

# FIVE POINTS

## BUSINESS IMPROVEMENT DISTRICT

### BOARD OF DIRECTORS MEETING

January 12, 2022

By Zoom Webinar

DRAFT AGENDA

Mission Statement: The Five Points Business Improvement District exists to strengthen and enhance the efforts of business and property owners who live, work in, or contribute to the Historic Five Points neighborhood of Denver. Our District Board's mission is to positively influence financial accountability and cultural responsibility as the area undergoes redevelopment and growth. The Five Points Business Improvement District will hold true to the best values of the past, embrace inclusive opportunities of the present and look forward to a vibrant future.

10:00 AM	I.	Call to Order	R. Cobbins
10:05 AM	II.	Video Introductions	Board
10:10 AM	III.	Administrative Items	
		A. Disclosure of Potential Conflicts of Interest	Board
		B. Approval of Board Minutes – December 8, 2021	Board
		C. Treasurer's Report – November 2021	N. Beal
		D. Determination of Meeting Public Posting Location	Board
		E. 2022 FPBID Regular Board Meeting Dates	Board
10:20 AM	IV.	MarCom Update	K. Frazier
		A.	
10:30 AM	V.	District Maintenance & Administrative Update	V. Martinez
		A. CSG Year 2 Contract	
		B. CCD IGA – The Point Pedestrian Plaza	
10:40 AM	VI.	Old Business	
		A. Thriving Cities Challenge Introduction	B. Kurzel
		B. Clarkson St. Update	V. Martinez
		C. Charge Ahead Colorado Grant Project Update	N. Beal/L. Sayer
11:15 AM	VII.	New Business	
		A. Capital Expenditures Planning	R. Cobbins
11:25 AM	VIII.	Review of Public Comments in Chat	V. Martinez
11:30 PM	IX.	Adjourn	



FIVE POINTS BUSINESS IMPROVEMENT DISTRICT  
BOARD OF DIRECTORS REGULAR MEETING  
December 8, 2021  
MINUTES

Meeting Held: Wednesday, December 8, 2021, at 10:00 AM,  
Virtual meeting held on ZOOM.US.

Attendance: The meeting of the Board of Directors of the Five Points Business Improvement District, City and County of Denver, Colorado was called and held as shown above in accordance with the applicable statutes of the State of Colorado, with the following directors present and acting:  
LaSheita Sayer, Vice President  
Nathan Beal, Treasurer  
Paul Books  
Haroun Cowans  
John Pirkopf

Excused Absence: Ryan Cobbins, President  
Maedella Stiger, Vice President

BID Staff: Vincent Martinez, Downtown Denver Partnership  
Kalisha Frazier, Five Points Marketing Group

The meeting was called to order by Board Co Vice-President, LaSheita Sayer, who led the meeting in Mr. Cobbins' absence, at 10:03 AM.

**Approval of Board Minutes – November 10, 2021**

No discussion of the November Board Minutes was requested. Mr. Cowans moved to accept the November Board Meeting Minutes as presented. Mr. Books seconded the motion. Vote: unanimous in favor, motion passed.

**Treasurer's Report – October 2021**

Mr. Beal gave the October 2021 Financial Report. A total of \$8,443 in expenditures was made in the month of October, which were then listed individually. The final account cash balance at the end of the month totaled \$285,679. Mr. Pirkopf made a motion to accept the October 2021 Treasurer's Report. Mr. Books seconded the motion. Vote: unanimous in favor, motion passed.

**MarCom Update**

Ms. Frazier gave a recap on the Holiday Stroll. The event was held this past Saturday the 4<sup>th</sup> with a lot of social media interaction. A more in-depth report was given later in Ms. Frazier's report.

Holiday decorating is underway and the tree has been placed at the Five Point intersection. Mr. Martinez is still working with Two Keys, the decorations contractor, to extend to the decorating of Xcel light poles throughout the district.

The Marketing Committee is looking to implement a restaurant stroll and include an activation for Black History Month in the first quarter of 2022.

Before starting her report on the Holiday Stroll, Ms. Frazier took a moment to thank the BID's maintenance contractor, CSG, for their assistance with set up and take down of the event. As part of the event, warm socks were collected for HOPE, a program of the Colorado Health Network that provides day shelter services to those experiencing some form of homelessness and are living with HIV. Ms. Frazier showed photos of families, volunteers and businesses that participated in the event and shared stories of the event.

Ms. Frazier then closed out her report with information on connecting with the BID's various social channels and mailing lists.

Chuck Jones of 5PMG then presented a draft of a proposed schedule of activations for 2022. The schedule included not only the activations the BID has put on over the last couple of years but also new proposed events including activation related to Black History Month, a Welton Street Restaurant Week, multiple family-oriented activations and potential uses of the planned public plazas at the Five Point Intersection and Clarkson Street.

After some discussion with Board Members, Mr. Jones was asked to work with the Marketing Committee to present a more refined draft next month with firm budget numbers and proposed dates for each activation to present to the Board.

## **District Maintenance & Administrative Update**

### **A. Summer Project Update**

Mr. Martinez gave an update on the tree project on Welton – many of the tree grates were able to be cut back and reset. The grates that could not be cut, were completely removed and mulch has been added to level out the pit and remove trip hazards.

Mr. Martinez noted that the remainder of his report is actually tied to upcoming agenda items, so he ended his report at that time.

## **Old Business**

### **A. CSG Year 2 Contract**

At the November meeting the Board asked questions of CSG regarding the use of technicians that are part of CSG's Social Mission Program (SMP), which works directly with individuals who currently reside in one of the Safe Outdoor Spaces (SOS) managed by Colorado Village Collaborative. From that discussion, CSG developed several package options that utilized SMP technicians with full-time professional street technicians.

After some discussion, the Board asked Mr. Martinez to work with CSG to combine a couple of different options so that they can incorporate part-time SMP personnel and also augment some of the hours full-time technicians are used in the FPBID with a few more hours of SMP techs. Mr. Books motioned to cap the budget for the maintenance contract with CSG at \$67,766 to provide an SMP technician 2 hours a day, two days a week and augment 2 hours of regular technician

time with an SMP technician for a third day. Mr. Cowans seconded the motion. Vote: unanimous in favor, motion passed.

#### B. Renewal Administrative Services with DDP

Mr. Martinez opened the presentation by citing a few of the accomplishments of 2021 by the FPBID Board with the administrative assistance of the DDP. Mr. Martinez also noted that there was no increase in the contract cost in 2021 due to COVID-19 hardships. Mr. Martinez then referenced the copy of the contract provided to the Board prior to the meeting in their Meeting Packets and referenced the Scope of Work which has not changed from 2021 to 2022. Mr. Martinez also noted that in order to provide the high level of service the DDP has been offering, he is also utilizing the resources of the Specialists on his team to provide contractor oversight and technical assistance. The proposed renewal for 2022 includes a cost increase of 5% which takes the cost of the Administrative Services Contract with the DDP from \$22,000 in 2021 to \$23,100 for 2022.

Ms. Sayer and Mr. Books pointed out that the FPBID is getting an excellent deal for the cost and the resources the DDP makes available to them. Many of the other Board members echoed these sentiments and expressed their approval of and thanks for the services that have been provided.

Mr. Cowans moved to approve the DDP Administrative Service Agreement renewal. Mr. Beal seconded the motion. Vote: unanimous in favor, motion passed.

Mr. Martinez thanked the Board for the recognition of his team's efforts and the value that they provide in this agreement. He also took a moment to thank the Board for all of their support and reminded them of the vital part they play in achieving the BID's goals throughout the year.

#### C. Clarkson St. Update

Mr. Martinez informed the Board that amenities and pieces are already arriving at CSG's warehouse as they wait to be installed at the Clarkson Street closure behind Five Points Plaza. Barricades are on order and once they arrive the street will be closed off so that Thomas "Detour" Evans can begin to install the street mural that will incorporate colors from the mural he produced on the Five Points Plaza building. CSG will be prepping the site for the artwork as well. Funding for the work is covered by the City through the grant they received for the overall project.

Mr. Martinez offered to provide sketches and maps of the Clarkson site as well as the Point Pedestrian Plaza on the BIDs website for reference. He also noted that the team is looking for name suggestions and gave out his contact information for those that would like to submit ideas.

#### D. Charge Ahead Colorado Grant Project Update

Mr. Beal updated that they have received three proposals to date for the installation of the charging stations themselves that range from \$45,000 - \$64,000. However, in the meantime the team has discovered that in order to receive the necessary encroachment permit from the City, they will need to provide an electrical/civil survey which must be completed by a licensed electrical engineer.

To date, three estimates have been provided for the surveys which range from \$10,000 to \$12,000. Ms. Sayer reached out to the City’s Office of Climate Action, Sustainability and Resiliency for assistance and was able to receive a \$10,000 commitment to help offset cost of the survey.

Initially, a budget of \$32,000 was to be spent in 2021 on the purchase and installation of the charging stations, with an 80% grant reimbursement in 2022. However, because of the time necessary to complete the surveys, purchase and installation will not be able to take place until 2022. Because the electrical survey is not considered a grant reimbursable expense, the team is asking for a commitment from the Board for an additional \$2,000 to complete the survey now.

Because the electrical infrastructure is outdated, the team is also looking into taking advantage of Xcel rebate programs to provide necessary upgrades as well. This will also provide the foundation that can be used later to expand the number of charges in these areas in the future.

The Board discussed a sensation of “sticker shock” as expenses related to the program have begun to expand. The Board did agree that the survey is of benefit, whether or not the charging stations are completed to help understand what capacities they have for future improvements in the proposed charging station areas.

While no commitment was made to the future of the Charge Ahead Colorado project, Mr. Books moved to approve the \$2,000 to complete the civil survey work. Mr. Pirkopf seconded the motion. Vote: unanimous in favor, motion passed

### **New Business**

A. Thriving Cities Challenge Introduction  
Tabled for the January meeting

B. RTD L-Line Extension Online Petition

John Deffenbaugh with the RiNo BID introduced the Board to an online petition effort aimed at encouraging RTD to put an expansion of the L-Line from the 30<sup>th</sup> Downing Station to the 38<sup>th</sup> and Blake St. Station, a major stop on RTD’s University of Colorado A-Line, back on their list of priorities for light rail expansion. Mr. Deffenbaugh has been meeting with other BIDs and community organizations to build support for this initiative.

Mr. Books added that this idea for an online petition started pre-COVID but was back burnered in 2020 during COVID recovery. The initiative was initially started because of prior meetings with City and RTD personnel who explained that expansion of the L-Line was no longer a priority, but that community pressure could influence policy makers at both entities to resume L-Line expansion plans.

Mr. Deffenbaugh shared the link to the change.org petition ([www.change.org/L-Line\\_Extension\\_Denver](http://www.change.org/L-Line_Extension_Denver)). The Board also offered to share the link via its website and social media and outreach channels.

### **Public Comments**

Through the public chat option, the following questions and statements were made:

L. Bruning: Thank you for planting new trees. The trash cans appear to be working! I'm picking up less trash. Thanks for installing them. The street is much cleaner.

R. King: Can we have DPD present at a future meeting to discuss crime prevention?  
Mr. Martinez and Ms. Sayer agreed that this is a good idea. Mr. Martinez noted that the topic is more appropriate for a workshop setting and committed to pull an opportunity together with officers from DPD Districts 6 and 2 in late January/early February.

J. Parris: What is being done to keep scooters and bikes out of the right of way and off the sidewalks, blocking people from walking on the sidewalks?  
Mr. Martinez explained that this is more of an enforcement issue with DPD. He also explained that the issue is not really a priority for enforcement by DPD and that in his work with the Downtown Denver BID they also have trouble with enforcement on the 16<sup>th</sup> Street Mall where the scooters are prohibited from riding or parking.

R. King had earlier asked about progress on the 27<sup>th</sup> Street Interceptor Project. Mr. Books and Mr. Martinez shared information from a recent email and encouraged participants to sign up for updates on the project by sending an email to [info@27interceptor.com](mailto:info@27interceptor.com).

J. Parris: Hire the unhoused to clean the area, so they won't be committing crime in the area.

No other comments were received.

With no further business, Mr. Pirkopf moved to adjourn. Mr. Cowans seconded the motion. The meeting adjourned at 11:53AM.

The forgoing minutes constitutes a true and correct copy of the Five Points Business Improvement District. Approved this 12<sup>th</sup> Day of January, 2022.

---

FPBID Board President

Attest:

---

# Management Report

Five Points Business Improvement District  
For the period ended November 30, 2021

Prepared by

**Charlene Laus, Downtown Denver Partnership**

For management use only

**Five Points Business Improvement District**  
**Balance Sheet**  
November 2021

	Beginning Balance January 1, 2021	YTD Changes	Ending Balance November 30, 2021
<b>ASSETS</b>			
Current Assets			
Bank Accounts			
USbank Checking	\$ 185,312	\$ 78,111	\$ 263,423
Total Bank Accounts	185,312	78,111	263,423
Other Current Assets			
Accounts Receivable	864	-	864
Prepaid /Deposits	-	-	-
Total Other Current Assets	864	-	864
Total Current Assets	186,176	78,111	264,287
<b>TOTAL ASSETS</b>	<b>\$ 186,176</b>	<b>\$ 78,111</b>	<b>\$ 264,287</b>
<b>LIABILITIES AND EQUITY</b>			
Total Liabilities	\$ -	\$ -	\$ -
<i>Equity / Fund Balance</i>			
Beginning Fund Balance	186,176	-	186,176
Net Operating Income (Loss)	-	78,111	78,111
Total Equity / Fund Balance	186,176	78,111	264,287
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>\$ 186,176</b>	<b>\$ 78,111</b>	<b>\$ 264,287</b>

**Five Points Business Improvement District**  
**Budget vs Actual - By Program/Activity**  
November 2021

	Actual YTD	Amended Budget YTD	Variance Favorable (Unfavorable)	Amended Budget Annual	Variance Favorable (Unfavorable)
<b>Beginning Fund Balance</b>	<b>\$ 186,176</b>	<b>\$ 186,176</b>	<b>\$ -</b>	<b>\$ 186,176</b>	<b>\$ -</b>
<b>Income and Other Sources</b>					
Mill Levy Income-FPBID	252,545	236,387	16,158	236,387	16,158
Donations	60,000	60,000	-	60,000	-
Refund-Sedgwick	1,000	1,000	-	1,000	-
Other	250	-	250	-	250
Total Income and Other Sources of Funds	313,795	297,387	16,408	297,387	16,408
<b>Total Available Resources</b>	<b>\$ 499,970</b>	<b>\$ 483,563</b>	<b>\$ 16,408</b>	<b>\$ 483,563</b>	<b>\$ 16,408</b>
<b>Expenditures</b>					
Maintenance	83,835	90,833	6,998	100,402	16,567
Marketing/Branding	116,639	117,989	1,350	142,561	(27,839)
Administrative	24,552	26,536	1,984	28,630	4,078
Contingency Funds	-	4,583	4,583	5,000	5,000
Total Ongoing Expenditures	225,026	239,941	14,915	276,593	(2,194)
Capital Purchases	10,550	10,550	-	42,500	31,950
Small Business Relief Grants	108	-	(108)	-	(108)
<b>Total Expenditures</b>	<b>\$ 235,683</b>	<b>\$ 250,491</b>	<b>\$ 14,808</b>	<b>\$ 319,093</b>	<b>\$ 29,649</b>
<b>Ending Fund Balance</b>	<b>\$ 264,287</b>	<b>\$ 233,072</b>	<b>\$ 31,215</b>	<b>\$ 164,470</b>	<b>\$ 99,817</b>

**Five Points Business Improvement District**  
**Budget vs Actual - By Account**  
**November 2021**

	Actual YTD	Amended Budget YTD	Variance Favorable (Unfavorable)	Amended Budget Annual	Variance Favorable (Unfavorable)
<b>Beginning Fund Balance</b>	\$ 186,176	\$ 186,176	\$ -	\$ 186,176	\$ -
<b>Income and Other Sources of Funds</b>					
Mill Levy Income-FPBID	252,545	236,387	16,158	236,387	16,158
Donations	60,000	60,000	-	60,000	-
Refund-Sedgwick	1,000	1,000	-	1,000	-
Other Revenue	250	-	250	-	250
Total Income and Sources of Funds	313,795	297,387	16,158	297,387	16,158
<b>Total Available Resources</b>	<b>\$ 499,970</b>	<b>\$ 483,563</b>	<b>\$ 16,158</b>	<b>\$ 483,563</b>	<b>\$ 16,158</b>
<b>Expenditures</b>					
<i>Maintenance</i>					
General Maintenance Contract	53,849	58,874	5,025	63,902	10,053
Other Maintenance	3,898	8,708	4,810	9,500	5,602
Snow Removal	12,234	12,250	16	15,000	2,766
Utilities & Water	1,981	1,833	(148)	2,000	19
Tree & Landscape Maintenance	11,872	9,167	(2,706)	10,000	(1,872)
Total Maintenance	83,835	90,833	6,998	100,402	16,567
<i>Marketing/Branding</i>					
Banners	2,514	3,100	586	4,000	1,486
Events/Activation	64,196	64,000	(196)	66,500	2,304
Holiday Lighting	6,000	-	(6,000)	12,000	6,000
Holiday Event	2,861	5,000	2,139	10,000	7,139
Marketing Administration	41,068	41,306	237	45,061	3,993
Marketing Programs	-	4,583	4,583	5,000	5,000
Total Marketing/Branding	116,639	117,989	1,350	142,561	(27,839)
<i>Administrative</i>					
General Administration	20,243	20,167	(76)	22,000	1,757
Bank Charges & Fees	72	119	47	130	58
Dues & Memberships	417	500	83	500	83
Insurance	2,694	3,000	306	3,000	306
Legal Fees	1,126	2,750	1,624	3,000	1,874
Total Administrative	24,552	26,536	1,984	28,630	4,078
<i>Contingency Funds</i>	-	4,583	4,583	5,000	5,000
Total Ongoing Expenditures	225,026	239,941	14,915	276,593	(2,194)
<i>Capital Expenditures and Reserve Spending</i>					
Capital Purchases	10,550	10,550	-	42,500	31,950
Other Reserve Spending	108	-	(108)	-	(108)
Total Capital Expenditures and Reserve	10,658	10,550	(108)	42,500	31,843
<b>Total Expenditures</b>	<b>\$ 235,683</b>	<b>\$ 250,491</b>	<b>\$ 14,808</b>	<b>\$ 319,093</b>	<b>\$ 29,649</b>
<b>Net Income</b>	<b>\$ 78,111</b>	<b>\$ 46,896</b>	<b>\$ 31,215</b>	<b>\$ (21,706)</b>	<b>\$ 99,817</b>
<b>Ending Fund Balance</b>	<b>\$ 264,287</b>	<b>\$ 233,072</b>	<b>\$ 31,215</b>	<b>\$ 164,470</b>	<b>\$ 99,817</b>

**Five Points Business Improvement District**  
**Expenditures by Vendor Summary**  
November 2021

	November 2021	YTD 2021
2 Keys Asset Management Corp	\$ 6,000	\$ 6,000
5 Points Enterprise LLC	-	1,748
Colorado Lighting Inc	-	3,640
Colorado Special Districts Property and Liability**	-	54
Consolidated Services Group 2, LLC	5,859	76,147
Constant Contact	90	495
Denver Permits Online	50	50
DCPS		777
Denver Water	54	665
Denver Weekly News	-	76
Desibl Studio	-	10,550
Downtown Denver Partnership Inc	6,000	60,389
Five Points Marketing Group	-	15,185
JMF Corporation	-	2,500
Maxwell Printing	-	2,514
Orozco Landscaping & Concrete	2,620	2,620
Perseverance Athletic Performances	-	108
Savatree	2,477	2,477
Sin Jac Electric	735	1,350
Special District Association	-	417
Spencer Fane LLP	-	1,126
TigerTree	-	1,900
US Bank	-	72
Wave-*My City	-	351
XCEL ENERGY	87	1,316
Zozo Group LLC	-	43,156
<b>Total Expenditures by Vendor</b>	<b>\$ 23,972</b>	<b>\$ 235,683</b>

**Five Points Business Improvement District**  
**Statement of Cash Flows**  
November 2021

	2021
<b>OPERATING ACTIVITIES</b>	
Net Income	\$ 78,111
Adjustments to reconcile Net Income to Net Cash provided by operations	
Accounts Receivable	-
Prepaid / Deposits	-
Accounts Payable	-
<hr/>	
Total Adjustments to reconcile Net Income to Net Cash provided by operations:	-
<hr/>	
<b>Net cash provided by operating activities</b>	<b>\$ 78,111</b>
<hr/>	
<b>NET CASH INCREASE (DECREASE) FOR PERIOD</b>	<b>\$ 78,111</b>
Cash at beginning of period	185,312
<hr/>	
<b>CASH AT END OF PERIOD</b>	<b>\$ 263,423</b>
<hr/> <hr/>	

## 2022 Proposed Meeting Dates

January 12, 2022

February 9, 2022

March 9, 2022

April 13, 2022

May 11, 2022

June 8, 2022

July 13, 2022

August 10, 2022

September 14, 2022

October 12, 2022

November 9, 2022

December 14, 2022



Followers: 1,500  
Reach: 418  
# of Posts: 3



Followers: 1,175  
Accounts Reached: 928  
# of Posts: 2  
# of Stories: 24



[fivepointsbid](#)  
Denver, Colorado

...



[View Insights](#)

[Boost Post](#)



Liked by [sanrafaeldenver](#) and 30 others

[fivepointsbid](#) We ❤️ our Five Points community! 🎄  
Happy Holidays!

## [Request for participation](#)

We need the support and involvement of the community, business and property owners to help with our FPBID 2022 events. There will be many volunteer opportunities and we hope that you consider lending your expertise to at least one of them (maybe all!)

Any event that occurs along the Welton Street Corridor is to benefit the community, our small businesses and aides us in preserving the historical legacy of Five Points.

Email [fivepointsbid@gmail.com](mailto:fivepointsbid@gmail.com) to be added to the volunteer list.

## PROJECT PROGRESS

- **Holiday Stroll and Holiday Decorations - Complete**
- **Trees- Complete**
- **Budget for 2022 events - needs approval**

## ONE-ON-ONE/GROUP MEETINGS

- FPBID 2022 event planning meeting

**Next Board Meeting Feb 9th @ 10am**

## Marketing Sub-Committee Items for January

- **Black History Month planning**
- **Gateway Signs**- on hold
- **Trees**- Complete
- **Xcel Banners** - pending
- **Billboards** - brainstorm

Email [kalisha@fivepmg.com](mailto:kalisha@fivepmg.com) to be added to the meeting updates

---

## Next Meeting Agenda- January 27th @ 11am

- Introductions - Name / Affiliation
- Old Business
- New Business: Follow-up, discussion on initial planning for future events
- Announcements

# Get connected!



**Instagram @FivePointsBiz**

**Facebook @FivePointsBID**

**Private Stakeholder Group**

Facebook.com/groups/

FivePointsDenverStakeholders

**Newsletter Sign Up!**

FivePointsBID.com

**News & Events**

FivePointsBID@gmail.com

# CSG Proposed Schedule Year 2 Contract

- Approved 2022 Contract Amount: \$67,766
- Incorporates use of CSG Social Mission Employees (SME) in FPBID
- Current Scope: 4 hours a day; 7 days a week

Techs	Description
CSG Tech 1	2 hours a day; 7 days a week
CSG Tech 2	2 hours a day; 6 days a week
SME Tech	2 hours a day; 3 Days a week
Annual Cost	\$67,766

**AGREEMENT FOR SERVICES  
BETWEEN THE  
FIVE POINTS BUSINESS IMPROVEMENT DISTRICT**

**AND**

**Consolidated Services Group 2, LLC, Contractor**

THIS AGREEMENT is made this first day of January 2022, between the Five Points Business Improvement District (FPBID), a quasi-municipal corporation and political subdivision of the state of Colorado and, the Consolidated Services Group 2, LLC (Contractor).

WHEREAS, the FPBID desires to provide certain care, operation, maintenance, repair, storage, and replacement services within the boundaries of the FPBID; and

WHEREAS, the Contractor is capable of performing such services for the compensation provided in this Agreement; now, therefore,

The parties agree as follows:

**ARTICLE I  
RETENTION OF CONTRACTOR**

- 1.1 The FPBID hereby retains Contractor as an independent Contractor to perform the services set forth in this Agreement, and Contractor hereby accepts such retention.
- 1.2 The Contractor and any of its personnel utilized under the terms of this Agreement shall remain the employees of the Contractor for all purposes and are not, and shall not be construed to be, agents or employees of the FPBID.

**ARTICLE II  
CONTRACTOR RESPONSIBILITIES**

- 2.1 The services to be performed by the Contractor shall include, but not be limited to, those services outlined in Exhibit A, Scope of Services; Exhibit B, Other areas of the FPBID;; Exhibit H, Billable Work Order Requests; Exhibit I, Equipment Requests; and Exhibit J, map of the FPBID area of service. All exhibits are attached hereto and made a part hereof. Contractor is to maintain a record of daily activities using field services software to report on activities. The records will include, at a minimum: areas pressure washed, number of trash bags collected, recycle refuse bags collected, number and location of graffiti tags removed, and extra services performed. Additionally, a Daily Activity Report will be submitted by email by 10 AM for weekdays and by 4 PM Fridays for Saturday and Sunday which details the duty schedule for the day, assigned zone or designated duty for each tech, equipment in use for the day and Work Order requests that are being

addressed. A monthly report is to be submitted to the FPBID Designee two (2) days prior to the FPBID Board monthly meetings held the second Wednesday of every month.

- 2.2 Contractor shall not perform and shall not be compensated for services not set forth in Exhibits A and B unless such services have been approved in writing or in the regular weekly meeting with Contractor Management team and FPBID Operations team and in advance, by the FPBID. Contractor is not to use BID contracted employees for Enterprise or other separate accounts. In the event employees perform work on any Enterprise or separate account, Contractor is obligated to credit the BID for lost services.
- 2.3 Contractor shall be responsible for hiring and payment of employees required by Contractor to perform the services under this Agreement, including but not limited to being responsible for complying with the City and County of Denver's minimum wage ordinance with respect to any and all employees who perform work under this Agreement; shall maintain a current policy of workers' compensation insurance or such other workers' compensation coverage as required by law; and shall provide the FPBID with evidence of such coverage. Contractor shall maintain such other employee benefits as required by law for Contractor's employees and, upon request of the FPBID, shall provide evidence of such benefits.

2.3(a): In fulfilling its responsibility for hiring of its employees to perform work under the Agreement, Contractor shall perform standard background checks on each such employee, including but not limited to criminal background checks in accordance with applicable federal and state law. Contractor will exercise reasonable care and diligence in its hiring and placement decisions following the background checks. Such reasonable care and diligence should include but not be limited to consideration of refraining from hiring or assigning employees with convictions for violent and/or sexual criminal offenses in their record to perform work under the Agreement that will involve such employee working within the public realm (comprising the streets, sidewalks, alleys, squares, parks and other outdoor places within the FPBID boundaries that are available for public use).

2.3(b): **NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under the Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability.

- 2.4 Contractor shall designate a representative or representatives acceptable to the FPBID who shall act in a daily supervisory capacity for Contractor's employees. In addition, Contractor and its employees will conduct their work with particular attention to the well-being and safety of the public as well as themselves in the service area. Contractor will comply with all O.S.H.A. safety standards, Colorado Department of Labor Standards, and agrees to create and enforce a "Safety Policy" as well as conduct "safety training" for its employees.
- 2.5 Contractor acknowledges that its employees will be highly visible in performing their duties and will therefore be important to the public image of the FPBID. Contractor shall maintain all uniforms and shall replace and provide additional uniforms as necessary at its own expense. Contractor agrees to supervise and train its employees in order that employees perform their services in a competent, courteous, and helpful manner.
- 2.6 Contractor acknowledges its intent and willingness to hire, manage, train and promote disadvantaged and/or handicapped persons as referred to Contractor by the Denver Employment and Training Agency (DETA) or other city, state or charitable placement agencies.
- 2.7 Contractor, as part of this Agreement, reaffirms its policy of having zero tolerance for any of its employees using, being under the influence of and/or testing positive for any drug that is illegal pursuant to any federal and/or state law. Contractor reaffirms that employees using, being under the influence of and/or testing positive for any such illegal drug will be terminated without exception.

Using, being under the influence of and/or testing positive for a drug that is legal under certain state laws but which is illegal under federal law is NOT accepted as legitimate under Contractor's policy and will be subject to the same zero tolerance standard.

- 2.8 In addition to the workers' compensation coverage required by section 2.3, contractor shall maintain a comprehensive general liability policy with limits of not less than one million dollars (\$1,000,000.00) for bodily injury and one million dollars (\$1,000,000.00) for property damage per occurrence. Coverage shall include premises liability, products liability, and completed operations liability. Contractor shall also maintain a comprehensive automobile liability policy with limits not less than six hundred thousand dollars (\$600,000.00) for bodily injury and six hundred thousand dollars (\$600,000.00) for property damage per occurrence. Contractor shall supply the FPBID with a Certificate of Insurance verifying these coverages and naming the FPBID, the Downtown Denver Partnership, and the City and County of Denver as co-insured.
- 2.9 In performing services under this Agreement, Contractor shall follow practices consistent with high professional and technical standards and shall obtain and

maintain current all required licenses and shall require that any subcontractor do so.

- 2.10 Contractor will promptly correct any deficiencies in its performance under this Agreement reported to it by the FPBID designee. If substandard performance by the Contractor has been noted and not remedied within five (5) days after written notice (subject to availability of parts and equipment), the work may be performed by the FPBID by other means, and the cost thereof shall be deducted from any money due or to become due the Contractor.
- 2.11 Contractor shall maintain at least weekly contact with the FPBID through the FPBID's designee.
- 2.12 Contractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement or contract with a sub-contractor who knowingly employs or contracts with an illegal alien to perform work under the Agreement. Execution of the Agreement by Contractor shall constitute a certification by Contractor that it does not knowingly employ or contract with an illegal alien and that the Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program administered by the United States Department of Homeland Security ("E-Verify Program") or the verification program of the Colorado Department of Labor and Employment ("Department Program").
  1. Contractor shall comply with the following:
    - (a) Contractor shall not utilize the Basic Pilot Program procedures to independently undertake pre-employment screening of job applicants.
    - (b) Contractor shall require each subcontractor to certify that subcontractor will not knowingly employ or contract with an illegal alien to perform work under the Contract. If Contractor obtains actual knowledge subcontractor performing work under the Contract knowingly employs or contracts with an illegal alien the Contractor shall be required to:
      - i. Notify the subcontractor and the FPBID within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien;
      - and,
      - ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving notice from the Contractor, the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
    - (c) Contractor shall comply with any reasonable request by the Department of Labor and Employment ("Department") made in the course of an investigation by the Department.

2. If Contractor violates any provision of this section, FPBID may terminate the Contract immediately and Contractor shall be liable to the FPBID for actual and consequential damages of the FPBID resulting from such termination and the FPBID shall report such damages of the FPBID resulting from such termination and the FPBID shall report such violation by contractor to the Colorado Secretary of State as required by law.

### **ARTICLE III COMPENSATION**

- 3.1 Contractor shall submit detailed invoices on a monthly basis for work described in Exhibits A and B. The monthly billing amount will be Five Thousand Six Hundred Forty-Seven Dollars and Seventeen Cents (\$5,647.17). The billing period will run from the 1<sup>st</sup> of the month to the end of the month. On submission of such invoices to the FPBID in property form and approved by the FPBID Designee, payment shall be made within thirty (30) business days of receipt of invoices. For payment of any additional services Contractor will submit a separate invoice within thirty (30) business days for each purchase order.
- 3.2 Total compensation to Contractor by the FPBID under this Agreement for the work described in Exhibits A and B shall not exceed Sixty-Seven Thousand Seven Hundred Sixty-Six Dollars (\$67,766). This amount will cover the entire initial term of this Agreement except as provided in section 3.3.
- 3.3 A list of Billable Work Order Requests is attached as Exhibit C. Upon written request by the FPBID, the Contractor will perform these, and other services specifically requested on a time and materials basis, with the time billed for actual hourly units as given. Invoices for services shall be submitted within Thirty (30) days of completion of work.

### **ARTICLE IV EQUIPMENT, SUPPLIES AND MATERIALS**

- 4.1 Contractor agrees to provide a list of equipment to be referenced as Exhibit D, "Equipment Inventory", attached to and made a part of this Agreement for the performance of the services in Exhibits A through C. Type and quantity of equipment must be adequate to ensure satisfactory performance of the specifications herein.
- 4.2 Contractor will provide all supplies and materials consistent with the standards of the industry and government requirements and regulations. Contractor will be responsible for all insurance, licenses, parking permits, upkeep, oil, fuel, water, and major and minor equipment repairs, including labor, to perform the services to maintain all FPBID and Contractor's equipment used in connection with this Agreement and necessary for the performance of work described in Exhibits A through C.

**ARTICLE V  
TERM AND TERMINATION**

- 5.1 This Agreement shall commence on January 1, 2022 and shall terminate December 31, 2022 unless otherwise terminated pursuant to a specific provision of this Agreement. The FPBID reserves the right to renew this Agreement for additional one-year periods, subject to appropriation of monies by the FPBID Board through its annual budgeting process.
- 5.2 (a) Except as provided in paragraph (b) of this section 5.2 and section 6.7, FPBID shall have the right to terminate this Agreement at any time, in whole or in part, by giving written notice to Contractor of such termination specifying the termination date at least sixty (60) days before said termination date. Contractor shall be compensated for any work completed to the FPBID's satisfaction up to the termination date.
- (b) If the BID determines that Contractor is in material breach of this Agreement for non-performance as provided in section 2.10, the FPBID may terminate this Agreement immediately, and Contractor shall pay the FPBID for any costs and expenses incurred by the FPBID as a result of such termination.
- (c) This Agreement shall not be deemed or construed to create a multiple fiscal year financial obligation of the FPBID.
- 5.3 Contractor shall have the right to terminate this Agreement for any reason by giving written notice to the FPBID of such termination specifying the termination date at least sixty (60) days before said termination date.

**ARTICLE VI  
GENERAL TERMS AND CONDITIONS**

- 6.1 In connection with the performance of this Agreement, Contractor shall ensure that personnel actions with reference to such matters as recruiting, hiring, compensation, benefits, transfers, promotions, layoffs, recall from layoffs, training, education and social and recreation programs shall be administered without regard to race, color, religion, sex, national origin, age, sexual orientation, marital status, handicap, or veteran status. In this regard, Contractor shall comply with all applicable laws prohibiting discrimination in employment.
- 6.2 The parties agree that if any clause or provision of this Agreement is declared to be invalid or unenforceable by a final decision of any court of competent jurisdiction, it is the intent of the parties that the remainder of this Agreement shall not be affected thereby. The parties shall amend this Agreement to replace such invalid or unenforceable clause or provision with a legal, valid and enforceable provision to affect the purposes of this Agreement.

- 6.3 Neither the FPBID, nor any officer, employee or agent of the FPBID will be responsible for any damages or liability occurring by reason of any action done or omitted by Contractor in connection with this Agreement. The Contractor shall defend, indemnify and save harmless the FPBID and its officers, employees and agents, the Downtown Denver Partnership, and the City and County of Denver and their officers and employees from all claims, loss, damage, injury, liability, costs, and expenses of whatsoever kind or nature, including reasonable attorneys' fees, resulting directly or indirectly from the work performed or to be performed by Contractor under this Agreement. Without limiting the generality of the foregoing, such indemnification shall cover injury or death to any person or persons and damage to any property, including that of the FPBID. Contractor, at its own expense, will settle or defend any claim or litigation arising out of its performance under this Agreement. The FPBID and Contractor agree to notify each other as soon as possible as to any suit or legal action filed regarding any performance by Contractor under this Agreement.
- 6.4 Contactor represents and warrants to the FPBID that this Agreement has been duly authorized, executed and delivered by Contractor and constitutes the binding Agreement of Contractor, enforceable against Contractor in accordance with its terms.
- 6.5 This Agreement supersedes all prior understandings and agreements of the parties and contains the entire agreement of the parties. This Agreement may not be amended except by a written agreement signed by both parties. All references in this Agreement to another exhibit by letter include all portions and subdivisions of the exhibit.
- 6.6 This Agreement does not, and shall not be deemed or construed to, confer upon or grant to any third party or parties any right to claim damages or bring any suit, action or other proceeding against either the FPBID or Contractor because of any breach of or because of any of the terms, covenants, agreements, and conditions contained in this Agreement.
- 6.7 In the event that the parties to this Agreement are unable to agree up on any matter or matters arising out of this Agreement that can be the subject of mediation or arbitration by or for the District under Colorado law, the parties shall first attempt to resolve this dispute by mediation, and if mediation fails, they shall forthwith submit such matter or matters to arbitration in Denver, Colorado. They shall forthwith agree upon a single individual to act as an arbitrator. In the event they are unable to agree as to the designation of an arbitrator, then the parties or either of them shall forthwith apply to the American Arbitration Association to designate an arbitrator. The arbitration shall be conducted in accordance with the rules and regulations of said Association and the Association shall designate the names of three (3) arbitrators. The decision of the arbitrators shall be rendered in writing and shall be final and binding upon the parties hereto. The fees shall be final and

binding upon the parties hereto. The fees and reasonable costs of the arbitrators shall be paid equally by the parties involved in the disagreement.

6.8 Contractor agrees that it will not assign or transfer its rights in this Agreement, nor delegate or subcontract any duties in this Agreement, either in whole or in part, without first obtaining the written consent of the FPBID. Any attempt by Contractor to assign or transfer its rights or delegate or subcontract its duties without such prior written consent shall not be binding on the FPBID and shall, at the option of the FPBID, immediately and automatically terminate this Agreement and all rights of Contractor under this Agreement. Such consent may be granted or denied at the sole and absolute discretion of the FPBID Designee.

6.9 All notices given under this Agreement to the FPBID shall be delivered to the FPBID by email, fax, certified mail, postage prepaid, or by courier, to:

Five Points Business Improvement District  
c/o Downtown Denver Partnership  
1515 Arapahoe Street, Tower 3, Suite 100  
Denver, Colorado 80202  
Attention: Vincent Martinez, Director, Downtown Operations

All notices given under this agreement to Contractor shall be delivered to Contractor by email, fax, certified mail, postage prepaid, or by courier, to:

Fax: 720-389-5379

Consolidated Services Group  
1101 W. 36<sup>th</sup> Avenue  
Denver, CO 80211  
Attention: Robert Hardy, Operations Director

All such notices shall be effective upon receipt. Either party may designate, in writing, a different address or different person to who notices much be sent.

6.10 This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for all actions shall be in the City and County of Denver.

6.11 This Agreement shall be binding on and inure to the benefit of the respective parties and their successors, heirs, assigns, executors, administrators, and legal representatives.

6.12 Titles and headings to articles in this Agreement are for purposes of reference only and shall in no way limit, define or otherwise affect the provisions of this Agreement.

6.13 This Agreement may be executed in duplicate originals, each of which shall be deemed an original Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day first written above.

“FPBID”  
Five Points Business Improvement  
District

“CONTRACTOR”  
Consolidated Services Group 2, LLC

BY: \_\_\_\_\_  
Ryan Cobbins, Board President

BY: \_\_\_\_\_

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

## EXHIBIT A

Scope of Work Matrix FPBID Cleaning, Maintenance and Snow Removal Contractor	
Service	Description and Expectations
Surface Cleaning	<ul style="list-style-type: none"> <li>• Removal of litter and all other debris</li> <li>• Removal of spots, gum and other substances</li> <li>• Weeding on sidewalks and curbs as needed</li> <li>• Immediate removal of biohazards, body fluids and other organic matter as necessary</li> <li>• Spill and stain mitigation plan in cold and warm temperatures</li> <li>• Weeding on sidewalks and curbs</li> <li>• Removal of trash and debris from tree wells</li> <li>• Repair needs and trip hazards will be reported to FPBID</li> <li>• Daily service at a minimum with immediate removal once detected by contractor</li> </ul>
Trash Receptacles	<ul style="list-style-type: none"> <li>• Receptacles require daily cleaning and scrubbing</li> <li>• Collection of trash daily by 11 AM</li> <li>• Contractor responsible for proper and lawful disposal of all trash</li> <li>• “Bag-drag” prohibited; residue from such a practice needs to be addressed immediately</li> <li>• Stacking of trash bags along the Corridor is prohibited</li> <li>• Report any repair needs or missing receptacles to FPBID</li> <li>• Regular repainting may be required. FPBID will supply paint colors to contractor if repainting is necessary</li> </ul>
Power Washing	<ul style="list-style-type: none"> <li>• Periodic pressure washing of Corridor sidewalk and medallions at 27<sup>th</sup> Street and Welton at Five Point Intersection</li> <li>• Pressure Washing cannot interfere with daily light rail operations</li> <li>• Include pressure washing plan including inspection and quality control</li> </ul>
Graffiti Abatement	<ul style="list-style-type: none"> <li>• Daily inspections to identify new graffiti and ensure removal of reported graffiti</li> <li>• Remove graffiti from all public surfaces (sidewalks, trash receptacles, street and pedestrian lights and electrical boxes for example)</li> <li>• Use of environmentally safe products</li> <li>• Notice to FPBID of any significant graffiti on private property immediately adjacent to the Corridor</li> </ul>

Scope of Work Matrix  
FPBID Cleaning, Maintenance and Snow Removal Contractor

Service	Description and Expectations
Lighting	<ul style="list-style-type: none"> <li>• Periodic cleaning and painting to minimize residue buildup and paint fading</li> <li>• Cleaning of globe fixtures at least twice annually</li> <li>• Resetting of globes that have fallen off base</li> <li>• Replacement of pedestrian lights that have burned out</li> <li>• Weekly light inventory of all pedestrian and street lights along the Corridor</li> <li>• Alert FPBID of any outages that may be caused by electrical infrastructure issues</li> </ul>
Irrigation	<ul style="list-style-type: none"> <li>• Start up in the Spring and winterization in the Fall of FPBID managed irrigation systems</li> <li>• Monitor water service to FPBID managed irrigation systems and report any leaks or malfunctions to FPBID</li> <li>• Removal of trash and debris from tree wells</li> </ul>
Electrical	<ul style="list-style-type: none"> <li>• Monitor pedestrian lights and related infrastructure and report malfunctions to FPBID</li> </ul>
Banners and Special Event / Holiday Decorations	<ul style="list-style-type: none"> <li>• Installation, adjustments and removal of banners from pedestrian lights as scheduled by the FPBID</li> <li>• Cleaning and storage of banners; inventory of all banners</li> <li>• Ability to store and inventory special event and holiday decorations used at various times throughout the year on the Corridor</li> </ul>
Snow Removal	<ul style="list-style-type: none"> <li>• Operate on a 24-hour schedule during snow events</li> <li>• Snow removal begins when accumulation has reached two (2) inches</li> <li>• Snow removal will continue throughout the entirety of an event</li> <li>• Remove from all sidewalks in the BID</li> <li>• Protective edges must be used on blades to protect granite and medallions at the Five Points intersection at 27<sup>th</sup> and Welton Streets</li> <li>• Snow storage should not occur on the corridor. Side streets may be used as a temporary option during significant accumulation events, but should be broken down immediately at the end of the event</li> <li>• Ice melt products may be used as needed; residual product will be removed within 24 hours of the close of snow event</li> <li>• De-icers and ice melt products must be kept out of tree wells</li> <li>• FPBID representative will approve products used</li> </ul>

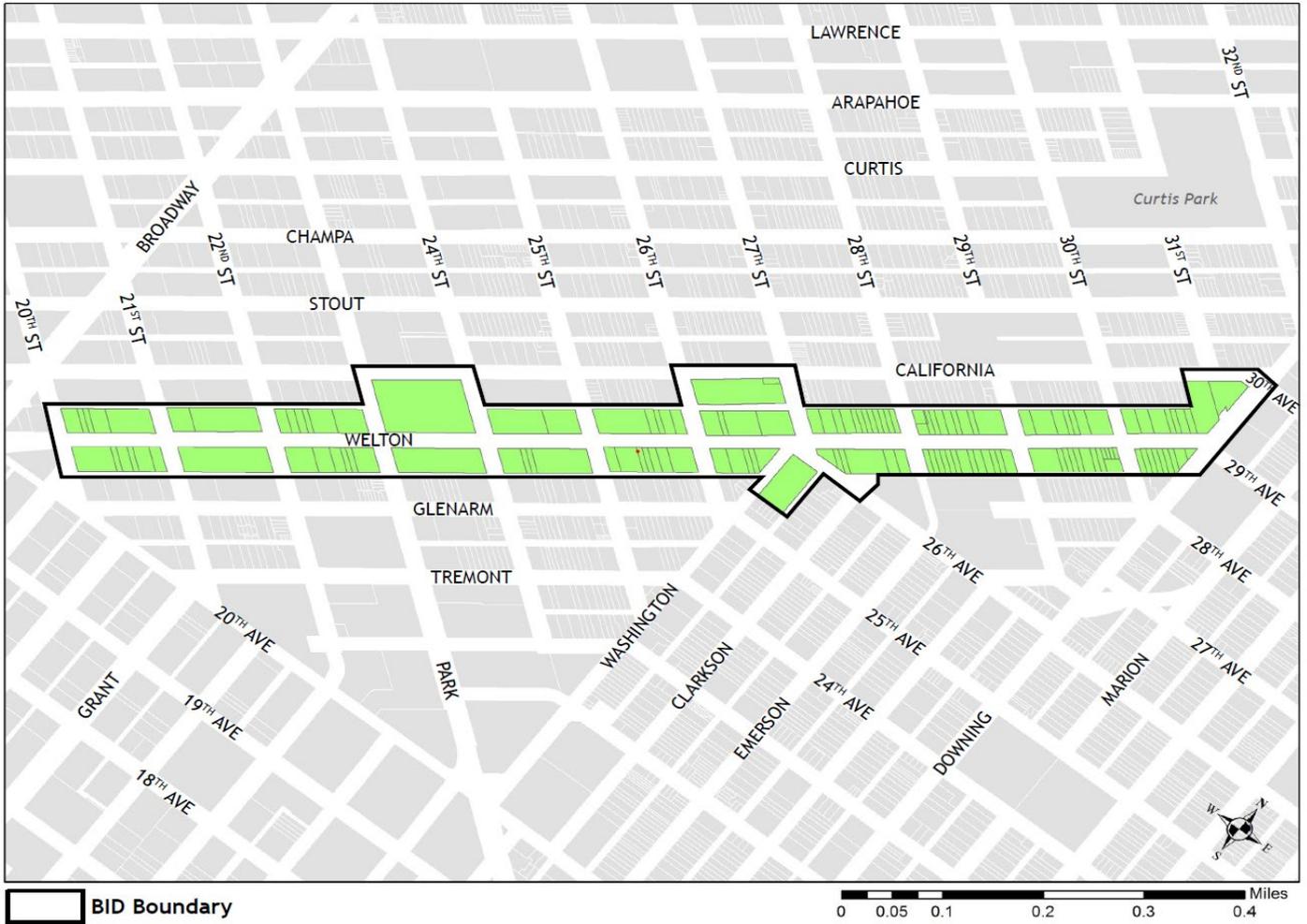
## **EXHIBIT A-1**

### **FIVE POINTS BUSINESS IMPROVEMENT DISTRICT ACCEPTABLE INSPECTION FORMS**

- Use of field service software to provide real-time reporting and dispatching;
- Email with the following Information
  - Date
  - Inspector
  - Photo of affected area
  - Service Requested
  - Nearby address, cross-streets, and/or detailed description of the area
  - Miscellaneous other comments
- Word or excel documents that list the above information and are approved by the FPBID for use in the field

# EXHIBIT B

## AREA OF SERVICE



**EXHIBIT C**

**BILLABLE WORK ORDER REQUESTS PRICING**

**EXHIBIT D**

**EQUIPMENT INVENTORY**

**EXHIBIT E**

**INSURANCE**

# CCD IGA – The Point Pedestrian Plaza

- Agreement between BID and DOTI
- City asking BID to take ownership of amenities & provide maintenance
- Not asking BID to do anything outside of capacity
- Purchase price for all amenities: \$10

**INTERGOVERNMENTAL AGREEMENT**  
(Five Points Pedestrian Plaza Improvements)

**THIS INTERGOVERNMENTAL AGREEMENT** (“Agreement”) is made and entered into as of the date of the City’s signature below (the “Effective Date”) by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation and home rule city of the State of Colorado (“City”) and the **FIVE POINTS BUSINESS IMPROVEMENT DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado, created pursuant to Part 12, Article 25 of Title 31 of the Colorado Revised Statutes and by enabling ordinance of the City, with an address of \_\_\_\_\_, Denver, Colorado 8020\_ (“District” or “BID”), sometimes individually referred to as “Party” and collectively referred to as “Parties.”

**WITNESSETH**

**WHEREAS**, the District was formed pursuant to the provisions of C.R.S. §§ 31-25-1201, *et seq.*, and possesses the power to enter into contractual agreements with other governmental entities; and

**WHEREAS**, the District was created by City and County of Denver Ordinance No. 16-0341, Series of 2016, in part, to provide and maintain enhanced or otherwise unavailable services, facilities and improvements along a portion of Welton Street in the City; and

**WHEREAS**, the City desires to construct certain streetscape improvements intersection of Welton Street, 26<sup>th</sup> Avenue, 27<sup>th</sup> Street, and Washington Avenue; as long as there is an entity willing to take ownership of and provide ongoing maintenance for such streetscape improvements (“Improvements” as defined more fully in Section I.G. below); and

**WHEREAS**, this Agreement supersedes and replaces any previous agreements between the District and the City, whether written or oral, regarding design, construction, installation, maintenance, and/or ownership of the specific Improvements listed in Exhibit A; and

**WHEREAS**, this Agreement does not modify any other responsibilities of the BID; and

**WHEREAS**, the District is ready, willing, and able to undertake such services as a quasi-municipal corporation and political subdivision of the State of Colorado, and not as an agent of the City; and

**WHEREAS**, the Parties have determined that construction and ongoing maintenance of the Improvements will benefit both the City and the District as a whole and that consequently a

public purpose will be served by entering into this agreement.

**NOW, THEREFORE**, in consideration of the premises, the mutual agreements herein contained, and subject to the terms and conditions hereinafter stated, it is hereby understood and agreed by the parties hereto as follows:

1. **Definitions.** The following terms shall have the meanings set forth below:

**A. “EXECUTIVE DIRECTOR”:** means the Executive Director of the Department of Transportation and Infrastructure (“DOTI”) of the City, or the Executive Director’s designee.

**C. “PROJECT”:** shall mean the work being performed by DOTI to reconstruct Welton Street and install the Improvements.

**D. “PLANS”:** means detailed design plans prepared by CCD Department of Transportation and Infrastructure (DOTI) titled “Five Points Renaissance Action Plan – Phase 1.”

**E. “SERVICE AREA”:** means all property located within the boundaries of the District, which are generally: all parcels along Welton Street beginning at the north side of 20th Street going northeast along Welton Street terminating at Downing Street and 30<sup>th</sup> Avenue, as set forth in the Petition for Organization of the District which is found in City Clerk Filing No. 2016-0341.

**F. “STANDARDS AND CRITERIA”:** means all proper and applicable ordinances, rules, regulations, standards and criteria issued under the authority of the Executive Director, any other applicable department of the City or any other entity having jurisdiction which relate to work being performed pursuant to this Agreement.

**G. “IMPROVEMENTS”:** may include as part of the Project but shall not be limited to: expanded pedestrian plaza shown in the plans, containing café tables, sunshades, chairs, and planters (tree and flowers). Descriptions of the Improvements currently contemplated in this Agreement, subject to final agreement between the Parties, are attached hereto and incorporated herein as **Exhibit A**. Improvements may be altered or expanded over time as new improvements may be built pursuant to written mutual agreement between the City and the District. Improvements shall not include traffic control devices, street maintenance including pavement, striping, curbs, and flexible posts, and utilities not related to Improvements.

**H. “MAINTENANCE”:** means the continuing reasonable care, operation, security, repair, maintenance and replacement of all Improvements within the Service Area, whether previously existing or subsequently built, including, but not limited to the Improvements described herein; such Maintenance obligations shall include all public improvements that the District is responsible for Maintaining prior to the date of this Agreement. Such Maintenance shall include, at a minimum, the reasonable routine assessments of the condition of all Improvements, maintenance, repair or removal as needed to keep the Improvements operational, in reasonable working condition, and aesthetically functional. All Maintenance responsibilities shall be performed in accordance with all current Standards and Criteria applicable to each type of Improvement and shall be performed at no cost to the City. Maintenance activities must comply with all laws, ordinances, rules and regulations for performance of work in City rights-of-way, (including, without limitation, the City’s then-current Bicycle Parking Program maintenance requirements), as such laws, ordinance, rules, regulations, and requirements may be amended, revised or restated from time to time.

2. **Authority.** The Executive Director is vested with the City’s authority to act on behalf of the City in performing and granting approvals under this Agreement. The Executive Director may designate one or more authorized representatives to act on his or her behalf by written notice and may change authorized representatives at any time by providing written notice to the District.

3. **Project.**

A. The Parties agree that the City will undertake the construction of the Project, including the Improvements in the Service Area, substantially in accordance with the Plans. In the event the District desires to construct additional Improvements related to the Project utilizing its own funds, it may do so subject to the City’s prior approval as set forth below.

4. **Work to be Performed by the District.**

A. Prior to the District undertaking the construction of any new Improvements at any time, the District shall prepare and submit proposed plans for the proposed Improvements to be constructed to the City. The proposed plans shall comply with all current, applicable City design criteria and all applicable Standards and Criteria. The City, including DOTI and other applicable departments, shall review the proposed plans and may require any

modifications or revisions deemed necessary prior to formal written acceptance of the proposed plans. Upon formal written acceptance of the proposed plans by the City, the District may construct the new Improvements in accordance with such plans. Such acceptance by the City shall not, however, be construed as a representation by the City as to the adequacy or sufficiency of the accepted plans or as a waiver by the City of any errors or omissions contained in the accepted plans. The terms, conditions and covenants of this Agreement shall prevail over any contradictory or inconsistent terms, conditions or covenants contained in the accepted plans.

**B.** In the event the District constructs any new Improvements in accordance with accepted plans, the District agrees to perform all such work or cause to be performed all such work necessary to complete the new Improvements in accordance with the accepted plans and all applicable laws, ordinances, rules and regulations and City Standards and Criteria.

**C.** Each time the District constructs new Improvements pursuant to accepted plans, the District shall give the City written notification of completion of such Improvements. The City will then undertake such final inspection as it deems necessary to verify, to the City's satisfaction, that the new Improvements have been constructed in accordance with the accepted plans, as may be amended in accordance with the procedures set forth herein, and all applicable City laws, ordinances, rules, regulations, Standards and Criteria, and other requirements, and that the project is at final completion. Following such inspection, the City will either notify the District of any observed construction deficiencies, unauthorized design changes or incomplete or substandard work which must be corrected or completed prior to final acceptance by the City. The District shall promptly address each observed construction deficiency, design change or incomplete work item prior to requesting City re-inspection for final acceptance. The District shall submit, prior to final acceptance, all documentation or other certifications required to demonstrate to the City that the project is free of all liens and claims. Following such inspection, and receipt of "as built drawings" and any other requested materials, the City shall issue its final acceptance of the new Improvements.

**5. Ownership and Maintenance.**

**A.** After completion of the Project by the City, or completion of other new Improvements by the District as detailed in Section 4, above, the District shall own all Improvements. Upon installation of the Improvements detailed in **Exhibit A**, the Mayor of the City shall execute a bill of sale ("Bill of Sale"), a form of which is attached hereto and

incorporated herein by reference as **Exhibit B**, transferring ownership of the Improvements from the City to the District. Notwithstanding the foregoing, in the event of any delay or failure to formally execute and deliver the Bill of Sale, the Parties agree by execution of this Agreement that it is their express intention that all Improvements identified in **Exhibit A** are, upon their installation, to be owned and Maintained by the District.

**B.** The District shall be solely responsible for the care and Maintenance of all Improvements within the Service Area. In the event the Executive Director determines, in his or her sole discretion, that the District has failed to comply with its Maintenance obligations defined herein, the City will issue written notice to the District of its failure to comply, outline the deficiencies and provide the District with a thirty (30) day opportunity to cure the deficiencies. If the District fails to cure the deficiencies noted within the applicable timeframe, the Executive Director may have the Maintenance work completed for the District and invoice the District for all actual costs associated with completing the District's Maintenance obligations, or alternatively, the Executive Director may remove any unsafe or poorly maintained Improvements from the public right of way and invoice the District for all actual costs associated with such removal.

**C.** The District shall be solely responsible for coordination and contracting with any and all necessary utility providers for the provision of water, power, gas, electrical and other utility system maintenance to the Improvements, if required. The District shall be solely responsible for the cost of all water, power, gas, electricity, and other utilities used for Improvement purposes.

**D.** All costs of performing the District's obligations under this Agreement shall be borne solely by the District.

6. **Coordination and Liaison.** The District agrees that during the term of this Agreement it shall fully coordinate services hereunder with the City, including the Executive Director, or as otherwise directed by the Executive Director. The District also agrees to allow the City to review any of the procedures used by it in performing construction or Maintenance work hereunder, as such procedures may exist now or in the future, and to make available for inspection all records, invoices and other documents used in the performance of any of the work required hereunder, in order to coordinate the performance of work by the District in accordance with the terms of this Agreement.

7. **Time is of the Essence.** The Parties agree that in the performance of the terms, conditions, and requirements of this Agreement time is of the essence.

8. **Funding.**

A. The City shall spend the amount budgeted for the Project, as may be amended, to fund the actual cost of constructing the Project in accordance with the Plans.

B. The District shall pay for the ongoing costs of all utilities associated with the operation of the Improvements.

C. The District shall pay for the ongoing Maintenance of all worn or damaged Improvements.

9. **Appropriation.** It is understood and agreed that any payment obligations of the City hereunder, whether direct or contingent, shall extend only to funds which may be appropriated by the Denver City Council from time to time for the purpose of this Agreement, encumbered for the purpose of the Agreement and paid into the Treasury of the City. The District acknowledges that: (i) the City does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and (ii) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City. Further, all obligations of the District hereunder are subject to annual appropriation and budget approval, and shall not be considered to create a multi-fiscal year direct or indirect debt or financial obligation of the District.

10. **No Discrimination in Employment** In connection with the performance of work under the Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Contractor shall insert the foregoing provision in all subcontracts.

11. **Examination of Records.** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to the District's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. The

District shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the termination of this Agreement according to its terms or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require District to make disclosures in violation of state or federal privacy laws. The District shall at all times comply with D.R.M.C. 20-276.

12. **Prevailing Wages.** The District shall comply, to the extent applicable to its specific performance obligations under this Agreement, with the prevailing wage requirements of Sections 20-76, *et seq.*, D.R.M.C. As such, the District agrees to cooperate fully with the City Auditor's Officer in implementing, administering and enforcing all applicable requirements of Section 20-76, D.R.M.C.

13. **Taxes, Licenses and Permits.** To the extent such costs and fees are not waived, the District agrees to pay promptly all taxes, excises, license fees and permit fees of whatever nature applicable to its operations, and to take out and keep current all required licenses, municipal, state or federal, required for the conduct of its business hereunder, and further agrees not to permit any of said taxes, excises or license fees to become delinquent.

14. **Insurance.** At all times during the term of this Agreement, including any renewals or extensions, the District shall maintain such insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunities Act, §§ 24-10-101, *et seq.*, C.R.S. This obligation shall survive the termination of this Agreement.

15. **Indemnification.** The District shall cause its contractors to defend, release, indemnify and save and hold harmless the City against any and all damages to property or injuries to or death of any person or persons, including property and employees or agents of the City, and the District shall cause its contractors to defend, release, indemnify, and save and hold harmless the City from any and all claims, demands, suits, actions, liabilities, causes of action or legal or equitable proceedings of any kind or nature, including workers' compensation claims, of

or by anyone whomsoever, in any way resulting from or arising out of the District's or the contractor's activities or performance in connection herewith, including acts or omissions of the District or the contractor's, or their respective officers, employees, representatives, suppliers, invitees, licensees, subconsultants, subcontractors, and agents; provided, however, that the District or the contractor need not indemnify and save harmless the City, its officers, agents, and employees from damages proximately resulting from the sole negligence of the City's officers, agents, and employees. This indemnity clause shall also cover the City's defense costs, in the event that the City, in its sole discretion, elects to provide its own defense. This indemnification obligation shall survive termination of this Agreement. To the extent authorized by law, the District shall defend, indemnify, and hold harmless the City, its elected officials, officers, directors and employees from any and all claims, demands, suits, actions or proceedings arising from or resulting from services provided by the District in relation to this Agreement. The Parties understand and agree that each Party is relying upon, and does not waive or intend to waive, any provision, right, immunity or protection provided by the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*

16. **Relationship of Parties.** No Party to this Agreement shall be deemed to be an agent of the other or be deemed as acting on the other's behalf for agency purposes. Each Party agrees not to assume, create, or enter into any obligation, agreement, or commitment of any nature on behalf of the other, except as specifically authorized in this Agreement. All Parties further agree not to make any warranties to any third party concerning any matters that are not in accordance with this Agreement.

17. **Assignment and Subcontracting.** The City is not obligated or liable under this Agreement to any party other than the District named herein. The District shall not assign or subcontract with respect to any of its rights, benefits, obligations or duties under this Agreement except upon prior written consent and approval of the City. However, the City hereby approves the District's right and intention to subcontract for typical maintenance, repair and construction activities without the prior written consent and approval of the City.

18. **Term and Termination.**

A. The term of this Agreement shall commence as of the Effective Date and extend indefinitely until terminated hereunder.

B. This Agreement may be terminated without cause by the Executive

Director upon thirty (30) days written advance notice, or with cause effective immediately. The City may also by written notice to the District terminate the whole or part of this Agreement in the event of the District or any of its officers or employees are convicted, plead *nolo contendere*, enter into a formal agreement in which they admit guilt, enter plead of guilty, or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with District's business. In the event of any termination of this Agreement, the District shall nevertheless own and be obligated to maintain any Improvements installed by the City as of the date of such termination.

19. **When Rights and Remedies not Waived.** In no event shall any payment or performance hereunder by either Party constitute or be construed to be a waiver by such Party of any breach of covenant or condition, or any default which may then exist on the part of the other Party, and the making of any such payment or rendering of such performance when any such breach or default shall exist shall not impair or prejudice any right or remedy available to the non-breaching Party with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of the Agreement shall be construed as a waiver of any succeeding or other breach.

20. **Conflict of Interest.** The Parties agree that no employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein and the District further agrees not to hire or contract for services any employee or officer of the City which would be in violation of the Denver Revised Municipal Code.

21. **No Third-Party Beneficiary.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and the District, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of the City and the District that any person other than the City or the District receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

22. **Confidential Information.** The Parties shall not at any time or in any manner, either directly or indirectly, divulge, disclose or communicate to any person, firm or corporation in any manner whatsoever any information concerning any matters which are not subject to

public disclosure, including without limitation the trade secrets of businesses or entities doing business with either of the Parties and other privileged or confidential information.

23. **Charges and Penalties.** The City shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by the City's Revised Municipal Code.

24. **Subject to Local Laws, Venue.** Each and every term, provision or condition herein is subject to and shall be construed in accordance with the provisions of Colorado law, the Charter of the City and County of Denver, and the ordinances, regulations, executive orders, or fiscal rules, enacted or promulgated pursuant thereto. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set out herein by this reference. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver, Colorado.

25. **Supplementary Documents.** The following documents are attached and/or incorporated herein and made part of this Agreement:

**Exhibit A** – Improvements

**Exhibit B** – Bill of Sale

**Exhibit C** - District's Certificate of Insurance

The terms and conditions of Articles 1 through 36 hereof shall control over any contradictory or inconsistent terms and conditions which may be found or contained in the above referenced **Exhibits A, B and C.**

26. **Notices.** Any notice to be given hereunder shall be deemed given when sent by registered or certified mail or hand delivered to the addresses below:

To the City:                      City Attorney  
    1437 Bannock Street Rm353  
    Denver, CO 80202

With copies to:                  Executive Director  
    Department of Transportation & Infrastructure  
    201 W. Colfax Avenue, Dept. 608  
    Denver, CO 80202

To the District: \_\_\_\_\_

With a copy to: \_\_\_\_\_

Each Party may change its address from time to time by notice in writing to the other Party.

27. **Disputes.** All disputes of any nature whatsoever regarding this Agreement, including but not limited to disputes concerning payment or breach or default of this Agreement, shall be ultimately resolved by administrative hearing pursuant to D.R.M.C. Section 56-106.

28. **Agreement as Complete Integration, Amendments.** This Agreement is intended as the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other agreement properly executed by the Parties. This Agreement and any amendments shall be binding upon the Parties, their successors and assigns.

29. **Section Headings.** The captions and headings set forth herein are for convenience of reference only and shall not be construed so as to define or limit the terms and provisions hereof.

30. **Severability.** It is understood and agreed by the Parties that if any part, term, or provision of this Agreement is held to be illegal by the courts or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

31. **Survival of Certain Provisions.** The Parties understand and agree that all terms, conditions and covenants of this Agreement, together with the exhibits and attachments hereto, if any, any or all of which, by reasonable implication or express statement, contemplate continued performance or compliance beyond the expiration or termination of this Agreement (by expiration of the term or otherwise), shall survive such expiration or termination and shall continue to be enforceable as provided herein for a period equal to any and all relevant statutes

of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

32. **Legal Authority.** Each Party represents that it possesses the legal authority, pursuant to any proper, appropriate, and official motion, resolution, or action passed or taken to enter into this Agreement.

33. **Reasonableness of Consent or Approval.** Whenever under this Agreement “reasonableness” is the standard for the granting or denial of the consent or approval of either Party hereto, such Party shall be entitled to consider public and governmental policy, moral and ethical standards, as well as business and economic considerations.

34. **Prior Agreement.** This Agreement shall supersede and control the relationship between the City and the District regarding their respective rights and obligations for Improvements and Maintenance in the Service Area.

35. **Police Powers.** Nothing in this Agreement shall impair the City’s exercise of its police powers.

36. **Electronic Signatures and Electronic Records.** The Parties hereto consent to the use of electronic signatures by each Party. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by each Party in the manner specified by each Party. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

**BILL OF SALE**

The CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado (“Seller”), for and in consideration of Ten Dollars (\$10.00), the receipt and sufficiency of which are hereby acknowledged, has bargained and sold, and by these presents does grant and convey unto to the Five Points Business Improvement District, a Colorado business improvement district created pursuant to C.R.S. §§ 31-25-1201, et seq., whose address is \_\_\_\_\_, Denver, Colorado 8020\_ (“Purchaser”), and Purchaser’s successors and assigns, the personal property described herein, located within the expanded pedestrian plaza at the intersection of Welton Street, 26th Avenue, 27th Street, and Washington Avenue in the City and County of Denver, all as depicted and described in Exhibit A, Denver, Colorado (the “Property”):

See Exhibit A, attached hereto and incorporated herein.

Seller hereby assigns to Purchaser all manufacturer’s warranties received by Seller, if any, on such items.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale this \_\_\_\_ day of \_\_\_\_\_, 2021.

CITY AND COUNTY OF DENVER

BY: \_\_\_\_\_  
Michael J. Hancock  
MAYOR

**Five Points Business Improvement District  
FY2021 Proposed Adjusted Budget for New Programs**

	2021 Approved Budget	2021 Proposed Amendment	2021 Actual YTD thru August	2021 Projected Actual	Projected Variance Increase (Decrease)	2022 Proposed Budget	% Change from 2021 Projected
<b>Beginning Cash and Fund Balance</b>	\$ 99,767	\$ 186,176	\$ 186,176	\$ 186,176	86,409	164,470	-11.66%
<b>Income and Other Sources of Funds</b>							
Mill Levy Income-FPBID	220,000	236,387	236,387	236,387	16,387	245,842	4.00%
Donations/Sponsorships/Grants		60,000	60,000	60,000	60,000	18,000	-70.00%
Refund - Sedgwick		1,000	1,000	1,000	1,000	-	-100.00%
<b>Total Income and Sources of Funds</b>	220,000	297,387	297,387	297,387	77,387	263,842	-11.28%
<b>Total Available Resources</b>	\$ 319,767	\$ 483,563	\$ 483,563	\$ 483,563	\$ 163,796	\$ 428,312	-11.43%
<b>Expenditures</b>							
<i>Maintenance</i>							
General Maintenance Contract	66,461	63,902	43,796	63,902	2,559	62,733	-1.83%
Other Maintenance	6,000	13,750	5,363	9,500	(3,500)	9,500	0.00%
Plazas Maintenance	0	0	0	0	-	13,323	N/A
Snow Removal	12,000	15,000	12,234	15,000	(3,000)	15,000	0.00%
Utilities	2,000	2,000	1,344	2,000	-	4,000	100.00%
Irrigation Repairs	0	0	0	0	-	1,500	N/A
Tree & Landscape Maintenance	10,000	10,000	1,894	10,000	-	13,000	30.00%
<b>Total Maintenance</b>	96,461	104,652	64,631	100,402	31,830	119,056	18.58%
<i>Marketing/Branding</i>							
Events/Activation sponsorships	23,800	66,500	62,936	66,500	(42,700)	-	-100.00%
Grants (\$2,500 2021 YTD; \$5K Total Awarded)						16,864	
FP History Stroll (\$500 2021 YTD)						1,000	
ASG Activations (\$59,935.58 2021YTD)						-	
Trick or Treat (\$1000 budgeted for 2021)						1,000	
Holiday Stroll 2022						10,000	
Summer Activation?						-	
Banners Pedestrian	5,000	4,000	3,014	4,000	1,000	3,500	-12.50%
Holiday Lighting	15,000	12,000	0	12,000	3,000	15,000	25.00%
Holiday Event Expense (Holiday Stroll 2021)	10,000	10,000	2,911	10,000	-	-	-100.00%
Marketing Administration	30,000	45,061	28,394	45,061	(15,061)	50,000	10.96%
Marketing Programs	5,000	5,000	0	5,000	-	5,000	0.00%
<b>Total Marketing/Branding</b>	88,800	142,561	97,255	142,561	(53,761)	102,364	-28.20%
<i>Administrative</i>							
General Administration	22,000	22,000	14,743	22,000	-	22,000	0.00%
Bank Charges & Fees	100	130	72	130	(30)	130	0.00%
Dues & Memberships	600	500	417	500	100	600	20.00%
Insurance	3,000	3,000	2,694	3,000	-	3,000	0.00%
Legal Fees	3,000	3,000	734	3,000	-	3,000	0.00%
<b>Total Administrative</b>	28,700	28,630	18,660	28,630	70	28,730	0.35%
<i>Contingency Funds</i>	7,500	5,000	0	5,000	2,500	7,500	50.00%
<b>Total Ongoing Expenditures</b>	221,461	280,843	180,546	276,593	(55,132)	257,650	-6.85%
<i>Capital Expenditures</i>						100,000	
Gateway signage (\$30,000)	25,000	-	-	-	25,000	-	N/A
Xcel Pole Banner Brackets & Banners (\$18,000)	15,000	-	-	-	15,000	-	N/A
Security Expenditures (\$10,000)	10,000	-	-	-	10,000	-	N/A
Charge Ahead Colorado Grant	-	32,000	-	32,000	(32,000)	-	-100.00%
Monument Repairs (\$10,000)	-	-	-	-	-	-	N/A
Trash Receptacles	-	10,500	10,500	10,500	(10,500)	-	-100.00%
2400 Block Streetlight Replacements	-	-	-	-	-	-	-
Billboard Campaign (\$1,300 - \$10K 4 Wks)	-	-	-	-	-	-	N/A
<b>Total Capital Expenditures</b>	50,000	42,500	10,500	42,500	7,500	100,000	135.29%
<i>Use of Reserve Funds</i>	\$ -	-	-	-	(69,000)	-	N/A
<b>Total Expenditures</b>	\$ 271,461	\$ 323,343	\$ 191,046	\$ 319,093	(116,632)	\$ 357,650	12.08%
<b>Ending Cash and Fund Balance</b>	\$ 48,306	\$ 160,220	\$ 292,517	\$ 164,470	60,453	\$ 70,662	-57.04%