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RESOLUTION NO. 24-149

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO**

**RESOLUTION TO APPROVE THE FIRST AMENDMENT TO A MEMORANDUM
OF UNDERSTANDING FOR RAIL-SERVED ECONOMIC DEVELOPMENT
INITIATIVE**

WHEREAS, pursuant to C.R.S. §§ 30-11-101(1)(e) and 30-11-107(1)(e), the Board of County Commissioners of the County of El Paso, State of Colorado (hereinafter "Board"), has the legislative authority to represent the County and manage the business and concerns of the County; and

WHEREAS, pursuant to C.R.S. §§ 30-11-101(1)(d), each organized county within the state shall be a body corporate and politic and as such shall be empowered for the following purposes: (d) To make all contracts and do all other acts in relation to the property and concerns necessary to the exercise of its corporate and administrative powers;

WHEREAS, C.R.S. §§ 29-1-203, provides authority for the Board to cooperate or contract with other governmental entities to provide any function, service or facility lawfully authorized to each of the cooperating or contracting government units, when deemed by the Board to be beneficial to the citizens of El Paso County; and

WHEREAS, the Board has approved a Memorandum of Understanding for Rail-Served Economic Development ("MOU"), which was recorded July 25, 2018, at Reception Number 218085545 in the records of the El Paso County Clerk and Recorder; and

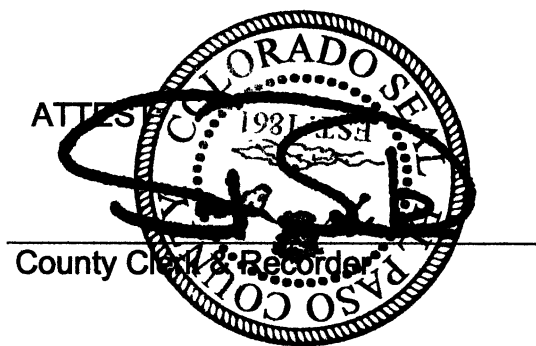
WHEREAS, the Board finds that an amendment to the MOU is necessary to allow Colorado Springs to serve as a grant applicant for grant funding from the Federal Rail Administration to obtain partial funding needed to complete vital design and policy clearance; and

WHEREAS, the Board desires to enter into the First Amendment to Memorandum of Understanding for Rail-Served Economic Development Initiative, attached hereto as Exhibit 1.

NOW THEREFORE, BE IT RESOLVED, the Board of County Commissioners hereby approves the First Amendment to Memorandum of Understanding for Rail-Served Economic Development Initiative, as stated herein.

BE IT FURTHER RESOLVED that the Chair of the Board of County Commissioners, a duly elected, and qualified member, or the Vice Chair, a duly elected and qualified member of the Board of County Commissioners, be and is hereby authorized and appointed on behalf of the Board to execute any and all documents necessary to carry out the intent of the Board as described herein.

Done this 2nd day of March, 2024 at Colorado Springs, Colorado.



BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: Cami Bremer
Cami Bremer, Chair

**FIRST AMENDMENT TO
MEMORANDUM OF UNDERSTANDING
FOR
RAIL-SERVED ECONOMIC DEVELOPMENT INITIATIVE**

This is a First Amendment (the "First Amendment") to that certain Memorandum of Understanding for Rail-Served Economic Development Initiative ("MOU") dated May 3, 2018 (the "MOU") between the City of Colorado Springs, a home rule city and Colorado municipal corporation ("Colorado Springs"), the City of Fountain, a Colorado municipal corporation ("Fountain"), El Paso County, by and through the Board of County Commissioners of El Paso County, Colorado, a duly organized county and political subdivision of the State of Colorado ("County"), the Colorado Springs Chamber of Commerce and Economic Development Corporation ("EDC") and Edw. C. Levy Co. a Michigan Corporation ("Levy") (all collectively referred to hereinafter as the "Parties"). Capitalized terms used herein, if not separately defined in this First Amendment, will have the same meanings ascribed to them in the MOU. To the extent of any inconsistencies between the terms of the MOU and this First Amendment, the terms in this First Amendment shall control.

Recitals

- A. The feasibility of developing an industrial rail park on the Levy Property which could generate new jobs and provide a second rail access to Fort Carson (the "Project") was studied and deemed feasible by a Project Feasibility Study completed in May 2022 with partial funding through a Technical Assistance Grant awarded by the U.S. Economic Development Administration.
- B. The Project now desires to apply for a Consolidated Rail Infrastructure and Safety Improvements (CRISI) Grant from the Federal Rail Administration to obtain partial funding needed to complete the rail spur design and obtain National Environmental Policy Act (NEPA) clearance for the Project, and the Oversight Committee has approved applying for the CRISI Grant.
- C. Colorado Springs has indicated that it is willing to be the applicant for a CRISI Grant, and the Parties would like Colorado Springs to be able to serve as the grant applicant for that CRISI Grant.
- D. The Parties are executing this First Amendment to permit Colorado Springs to serve as a grant applicant for grants sought by the Project.

Agreement

NOW THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, the Parties agree to amend the MOU as follows:

1. Paragraph A.1(c) of the Mou is deleted, and the following paragraph is substituted therefor:

(c) Pursue and seek to obtain, at the appropriate time, grant funding, including but not limited to the aforementioned grant from the USED A and a CRISI grant.

2. Paragraph D.18. is amended to update the notice provision for the City of Colorado Springs to the following:

City of Colorado Springs
Attn: Public Works Director
30 S. Nevada Ave, Suite 401
Colorado Springs, CO 80903
Gayle.sturdivant@coloradosprings.gov

3. Except as amended by this First Amendment, all terms of the MOU remain in full force and effect as currently stated therein.

APPROVED AS TO FORM:

Attorney for El Paso County

Attorney for City of Colorado Springs

Attorney for City of Fountain

[Signature Page Follows]

IN WITNESS THEREOF, the Parties have signed this First Amendment to Memorandum of Understanding as of the day and year indicated below.

EL PASO COUNTY

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: _____
Cami Bremer, Chair

County Clerk and Recorder

Dated this _____ day of _____, 2024.

CITY OF FOUNTAIN

ATTEST:

By: _____
City Manager

Secretary

Dated this _____ day of _____, 2024.

CITY OF COLORADO SPRINGS

ATTEST:

By _____
Mayor

City Clerk

Dated this _____ day of _____, 2024.

EDW, C. LEVY CO.

ATTEST:

By _____
L. Steven Weiner,
Senior Vice President, Real Estate

Dated this _____ day of _____, 2024.

**COLORADO SPRINGS ECONOMIC DEVELOPMENT
CORPORATION**

ATTEST:

By _____

Dated this _____ day of _____, 2024.