City of Woodland Park
City Council

May 2, 2024 at 6:30 PM

AGENDA

5 PM Worksession - Legal Basics for Council

1. **CALL TO ORDER AND ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **CEREMONIES, PRESENTATIONS AND APPOINTMENTS**
   - **A.** Re-appointments to the Parks and Recreation Advisory Board.(A)
     (Presenter Deputy City Manager/City Clerk Leclercq)
4. **ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA**
5. **CONSENT CALENDAR**
   - **A.** Approval of the April 18, 2024 Council Minutes. (A)
     (Presenter Deputy City Manager/City Clerk Leclercq)
   - **B.** Approval of the Great Outdoors Colorado Grant Agreement for Avenger Open Space. (A)
     (Presenter Parks and Recreation Director Keating)
6. **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA (1)**
7. **UNFINISHED BUSINESS**
   (Public Comment may be heard)
8. **ORDINANCES ON INITIAL POSTING**
   (Public comment may be heard)
9. **PUBLIC HEARINGS**
   (Public comment may be heard)
10. **NEW BUSINESS**
    (Public comment may be heard)
11. **REPORTS**
    (Public comment not necessary)
    - **A.** Mayor's Report
    - **B.** Council Reports
    - **C.** City Attorney's Report
    - **D.** City Manager's Report
      1. Discussion on upcoming Council Meeting scheduling. (A)
         (Presenter Deputy City Manager/City Clerk Leclercq)
12. **ADJOURNMENT**

Key to agenda abbreviations:

(**A) Administrative-** matters involving day-to-day decisions such as approving contracts, hiring staff and the procurement of goods and services. Administrative actions generally do not require formal actions by the elected body.

(L)Legislative- typically in the policy arena; legislative matters affect large areas and large groups of people, such as enacting dog regulations or amending the City code. Legislative action generally involves motions, resolutions and ordinances.

(QJ)Quasi-Judicial- apply general rules to a specific interest, such as zoning change affecting a single piece of property, or a special use permit. Quasi-Judicial actions generally involve adjudication, sometimes in writing, but not a resolution or ordinance. Decision for Quasi-Judicial proceedings are made exclusively based upon the testimony presented on the record. Ex-parte communication (communication outside the official hearing) between elected officials and citizens is not permitted on Quasi-Judicial

City of Woodland Park

April 18, 2024 at 6:30 PM

MINUTES

1. CALL TO ORDER AND ROLL CALL

Executive Session: Mayor Case opened the public meeting and asked the Council for a motion to go into Executive Session. Councilmember Smith made the following motion: Motion to move into Executive Session of the City Council of Woodland Park: pursuant to C.R.S. 24-6-402(4)(b), a conference with attorneys for the purpose of receiving legal advice on specific legal questions, specifically a lawsuit filed in the District Court of Teller County, Colorado, by the Teller County Short-Term Rental Alliance. Smith/Nakai motion carried 6-0.

The time being 5:01 PM, the recorder was turned on and the Executive Session began. The following individuals were in attendance. Mayor Case, Mayor Pro-tem, Nakai, Councilmember Baldwin, Councilmember Geer, Councilmember Jones, Councilmember Smith, City Attorney Wilson, Deputy City Manager/City Clerk Leclercq, City Manager Vassalottti and Special Council Ringel.

At 5:45 PM, the Executive Session concluded.

Mayor Case called the regularly scheduled City Council meeting to order at 6:30 PM with the following Councilmembers present: Mayor Case, Mayor Pro-tem Nakai, Councilmember Baldwin, Councilmember Geer, Councilmember Jones and Councilmember Smith.

The following Staff Members were in attendance: City Manager Vassalotti, Deputy City Manager/City Clerk Leclercq, Planning Director Schminke, City Planner Gates, IT Technicial Barnes, Chief of Police Deisler and Communication Coordinator Higgenbotham.

2. PLEDGE OF ALLEGIANCE

3. CEREMONIES, PRESENTATIONS AND APPOINTMENTS

A. Presentation and Proclamation declaring April Child Abuse Prevention Month. (A)
(Presenters President/CEO of Community Partnership Jody Mijares and Director of Teller County Department of Human Services Kim Mauthe)

President/CEO of Community Partnership Jody Mijares, and Teller County Department of Human Services Director Kim Mauthe shared information on Child Abuse Prevention. Mijares introduced a parent from Community Partnership, Santo Perez who shared his experiences with Community Partnership. Following a brief presentation, Mayor Case read a proclamation into the record declaring April as Child Abuse Prevention month.

B. Appointments to the Planning Commission, Keep Woodland Park Beautiful Committee and Board of Review. (A)
(Presenter Deputy City Manager/City Clerk Leclercq)

Deputy City Manager/City Clerk Leclercq reviewed the applications received for openings on the Planning Commission, Keep Woodland Park Beautiful and the Board of Review with the Council. Following Council interviews, the following motions for appointments were made.

Motion to appoint Jarrod Newcom to the Planning Commission for the vacant 3-year term. Nakai/Geer. Motion carried 6-0.
Motion to appoint Lisa Parnell to the Keep Woodland Park Beautiful Committee. Geer/Baldwin. Motion carried 6-0.
Motion to appoint Cole Swanson to the Board of Review. Smith/Jones. Motion carried 6-0.

Following the approval of the appointments, Leclercq administered the Oath of Office to Newcom and Swanson. Parnell had left prior to the Oath of Office. Leclercq stated that she would administer the Oath of Office to Parnell at a later time.

C. Police Department awards and Swearing in Ceremony. (A)
(Chief of Police Deisler)

Police Chief Deisler handed out Police Awards and administered the Oath of Office to the new Police Officers.

4. ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA

None.

5. CONSENT CALENDAR

A. Approval of the March 2024 Statement of Expenditures and Authorize the Mayor to sign the warrants thereof.

Mayor Case introduced the items on the Consent Calendar and the following motion was made.

Motion: to approve the Consent Calendar to include the approval of the March 2024 Statement of Expenditures and the approval of the April 4, 2024, City Council Meeting minutes. Geer/Nakai. Motion carried 6-0.

B. Approval of the April 4, 2024 Regular City Council Meeting Minutes.
(Presenter Deputy City Manager/City Clerk Leclercq)

6. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA (1)

The following individuals signed up for public comment and spoke regarding items not on the agenda:

Suzanne Patterson - shared an update on the happenings with the students at the Woodland Park School District.

Jerry Penland - spoke regarding the lawsuit recently received regarding Short Term Rentals and asked the Council to use whatever means possible to fight the lawsuit.

Tim Northrup - shared that a "mess" had been left on the table by the previous Council regarding the 1.09% school sales tax and that the Council should vote now to get rid of the ordinance to repeal the school sales tax that has been tabled.

Mac McVicker - shared information on the Board of Review duties.

7. UNFINISHED BUSINESS

(Public Comment may be heard)

A. Discussion and selection of Councilmembers as liaisons to the various Boards and Commissions. (A)
(Presenter Deputy City Manager/City Clerk Leclercq)

Leclercq reviewed all the Boards and Committees that have Council liaisons with the Council. She shared the day and time each committee meets. Council discussed the liaisons and the following liaisons were appointed.

PPACG - Mayor Case
DDA- Councilmember Jones
CML Policy Committee - Councilmember Baldwin
UAC - Mayor Pro-tem Nakai and Councilmember Geer
PRAB -Councilmember Geer
HPC- Councilmember Smith
KWPB - vacant
Main Street - when it comes to fruition Baldwin

8. ORDINANCES ON INITIAL POSTING

(Public comment may be heard)

None.

9. PUBLIC HEARINGS

(Public comment may be heard)

A. Kings Crown Final Plat: A request by Terrence and Fadile OMalley (Applicants and Property Owners) for a Final Plat to plat 11.3 acres into one lot. The subject property is located east of the intersection of Ponderosa Way and Kings Crown Road, in Sections 19 and 30, T12S, R68W of the 6th P.M. (lying in the center of Paradise Estates Filing #3 and #4 – Paradise Ranch Addition), in the Suburban Residential (SR) zone. (QJ) (Presenter, CJ Gates)

Prior to the introduction of this item on the Council agenda, Councilmember Jones recused himself from this hearing as he voted on this request when he was a Planning Commissioner. City Planner CJ Gates reviewed his Staff Report with the Council regarding this request.

<u>BACKGROUND</u>

The subject property is located within the Top of Paradise Master Plan. In 2005, City Council approved the Amended Top of Paradise Master Plan encompassing 197.7 acres showing 175 lots and allowing up to a total of 190 lots in the SR zone. As seen in Figure 2, the Master Plan encompasses several subdivisions, including Forest Edge Park Fourth addition, Forest Edge Park First Filing, Thunderbird Estates, and Paradise Estates Filing 1, 2, 3, 8, 9, 10 and Haven at Paradise.

Other subdivisions located within the Amended Top of Paradise Master Plan area that have received Final Plat approval include:

2006, Paradise of Colorado Filing 1 Final plat with 4 residential lots;
2008, the Paradise of Colorado Filing No. 2 Final Plat with 29 residential lots on 25.22 acres;
2017, Paradise of Colorado Filing No. 3 Final Plat with 3 residential lots;
2018, Paradise of Colorado Filing No. 4 containing 19.27 acres with 22 single-family residences and dedication of new streets (Locklin Way and a small portion of Thunder Ridge Drive); and
2019, the Highlands in Paradise Final Plat with 9 lots along Highland Court on 7.07 acres.
The subject property was originally planned for a total of 8 residential lots per the approved 2005 Masterplan. The 11 acre parcel was never platted and still remains as one metes and bounds property. The applicants recently purchased this property and received approval for a Preliminary Plat by the City Council on January 4, 2024 to configure the property in one large lot. The applicants are now applying for the Final Plat as the final step in the process.
Current Proposal

The applicants are requesting Final Plat approval for a one lot subdivision consistent with the previously approved Preliminary Plat. The applicants must go through this process due to the Woodland Park code stating that a parcel must be a part of an official subdivision prior to receiving a building permint. Simce this is a one lot subdivision located in an area with existing infrastructure, a Subbdivision Development Agreement is not required. Kings Crown Road was constructed previosuly and this one lot suvdivision does not trigger the need for any improvements. There are existing public utilities located in the King sCrown reigh-of-way that have capaacity to service this one lot subdivision.

<u>Analysis of Final Plat and Findings</u>

This final Plat application was reviewed under Title 17 Subdivisions of the City of Woodland Park Muncipal Code. In italics below are the relevant plat and design standards applicable to this Final Plat application followed by a staff analysis.

Complies. The Final Plat design does conform to the preliminary plat. The preliminary plat was approved by the City of Woodland Park City Council on January 4, 2024

17.24.080 Information. *Note: This is lengthy list of technical information required to be contained on the Final Plat and prepared by a licensed professional land surveyor.*
Complies. The applicant has included all required information on the Final Plat.

§17.40.050 – Streets – Frontage. *No subdivision shall be approved unless the area to be subdivided shall have a frontage on an existing street shown upon approved by the planning commission and city council and recorded in the county clerk and recorder's office. Wherever an area to be subdivided is to utilize an existing adjacent street, the subdivider shall be required to improve said street to city specifications.*
Complies. The proposed lot has sufficient frontage.

§17.40.170 – Easements. *Where required, easements for all utilities other than public sewer and water lines shall be a minimum of twenty feet wide, ten feet of which shall be on each side of common rear lot lines where said lines abut. Where the rear lot lines abuts on property outside of the subdivision of which there are no easements provided for of at least ten feet in width, then easement or alley on the rear lot lines in the subdivision shall be at lease twenty foot in width. Side lot easements, where necessary shall be at least ten feet in width, five feet* *of which shall be on each side of a common lot line. Where required, easements for public sewer of water shall be required with the width to be determined in accordance with the city engineering specifications.*

Complies. All proposed easements meet standards set forth in §17.40.170.

§17.40.210 – Lots. *The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots on compliance with the zoning ordinance and in driveway access to buildings on such lots from an approved street.*

Complies. Staff believes that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on the subject property in compliance with the zoning ordinance and in driveway access to buildings on the proposed lot from the existing street.

§17.40.250 – Land use intensity ratios. *Each single family lot resulting from a new subdivision or replat of an existing subdivision shall include a lot coverage standard as permitted in the Table LCS below. Lot coverage is that are of the lot that is covered by a principle building or accessory building. Driveways, decks, and patios are not calculated as part of the lot coverage standard.*

Complies. Each lot shall have a maximum site coverage of 20% of the lot area. Plat note 7 covers this regulation.

§17.36.020 – Park capital fees or dedication of land. *Every major or minor subdivision which is platted for residential use shall pay a park capital fee in the amount established by the city council per resolution for public parks, recreation areas and open space. The city council based upon advisement from the parks and recreation advisory board and subsequent recommendation by the Planning Commission may, at its option subject to policy established by Section 17.36.050 require land dedication on the amount of 0.027 acres per residential unit. In a cluster development, this land shall not count toward the minimum required open space.*

Complies. All open space requirements have been met with the previous developments within the Top of Paradise Master Plan. No open space was included in the original eight-lot subdivision of this parcel. The applicant is not required to dedicate any land for park sites or open space. The City of Woodland Park's Parks and Recreation Board unanimously approved the Kings Crown Final Plat with no recommended conditions.

REFERRALS AND NOTIFICATIONS

Adjacent property owners within 150 feet were mailed a letter notifying them of the submittal of the application as well as all meeting dates including the scheduled Planning Commission and City Council public hearings. The site was posted with public notice posters and notice of the public hearings was published in the Pikes Peak Courier in compliance with the Municipal Code. Staff has received no public comment on the proposal.

Applications were referred to City departments including the City Attorney, the City Manager, the City Clerk, Utilities, Public Works, Police Department, Planning and Building and external agencies including Northeast Teller County Fire Protection District, Black Hills Energy, Core Electric, Colorado Department of Transportation, Century Link/Lumen, and TDS Telecom.

PARKS AND RECREATION BOARD RECOMMENDATION

Consistent with the requirement of City Code Section 17.24.040, The Parks and Recreation

Advisory Board (PRAB) reviewed the proposed plat at their February 7, 2024. PRAB unanimously (7-0) approved the Kings Crown Final Plat with no recommended conditions.

PLANNING COMMISSION RECOMMENDATION
The Planning Commission held a public hearing on March 28, 2024 (draft minutes attached). After consideration of the staff report and comments made at the public hearing, the Planning Commission unanimously recommended City Council approve the Kings Crown Final Plat to plat 11.3 acres into one lot.

Following Gate's report, Gates introduced the applicants Faile and Terrence O'Malley.

Mayor Case opened the public comment portion of the public hearing. There being no public comment Mayor Case closed the public comment portion of the the public hearing and the following motion was made.

Motion: to approve a request by Terrence and Fadile O'Malley for a Final plat to plat 11.3 acres into one lot. The subject property is located east of the intersection of Pondersoa Way and Kings Crown Road, lying in the center of Paradise Estatres Filing #3 and #4 -Paradise Ranch Addition in the Suburban Residentail zone. Geer/Smith. Motion carried 5-0 with Councilmember Jones recusing himself from the vote.

B. Request by Kevin Kofford (applicant) and Craig O’Boyle, Go Beyond, LLC (Property Owner) for approval of a 2-year extension of the approved Pines at Stone Ridge portion of the Stone Ridge Village Planned Unit Development (PUD) and a one (1) year extension of the approved Pines at Stone Ridge preliminary plat for 49 townhomes and 20 patio homes on the 9.01± acre tracts located southeast of Ridgestone Drive and Research Drive. (QJ) (Presenter Senior Planner CJ Gates)

Prior to the introduction of this item on the Council agenda, Councilmember Jones recused himself from this hearing as he voted on this request when he was a Planning Commissioner. City Planner CJ Gates reviewed his Staff Report with the Council regarding this request.

BACKGROUND
Annexation of the 200-acre Stone Ridge Village property was approved by City Council on July 18, 2002. Two years later, a PUD zone district was established with approval of a PUD Final Development Plan and Preliminary Plat. Stone Ridge PUD is a unique blend of single-family residential neighborhoods, a variety of multi-family units, commercial tracts for offices, churches, institutional uses and neighborhood services with more than 51 acres of public open space.

The Preliminary Plat and PUD Final Development Plan were approved March 18, 2004. Stone Ridge Village Filings No. 1 and No. 2 were approved October 5, 2006 with 71 single-family lots. Stone Ridge Village Filing No. 3 was approved on September 21, 2017, with 28 lots on 11.87 acres. Stone Ridge Village Filing No. 4 was approved on July 18, 2019, with 21 lots 9.44 acres. Most recently, Stone Ridge Village Filing No. was approved by City

Council on April 20, 2023. Filing 5 consisted of a total of 18 single-family lots.

The original preliminary plat for this development, Pines at Stone Ridge, was originally designed with a 50' access and utility easement between two Tracts (A & F) and the approved uses allowed for a total of 77 dwelling units with 58 apartment units on Tract A and 19 patio homes on Tract F. In 2022, the applicant applied for a PUD amendment to change the uses for this area. The modifications to the previous approved PUD were to allow townhomes instead of apartments; an integrated design with 20 patio homes and 49 townhouses intermixed; two entrances from Ridgestone Drive with an internal road that loops through the property; and the open space is changed from a linear strip on the perimeter of each Tract to a larger central area with several smaller areas and trail connections. Lot sizes for patio homes are a minimum of 3,581 SF with the average being 4,672 SF; townhomes have a minimum lot size of 1,862 SF with an average of 2,452 SF. The anticipated building footprints are 2,185 SF for patio homes and 1,287 SF for townhomes. This application was approved by Planning Commission on April 14, 2022.

Since the initial approval of the new preliminary plat, on January 16, 2024 the City of Woodland Park Planning department issued Grading and Infrastructure Zoning Development Permits for the subject property.

Extensions of PUD plans and preliminary plats are governed by the following Code sections:

Pursuant to Municipal Code §18.30.050 Time limit to begin construction—Extension:

A. A time period of two years, beginning with the approval of the required detailed PUD plan, shall be required. Failure to begin construction within this two-year period shall void the plan as approved, unless a request for extension of time is granted by the city planning commission.

B. Application for extension of time shall be made to the planning commission and shall be accompanied by such evidence as is necessary to show substantial need, and shall be made before the two-year expiration date. The planning commission will hold at least one public hearing on the request and if, from the evidence submitted, the commission finds that an extension is warranted, a recommendation will then be made to the city council. If the council concurs with the recommendation of the commission, it may then by resolution grant the extension.

Pursuant to Municipal Code §17.20.090 – Approval – Extension:

Approval of the preliminary plat shall be valid for no longer than twenty-four months. One-year extensions of time may be applied for in writing to the planning commission. Submission of the final plat extends approval of the preliminary plat until the final plat is acted upon. All, or any portion of an approved preliminary plat, may be submitted for final plat purposes. In the case of partial submission, the approval of the remaining portion of the preliminary plat shall automatically gain an extension of one year before another phase of the plat must be submitted in final form. (Ord. 327 § 2 (Sec. 2(C) (9)), 1984)

On January 23, 2024 the City of Woodland Park Planning Department received an application from the applicant and property owner to extend the approved Preliminary Plat and Planned Unit Development. If this extension request is approved, the PUD will expire on April 14, 2026 and the Preliminary Plat will expire April 14, 2025.

REFERRALS AND NOTIFICATIONS

Adjacent property owners within 150 feet were mailed a letter notifying them of the submittal of the application as well as all meeting dates including the scheduled Planning Commission public hearing. Staff has received no written comments regarding this extension proposal.

The application was referred to the City Utilities/Public Works Director, the City Attorney, the City Inspector, the City Engineer, and the City Manager as well as external referral agencies including CORE, Black Hills Energy, CDOT, North East Teller County Fire Protection District (NETCFPD), and the City of Woodland Park Police Department.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission held a public hearing on March 28, 2023 (draft minutes attached). After consideration of the staff report and comments made at the public hearing, Planning Commission recommend that City Council grant the two-year extension of the Planned Unit Development and the one-year extension of the Preliminary Plat, and that the approving resolution should clearly state that the development is still subject to all of the conditions and dimensional standards specified with the original approval.

STAFF FINDINGS

As there are no regulations to assess, staff does not have a position or recommendation on this extension request.

If the City Council finds that an extension is warranted and grant the two-year extension of the Planned Unit Development and the one-year extension of the Preliminary Plat, then the approving resolution should clearly state that the development is still subject to all of the conditions and dimensional standards specified with the original approval.

Following the conclusion of Gates presentation, Mayor Case opened the public comment portion of the public hearing. There was no one signed up for public comment and Mayor Case opened up the public comment portion to the audience. Carmen Rhoda shared some concerns she had about the development. There being no further public comment, Mayor Case closed the public comment portion of the public hearing. There being no Council discussion the following motion was made.

Motion: to approve a request by Kevin Kofford and Criag O'boyle for an approval of a 2 year extension for the Pines at Stone Ridge portion of the Stone Ridge Village Planned Unit Developoment and a one year extension of the approved Pines at Stone Ridge preliminary plat for 49 townhomes and 20 patio homes on the 9.01 acre tracts located southwest of Ridgestone Drive and Research Drive. Geer/Baldwin. Motion carried 5-0 with Councilmember Jones recusing himself.

C. Public Hearing for Ordinance No. 1473, Series 2024 an Ordinance Adjusting Expenditure Appropriations to the Various Funds, in the Amounts and for the Purpose as Set Forth Below, for the City of Woodland Park, Colorado for the 2024 Budget Year, and Amending Ordinance No. 1466, Series 2023.

City Manager Vassalotti asked the Council to continue this ordinance until he receives clear direction from the DDA on how to proceed with the $150,000 grant to NETCO.

Motion: to continue the public hearing for Ordinance No. 1473, Series 2024, an Ordinance Adjusting Expenditure Appropriations to the Various Funds, in the Amounts and for the set forth for the City of Woodland Park 2024 Budget, Amending Ordinance No. 1466, Series 2023 to the May 16, 2024, City Council meeting. Geer/Nakai. Motion carried 6-0.

10. NEW BUSINESS
(Public comment may be heard)

11. REPORTS
(Public comment not necessary)

A. Mayor's Report

Mayor Case reviewed the upcoming events for the next two weeks with the Council.

B. Council Reports

Councilmember Baldwin shared that the City would be closing on the Avenger Open Space property on Friday.

Councilmember Geer thanked the Community Partnership for their presentation this evening and the Summer Fest they had over the weekend. Geer also congratulated Nakai on her appointment as Mayor Pro-tem. Geer also shared that Parks and Recreation needs umpires and scorekeepers.

Councilmember Jones also shared thanks to the Community Partnership for their Summer Fest. Jones shared that there were over 200 families registered for the event and it was a huge success.

Councilmember Smith shared that the Teller County Free Masons were offering up 4 scholarships for local students to attend a marching band camp.

C. City Attorney's Report

City Attorney Wilson shared the following information with the Council:

Lawsuit

- At the last meeting, the public was informed about the lawsuit filed against the City by the "Teller County Short-Term Rental Alliance,: an unincorporated association
  - We do not know yet who the members of this group, or who the individual plaintiffs, are
- CIRSA, the City's self-insurance pool, has retained Andrew Ringel, from Hall & Evans (a law firm in Denver) as our litigation defense counsel on this matter
- Our special counsel litigation attorney waived and accepted service on April 16, 2024
  - That means the City now has 21 days after April 16h, which is May 7th, to answer the Complaint or otherwise submit responsive pleadings

Executive Sessions

► That leads me to explain generally about the purposes for Executive sessions. They are an exception to general philosophy of openness in the Open Meetings Law, also known as the Sunshine Laws. It is the executive session of the City Council. The Mayor and City Council are the only required members to ….

► The policy basis for executive sessions is the recognition that the *public* interest can best be served if certain specified matters are discussed in private.

► The Open Meetings Law, within the Colorado Revised Statutes, specifies the limited permitted basis for executive sessions. Items include legal advice from the attorney, discussion of real estate transactions, personnel matters and instructing negotiators.

► No final decisions can be made within executive session. OML is clear on this. Any final decisions must made within public meeting.

D. City Manager's Report

City Manager Vassalotti shared a Sales Tax update with the Council.

12. ADJOURNMENT

The time being 8:11 PM and there being no further City business Mayor Case adjourned the City Council meeting.

Respectfully submitted:

Suzanne Leclercq MMC, City Clerk

APPROVED THIS ____ DAY OF _________,2024

Kellie Case, Mayor

City Council
Agenda Item 5.B.
May 2, 2024

STAFF REPORT

TO: Mayor Case and City Council

FROM: Cindy Keating, Parks and Recreation Director

DATE: May 2, 2024

SUBJECT: Approval of the Great Outdoors Colorado Grant Agreement for Avenger Open Space. (A)
(Presenter Parks and Recreation Director Keating)

BACKGROUND: On March 15, 2024, the Great Outdoors Colorado Board of Directors awarded the Grant Application for the Avenger Open Space Land Acquisition submitted by the City of Woodland Park. One requirement of receiving the grant funding is agreeing to and signing the Grant Agreement.

Attached you will find the Great Outdoors Colorado Grant Agreement for the Mayor's signature, the GOCO Grant Resolution 910, Series 2023 and The GOCO Application Budget.

RECOMMENDATION: Staff recommends signing the Great Outdoors Colorado Grant Agreement.

ATTACHMENTS:
1. Application Budget
2. 24103 Grant Agreement_4.10.24 (1)
3. Resolution 910 Series 2023 (1)

PROJECT BUDGET & DETAILS

APPLICATION SCOPE OF WORK

Source of Funds (CASH)	Date Secured	GOCO Funds	Matching Funds
		$523,250.00	
City of Woodland Park			$150,000.00
Community Investor			$20,000.00
Community Fundraising			$60,000.00
Source of Funds (IN-KIND)			
[Applicant]			
[Partner Source]			
[Partner Source]			
	subtotal	$523,250.00	$230,000.00
TOTAL SOURCE OF FUNDS			**$753,250.00**

Use of Funds (CASH)	Description	GOCO Funds	Matching Funds	Total Funding
Category				
vendor/service provider	Land Acquisition	$523,250.00	$126,750.00	$650,000.00
Due Diligence				
Rare Earth Science, LLC	Baseline Documentation Report		$9,000.00	$9,000.00
Title Company	Title Insurance (owner $2,000; Cons Easement $1,500)		$3,500.00	$3,500.00
Title Company	Closing Costs		$500.00	$500.00
Rare Earth Science, LLC	Mineral Assessment Rpt, Geologists Remoteness Ltr		$5,000.00	$5,000.00
Rare Earth Science, LLC	Environmental Assessment		$3,250.00	$3,250.00
Ascent Valuation	*Appraisal*		$2,500.00	$2,500.00 2500
Wilson Williams LLP	*Attorney*		$15,000.00	$15,000.00
	Mapping		$2,500.00	$2,500.00
Rocky Mountain Land Services	Survey		$12,000.00	$12,000.00
Land Trust Fees				
Palmer Land Conservancy	Project Coordinator Fee		$15,000.00	$15,000.00
Palmer Land Conservancy	Stewardship Contribution		$35,000.00	$35,000.00
	subtotal	*$523,250.00*	*$230,000.00*	*$753,250.00*

Use of Funds (IN-KIND)	Description	Matching Funds
Category		
vendor/service provider		$0.00
Category		
vendor/service provider		$0.00
Category		
vendor/service provider		$0.00
Category		
vendor/service provider		$0.00
	subtotal	*$0.00*

		GOCO Funds	Matching Funds
	subtotal	*$523,250.00*	*$230,000.00*
TOTAL USE OF FUNDS*			**$753,250.00**

** The Total Use of Funds must equal the Total Source of Funds in the section above.*

OTHER LEVERAGED RESOURCES (OPTIONAL)

CASH OR IN-KIND	Description	Total Funding
Category		
vendor/service provider		$0.00
Category		
vendor/service provider		$0.00
Category		
vendor/service provider		$0.00
Category		
vendor/service provider		$0.00
Category		
vendor/service provider		$0.00
	subtotal	*$0.00*

TOTAL PROJECT VALUE		**$753,250.00**
	GOCO % of project cost	*69%*
	GOCO % of project value	*69%*

GRANT AGREEMENT

Project Name:	Avenger Open Space
Project Completion Date:	March 13, 2028
Contract Number:	24103

PARTIES TO AGREEMENT

Board/GOCO:	The State Board of the Great Outdoors Colorado Trust Fund
Address:	1900 Grant Street, Suite 725, Denver, CO 80203
E-mail Address:	kcavaleri@goco.org
Contact Name:	Keli Cavaleri
Telephone:	303-226-4521
Grantee:	City of Woodland Park
Address	P.O. Box 9007, Woodland Park, Colorado 80866
E-mail Address	ckeating@city-woodlandpark.org
Contact Name:	Cindy Keating
Contact's Phone:	719-687-5211
Date:	April 8, 2024

EXHIBITS

Exhibit A	Project Summary
Exhibit B	Resolution
Exhibit C	Approved Budget
Exhibit D	Due Diligence Checklist
Exhibit E	Special Terms

RECITALS

A. The State Board of the Great Outdoors Colorado Trust Fund ("GOCO" or "Board") is a political subdivision of the State of Colorado, created by Article XXVII of the Colorado Constitution, adopted at the November 1992 General Election, which article appropriates a portion of the net proceeds of the Colorado Lottery to GOCO and directs GOCO to invest those proceeds in the state's parks, wildlife, open space, and recreational resources.

B. GOCO created grant programs pursuant to which eligible entities can apply for grants for a variety of outdoor projects. Grantee or Grantees listed above ('Grantee') submitted a detailed project application ('Project Application') that contemplates the execution of the project (the 'Project') entitled above and described in GOCO's project summary ('Project Summary'), attached and incorporated as Exhibit A.

C. GOCO approved Grantee's Project Application, which is incorporated into this Agreement by reference, on March 15, 2024, subject to the execution of a detailed grant agreement. GOCO and Grantee each have on file a copy of the Project Application.

D. The parties intend this Grant Agreement (this "Agreement") to be the detailed grant agreement required by GOCO.

AGREEMENT

NOW, THEREFORE, in consideration of the parties' mutual covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SECTION 1 – PROJECT

1. Incorporation of Recitals. The Recitals set forth above are incorporated into this Agreement.

2. Representations and Warranties of Grantee. Grantee is a Government, duly organized in accordance with the laws of Colorado and has full and lawful authority to enter into, and comply with the terms of, this Agreement. Grantee's governing body has authorized entering into this Agreement as evidenced by the resolution attached and incorporated as Exhibit B.

3. Grant and Project. GOCO awards to Grantee a grant in the amount not to exceed $523,250.00 ("Grant"), subject to the terms and conditions set forth in this Agreement. The Grant shall be used by Grantee solely to complete the Project as approved by GOCO and as described in the Project Application and the Project Summary. In the event of a conflict between the Project Application and the Project Summary, the parties shall resolve the conflict by mutual agreement.

4. Project Scope. Grantee shall not materially modify the Project without the prior written consent of the Executive Director of GOCO ("Executive Director") or the Executive Director's designee, such approval to be in GOCO's sole discretion. Any material modification to the

Project undertaken without GOCO's prior written consent shall be deemed a breach of this Agreement, entitling GOCO to all remedies available under this Agreement. As provided in Paragraph 15 of this Agreement, if Grantee determines with reasonable probability that the Project will not or cannot be completed as described in the Project Application and the Project Summary, Grantee shall promptly notify GOCO and shall cooperate with GOCO in good faith to seek a resolution before any further funds are disbursed.

5. Grantee Efforts. Grantee agrees to use its best efforts to complete the Project in a timely fashion and consistent with this Agreement described in the Project Application and the Project Summary.

6. Approved Budget. Grantee has completed a detailed budget that reflects anticipated sources and uses of funds for the Project, including an accounting of Grantee's anticipated costs associated with elements of the Project, a copy of which is attached and incorporated as Exhibit C ("Budget"). Eligible costs are described in Paragraph 9 of this Agreement. The Project Application contains a budget that may not match the Budget attached as Exhibit C and which, therefore, the parties shall not rely upon. Where discrepancies exist, the Budget in Exhibit C shall control unless the Executive Director or the Executive Director's designee approves an updated version of the Budget in writing. Any such updated version of the Budget shall replace the version of the Budget in Exhibit C.

7. Waiver. Prior to the disbursement of funds, the Executive Director in their discretion may waive certain conditions set forth in this Agreement. Anything else to the contrary notwithstanding, the exercise by GOCO staff ("Staff"), the Executive Director, or GOCO of any right or discretion reserved to them under this Agreement shall not be deemed a waiver. Furthermore, no waiver by them under this Agreement shall constitute a waiver of any other requirements, actions, or conditions, nor shall any waiver granted be deemed a continuing waiver. No waiver by the Staff, the Executive Director, or GOCO shall be effective unless in writing executed by them. Additionally, any failure by the Staff, the Executive Director, or GOCO to take any actions as set forth in this Agreement shall have no legal effect on the contractual duties of Grantee. Further, no waiver with respect to this Project, Grant, or Agreement shall constitute a waiver in any other GOCO-funded project.

8. Future Funding. This Agreement and the Grant only apply to the Project specifically described in this Agreement. GOCO makes no representations regarding future funding for future phases of the Project, whether or not described in the Project Application, Project Summary, or otherwise.

SECTION 2 – GRANT PAYMENT

9. Eligible Costs. The Grant and all matching funds, whether cash or in-kind, shall be used only for eligible expenses approved by GOCO in the Budget; these costs are eligible for reimbursement on the basis of costs actually incurred by Grantee. If the Project includes a property acquisition, which may include acquisition of a fee simple interest or any type of easement, the purchase price of the property may not exceed the fair market value of the property as established by an appraisal.

10. Payment of Grant.

A. *General Terms.* Payment of the Grant is subject to the Project being completed with no material modifications made, except as otherwise consented to in advance by GOCO in accordance with this Agreement. The Grant will not be increased, but GOCO may reduce the Grant if the Project changes in any way that GOCO deems material. It is the sole responsibility of Grantee to inform GOCO of, and receive GOCO's written consent to, any material modifications to the Project. GOCO strongly encourages Grantee to contact GOCO in writing when it becomes aware of or wishes to make any modifications, however seemingly minor, to the Project.

B. *Specific Terms.* For property and property interest acquisitions, GOCO prefers to wire Grant funds to the real estate closing and will only do so after completing a due diligence materials review to GOCO's satisfaction in its sole discretion. GOCO will release Grant funds in portions if the Project is completed in phases (i.e., more than one transaction), according to GOCO's determination of how the proportionate acreage, project cost, and project value relates to the overall Project and Grant.

Grantee acknowledges that any acquisition of a property interest prior to fulfillment of the terms and conditions of this Agreement and the disbursement of funds by GOCO is undertaken at Grantee's sole risk and may cause a forfeiture of the Grant. Anything else in this Agreement or otherwise to the contrary notwithstanding, the Grant is expressly conditioned upon Grantee's fulfillment of all terms and conditions of this Agreement to GOCO's satisfaction in its sole discretion.

11. Net Lottery Proceeds. Payment of the Grant is subject to GOCO's determination in its sole discretion that it has received and has available sufficient net lottery proceeds to fund the Grant and that Grantee has complied with this Agreement, including Grantee's fulfillment of all conditions precedent to funding. In determining the sufficiency of net lottery proceeds, GOCO may consider all facts and circumstances as it deems necessary or desirable, including but not limited to adequate reserves, funding requirements, and/or commitments for other past, current, and future grants, and past, current, and future GOCO operating expenses and budgetary needs.

12. GOCO Review. GOCO shall have 30 days to review any progress or final report or other request and respond to Grantee, unless the Grant or portion thereof is for a property acquisition where grant reports are deemed inapplicable.

13. Withdrawal of GOCO Funding; Termination of Agreement. Anything in this Agreement to the contrary notwithstanding, with prior notice to Grantee, GOCO reserves the right to withhold or withdraw all or a portion of the Grant, to require a full or partial refund of the Grant, and/or to terminate this Agreement if GOCO determines in its sole discretion that:

A. *Altered Expectations*. Facts have arisen or situations have occurred that fundamentally alter the expectations of the parties or make the purposes for the Project or the

Grant presented in the Project Application and described in the Project Summary infeasible or impractical;

B. *Material Project Changes*. Material changes in the scope or nature of the Project have occurred from that which was presented in the Project Application, and reflected in the Project Summary, without prior written approval of the Executive Director or the Executive Director's designee;

C. *Inaccuracies*. Any statement or representation made or information provided by Grantee in the Project Application, this Agreement, grant report documents, due diligence materials, or otherwise is untrue, inaccurate, or incomplete in any material respect;

D. *Reporting.* Grant reports (if applicable) or due diligence materials (if applicable) are not acceptable to GOCO;

E. *Conditions Precedent Not Fulfilled or Unsatisfactory*. Any of the conditions precedent to funding listed in Section 3 below is not fulfilled by Grantee or is unsatisfactory to GOCO, in its sole discretion;

F. *Delays*. The Project will not or cannot be completed by the Completion Date, as defined below, or any extensions granted, or delays in the implementation of the Project have occurred that make the Project impracticable in the Board's judgment; or

G. *Costs*. The Project will not or cannot be completed within the Budget including such modifications to the Budget as have been approved in writing by GOCO.

SECTION 3 – CONDITIONS PRECEDENT

14. Completion Date. Grantee shall complete the Project no later than March 13, 2028 ("Completion Date"). Grantee may request an extension of the Completion Date in compliance with GOCO's policies and procedures, as such policies and procedures may be amended from time to time by GOCO in its sole discretion. GOCO may elect to terminate this Agreement and deauthorize the Grant in the event the Completion Date is not met and/or Grantee fails to comply with GOCO's extension procedures.

15. Grantee's Inability to Complete Project. If Grantee determines with reasonable probability that the Project will not or cannot be completed as approved by GOCO, Grantee will promptly advise GOCO in writing. Upon written request by Grantee, as a possible alternative to termination of the Grant, GOCO may consider funding an alternative project scope. Any alternative scope must meet GOCO eligibility requirements and applicable policies and procedures must be approved by GOCO in writing, and shall be subject to this Agreement and incorporated herein.

16. Conditions Precedent to Funding. Anything else in this Agreement or otherwise to the contrary notwithstanding, the Grant is expressly conditioned upon Grantee's fulfillment of all

terms and conditions of this Agreement to GOCO's satisfaction in its sole discretion, including but not limited to the following:

A. *Matching Funds.* Matching funds in the minimum amount required by GOCO policy or procedure, or as modified and approved in compliance with GOCO procedures, must have been received by Grantee, or Grantee must have disclosed the status of Grantee's efforts to secure matching funding to the Staff and such efforts must have been deemed satisfactory by Staff. Grantee shall provide evidence of matching funds as GOCO may require in its reasonable discretion.

B. *GOCO Policies and Procedures.* The Project must comply with all of GOCO's policies and procedures, which may be amended from time to time by GOCO in its sole discretion, and must meet any special Board conditions as listed in the attached Project Summary (<u>Exhibit A</u>).

C. *Due Diligence.* If the Project includes the acquisition of property or a property interest, including any type of easement, Staff shall conduct a due diligence review of the Project, the results of which must be satisfactory to GOCO in its sole discretion. Grantee shall assist and cooperate with Staff in conducting the due diligence review and shall provide the information or documentation specified in the Due Diligence Checklist, as well as other documentation and/or information Staff shall reasonably request. The Due Diligence Checklist is attached and incorporated as <u>Exhibit D</u> and may be amended from time to time by GOCO in its sole discretion.

SECTION 4 – OTHER PROVISIONS

17. <u>Additional Terms for Certain Grants</u>. If the Grant is a stewardship grant, a capital construction grant, and/or a grant that is made to acquire an interest in real property the special terms attached and incorporated as <u>Exhibit E</u> shall apply to the Grant.

18. <u>Publicity and Project Information</u>. GOCO has the right and must be provided the opportunity to use information gained from the Project; therefore, Grantee shall acknowledge GOCO funding in all news releases and other publicity issued by Grantee concerning the Project. If any events are planned in relationship to the Project, GOCO shall be acknowledged as a contributor in the invitation for the event. GOCO shall be notified of any such events 30 days in advance. Grantee shall cooperate with GOCO in preparing public information pieces, providing access to the property for publicity purposes (to the extent allowed by the landowner if the Project entails a conservation easement on a privately-owned property), and providing photos or other imagery of the Project from time to time, which GOCO reserves the right to use and duplicate in any print or electronic publication or platform for publicity, illustration, advertising, web content, and other purposes at any time without the need to seek pre-approval from Grantee. To the extent practicable, Grantee shall give timely notice of the Project, its inauguration, significance, and completion to the local members of the Colorado General Assembly and members of the board of county commissioners of the county or counties in which the Project is

located, as well as to other appropriate public officials. At no time shall Grantee represent in any manner to the public or to any party that it is affiliated with GOCO or acting on behalf of GOCO.

19. Signage. Grantee shall erect one or more permanent signs at a prominent and visible location approved by GOCO on the Project site identifying the Project to the public and acknowledging the assistance of Great Outdoors Colorado and the Colorado Lottery. The signage shall be erected *unless* GOCO approves a waiver requested by the Grantee. GOCO will provide such signs at no cost to Grantee. Alternatively, GOCO will provide reproducible samples of its logo to Grantee for custom signs. GOCO must approve in advance the design of any permanent sign materially varying from the signs provided by GOCO. To obtain such approval, Grantee shall submit to GOCO plans describing the number, design, placement, and wording of signs and placards prior to their placement.

20. Liability.

A. *Liability*.To the extent allowed by law, Grantee shall be responsible for any and all liabilities, claims, demands, damages, or costs (including reasonable attorneys' fees) resulting from, growing out of, or in any way connected with or incident to Grantee's performance of this Agreement (with the exception of potential claims between GOCO and Grantee relating to performance of this Agreement). Grantee agrees that GOCO shall not be liable or responsible for any such liabilities resulting from, growing out of, or in any way connected with or incident to Grantee's performance of this Agreement. Grantee waives any and all rights to any right of contribution from the State of Colorado, GOCO, its members, officers, agents, or employees for any liability resulting from, growing out of, or in any way connected with or incident to this Agreement.

B. *No CGIA Waiver*. No term or condition of this Agreement shall be construed or interpreted as a waiver, either express or implied, of any of the immunities, rights, benefits or protections provided to GOCO under the Colorado Governmental Immunity Act as amended or as may be amended in the future (including without limitation any amendments to such statute, or under any similar statute that is subsequently enacted) ("CGIA"). This provision may apply to Grantee if Grantee qualifies for protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq. GOCO and Grantee understand and agree that liability for claims for injuries to persons or property arising out of the negligence of GOCO, its members, officials, agents, and employees may be controlled and/or limited by the provisions of the CGIA. The parties agree that no provision of this Agreement shall be construed in such a manner as to reduce the extent to which the CGIA limits the liability of GOCO, its members, officers, agents, and employees.

C. *Compliance with Regulatory Requirements and Federal and State Mandates*. Grantee assumes responsibility for compliance with all regulatory requirements in all applicable areas, including but not limited to nondiscrimination; worker safety; local labor preferences; preferred vendor programs; equal employment opportunity; use of competitive bidding; permits; approvals; local, state, and federal regulations and environmental laws; and other similar requirements. To the maximum extent permitted by law, Grantee agrees to indemnify, defend, and hold harmless GOCO, Executive Director, and Staff from any cost, expense, or liability for any failure to comply with any such applicable requirements.

D. *Nondiscrimination*. During the performance of this Agreement, Grantee and its contractors, subcontractors, and agents shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, sex, or any other basis prohibited by local, state, or federal law. Grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Further, Grantee and anyone acting on behalf of Grantee shall not engage in any unlawful discrimination in permitting access to and use of the Project.

21. Audits and Accounting Records. Grantee shall maintain standard financial accounts, documents, and records relating to any expenses incurred for the Project. Grantee shall retain the accounts, documents, and records related to the Project for five years following the date of Project completion ("Record Retention Period"). If there is any pending litigation, claim, or ongoing audit related to the Project that commences before but exceeds the five-year Record Retention Period and GOCO provides notice to Grantee, Grantee shall retain the accounts, documents, and records related to the Project until the litigation, claim, or ongoing audit concludes. The accounts, documents, and records related to the Project shall be subject to examination and audit by GOCO or its designated agent during this period. All accounts, documents, and records described in this paragraph shall be kept in accordance with generally accepted accounting principles.

22. Breach. In addition to other remedies that may be provided in this Agreement or that may be available at law or in equity, in the event that Grantee breaches any of the terms or conditions of this Agreement, GOCO shall have the following non-exclusive remedies:

A. *Prior to Payment of Grant*. GOCO reserves the right to withdraw funding, terminate this Agreement, and/or deny Grantee eligibility for participation in future GOCO grants, loans, or projects.

B. *After Any Payment of Grant*. GOCO reserves the right to seek specific performance of Grantee's obligations under this Agreement; receive reimbursement in full of any disbursements made under the Grant, including if Grantee does not fulfill its obligations to operate, manage, and/or maintain a capital improvement due to lack of annual appropriations (if applicable); and/or deny Grantee eligibility for participation in future GOCO grants, loans, or projects. GOCO has the right to disallow costs and recover funds based on audits, litigation, claims or other review made within the Record Retention Period.

In the event GOCO must pursue any remedy under this Agreement and is the substantially prevailing party, GOCO shall be awarded its costs and reasonable legal fees, including costs of collection.

23. GOCO Policies and Procedures. Grantee acknowledges it has received a copy of the GOCO policies and procedures or otherwise has access to applicable policies and procedures of GOCO in connection with this Agreement and is familiar with their requirements.

24. Miscellaneous Provisions.

A. *Good Faith*. The parties have an obligation of good faith, including the obligation to make timely communication of information that may reasonably be believed to be of interest to all other parties.

B. *Assignment*. Grantee may not assign its rights or delegate its obligations under this Agreement without the express written consent of the Executive Director or the Executive Director's designee, who has the sole discretion to withhold consent to assign. Any assignment shall require that, at a minimum, the assignee is eligible to receive grants from the Board, or otherwise receives express permission from the Board to act as assignee, and assumes Grantee's ongoing obligations under this Agreement.

C. *Applicable Law*. Colorado law applies to the interpretation and enforcement of this Agreement. Venue for any dispute under this Agreement shall lie exclusively in the state courts of the City and County of Denver.

D. *No Joint Venture*. Nothing in this Agreement shall be construed to create a joint venture, partnership, employer/employee, or other relationship between the parties other than independent contracting parties. Except as permitted under the remedies provisions of this Agreement, no party shall have the express or implied right to act for, on behalf of, or in the name of any other party.

E. *Status of Grantee*. The parties acknowledge that GOCO lacks the power and right to direct the actions of Grantee. Grantee acts in its separate capacity and not as an officer, employee, or agent of GOCO.

F. *Time is of the Essence*. Time is of the essence in this Agreement.

G. *Survival*. The terms and conditions of this Agreement, including but not limited to Grantee's obligations, shall survive the funding of the Grant and the completion of the Project.

H. *Counterparts*. This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which when taken together shall constitute one agreement. In addition, the parties agree to recognize signatures to this Agreement made electronically and transmitted electronically or by facsimile as if they were original signatures.

I. *Third-Party Beneficiary*. GOCO and Grantee acknowledge and agree that this Agreement is intended only to cover the relative rights and obligations between GOCO and Grantee and that no third-party beneficiaries are intended. Notwithstanding the preceding statement, GOCO and Grantee acknowledge that: (1) GOCO is intended to be and is a third-party beneficiary of any real property covenants and terms of any use restriction and real property interest in any use restriction that GOCO funds and (2) in some circumstances a third party may benefit from this Agreement if the Grantee assigns the Project or if a third party will hold a use restriction.

J. *Notice*. Any notice, demand, request, consent, approval, or communication that any party desires or is required to give shall be in writing and shall be deemed to have been given to the other party when (a) hand-delivered; (b) sent by e-mail to the e-mail address listed on Page 1 of this Agreement (with a copy of such notice delivered by hand or deposited in the United States mail (registered or certified mail, postage prepaid, return receipt requested) or by reputable delivery service (return receipt or delivery tracking requested)); or (c) sent by a nationally-recognized overnight courier service to the street address listed on Page 1 of this Agreement.

K. *Construction; Severability*. The parties have reviewed this Agreement, and therefore any rules of construction requiring that ambiguities be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement. If any provision in this Agreement is found to be ambiguous, an interpretation consistent with the purpose of this Agreement that would render the provision valid shall be favored over any interpretation that would render it invalid. If any provision of this Agreement is declared void or unenforceable, it shall be deemed severed from this Agreement, and the balance of this Agreement shall otherwise remain in full force and effect.

L. *Entire Agreement*. Except as expressly provided, this Agreement constitutes the entire agreement of the parties. No oral understanding or agreement not incorporated in this Agreement shall be binding upon the parties. No changes to this Agreement shall be valid unless made in writing and signed by the parties to this Agreement.

M. *Termination of the Board*. If Article XXVII of the Colorado Constitution, which established GOCO, is amended or repealed to terminate GOCO or merge GOCO into another entity, the rights and obligations of GOCO under this Agreement shall be assigned to and assumed by such other entity as provided by law, but, in the absence of such direction, by the Colorado Department of Natural Resources or its successor.

IN WITNESS WHEREOF, the parties by signature below of their authorized representatives execute this Agreement effective as of ________________.

STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND	GRANTEE:
By:	By: City of Woodland Park
Jackie Miller	Name:
Title: Executive Director	Title:

GOCO Program Staff:
Route Grant Agreement to Executive Director for signature:
Name: Keli Cavaleri
Title: Grants Officer, Land Protection

EXHIBIT A

Project Summary

Funding will help the City of Woodland Park acquire 120 acres near Kings Crown Road. This purchase aligns with the City of Woodland Park's Parks, Recreation, Trails, and Open Space Master Plan that calls for conserving high-value open space and developing trails and trail corridors. The effort will preserve critical natural areas under threat of commercial development, maintain the land's ecological health, and ensure continued public access for outdoor recreation. In addition, funding will support the City in developing a comprehensive trail system that will enhance outdoor recreational opportunities for the community.

The property, once used for mining, is currently under private ownership. However, the public recreates on the property through a system of informal, social trails. By purchasing and creating the Avenger Open Space, the City of Woodland Park can keep this popular area open to the public and formalize a sustainable trail system. Avenger Open Space will connect trails to the adjacent Paradise Open Space and there are future opportunities to formalize trails into the surrounding National Forest. The conservation easement will be held by the Palmer Land Conservancy to ensure this valuable open space and natural resource benefits future generations.

EXHIBIT B
Resolution

EXHIBIT C
Approved Budget

EXHIBIT D
Due Diligence Checklist
for a Great Outdoors Colorado
Open Space Acquisition Project

Please see Great Outdoors Colorado's current *Instructions for GOCO's Open Space Grant Application* and *Land Acquisition Procedures* for a detailed description of these documents and why GOCO requires them.

These documents are required **prior to** closing and the disbursement of GOCO's funds:

Within 60 days after grant award:
1) Signed Grant Agreement
2) Resolution authorizing grantee to execute Grant Agreement

At least 90 days before closing:
3) Appraisal Guidelines and flowchart signed by grantee and appraiser
4) Signed Purchase or Option Agreement
5) Title Commitment and related documents
6) Water rights due diligence demonstration

At least 60 days before closing:
7) Draft Conservation Easement
8) Survey (if necessary)
9) Environmental Site Assessment
10) Geologist's Mineral Assessment

At least 14 days before closing:
11) Signage Form signed by grantee
12) Final Qualified Appraisal (must receive a positive review from GOCO's reviewer with no outstanding issues)
13) Final Project Budget (marked "Final")
14) Wire Transfer Instructions, Draft Buyer's Settlement Statement, and Closing Documents (including final draft of Warranty Deed(s) for fee title acquisitions)
15) Resolution authorizing grantee to accept property interest (or other proof of authorization)
16) Baseline Documentation Report (provide to GOCO within six months after closing for winter closings or extenuating circumstances)

This document may be submitted after closing:
17) Land Management Plan, if necessary (provide to GOCO within one year)

NOTE: We will make every effort to meet your anticipated closing date. However, please recognize that GOCO requires internal review of all due diligence material and GOCO staff is also reviewing due diligence for other grants. Delays in providing materials to us by the deadlines specified above may prevent us from wiring GOCO funds to meet a specified closing date.

EXHIBIT E

Special Terms: Open Space Property Acquisition (Use Restriction Required)

1. Property. Grantee submitted a detailed Project Application that contemplates the acquisition of full fee title or partial real property interest(s) in that certain real property ("Property") described in the Project Application ("Property Interest").

2. Required Use Restriction. GOCO has determined that a Use Restriction (defined below) is required on the Property.

3. Great Outdoors Colorado Use Restriction. Property acquired with GOCO funds, whether through the acquisition of fee title, conservation easement, or any other technique, shall be held and managed in a manner designed to protect the Property's natural resources, open space, and other conservation values, to prevent any development that would adversely affect such resources and values, and where necessary and appropriate to ensure appropriate public access. This Use Restriction shall be implemented by inclusion of specific language in a conservation easement or, to the extent approved by the Executive Director or designee in their sole discretion, by covenant or other deed restriction sufficient to implement the terms and conditions contained in GOCO's model Deed of Conservation Easement, as may be amended from time to time by GOCO in its sole discretion ("Use Restriction"). Each Use Restriction shall be acceptable to GOCO in form and content and shall identify Grantee or a third party acceptable to GOCO as the holder. In accordance with this requirement, Grantee covenants and agrees as follows:

a) Conservation Easement Form. Grantee shall use GOCO's Use Restriction form or shall incorporate the terms and conditions that are contained in GOCO's Use Restriction form in Grantee's Use Restriction. Grantee shall obtain GOCO approval of the proposed Use Restriction in writing. Grantee acknowledges that GOCO must review and approve a Use Restriction in advance of closing according to the Due Diligence Checklist in Exhibit D. If the Use Restriction was established prior to receipt of a GOCO award, Grantee must be willing to amend the Use Restriction to incorporate any specific terms deemed necessary by GOCO.

b) Subordination to Use Restriction. All liens, encumbrances, or other use restrictions and interests of record that, in GOCO's opinion, are inconsistent with the Use Restriction must be discharged, released, or subordinated to the Use Restriction.

4. Conditions Precedent to Funding. Grantee acknowledges that any acquisition of the Property Interest prior to fulfillment of the terms and conditions of this Agreement and the disbursement of funds by GOCO is undertaken at Grantee's sole risk and may cause a forfeiture of the Grant.

5. Termination of Use Restriction, Disposal of Property. If the Use Restriction is terminated or the Property Interest purchased with the Grant is disposed of, Grantee shall make a proportionate refund to GOCO. The Use Restriction shall contain provisions for calculating any such refund.

6. Post-Completion Requirements.

a) Stewardship. Grantee shall comply with the obligations of GOCO's Stewardship and Organizational Health procedure, as may be amended from time to time by GOCO in its sole discretion.

b) Change of Use. If Grantee, in its reasonable discretion, determines a need for a change in use of the Property Interest acquired with the Grant, Grantee shall notify GOCO in writing of its determination and request a change of use review ("Change of Use Notice and Request"). GOCO will review the Change of Use Notice and Request in accordance with GOCO's procedure for Change of Use for Land Acquisition Projects After Closing, as may be amended from time to time by GOCO in its sole discretion. Within 60 days after submitting the Change of Use Notice and Request, Grantee shall submit to GOCO all documentation required under the procedure for Change of Use for Land Acquisition Projects After Closing and any additional documentation requested by GOCO as a result of its receipt and review of the Change of Use Notice and Request. GOCO in its sole discretion will determine whether to grant, deny, condition GOCO's approval, or delay a decision on the Change of Use Notice and Request.

7. Survival. The terms and conditions of this Agreement, including but not limited to Grantee's obligations, shall survive the funding of the Grant and the acquisition of, and any future conveyance of, the Property Interest by Grantee.

CITY OF WOODLAND PARK, COLORADO
RESOLUTION NO. 910
(Series of 2023)

A RESOLUTION SUPPORTING A GRANT APPLICATION TO GREAT OUTDOORS COLORADO FOR ACQUISITION OF AVENGER OPEN SPACE

WHEREAS, the City of Woodland Park ("City") supports the Great Outdoors Colorado grant application for the Avenger Open Space. And if the grant is awarded, the City supports the completion of the project; and,

WHEREAS, the City has requested $523,250.00 from the Great Outdoors Colorado to acquire the Avenger Open Space; and,

WHEREAS, the acquisition of the Avenger Open Space will allow the City a unique opportunity to preserve and protect land for public use that will allow citizens new outdoor opportunities not currently available within the City;

WHEREAS, further, the acquisition of this land is widely supported by the community and will enhance the City for generations to come.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WOODLAND PARK, COLORADO, AS FOLLOWS:

Section 1. The City Council of the City of Woodland Park strongly supports the application for a grant with Great Outdoors Colorado.

Section 2. If the grant is awarded, the City Council of the City of Woodland Park strongly supports the fulfillment of the project.

Section 3. If the grant is awarded, the City Council of the City of Woodland Park authorizes the Mayor to sign the grant agreement with Great Outdoors Colorado.

Section 4. If the grant is awarded, the City Council of the City of Woodland Park authorizes the expenditure of funds necessary to meet the terms and obligations of the grant agreement.

Section 5. If the grant is awarded, the City Council of the City of Woodland Park will accept the property interest as described in the grant agreement.

Section 6. This resolution is to be in full force and effect from and after its passage and approval.

THE FOREGOING RESOLUTION IS HEREBY ADOPTED BY THE CITY COUNCIL OF WOODLAND PARK, COLORADO ON THIS 7th DAY OF DECEMBER, 2023.

City of Woodland Park

Hilary LaBarre, Mayor

ATTEST:

City Clerk, Suzanne Leclercq