



<p>DISTRICT COURT, PUEBLO COUNTY, COLORADO Court address: 320 W. 10th St., Pueblo, CO 81003 Phone number: (719) 583-7125 (Information)</p>	<p>CERTIFIED TO BE A FULL, TRUE, AND CORRECT COPY OF THE ORIGINAL IN MY CUSTODY</p>
<p>IN THE MATTER OF THE PUEBLO CONSERVANCY DISTRICT.</p>	<p>CLERK OF THE DISTRICT/COUNTY COURT PUEBLO COUNTY, COLORADO</p> <p>BY <u>[Signature]</u> DEPUTY CLERK COURT USE ONLY</p>
<p>Donald J. Banner, #3026 Banner & Bower, P.C. Attorneys for the Pueblo Conservancy District 503 N. Main St., Suite 221 Pueblo, CO 81003 (719) 544-5086</p>	<p>Case No. 17664 Div. No. B</p>
<p>ORDER APPROVING AN ASSESSMENT FOR THE PUEBLO CONSERVANCY DISTRICT</p>	

COMES NOW the Court, having reviewed the Motion for Order Authorizing an Assessment for the Pueblo Conservancy District, and having considered the matter, does hereby find that the public's health, welfare and safety require an increase in the maintenance fund assessment allowed to the Pueblo Conservancy District and the Court does hereby Order that the Motion filed is granted.

An assessment for maintenance for the years 2008 and thereafter in a percentage of up to three and one-half (3.5%) percent of the original appraisal of benefits value of \$9,496,910.00 may be levied by the Pueblo Conservancy District on properties within said Pueblo Conservancy District. The Pueblo Conservancy District may use a Maintenance Fund Assessment Record in a form compatible with Pueblo County's computer system.

The Court further Orders that a copy of this Order be recorded in the Records of the Recorder of Pueblo, Colorado.

Done by the Court this 21 day of September, 2007.

[Signature]
Dennis Maes, District Judge

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IN THE MATTER OF THE PUEBLO CONSERVANCY DISTRICT.	
Donald J. Banner, #3026 Banner & Bower, P.C. Attorneys for the Pueblo Conservancy District 503 N. Main St., Suite 221 Pueblo, CO 81003 (719) 544-5086	Case No. 17664 Div. No. B
MOTION FOR ORDER AUTHORIZING AN ASSESSMENT FOR THE PUEBLO CONSERVANCY DISTRICT	

COME NOW, the Directors of the District by and through their attorney Banner & Bower, P.C., pursuant to CRS 37-4-107 (1) and hereby moves this Court for an Order authorizing an assessment of up to **three and one-half (3.5) percent** of the total appraisal of benefits for the Pueblo Conservancy District and **STATE AS FOLLOWS:**

1. **BACKGROUND:** The Pueblo Conservancy District (PCD) was organized under the Conservancy Law of Colorado C.R.S. 37-1-101 through 37-8-101 in response to the 1921 flood.

PCD has received no public financing since terminating its mill levy in 1955. For years, investment policies allowed substantial growth in reserves thus eliminating the need for further public taxes or assessments. In approximately 1990, the Colorado Legislature established investment practices for government bodies including PCD. Since that time PCD has been restricted to investments that are collateralized or statutorily authorized. When investment returns fell, expenses of PCD exceeded income resulting in diminishing reserves for maintenance.

The District as organized is situate wholly within Pueblo County, Colorado. It originally embraced 7,651.6 acres or 11.95 square miles of territory. It is in

the form of an irregular narrow strip averaging approximately one mile in width by eleven miles in length following the course of the Arkansas River in a general southeasterly direction from a point 9 1/2 miles west of the City limits as they existed in 1922 through the heart of the City of Pueblo to the eastern limits of the County as they existed in 1922. 1.28 square miles was included in the boundaries of the City of Pueblo itself as the same existed in 1922. This property was in the heart of the business district of Pueblo and included at that time 46.3% of the total assessed valuation within the City of Pueblo (as compared to only 11.28% of the total area of the City of Pueblo).

From the historical Court records filed in this case, it appears that the original appraisal of benefits was valued at \$9,496,910.00 (Court Order of 9/22/1921).

2. **LEGISLATIVE PROVISIONS:** CRS 37-5-107 provides in part that for the Pueblo Conservancy District to maintain, operate, and preserve the improvements of the District, on or before the first Monday of November of each year the board of directors may levy an assessment on property within the District which assessment is to be known as the “maintenance fund assessment”, in an amount which shall not exceed **one percent** of the total appraisal of benefits, *unless* the court shall by its order authorize an assessment of a larger percentage (emphasis added). One percent of the \$9,496,910.00 would yield \$94,969.10; a sum which the board of directors believes is insufficient to fund the needs as specified in the District’s Motion For Approval of Amended Official Plan filed May 4, 2007, and the Amended Official Plan as approved by this Court.
3. **NEED FOR INCREASE IN PERCENTAGE:** As stated in the Motion For Approval of Amended Official Plan for the Pueblo Conservancy District, there is an immediate need to comply with new Federal regulations relative to the certification of the Pueblo Conservancy District levee. The cost to obtain such certification is uncertain at this time, and under study. It could be well in excess of \$150,000.00. The significance of the certification is this: if the levee isn’t certified, significant portions of downtown Pueblo would be considered to be within a flood plain, requiring the owners of those properties to obtain flood plain insurance at a significant combined cost to those owners. It is believed that an assessment by the Pueblo Conservancy District of 3.5% of the \$9,496,910.00 yielding \$332,391.85 will be lower than the annual cost of flood insurance which would have to be borne by those property owners. Additionally, there are immediate maintenance repairs known to be needed as well as other costs that must be incurred as stated in the Motion For Approval of Amended Official Plan for the Pueblo Conservancy District, which Motion is incorporated herein by reference. Should the Pueblo Conservancy District’s maintenance needs be reduced, the percentage of levy may also be reduced.
4. **FORMAT PROCEDURE:** The Directors of the Pueblo Conservancy District will direct the Treasurer of Pueblo County in a form attached hereto as Exhibit

A pursuant to CRS 37-8-101 Form VIII 2, and a Maintenance Fund Assessment Record in a form compatible with Pueblo County's computer system, which will be substantially in the form suggested in CRS 37-8-101 Form VIII 2.

The Directors of the Pueblo Conservancy District believe that it is in the public's best interest for the health, welfare and safety of the Pueblo County community that the Court authorize an increase in the maintenance fund assessment from 1% up to a maximum of 3.5%. It should be noted that the 1% figure was determined by the legislature in 1922, and no increase has been sought since then. It should be further noted that in any year where the revenue is not needed for maintenance purposes, the board of directors is not obligated to seek an assessment and if this court approves this Motion, the board could seek an assessment of less than three and one-half (3.5%) percent. The Directors may commence levying the assessment for the year 2008 or they may defer the levy until the year 2009.

WHEREFORE, the undersigned prays that this Court would enter its Order authorizing an assessment for the year 2008 and subsequent years in the amount of up to three and one-half (3.5%) percent and approving the proposed forms for use in making a record of the assessment.

RESPECTFULLY SUBMITTED this 21st day of September, 2007.

BANNER & BOWER, P.C.

By: 

Donald J. Banner, #3026

Attorneys for the Pueblo Conservancy District

**DIRECTIONS TO THE TREASURE OF PUEBLO COUNTY FOR
MAINTENANCE FUND ASSESSMENT OF THE
PUEBLO CONSERVANCY DISTRICT**

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

To the Treasurer of Pueblo County, Colorado:

This is to certify that by virtue and under the authority of the conservancy law of Colorado, the Board of Directors of the Pueblo Conservancy District has levied the sum of \$ _____, for the account of the maintenance fund for the year 200_.

The amounts of said levies upon the several parcels of land upon which the same are imposed are set forth in the maintenance fund assessment record to which this certificate is appended.

The said assessments set forth in the maintenance fund record, to which this certificate is appended, shall be collectible and payable the present year in the sums therein specified at the time that the state and county taxes are due and collectible, and you are directed and ordered to demand and collect such assessments at the time that the state and county taxes are due on the same land, and the maintenance fund assessment record to which this certificate is appended shall be your authority to make such collection.

Witness the signature of the president of the District, attested by the seal thereof, attested by the signature of its secretary, this _____ day of _____, 200_.

President

ATTEST:

Secretary

(SEAL)