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Sixty-eighth General Assembly
STATE OF COLORADO

Attachment C

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LLS NO. R12-0871.01 Esther van Mourik x4215

SENATE Joint Resolution

SENATE SPONSORSHIP

(None),

HOUSE SPONSORSHIP

(None),

SHORT TITLE: "Demolition Of Structures On State Fair Property"

DEADLINES: File by: 19 APR 2012

SENATE JOINT RESOLUTION

101 **CONCERNING THE ABATEMENT OF ENVIRONMENTAL CONTAMINANTS**
102 **IN AND DEMOLITION OF STRUCTURES ON LAND LOCATED IN THE**
103 **CITY OF PUEBLO, ADJACENT TO THE COLORADO STATE FAIR**
104 **GROUNDS.**

1 WHEREAS, The Colorado State Fair Commission entered into a
2 lease with the federal government on April 1, 1947, for 1.72 acres of land
3 located on the corner of Northern Avenue and Acero Avenue in the city
4 of Pueblo, adjacent to the Colorado State Fair grounds; and

5 WHEREAS, The 1947 lease was later superceded and canceled by
6 a new lease dated June 6, 1957; and

7 WHEREAS, The 1957 lease specified that the federal government
8 would pay one dollar as rent for the term of the lease, including any

1 renewals, and that the federal government had the right to erect structures
2 upon the land; and

3 WHEREAS, The 1957 lease also specified that the federal
4 government would own whatever structures were erected on the property.
5 The 1957 lease further sets forth that the federal government may
6 abandon any or all of the structures constructed; and

7 WHEREAS, The 1957 lease further specifies that the federal
8 government agrees to maintain the premises and the erected
9 improvements at all times and at its own expense, in an orderly and
10 proper manner; and

11 WHEREAS, The property and the erected structures were used as
12 a United States Navy Reserve Center until July 1994, providing facilities
13 for Navy, Marine Corps, and Army reserve personnel for training and
14 military functions. Although the Navy had vacated the facility in late
15 1985, the Army reserve continued to use the property until 1994; and

16 WHEREAS, The structures and land have remained unoccupied
17 since the federal government vacated the property; and

18 WHEREAS, The structures were built with asbestos-containing
19 material and lead-based paint. Furthermore, hazardous substance
20 contamination was found at the small arms firing range, and petroleum
21 product contamination was found from an underground storage tank. In
22 1998, the federal government performed remediation for the lead,
23 asbestos, and petroleum contamination. This remediation involved the
24 excavation and vacuuming of all soil within the firing range into drums
25 and disposition of the material as allowed by Colorado law, the removal
26 of one 20-gallon underground storage drum from the site, and the removal
27 of approximately 8,823 square feet of mixed friable and non-friable
28 asbestos-containing material from the structures; and

29 WHEREAS, A subsequent study performed by the federal
30 government later in 1998 determined that no contaminated soil remained,
31 no petroleum products were present, and no further friable asbestos was
32 present in the air or asbestos-containing materials that were sampled. The
33 study indicated that some remaining asbestos-containing materials, such
34 as vinyl floor tile, existed but they were non-friable and in good
35 condition; and

1 WHEREAS, In a July 28, 1999, letter to the Navy from the
2 Colorado State Fair Commission, the Commission stated that the
3 Commission "plans to demolish the main buildings and probably save one
4 out building for storage"; and

5 WHEREAS, The Colorado State Fair Commission believes that
6 the remediation performed by the federal government was based on the
7 federal government's idea of returning the land with the structures to the
8 Commission. Under this scenario the asbestos-containing materials and
9 lead-based paint would not be disturbed and so would pose no health
10 problems. However, the Commission's position is that it has always
11 indicated it did not want to keep the structures and wanted the land
12 returned to the Commission as vacant land. Demolition of the structures
13 would obviously disturb the asbestos-containing materials and lead-based
14 paint; and

15 WHEREAS, On December 15, 1999, the federal government sent
16 a letter to the director of facilities services at the Colorado State Fair
17 Commission indicating that the "Navy has completed all necessary
18 environmental clean up and documentation" on the property. This letter
19 included an attached Special Release to be signed by the Colorado State
20 Fair Commission. The letter states that, upon signature of the Special
21 Release, the federal government would consider the 1957 lease formally
22 canceled; and

23 WHEREAS, The release states that the Colorado State Fair
24 Commission, "for and in consideration of the surrender of any remaining
25 improvements constructed by the [federal government], which are hereby
26 accepted by the Lessor in their present condition, has . . . released, and
27 forever discharged the United States of America . . . from all manner of
28 action, claims, or demands against the United States of America" that the
29 Colorado State Fair Commission has "ever had, now has or ever will have
30 . . . arising out of . . . [the] occupancy by the United States of America"
31 of the property; and

32 WHEREAS, The Colorado State Fair Commission has never
33 signed this release; and

34 WHEREAS, In 2001 the Colorado State Fair Commission
35 contracted with an environmental services company to determine the
36 nature and extent of any remaining contamination that would require
37 special demolition techniques; and

1 WHEREAS, In August 2003, the Colorado State Fair Commission
2 received a cost estimate for the abatement and demolition of four of the
3 structures. The cost estimates included an industrial hygiene technician
4 to observe abatement activities to ensure federal, state, and local
5 regulations are adhered to, and included costs for collection and analysis
6 of final clearance air sampling as required by Colorado regulations where
7 friable asbestos-containing material is abated. The cost estimates ranged
8 from \$173,874 to \$376,034; and

9 WHEREAS, A November 1, 2007, letter from Representative
10 Mark Udall and Representative John Salazar to the Honorable Donald C.
11 Winter, Secretary of the Navy, indicates that "part of the problem in
12 resolving the status of these buildings is that no one has been able to
13 establish the chain of responsibility for removing the asbestos. We are not
14 going to assume that the Navy bears full responsibility for any remaining
15 cleanup, but it does seem to [us] that it would be helpful if the Navy
16 agreed to participate in a meeting with state and federal authorities to
17 examine the records and determine whether any assistance is appropriate.
18 We plan to ask the EPA to participate as well. The Navy enjoyed the use
19 of these facilities for many years and paid little in rent to the City of
20 Pueblo or to the State of Colorado. We know the Navy paid for some, but
21 not all of the asbestos removal. We hope that you will agree that a
22 conversation with Navy authorities would be helpful in bringing this
23 problem to closure."; and

24 WHEREAS, A November 20, 2007, response letter from the
25 federal government states that "The Navy believes it has met all of its
26 environmental cleanup responsibilities for this property under applicable
27 regulations and the lease, but would be pleased to participate in a
28 discussion with the Colorado State Fair, the Colorado Department of
29 Health, and the Environmental Protection Agency to help establish the
30 relevant facts and related responsibilities for any remaining cleanup."; and

31 WHEREAS, It appears to the General Assembly that a meeting
32 was attempted to be scheduled with all the parties but the meeting never
33 occurred; and

34 WHEREAS, In 2007, the structures were broken into, copper pipes
35 were stolen, and some of the pipe wrappings and insulation were ripped
36 off. As a result of the break-in, the asbestos-containing material may have
37 been disturbed; and

1 WHEREAS, Until this year, neither the Colorado State Fair
2 Commission nor the Department of Agriculture have requested the
3 funding from the General Assembly for the demolition of these structures.
4 It is the General Assembly's understanding that this is due to the fact that
5 the Colorado State Fair Commission and the Department of Agriculture
6 have been attempting to negotiate with the federal government to help
7 identify cleanup options and areas of responsibility; and

8 WHEREAS, In a February 24, 2012, Memorandum to
9 Representative Jerry Sonnenberg, the Commissioner of Agriculture, John
10 Salazar, requests funding for this project and indicates that the demolition
11 of these structures "is a high priority of the department and for the State
12 Fair." The Memorandum goes on to say that the "building poses a liability
13 for the state and its demolition is in the best interests of fairgoers,
14 employees, and neighbors of the Fairgrounds." The cost estimate attached
15 to the Memorandum provides a grand total cost of \$451,384 to abate and
16 demolish the structures; and

17 WHEREAS, The State Architect is required to annually review the
18 controlled maintenance need of state facilities. As a result of the
19 Commissioner of Agriculture's request for funding, the State Architect
20 determined that the facility poses a security risk because it is abandoned,
21 contains hazardous materials, and is located outside the perimeter fence
22 of the Colorado State Fair. The State Architect determined that the level
23 of controlled maintenance need for the facility is a score 4, with score 1
24 indicating the highest level of need; and

25 WHEREAS, The Governor's Office of State Planning and
26 Budgeting has approved the submittal of this project as a traditional
27 Capital Construction request in the form of a late budget amendment and
28 submitted the request to the Capital Development Committee as priority
29 34 of 34 on the Office's list of state-funded projects; now, therefore,

30 *Be It Resolved by the Senate of the Sixty-eighth General Assembly*
31 *of the State of Colorado, the House of Representatives concurring herein:*

32 That the federal government be requested to participate in
33 discussions with the Colorado State Fair Commission, the Department of
34 Agriculture, the Colorado Department of Public Health and Environment,
35 and the Environmental Protection Agency regarding the abatement and
36 demolition of the structures on the 1.72 acres of land located on the
37 corner of Northern Avenue and Acero Avenue in the city of Pueblo,

1 adjacent to the Colorado State Fair grounds; and

2 That the discussions result in a determination of responsibility for
3 the costs of abatement and demolition of said structures; and

4 That the discussions occur no later than July 1, 2012.

5 *Be It Further Resolved*, That copies of this Joint Resolution be sent
6 to the Colorado State Fair Commission, the Commissioner of Agriculture,
7 the Executive Director of the Department of Health and Environment, the
8 Environmental Protection Agency, the Secretary of the Navy, and
9 Colorado's congressional delegation.