WERE DERIVED FROM DRONE DATA.
- THE AREA OF THE OIL AND GAS OPERATIONS SETBACKS WITHIN COMBINED ANNEXATION PROPERTY IS 3,137,720 SQUARE FEET, 72.032 ACRES MORE OR LESS.

LAMP RYNEARSON

LAMP RYNEARSON.COM

OMAHA, NEBRASKA
14710 W. DODGE RD., STE. 100 (402)496.2498
FORT COLLINS, COLORADO
4715 INNOVATION DR., STE. 100 (970)228.0342
KANSAS CITY, MISSOURI
9001 STATE LINE RD., STE. 200 (816)351.0440

STIE ANALYSIS
MAP

RICHMARK WAKE
GREELEY, COLORADO



Know what's below.
Call before you dig.

REVISIONS
10/17/2022 LAL/JAC REV PER CITY COMMENTS
11/23/2022 LAL REV PER CITY COMMENTS
12/13/2022 LAL REVISE PER CITY COMMENTS
03/27/2023 LAL BOUNDARY REVISION

DESIGNER / DRAFTER

LAINE LANDAU/JOSH CROAK

DATE

08/04/2022

PROJECT NUMBER

0222030

BOOK AND PAGE

SHEET

2 OF 2

PLANNING COMMISSION SUMMARY

ITEM: Establishment of Zoning of 120.097 acres of newly annexed land to Holding Agriculture (HA).

FILE NUMBER: ZON2023-0001

PROJECT: Wake Establishment of Zoning

LOCATION: East of 6th Avenue, West of Highway 85 Bypass, North of 5th Street

APPLICANT: Richmark Real Estate Partners, LLC

CASE PLANNER: Doug May, Planner III

PLANNING COMMISSION HEARING DATE: August 22, 2023

PLANNING COMMISSION FUNCTION:

Review the proposed annexation for compliance with Section 24-204 of the Greeley Development Code and make a recommendation to the City Council.

EXECUTIVE SUMMARY

Per Sec. 24-201.b.4. annexed areas shall be included in the City's zoning ordinance and map within ninety (90) days after the effective date of the annexation ordinance. As such, this application has been submitted in conjunction with two petitions to annex land to the City. The applicant proposes the establishment of H-A (Holding Agriculture) zoning.

A. REQUEST

The applicant is seeking approval for the Establishment of Zoning to H-A (Holding Agriculture) Zone District for property known as Wake Annexation 1 through 3.

B. STAFF RECOMMENDATION

Approval

C. LOCATION

East of 6th Avenue and West of Highway 85 Bypass (See Attachment A – Vicinity Map).

Current Zoning: Weld County I-3 (Industrial)

Proposed Zoning:	H-A (Holding Agriculture)
Abutting Zoning:	North: I-3 (Industrial - County); Northeast: R-1 (Residential – County) South: I-3 (Industrial - County) East: R-1 (Residential - County) West: C-D (Conservation District – City); I-H, I-M (Industrial – Medium – City) & I-3 (Industrial – County)
Site Conditions:	The site is mostly undeveloped; the majority of the site is within the Cache la Poudre River floodplain, with the northern portion of Wake Annexation 1 in the floodway and most of Wake Annexation 3 in the floodway. A small portion of the western boundary of Wake 3 abuts the river. All three Wake Annexations include multiple oil and gas wellheads, tanks, burners and separators.
Lot Size:	108.018 Acres
Abutting Land Uses:	North: Industrial South: Agriculture/Vacant East: Agriculture, Residential and Vacant West: Industrial

D. BACKGROUND

This establishment of zoning is initiated by the City of Greeley in order to place zoning on recently annexed property in a timely manner, as required by Colorado statute. The property is currently in the process of being annexed into the City of Greeley, with final reading of the annexation ordinance scheduled before City Council on September 19, 2023 (File Nos. ANX2022-0008 – ANX2022-0010). State law requires that zoning be established on all newly annexed parcels within 90 days. The final reading of the ordinance establishing the zoning for this property, as presented herein, is also scheduled before City Council on September 19, 2023.

The subject area, consisting of 120.097 acres, is composed of four parcels and a portion of the Highway 85 Bypass right of way. Each parcel contains oil and gas facilities. Eaton Draw runs through the north portion of Annexation No. 1 and along a portion of the west boundary of Annexation No. 1. The parcels are located within the Long-Range Expected Growth Area and are designated as Natural uses, including

parklands and open space. All three annexations are within the floodplain, with No. 1 and No. 3 also in the floodway.

The applicant is proposing to zone the land to H-A (Holding Agriculture) zone district (see Attachments D). The H-A zone district is generally intended for undeveloped open lands or agricultural land. No specific plans for the site are proposed at the time of annexation, but the Land Use Guidance Map indicates low-density residential uses for the site, so it is likely to eventually develop as such. Water and/or sanitary sewer will be extended to the area to serve any development that occurs there. If the subject site develops in the future, subsequent plans will be required to comply with the City's Development Code and will be required to comply with APFA (Adequate Public Facilities Area) requirements.

E. APPROVAL CRITERIA

Development Code Section 24-204 Rezoning Procedures

The review criteria found in Section 24-204(b) of the Development Code shall be used to evaluate the zoning amendment application.

1. The proposal is in accordance with the goals and objectives of the Comprehensive Plan and any other plan, policy or guidance adopted pursuant to that plan.

The site is within the Long-Range Expected Growth Area (LREGA) and the Land Use Guidance Map identifies this area for natural uses, including park lands and open space. The LREGA includes those lands anticipated to accommodate the City of Greeley's urban development typically beyond a five (5) year time frame. This typically means that full urban services are not currently available to the site. The properties can be fully serviced if needed in the future.

Staff Comment: The proposed H-A (Holding Agriculture) zoning district is appropriate for this area. The H-A district has limited land uses, and any development proposal will require a rezone to a district that allows the uses proposed. Additionally, the H-A zone district will allow current oil and gas uses to continue as they are.

The proposal complies with this criterion.

2. The proposal can fulfill the intent of the zoning district considering the relationship to surrounding areas.

According to the Development Code, the H-A (Holding Agriculture) zoning district is intended for properties that have been annexed to the City and are either being used for agricultural purposes or have little or no immediate development potential. Additionally, due

to the development patterns and inefficiency of providing city services, this area receives only limited infrastructure investment and is therefore used as a “pre-development” district to either preserve open and rural lands and agriculture uses, or hold areas until more coordinated planning for infrastructure, land uses, and design can occur.

Staff Comment: There is currently no development on the subject property, except for oil and gas facilities. Under the proposed H-A zone district, these uses would be permitted to continue. It is anticipated that this area will develop as open space and outdoor recreation, at which time a re-zone to an appropriate zone district would need to occur.

The proposal complies with this criterion.

3. Whether the area changed, or is it changing to such a degree that it is in the public interest to rezone the subject property to encourage development or redevelopment of the area.

Staff Comment: The area is changing in that it is being annexed into the City of Greeley and per State statute and Greeley Development code requirements, zoning must be established within 90 days on newly annexed land.

The proposal complies with this criterion.

4. Whether the existing zoning been in place for a substantial time without development, and if this indicates the existing zoning is inappropriate given development trends in the vicinity.

Staff Comment: The subject area is currently I-3 (Industrial) in unincorporated Weld County. However, because the property is proposed to be annexed into the City of Greeley, City zoning must be established as discussed above.

The proposal complies with this criterion.

5. The proposed zoning will enable development in character with existing or anticipated development in the area considering the design of streets, civic spaces and other open space; the pattern, scale and format of buildings and sites; and the compatibility and transitions with other complimentary uses and development.

Staff Comment: The proposed establishment of zoning maintains the current character of the neighborhood. The proposed H-A zone district allows uses primarily limited to agriculture. Any proposed development would require the rezone of the subject area to a zone district that allows for the proposal.

The proposal complies with this criterion.

6. The City or other agencies have the ability to provide services or facilities that may be necessary for anticipated uses in the proposed district.

Staff Comment: The H-A zone district primarily limits permitted uses to agriculture. A proposed development would require a rezone of the property. When water and sanitary sewer service is requested for this region as part of a development proposal, offsite extensions will be required unless other development has already made the extensions. Any proposed development of the subject site would be reviewed for compliance with city standards and improvements to existing infrastructure may be required at that time.

The proposal complies with this criterion.

7. The change will serve a community need, provide an amenity or accommodate development that is not possible under the current zoning or that was not anticipated at the time of the initial zoning of the property, making the proposed zoning more appropriate than the current zoning.

Staff Comment: As stated above, the area is changing in that it is being annexed into the City of Greeley and per State statute and Greeley Development code requirements, zoning must be established within 90 days on newly annexed land.

The proposal complies with this criterion.

8. Any reasonably anticipated negative impacts on the area or adjacent property either are mitigated by sound planning, design and engineering practices or are outweighed by broader public benefits to the surrounding community.

Staff Comment: There are no anticipated negative impacts from the proposed establishment of zoning. As previously stated, the proposed H-A zone district's allowed uses are primarily limited to agriculture. A proposed development of the subject site would be reviewed for compliance with city standards and any potential impacts to neighboring properties would be considered at that time.

The proposal complies with this criterion.

9. The recommendations of professional staff or advisory review bodies.

Staff Comment: City staff recommends approval of this establishment of zoning request.

F. ADMINISTRATIVE REVIEW TEAM COMMENTS:

The proposal was reviewed by the Administrative Review Team and all comments have been addressed.

G. PHYSICAL SITE CHARACTERISTICS

1. SUBDIVISION HISTORY

2. The Weld County Board of County Commissioners approved a Site Specific Development Plan for the western parcel of Wake Annexation No. 1 for a major facility for a public utility transmission line through the Use by Special Review process in June 2014 (Recording number 4023037).

3. HAZARDS

The Eaton Draw runs through the western parcel of Annexation No. 1. Most of the site is within the FEMA designated floodplain with portions in the floodway. Flooding hazards may exist from time to time. The site also contains multiple oil and gas wells and associated equipment.

4. WILDLIFE

The site is partially located in areas of highly sensitive and moderately sensitive areas of ecological significance. However, no new development of the property is proposed.

5. FLOODPLAIN

The Poudre River flows along and directly through this site; portions of the site are within the floodway, the 100-year floodplain and the 500-year floodplain.

6. DRAINAGE AND EROSION

The site is slightly developed with drainage patterns expected to continue to follow the existing lay of the land. However, drainage patterns would be examined in greater detail through the Site Plan Review application and the subsequent permitting processes.

7. TRANSPORTATION

The site is located adjacent to N. 6th Avenue and to Highway 85 bypass.

H. PUBLIC NOTICE AND COMMENT:

Mailed notice is required, per the Development Code effective as of October 1, 2021. Therefore, a mailed notice was sent on July 28, 2023 to 72 surrounding properties within 1,000 feet of the project boundary. The applicant posted signs in three locations on the property on August 3, 2023. As of August 10, 2023, no comments or concerns have been received.

I. PLANNING COMMISSION RECOMMENDED MOTION:

Based on the application received and the preceding analysis, the Planning Commission finds that the proposed Wake Establishment of Zoning, File number ZON2023-0001 meets the required Development Code criteria of Section 24-204.b.(1-9); and recommend approval of the Wake Establishment of Zoning to the City Council.

J. ATTACHMENTS:

Attachment A – Vicinity Map

Attachment B – Establishment of Zoning Maps

Attachment C – Site Analysis Map

Attachment D – Land Use Guidance Map



Council Agenda Summary

Title:

Pulled Consent Agenda Items

Summary:

Pulled Consent Agenda items will be considered in the order they appeared on the consent agenda.



Council Agenda Summary

September 5, 2023

Key Staff Contact: Caleb Jackson, Planner III

Title:

Public hearing and second reading of an ordinance annexing to the City of Greeley, Colorado, certain unincorporated territory located in Weld County, Colorado, known as the Schneider Annexation, generally located north of 10th Street and West of 83rd Avenue

Summary:

The applicant petitioned the City to annex approximately 170.573 acres located north of 10th Street and west of 83rd Avenue. City Council adopted a resolution on July 18, 2023, stating that the proposed annexation meets State requirements. Planning Commission recommended approval (6-0) on July 25, 2023.

Using a 1000' buffer, notices to 37 surrounding property owners and current residents were mailed on July 7, 2023. Two signs were posted on the site on July 7, 2023. A notice was posted to the City of Greeley website on July 7, 2023. Staff has not received any written comments from the public expressing objection or support of the annexation.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	No
Is there grant funding for this item?	NA

Legal Issues:

Consideration of this matter is a legislative process which includes the following public hearing steps:

- 1) City staff presentation
- 2) Council questions of staff
- 3) Applicant presentation
- 4) Council questions of applicant
- 5) Public input (hearing opened, testimony - up to three minutes per person, hearing closed)
- 6) Council discussion
- 7) Council decision

Other issues and Considerations:

None.

Strategic Focus Area:



Community Vitality

Decision Options:

- 1) Adopt the ordinance as presented; or
- 2) Amend the ordinance and adopt as amended; or
- 3) Deny the ordinance; or
- 4) Continue consideration of the ordinance to a date certain.

Council's Recommended Action:

A motion to adopt the ordinance and publish with reference to title only.

Attachments:

1. Ord 38, 2023
2. Exhibit A - Legal Description
3. Annexation Plat
4. Annexation Petition
5. Res 23, 2023
6. Planning Commission Summary
7. Planning Commission Minutes
8. Presentation

**CITY OF GREELEY, COLORADO
ORDINANCE NO. 38, 2023
CASE NO. ANX2022-0007**

**AN ORDINANCE ANNEXING TO THE CITY OF GREELEY, COLORADO, CERTAIN
UNINCORPORATED TERRITORY LOCATED IN WELD COUNTY, COLORADO,
KNOWN AS THE SCHNEIDER ANNEXATION, GENERALLY LOCATED NORTH OF
10TH STREET AND WEST OF 83RD AVENUE.**

BE IT ORDAINED BY THE CITY COUNCIL OF GREELEY, COLORADO:

Section 1. The City Council of Greeley, Colorado, hereby finds that the property which is legally described in section 2 below, for which one hundred percent (100%) of the land owners have petitioned for annexation to the City of Greeley, is in all respects eligible for annexation and that said annexation proceedings have been conducted in compliance with the laws of the State of Colorado.

Section 2. The territories described below in this section are hereby approved for annexations and are hereby annexed to the City of Greeley. These territories referred to are described as follows:

SEE ATTACHED LEGAL DESCRIPTION

Said described parcels of land contains 170.573 Acres, more or less, and is subject to any easements or rights-of-way as granted by instruments of record, or as now existing on said described parcel of land.

Section 3. Pursuant to §C.R.S. 31 -12 -113 of the Colorado Revised Statutes, one (1) copy of the map of the above-described territory and the original of the annexation ordinance shall be filed with the City Clerk of the City of Greeley, Colorado. Two (2) certified copies of this annexation ordinance and map of the area annexed shall be filed for recording with the Clerk and Recorder of Weld County, Colorado, within thirty (30) days after the effective date of this ordinance. The Clerk and Recorder of Weld County, Colorado, is required to file one (1) certified copy of the annexation ordinance and map with the Division of Local Government of the Colorado Department of Local Affairs, as required by section §13- 12- 113(2)(a) of the Colorado Revised Statutes.

Section 4. This ordinance shall be effective five (5) days after its final publication as provided by the Greeley City Charter.

**PASSED AND ADOPTED, SIGNED AND APPROVED, THIS _____ DAY
OF _____, 2023.**

ATTEST:

THE CITY OF GREELEY, COLORADO

By: City Clerk

By: Mayor

EXHIBIT A

A parcel of land, situate in the Southeast Quarter (SE1/4) of Section Six (6) and the Southwest Quarter (SW1/4) of Section Five (5), Township Five North (T.5N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado and being more particularly described as follows:

BEGINNING at the East Quarter Corner of said Section 6, monumented by a 2" steel pipe with a 2.5" aluminum cap stamped LS 11989, and assuming the East line of said SE1/4 as bearing North 05°10'08" East, being a Grid Bearing of the Colorado State Plane, North Zone, North American Datum 1983/2011, a distance of 2,813.51 feet, monumented at the Southeast Corner by a #6 rebar with a 3.25" aluminum cap stamped LS 25381 and with and with all other bearings contained herein relative thereto;

THENCE North 88°44'22" East, along the North line of the SW1/4 of said Section 5, a distance of 30.19 feet to the East Right of Way (ROW) of 83rd Avenue;

THENCE South 05°10'08" West, along said East ROW, a distance of 1,406.77 feet to the Northwest corner of the Golden Triangle Third Annexation as recorded December 27, 1984 as Reception No. 1993145 of the records of the Weld County Clerk & Recorder (WCCR) said corner being on the North line of the South Half of said SW1/4;

THENCE South 05°10'08" West, along the West line of said Reception No. 1993145, a distance of 1,366.76 feet to a point on the Northerly line of Golden Triangle First Annexation, as recorded November 1, 1984 as Reception No. 1987263 of the WCCR;

Thence along the North and West lines of said Reception No. 1987263 the following three courses:

THENCE South 89°11'34" West a distance of 33.85 feet;

THENCE North 89°22'51" West a distance of 2,648.61 feet to a point on the West line of said SE1/4, from whence the South Quarter Corner of Section 6 bears South 02°52'33" West a distance of 40.03;

THENCE North 02°52'33" East a distance of 2,696.59 feet to the Center Quarter Corner of Section 6;

THENCE North 89°09'59" East, along the North line of said SEW1/4, a distance of 2,767.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM:

COMMENCING at the East Quarter Corner of Section 6;

THENCE South 05°10'08" West, along the East line of said SE1/4, a distance of 1,406.77 feet to the South 1/16th Corner of Section 6;

THENCE South 89°52'38" West along the South line of the North Half of the SE1/4 a distance of 30.13 feet to the POINT OF BEGINNING;

THENCE South 89°52'38" West, continuing along said South line, a distance of 280.00 feet;

THENCE North 05°10'08" East, parallel with and 310.00 feet West of, as measured at right angles to, the East Line of said Southeast Quarter, a distance of 150.00 feet;

THENCE North 89°09'59" East, parallel with the North line of said Southeast Quarter, a distance of 280.34 feet to a point on the East ROW of 83rd Avenue;

THENCE South 05°10'08" West, along said East ROW, a distance of 153.49 feet to the POINT OF BEGINNING.

Said described parcel of land contains 7,430,140 Square Feet or 170.573 Acres, more or less ($\pm$).

SCHNEIDER ANNEXATION

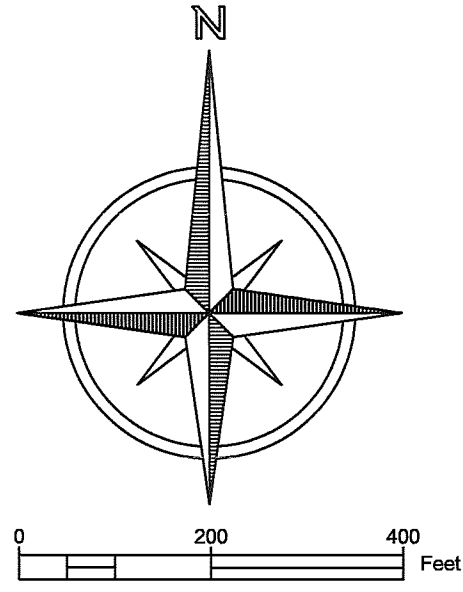
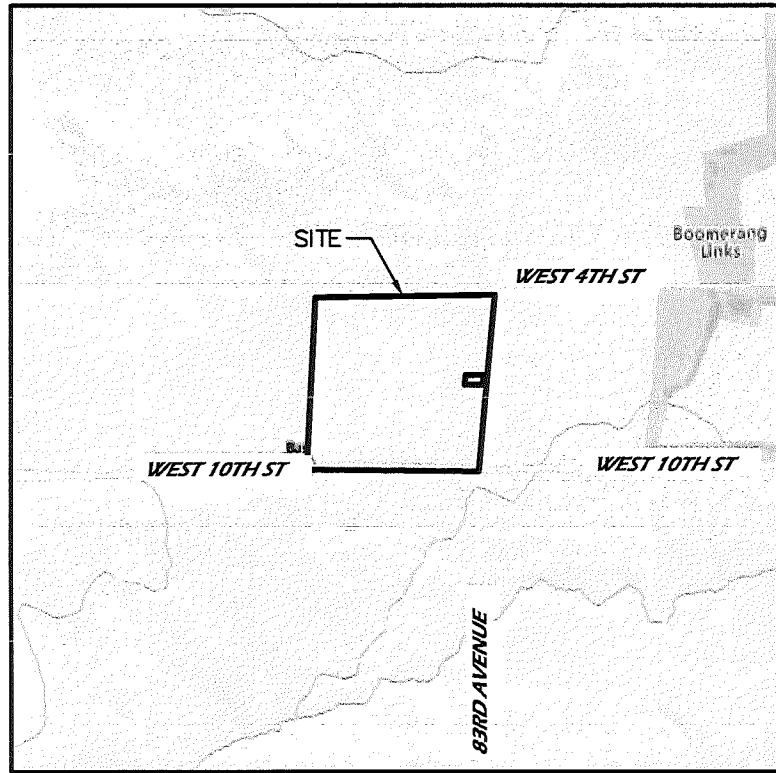
TO THE CITY OF GREELEY

SITUATE IN THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M.,

COUNTY OF WELD, STATE OF COLORADO.

170.573 ACRES

ANX2022-0007



LINE TABLE		
LINE	BEARING	LENGTH
L1	N89°09'59"E	280.34'
L2	N05°10'08"E	150.00'
L3	S89°52'38"W	280.00'
L4	S05°10'08"W	153.49'
L5	S89°52'38"W	30.13'
L6	S05°10'08"W	18.02'
L7	S02°52'33"W	40.03'
L8	N88°44'22"E	30.19'
L9	S89°11'34"W	33.85'

PROPERTY DESCRIPTION

A parcel of land, situate in the Southeast Quarter (SE1/4) of Section Six (6) and the Southwest Quarter (SW1/4) of Section Five (5), Township Five North (T.5N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado and being more particularly described as follows:

BEGINNING at the East Quarter Corner of said Section 6, monumented by a 2" steel pipe with a 2.5" aluminum cap stamped LS 11989, and assuming the East line of said SE1/4 as bearing North 05°10'08" East, being a Grid Bearing of the Colorado State Plane, North Zone, North American Datum 1983/2011, a distance of 2,813.51 feet, monumented at the Southeast Corner by a #6 rebar with a 3.25" aluminum cap stamped LS 25381 and with and with all other bearings contained herein relative thereto;

THENCE North 88°44'22" East, along the North line of the SW1/4 of said Section 5, a distance of 30.19 feet to the East Right of Way (ROW) of 83rd Avenue;
THENCE South 05°10'08" West, along said East ROW, a distance of 1,406.77 feet to the Northwest corner of the Golden Triangle Third Annexation as recorded December 27, 1984 as Reception No. 1993145 of the records of the Weld County Clerk & Recorder (WCCR) said corner being on the North line of the South Half of said SW1/4;
THENCE South 05°10'08" West, along the West line of said Reception No. 1993145, a distance of 1,366.76 feet to a point on the Northerly line of Golden Triangle First Annexation, as recorded November 1, 1984 as Reception No. 1987263 of the WCCR;

Thence along the North and West lines of said Reception No. 1987263 the following three courses:
THENCE South 89°11'34" West a distance of 33.85 feet;
THENCE North 89°22'51" West a distance of 2,648.61 feet to a point on the West line of said SE1/4, from whence the South Quarter Corner of Section 6 bears South 02°52'33" West a distance of 40.03;
THENCE North 02°52'33" East a distance of 2,696.59 feet to the Center Quarter Corner of Section 6;
THENCE North 89°09'59" East, along the North line of said SEW1/4, a distance of 2,767.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM:

COMMENCING at the East Quarter Corner of Section 6;
THENCE South 05°10'08" West, along the East line of said SE1/4, a distance of 1,406.77 feet to the South 1/16th Corner of Section 6;
THENCE South 89°52'38" West along the South line of the North Half of the SE1/4 a distance of 30.13 feet to the POINT OF BEGINNING;

THENCE South 89°52'38" West, continuing along said South line, a distance of 280.00 feet;
THENCE North 05°10'08" East, parallel with and 310.00 feet West of, as measured at right angles to, the East Line of said Southeast Quarter, a distance of 150.00 feet;
THENCE North 89°09'59" East, parallel with the North line of said Southeast Quarter, a distance of 280.34 feet to a point on the East ROW of 83rd Avenue;
THENCE South 05°10'08" West, along said East ROW, a distance of 153.49 feet to the POINT OF BEGINNING.

Said described parcel of land contains 7,430,140 Square Feet or 170.573 Acres, more or less (±).

PLANNING COMMISSION RECOMMENDATION

Recommended/not recommended by the City of Greeley Planning Commission on this _____ day of _____, 20_____.

CITY COUNCIL APPROVAL

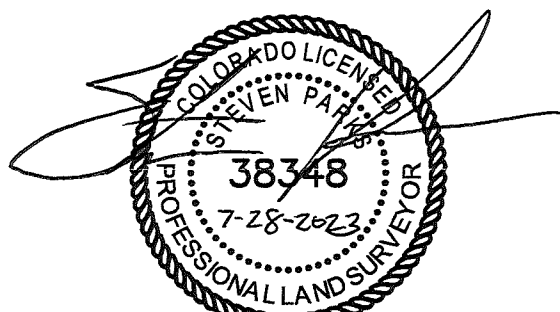
Approved by the Greeley City Council on this _____ day of _____, 20_____.

Mayor

City Clerk

SURVEYOR'S CERTIFICATE

That I, Steven Parks, do hereby certify that I prepared this plat from an actual and accurate survey of this land, including all existing rights-of-way and easements, and that the corner monuments shown thereon were properly placed under my supervision, in accordance with the regulations of the State of Colorado.



Steven Parks - On Behalf of Majestic Surveying, LLC
Colorado Licensed Professional Land Surveyor #38348

ANNEXATION TABLE

TOTAL BOUNDARY: 11,813.62 L.F.
CONTIGUOUS BOUNDARY: 6,745.81 L.F.
1/6 OF TOTAL BOUNDARY 1,968.94 L.F.
RATIO= 1 : 1.75

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. (13-80-105 C.R.S. 2012)

TITLE COMMITMENT NOTE

For all information regarding easements, rights-of-way and title of records, Majestic Surveying, LLC relied upon Title Commitment Number: 459-H0661098-084-0AA Amendment No. 4, dated January 31, 2022, as prepared by Heritage Title Company to delineate the aforesaid information.

This survey does not constitute a title search by Majestic Surveying, LLC to determine ownership or easements of record.

BASIS OF BEARINGS AND LINEAL UNIT DEFINITION

Assuming the East line of the Southeast Quarter of Section 6, Township 5 North, Range 66 West of the 6th P.M. monumented as shown on this drawing, as bearing North 05°10'08" East, being a Grid Bearing of the Colorado State Plane, North Zone, North American Datum 1983/2011, a distance of 2813.51 feet and with all other bearings contained herein relative thereto.

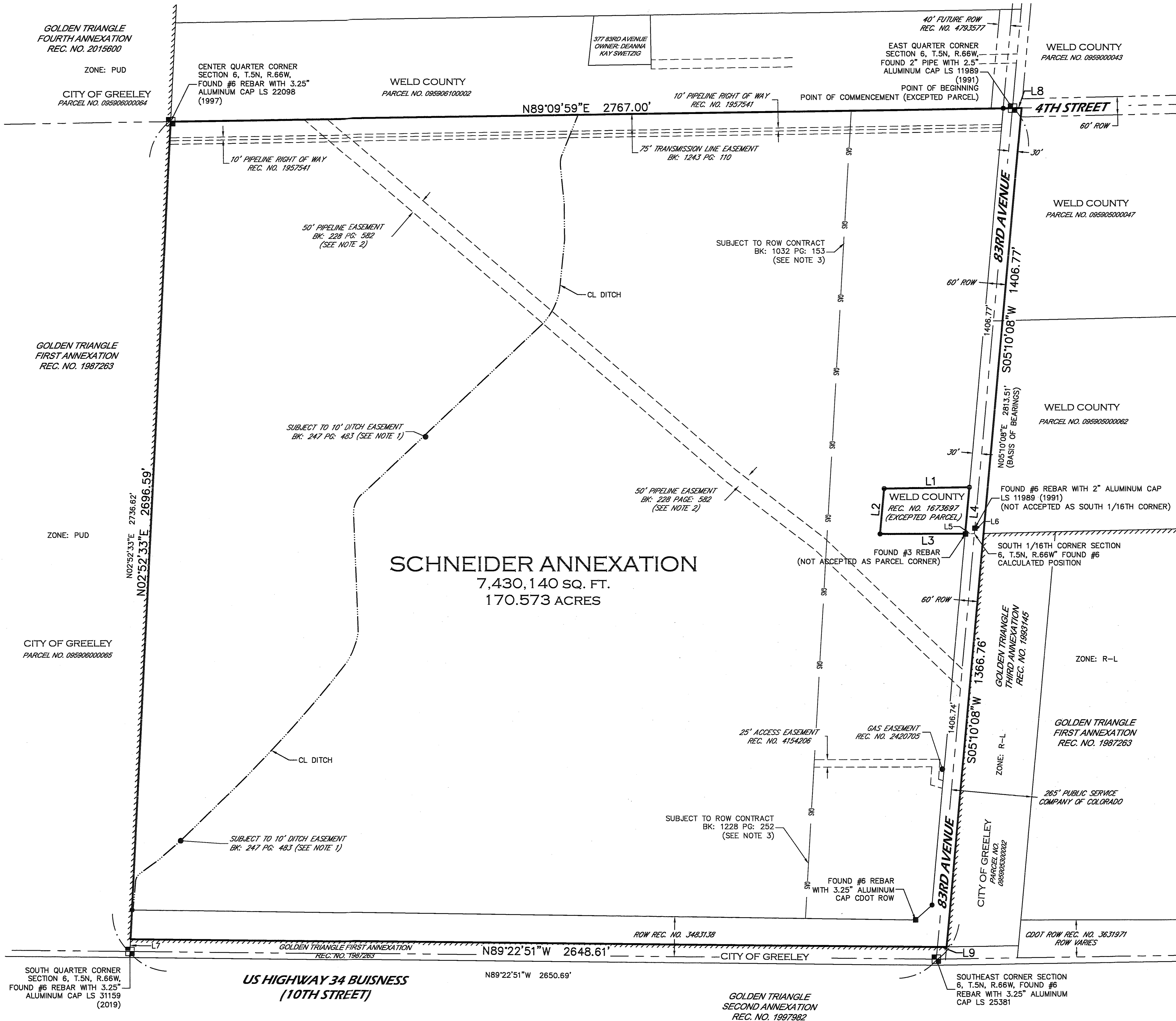
The lineal dimensions as contained herein are based upon the "U.S. Survey Foot".

SURVEYOR'S NOTES

- Location of ditch does not coincide with deeded courses recorded December 7, 1906 in Book 247, Page 483 of the records of the Weld County Clerk and Recorder. Deeded calls do not close to section line.
- Location of Pipeline easement recorded January 25, 1906 in Book 228, Page 582 of the records of the Weld County Clerk and Recorder, is based upon field location and observations on May 6, 2022.
- Dimensions for the Right of Way easement in Book 1228 Page 252 are not given.

LEGEND

	EXISTING CITY LIMITS		ALIQUOT CORNER AS DESCRIBED
	ANNEXATION BOUNDARY		FOUND MONUMENT AS DESCRIBED
	EASEMENT LINE		CALCULATED POSITION
	RIGHT OF WAY LINE		FOUND 24" OF #4 REBAR WITH RED PLASTIC CAP LS 38348
	SECTION LINE		
	ADJACENT PARCEL		
	APPROXIMATE CENTERLINE DITCH		



PROJECT NO: 2022194	NAME: SCHNEIDER PROPERTY	REVISIONS:	DATE:
DATE: 7-27-2022	CLIENT: LANDONE	REDLINES	12-14-22
DRAWN BY: MAK	FILE NAME: 2022194ANNEX		
CHECKED BY: SIP	SCALE: 1" = 200'		

1

SHEET 1 OF 1

PETITION FOR ANNEXATION

Schneider Annexation

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF GREELEY,
COLORADO:

The undersigned, in accordance with Title 31, Article 12, Chapters 101 et. seq., Colorado Revised Statutes, 1973, as amended, hereby petition the City Council of the City of Greeley for annexation to the City of Greeley of the territory described herein and described and shown on the map designated, "Schneider Annexation." The applicable number of said map (at least four) are submitted herewith and by this reference are incorporated herein. The description of the territory hereby petitioned for annexation to the City of Greeley is set forth in Exhibit A attached hereto and incorporated herein by reference.

In support of this petition, the Petitioner(s) allege(s) that:

1. It is desirable and necessary that the above-described territory be annexed to the City of Greeley.
2. The requirements of Section 31-12-104 and 31-12-105 of the Colorado Revised Statutes exist or have been met in that:
 - A. Not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is contiguous with the City of Greeley.
 - B. A community of interest exists between the territory proposed to be annexed and the City of Greeley.
 - C. The territory sought to be annexed is urban or will be urbanized in the near future.
 - D. The territory sought to be annexed is integrated or is capable of being integrated with the City of Greeley.
3. In establishing the boundaries of the territory proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has/have been divided into separate parts or parcels of real estate without the written consent of the land owner or land owners thereof, except and unless where such tracts or parcels are already separated by a dedicated street, road, or other public way.
4. In establishing the boundaries of the territory proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate comprising twenty (20) acres or more which, together with the buildings and improvements situated thereon have an assessed

valuation in excess of \$200,000 for ad valorem tax purposes for the year next preceding the filing of the written petition for annexation, has/have been included within the territory proposed to be annexed without the written consent of the land owner or land owners.

5. The territory proposed to be annexed does not include any area which is the same or substantially the same area in which an election for an annexation to the City of Greeley was held within the twelve months preceding the filing of this petition.
6. The territory proposed to be annexed does not include any area included in another annexation proceeding involving a city other than the City of Greeley.
7. The territory proposed to be annexed is not presently a part of any incorporated city, city and county, or town.
8. The property owned by each petitioner is described on each separate signature sheet and, when needed, described more fully in the exhibits attached hereto and incorporated herein by reference.
9. The signer(s) of this petition comprise(s) more than fifty percent (50%) of the land owners and owning more than fifty percent (50%) of the property, excluding public streets and alleys, and any land owned by the annexing municipality, and are, in fact, owners of one hundred percent (100%) of the property set forth in Exhibit A attached hereto and incorporated herein by reference.

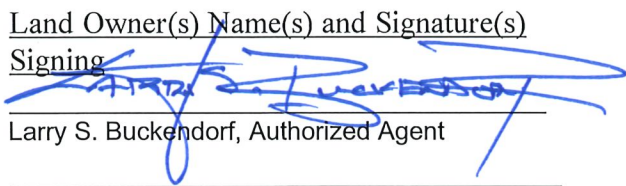
Accompanying this petition are the original and four copies of an annexation plat map containing the following information:

- A. A written legal description of the boundaries of the area proposed to be annexed.
- B. A map showing the boundary of the area proposed to be annexed.
- C. Within the annexation boundary map, an identification of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks. Also within the boundary map, identification of any special districts the area proposed to be annexed may be part of.
- D. Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the annexing municipality and the contiguous boundary of any other municipality abutting the area proposed to be annexed.

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- E. A surveyor's certificate prepared by a registered land surveyor that attests to the preparation of the map and certifies at least one-sixth (1/6) contiguity to the City of Greeley.
- F. Acceptance block describing the acceptance action of the City of Greeley in form and substance as provided in Appendix A of the Subdivision Regulations of the City of Greeley and providing for the effective date and City Clerk and Mayor attest signatures.
10. Except as otherwise provided, no part of the territory sought to be annexed is more than three miles from a point on the municipal boundary, as such was established more than one year before this annexation will become effective.
11. As an expressed condition of annexation, land owner(s) consent(s) to inclusion into the Northern Colorado Water Conservancy District and the municipal subdistrict pursuant to Section 37-45-136 (3.6) C.R.S. Land owner(s) acknowledge(s) that, upon inclusion into the district and subdistrict, land owner's (s') property will be subject to the same mill levies and special assessments as are levied or will be levied on other similarly situated property in the district and subdistrict at the time of inclusion of land owner's(s') lands. Land owner(s) agree(s) to waive any right to an election which may exist to require an election pursuant to Article X, Section 20, of the Colorado Constitution before the district and subdistrict can impose such mill levies and special assessments as it has the authority to impose. Land owner(s) also agree(s) to waive, upon inclusion, any right which may exist to a refund pursuant to Article X, Section 20, of the Colorado Constitution.

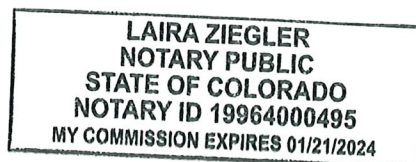
THEREFORE, the undersigned respectfully petition(s) and requests the City Council of the City of Greeley, to approve annexation of the territory described and referred to in Exhibit A to the City of Greeley in accordance with and pursuant to the statutes of the State of Colorado.

<u>Land Owner(s) Name(s) and Signature(s)</u>	<u>Mailing Address</u>	<u>Date of</u>
<u>Signing</u>  Larry S. Buckendorf, Authorized Agent	<u>7251 W. 20th Street, L-200</u> <u>Greeley, CO 80634</u>	<u>June 7th, 2023</u>

Subscribed and sworn to before me this 8 day of June, 2023, by
Larry S Buckendorf.

Witness my hand and official seal.

My commission expires: 1-21-24




Notary Public

CITY OF GREELEY, COLORADO

RESOLUTION NO. 23, 2023

A RESOLUTION FINDING SUBSTANTIAL COMPLIANCE WITH STATE ANNEXATION LAWS FOR PROPERTY KNOWN AS THE SCHNEIDER ANNEXATION, LOCATED GENERALLY WEST OF 83RD AVENUE AND NORTH OF 10TH STREET, INTO THE CITY OF GREELEY. THE SUBJECT SITE IS COMPRISED OF APPROXIMATELY 170.573 ACRES.

WHEREAS, Union Colony West Investments, LLC has submitted an annexation petition to the City of Greeley for annexation of property located generally west of 83rd Avenue and north of 10th Street, more particularly described in the attached Exhibit A;

WHEREAS, the City of Greeley staff has found the annexation petition to be in substantial compliance with C.R.S. §§ 31-12-101, *et seq.*; and

WHEREAS, City staff desires that the City Council establish a date, time, and place to hold a hearing to determine if the proposed annexation complies with C.R.S. § 31-12-106, or such parts thereof, to establish eligibility for annexation to the City of Greeley; and

WHEREAS, the City Clerk shall deliver notice and publish the date, time, and place for said hearing;

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

1. The annexation petition is found to substantially comply with C.R.S. § 31-12-106.
2. The public hearing for consideration of the proposed annexation petition is hereby set for September 5, 2023, at the City Council Chambers, City Center - South, 1001 11th Avenue, Greeley, Colorado, during a regular City Council meeting beginning at 6:00 p.m.
3. The City Clerk is hereby authorized to publish and notify required parties pursuant to the procedures set forth in C.R.S. §31-12-108(2).
4. This resolution shall become effective immediately upon its passage.

PASSED, AND ADOPTED, SIGNED AND APPROVED this 18th day of July, 2023.

ATTEST:

THE CITY OF GREELEY, COLORADO



By: _____

City Clerk

By: _____

Mayor

PLANNING COMMISSION SUMMARY

ITEM: Annexation of approximately 170.573 acres located at the northwest corner of 10th Street at 83rd Avenue known as the Schneider Annexation

FILE NUMBERS: ANX2022-0007

PROJECT: Schneider Annexation

LOCATION: Northwest corner of 10th Street at 83rd Avenue

APPLICANT: Union Colony West Investments LLC

CASE PLANNER: Caleb Jackson, AICP | Interim Chief Planner

PLANNING COMMISSION HEARING DATE: July 25, 2023

PLANNING COMMISSION FUNCTION:

Review the proposed annexation for compliance with Section 24-214 of the Greeley Development Code and make a recommendation to the City Council.

EXECUTIVE SUMMARY

The City of Greeley is considering a request by Union Colony West Investments LLC to annex approximately 170.573 acres located at the northwest corner of 10th Street at 83rd Avenue known as the Schneider Annexation

A. REQUEST

The City of Greeley is considering a request to annex approximately 170.573 acres located at the northwest corner of 10th Street at 83rd Avenue known as the Schneider Annexation.

B. STAFF RECOMMENDATION

Approval

C. LOCATION

Abutting Zoning:

North: A (Agricultural - County)
South: C-H (Commercial High Intensity)
R-H (Residential High Density)
East: R-L (Residential Low Density)
A (Agricultural - County)
West: PUD (Planned Unit Development)

Surrounding Land Uses:

North: Agriculture with single-family dwelling
South: Undeveloped and multi-family dwellings
East: Single-family dwelling, oil and gas extraction, electrical substation, electric transmission lines

West: Farming

Site Characteristics:

The subject annexation is approximately 170.573 acres. The site is relatively flat, primarily sloping from the south to the north. The site is currently used for farming, with accessory residential uses and outbuildings. The annexation boundary also includes 83rd Avenue from 4th Street to 10th Street.

Minimum Contiguity:

Required 16.67%

Provided 57.1%

D. BACKGROUND

The subject area comprises approximately 170.753 acres at the northwest corner of 10th Street at 83rd Avenue. The annexation boundary includes 83rd Avenue from 4th Street to 10th Street. The site is currently zoned A (Agricultural) in Weld County,

Colorado Revised Statutes §31-12-104 and §31-12-105 establish the legal requirements for annexations, and includes: (1) not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is contiguous with the City of Greeley; (2) a community of interest exists between the territory proposed to be annexed and the City of Greeley; (3) the territory sought to be annexed is urban or will be urbanized in the near future and; (4) the territory sought to be annexed is integrated or is capable of being integrated with the City of Greeley. The City Attorney's Office has determined the proposal meets the statutory requirements to be considered for annexation. As required to proceed with consideration of an annexation request, City Council adopted a resolution July 18, 2023, finding that the subject property meets the eligibility requirements for annexation. City Council is scheduled to consider an ordinance to annex the property subsequent to Planning Commission's consideration based on the application's merits, Planning Commission's recommendation, and Development Code review criteria.

The subject site must be zoned within 90 days of annexation. The applicant has submitted a PUD (Planned Unit Development) that is currently under review with City staff and will be scheduled for consideration of Planning Commission and City Council in the coming months pending annexation. The applicant intends to develop the site with a mix of single-family dwellings, multi-family dwellings, and commercial.

E. REVIEW CRITERIA

The Commission shall consider comment from review agencies and offices, staff recommendation, public comments, and the following criteria in making a recommendation to City Council.

1. The proposed annexation is in conformance with the City's Comprehensive Plan.

Staff Comment: The subject site is within the Long Range Expected Growth Area, which is the area where the City supports annexation to accommodate future urban development. The following

objective from the Imagine Greeley Comprehensive Plan are applicable:

GC-1.5 Annexations: When considering a proposed annexation, the City should find persuasive evidence that the inclusion of the property into the City's jurisdiction meets the goals and objectives of the Comprehensive Plan, and that the property can be developed in a manner that will be a positive addition to the city, improve the quality of Greeley's neighborhoods, and can be provided with municipal services.

The request complies with this criterion.

2. The proposed annexation promotes geographical balance of the City's land use pattern.

Staff Comment: Annexing the subject property provides balance to the City by incorporating a site that borders existing city limits on the east, west, and south. Existing city limits also include property to the north of the subject site (Poudre Learning Center). Annexing the subject site would incorporate a portion of an existing enclave.

The request complies with this criterion.

3. Adequate services are, or will be, available to support the development expected to result from the proposed annexation, in accordance with Section 24-305.

Staff Comment: Adequate fire and police services are currently available to serve the site. Additional infrastructure would be required at the time of development to serve the site with appropriate sewer, water, stormwater, and transportation. Adequate parkland would be dedicated with residential development on the site.

The request complies with this criterion.

4. The proposed annexation provides for a continual and rational boundary.

Staff Comment: The annexation exceeds the State's one-sixth contiguity requirements. This property's inclusion will also help provide a continual and rational boundary by including a portion of an enclave of unincorporated land that is within the City's Long Range Expected Growth Area.

The request complies with this criterion.

5. The proposed annexation is needed to accommodate future land use requirements.

Staff Comment: The subject site is needed to accommodate future growth of Greeley. The site is identified as part of a Mixed Use Neighborhood on the Land Use Guidance Map. Adjacent thoroughfares, 10th Street and 83rd Avenue, are identified as Multi-Modal Corridors and a Neighborhood Center is shown at the intersection on the Land Use Guidance Map. With these identified land uses, it is anticipated that the site will include a mix of uses needed to accommodate the community's growth.

This request complies with his criterion.

F. PHYSICAL SITE CHARACTERISTICS

1. SUBDIVISION HISTORY

The subject property has not been subdivided. A preliminary subdivision application is under review with City staff, which would require Planning Commission approval subsequent to annexation and zoning.

2. HAZARDS

The subject site is not located within a FEMA-mapped floodplain and no steep slopes exist on the property. One plugged and abandoned oil well is located on the property.

3. WILDLIFE

A small area on the northern edge of the site is identified on the City of Greeley's Areas of Ecological Significance map as an area that could be moderately impacted by development. Upon site examination, no significant natural features requiring preservation for ecological purposes were identified.

4. FLOODPLAIN

The subject site is not in the floodway or floodplain as identified by Federal Emergency Management Administration (FEMA) flood data.

5. DRAINAGE AND EROSION

The existing drainage patterns are expected to continue to follow the existing lay of the land. Drainage patterns would be examined in greater detail through any future land use requests. Erosion and sediment control plans are required with development.

6. TRANSPORTATION

The subject site has frontage along 10th Street and 83rd Avenue. The transportation master plan identifies 4th Street extending west across the northern edge of the site. Transportation would be further evaluated with future zoning, subdivision, and development of the site.

G. SERVICES

1. WATER

Water mains are present in the vicinity to serve the subject site. Extension of water infrastructure would be considered with future applications.

2. SANITATION

Sewer mains are present in the vicinity to serve the subject site. Extension of sewer infrastructure would be considered with future applications.

3. EMERGENCY SERVICES

The subject area is currently served by the Windsor Severance Fire Rescue. The applicant has petitioned for withdrawal from the district pending annexation. Upon annexation, the site would be served by the Greeley Fire Department, with Station #7 being located approximately 1.5 miles east of the subject site. The site would also be served by the Greeley Police Department upon annexation.

4. PARKS/OPEN SPACES

Parkland dedication would be required with future residential development on the site.

5. SCHOOLS

The subject site is within the Weld RE-4 School District (Windsor-Severance). Land dedication or cash-in-lieu for schools would be required with future residential development on the site.

H. NEIGHBORHOOD IMPACTS

1. VISUAL

No visual impacts would be created by this annexation. Future development of the site would be regulated by the Development Code to mitigate visual impacts.

2. NOISE

The proposed annexation would not create noise impacts. Noise is regulated by the Municipal Code upon annexation.

I. COST-BENEFIT ANALYSIS

The subject site is anticipated to contain a mix of residential and nonresidential land uses upon development. Other than property taxes, revenue would not be realized until development occurs.

Future development would be reviewed in accordance with and required to meet, the applicable City of Greeley Development Code standards. Once under development, the developer would be required to pay development fees, extend any necessary City services to their property, and dedicate all appropriate rights-of-way and easements to serve the property.

The City would be responsible to provide fire and police services; however, due to the rural character of the site these services need are expected to be minimal. Additionally, the City would take over maintenance of 83rd Avenue from Weld County from 4th Street to 10th Street. The Public Works Department has anticipated and accepts the need to provide maintenance of

83rd Avenue. Staff finds that the proposed annexation cost impacts would be minimal in nature and would relate primarily to Police, Fire, and street maintenance.

J. PUBLIC NOTICE AND COMMENT

Notices to 37 surrounding property owners and current residents were mailed on July 7, 2023. Two signs were posted on the site on July 7, 2023. A notice was posted to the City of Greeley website on July 7, 2023. Staff has not received any comments from the public expressing objection or support of the annexation.

K. PLANNING COMMISSION MOTIONS

Recommended (Approval)

Based on the application received and the preceding analysis, the Planning Commission finds that the proposed annexation meets the required Development Code criteria of Section 24-214.b.2.(a–e); and recommends approval of the Schneider Annexation (ANX2022-0007) to City Council.

Alternative (Denial)

Based on the application received and the preceding analysis, the Planning Commission finds that the proposed annexation does not meet the required Development Code criteria of Section 24-214.b.2.(a–e); and recommends denial of the Schneider Annexation (ANX2022-0007) to City Council.

ATTACHMENTS

Attachment A – Vicinity Map

Attachment B – Annexation Plat

Attachment C – Site Analysis Map

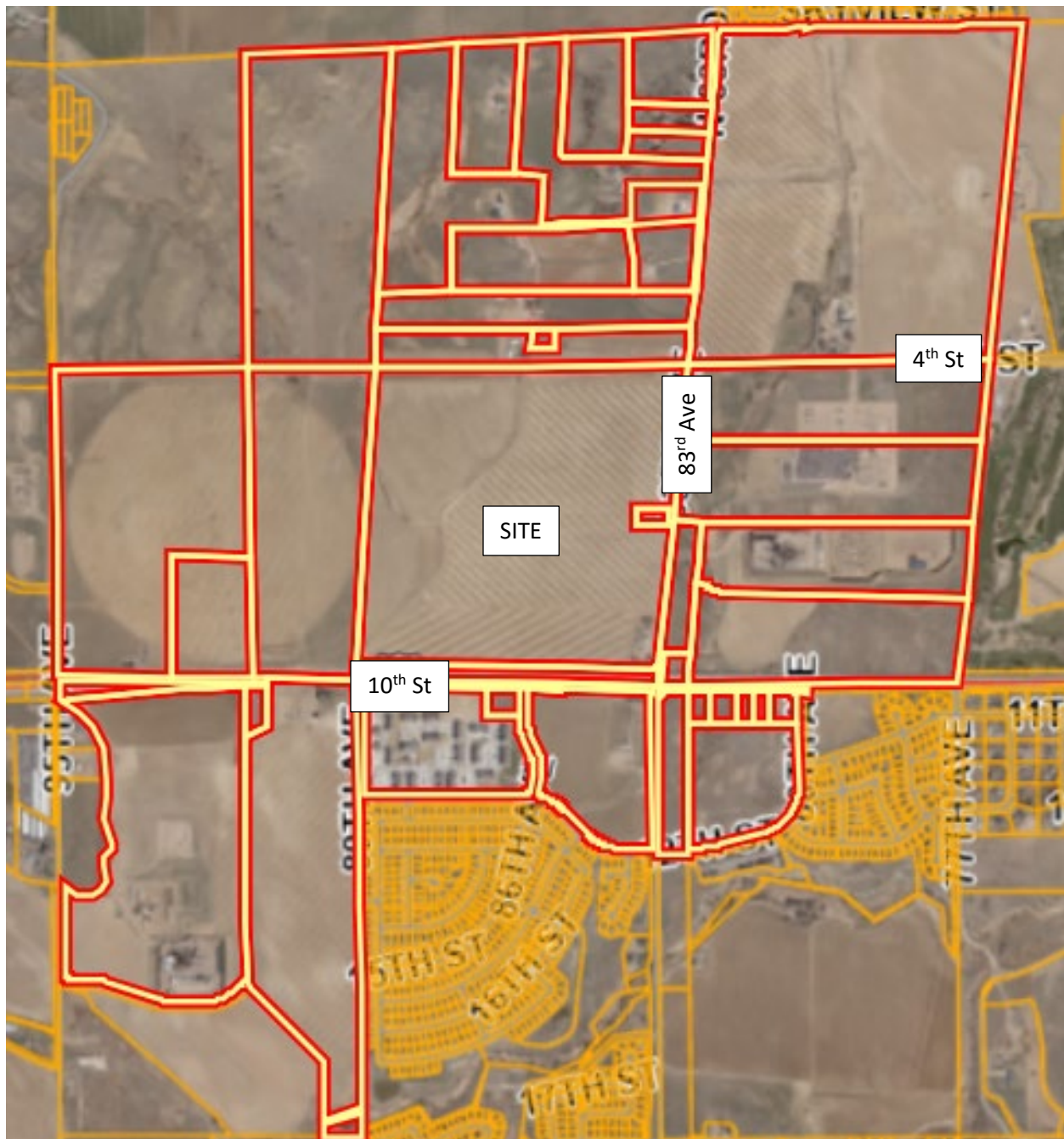
Attachment D – Neighborhood Notification Map

Attachment E – Staff Slides

VICINITY MAP



NEIGHBORHOOD NOTIFICATION MAP



City of Greeley, Colorado
PLANNING COMMISSION PROCEEDINGS
July 25, 2023

1. Call to Order

Chair Yeater called the meeting to order at 1:15 PM.

2. Roll Call

The hearing clerk called the roll.

PRESENT

Chair Justin Yeater
Commissioner Louisa Andersen
Commissioner Briscoe
Commissioner Jeff Carlson
Commissioner Brian Franzen
Commissioner Larry Modlin

ABSENT

Commissioner Christian Schulte

3. Approval of Agenda

There were no corrections or additions to the agenda. The agenda was approved as presented.

4. Approval of July 11, 2023, Minutes

Commissioner Franzen moved to approve the minutes dated July 11, 2023. Commissioner Andersen seconded the motion. Motion carried 6-0. (Commissioner Schulte absent)

5. A Public Hearing to consider a request by Union Colony West Investments LLC to annex approximately 170.573 acres located at the northwest corner of 10th Street at 83rd Avenue, known as the Schneider Annexation (ANX2022-0007).

Chair Yeater began by providing that this item is on the Expedited Agenda, he asked if the commission would like to hear a presentation. No commissioners requested to hear the presentation. Commissioner Andersen did have a question regarding the code change, was the intent of the code change to eliminate more PUD's (Planned Unit Developments) and establish more targeted zoning, also if the 1future zoning intent for this annexation was still PUD? Caleb Jackson (Planner, III) responded, confirming that that is the intent of the recent code change, but this application would still proceed with the PUD Zoning with a mix of land uses, which is still allowed by the Development code with the recent code change.

Chair Yeater asked if anyone in attendance would like to see the presentation, seeing none he opened the Public Hearing at 1:20 p.m.

Floyd Weiderspon, 155 N. 83rd Avenue, Greeley, CO 80634. He shared that he is the president of Skyline Ditch Company. He shared testimony that the Skyline Ditch runs through the area proposed for annexation and feeds 6 properties to the north of the proposed annexation for irrigation. They

have received proposals from the developer to move the ditch and have some disagreements in the proposal that the developer provided because it is only in the developers favor. He stated he has been using this ditch for over 50 years and has never been required to do some of the maintenance the proposal suggests, and do not think that it is amenable. Additionally, they would be required to remove mud and sand out of the north side of the ditch and his company does not feel that this is their responsibility. He would like to further negotiate the proposal to benefit all parties. He provided his email and phone number weiderspon@q.com, 970-302-4762 asking for the applicant to further contact him to make negotiations that will work for all parties.

Seeing no further requests for public comment or comment from the applicant Chair Yeater closed the Public Hearing at 1:25 p.m. and turned it back to the commission for action. Commissioner Anderson moved that based on the application received and the preceding analysis, the Planning Commission finds that the proposed annexation does meet the required Development Code criteria of Section 24-214.b.2.(a-e); and recommends approval of the Schneider Annexation (ANX2022-0007) to City Council. Commissioner Modlin provided the second to the motion.

Motion carried, 6-0 (Commissioner Schulte Absent)

6. A Public Hearing to consider a code amendment to add an option for dedicated affordable housing to reduce parking requirements. The code amendment is intended to satisfy a grant requirement for the Department of Local Affairs to incentive affordable housing dedicated to below-median income households (CU2023-0003).

Caleb Jackson started his presentation introducing the item. He provided background information on the proposed code amendment. This was brought on by a grant provided by DOLA (Department of Local Affairs) also included the grant are the Housing Needs Assessment (presented to the commission at the July 11th, 2023, meeting), a Subarea Plan (will be presented to the commission in September 2023) and the city must provide an incentive for affordable housing. This is capital A affordable housing, and it is regulated by HUD standards to meet certain requirements to meet the need for this type of housing in the community.

The code amendment proposes parking reductions as follows:

- Up to a 25% reduction for 60.1-80% AMI
- Up to a 50% reduction for 30.1-60% AMI
- Up to a 75% reduction for 0-30% AMI

Mr. Jackson indicated that there is also a chart in the meeting packet that show how low these income levels are. The idea behind this is that low-income households tend to have fewer vehicles and many parking spaces would go unused, causing development costs that could potentially be reduced, lessening the impact of the development cost as well as continued maintenance of those parking spaces. Those costs contribute to the viability of affordable housing and anything that can be done to help reduce those costs makes a big difference. The reduction of these parking stalls can also reduce the Urban Heat Effect as well as the amount of storm drainage runoff. With these kinds of measures captured in the code it gives developers with affordable housing projects more confidence in bringing these needed housing types to the area.

Mr. Jackson continued by sharing that staff recommends approval of this code amendment. It does meet Code Amendment Review Criteria, Section 24-211.b, the four criteria and the proposal are consistent with the criteria outlined in the summary. Proper notification was made without any comments in either objection or support. Mr. Jackson offered to discuss this amendment with the commission.

Discussion began between the commission and Mr. Jackson. Commissioner Modlin asked what happens if over time if the unit is no longer an affordable housing unit and additional parking would be needed. Mr. Jackson responded by sharing that with this code amendment "Affordable Housing" is added to the Land Use table and to change it, an applicant would have to go through the process to meet the criteria of the proposed land use, including the parking requirements.

Chair Briscoe asked what other incentives were explored. Mr. Jackson indicated that some of the other incentives that were explored include: a quicker review process, however compared to other communities we are already on an expedited turn around; reducing the application fees was considered but the city only reviews fee changes on a particular schedule and it would not allow staff to meet the grant deadlines, additionally these fees are relatively low already and it would not allow for a very productive incentive. The proposed code amendment is something that is already in place by surrounding communities and working out well, it seems to be a good transition for Greeley as well.

Commissioner Carlson asked if the items this grant covers are stand alone grant items or if they are all required to meet the grant obligations. Mr. Jackson confirmed that the city is required to provide a code- adopted incentive to fund the Housing Needs Assessment and Sub-Area plan. Commissioner Carlson asked what the cost benefit to the city for having the grant cover these items. Mr. Jackson replied that he does not have a set cost benefit for this, however it is a benefit to the city because these are items that are a win for the city to have done and a push to update standards for the city.

Chair Yeater commented that the number one issue the commission hears from the public regarding multi-family housing is parking, traffic, and noise. The study provided states that with lower income the number of vehicles decreases as well and increases the transit in the neighborhood. Greeley's transit system is underutilized. He asked what assurances staff can provide that these are going to be transit rich developments like the community in the study? Mr. Jackson if he did not have a study on the transit however other communities such as Loveland, Longmont and Ft. Collins that have similar transit opportunities to Greeley and have successfully adopted transit options that work. He added that when you compare the AMI's for affordable housing compared to vehicle costs, it would not make sense that they have excess vehicles. Affordable Housing developers also tend to build in neighborhoods that transit is available to suite the needs of the future tenants.

Chair Yeater asked if the HUD standards would prohibit multiple families from inhabiting a single dwelling unit or residence. Mr. Jackson responded that all family sizes are different, but the same concept applies, the income levels for these AMI's is very low and multiple vehicles is not likely.

Chair Yeater asked if the City of Greeley calculated the stormwater cost based on the amount of permeable surface. Mr. Jackson answered, sharing that the stormwater fees are based on impervious surface on a lot, so less parking would reduce the impervious surface.

Commissioner Andersen shared that her concern is that the report provided is based on the Denver area. She lives on the east side of Greeley and her experience is that lower income often brings more vehicles. Having a vehicle does not mean that it runs, causing the need for multiple vehicles to meet transportation needs. She does not agree with the premise that lower income means fewer vehicles. She is all on board for affordable housing and trying different things for rent controlled development, but she does not agree with this report and does not feel this is where to start.

Commissioner Briscoe referenced some other apartment buildings in Greeley that are all HUD properties and he wanted to know if those parking requirements were reduced because those parking lots are often very full. Mr. Jackson indicated that he did not know the parking counts for those buildings. Darrell Gesick (Planner III) answered that one of the referenced apartment complexes is for residents with disabilities and they did receive parking reductions. He shared that there are also

other apartments in the area that are not part of them, and he was not certain of the parking requirements for those buildings. Chair Yeater asked if there had been a property that a variance was approved for parking, and it then exceeded the variance and what kind of measures can the city take if this were to happen. Staff was not aware of any situations like this. Brian McBroom if city codes related to parking, where it is and is not allowed and that the code would still apply. Codes can always be amended if something is no longer working, and the grant may have an allowance for that as well. Discussion continued between staff and the commission regarding what measures could be taken if this parking amendment did not work out and what options are available to do a parking study for this topic. Commissioner Modlin asked what the requirements are in this type of land use regarding green space. Mr. Jackson indicated the required open space requirements would not be changed with the proposed code amendment.

With no further questions from the commission, Chair Yeater opened the Public Hearing at 1:47 p.m.

Jodi Hartman, Executive Director of High Plans Housing Development, 3104 69th Avenue Court. Ms. Hartman shared that her organization is the developer working on the North Weld Village and has been involved in that re-zoning request for that project, she also previously served as the Executive Director of the Greeley Transitional House, an emergency shelter for homeless families. She is very familiar with the population that fall under these income levels that are being discussed and most of these individuals do not own vehicles, lack of transportation is often an issue her organization had to address often, and public transit was often the solution. Ms. Hartman continued, providing that if you live in a HUD subsidized apartment, they do not allow for any other family living with you, it would be considered a lease violation and the tenant would be evicted. She indicated that if a lot of vehicles are observed at a particular existing apartment complex, it is likely not a HUD housing building. Her team is currently working on a budget for a proposed project containing 58 units with the intent to house a chronically homeless population. Based on the studies that Mr. Jackson has shared, only 8% of this population own a vehicle, this equates to about 1 in every 12 units. The staff parking for these types of projects is only about 5 people, so this is not a large parking impact either. The more parking required for these types of units means it is less of the units that they can build, and it is a burdensome impact to these projects. These projects require the development to get low-income tax credits and that implements a 30-year deed restriction and are build with the intent to be permanently affordable and the chances of them being converted to a market rate development are very low.

Chair Yeater closed the Public Hearing at 1:51 p.m. and turned the item back to the commission for action.

Commissioner Andersen stated that she had concerns that HUD Developments and low-income units may work for this, but she wonders if so, many restrictions have been added to earn this particular grant and if changing the code to allow for this incentive opens up other issues. Parking is the number one thing the commission gets presented with as an issue and she is concerned that changing the code for a particular thing is a bad idea.

Commissioner Modlin added that having only one family unit restricted to a unit solves a lot of the cause for concern. Discussion continued between the commission regarding existing neighborhoods, family living situations with multiple drivers with cars.

Chair Yeater asked if there was a motion or any support for a motion. Commissioner Carlson moved, based on the preceding analysis, the Planning Commission finds that the proposed code amendments to the Greeley Municipal Code are consistent with the Development Code criteria of Section 24-211.b (Items 1 through 4) and therefore recommends that the City Council approves the code amendments to the Greeley Municipal Code as submitted. Commissioner Modlin provided the second.

Chair Yeater opened the item up for further discussion, adding to Commissioner Andersen's concerns,

sharing that many of the things that are presented to the commission are averse to this amendment. He continued adding that Ms. Hartman's testimony did provide good information about stuff that is in place to mitigate some of the things that are concerning with the issues being discussed. His number one concern is being addressed because there is still municipal code in place to deal with the parking issues, his challenge with that is if municipal code is used to address parking who it would harm when this could be prevented from the beginning. He shared he does wish there was more information about the city's specific region that supported the idea that this could be successful.

Commissioner Modlin shared he thinks this is the start to having a more controlled and different type of housing to support these income levels. He feels this is a good starting spot for a housing type that is needed in the community and grant money is not always available and it is a good opportunity. Commissioner Franzen shared he agreed and included that the deed restriction for 30 years and the grant time for 15 years will make it nearly impossible to make them into a private ownership property. Commissioner Andersen is not apposed to an experiment, a one-time trial to see how it would work but changing the code is not the way to achieve that to meet the requirements for the grant.

Commissioner Carlson added that with the current median home price being higher than many people can afford, we as a community need to figure out the needed housing mix and take steps to achieve that mix. He feels this code amendment allows for that and it can be changed in the future. Commissioner Briscoe agreed with Commissioner Carlson adding that with the current development costs, housing costs and housing need we must start putting things like this in place and while he does not love the amendment he does not know where else to start.

Chair Yeater asked Commissioner Andersen what her way would be to test if something like this was successful. She replied, you would not witness a parking problem. She does not see that fewer vehicles for lower income is accurate and she would like to see a report from a Greeley low income building that this is true. Chair Yeater agrees this is a good place to start and shares Commissioner Andersen's concerns, he inquired if there is something that could be added to the amendment that would allow for a re-evaluation of the code.

Don Threewitt, Chief Planner added he found there is not a payback provision in the grant if the code was later repealed. There could also be an item added to the motion that staff could evaluate how the code is working in the future.

Commissioner Andersen clarified that Mr. Threewitt was stating that the suggested motion could be amended to add an evaluation timeline or other measure to help alleviate some of the concerns of the commission. Commissioner Franzen suggested that the motion be amended to add that it would be closely monitored by staff. Discussion continued between the commission discussing what an appropriate timeline would be for the application of this code to be in place for staff to evaluate how it is working. 1, 3 and 5 years were discussed in relation to this code adoption and how long it would take to be able to evaluate if the code amendment was working or if there were issues. Ms. Hartman came back to the podium to provide that a development would not be completed for about 2 and a half years to aide in the discussion. The commission discussed that 3 years would not be enough time to sufficiently evaluate the application of this code amendment and although 5 years is a little longer than preferred, it seems like the best time frame for the evaluation to take place. Commissioner Andersen asked if there were any other incentives could be offered in lieu of this and if this is something that really should have a full code amendment to all the standards in the code updated for Affordable Housing. She does not feel this is the best place to start.

Chair Yeater called for the vote on the original motion proposed. Motion did not carry, 1-5 (Commissioner Schulte, absent).

Commissioner Carlson moved, based on the preceding analysis, and with a contingency in place of a

5 year review period, at which time the code would be compared to parking studies that have been done by City staff, the Planning Commission finds that the proposed code amendments to the Greeley Municipal Code are consistent with the Development Code criteria of Section 24-211.b (Items 1 through 4) and therefore recommends that the City Council approves the code amendments to the Greeley Municipal Code as submitted. Commissioner Briscoe provided the second.

Motion carried, 4-2 (Commissioner Schulte, absent)

7. Staff Report

Brian McBroom shared that the 2024 budget process is very fair along. Community Development will know in a few weeks what the City Manager's office approves as the recommended budget. The proposed 2024 budget does include one or more sub-area plans.

Performance analytics organization wide and as citizens should be hearing more about this, as it will create key initiatives and public dashboard. Mr. McBroom shared he is a bit support of these efforts, and it is a key ingredient for a high performing organization.

Mr. McBroom also shared that Planning Commission term limits no longer exist, and it gives those who enjoy serving on the commission the opportunity to do so.

Mr. McBroom continued to share that he had the opportunity to meet with Chair Yeater and would love the opportunity to meet with each of the other commissioners as well.

8. Adjournment

With no further business before the Commission, Chair Yeater adjourned the meeting at 2:11 PM.

DocuSigned by:

Justin Yeater

Justin Yeater, Chair

DocuSigned by:

Don Threewitt

2A71D92FBF874DE...

Don Threewitt, Interim Community Development Director



Schneider Annexation ANX2022-0007

City Council

September 5, 2023

Caleb Jackson, AICP | Interim Chief Planner

Request & Site Background

- **Request:**
 - Annex approximately 170.573 acres located at the northwest corner of 10th Street at 83rd Avenue
- **Background:**
 - Site zoned A – Agricultural in Weld County
 - 57.1% contiguity (16.67% req)
 - City Council resolution July 18, 2023
 - Site is within Long Range Expected Growth Area
 - Site is part of an enclave
 - Planned Unit Development scheduled for future public hearings₂

Location

- NWC 10th St at 83rd Ave
- Surrounding Zoning and Land Uses:
 - North: A | Agriculture, single-family dwelling
 - East: A, R-L | Single-family dwelling, oil and gas extraction, electrical substation, electric transmission lines
 - South: C-H, R-H Undeveloped, multi-family dwellings
 - West: PUD | Farming



4th Street

Subject Site

83rd Avenue

10th Street

10th St

80th Ave

11th St

78th Ave

Considerations

Approval Criteria

- Annexation Review Criteria, 24-214.b.2

Five Criteria Used to Evaluate Annexation Applications

- The proposal is consistent with the criteria as outlined in your Summary

Notification

- 37 notice letters
- Signs posted on the property
- Web notice
- No written objection/support received

Recommendation

- Planning Commission recommended approval on 7.25.2023 (6-0)

Review Criteria

Annexation Review Criteria, Section 24-214.b.2

a)	The proposed annexation is in conformance with the City’s Comprehensive Plan. <i>Long Range Expected Growth Area</i> <i>Objective GC-1.5 Annexations: When considering a proposed annexation, the City should find persuasive evidence that the inclusion of the property into the City’s jurisdiction meets the goals and objectives of the Comprehensive Plan, and that the property can be developed in a manner that will be a positive addition to the city, improve the quality of Greeley’s neighborhoods, and can be provided with municipal services.</i>
b)	The proposed annexation promotes geographical balance of the City’s land use pattern. <i>Annexing the subject property provides balance to the City by incorporating a site that borders existing city limits on the east, west, and south. Existing city limits also include property to the north of the subject site (Poudre Learning Center). Annexing the subject site would incorporate a portion of an existing enclave.</i>

Review Criteria

Annexation Review Criteria, Section 24-214.b.2

c)	Adequate services are, or will be, available to support the development expected to result from the proposed annexation, in accordance with Section 24-305.
	<i>Adequate fire and police services are currently available to serve the site. Additional infrastructure would be required at the time of development to serve the site with appropriate sewer, water, stormwater, and transportation. Adequate parkland would be dedicated with residential development on the site.</i>
d)	The proposed annexation provides for a continual and rational boundary.
	<i>The annexation exceeds the State's one-sixth contiguity requirements. This property's inclusion will also help provide a continual and rational boundary by including a portion of an enclave of unincorporated land that is within the City's Long Range Expected Growth Area.</i>

Review Criteria



Annexation Review Criteria, Section 24-214.b.2

e) **The proposed annexation is needed to accommodate future land use requirements.**

- The subject site is needed to accommodate future growth of Greeley. The site is identified as part of a Mixed Use Neighborhood on the Land Use Guidance Map. Adjacent thoroughfares, 10th Street and 83rd Avenue, are identified as Multi-Modal Corridors and a Neighborhood Center is shown at the intersection on the Land Use Guidance Map. With these identified land uses, it is anticipated that the site will include a mix of uses needed to accommodate the community's growth.*



Council Agenda Summary

September 5, 2023

Key Staff Contact: Tammy Hitchens, Interim Finance Director, Robert Miller, Treasurer and Interim Budget Manager, John Dargle, CPRD Director

Title:

Public hearing and second reading ordinance appropriating additional sums to defray the expenses and liabilities of the City of Greeley for the balance of the fiscal year of 2023 (4th Appropriation)

Summary:

This is the fourth supplemental appropriation ordinance modifying the 2023 Budget. Additional funds are being requested to support the City entering into a rental agreement with the Colorado Grit, a North American Hockey League team, for use of the Ice Haus. To enhance the visitor experience and the team's ability to generate revenue, the City desires enhancements to the building. The project will be done in two phases. The first phase will include upgrades to the concession areas, audio visual equipment and WiFi enhancements, renovation of a locker room, a build out of the hospitality and office spaces on the second floor and new storage areas.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	Yes
If yes, what is the initial, or, onetime impact?	\$500,673
What is the annual impact?	\$500,673
What fund of the City will provide Funding?	Food Tax
What is the source of revenue within the fund?	Fund Balance
Is there grant funding for this item?	No

Legal Issues:

City Charter prohibits actual expenditures from exceeding appropriations at the fund level. This ordinance will ensure that this does not occur.

Consideration of this matter is a legislative process which includes the following public hearing steps:

- 1) City staff presentation (if requested)
- 2) Council questions of staff
- 3) Public input (hearing opened, testimony - up to three minutes per person, hearing closed)
- 4) Council discussion
- 5) Council decision

Other issues and Considerations:

Strategic Focus Area:



Quality of Life

Decision Options:

- 1) Adopt the ordinance as presented; or
- 2) Amend the ordinance and adopt as amended; or
- 3) Deny the ordinance; or
- 4) Continue consideration of the ordinance to a date certain.

Council's Recommended Action:

A motion to adopt the ordinance and publish with reference to title only.

Attachments:

1. Ord 39, 2023
2. Presentation

**CITY OF GREELEY, COLORADO
ORDINANCE NO. 39, 2023**

**AN ORDINANCE APPROPRIATING ADDITIONAL SUMS TO DEFRAY THE EXPENSES
AND LIABILITIES OF THE CITY OF GREELEY FOR THE BALANCE OF THE FISCAL
YEAR OF 2023**

WHEREAS, the City of Greeley has or will incur expenses for certain activities described below during the 2023 fiscal year; and

WHEREAS, the revenues received in the City of Greeley in 2022, exceeded the amount of revenues estimated in the 2022 Budget by more than the total amount of the expenditures in the same year.

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

Section 1. In accordance with section 5-17 of the Greeley Charter, from actual and anticipated revenues which exceed the revenue estimates in the 2023 budget and amounts held in fund balance reserves from 2022, there is hereby appropriated the following designated sums to be allocated for use during the remainder of 2023:

Fund Description	Amount	Transfers	Total
Food Tax (304)	500,673	-	500,673

Section 2. All actions heretofore taken (not inconsistent with the provisions of this ordinance) by the officers, agents and employees of the City in connection with this appropriation are hereby ratified, approved and confirmed.

Section 3. This Ordinance shall take effect on the fifth day following its final publication, as provided by Section 3-16 of the Greeley City Charter.

PASSED AND ADOPTED, SIGNED AND APPROVED ON THIS ____ DAY OF _____, 2023.

ATTEST

THE CITY OF GREELEY, COLORADO

By: City Clerk

By: Mayor

2023 4th Supplemental Appropriation Request

**City Council Meeting
September 5, 2023**





Background and History

- Ice Haus built in 2005
- Recent renovations include new sound system/LED lighting/concessions (2018), Off-ice Training Room (2020), new protective netting (2022)
- Overview of Grit Agreement (City Council Work Session – August 8)
- Five-year term agreement with two additional five-year terms
- The Grit hockey season will begin in September of each year and concludes in April of the following year with a minimum of 28 home games (utilize weekdays for practice and Friday evenings and Saturday or Sunday afternoons for games)
- Improvements to the facility will be necessary. Some are due to the needs of the Grit and most due to necessary facility upgrades.

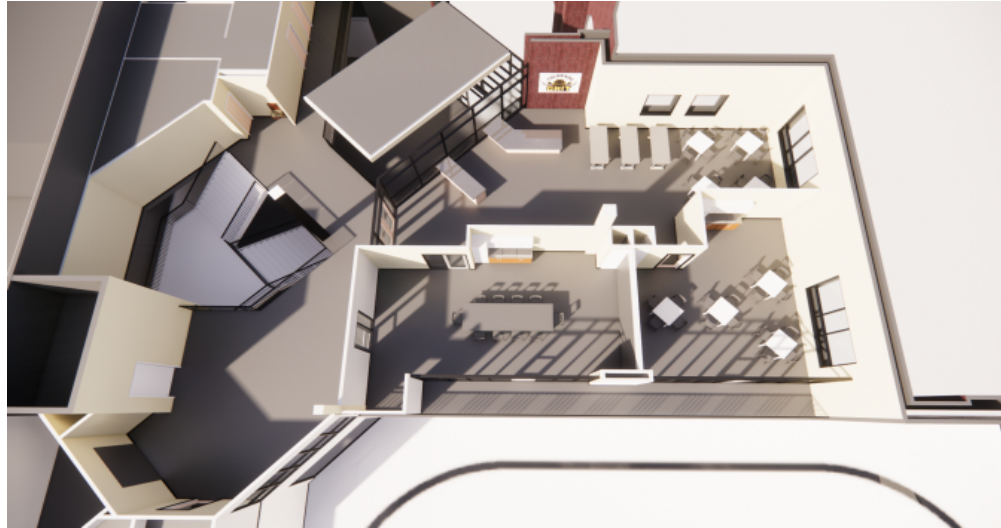
Culture, Parks & Recreation Budget Request

- **Ice Haus Building Improvements: \$500,673**
 - Build out of Grit spaces on 2nd floor (hospitality, office, storage)
 - Renovation of locker room/ VIP Entrance
 - Expansion of concession space, storage, and fixtures/equipment
 - Upgrades to audio visual equipment and Wi-Fi

Phased Approach to Improvements

Phase 1: \$500,673

- Second floor flex space
- Locker room
- Coach's office
- Audio and Wi-Fi upgrades



Phase 2:

- Outdoor Plaza renovation Expense: \$805,786
- LED Outdoor Marquee: \$416,586



Benefits of Improvements

- Improved customer experience
- Increased F&B revenues and broaden food and drink offerings
- Addresses needed storage space
- Maximizes the use of spaces
- Hospitality / Flex Space for booking other special events (new revenue source)
- Creates inviting and welcoming atmosphere (destination attraction)
- Positive impact on local economy and downtown businesses
- Increased exposure to City of Greeley
- Grit commitment to Greeley and youth development
- Hotel room nights estimated at 400 plus per season

Thank you





Council Agenda Summary

September 5, 2023

Key Staff Contact: Paul Trombino, Public Works Director

Title:

Public hearing and second reading ordinance adding Chapter 14 to Title 8 of the Greeley Municipal Code, relating to shared micromobility

Summary:

The City of Greeley has no regulatory requirements or licensing requirements for shared micromobility businesses to operate. Shared micromobility companies distribute mobility devices (i.e., scooters, bikes, etc.) for short-term rental among multiple users where the devices are intended to remain in the public space or other areas permitted, even when the device is not being rented/used by a user; these devices are part of a shared fleet where software applications are used to locate, reserve, check out, and process payment for the use of those devices. As outlined within the recently adopted Greeley on the Go Transportation Master Plan, these devices typically provide connections for short point-to-point trips (~1 mile) and can be paired with larger mobility systems as a first and last mile connection.

Other communities have experienced significant impacts from the operation of shared micromobility companies, such as costs associated with collecting and storing devices left in public space. The purpose of this new chapter is to protect the public health, safety, and welfare of the city and its inhabitants and to prevent or mitigate adverse impacts that shared micromobility may have on public or private property by requiring licenses for those who make shared micromobility available for use city boundaries.

This chapter would:

Define key terms for the ordinance: “docked devices,” “dockless device,” “operator,” “shared micromobility,” “shared micromobility device,” and “user.”

Require a business license to operate a shared micromobility business within the City of Greeley. Grant the City authority to deny, suspend, or revoke such a license.

Enable the City Manager, or their designee, the authority to develop the operator license requirements to operate a shared micromobility business within the City of Greeley.

The approval of this ordinance will not only help to ensure the proper regulation of any micromobility company who desires to provide service within the City of Greeley but also prevent a company from deploying devices without the City's approval. Further discussion about the licensing process will occur at a future City Council Work Session after extensive outreach with stakeholders and the general public.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	No
Is there grant funding for this item?	No

Legal Issues:

Consideration of this matter is a legislative process which includes the following public hearing steps:

- 1) City staff presentation
- 2) Council questions of staff
- 3) Public input (hearing opened, testimony - up to three minutes per person, hearing closed)
- 4) Council discussion
- 5) Council decision

Other issues and Considerations:

None

Strategic Focus Area:



Community Vitality



Infrastructure and Mobility



Quality of Life

Decision Options:

- 1) Adopt the ordinance as presented; or
- 2) Amend the ordinance and adopt as amended; or
- 3) Deny the ordinance; or
- 4) Continue consideration of the ordinance to a date certain.

Council's Recommended Action:

A motion to adopt the ordinance and publish with reference to title only.

Attachments:

1. Ord 40, 2023
2. Appendix A
3. Presentation

**CITY OF GREELEY, COLORADO
ORDINANCE NO. 40, 2023**

**AN ORDINANCE ADDING CHAPTER 14 TO TITLE 8 OF THE GREELEY
MUNICIPAL CODE RELATING TO SHARED MICROMOBILITY**

WHEREAS, the City of Greeley, Colorado (“City”) is a home rule municipality, and pursuant to Article XX, Section 6 of the Colorado constitution has the right to enact, administer and enforce ordinances; and

WHEREAS, shared micromobility companies distribute devices that can be ridden after payment of a fee; and

WHEREAS, regulation of shared micromobility companies is important to promote safe use, limit conflict with other users, and regulate the use of the city's right-of-way, multi-use paths and other areas as permitted; and

WHEREAS, by requiring a license for all persons who make shared micromobility available in the city, the city will prevent adverse impacts that shared micromobility may have to public or private property; and

WHEREAS, the recommended addition of Chapter 14, Shared Micromobility of Title 8 to the Greeley Municipal Code would protect the public health, safety, and welfare of the city and its inhabitants.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF GREELEY,
COLORADO:**

Section 1. That Chapter 14, Shared Micromobility, of Title 8, Business Taxes, Licenses and Regulations, shall be added as shown in Appendix A, attached hereto and incorporated herein.

Section 2. This Ordinance shall take effect on the fifth day following its final publication, as provided by Section 3-16 of the Greeley City Charter.

**PASSED AND ADOPTED, SIGNED AND APPROVED ON THIS ____ DAY OF _____,
2023.**

**ATTEST
COLORADO**

THE CITY OF GREELEY,

By: City Clerk

By: Mayor

TITLE 8. BUSINESS TAXES, LICENSES AND REGULATIONS

Chapter 14 – Shared Micromobility

Sec. 8-1400. Legislative Findings and Purpose

- (a) Shared micromobility companies distribute mobility devices that can be utilized for transportation after payment of a fee.
- (b) Regulation of shared micromobility companies is important to promote safe use, limit conflict with other users, and regulate the use of the city's right-of-way, multi-use paths and other areas as permitted while facilitating mobility for its residents.
- (c) Other communities have experienced significant impacts from the operation of shared micromobility companies. For example, communities have experienced costs associated with collecting and storing devices left in the city right-of-way and have incurred costs for infrastructure to facilitate safe riding and storage.
- (d) The purpose of this chapter is to protect the public health, safety, and welfare of the city and its inhabitants and to prevent or mitigate adverse impacts that shared micromobility may have to public or private property by requiring licenses for all persons who make shared micromobility available in the city.

Sec. 8-1401. Definitions

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Docked devices consist of shared micromobility devices such as a bicycle, electrical assisted bicycle, electric scooter, or other city-approved device that can be rented from an automated station or “docking station” or “docks” and can be returned at the same station or another station belonging to the same system.

Dockless device means a bicycle, electric scooter, electrical assisted bicycle or other city-approved device that does not require a fixed apparatus or infrastructure for its parking, receipt, or return.

Operator is a person or company that owns and operates a shared micromobility fleet and service integrating on-board technology allowing a user to utilize either docked or dockless devices remotely in designated rights-of-way. The term includes any employee, agent or independent contractor hired by the operator.

Shared micromobility means a transportation option providing either dockless or docked devices for short term rental for point-to-point trips among multiple users where the devices are intended to remain in the public right-of-way or other areas permitted, even when not being rented/used by a user; that are part of a shared fleet; and that uses software applications (“apps”) to locate, reserve, check out, and process payment for the use of those devices.

Shared micromobility device (device) means any lightweight, low-powered or human powered vehicular unit, including, but not limited to bicycles, electrical assisted bicycles and electric scooters, either dockless or docked, that is part of a shared fleet operating in the city.

User is any person that is a customer of the shared micromobility operator or any person that uses, rents, or rides a docked or dockless device.

Sec. 8-1402. Administration by city manager or designee.

- (a) The administration of the provisions of this chapter shall be executed by the city manager, who may prescribe forms, rules, and regulations for the proper administration and enforcement

Appendix A

of this chapter. In addition, the city may adopt rules that designate where shared micromobility devices may be operated and rules to enhance public safety and to prevent any adverse impact that shared micromobility may have to public or private property.

(b) The city manager may designate the Director of Public Works or other qualified employees to carry out the administration and enforcement duties described in this chapter.

Sec. 8-1403. License Required

(a) No operator shall conduct or carry on the business of offering shared micromobility devices without first obtaining a license from city.

(b) Since the success of the city's shared micromobility program is impacted by the number of operators in the city, the city may limit the quantity of licenses issued under this Chapter.

Sec. 8-1404. Authority to Deny Issuance of License

The city may deny an application for a license under this chapter if the applicant fails to demonstrate that it meets all the requirements in section 8-6, this chapter and any rules adopted by the city.

Sec. 8-1405. Suspension or Revocation of License

(a) The city may suspend or revoke the license issued under this chapter for the grounds and under the procedures prescribed by section 8-23, Suspension and Revocation.

(b) In addition to any other provision of this code, the city may suspend or revoke a license issued under this chapter if the licensee does not comply with the requirements of this chapter or any rule adopted by the city to implement or enforce this chapter.

(c) Any operator, whose license has been suspended or revoked by the city, shall reclaim and remove their entire fleet of shared micromobility devices from wherever the shared micromobility devices and associated docking stations and appurtenances are located, within fifteen days of notice of revocation or suspension.

Sec. 8-1406. Shared Micromobility Operator License Requirements

(a) The city manager shall develop a shared micromobility operator criteria, application process, and requirements and define the period of performance to operate within the City's right-of-way and other permitted areas.

(b) The city manager is authorized to review and approve an applicant's deployment plans for a qualified operator who applies to operate within the City.

(c) The city manager shall promulgate additional regulations governing shared micromobility, which at a minimum requires operators to provide a device safety plan, application features and integration, follow established parking rules, meet operating and customer service performance standards, and perform data collection and reporting to the city that monitors performance and effectiveness of the program.

(d) The city manager shall set requirements for operators to remove shared micromobility devices that are parked in inappropriate areas, rebalance the devices, and similar operator obligations and responsibilities.

(e) Operators are required to provide proof of insurance of the types and at the levels determined by the city, indemnification, surety bonds, and cost recovery fees as part of the application process and at times specified in the license application.

Appendix A

- (f) The city manager shall establish a process to determine well-planned, designated locations for dedicated parking spaces for shared micromobility devices in the City's right-of-way.
- (g) A license for shared micromobility is only valid for operations within designated City rights-of-way. An operator shall not restrict use of its fleet within certain geographical areas of the City unless approved by the City. Permission to operate devices outside the public right-of-way shall require advanced written permission of the property owner. Operators shall have a means of communicating to the user or customer when the device has been operated in non-permitted areas. The communication to the user shall be sent electronically at the time of such an occurrence happening and at conclusion of the trip. Each occurrence shall be recorded for data collection and reporting purposes to the City.
- (h) No operator shall offer a shared micromobility device for use that does not meet each of the standards set forth in this chapter and established by the city manager.
- (i) An operator shall comply with the record keeping, ridership data, and other reporting and operating requirements established by the city manager under this chapter or as outlined with the licensing process.
- (j) An operator shall participate in city-initiated mobility engagement and user education efforts, including but not limited to special events and neighborhood outreach opportunities as requested by the city manager with prior notice.



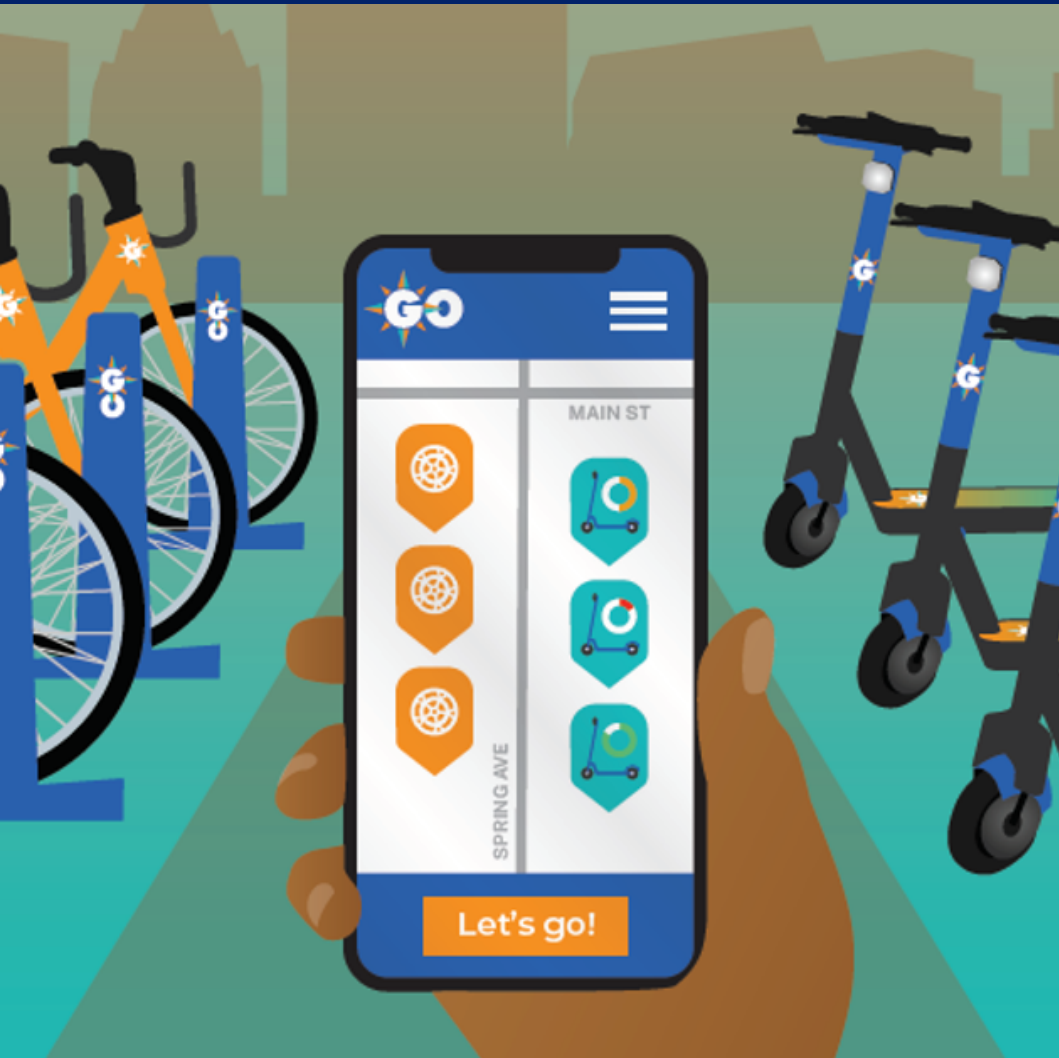
Micromobility Business License Ordinance

Executive summary – Consideration of new Shared Micromobility Chapter to the Business Licenses Section of City Code. This will establish definitions and requirements for operations of shared-use micromobility devices in the public space.



Public Works Department, September 5, 2023

Shared-Use Micromobility



What is Shared-Use Micromobility?

- Shared fleets of small, low-speed vehicles typically used for shorter trips
- Primarily bikes, e-bikes, and e-scooters

How to Access Vehicles:

- Mobile App:
 - Find, rent, and pay for rental of vehicle.
 - Shows where vehicles are, instructions/rules for riding, and where vehicles are permitted to go.
- Often an "unlock" fee and a "per minute" fee.

Types of Shared-Use Micromobility

Device Types:



Station-based



Users start and stop trip at a designated station to rent vehicle. Little flexibility.

Dockless



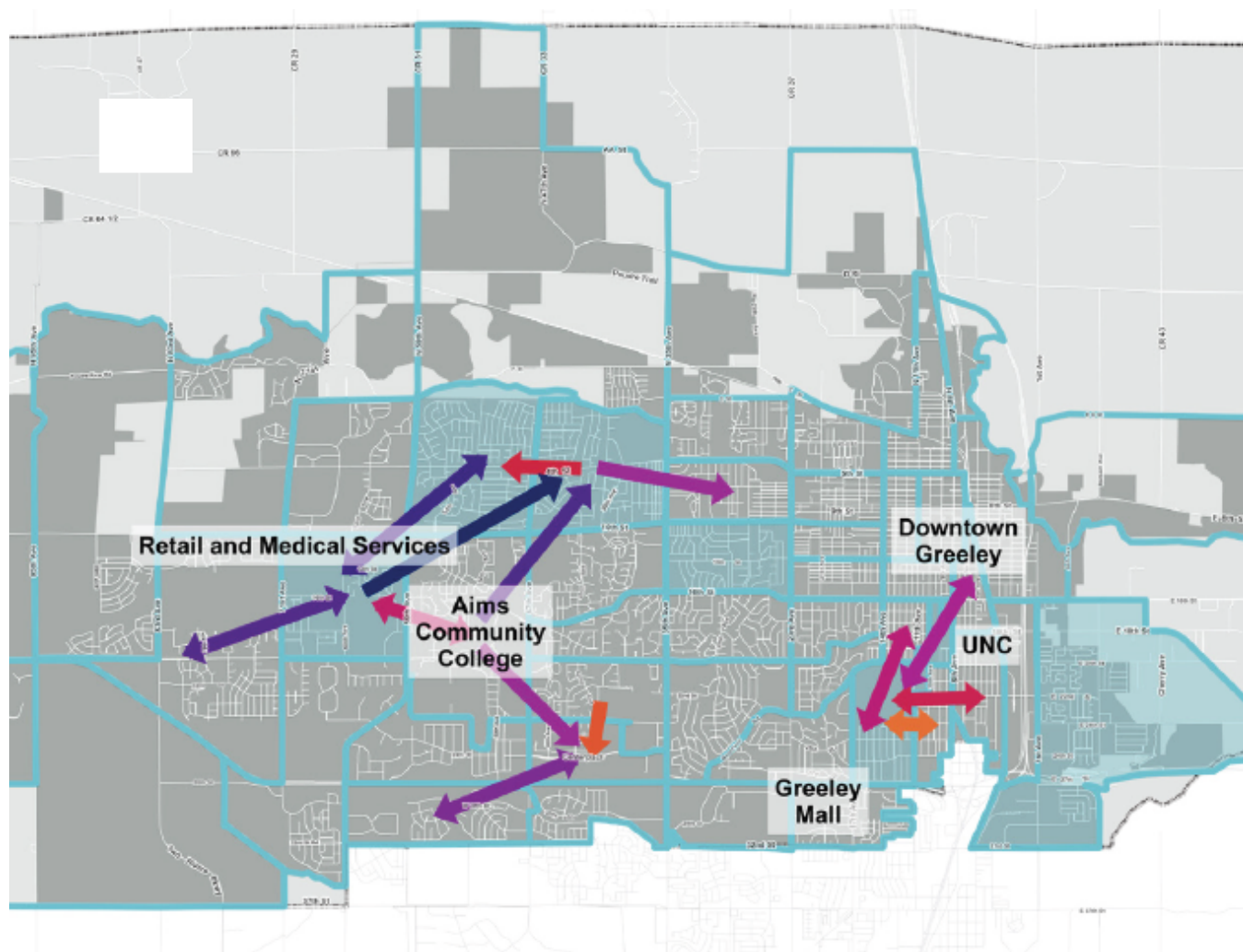
Devices are allowed in a permitted zone, so there is more flexibility where users can start and end their trip. Managing party is responsible for distributing and maintaining vehicles.

Street Corrals



Devices are dockless, with designated street corrals in strategic, high-traffic locations. Provider can offer an incentive for users to park within street corral.

Greeley on the GO

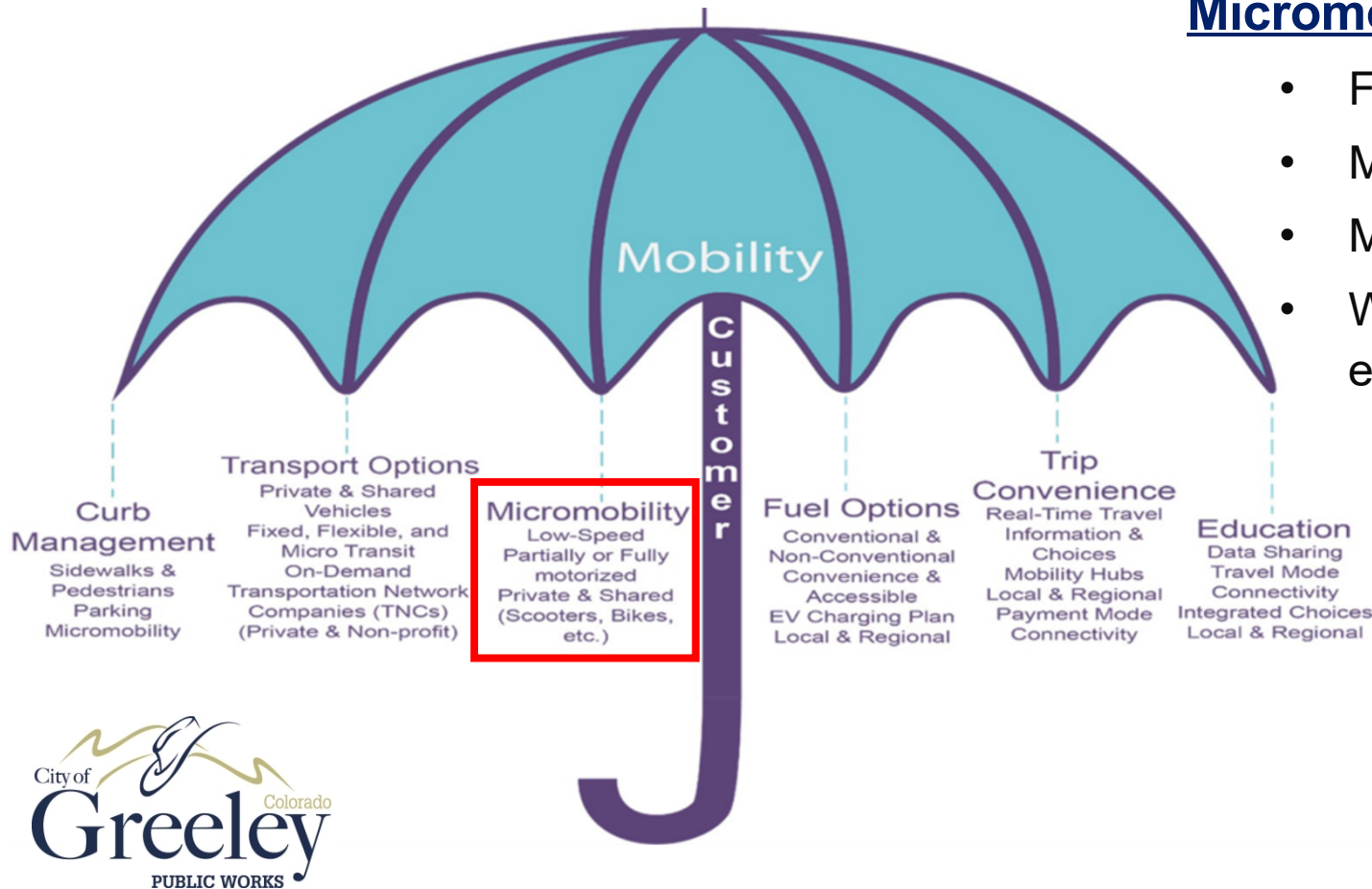


Related Goals:

- 2.1 **Offering a variety of transportation choices**
- 2.2.3 **Strive towards becoming a 15-minute city with ample connections**
- 4.1.1 **Modernize street infrastructure**, enhance... streetscape amenities and **multimodal connections**
- 4.1.2 **Implement well connected... innovative infrastructure** that promotes the **efficient flow of people**.
- 5.1 **Adopt local policies** and invest in infrastructure that **allow for emerging technologies**.

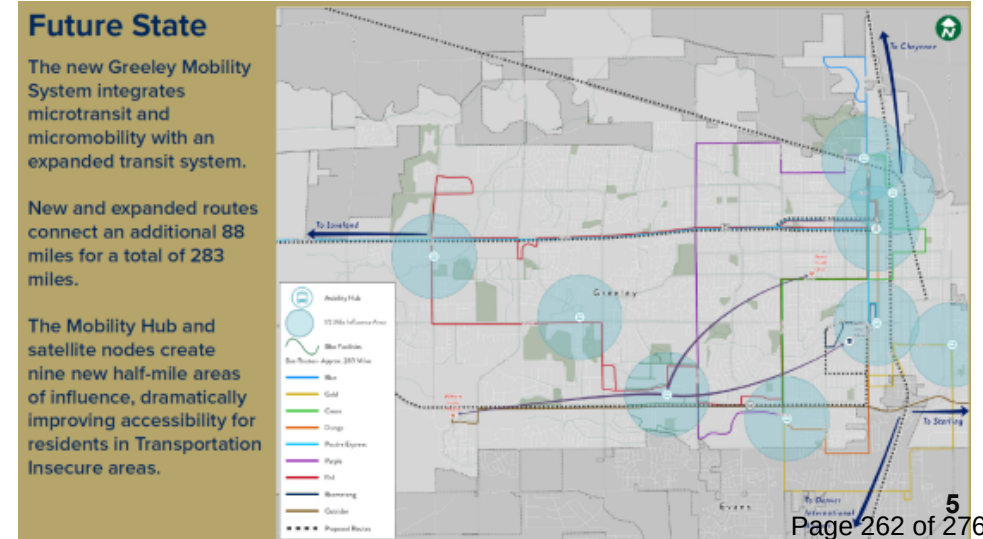
Origin to Destination Travel Trends Analysis found that **many trips in Greeley are approximately one mile**, and concentrated around **key activity centers** (Downtown, UNC, Aims, Centerplace).

Mobility Umbrella: Guiding Vision of Greeley Mobility Services



Micromobility benefits for larger mobility system

- First and last mile connection to transit
- Mobility Hub amenity
- Mobility Connection for Commercial Areas
- Welcoming mobility option for visitors who want to explore Greeley.



Micromobility Business Licensing Ordinance:

- Adds Shared Micromobility Chapter to the Business Licenses Section of City Code.
 - Establishes definitions for key terms
 - Requires a business license for operations of shared-use micromobility devices parked in public space (i.e., ROW)
 - Grants the city manager, or their designee, the authority to develop the license requirements to operate a shared micromobility business within the City of Greeley
 - Grants the City authority to issue, deny, suspend, or revoke this license

Next Steps

- Explore appropriate management strategies and establish standards
 - Street corrals, geofencing, educational component, user penalties, safety review of operational areas of use, etc.
- Stakeholder engagement process to hear concerns and feedback
 - Citizen Transportation Advisory Board
 - UNC / Aims Community College / District 6
 - Greeley Downtown Development Authority
 - Greeley Area Chamber of Commerce
 - City Departments
- Establish business license application and review processes, operation standards
- City Council Work Session
 - Share findings from stakeholders, staff recommendations, market considerations, etc.

Thank you



Key PW Team member

Hanna Johnson

Mobility Coordinator, Public Works

hanna.johnson@greeleygov.com





Council Agenda Summary

Title:

Scheduling of Meetings, Other Events

Summary:

During this portion of the meeting the City Manager or City Council may review the attached Council Calendar or Planning Calendar and Schedule for City Council Meetings and Work Sessions and make any necessary changes regarding any upcoming meetings or events.

Attachments:

Council Events Calendar

Council Meeting and Work Session Schedule/Planning Calendar

Status of Initiatives

September 4, 2023 - September 10, 2023

September 2023						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

October 2023						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Monday, September 4

Tuesday, September 5

 **6:00pm - 6:30pm City Council Meeting** (R_CCS_Council Chambers - WiFi Ready; R_CCS_Council Chambers Overflow Room 103) - Council Master Calendar 



Wednesday, September 6

 **4:00pm - 4:30pm Lottery for Order of Candidate Names as they appear on the Ballot** (Council Chambers, 4 p.m.) - Council Master Calendar

Thursday, September 7

 **7:30am - Poudre River Trail (Hall)** 
 **3:30pm - IG Adv. Board (Butler)** 
 **6:00pm - 8:30pm North Front Range MPO Meeting (Olson/Payton)** 

Friday, September 8

Saturday, September 9

 **4:00pm - 7:00pm Save the Date Sunrise Community Health 50th Anniversary Celebration** (Monfort Family Clinic Parking Lot (2930 11th Ave Evans, CO)) - Council Master Calendar

Sunday, September 10

September 11, 2023 - September 17, 2023

September 2023						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

October 2023						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Monday, September 11

Tuesday, September 12

 **6:00pm - City Council Work Session Meeting** (R_CCS_Council Chambers - WiFi Ready) - Council Master Calendar 



Wednesday, September 13

Thursday, September 14

 **5:00pm - 5:30pm Assistance League of Greeley 50th Anniversary** (Generations Church (3600 W 22nd St, Greeley, CO 80634)) - Council Master Calendar

Friday, September 15

Saturday, September 16

Sunday, September 17

September 18, 2023 - September 24, 2023

September 2023						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

October 2023						
Su	Mo	Tu	We	Th	Fr	Sa
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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Monday, September 18

Tuesday, September 19

 **6:00pm - City Council Meeting** (R_CCS_Council Chambers - WiFi Ready; R_CCS_Council Chambers Overflow Room 103) - Council Master Calendar 



Wednesday, September 20

 **7:30am - Visit Greeley (Butler)** (902 7th Ave Greeley) 

 **2:00pm - 5:00pm Water & Sewer Board (Gates)** 

Thursday, September 21

 **7:30am - 8:30am Downtown Development Authority (DeBoutez/Butler)** (802 9th St #100, Greeley, CO 80631) 

 **3:30pm - 4:30pm Airport Authority (Clark/Payton)** 

Friday, September 22

Saturday, September 23

Sunday, September 24

September 25, 2023 - October 1, 2023

September 2023						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

October 2023						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Monday, September 25

- 11:30am - 12:30pm Greeley Chamber of Commerce (Hall) ↻
- 6:00pm - 7:00pm Youth Commission (Clark) ↻

Tuesday, September 26

- 6:00pm - City Council Work Session Meeting (R_CCS_Council Chambers - WiFi Ready) - Council Master Calendar ↻

Wednesday, September 27

- 7:00am - 8:00am Upstate Colorado Economic Development (Gates/Hall) (Upstate Colorado Conference Room) - Council Master Calendar ↻
- 8:00am - 8:30am NOCO Trade Mission (Boise (Boise, Idaho)) - Council Master Calendar ↻

Thursday, September 28

- 8:00am - 8:30am NOCO Trade Mission (Boise (Boise, Idaho)) - Council Master Calendar ↻

Friday, September 29

- 8:00am - 8:30am NOCO Trade Mission (Boise (Boise, Idaho)) - Council Master Calendar ↻

Saturday, September 30

Sunday, October 1

City Council Meeting Scheduling 2023			
	8/29/2023		
	This schedule is subject to change		
Date/Type	Description	Sponsor	Placement/Time
September 05, 2023 Council Meeting	Proclamation 1 - Suicide Awareness and Prevention Month	Mayor	Intro
	Proclamation 2 - Colorado GRIT Day	Mayor	Intro
	Proclamation 3 - Sunrise Community Health 50th Anniversary (Deb DeBoutez)	Mayor	Intro
	Proclamation 4 - Assistance League of Greeley 50th Anniversary	Mayor	Intro
	Minutes Approval (Aug 8 Work Session; Aug 15 Council meeting)	Heidi Leatherwood	Consent
	Resolution for the USDOT SMART Agreement	Bhooshan Karnik	Consent
	Intro & 1st Rdg Ord- Wake Annexation #1	Brian McBroom	Consent
	Intro & 1st Rdg Ord- Wake Annexation #2	Brian McBroom	Consent
	Intro & 1st Rdg Ord- Wake Annexation #3	Brian McBroom	Consent
	Intro & 1st Rdg Ord- Wake Zoning	Brian McBroom	Consent
	PH & 2nd Rdg Ord- Schneider Annexation	Caleb Jackson	Regular
	PH & 2nd Rdg Ord - Appropriation #4	John Dargle	Regular
	PH & 2nd Rdg Ord - Amendment to GMC re Shared Micromobility	Paul Trombino	Regular
September 12, 2023 Council Work Session	Planning Commission Interviews (3)	Heidi Leatherwood	WS
	Performance and Analytics Overview 2024	Kim Priddy/Kelli Johnson	WS
	2024 Proposed Budget	Rodney Rhodes/Robert Miller	WS
	American Rescue Plan Act (ARPA)	Ashley Weesner/Robert Miller	WS
	Concept Planning Update 9th/10th Streets Project and 8th Avenue Concept Planning Process	Paul Trombino	WS
September 19, 2023 Council Meeting	Proclamation - National Public Lands Day	Mayor	Intro
	Minutes Approval (Aug 22 Work Session; Sept 5 Council meeting)	Heidi Leatherwood	Consent
	Intro& 1st Rdg Ord- Mountain Vista PUD (Tentative)	Brian McBroom	Consent
	Intro & 1st Rdg Ord- Boomerang Self Storage PUD	Brian McBroom	Consent
	Intro & 1st Rdg Ord - 257 Spur PUD	Brian McBroom	Consent
	Intro & 1st Rdg Ord - Amending Boundaries - Greeley DDA	Brian McBroom	Consent
	PH & 2nd Rdg - Amendments for Electrical Code	Brian McBroom	Regular
	PH & 2nd Rdg- Wake Annexation #1	Brian McBroom	Regular
	PH & 2nd Rdg- Wake Annexation #2	Brian McBroom	Regular
	PH & 2nd Rdg- Wake Annexation #3	Brian McBroom	Regular
	PH & 2nd Rdg- Wake Zoning	Brian McBroom	Regular
	PH & Resolution - Wake P&R District	Brian McBroom	Regular
	Boards & Commissions Appointments	Heidi Leatherwood	Regular
September 26, 2023 Council Work Session	2024 Proposed Budget Presentation Q&A	Rodney Rhoades/Robert Miller	WS
	Annual Action Plan for Program Year 2024 for Community Development Block Grant and HOME Investment Partnership Program Grant with	Julianan Kitten	WS
	Boards & Commissions Triennial Review Report	Heidi Leatherwood	WS
	Poudre River Ranch	Paul Trombino	WS
	Executive Session (Tentative)	?	WS

City Council Meeting Scheduling 2023			
	8/29/2023		
	This schedule is subject to change		
Date/Type	Description	Sponsor	Placement/Time
October 03, 2023 Council Meeting	Proclamation - Domestic Violence Awareness	Mayor	Intro
	Proclamation - Greeley Philharmonic Orchestra Day	Mayor	Intro
	Proclamation - UNC 100th Anniversary Homecoming	Mayor	Intro
	Fall Update - UNC President Feinstein		Intro
	Minutes Approval (Sept 12 Work Session; Sept 19 Council meeting)	Heidi Leatherwood	Consent
	Intro & 1st Rdg Ord - 2023 Additional Appropriation	Finance - TBD	Consent
	Intro & 1st Rdg Ord - Schneider Farms PUD	Don Threewitt	Consent
	PH, Intro & 1st Rdg Ord - 2024 Budget Adoption	Robert Miller	Regular
	PH, and consideration of the Annual Action Plan for Program Year 2024 for Community Development Block Grant and Home Investment Partnership Program Grant with Recommended Budgets	Julianan Kitten	Regular
	PH & 2nd Rdg - Mountain Vista PUD (Tentative)	Don Threewitt	Regular
October 10, 2023 Council Work Session	PH & 2nd Rdg - Amending Boundaries - Greeley DDA	Don Threewitt	Regular
	2024 Proposed Budget Presentation Q&A (If needed)	Rodney Rhoades/Robert Miller	WS
	Proposition HH - Overview (Changes to property Tax Law)	Staycie Coons	WS
	Proposition 123 - Overview (Affordable Housing)	Ashley Weesner/Juliana Kitten	WS
	Boards & Commissions Triennial Review Report	Heidi Leatherwood	WS
October 17, 2023 Council Meeting	Proclamation - Native American Heritage Month (for November)	Mayor	Intro
	Minutes Approval (9/26/23 Work session; 10/3/23 Council meeting)	Heidi Leatherwood	Consent
	Motion to call a spec meeting on Nov 28 to swear in new Council and reassign Dec 19 as a Council Meeting	Heidi Leatherwood	Consent
	Resolution Accepting Proposition 123 (Affordable Housing)	Ashley Weesner	Consent
	Intro & 1st Rdg Ord - Triennial Review	Heidi Leatherwood	Consent
	PH & 2nd Rdg Ord - Fiscal Year 2024 Budget Adoption	Finance - TBD	Regular
	PH & 2nd Rdg - Schneider Farms PUD	Don Threewitt	Regular
	PH & 2nd Rdg- Boomerang Self Storage PUD	Don Threewitt	Regular
	PH & 2nd Rdg - 257 Spur PUD	Don Threewitt	Regular
	PH & 2nd Rdg - Ord - 2023 Additional Appropriation	Finance - TBD	Regular
	Boards & Commissions Appointments	Heidi Leatherwood	Regular
	Initiative 11- 2023 - Artificial turf and landscape standards	Brian McBroom	WS
	Image Campaign Update	Winna MacLaren	WS
October 24, 2023 Council Work Session	Community Engagement Priorities 2024	Winna MacLaren	WS
	CANCELLED due to Election 2023		
	Code Enforcement Update	Brian McBroom	WS

City Council Meeting Scheduling 2023			
	8/29/2023		
	This schedule is subject to change		
Date/Type	Description	Sponsor	Placement/Time
November 21, 2023 Council Meeting	CANCELLED due to Thanksgiving/Holiday Week		
November 28, 2023 Special Meeting	Swear in New Councilmember(s)	Heidi Leatherwood	
November 28, 2023 Council Work Session			
December 05, 2023 Council Meeting	Proclamations		
	Minutes Approval (10/10/23 WS; 10/17/23 Council mtg; 10/24/23 WS; 11/14/23 WS)	Heidi Leatherwood	Consent
	Approve the Council meeting schedule for 2024	Heidi Leatherwood	Consent
	Consideration of a Resolution Approving the 2024 DDA Budget	Finance - TBD	Consent
	Consideration of a Resolution - 2023 DDA Mill Levy Certification	Finance - TBD	Consent
	Consideration of a Resolution - 2023 Tax Levy Certification	Finance - TBD	Consent
	Intro & 1st Rdg Ord - 1318 47th Ave PUD	Caleb Jackson/Jeff Woeber	Consent
	PH & 2nd Rdg Ord - Triennial Review	Heidi Leatherwood	Regular
	Boards & Commissions Appointments	Heidi Leatherwood	Regular
December 12, 2023 Council Work Session			
December 19, 2023 Council Meeting	PH & 2nd Rdg - 1318 47th Ave PUD	Don Threewitt	Regular
December 26, 2023 Council Work Session	CANCELLED due to Holiday/Christmas Week		

Greeley City Council

Status Report of Council Initiatives

Initiative No.	Council Member Initiating	Council Request	Council Meeting or Work Session Date Requested	Status or Disposition (After completion, item is shown one time as completed and then removed.)	Next Steps & Schedule	Anticipated Deliverable & Date (Report, Council Presentation, etc.)	Assigned to:
15-2021	Olson	Formation of a committee for implementation of a funding strategy for the 35th and 47th interchanges.	December 7, 2021 Council Meeting	Councilmember Olson will be following up with Manager Lee and Director Trombino on next steps Staff preparing a revised funding application for the next cycle of USDOT Grant Funding expected to be available in May 2023. At the August 8th City council Work Session, Public Works Staff will provide updates on the planned Interchanges on US 34 Bypass and 35th and 47th Avenues and the Mobility Hub at Centerplace titled the Mobility Expansion for Regional Growth and Equity (MERGE) project. The United States Department of Transportation (USDOT) has opened the Multimodal Project Discretionary Grant (MPDG) program for applications due August 21, 2023. The purpose of this item is to provide council with an update of the project design, cost information and an overview of the proposed grant application.	Pending outcome of federal grant application submitted	Next grant application expected May 2023	Paul Trombino
09-2022	Butler	Review traffic and safety surrounding 15 acre open area between 71st Avenue and 8th Street	June 7, 2022 Council Meeting	Requested that Public Works review the traffic and to improve safety in this congested area. In late 2022, Public Works Staff installed additional signage to improve safety and line of sight issues caused by parked cars. Furthermore, GPD with the help of Public Works have identified key times to enforce both speeding and stop sign compliance. City staff along with School District 6 and Westridge Academy held a public meeting with the neighborhood on January 26th, 2023. During this meeting we heard feedback regarding traffic safety and development concerns. This feedback is being used to develop solutions to address identified traffic safety concerns. These potential solutions will be brought back to the neighborhood to garner feedback prior to moving forward with the installation of identified improvements.	Additional signage installed for traffic and parking. Staff worked with School District, builder and GPD to ensure road is passable for school buses. GPD will focus enforcement times to ensure compliance with posted speed limit. Staff developing neighborhood safety improvement options and working with School District on transportation issues to improve coordination and support related to safety and infrastructure around school sites.	Anticipate providing council an update on the next neighborhood meeting and safety improvements by late summer 2023	Paul Trombino
03-2023	Butler	Limits on individual campaign contributions	February 7, 2023 Council Meeting	Research and gather information from other municipalities to determine if they have implemented campaign contribution limits and provide update of what the process would be to set limits for individual campaign contributions CAO and CCO will have a written report ready in May.	CCO/CAO to come back to Council at a work session regarding the process Work Session tentatively set for Oct 24	CCO/CAO report to Council in May Waiting on CAO to provide final report to send out	CCO/CAO

04-2023	Hall	Bridge over creek along the Sheep Draw Trail in Pumpkin Ridge area	March 7, 2023 Council Meeting	Would like a written report to Council regarding the history of the project and possibility of putting a wooden foot bridge across the trail and the timeline going forward Public Works Staff had a Pumpkin Ridge neighborhood meeting on June 29, 2023. The proposed solution presented to the HOA was to provide a crushed gravel path through a Pumpkin Ridge HOA parcel west of the 8th St and 63rd Ave intersection. This would cross the Sheep Draw with a culvert. While this is not an ADA accessible path, it provides the immediate connection to the neighborhood and Sheep Draw Trail. Proposed improvements along 10th Street with an enhanced crossing at the 63rd Ave and 10th Street coming in 2024/2025 would provide broader ADA connection to the neighborhood to supplement the existing connection to the Sheep Draw Trail at 4th Street. In general, the response from attendees at the meeting supported the proposed crossing at 8th Street and the proposed traffic calming and enhanced pedestrian connectivity along 10th Street. As a result, staff is advancing construction of the 8th Street crushed gravel trail connection to Sheep Draw Trail which will include installation of a privacy fence matching the character of the neighborhood to shield adjacent properties. The trail connection and fence will be	PW scheduled next neighborhood meeting for June 29, 2023 at the Greeley Fun Plex from 5:30 to 7 pm. At the June 29th neighborhood meeting, staff presented an option to connect to the Pumpkin Ridge Neighborhood to the Sheep Draw Trail from the corner of W 8th Street across 63rd Avenue between two homes located at 801 and 729 63rd Avenue. This would enable a connection between the two neighborhoods on opposite sides of Sheep Draw this year. Recently, we received follow-up concerns about a trail connection located in this area. Accordingly, Public Works, in coordination with our Natural Areas and Trails division, will research additional design options. Public Works will bring these additional options at a follow-up neighborhood meeting. We are anticipating this next neighborhood meeting will be in November or December of 2023.	PW report provided to Council on March 24, 2023. Neighborhood meeting planned on June 29, 2023. We are anticipating this next neighborhood meeting will be in November or December of 2023. As a result, there will be no construction activity for this proposed trail connection in 2023.	PW
05-2023	Butler	History and status of food tax rebate program	March 7, 2023 Council Meeting	Requested staff provide information at a work session on the history of the Food Tax Rebate Program and the current status of the program	Finance	CMO/Finance report to Council	Finance
08-2023	DeBoutez	Asked City Attorney's Office to research the City's public nuisance ordinance	May 9, 2023 Council Work Session	Request staff to research ways to strengthen the City's public nuisance ordinances to address criminal behavior, including police assistance and code enforcement measures	City Attorney	Update in mid-July with research and draft ordinance at Council work session	CAO Brian McBroom
10-2023	Butler	Research unionizing for the Sergeants and Commanders of the Greeley Police Department	June 20, 2023 Council Meeting	City staff prepare for City Council's consideration a draft Council initiated ballot measure to amend the Greeley Municipal Charter Section 14.4(b)(a) to include	City Attorney/City Clerk	Bring to next Work session for discussion with a draft ordinance at the next Council	CAO/CCO
11-2023	Clark/Butler	Asked staff to do additional research on the artificial turf on front lawns/ and research the landscape standards	August 1, 2023 Council Meeting	Councilmember Clark asked for research the possibilities and standards for artificial turf and Councilmember Butler asked to research landscape standards Councilmember DeBoutez wants Shiloh Hatcher	Community Development	Come Back to Council with a draft ordinance Work session scheduled October 24, 2023	?
1-2020	Hall	Asked staff to follow-up on the Poudre River Trail- Narrows Project	August 1, 2023 Council Meeting	Councilmember Hall submitted an initiative in 2020 for Poudre River Trail Narrows Project and would like a follow-up due to this time period being during COVID	PW/CPRD	Come back to Council with update or completion date	Paul Trombino/John Dargle
2-2020	Hall	Asked staff to follow-up on the Poudre River Trail Icing over at the River Run subdivision	August 1, 2023 Council Meeting	Councilmember Hall submitted an initiative in 2020 for Poudre River Trail icing over at the River Run subdivision and would like a follow-up due to this time period being during COVID		Come back to Council with update or completion date	Paul Trombino/John Dargle



Council Agenda Summary

Title:

A motion authorizing the City Attorney to prepare any required resolutions, agreements, and ordinances to reflect action taken by the City Council at this meeting and any previous meetings, and authorizing the Mayor and City Clerk to sign all such resolutions, agreements, and ordinances

Council's Recommended Action:

A motion to approve the above authorizations.