



Town Council
Tuesday, February 22, 2022
Public Meeting Room / Eagle Town Hall
200 Broadway Eagle, CO

*This agenda and the meetings can be viewed at www.Townofeagle.org.
Times listed are approximate and are subject to change.*

TOWN COUNCIL MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

1. This will be an in-person meeting with access via Zoom.

[ACCESS THE ONLINE MEETING HERE](#)

Please note: All participants are automatically muted. In order to be called upon and unmuted, you will need to use the "raise hand."

When it's your turn to speak, the moderator will unmute your line and you will have three (3) minutes for public comment.

PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on this agenda can be submitted to Jenny Rakow, Town Clerk, and will be included as part of the record.

For technical difficulties, please email jenny.rakow@townofeagle.org and we will do our best to assist you.

CALL TO ORDER - 6:00 PM

ROLL CALL

ADOPTION OF AGENDA *Opportunity for amendment or deletions to the agenda.*

PUBLIC COMMENT - 6:05 PM *Citizens are invited to comment on any item, not on the Agenda subject to a public hearing. Please limit your comments to three (3) minutes per person per topic unless arrangements have been made for a presentation with the Town Clerk. Those who are speaking are requested to state their name and address for the record.*

CONSENT AGENDA - 6:10 PM *Consent agenda items are routine Town business, items that have received clear direction previously from the council, final land-use file documents after the public hearing has been closed, or which do not require council deliberation.*

1. Minutes - February 8, 2022
2. 2021 Audit Engagement Letter

STAFF REPORTS - 6:15 PM *The Town Manager and department staff prepare and provide internal updates to the council.*

1. Town Manager Update
2. December 31, 2021 - Budget to Actual Report and Revenue Analysis

BUSINESS ITEMS - 6:25 PM *Items and / or Public Hearings are listed under Business may be old or new and may require review or action by the council.*

1. Resolution 20, Series 2022 "A Resolution of the Town Council of the Town of Eagle, Colorado Approving an Agreement with Yearout Energy for the Investment Grade Audit Report and Energy Performance Contracting Project"
2. Resolution 21, Series 2022 "A Resolution Approving an Intergovernmental Agreement Between Eagle County School District RE50J for the Purposes of Providing a School Resource Officer"
3. PUBLIC HEARING: Indoor Recreation in Nonresidential Zone Districts; Land Use File#LURA22-01
4. PUBLIC HEARING: 410 Broadway Lot Line Adjustment; Land Use File#LLA22-01
 - a. Resolution No. 22, Series 2022, "A Resolution of the Town Council of the Town of Eagle, Colorado, Approving a Lot Line Adjustment for Lots 15 and 16, Block 22, Town of Eagle"
5. Request to bid on Eagle Valley Library District broadband connection
6. Grant Writing Professional Services Agreement

COUNCIL DISCUSSION AND FUTURE AGENDA ITEMS - 7:25 PM

1. Future Agenda Items/Upcoming Work Sessions

ADJOURN - 7:35 PM

I hereby certify that the above Notice of Meeting was posted by me in the designated location at least 24 hours prior to said meeting.



Jenny Rakow, CMC
Town Clerk

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MEETING MINUTES
Town Council
Tuesday, February 8, 2022
Public Meeting Room / Eagle Town Hall
200 Broadway Eagle, CO

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TOWN COUNCIL MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

1. This was an in-person meeting with access via Zoom.

CALL TO ORDER - 6:00 PM

Mayor Scott Turnipseed called the meeting to order at 6:00 p.m.

ROLL CALL

COUNCILMEMBERS PRESENT

Mikel Kerst, Scott Turnipseed, Ellen Bodenhemier, Janet Bartnik, Geoffrey Grimmer, Sarah Parrish, Nick Sunday

COUNCILMEMBERS ABSENT

None

STAFF PRESENT

Jim White, Interim Town Manager
Matt Mire, Town Attorney
Jenny Rakow, Town Clerk
Jill Kane, Finance Director/Treasurer
Chad Phillips, Comm Dev Director/Town Planner
Tom Gosiorowski, Public Works Director
Joey Stauffer, Police Chief
Lynette Horan, Human Resources Manager
Carrie Buhlman, Lieutenant
Dennis Wike, Engineer
Stephan Wilson, Water Plant

ADOPTION OF AGENDA

MOTION: Councilmember Janet Bartnik motioned to amend the agenda by moving Items 5 and 6 from Business Items to the Consent Agenda. The motion was seconded and passed with a vote of 7 in favor (Kerst, Turnipseed, Bodenhemier, Bartnik, Grimmer, Parrish, and Sunday) and 0 opposed.

PUBLIC COMMENT

Mayor Scott Turnipseed opened Public Comment for items not on tonight's agenda; there was no public comment.

CONSENT AGENDA

MOTION: Councilmember Janet Bartnik motioned to approve the consent agenda omitting the January 25, 2022 Minutes. The motion was seconded and passed with a vote of 7 in favor (Kerst, Turnipseed, Bodenhemier, Bartnik, Grimmer, Parrish, and Sunday) and 0 opposed.

MOTION: Councilmember Janet Bartnik motioned to approve the January 25, 2022 minutes. The motion was seconded and passed with a vote of 6 in favor (Kerst, Bodenhemier, Bartnik, Grimmer, Parrish, and Sunday), 0 opposed and 1 abstain (Turnipseed).

1. Minutes - January 25, 2022

2. Bill Pay - January 2022
3. Resolution 14, Series 2022 "A Resolution Designating the Place for Posting of Notices of Meetings for the Boards and Commissions of the Town of Eagle"
4. Resolution 12, Series 2022, "A Resolution of the Town Council of the Town of Eagle, Colorado Approving the Third Amendment to the Annexation and Development Agreement for the Haymeadow Property."
5. Resolution 16, Series 2022 "A Resolution of the Town Council of the Town of Eagle, Colorado, Appointing and Reappointing Members to Various Boards and Commissions"
6. Resolution 18, Series 2022 "A Resolution of the Town Council of the Town of Eagle, Colorado Granting Approving a Contract with Browns Hill Engineering and Controls Inc. for Scada System Maintenance and Leasing"
7. Resolution 19, Series 2022 "A Resolution Approving a Contact with Mott MacDonald for Preliminary Total Ammonia, Total Inorganic Nitrogen, and Nitrite Compliance Study"

STAFF REPORTS

1. Town Manager Update
Interim Town Manager Jim White provided to the Council items that he will focus on, which included: core services, new hires, planning a June Town Council retreat, and working on the transition document.

The council stated their appreciation for receiving the transition document from Brandy Reitter.
2. Department Update

BUSINESS ITEMS

1. PUBLIC HEARING: DR21-04 Haymeadow Design Guidelines
Mayor Scott Turnipseed opened the Public Hearing for File Number DR21-04 for Haymeadow Design Guidelines.

Jessica Lake, Town Planner I, presented this item.

Rick Pylman, representing the applicant, provided a summary of their request.

Council Comments: discussion on building height and revising language that it would be calculated from existing or proposed grade, whichever is more restrictive. Michael Hood expressed his support for the proposed guidelines. Discussion on expanding dark sky lighting guidelines and compliant fixtures. Preference that the Town is not the entity enforcing the guidelines, but the Town codes only be used as reference. Discussion on fencing area and heights. Town requested 42 inches and whether 7-foot wildlife fencing was necessary. Requested applicant to review Eagle Ranch fencing guidelines. Discussion on landscape requirements and irrigation area. Chad Phillips provided that the development agreement and PUD guide called for design guidelines that will read like standards and the Town will not enforce them. These guidelines can be amended at any time as currently written. Town Attorney Matt Mire will research whether the Town can require amendments to be approved by the Town Council.

Mayor Scott Turnipseed opened the Public Hearing for public comment. There was no public comment.

MOTION: Councilmember Janet Bartnik motioned to continue the Public Hearing for Land Use File Number DR21-04 for Haymeadow Design Guidelines until March 9, 2022. The motion was seconded and passed with a vote of 7 in favor (Kerst, Turnipseed, Bodenheimier, Bartnik, Grimmer, Parrish, and Sunday) and 0 opposed.

- a. Resolution 13, Series 2022, "A Resolution of the Town Council of the Town of Eagle, Colorado Approving the Haymeadow Design Guidelines."

2. PUBLIC HEARING: LLA21-01 Gordon Lot Line Adjustment
Peyton Heitzman, Town Planner II, presented this item.

Council Comments: clarification on requirement for removal and abandonment of the services.

Mayor Turnipseed opened public comment.

Stephen Gordon, 82 Silver Spur, provided his comments in disagreement with conditions of the lot line adjustment.

Tom Gosiorowski, Public Works Director, provided information to the Council on the policy of the Town that requires removal and abandonment of water and sewer services in this situation.

Council Comments: discussed logistics of how to abandon services and where it occurs.

Stephen Gordon – provided his comments regarding disappointment in response from Town staff regarding guidance on fulfilling the requirements and referrals of similar properties that removed services. Applicant Stephen Gordon requested to continue this hearing until March 8, 2022.

MOTION: Councilmember Janet Bartnik motioned to continue the Public Hearing for Land Use File Number LLA210-01 Gordon Lot Line Adjustment. The motion was seconded and passed with a vote of 5 in favor (Kerst, Turnipseed, Bartnik, Parrish, and Sunday), 0 opposed, and 2 absent (Bodenhemier and Grimmer).

- a. Resolution No.15, Series 2022, "A Resolution of the Town Council of the Town of Eagle, Colorado Approving a Lot Line Adjustment for Lots 39 and 40, Eagle Ranch Filing No. 3."
3. Proposed Budget for Eagle Flight Days
Molly Furtado, Special Events Manager, presented this item.

Council Comments: discussed increasing funding amount to \$30,000 to encourage additional sponsorships and support the event.

MOTION: Councilmember Janet Bartnik motioned to approve \$30,000 to support the Flight Days Event in 2022. The motion was seconded and passed with a vote of 7 in favor (Kerst, Turnipseed, Bodenheimier, Bartnik, Grimmer, Parrish, and Sunday) and 0 opposed.

4. PUBLIC HEARING: 2021 and 2022 Eagle Town Budget
Mayor Turnipseed opened the public hearing for the 2021 and 2022 Eagle Town Budget.

Jill Kane, Finance Director, presented this item and provided a summary of the purpose of the approvals requested. The amended 2022 budget will be presented at the second meeting in March.

Council Comments: discussion on American Rescue Plan funds. Jill provided those funds are restricted and are being

kept in a separate Colorado Trust account. The Council will determine how those are spent at a future date.

- a. Ordinance No 06, Series 2022, "An Ordinance Reappropriating Funds to the Various Funds and Spending Agencies, the Amounts and for the Purposes as set forth below for the Town of Eagle, Colorado for the 2021 Budget Year" Mayor Scott Turnipseed opened public comment. There was no public comment.

MOTION: Councilmember Janet Bartnik motioned to approve Ordinance No 06, Series 2022, An Ordinance Reappropriating Funds to the Various Funds and Spending Agencies, the Amounts and for the Purposes as set forth below for the Town of Eagle, Colorado for the 2021 Budget Year. The motion was seconded and passed with a vote of 7 in favor (Kerst, Turnipseed, Bodenheimier, Bartnik, Grimmer, Parrish, and Sunday) and 0 opposed.

- b. Certify the 2022 Budget to send to the State
Councilmember Janet Bartnik made comments on steps for the Town to take to have a certified budget. Jill stated she is working towards that goal.

MOTION: Councilmember Janet Bartnik motioned to Certify the 2022 Budget and submit to the State of Colorado. The motion was seconded and passed with a vote of 7 in favor (Kerst, Turnipseed, Bodenheimier, Bartnik, Grimmer, Parrish, and Sunday) and 0 opposed.

COUNCIL DISCUSSION

Councilmember Geoff Grimmer held a discussion regarding Council participation in affordable housing discussions. Currently the Town is working on a housing needs study and will have additional information that will provide feedback and direction on future growth and potential changes to the Town's policies.

Councilmember Ellen Bodenheimier requested that Town staff contact animal control to enforce the dogs off leash in the Town open space.

Councilmember Ellen Bodenheimier inquired about additional public comments on the open space master plan. Staff provided there will be several upcoming opportunities for the public to comment before it is adopted.

ADJOURN - 7:35 PM

MOTION: Councilmember Mikel Kerst motioned to adjourn. The motion was seconded and passed with a vote of 7 in favor (Kerst, Turnipseed, Bodenheimier, Bartnik, Grimmer, Parrish, and Sunday) and 0 opposed.

Date:

Scott Turnipseed, Mayor

Jenny Rakow, CMC Town Clerk



To: Mayor and Town Council

From: Jill Kane, Finance Director

Date: February 22, 2022

Agenda Item: 2021 Audit Engagement Letter with Maggard & Hood PC

REQUEST: Review the Audit Engagement Letter between the Town and Maggard & Hood, P.C. for the year ending December 31, 2021.

INTRODUCTION: An annual independent audit is required by the Town Charter and CRS 29-1-601. The Town's 2021 annual audit will again be remote this year and is scheduled April 25th – 29th. Prior to commencement of the audit, the Town Manager and Council need to review and approve an Engagement Letter. The Engagement Letter defines the scope of work, the responsibilities, and obligations of the Auditor as well as the Town, and audit fees. The Town's annual audit is due to the State on July 31, 2022.

ANALYSIS: The Engagement Letter includes standard language in accordance with Generally Accepted Auditing Standards (GAAS) and has not had any significant changes from the 2020 Engagement Letter.

COMMUNITY INPUT: None required.

BUDGET / STAFF IMPACT: The 2021 budget includes \$39,000 for auditing and accounting services. This includes services for the annual audit as well as any additional accounting, auditing, or actuarial services required. The 2021 audit will require additional audit work due to the receiving loan proceeds for the Water Treatment Plant and Cares Act Funding, which includes federal funds exceeding \$750,000. In 2021 the Town spent \$39,331 on the 2021 annual audit. Maggard & Hood's hourly rates are below and have not changed for several years:

MAGGARD AND HOOD - HOURLY BILLING RATES		
POSITION	HOURLY RATE	NOTES:
Partner 1	\$ 176	Regular Rate is \$210; discounted for Town
Partner 2	175	Regular Rate is \$205; discounted for Town
Staff 1	135	
Staff 2	90	
Admin	69	

STRATEGIC PLAN ALIGNMENT: Conducting the annual Town audit is aligned with two of our guiding principles: sustainable finances and transparency – Ensuring accuracy of financial records, compliance with accounting standards, and soundness of financial practices, including internal controls ensures the Town's financial strength and provides records for our customers which encourages public trust.

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to **approve** or **deny** the Maggard & Hood, P.C. 2021 Audit Engagement Letter.

ATTACHMENTS: 2021 Audit Engagement Letter

February 10, 2022

The Town of Eagle
Town Manager & Members of Town Council
Eagle, CO 81631

We are pleased to confirm our understanding of the services we are to provide for the Town of Eagle for the year ended December 31, 2021. We will audit the financial statements of the governmental activities, the business-type activities, each major fund and any aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements of the Town of Eagle as of and for the year ended December 31, 2021.

Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A) and certain budgetary comparison schedules, to accompany the Town of Eagle's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Town of Eagle's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist principally of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis.
2. Statement of Revenues, Expenditures & Changes in Fund Balances–Budget & Actual–General Fund.

We have also been engaged to report on supplementary information other than RSI that accompanies the Town of Eagle's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

1. Combining and Individual Fund Financial Statements.
2. Annual Statement of Receipts and Expenditures for Roads, Bridges and Streets.
3. Schedule of Expenditures of Federal Awards (if applicable)

Audit Objective

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with generally accepted accounting principles and to report on the fairness of the supplementary information referred to above when considered in relation to the financial statements as a whole. The objective also includes reporting on -

- Internal control over financial reporting and compliance with laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements of Federal Awards* (Uniform Guidance).

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of the accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. We will issue a written report on completion of our Single Audit. Our reports will be addressed to the Council of the Town of Eagle. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Audit Procedures—General - *continued*

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements, or violations of laws or governmental regulations that do not have a direct effect on the financial statements or on major programs. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to matters that might arise during any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will also request certain written representations from you about your responsibilities for the financial statements, schedule of expenditures of federal awards, federal award programs, compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during our audit, we will communicate to management and those charged with governance, internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Town's compliance with the provisions of applicable laws, regulations, contracts, agreements and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

Audit Procedures—Compliance - *continued*

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures describe in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the Town of Eagle's major programs. For federal programs that are included in the Compliance Supplement, our compliance and internal control procedures will relate to the compliance requirements that the Compliance Supplement identifies as being subject to audit. The purpose of these procedures will be to express an opinion on the Town of Eagle's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Other Services

We will also assist in preparing the financial statements, schedule of expenditures of federal awards, and related notes of the Town of Eagle in conformity with U.S. generally accepted accounting principles based on information provided by you. These non-audit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statements, schedule of expenditures of federal awards, and related notes services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal awards, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; following laws and regulations; ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles, for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with U.S. generally accepted accounting principles, and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, including identification of all related parties and all related-party relationships and transactions, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

Management Responsibilities - *continued*

You are responsible for the design and implementation of programs to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants and for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts or grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan if a separate Single Audit has been performed in the prior three years.

You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon or make the audited financial statements readily available to intended users of the schedule of expenditures of federal awards. Your responsibilities include acknowledging to use in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is state fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changes, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are responsible for the preparation of the supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to present the supplementary information with the audited financial statements or make the audited financial statements readily available to users of the supplementary information as of the date the supplementary information is issued with our report. Your responsibilities include acknowledging to us in the representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) that you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) that the methods of measurement or presentation have not changed from those used in the prior period (or if they have changed, the reasons for such changes); and 4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

Management Responsibilities - *continued*

You agree to assume all management responsibilities relating to the financial statements and related notes and any other non-audit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and related notes and that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the non-audit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Audit Administration, Fees & Other

The audit documentation for this engagement is the property of Maggard & Hood, P.C. and constitutes confidential information. However, we may be requested to make certain workpapers available to Federal or State oversight agency pursuant to authority given to it by law or regulation. If requested, access to such workpapers will be provided under the supervision of Maggard & Hood, P.C. personnel. Furthermore, upon request, we may provide photocopies of selected workpapers to Federal or State agencies. The oversight agency may intend, or decide, to distribute the photocopies or information contained therein to others, including other governmental agencies. The audit documentation for this engagement will be retained for a minimum of five years after the report release or for any additional period requested by your federal cognizant agency. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting and audit finding, we will contact the party(ies) contesting the finding for guidance prior to destroying the audit documentation after the applicable retention period.

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditor's reports or nine months after the end of the audit period. If you are unable to meet this deadline, you are responsible for requesting an extension for filing the federal audit clearinghouse Data Collection Form.

We will provide copies of our reports to the Town of Eagle; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

With regard to using the auditor's report, you understand that you must obtain our prior written consent to reproduce or use our report in bond offering official statements or other documents. With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

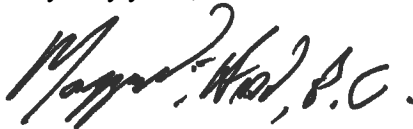
We anticipate beginning our audit fieldwork at the end of April 2022 and issuing our reports in May 2022, provided no unanticipated circumstances are encountered. Roger Maggard is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

Audit Administration, Fees & Other - *continued*

Our fees for these services will be based on the actual time spent at our standard hourly rates, plus other out-of-pocket costs such as report production, typing, postage, etc. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for services will be rendered each month as work progresses and are payable on presentation. At this time we expect our fees to approximate those of the prior year's annual audit. If unexpected circumstances or delays are encountered during the audit and significant additional time is necessary, or should you request additional procedures to be performed that are beyond the scope of our planned engagement, we will discuss it with you before we incur the additional costs.

We appreciate the opportunity to be of service to the Town of Eagle and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

A handwritten signature in black ink, appearing to read "Maggard & Hood, P.C.", written in a cursive style.

MAGGARD & HOOD, P.C.

Roger D. Maggard

Partner-in-Charge

RESPONSE:

This letter dated February 10, 2022, correctly sets forth the understanding of the Town of Eagle.

By: _____

Title: _____

Date: _____



To: Mayor and Town Council

From: Jim White, Interim Town Manager

Date: February 22, 2022

Re: Town Manager Report

Administration & Organization

Staff continues to work on follow-up from the Town Council meetings. Included is a list of policy items that staff is tracking in February:

- Wastewater Rate and Tap Fee Study Presentation (Raftelis)
- School Resource Officer IGA (on tonight's agenda)
- State of Colorado Energy Office IGA
- 2021 Audit preparation (scheduled to begin in April)
- EVCF Memorandum of Understanding (MOU)
- Economic Development Strategy Contract

Future Town Manager recruitment and work on revisions by the Search Committee has led to the publication going out on Friday, February 18, 2022. KRW is the recruitment firm.

Lynette Horan, HR has developed a priority list for new hires based on input from each department director. She has been steadfast in pursuit of viable candidates and has also done much work on the recruitment efforts for the Town Manager and Police Chief positions, among others.

WORK SESSIONS:

To help the Town Council keep track of upcoming work sessions, provided below is a table of topics to be discussed over the next 6 months. Since it takes planning to successfully execute a work session, preparing in advance is helpful. Staff will keep this table in this report going forward and make changes as needed. The topics are subject to change:

Date	Topic
December 7, 2021	Grand Avenue Phase 2 Review
January 4, 2022 – POSTPONED	Affordable Housing Strategies
January 31, 2022 (Delivered)	Grand Avenue Corridor Update
February 1, 2022 – POSTPONED	Sustainability Building Codes Discussion
March 1, 2022 -	IT Planning
April 12, 2022	Open Space Master Plan
May 3, 2022	Diversity, Equity, and Inclusion

Grand Avenue Corridor Study

- Staff met with the consultant and the Town Council on Monday February 7, 2022 to present an updated review of this project. Pedro Campos, Zehren and Associates, facilitated the meeting.
- The Town needs to approve a contract with Rail Pros to begin the review of the plan and receive feedback. This item is still pending.

Economic Development

- The Economic Vitality Committee (EVC) met on January 31, 2022.
 - The CU Assessment is underway and members from the EVC and staff met with the project team. So far, the team is looking into comparisons, best practices, reviewed the Town's plans, and has started collecting economic data on the Town. The group is working on an analysis that will include an overlay of the Town's commercial districts that will include a market competitive approach. The next steps are to set up a meeting with community leaders who are looking at redevelopment and to solicit input.
- Staff received a grant from DOLA for \$45,000 for the housing assessment and strategy project. This is great news. The goal is to work on this starting in March of 2022. The work session that is scheduled on housing is to brainstorm ideas as well as review what other communities are doing. There will be opportunities to discuss the Town's strategy over the next several months.
- The Downtown Development Authority (DDA) met on February 2nd along with the consultants from Downtown Colorado, Inc (DCI). The primary discussion was to develop the work plan. I recently signed a \$30,000 Agreement with DCI for its work for this phase of assistance to the DDA.

Sustainability

- Staff is in communication with Walking Mountain Science Center about helping to fund a sustainability initiative to assist with home energy audits and some Solar PV rebates. It also makes the Town of Eagle a participant in the local Energy Smart Colorado program. This helps meet the July 2021 resolution passed by the Town Council to achieve net zero carbon emissions by 2028.
- **Outreach & Meetings** – Updates on participation in community outreach opportunities, regional/community meetings, and project-specific meetings.

These will be updated as I continue my 1:1 meetings with Department Directors.

Jim White, Interim Town Manager

Older Schedule: (Please review and revise)

Town Council Requests – Once items are completed; they are deleted from the list Items in Red are new requests.		
Request Date	Request	Status
3/9/2021	Bring back land donation proposal	Not Scheduled
3/9/2021	EQR Ordinance	Not Scheduled
5/11/2021	Reach out to Eagle Ranch Housing Corp. on partnering	Not Scheduled
5/11/2021	Look into vacancy housing tax	Not Scheduled
5/25/2021	Evaluate Bird Scooter proposal and bring it back	Not Scheduled
8/10/2021	Schedule TOE housing strategy work session	March/April 2022
8/24/2021	Establish incentives for ADUs	Not Scheduled
9/14/2021	Fee waivers for town projects policy	Not Scheduled
9/14/2021	Follow up on Broadway tree grate maintenance	Not Scheduled
10/5/2021	Create a policy for eBikes on recreation paths in Town and reach out to BLM to let them know what the plans are	Not Scheduled



To: Mayor and Town Council

From: Jill Kane, Finance Director

Date: February 22, 2022

Re: December 31, 2021 Budget to Actual Report and Revenue Analysis

This report is a revenue analysis for the period, ending December 31, 2021. Attached to this revenue analysis is the corresponding *Budget to Actual Report*. This analysis provides a narrative for all revenues that had significant changes from December 2020 compared to December 2021. This report also discusses any budget to actual significant variances.

In 2021, the Town's position was conservative due to the COVID-19 global pandemic and uncertainty. The Town has continued to weather this unpredictable environment and has emerged even stronger at the end of 2021 compared to 2020. Eight of the Town's nine funds finished with net revenues exceeding net expenditures, increases the 2021 Town wide ending fund balance by approximately \$4.5 million. The only fund that did not have net revenues exceeding expenditures was the Water fund, which was anticipated. Water Fund expenses were greater than the revenues by \$196,557, which was due to capital project initiatives.

Please review the attached *Budget to Actual Report* in conjunction with the analysis below. For the year end (YE) 2021 *Budget To Actual Report*, staff included 2020 actuals for comparison purposes. The report also includes the final revised 2021 budgeted amounts. The column that calculates the *unearned* or *unexpended* amount and percentage compared to budget are for collections/spending for the entire year compared to the final budget amounts.

Please note this is a preliminary report as staff will continue to receive 2021 revenues and expenses through the end of February. Staff will also be working on audit preparation adjustments that may increase or decrease expenses as shown.

A significant change is considered to be a variance that is greater than \$15,000 AND 10% over the prior year.

Town-wide Interest Accounts – In order to not repeat this for every fund, this comment is directed to all interest accounts for all funds. Most of the Town's funds are held in COLOTRUST. In 2019 the interest rate on investments was approximately 2.5%. In 2020 the interest rate significantly reduced month over month, ending the year at 0.12%. Unfortunately, rates have only continued to decline with COLOTRUST ending in December 2021 with interest rates around 0.05%. There is a significant YOY decrease in interest in all Town funds. Staff anticipates interest rates to increase only slightly in 2022.

General Fund Revenues – Budget to Actual – In 2021 the General Fund collected 83% of budgeted revenues. Net revenues exceeded expenditures by \$1,050,898.

- **Tax Revenue**

- **Sales Tax:** Regular sales tax ended the year at almost \$7,000,000. Collections are up \$1,006,593 or 17% over prior year (PY), which is due to continuing increases in online sales, building/construction sales, and retail, as well as a strong comeback from 2020 in restaurants/bars. We ended the year at 102% of budget. In the last five years, the Town has been able to increase sales tax by approximately \$3,200,000 or 86%.
- **Marijuana & Tobacco Sales Tax:** The Town ended the year with \$898,161 in marijuana and tobacco tax collections which is approximately 100% of budget for the year. Marijuana and tobacco sales tax collections are up \$385,735 or 75% over prior year (PY). This increase is due to 2021 including six more months of tobacco sales tax collections compared to 2020, since the Town did not start collecting tobacco tax until July of 2020.
- **Marketing Lodging Tax:** There is a year over year (YOY) increase in lodging tax revenues of \$125,928 or 123%. This increase is due to the modification to occupation tax approved by voters in November 2020, as well as increased occupancy compared to 2020. Effective January 1, 2021 the lodging tax rate changed from \$4/night to 6% of revenues collected. The tax is split equally between Marketing & Events in the General Fund and the Open Space Fund. The Town collected \$228,266 in marketing lodging tax revenues which is 120% of budgeted revenue.

- **Intergovernmental Revenue**

- **Highway User Tax:** There is a year over year increase of \$54,426 or 25% from 2020. The Town ended the year with \$275,689 in highway user taxes, which is 118% of budget. The increase is due to a couple items:
 - During 2020 there was a significant decrease in driving due to the pandemic; the public began to travel again in 2021 closer to normal travel habits.
 - The Town collected \$29,055 from SB21-260. The bill provides over \$5 billion in new transportation revenue over the next 10 years to the state and more specifically will distribute approximately \$950 million in new funding directly to local governments through the Highway User Tax Fund.
- **County Sales Tax:** Sales tax collection in 2021 from Eagle County was \$275,689 or 106% of budget. We finished the year \$54,426 or 25% over 2020 collections. The Counties collection of sales tax should more or less align with the regular sales tax collections of the Town.
- **Grants:** The Town has collected \$92,009 in General Fund grants for 2021 compared to \$147,726 in 2020. Most grant collections are received closer to year-end or just after year end. If the grant proceeds are not received until after February 2021, then they will be accrued in 2022 grant proceeds. See awarded General Fund grants below for 2021:

	Organization	Grant Name	Grant Amount
1	DOLA	Best & Brightest Internship Grant (\$46K) - 2020 received	\$ 10,800
2	DOLA	Energy and Mineral Impact Assistance Program (EIAF08709): Land Use Code Update - 2020 Received	16,812
3	DOLA	Coronavirus Relief Funding	80,085
		Total	\$ 107,697

- **Charges for Service**

- **Planning & Zoning Reimbursable:** This revenue varies year over year based on the current projects and what is required. P&Z reimbursables for 2021 were 61,790 less than 2020. This revenue has a net zero impact to the Town's fund balance since all revenues are based on expenditures charged to contractors. We tend to be conservative in budgeting for this revenue and corresponding expenses to ensure that we have enough appropriated to cover all reimbursable expenses. Staff expects this amount to continue to increase as we are still receiving some reimbursable invoices for 2021 that we will need to invoice for.
- **Facility Usage Fees:** The Town ended the year with \$51,190 in facility usage fees, which is a year over year increase of \$44,602 or 677%. This is due to the facilities being closed for most of the 2020 or open with significant restrictions on occupancy. This discouraged citizens from utilizing the Pavilion and Studio. We remained open in 2021 without restrictions, however, since citizens remained cautious, the Town is still not back to pre-covid usage.

- **Miscellaneous Revenue**

- **Sales of Fixed Assets:** The Town did not have any sales of fixed assets in 2021 compared to 2020 in which we sold several vehicles for a total of \$35,751.
- **Insurance Proceeds:** The Town has collected \$9,652 in insurance proceeds for an accident this year. When an accident occurs, the Town repairs the damage, and we are reimbursed by CIRSA or another insurance company. The Town must budget for both the revenue and the expense. These revenues are unpredictable and vary widely year over year due to timing of incidents.
- **Other Miscellaneous Revenue:** The Town has collected \$132,723 in the miscellaneous revenue category which is 99,784 over 2020. This is due to the \$105,500 settlement between Eagle County School District and the Town of Eagle. This settlement amount was not included in the revised budget. Historically the General Fund miscellaneous revenue is anywhere from 15,000 – 20,000.

Enterprise Fund Revenues – Budget to Actual

- **Water Fund** – In 2021 the Water Fund collected 5,284,553 or 105% of budgeted revenues. Expenditures exceed revenues by \$196,557 which is mainly due to capital improvement projects, which is less than the projected. It was anticipated that expenditures would exceed revenues by \$1,586,831. The variance is due to a delay in completion of water capital projects in 2021. The Council will see capital items that will need to be rolled over to 2022 in the 2022 supplemental that staff will present in March.
 - **Water Rights:** The Town received \$993,335 for fee in lieu of water rights in 2020 for Hocket Gulch (\$953,750) and Red Mountain Ranch (\$39,585). There were not any fees in lieu of water rights received in 2021.
- **Utility Fund (Wastewater Fund)** – In 2021, Wastewater collected \$3,095,472 or 84% of budgeted revenues. Net revenues exceeded expenditures by \$1,011,555.
 - **Plant Investment Fees:** In 2021 the Town collected \$325,000 in wastewater plant investment fees which is down \$259,000 or 44% compared to 2020. The amount collected is \$503,000 below budget, which is the reason for finishing the year at 84% of budget. Normally Water and Waste Water PIFs correlate however, due to construction up in Frost Creek they do not in 2021. The Town provides water service to the Frost Creek development, but not waste water. This is a revenue that is

mainly collected on new construction projects and will fluctuate based on the timing of projects.

- **Refuse Fund** – In 2021 the Refuse Fund collected \$668,026 which is approximately 100% of budgeted revenues. Net revenues exceeded expenditures by \$12,133.
 - **Yard Waste Fees:** The yard waste fees collected for 2021 were \$41,212, which is 101% of budgeted revenue. This is an increase of \$31,050 or 306% from 2020. This increase was anticipated and is due to the decision to waive the yard waste fees for the remainder of 2020 for COVID-19 relief purposes, beginning in April of 2020.
- **Stormwater Fund** – In 2021 the Stormwater Fund collected \$88,942 which is 99% of budgeted revenues. Although Council approved the Stormwater Fund in 2020 a stormwater service fee was not charged until 2021 due to COVID relief for utility customers. Net revenues exceed expenditures by \$87,645. The Town used 2021 to build fund balance for future maintenance projects.
- **Capital Improvement Fund Revenue– Budget to Actual** – In 2021 the Capital Improvements Fund collected 83% of budgeted revenues. All capital improvement fund revenues are one-time revenues and are based on the timing of projects. The General Fund interfund transfer to the Capital Improvements Fund accounts for 63% of budgeted revenues for 2021. At yearend revenues exceed expenditures by \$1,050,898.
 - **Public Safety Impact Fees:** The Town has collected \$905 in public safety impact fees in 2021 compared to 27,112 in 2020. This is a fee that was implemented in the Fall of 2019. These fees rely on what projects are initiated each year and is not a consistent source of income.
 - **Use Tax:** The Town collected \$504,978 in use tax in 2021 which is 109% of our annual budget. Use tax collections finished strong; at mid-year the Town had only collected 29% of budgeted use tax. This is an increase over prior year by 123,709 or 32%. This is another revenue that is not consistent year over year and is dependent on projects completed each year.
 - **Transfer from General Fund:** Historically the Town has made an annual transfer of funds from the General Fund to the Capital Improvement Fund. The amount transferred is calculated by retaining 25% of General Fund operating expenditures in the General Fund and transferring the remainder to the Capital Improvements fund. Depending on General Fund spending, these transfers can significantly fluctuate year over year. In 2021 the Town transferred \$1,890,000, which was a \$340,000 or 15% decrease from 2020. Currently there is no transfer budgeted in 2022.

Sales Tax Capital Improvement Fund (STCIF) – Budget to Actual – In 2021 the STCIF has collected 107% of budgeted revenues and net revenues exceed expenditures by \$451,839.

- **Sales Tax:** The STCIF 0.5% sales tax collections for 2021 are up \$125,824 or 17% over PY and ended the year at 108% of budget. The increase is consistent with regular sales tax.
- **Contributions & Donations:** In 2021 staff received Riverpark donations that were being held by Our Community Foundation, totaling \$32,964. Staff also followed up on other pledged donations, in which we were able to receive an additional \$25,000, bringing our total donations to \$57,964 for the year. The STCIF had not received any donations in the prior year. Staff is anticipating an additional \$5,000 in 2022.

Open Space Fund Revenues – Budget to Actual – In 2021 the Open Space Fund finished the year with revenues exceeding expenses by \$330,045. This increase is mainly due to the \$300,000 transfer from the General Fund.

- **Lodging Tax:** There was a year over year increase in lodging tax revenues of \$125,928 or 123%. This increase is due to the modification to occupation tax approved by voters in November 2020, as well as increased occupancy compared to 2020. Effective January 1, 2021 the lodging tax rate changed from \$4/night to 6% of revenues collected. The tax is split equally between Marketing & Events in the General Fund and the Open Space Fund. The Town collected \$228,266 in Open Space lodging tax revenues which is 120% of budgeted revenue.

Conservation Trust Fund (CTF) – Budget to Actual – In 2021 the Conservation Trust Fund finished the year with revenues exceeding expenses by \$6,549. Although a relatively consistent revenue, there are fluctuations throughout the year based on lottery ticket sales. The State has announced that there have been increases in lottery ticket sales since the beginning of the pandemic.

TOWN OF EAGLE - GENERAL FUND
REVENUES & EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE YEAR ENDING DECEMBER 31, 2021

	PY ACTUAL	YTD ACTUAL	% TO PY	BUDGET	UNEARNED	% TO BUDGET
TAX REVENUE						
General Property	\$ 335,665	\$ 350,840	105%	\$ 353,142	\$ 2,302	99%
Specific Ownership	16,701	19,702	118%	20,000	298	99%
Sales Tax	5,944,840	6,951,432	117%	6,789,851	(161,581)	102%
Marijuana & Tobacco Sales Tax	512,464	898,199	175%	902,000	3,801	100%
Severance Tax	516	21	4%	350	329	6%
Federal Mineral Tax	261	161	62%	250	89	64%
Franchise Tax	223,192	205,161	92%	210,000	4,839	98%
Marketing Lodging Tax	102,298	228,226	223%	190,000	(38,226)	120%
TOTAL TAX REVENUE	\$ 7,135,938	\$ 8,653,744	121%	\$ 8,465,593	(188,151)	102%
LICENSE & PERMIT REVENUE						
Business Licenses	\$ 30,880	\$ 39,875	129%	\$ 43,000	\$ 3,125	93%
Liquor Licenses	5,250	3,608	69%	4,800	1,193	75%
Tobacco & Marijuana Licenses	10,750	7,000	65%	6,000	(1,000)	117%
Marketing Fee - License	6,000	3,840	64%	5,240	1,400	73%
Building Permits	306,195	324,366	106%	300,000	(24,366)	108%
Electrical Permits	33,667	27,874	83%	30,000	2,126	93%
Road Cut Permits	8,050	7,860	98%	7,000	(860)	112%
Sign Permits	1,000	500	50%	650	150	77%
Special Event Permits	100	250	250%	250	-	100%
TOTAL LICENSE & PERMIT REVENUE	\$ 401,892	\$ 415,173	103%	\$ 396,940	\$ (18,233)	105%
INTERGOVERNMENTAL REVENUE						
Motor Vehicle License Fee	\$ 32,391	\$ 34,047	105%	\$ 31,000	\$ (3,047)	110%
Highway Users Tax	221,263	275,689	125%	234,355	(41,334)	118%
Cigarette Tax	6,283	-	0%	-	-	-
Road & Bridge Fund	100,648	101,987	101%	100,000	(1,987)	102%
County Sales Tax	189,790	232,041	122%	218,000	(14,041)	106%
Grants	147,726	92,009	62%	92,000	(9)	100%
Intergovernmental Contributions	-	-	-	-	-	-
TOTAL INTERGOVERNMENTAL REVENUE	\$ 698,102	\$ 735,773	105%	\$ 675,355	\$ (60,418)	109%
CHARGES FOR SERVICES						
Planning & Zoning Fees	\$ 17,500	\$ 16,528	94%	\$ 23,000	\$ 6,472	72%
Planning & Zoning Reimbursable	166,891	105,102	63%	159,000	53,898	66%
Facility Usage Fees	6,589	51,190	777%	40,000	(11,190)	128%
Facility Usage Deposits	-	3,560	-	-	(3,560)	-
Sponsorship & Event Revenue	-	5,790	-	6,000	210	97%
Broadband Service Fees	-	8,535	-	-	(8,535)	-
TOTAL CHARGES FOR SERVICES	\$ 190,980	\$ 190,705	100%	\$ 228,000	\$ 37,295	84%
FINES & FORFEITURES						
Fines & Forfeits	\$ 41,421	\$ 34,053	82%	\$ 37,000	\$ 2,947	92%
Police Surcharge	4,466	7,018	157%	5,000	(2,018)	140%
Police Miscellaneous	2,139	6,760	316%	5,000	(1,760)	135%
Police Grants	20,156	7,958	39%	9,310	1,352	85%
Special Duty Reimbursable	7,312	10,709	146%	33,000	22,291	32%
TOTAL FINES & FORFEITURES	\$ 75,493	\$ 66,498	88%	\$ 89,310	\$ 22,812	74%
MISCELLANEOUS REVENUE						
Interest & Penalties Total	\$ 42,440	\$ 4,829	11%	\$ 3,700	\$ (1,129)	131%
Contributions & Donations	\$ 10,166	\$ -	-	\$ -	-	-
Information Center Total	7,800	-	0%	-	-	-
Rental Income	19,427	16,963	87%	20,000	3,037	85%
Sales of Fixed Assets	37,976	-	0%	-	-	-
Insurance Proceeds	82,826	9,652	12%	-	(9,652)	-
Fee in Lieu - LERP	375,000	-	0%	-	-	-
Other Miscellaneous Revenue Total	32,939	132,723	403%	15,000	(117,723)	885%
TOTAL MISCELLANEOUS REVENUE	\$ 598,409	\$ 164,168	27%	\$ 38,700	\$ (125,468)	424%

TOWN OF EAGLE - GENERAL FUND
REVENUES & EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE YEAR ENDING DECEMBER 31, 2021

	PY ACTUAL	YTD ACTUAL	% TO PY	BUDGET	UNEARNED	% TO BUDGET
TRANSFERS FROM OTHER FUNDS						
Capital Improvements Fund (Devolution)	\$ 95,641	\$ -	0%	\$ -	\$ -	-
Refuse Fund	20,000	20,000	100%	20,000	-	100%
TOTAL TRANSFERS FROM OTHER FUNDS	\$ 115,641	\$ 20,000	17%	\$ 20,000	\$ -	100%
TOTAL GENERAL FUND REVENUES	\$ 9,216,456	\$ 10,246,061	111%	\$ 9,913,898	\$ (332,163)	103%
EXPENDITURES						
	PY ACTUAL	YTD ACTUAL	% TO PY	BUDGET	UNEXPENDED	% TO BUDGET
TOWN COUNCIL	\$ 138,965	\$ 242,066	174%	\$ 347,985	\$ 105,919	70%
GENERAL GOVERNMENT	422,110	366,204	87%	474,716	108,513	77%
GENERAL ADMINISTRATION	597,749	658,840	110%	731,084	72,244	90%
COMMUNITY DEVELOPMENT	817,929	802,912	98%	1,043,391	240,479	77%
STREETS	1,518,842	905,384	60%	1,341,358	435,974	67%
ENGINEERING	206,710	217,161	105%	248,753	31,592	87%
BUILDINGS & GROUNDS	694,267	738,072	106%	843,141	105,069	88%
PUBLIC SAFETY	1,872,276	1,975,066	105%	2,130,787	155,721	93%
MUNICIPAL COURT	68,576	76,228	111%	81,046	4,818	94%
INFORMATION CENTER	30,620	33,237	109%	42,442	9,205	78%
MARKETING & EVENTS	170,270	240,520	141%	379,291	138,771	63%
TRANSFERS TO OTHER FUNDS	2,230,000	2,190,000	98%	2,190,000	-	100%
TOTAL GENERAL FUND EXPENDITURES	\$ 8,768,315	\$ 8,445,689	96%	\$ 9,853,994	\$ 1,408,305	86%
NET REVENUES OVER(UNDER) EXPENDITURES	\$ 448,141	\$ 1,800,372	402%	\$ 59,904	\$ (1,740,468)	3005%

TOWN OF EAGLE - WATER FUND
REVENUES & EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE YEAR ENDING DECEMBER 31, 2021

	PY ACTUAL	YTD ACTUAL	% TO PY	BUDGET	UNEARNED/ UNEXPENDED	% TO BUDGET
REVENUES						
Debt Service Surcharge	\$ 463,616	\$ 468,440	101%	\$ 461,900	\$ (6,540)	101%
Water Sales - In Town	3,521,061	3,461,874	98%	3,386,433	(75,441)	102%
Water Sales - Out Of Town	521,526	523,625	100%	506,442	(17,183)	103%
Water Materials & Other	97,020	86,640	89%	63,520	(23,120)	136%
Plant Investment Fees (Tap Fees)	757,593	721,927	95%	596,268	(125,659)	121%
Water Rights	993,335	-	0%	-	-	-
Water Fund Interest	73,688	4,673	6%	6,000	1,327	78%
Water Rights Interest	901	493	55%	500	7	99%
Grants	14,222	-	0%	-	-	-
Service Charge	11,365	16,880	149%	12,000	(4,880)	141%
Reimbursable Income	1,256	-	0%	-	-	-
TOTAL WATER FUND REVENUE	\$ 6,455,583	\$ 5,284,553	82%	\$ 5,033,063	\$ (251,490)	105%
EXPENDITURES						
TOTAL WATER FUND EXPENDITURES	\$ 14,866,200	\$ 5,481,110	37%	\$ 6,619,894	\$ 1,138,784	83%
NET REVENUES OVER(UNDER) EXPENDITURES	\$ (8,410,617)	\$ (196,557)	2%	\$ (1,586,831)	\$ (1,390,274)	12%

TOWN OF EAGLE - WASTEWATER FUND
REVENUES & EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE YEAR ENDING DECEMBER 31, 2021

	PY ACTUAL	YTD ACTUAL	% TO PY	BUDGET	UNEARNED/ UNEXPENDED	% TO BUDGET
REVENUES						
Wastewater Sales	\$ 2,728,957	\$ 2,767,434	101%	\$ 2,851,000	\$ 83,566	97%
Wastewater Plant Investment Fees (Tap Fees)	584,000	325,000	56%	828,000	503,000	39%
Wastewater Interest	39,277	3,038	8%	4,000	962	76%
Miscellaneous	-	-	-	-	-	-
Insurance Proceeds	-	-	-	-	-	-
TOTAL WASTEWATER FUND REVENUE	\$ 3,352,234	\$ 3,095,472	92%	\$ 3,683,000	\$ 587,528	84%
EXPENDITURES						
TOTAL WASTEWATER FUND EXPENDITURES	\$ 2,571,121	\$ 2,083,917	81%	\$ 2,680,479	\$ 596,562	78%
NET REVENUES OVER(UNDER) EXPENDITURES	\$ 781,113	\$ 1,011,555	130%	\$ 1,002,521	\$ (9,034)	101%

TOWN OF EAGLE - REFUSE FUND
REVENUES & EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE YEAR ENDING DECEMBER 31, 2021

	PY ACTUAL	YTD ACTUAL	% TO PY	BUDGET	UNEARNED/ UNEXPENDED	% TO BUDGET
REVENUES						
Trash Fees	\$ 585,898	\$ 600,937	103%	\$ 600,982	\$ 45	100%
Yardwaste Fees	10,162	41,212	406%	40,800	(412)	101%
Admin Fee	25,591	25,773	101%	25,500	(273)	101%
Interest	1,707	104	6%	130	26	80%
TOTAL REFUSE FUND REVENUE	\$ 623,357	\$ 668,026	107%	\$ 667,412	\$ (614)	100%
EXPENDITURES						
TOTAL REFUSE FUND EXPENDITURES	\$ 623,848	\$ 655,893	105%	\$ 661,443	\$ 5,550	99%
NET REVENUES OVER(UNDER) EXPENDITURES	\$ (491)	\$ 12,133	-2472%	\$ 5,969	\$ (6,164)	203%

**TOWN OF EAGLE - STORMWATER FUND
REVENUES & EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE YEAR ENDING DECEMBER 31, 2021**

	PY ACTUAL	YTD ACTUAL	% TO PY	BUDGET	UNEARNED/ UNEXPENDED	% TO BUDGET
REVENUES						
Stormwater Fees	\$ -	\$ 88,942	-	\$ 90,000	\$ 1,058	99%
TOTAL STORMWATER FUND REVENUE	\$ -	\$ 88,942	-	\$ 90,000	\$ 1,058	99%
EXPENDITURES						
TOTAL STORMWATER FUND EXPENDITURES	\$ -	\$ 1,297	-	\$ 6,297	\$ 5,000	21%
NET REVENUES OVER(UNDER) EXPENDITURES	\$ -	\$ 87,645	-	\$ 83,703	\$ (3,942)	105%

TOWN OF EAGLE - CAPITAL IMPROVEMENTS FUND
REVENUES & EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE PERIOD ENDING DECEMBER 31, 2021

	PY ACTUAL	YTD ACTUAL	% TO PY	BUDGET	UNEARNED/ UNEXPENDED	% TO BUDGET
REVENUES						
Capital Improvements Interest	\$ 23,135	\$ 2,504	11%	\$ 6,000	\$ 3,496	42%
Community Enhancement Interest	1,270	84	7%	250	166	34%
Devolution & Transportation Interest	12,790	805	6%	3,000	2,195	27%
Community Enhancement Fund	47,923	48,126	100%	48,000	(126)	100%
Developer Contribution - Grand Ave.	-	-	-	180,806	180,806	0%
Public Safety Impact Fees	27,112	905	3%	35,000	34,095	3%
Street Impact Fees	39,625	29,464	74%	103,000	73,536	29%
Use Tax	381,269	504,978	132%	464,000	(40,978)	109%
Grants	-	-	-	250,000	250,000	0%
Transfer From General Fund	2,230,000	1,890,000	85%	1,890,000	-	100%
TOTAL CAPITAL IMPROVEMENTS FUND REVENUE	\$ 2,763,124	\$ 2,476,867	90%	\$ 2,980,056	503,189	83%
EXPENDITURES						
TOTAL CAPITAL IMPROVEMENT FUND EXPENDITURES	\$ 812,950	\$ 1,425,969	175%	\$ 1,795,685	369,716	79%
NET REVENUES OVER(UNDER) EXPENDITURES	\$ 1,950,174	\$ 1,050,898	54%	\$ 1,184,371	133,473	89%

TOWN OF EAGLE - SALES TAX CAPITAL IMPROVEMENTS FUND (STCIF)
REVENUES & EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE PERIOD ENDING DECEMBER 31, 2021

	PY ACTUAL	YTD ACTUAL	% TO PY	BUDGET	UNEARNED/ UNEXPENDED	% TO BUDGET
REVENUES						
Sales Tax	\$ 743,105	\$ 868,929	117%	\$ 805,000	\$ (63,929)	108%
Grants	-	-	-	-	-	-
Interest - Colotrust	6,350	613	10%	959	346	64%
Interest - Project Fund	-	-	-	-	-	-
Interest - COI Project Fund	-	-	-	-	-	-
Miscellaneous	-	201	-	-	(201)	-
Contributions & Donations	-	57,964	-	57,964	(0)	100%
TOTAL STCIF REVENUE	\$ 749,455	\$ 927,708	124%	\$ 863,923	(63,785)	107%
EXPENDITURES						
TOTAL STCIF EXPENDITURES	\$ 361,873	\$ 475,869	132%	\$ 523,796	47,927	91%
NET REVENUES OVER(UNDER) EXPENDITURES	\$ 387,582	\$ 451,839	117%	\$ 340,127	(111,712)	133%

TOWN OF EAGLE - OPEN SPACE FUND
REVENUES & EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE PERIOD ENDING DECEMBER 31, 2021

	PY ACTUAL	YTD ACTUAL	% TO PY	BUDGET	UNEARNED/ UNEXPENDED	% TO BUDGET
REVENUES						
Lodging Tax	\$ 102,298	\$ 228,226	223%	\$ 190,000	\$ (38,226)	120%
Penalty & Interest	1,033	1,110	107%	-	(1,110)	-
Open Space Interest	2,406	156	6%	250	94	63%
Usage Fees	-	-	-	-	-	-
Miscellaneous	-	-	-	-	-	-
Open Space - Clean Up	-	-	-	-	-	-
State Grants	-	5,000	-	5,000	-	100%
Intergovernmental Contributions	7,662	5,000	65%	5,000	-	100%
Miscellaneous	500	-	0%	-	-	-
Transfer from General Fund	-	300,000	-	300,000	#VALUE!	100%
TOTAL OPEN SPACE FUND REVENUE	\$ 113,899	\$ 539,493	474%	\$ 500,250	\$ (39,243)	108%
EXPENDITURES						
TOTAL OPEN SPACE FUND EXPENDITURES	\$ 80,153	\$ 209,448	261%	\$ 234,636	\$ 25,188	89%
NET REVENUES OVER(UNDER) EXPENDITURES	\$ 33,746	\$ 330,045	978%	\$ 265,614	\$ (64,431)	124%

TOWN OF EAGLE - CONSERVATION TRUST FUND
REVENUES & EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE PERIOD ENDING DECEMBER 31, 2021

	PY ACTUAL	YTD ACTUAL	% TO PY	BUDGET	UNEARNED/ UNEXPENDED	% TO BUDGET
REVENUES						
Lottery Proceeds	\$ 35,753	\$ 42,278	118%	\$ 38,000	\$ (4,278)	111%
Conservation Trust Interest	595	59	10%	70	11	85%
TOTAL CONSERVATION TRUST FUND REVENUE	\$ 36,348	\$ 42,338	116%	\$ 38,070	\$ (4,268)	111%
EXPENDITURES						
TOTAL CONSERVATION TRUST FUND EXPENDITURES	\$ -	\$ 35,789	-	\$ 35,790	\$ 1	100%
NET REVENUES OVER(UNDER) EXPENDITURES	\$ 36,348	\$ 6,549	18%	\$ 2,280	\$ (4,269)	287%



To: Mayor and Town Council

From: Jim White, Interim Town Manager

Date: February 15, 2022

Agenda Item: Yearout Energy Services Investment Grade Audit

REQUEST: Consideration of Investment Grade Audit Approval

This contract would enable Yearout Energy Services to identify utility and facility improvement cost saving measures for the Town of Eagle. It would also specify operations and maintenance, vehicle fleet, and fuel cost saving strategies.

BACKGROUND: Administration and Public Works have been working with Yearout Energy Services to develop this plan. The purpose of this Investment Grade Audit is to determine the feasibility of a future Energy Performance Contract with Yearout Energy Services. This has been reviewed by the Town Attorney(s).

ANALYSIS: Will require work with the Department of Local Affairs for grant funding opportunities and coordination with the State of Colorado Governor's Energy Office.

COMMUNITY INPUT: None

BUDGET / STAFF IMPACT: The Investment Grade Audit (the other IGA) is priced at \$49,500 and budgeted under 1050347, Professional Services (Sustainability Net Zero). Department of Local Affairs grants may be utilized to defer costs. Water meter sampling costs are not part of this estimate.

Cooperation by Public Works staff will be required for water meter sampling efforts.

STRATEGIC PLAN ALIGNMENT/STANDARDS ACHIEVED:

This proposal aligns with the Town's sustainability goals. It may include installation of a large solar array at the wastewater treatment plant; upgrades to more energy efficient equipment in the wastewater treatment plant, and eventual replacement of all water meters with those that more accurately measure water usage.

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to APPROVE or DENY Resolution 20, Series 2022 A Resolution of the Town Council of the Town of Eagle, Colorado Approving an Agreement with Yearout Energy for the Investment Grade Audit Report and Energy Performance Contracting Project

ATTACHMENTS: Resolution 20-2022

Investment Grade Audit Agreement; Attachments/Exhibit A,B, and C

TOWN OF EAGLE, COLORADO
RESOLUTION NO. 20
(Series of 2022)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO
APPROVING AN AGREEMENT WITH YEAROUT ENERGY FOR THE INVESTMENT
GRADE AUDIT REPORT AND ENERGY PERFORMANCE CONTRACTING PROJECT

WHEREAS, the Town Council finds it in the best interest of the public health, safety and welfare to approve an agreement with Yearout Energy for the Investment Grade Audit Report and Energy Performance Contracting Project.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. The Agreement with Yearout Energy is hereby approved in substantially the form attached hereto, subject to final approval by the Town Attorney. Upon such approval, the Mayor is authorized to execute the IGA on behalf of the Town.

INTRODUCED, READ, PASSED AND ADOPTED ON FEBRUARY 22, 2022.

TOWN OF EAGLE, COLORADO

Scott Turnipseed, Mayor

ATTEST:

Jenny Rakow, Town Clerk

STATE OF COLORADO
COLORADO ENERGY OFFICE – ENERGY PERFORMANCE CONTRACTING PROGRAM



**INVESTMENT GRADE AUDIT REPORT AND ENERGY PERFORMANCE CONTRACTING PROJECT
PROPOSAL CONTRACT**

FOR COLORADO POLITICAL SUBDIVISIONS (municipality, county, special district, or school district (**§29-12.5-101 (5) C.R.S.**))

POLITICAL SUBDIVISION:	<u>Town of Eagle</u>
ENERGY SERVICE COMPANY (STATE REGISTERED NAME):	<u>Yearout Energy Services Company, LLC</u>
	<u></u>
PROJECT NAME:	<u>Town of Eagle Water Meters, Energy Efficiency and Renewables Evaluation and Audit</u>

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PARTIES

This Investment Grade Audit Report and Energy Performance Contracting Project Proposal Contract (this "Contract") is entered into by and between Yearout Energy, having its offices at 2679 W. Main Street, Suite 325, Littleton, CO 80120 ("Contractor" as defined below in the Definitions), and the Town of Eagle, Colorado (the "Political Subdivision"), being a Political Subdivision as defined below in Article 1.

RECITALS

WHEREAS, authority for the Political Subdivision to enter into this Contract exists in the law, including **§29-12.5-101, C.R.S.** and other applicable state statutes and code provisions, and funds have been budgeted, appropriated and otherwise made available, and a sufficient unencumbered balance thereof remains available for payment of the amounts due hereunder, all within applicable constitutional, statutory, code or other limitations applicable to the Political Subdivision; and

WHEREAS, required authorizations, approvals, clearance and coordination have been accomplished by the Political Subdivision; and

WHEREAS, the Political Subdivision is entering into this Contract in order to (a) engage Contractor to identify utility cost-savings measures and facility improvement measures, including operation and maintenance cost savings and vehicle fleet operational or fuel cost savings in facilities owned or leased by the Political Subdivision, as set forth in **§29-12.5-101(3), C.R.S.**, and (b) if the savings exceed "annual contract payments" as set forth in **§29-12.5-101(3)(b), C.R.S.** and the Governing Body (as defined below) of the Political Subdivision determines to do so, to negotiate an Energy Performance Contract; and

WHEREAS, this Contract was adapted by the Colorado Energy Office (CEO) for use by Colorado "Political Subdivisions," as defined in **§29-12.5-101, C.R.S.**, based on a contract created jointly by CEO and the Office of the State Architect (OSA), in order to obtain an Investment Grade Audit report and a proposal for an Energy Performance Contracting project for a Facility (as defined below) from a CEO pre-approved energy service company (ESCO), the purpose of the IGA being to perform the Work set forth in **Article 3** below; and

WHEREAS, Contractor was selected and determined to be the most qualified, and fees were negotiated in accordance with the procurement rules of the Political Subdivision; and

NOW THEREFORE, in consideration of the premises and mutual agreements and covenants hereinafter set forth, and intending to be legally bound, the Political Subdivision and Contractor hereby agree to the terms and conditions in this Contract.

EFFECTIVE DATE AND NOTICE OF NON-LIABILITY

This Contract shall not be valid or enforceable until it is authorized and approved by the Governing Body (defined below in Article 1) of the Political Subdivision, by applicable resolution, ordinance or other authorizing action of the Governing Body, and executed by a duly authorized representative of the Political Subdivision, as set forth in such resolution, ordinance or other authorizing action (defined below as the "Principal Representative"), on the date set forth in Article 19 hereof in the signature block of the Political Subdivision (the "Effective Date"). The Political Subdivision shall not be bound by any provision of this Contract before the Effective Date, and shall have no obligation to pay Contractor for any Work performed or expense incurred before the Effective Date or after the expiration or sooner termination of this Contract.

All references in this Contract to "Article," "Section," "Subsections," "Exhibits" or other "attachments," whether spelled out or using the § symbol, are references to Articles, Sections, Subsections, Exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

ARTICLE 1 DEFINITIONS

A. **Business Day**

"Business Day" means any day in which the Political Subdivision is open and conducting business, but shall not include Saturday, Sunday or any holidays observed by the Political Subdivision.

B. **Contract**

"Contract" means this Contract, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Contract, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to applicable laws, and code provisions and policies and procedures of the Political Subdivision.

C. **Contract Funds**

"Contract Funds" means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the Political Subdivision to Contractor for the performance of the Work under this Contract.

D. **Contractor's Intellectual Property**

"Contractor's Intellectual Property" means the items purchased, licensed or developed by Contractor prior to or outside of the Contract or purchased, licensed or developed by Contractor or its Subcontractors as a tool for their use in performing the Services, plus any modifications or enhancements thereto and derivative works based thereon.

E. **Colorado Open Records Act (CORA)**

"CORA" means the Colorado Open Records Act, **§§24-72-200.1, et seq., C.R.S.**

F. **C.R.S.**

"C.R.S." means the Colorado Revised Statutes, as amended.

G. **Exhibits and other Attachments**

The following "Exhibits and other Attachments" are attached hereto and incorporated by reference herein: IGA **Exhibit A** - Scope of Work, IGA **Exhibit B** - Location of Energy Audit, and IGA **Exhibit C** -Cost and Pricing Elements.

H. **Facility**

"Facility" or "Facilities" means any building or utility owned or operated by the Political Subdivision, as set forth on **Exhibit B** - Location of Energy Audit.

I. **Fiscal Year**

"Fiscal Year" means a 12-month period beginning on January 1 of each calendar year and ending on December 31.

J. **Goods:**

"Goods" means the tangible material acquired, produced, or delivered by Contractor either separately or in conjunction with the Work performed by Contractor, and the Services Contractor renders hereunder.

K. **Governing Body**

"Governing Body" means the governing body of the Political Subdivision.

L. **Incident**

"Incident" means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, pursuant to **§§24-37.5-401, et seq. C.R.S.** Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State's knowledge, instruction, or consent.

M. **Investment Grade Audit Contract**

"Investment Grade Audit Contract" (IGA) means that certain contract between the Contractor and the Political Subdivision and entered into pursuant to **§29-12.5-102, C.R.S.**, and pursuant to which the Contractor conducted the IGA (the "IGA Contract"). The IGA Contract shall determine the feasibility of whether to enter into an Energy Performance Contract to provide for the implementation of Utility Cost

Savings Measures, Facility Improvement Measures, and Operation and Maintenance Cost Savings Measures in Facilities owned or leased by the Political Subdivision and vehicle fleet operational and fuel cost saving measures at the Premises of the Political Subdivision.

N. Investment Grade Audit Report

"Investment Grade Audit" or "IGA" means a detailed audit of Political Subdivision Premises, conducted by Contractor] pursuant to the Contract, pursuant to **§29-12.5-102, C.R.S.**, which may serve as the basis for an Energy Performance Contract.

O. Party or Parties

"Party" means the Political Subdivision or Contractor and "Parties" means both the Political Subdivision and the Contractor.

P. Political Subdivision

"Political Subdivision" means the Political Subdivision set forth above as a Party to this Contract, being a municipality.

Q. Political Subdivision Confidential Information

"Political Subdivision Confidential Information" means any and all Political Subdivision Records not subject to disclosure under CORA. Political Subdivision Confidential Information shall include, but is not limited to Personal Identifying Information ("PII"), Tax Information, and Political Subdivision personnel records not subject to disclosure under CORA.

R. Political Subdivision Records

"Political Subdivision Records" means any and all data, information, and records, regardless of physical form.

S. Premises

"Premises" means the Facilities owned or controlled by the Political Subdivision as identified on **Exhibit B - Location of Energy Audit**.

T. Principal Representative

"Principal Representative" means the person or persons designated by the Governing Body of the Political Subdivision to act as the Principal Representative of the Political Subdivision under the terms of and as set forth in this Contract. The Principal Representative may delegate their authority hereunder, in writing, if authorized to do so pursuant to the related authorizing resolution or ordinance of the Governing Body. Contractor shall have the right to inquire regarding the delegated authority of any of the Principal Representative's designees under the terms of this Contract and shall be provided with a response in writing when requested.

U. Services

"Services" means the required services to be performed by Contractor pursuant to this Contract.

V. Subcontractor

"Subcontractor" means third parties, if any, engaged by Contractor to aid in performance of the Work.

W. Tax Information

"Tax Information" means federal and State of Colorado tax information including, without limitation, federal and state tax returns, return information, and such other tax-related information as may be protected by federal and state law and regulation. Tax Information includes, but is not limited to all information defined as federal tax information in Internal Revenue Service Publication 1075.

X. Work

"Work" means the tasks and activities Contractor is required to perform to fulfill its obligations under this Contract and **Exhibit A**, including the performance of the Services and delivery of the Goods.

Y. Work Product

"Work Product" means the tangible or intangible results of Contractor's Work, including, but not limited to, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type (but not including software), including drafts. Work Product does not include Contractor's Intellectual Property.

Any other term used in this Contract that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

ARTICLE 2 TERM and EARLY TERMINATION

A. Initial Term-Work Commencement

The Parties' respective performances under this Contract shall commence on the later of either the Effective Date or February 21, 2022. This Contract shall terminate on August 14, 2023 unless sooner terminated or further extended as specified elsewhere herein.

B. Early Termination in the Public Interest

The Political Subdivision is entering into this Contract for the purpose of carrying out the public policy of the Political Subdivision as determined by the Governing Body. If this Contract ceases to further the public policy of the Political Subdivision, the Governing Body, in its sole discretion, may terminate this Contract in whole or in part. Exercise by the Governing Body of this right shall not constitute a breach of the Political Subdivision's obligations hereunder. This subsection shall not apply to a termination of this Contract by the Political Subdivision for cause or breach by Contractor, which shall be governed by **Article 10(A)** or as otherwise specifically provided for herein.

i. Method and Content

The Principal Representative shall notify Contractor of such termination in accordance with **Article 13**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Contract.

ii. Obligations and Rights

Upon receipt of a termination notice, Contractor shall be subject to and comply with the same obligations and rights set forth in **Article 11(A)(i)**.

iii. Payments

If this Contract is terminated by the Governing Body pursuant to this **Article 2B**, Contractor shall be paid an amount that bears the same ratio to the total reimbursement under this Contract as Contractor's obligations that were satisfactorily performed bear to the total obligations set forth in this Contract, less payments previously made. Additionally, if this Contract is less than 60% completed, the Political Subdivision may, but is not obligated to, reimburse Contractor for a portion of actual out-of-pocket expenses (not otherwise reimbursed under this Contract) incurred by Contractor which are directly attributable to the uncompleted portion of Contractor's obligations hereunder. The sum of any and all reimbursements under this **Article 2B** shall not exceed the maximum amount payable to Contractor hereunder and any and all such reimbursements shall be payable only from funds that have been budgeted, appropriated and otherwise made available and in respect of which a sufficient unencumbered balance thereof remains available for payment of such reimbursements, all within applicable constitutional, statutory, charter, code or other limitations applicable to the Political Subdivision.

ARTICLE 3 STATEMENT OF WORK

A. Work

Contractor shall perform an Investment Grade Audit in accordance with **IGA Exhibit A – Scope of Work**. The Investment Grade Audit shall be performed at the location(s) listed in **IGA Exhibit B – Location of Audit**. If the Governing Body, in its sole discretion, desires to accept Contractor's Investment Grade Audit Report and the EPC Project Proposal, which acceptance, if made, shall be made within 60 days of the Principal Representative's receipt of such proposal in the form of the Notice of Acceptance of the Investment Grade Audit Report and EPC Project Proposal set forth below in **Article 3(E)**. The Parties may, but are not obligated to, enter into a new contract, entitled "Energy Performance Contract," based on such proposal, the form of which shall be supplied by the Political Subdivision and shall comply with **§29-12.5-101, C.R.S., et seq.**

B. Time of Performance

The Work under this Contract shall be completed during the initial term, which is set forth in **Article 2**, or any extension thereof.

C. Goods and Services

Contractor shall procure Goods and Services necessary to complete the Work. Such procurement shall be paid from the Contract Funds and shall not increase the maximum amount payable hereunder by the Political Subdivision.

D. Employees or Agents

All persons employed by Contractor or Subcontractors to perform Work under this Contract shall be Contractor's or Subcontractors' employee(s) or agents for all purposes hereunder and shall not be employees or agents of the Political Subdivision for any purpose as a result of this Contract.

E. Acceptance

Once Contractor has signed the draft "Notice of Acceptance" for the Investment Grade Audit Report and EPC Project Proposal, Contractor shall submit that draft Notice of Acceptance to the Principal Representative for review and approval by the Governing Body. If the IGA Report and EPC Project Proposal meet the statutory requirements set forth in **§29-12.5-101, C.R.S., et seq.**, and upon receipt of a completed IGA Record of Review from CEO, the Governing Body may, in its discretion, authorize the Principal Representative to issue the Notice of Acceptance.

ARTICLE 4 PAYMENTS TO CONTRACTOR

The Political Subdivision shall, in accordance with the provisions of this **Article 4**, pay Contractor in the amounts and using the methods set forth below:

A. Project with Insufficient Cost Savings

If Contractor determines at any time during the Investment Grade Audit that savings cannot be attained to meet the Political Subdivision's statutory requirements set forth in **§29-12.5-101, C.R.S., et seq.**, the Investment Grade Audit shall be terminated in accordance with **Article 11(B)** and **Article 13**.

B. Maximum IGA Payment Amount

Except as provided for below in subsections (i) and (ii), and (iii) of this **Article 4**, within [45] days after the Notice of Acceptance is issued by the Governing Body, which indicates the completion of the Investment Grade Audit Report and the related proposal for the Energy Performance Contract Project, Principal Representative shall pay to Contractor a sum not to exceed \$49,500 in accordance with IGA **Exhibits B and C** to this Contract.

i. Payment Without Financing of Energy Performance Contract

After the Notice of Acceptance has been issued, at the Governing Body's sole discretion, the Governing Body may exercise one of the two options set forth below, if the Governing Body determines to pay out of available funds specifically appropriated for the purpose of performance of this Contract:

a. Payment for performance of IGA only without authorization of Energy Performance Contract

If the Governing Body decides not to proceed with an Energy Performance Contract, the Political Subdivision shall pay Contractor for the due performance of the IGA from available funds which have been specifically appropriated for this purpose by the Governing Body in the ordinance or resolution authorizing the Political Subdivision to enter into this Contract. The Political Subdivision reserves the right to use such information from the Investment Grade Audit Report as it deems appropriate. Any unilateral use by the Political Subdivision of the Investment Grade Audit Report and any related underlying data for completing, using, maintaining or adding to any facilities of the Political Subdivision shall be at the sole risk of the Political Subdivision and without liability to Contractor or Contractor consultants.

b. Payment Without Financing Arranged Under Energy Performance Contract

If the Governing Body authorizes the Political Subdivision to enter into an Energy Performance Contract with Contractor, the Governing Body may determine to pay Contractor for the due performance of the IGA from available funds specifically appropriated for this purpose or from separate lease purchase, rather than finance the related project from the lease purchase or enterprise revenue bond financing provided through the Energy Performance Contract. The Political Subdivision will pay Contractor within 90 days after the Notice of Acceptance is issued.

ii. Payment with Financing Arranged Under Energy Performance Contract

If the Governing Body authorizes the Political Subdivision to enter into (a) an Energy Performance Contract with Contractor and (b) the financing of the IGA cost and the costs of the related project from the lease purchase provided through the Energy Performance Contract, the Political Subdivision will have no direct payment obligations to Contractor under this Contract, provided that Contractor and the Political Subdivision execute an Energy Performance Contract and enter into such financing within 90 days after the issuance of the Notice of Acceptance. The above stated cost of the completed Investment Grade Audit shall be incorporated into Contractor's total project costs and paid from the lease provided through the Energy Performance Contract.

iii. Payment Without the issuance of the Notice of Acceptance

Within 60 days after the date on which Contractor submits the draft Notice of Acceptance to the Principal Representative, the Principal Representative shall review and may object and propose revisions, in writing, to Contractor regarding the Investment Grade Audit Report and EPC Project Proposal. If the Political Subdivision has received the completed IGA Record of Review from CEO and such IGA Record of Review and the analysis of the Principal Representative reflect that the IGA Report and the EPC Project Proposal each meet the statutory requirements set forth in **§29-12.5-101, C.R.S., et seq.**, but the Political Subdivision does not issue the Notice of Acceptance, the Notice of Acceptance will be deemed issued as of the 61st day after Contractor's submission of the draft Notice of Acceptance. If the Notice of Acceptance is deemed issued, the Political Subdivision shall be obligated to pay Contractor for its performance hereunder as set forth in **Article 4(B)(i)**, and Contractor shall provide the complete Investment Grade Audit Report and any related underlying data including building, infrastructure, and equipment specifications, blueprints, etc., to the Political Subdivision for its records and use.

C. Payment

i. Payments

Contractor shall initiate any payment requests by submitting invoices to the Principal Representative in the form and manner set forth and approved by the Principal Representative.

ii. Interest

The Political Subdivision shall fully pay each invoice within the payment terms of the Political Subdivision and within 30 days of receipt thereof if the amount invoiced represents performance by Contractor previously accepted by the Principal Representative. Uncontested amounts not paid by the Political Subdivision within 45 days shall bear interest on the unpaid balance beginning on the following day at a rate not to exceed 1.5% percent per month until paid in full, provided that such interest amounts have been duly appropriated by the Governing Body; provided, however, that interest shall not accrue on unpaid amounts that the Principal Representative disputes. Contractor shall invoice the Political Subdivision separately for accrued interest on delinquent amounts. The billing shall reference the delinquent payment, the number of days interest to be paid and the interest rate.

iii. Available Funds-Contingency-Termination

The Political Subdivision is prohibited by law from making financial commitments beyond the term of the current Fiscal Year. This Contract shall not constitute a debt or a multiple Fiscal Year financial obligation under any Colorado constitutional or statutory provisions or limitations. Payment to Contractor beyond the current Fiscal Year is contingent on the appropriation and continuing availability of Contract Funds in any subsequent year. If federal funds or funds from any other source not from the Political Subdivision constitute all or some of the Contract Funds, the obligation of the Political Subdivision to pay Contractor shall be contingent upon such funding continuing to be made available for payment. Payments to be made pursuant to this Contract shall be made only from Contract Funds, and the Political Subdivision's liability for such payments shall be limited to the amount remaining of such Contract Funds. If other funds are not appropriated, or otherwise become unavailable to fund this Contract, the Political Subdivision may, upon written notice, terminate this Contract, in whole or in part, without incurring further liability in accordance with the provisions hereof.

iv. Erroneous Payments

At the Governing Body's sole discretion, payments made to Contractor in error for any reason, including, but not limited to overpayments or improper payments and unexpended or excess funds received by Contractor, the Political Subdivision may recover from Contractor by deduction from subsequent payments under this Contract or other contracts, grants or agreements between the Political Subdivision and Contractor or by other appropriate methods and collected as a payment due to the Political Subdivision. Such payments shall not be made to any party other than the Political Subdivision.

D. Use of Funds

Contract Funds shall be used only for eligible costs identified herein.

ARTICLE 5 REPORTING - NOTIFICATION

Reports, Evaluations, and Reviews required under this **Article 5** shall be in accordance with the procedures of and in such form as prescribed by the Political Subdivision.

A. Litigation Reporting

If Contractor is served with a pleading or other document in connection with an action before a court or other administrative decision-making body, and such pleading or document relates to this Contract or may affect Contractor's ability to perform its obligations under this Contract, Contractor shall, within 10 days after being served, notify the Political Subdivision of such action and deliver copies of such pleading or document to the Principal Representative.

B. Performance Outside the State of Colorado and/or the United States

[This §5.B shall not apply if the Contract Funds include any Federal funds] Following the Effective Date, Contractor shall provide written notice to the Political Subdivision by notice to the Principal Representative, in accordance with **Article 13**, within 20 days of the earlier to occur of Contractor's decision to perform, or its execution of an agreement with a Subcontractor to perform, Services outside the State of Colorado and/or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado and/or the United States and the reason why it is necessary or advantageous to perform such Services at such location or locations. Knowing failure by Contractor to provide notice to the Political Subdivision under this **Article 5(B)** shall constitute a material breach of this Contract.

C. Noncompliance

Contractor's failure to provide reports and notify the Principal Representative of the Political Subdivision in a timely manner in accordance with this **Article 5** may result in the delay of payment of funds and/or termination as provided under this Contract.

ARTICLE 6 CONTRACTOR RECORDS

A. Maintenance

Contractor shall maintain a file of all documents, records, communications, notes and other materials relating to the Work (the "Contractor Records"). Contractor Records shall include all documents, records, communications, notes and other materials maintained by Contractor that relate to any Work performed by Subcontractors, and Contractor shall maintain all records related to the Work performed by Subcontractors required to ensure proper performance of that Work. Contractor shall maintain Contractor Records until the last to occur of: **(i)** the date that is 3 years after the date this Contract expires or is terminated, **(ii)** final payment under this Contract is made, **(iii)** the resolution of any pending Contract matters, or **(iv)** if a Contract audit is occurring, or Contractor has received notice that a Contract audit is pending, the date such Contract audit is completed and its findings have been resolved (the "Record Retention Period").

B. Inspection

Contractor shall permit the Political Subdivision to audit, inspect, examine, excerpt, copy and transcribe Contractor Records during the Record Retention Period. Contractor shall make Contractor Records available during normal business hours at Contractor's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 2 Business Days' notice from the Principal Representative, unless the Principal Representative determines that a shorter period of notice, or no notice, is necessary to protect the interests of the Political Subdivision.

C. Monitoring

The Principal Representative, in its discretion, may monitor Contractor's performance of its obligations under this Contract using procedures as determined by the Political Subdivision. The Principal Representative shall monitor Contractor's performance in a manner that does not unduly interfere with Contractor's performance of the Work.

D. Final Contract Audit Report

Contractor shall promptly submit to the Political Subdivision a copy of any final Contract audit report of a Contract audit performed on Contractor's records that relates to or affects this Contract or the Work, whether the audit is conducted by Contractor or a third party.

ARTICLE 7 CONFIDENTIAL INFORMATION AND POLITICAL SUBDIVISION RECORDS

Contractor shall comply with the provisions of this **Article 7** if it becomes privy to confidential information in connection with its performance hereunder. Confidential information includes, but is not necessarily limited to, any Political Subdivision records, personnel records, and information concerning individuals. Such information shall not include information required to be disclosed pursuant to CORA.

A. Confidentiality

Contractor shall keep confidential, and cause all Subcontractors to keep confidential, all Political Subdivision Records, unless those Records are publicly available. Contractor shall not, without prior written approval of the Governing Body, use, publish, copy, disclose to any third party, or permit the use by any third party of any Political Subdivision Records, except as otherwise stated in this Contract, permitted by law, or approved in writing by the Governing Body. Contractor shall provide for the security of all Political Subdivision Confidential Information in accordance with all applicable laws, rules, policies, publications, and guidelines. Contractor shall immediately forward any request or demand for Political Subdivision Records to the Principal Representative.

B. Other Entity Access and Nondisclosure Agreements

Contractor may provide Political Subdivision Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to Political Subdivision Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Contract. Contractor shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Contract, and that the nondisclosure provisions are in force at all times that the agent, employee, assign or Subcontractor has access to any Political Subdivision Confidential Information. Contractor shall provide copies of those signed nondisclosure provisions to the Principal Representative upon execution of the nondisclosure provisions if requested by the Principal Representative.

C. Use, Security, and Retention

Contractor shall use, hold and maintain Political Subdivision Confidential Information in compliance with any and all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all Political Subdivision Confidential Information. Contractor shall provide the Principal Representative with access, subject to Contractor's reasonable security requirements, for purposes of inspecting and monitoring access and use of Political Subdivision Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Contract, Contractor shall return Political Subdivision Records provided to Contractor or destroy such Political Subdivision Records and certify to the Governing Body that it has done so, as directed by the Principal Representative. If Contractor is prevented by law or regulation from returning or destroying Political Subdivision Confidential Information, Contractor warrants that it will guarantee the confidentiality of, and cease to use, such Political Subdivision Confidential Information.

D. Incident Notice and Remediation

If Contractor becomes aware of any Incident, it shall notify the Principal Representative immediately and cooperate with the Political Subdivision regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the Principal Representative. Unless Contractor can establish that Contractor and its Subcontractors are not the cause or source of the Incident, Contractor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an

Incident, Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the Principal Representative, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the Governing Body at no additional cost to the Political Subdivision. The Governing Body may adjust or direct modifications to this plan in its sole discretion, and Contractor shall make all modifications as directed by the Governing Body. If Contractor cannot produce its analysis and plan within the allotted time, the Principal Representative, in its sole discretion, may perform such analysis and produce a remediation plan, and Contractor shall reimburse the Political Subdivision for the actual costs thereof.

E. Data Protection and Handling

Contractor shall ensure that all Political Subdivision Records and Work Product in the possession of Contractor or any Subcontractors are protected and handled in accordance with the requirements of this Contract at all times.

F. Safeguarding PII

If Contractor or any of its Subcontractors will or may receive PII under this Contract, Contractor shall provide for the security of such PII, in a manner and form acceptable to the Principal Representative, including, without limitation, Political Subdivision non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits.

ARTICLE 8 CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Contractor shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Contractor under this Contract. Such a conflict of interest would arise when an employee, officer or agent of Contractor or Subcontractor were to offer or provide any tangible personal benefit to an employee of the Political Subdivision, or any member of their immediate family, related to the award of, entry into or management or oversight of this Contract.

B. Apparent Conflicts of Interest

Contractor acknowledges that, with respect to this Contract, even the appearance of a conflict of interest shall be harmful to the Political Subdivision's interests. Absent the Governing Body's prior written approval, Contractor shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Contractor's obligations under this Contract.

C. Disclosure to the Political Subdivision

If a conflict or the appearance of a conflict arises, or if Contractor is uncertain whether a conflict or the appearance of a conflict has arisen, Contractor shall submit to the Principal Representative a disclosure statement setting forth the relevant details for the Political Subdivision's consideration. Failure to promptly submit a disclosure statement or to follow the Principal Representative's direction in regard to the actual or apparent conflict constitutes a breach of this Contract.

ARTICLE 9 INSURANCE

The Contractor shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Contract. All insurance policies required by this Contract shall be issued by insurance companies with an AM Best rating of A-VIII or better.

A. Workers' Compensation

Workers' compensation insurance as required by State law, and employers' liability insurance covering all of Contractor's and Subcontractor's employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

\$1,000,000 each occurrence;

\$2,000,000 general aggregate;

\$2,000,000 products and completed operations aggregate; and
\$50,000 any 1 fire.

C. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

D. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

\$1,000,000 each occurrence; and

\$2,000,000 general aggregate.

E. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

\$1,000,000 each occurrence; and

\$2,000,000 general aggregate.

F. Additional Insured

The Political Subdivision shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Contractor and Subcontractors.

G. Primacy of Coverage

Coverage required of Contractor and each Subcontractor shall be primary over any insurance or self-insurance program carried by Contractor or the Political Subdivision.

H. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Contractor and Contractor shall forward such notice to the Principal Representative in accordance with **Article 13** within 7 days of Contractor's receipt of such notice.

I. Subrogation Waiver

All insurance policies secured or maintained by Contractor or its Subcontractors in relation to this Contract shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Contractor or the Political Subdivision, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

J. Public Entities

If Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, **§24-10-101, et seq., C.R.S.** (the GIA), Contractor shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Contractor shall ensure that the Subcontractor maintains at all times during the terms of this Contract, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

K. Certificates

Contractor shall provide to the Principal Representative, for the records of the Political Subdivision, certificates evidencing Contractor's insurance coverage required in this Contract within 7 Business Days following the Effective Date. Contractor shall provide to the Principal Representative, for the records of the Political Subdivision, certificates evidencing Subcontractor insurance coverage required under this Contract within 7 Business Days following the Effective Date; except that, if Contractor's subcontract is not in effect as of the Effective Date, Contractor shall provide to the Principal Representative certificates showing Subcontractor insurance coverage required under this Contract within 7 Business Days following Contractor's execution of the subcontract. No later than 15 days before the expiration date of Contractor's or any Subcontractor's coverage, Contractor shall deliver to the Principal Representative certificates of insurance evidencing renewals of coverage. At any other time during the term of this Contract, upon request by the Principal Representative, Contractor shall, within 7 Business Days following the request by

the Principal Representative, supply to the Principal Representative evidence satisfactory to the Principal Representative of compliance with the provisions of this **Article 9**.

ARTICLE 10. BREACH

A. Defined

In addition to any breaches specified in other sections of this Contract, the failure of either Party to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in Article 13. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the Political Subdivision may exercise any of the remedies set forth in Article 11. Notwithstanding anything to the contrary herein, the Governing Body, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Contract in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

ARTICLE 11. REMEDIES

If Contractor is in breach under any provision of this Contract, the Political Subdivision shall have all of the remedies listed in this **Article 11** in addition to all other remedies set forth in other sections of this Contract following the notice and cure period set forth in **Article 10(B)**. The Political Subdivision may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

A. Termination for Cause and/or Breach

The Political Subdivision may terminate this entire Contract or any part of this Contract. Exercise by the Political Subdivision of this right shall not be a breach of its obligations hereunder. Contractor shall continue performance of this Contract to the extent not terminated, if any.

i. Obligations and Rights

To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Contractor shall complete and deliver to the Principal Representative all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Contract's terms. At the sole discretion of the Governing Body, Contractor shall assign to the Political Subdivision all of Contractor's right, title, and interest under such terminated orders or subcontracts; provided that Contractor's obligations with respect to Contractor's Intellectual Property are set forth in **Article 14** below. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor in which the Political Subdivision has an interest. All materials owned by the Political Subdivision in the possession of Contractor shall be immediately returned to the Political Subdivision. All Work Product, at the option of the Political Subdivision, shall be delivered by Contractor to the Principal Representative and shall become the Political Subdivision's personal property.

ii. Payments

The Political Subdivision shall reimburse Contractor only for accepted performance up to the date of termination. If, after termination by the Political Subdivision, it is determined that Contractor was not in breach or that Contractor's action or inaction was excusable, such termination shall be treated as a termination in the public interest and the rights and obligations of the Parties shall be the same as if this Contract had been terminated in the public interest, as described herein.

iii. Damages and Withholding

Notwithstanding any other remedial action by the Political Subdivision, Contractor shall remain liable to the Political Subdivision for any damages sustained by the Political Subdivision by virtue of any breach under this Contract by Contractor and the Political Subdivision may withhold any payment to Contractor for the purpose of mitigating the Political Subdivision's damages, until such time as the exact amount of damages due to the Political Subdivision from Contractor is determined. The Principal Representative may withhold any amount that may be due Contractor as the Governing Body deems necessary to protect the Political Subdivision against loss, including loss as a result of outstanding liens, claims of former lien holders, or for the excess costs incurred in procuring similar goods or services. Contractor shall be liable for excess costs incurred by the Political Subdivision in procuring from third parties replacement Work, Services or substitute Goods as cover.

B. Early Termination for Insufficient Cost Savings

The Contractor is entering into this Contract for the purpose of carrying out an Investment Grade Audit and Energy Performance Contract Project Proposal. Contractor may terminate this Contract in accordance with **Article 4(A)(iii)** prior or subsequent to the completion of the Investment Grade Audit. Contractor shall notify the Governing Body in writing that Contractor is unable to guarantee savings which exceeds the costs associated with performing the audit, installing the improvements, and related maintenance and monitoring services as required and set forth in **§29-12.5-101, C.R.S., et seq.** Exercise by Contractor of this Early Termination for Insufficient Cost Savings, shall not be deemed a breach of Contractor's obligations hereunder.

i. Method and Content

Contractor shall notify Governing Body of such termination in accordance with **Article 13**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Contract.

ii. Obligations and Rights

Upon receipt of a termination notice, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor in which the Political Subdivision has an interest. All materials owned by the Political Subdivision in the possession of Contractor shall be immediately returned to the Political Subdivision.

iii. Payments

In this event this Contract shall be terminated and the Political Subdivision shall not be liable to pay Contractor, in whole or part, the amount specified in **Article 4(A)**.

C. Remedies Not Involving Termination

The Governing Body, at its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

i. Suspend Performance

Suspend Contractor's performance with respect to all or any portion of this Contract pending necessary corrective action as specified by the Principal Representative of the Governing Body of the Political Subdivision without entitling Contractor to an adjustment in price/cost or performance schedule. Contractor shall promptly cease performance and incurring costs in accordance with the Principal Representative's directive and the Political Subdivision shall not be liable for costs incurred by Contractor after the suspension of performance under this provision.

ii. Withhold Payment

Withhold payment to Contractor until corrections in Contractor's performance are satisfactorily made and completed.

iii. Deny Payment

Deny payment for those obligations not performed, that due to Contractor's actions or inactions, cannot be performed or, if performed, would be of no value to the Political Subdivision; provided, that any denial of payment shall be reasonably related to the value to the Political Subdivision of the obligations not performed.

iv. Removal

Notwithstanding any other provision herein, the Principal Representative of the Governing Body of the Political Subdivision may demand immediate removal of any of Contractor's employees, agents,

or subcontractors whom the Principal Representative deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Contract is deemed to be contrary to the public interest or the Political Subdivision's best interest.

v. Intellectual Property

If Contractor infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Contract, Contractor shall, at the Governing Body's option (a) obtain for the Political Subdivision or Contractor the right to use such products and services; (b) replace any Goods, Services or other product involved with non-infringing products or modify them so that they become non-infringing; or, (c) if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services or products and refund to the Political Subdivision the amounts paid by the Political Subdivision for any such infringing Goods, Services or products.

D. Contractor's Remedies

If the Political Subdivision is in breach of any provision of this Contract and does not cure such breach, Contractor, following the notice and cure period in **Article 10.B** and the dispute resolution process in **Article 12**, shall have all remedies available at law and equity.

ARTICLE 12 DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Contract which cannot be resolved by the designated Contract representatives shall be referred in writing to a senior departmental management designated by the Political Subdivision and a senior manager designated by Contractor for resolution.

ARTICLE 13 NOTICES and REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Contract shall be in writing, and shall be delivered (i) by hand with receipt required, (ii) by certified or registered mail to such Party's principal representative at the address set forth below or (iii) as an email with read receipt requested to the principal representative at the email address or (iv) by overnight courier to the address set forth below, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this **Article 13** without a formal amendment to this Contract. Unless otherwise provided in this Contract, notices shall be effective upon delivery of the written notice.

A. Political Subdivision Designee:

Mr. Scott Turnipseed
Mayor, Town of Eagle, Colorado
200 Broadway
Eagle, Colorado 81631
Scott.Turnipseed@townofeagle.org

B. Contractor:

Brad Brady
Yearout Energy Services Company, LLC
2679 W. Main St., Suite 235
Littleton, CO
(303)901-2529
Email: Brad.Brady@Yearoutenergy.com

ARTICLE 14 RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE

Except for Contractor's Intellectual Property, any research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or Work Product of any type, including drafts, prepared by Contractor in the performance of its obligations under this Contract shall be the nonexclusive personal property of the Political Subdivision and all Work Product shall be delivered to the Principal Representative, for the records of the Political Subdivision, by Contractor upon completion or termination hereof. The Political Subdivision's nonexclusive rights in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer and prepare derivative works.

ARTICLE 15 GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from any tortious act of the Political Subdivision and its departments, institutions, agencies, boards, officials, attorneys and employees, including the members of the Governing Body and the Principal Representative, is controlled and limited by the provisions of the Governmental Immunity Act §24-10-101, C.R.S., *et seq.*

ARTICLE 16 GENERAL PROVISIONS

A. Assignment

Contractor's rights and obligations under this Contract are personal and may not be transferred or assigned without the prior, written consent of the Governing Body. Any attempt at assignment or transfer without such consent shall be void.

B. Subcontracts

Contractor shall not enter into any subcontract in connection with its obligations under this Contract without the prior, written approval of the Governing Body of the Political Subdivision. Contractor shall submit to the Principal Representative a copy of each such subcontract upon request by the Principal Representative. All subcontracts entered into by Contractor in connection with this Contract shall comply with all applicable federal, state and Political Subdivision laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Contract.

C. Binding Effect

Except as otherwise provided in **Article 17(A)**, all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Contract are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Contract to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Contract may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

This Contract represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or affect whatsoever, unless embodied herein.

H. Jurisdiction and Venue

All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado.

I. Modification

Except as otherwise provided in this Contract, any modification to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved in accordance with

applicable laws and the fiscal rules and policies of the Political Subdivision. Modifications permitted under this Contract, other than contract amendments, shall conform to the policies promulgated by the Political Subdivision.

J. Statutes, Regulations, Fiscal Rules and Other Authority.

Any reference in this Contract to a statute, regulation, Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Contract.

K. Order of Precedence

In the event of conflicts or inconsistencies between this Contract and any Exhibits or attachments such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. Political Subdivision General Provisions in the main body of this Contract,
- ii. The provisions of the other sections of the main body of this Contract,
- iii. IGA Exhibit A - Scope of Work,
- iv. IGA Exhibit B - Location of Audit and
- v. IGA Exhibit C - Cost and Pricing Elements.

L. Severability

The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of the Contract.

M. Survival of Certain Contract Terms

Any provision of this Contract that imposes an obligation on a Party after termination or expiration of the Contract shall survive the termination or expiration of the Contract and shall be enforceable by the other Party.

N. Taxes

The Political Subdivision is exempt from all federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from Colorado state and local government sales and use taxes under **§§39-26-704(1), et seq., C.R.S.** The Political Subdivision shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the State of Colorado imposes such taxes on Contractor. Contractor shall be solely responsible for any exemptions from the collection of excise, sales, or use taxes that Contractor may wish to have in place in connection with this Contract.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in Article 17, this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to the Contract, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Contract and the performance measures and standards are subject to public release through CORA.

R. Standard and Manner of Performance

Contractor shall perform its obligations under this Contract in accordance with the highest standards of care, skill and diligence in Contractor's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations.

Contractor shall secure, prior to the Effective Date, and maintain at all times during the term of this Contract, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Contract, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Contract.

T. Indemnification

i. General Indemnification

Contractor shall indemnify, save, and hold harmless the Political Subdivision, its employees, agents, officials, attorneys, representatives and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorney fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Contractor, or its employees, agents, Subcontractors, or assignees in connection with this Contract.

ii. Confidential Information Indemnification

Disclosure or use of Political Subdivision Confidential Information by Contractor in violation of **Article 7** may be cause for legal action by third parties against Contractor, the Political Subdivision, or their respective agents. Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by the Political Subdivision in relation to any act or omission by Contractor, or its employees, agents, assigns, or Subcontractors in violation of **Article 7**.

iii. Intellectual Property Indemnification

Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorney fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

ARTICLE 17 COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-1)

A. APPROVAL

This Contract shall not be valid until it has been approved by the Town of Eagle, Colorado Town's Council or an approved designee.

B. FUNDS AVAILABILITY

Financial obligations of the Political Subdivision payable after the current Fiscal Year are contingent upon funds for that purpose being budgeted, appropriated and encumbered for the purposes of this Contract as given in **§24-30-202(5.5), C.R.S.**

C. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the Political Subdivision. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the Political Subdivision and the Political Subdivision shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall not have authorization, express or implied, to bind the Political Subdivision to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall **(i)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(ii)**

provide proof thereof when requested by the Principal Representative, and (iii) be solely responsible for its acts and those of its employees and agents.

D. COMPLIANCE WITH LAW.

Contractor shall strictly comply with all applicable federal, State and local laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

E. CHOICE OF LAW.

Colorado law and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Contract, to the extent capable of execution.

F. BINDING ARBITRATION PROHIBITED.

The Political Subdivision does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Contract or incorporated herein by reference shall be null and void.

G. SOFTWARE PIRACY PROHIBITION Political Subdivision or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the Political Subdivision determines that Contractor is in violation of this provision, the Political Subdivision may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

H. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST

The signatories aver that to their knowledge, no employee of the Political Subdivision has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

I. VENDOR OFFSET

The Political Subdivision's Controller may withhold payment for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges; (iii) amounts required to be paid to the Unemployment Compensation Fund; and (iv) other unpaid debts owing to the Political Subdivision as a result of final agency determination or judicial action.

J. PUBLIC CONTRACTS FOR SERVICES

Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program established under Pub. L. 104-208 or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a Subcontractor that fails to certify to Contractor that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor (i) shall not use E-Verify Program to undertake pre-employment screening of job applicants while this Contract is being performed, (ii) shall notify the Subcontractor and the Principal Representative within 3 days if Contractor has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and

Employment. If Contractor participates in the State program, Contractor shall deliver to the Principal Representative, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Contractor fails to comply with any requirement of this provision or **§8-17.5-101, et seq., C.R.S.**, the Political Subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

K. PUBLIC CONTRACTS WITH NATURAL PERSONS

Contractor, if a natural person 18 years of age or older, hereby swears and affirms under penalty of perjury that he or she **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of **§§24-76.5-101, et seq., C.R.S.**, and **(iii)** has produced one form of identification required by **§24-76.5-103, C.R.S.** prior to the Effective Date of this Contract.

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ARTICLE 18. SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

* Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the Political Subdivision is relying on their representations to that effect.

CONTRACTOR INSERT-Legal Name of Contractor By: Brad Brady Title: Vice President, Colorado _____ *Signature Date: _____	POLITICAL SUBDIVISION Town of Eagle, CO Town of Eagle Town Council _____ By: Scott Turnipseed, Mayor, Town of Eagle Date: _____
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IGA EXHIBIT A – SCOPE OF WORK

IGA EXHIBIT B – LOCATION OF ENERGY AUDIT

IGA EXHIBIT C - COST AND PRICING ELEMENTS

IGA Exhibit A

Scope of Work

- [SECTION 1. Energy Performance Contract Definitions and Terms](#)
- [SECTION 2. Pre-Audit Conference](#)
- [SECTION 3. Data Collection and Building/Equipment Schedules](#)
- [SECTION 4. Establish Baseline Period Consumption](#)
- [SECTION 5. Preliminary Analysis and Discussion of Utility Cost-Savings Measures and FIMs and other ESCO Services](#)
- [SECTION 6. Detailed Analysis of Utility Cost-Savings Measures and FIMs and other ESCO Services](#)
- [SECTION 7. Draft Investment Grade Audit Report](#)
- [SECTION 8. Post Draft Investment Grade Audit Report Conference](#)
- [SECTION 9. Final Investment Grade Audit Report and Energy Performance Contract Project Proposal](#)

Purpose of the Investment Grade Audit and this Scope of Work Exhibit

The purpose of the Investment Grade Audit (IGA) is to review the Political Subdivision's facilities and infrastructure with the intent to present an IGA audit report and an Energy Performance Contract (EPC) Project Proposal. The Scope of Work exhibit is a general outline of the process from the initial Pre-Audit Conference to an accepted IGA report and an EPC Project Proposal. The Scope of Work outlines the information collected, how it is analyzed, the methodology used for calculations, an initial but not exclusive list of Utility Cost-Savings Measures and FIMs to consider, a proposed financing performance, and a format for the report. The EPC Project Proposal should include proposed equipment (or equal) to be installed, proposed facility modifications, expected utility savings, expected project costs, proposed project design and construction schedule, a measurement and verification plan, and long-term Energy Service Company (ESCO) and Political Subdivision maintenance requirements.

The ESCO shall conduct all necessary conference(s) and produce associated documentation to initiate and complete Work under the IGA Contract. The ESCO will facilitate all reviews and collect all the comments starting with the Pre-Audit Conference (reference this **Section 2**) through the Post-Audit Conference (reference **Section 8**). The ESCO will develop the draft and final Investment Grade Audit report and develop the Energy Performance Contract Project Proposal.

If the Political Subdivision (Municipality, County, School District, or Special District) and the ESCO (with CEO review) determine that any of the following services detailed below are not required for a given project, the Scope of Work can be modified by the Political Subdivision by striking through the identified services.

SECTION 1. Energy Performance Contract Definitions and Terms

The following terms are used in the Investment Grade Audit and Project Proposal Contract. The Energy Performance Contract shall be construed and interpreted as follows:

- A. Adjusted-Baseline Energy**
"Adjusted-Baseline Energy" means the energy use of the baseline period, adjusted to a different set of operating conditions.
- B. American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE)**
"American Society of Heating, Refrigeration, and Air Conditioning Engineers" or "ASHRAE" means the recognized professional organization with standards and guidelines that may be referenced for additional definitions, procedures, and technical information as necessary in this Scope of Work and the IGA Project Proposal Report.
- C. Baseline Energy**
"Baseline Energy" means the energy use (units) occurring during the Baseline Period without adjustments.
- D. Baseline Period**

IGA Exhibit A

Scope of Work

“Baseline Period” means the period of time chosen to represent operation of the facility or system before implementation of a Utility Cost-Savings Measure or any applicable FIM, as defined herein. This period may be as short as the time required for an instantaneous measurement of a constant quantity, or long enough to reflect one full operating cycle of a system or facility with variable operations.

E. Baseline

“Baseline” means and pertains to the baseline period.

F. Commissioning

“Commissioning” means a process for achieving, verifying and documenting the performance of equipment to meet the operational needs of the facility within the capabilities of the design, and to meet the design documentation and the Political Subdivision's functional criteria, including preparation of operating personnel. Retro-commissioning is the application of the Commissioning process to existing buildings.

G. Cost-Weighted Average Service Life

“Cost-Weighted Average Service Life” means the calculation is based upon the service life of the equipment (ASHRAE Handbook - HVAC Applications or other approved source), the cost of each Utility Cost-Savings Measure or FIM (excluding the audit cost and Political Subdivision's contingency), and the total cost of all the measures. The formula is the sum of each measure cost divided by the total cost multiplied by its service life. $\text{Cost-Weighted Average Service Life} = \sum \text{each measure} \div \text{total cost} \times \text{service life}$.

H. Energy

“Energy” means electricity (both usage and demand), natural gas, steam, water (potable or non-potable), or any other Utility-charged service.

I. Energy Conservation Measure (ECM)

“Energy Conservation Measure” or “ECM” means an Energy Saving Measure or Utility Cost-Savings Measure as defined in **§29-12.5-101(4) and §29-12.5-101(9), C.R.S.**, respectively. An ECM is an activity or set of activities designed to increase the efficiency (energy, water, or other utility) of a facility, system or piece of equipment. ECMs may also conserve energy without changing efficiency. An ECM may involve one or more of: physical changes to facility equipment, revisions to operating and maintenance procedures, software changes, or new means of training or managing users of the space or operations and maintenance staff. An ECM may be applied as a retrofit to an existing system or facility, or as a modification to a design before construction of a new system or facility. Within this Contract, Utility Cost-Savings Measures, Energy Saving Measures, Energy Cost-Saving Measures, Energy Conservation Measures (ECMs) and Facility Improvement Measures (FIMs) shall be interchangeable as necessary and may include vehicle fleet operational and fuel cost savings measures.

J. Energy Cost-Savings Contract

“Energy Cost-Savings Contract” means a Utility Cost-Savings Contract or a Vehicle Fleet Operational and Fuel Cost-Savings Contract as defined in **§29-12.5-101(2.5), C.R.S.**

K. Energy Cost-Savings Measure

“Energy Cost-Savings Measure” means a Utility Cost-Savings Measure or a Vehicle Fleet Operational and Fuel Cost-Savings Measure. Within this Contract, Utility Cost-Savings Measures, Energy Saving Measures, Energy Cost-Saving Measures, Energy Conservation Measures (ECMs) and Facility Improvement Measures (FIMs) shall be interchangeable as necessary and may include vehicle fleet operational and fuel cost savings measures.

L. Energy Performance Contract

“Energy Performance Contract” (“EPC”) as defined in **§29-12.5-101(3), C.R.S.**, is a contract for evaluations, recommendations or implementation of one or more Utility Cost-Savings Measures designed to produce Utility Cost-Savings, Operation and Maintenance Cost Savings, or Vehicle Fleet Operational and Fuel Cost-Savings, which:

- i. Sets forth savings attributable to calculated Utility Cost-Savings or Operation and Maintenance Cost Savings for each year during the Contract Term;
- ii. Provides that the amount of actual savings for each year during the Contract Term shall exceed annual contract payments, including maintenance costs, to be made during such year by the Political Subdivision contracting for the Energy Cost-Savings Measures;
- iii. Requires the party entering into the Energy Performance Contract with the Political Subdivision to provide a written guarantee that the sum of Energy Cost-Savings and Operation and Maintenance Cost

IGA Exhibit A

Scope of Work

Savings for each year during the first three years of the Contract period shall not be less than the calculated savings for that year;

- iv. Requires a minimum of one-tenth of payments by the Political Subdivision to be made within the first two years. Requires remaining payments by the Political Subdivision to be made within 12 years after the date of the execution of the contract, except that the maximum term of the payments shall be less than the Cost-Weighted Average Service Life of energy cost-savings equipment for which the contract is made, not to exceed 25 years.

M. Energy Service Company

“Energy Service Company” or “ESCO” means the energy service company entity entering into a contract to design and construct the Project with the Political Subdivision. The Energy Service Company may also be referred to as “Contractor” in this Contract or in related schedules, exhibits, attachments, contract modification or procedural documents. The ESCO may be the architect/engineer for the Utility Cost-Savings Measures or may contract out these professional services with approval of the Governing Body.

N. Facility Improvement Measure

“Facility Improvement Measure” or “FIMS” is an activity or set of activities designed to improve the structural or operational conditions of a facility, system or piece of equipment. A FIM may be an activity associated with an Energy Cost-Savings Measure and funded as part of an EPC. A FIM may be an activity requested by the Political Subdivision, but is not an Energy Cost-Savings Measure, but funds have been budgeted, appropriated and otherwise made available to be included in an EPC. Within this Contract, Utility Cost-Savings Measures, Energy Saving Measures, Energy Cost-Saving Measures, Energy Conservation Measures (ECMs) and Facility Improvement Measures (FIMs) shall be interchangeable as necessary and may include vehicle fleet operational and fuel cost savings measures.

O. Federal Energy Management Program (FEMP) Measurement & Verification Guidelines

“Federal Energy Management Program (“FEMP”) Measurement and Verification (M&V) Guidelines” means the current M&V Guidelines prepared by the U.S. Department of Energy. The FEMP M&V Guidelines contains specific procedures for applying concepts originating in the IPMVP (definition below). The FEMP M&V Guidelines represents a specific application of the IPMVP to EPC projects. It outlines procedures for determining M&V approaches, evaluating M&V plans and reports, and establishing the basis of payment for energy savings during the contract. These procedures are intended to be fully compatible and consistent with the IPMVP.

P. Finance Agreement Term

“Finance Agreement Term” means the original term and all renewal terms of any Lease-Purchase Agreement or any other financing or funding agreement of the Political Subdivision for the costs of this contract.

Q. Guarantee Period

“Guarantee Period” means a period of time commencing upon M&V Commencement Date and terminating on the termination of the M&V Term. The Guarantee Period is a mutually agreed to time period after the M&V Commencement Date, during which Guaranteed Annual Cost Savings resulting from the Project are measured and verified by the ESCO set forth in **EPC Schedule D**.

R. International Performance Measurement and Verification Protocol

“International Performance Measurement and Verification Protocol” or “IPMVP” means the current document prepared by the Efficiency Valuation Organization on the Effective Date of the IGA contract. It is the industry standard for current best practice techniques available for verifying results of energy efficiency, water efficiency, and renewable energy projects associated with the Investment Grade Audit Report and Energy Performance Contract Project Proposal (**reference Section 7**).

S. kW

“kW” is Kilowatt (abbreviation)

T. kWh

“kWh” is Kilowatt-hour (abbreviation)

U. Measurement and Verification

“Measurement and Verification” or “M&V” means the process of using measurements to reliably determine and verify the actual savings created within buildings, infrastructure, or systems resulting from an energy management program. Savings cannot be directly measured, since they represent the absence of energy

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use. Instead, savings are determined by comparing measured use before and after implementation of a project, making appropriate adjustments for changes in conditions. M&V follows the standards and definitions in the current International Performance Measurement and Verification Protocol ("IPMVP"), as may be amended by the Efficiency Valuation Organization on the Effective Date of this contract. The CEO Measurement and Verification Policy may allow alternative verification standards as appropriate for select Utility Cost-Savings Measures or FIMs.

V. M&V Commencement Date

"M&V Commencement Date" means the first day of the month following the completion by ESCO and acceptance by the Governing Body of the Political Subdivision of the Project.

W. M&V Fee

"M&V Fee" means an annual fee paid to ESCO by the Political Subdivision for ESCO's satisfactory performance of the M&V Services, as set forth in **EPC contract Article 13**. The M&V Fee is included as a part of the EPC Maximum Contract Price.

X. M&V Plan

"M&V Plan" defines how savings will be calculated and specifies any ongoing activities that will occur during the Contract Term. The details of the M&V Plan are in **EPC Contract Schedule D**.

Y. M&V Services

"M&V Services" means Services or activities relating to the measurement and verification by ESCO of the efficiency and effectiveness of the Project, pursuant to this Contract and the CEO Measurement and Verification Policy as applied.

Z. M&V Term

"M&V Term" has the meaning as described to it in **EPC Contract Article 13**.

AA. MMBtu

"MMBtu" means 1 Million British thermal unit (abbreviation).

BB. O&M

"O&M" means Operations and Maintenance (abbreviation).

CC. Operations and Maintenance Cost Savings

"Operation and Maintenance Cost Savings" as defined in **§29-12.5-101 (4.5), C.R.S.**, means the measurable decrease in operation and maintenance (O&M) costs that is a direct result of the implementation of one or more Utility Cost-Savings Measures. Such savings shall be calculated in comparison with an established baseline of operation and maintenance costs.

DD. Rebate

"Rebate" means moneys used for ESCO's compensation that are not the moneys of the Political Subdivision [or moneys from a Third-Party Lessor], including solar RECs and utility rebates, all as described in **Schedule B** and on **Schedule G**.

EE. Repair or Replace

"Repair or Replace" means to repair or replace equipment or components as necessary based upon the age, usage, O&M cost, potential efficiency improvement, etc.

FF. Savings Calculations

"Savings Calculations" means the manner in which Savings is calculated, as set forth in **EPC contract Schedule C**.

GG. Simple Payback

"Simple Payback" means the length of time, typically presented in years, required to recover the cost of a measure or project.

HH. Third-Party Lessor

"Third-Party Lessor" means a third-party entity entering into a Lease Purchase Agreement, as lessor, with the Political Subdivision, as lessee, for the lease purchase financing of the Equipment and the Services pursuant to this Contract.

II. Utility or Utilities

"Utility" or "Utilities" means the water, sewer services, electricity payments to energy service companies, purchase of energy conservation equipment, and all heating fuels. Utility may include compressed air, chilled water, or other systems or services as agreed to with the Governing Body of the Political Subdivision.

JJ. Utility Cost Savings

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“Utility Cost Savings” means the definition set forth in **§29-12.5-101(7), C.R.S.**, is the combination of either or both of the following:

- i. A cost savings caused by a reduction in metered or measured physical quantities of a bulk fuel or Utility resulting from the implementation of one or more Utility Cost-Savings Measures or FIMs when compared with an established baseline of usage; or
- ii. A decrease in utility costs as a result of changes in applicable utility rates or utility service suppliers. The savings shall be calculated in comparison with an established baseline of utility costs.

KK. Utility Cost-Savings Contract

“Utility Cost-Savings Contract” means an Energy Performance Contract or any other agreement in which Utility Cost Savings are used to pay for services or equipment set forth in **§29-12.5-101(8), C.R.S.**

LL. Utility Cost-Savings Measure

“Utility Cost-Savings Measure” means the definition set forth in **§29-12.5-101(9), C.R.S.**, is the installation, modification or service that is designed to reduce energy and water consumption and related operating costs in buildings and other facilities and includes, but is not limited to, the following:

- i. Insulation in walls, roof, floors and foundations, and in heating and cooling distribution systems;
- ii. Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
- iii. Automatic energy control systems;
- iv. Heating, ventilating or air conditioning and distribution system modifications or replacements in buildings or central plants;
- v. Caulking or weather stripping;
- vi. Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a facility unless such increase in illumination is necessary to conform to the applicable building code for the proposed lighting system;
- vii. Energy recovery systems;
- viii. Renewable energy and alternate energy systems;
- ix. Cogeneration systems that produce steam or forms of energy, such as heat or electricity, for use primarily within a building or complex of buildings;
- x. Devices that reduce water consumption or sewer charges;
- xi. Changes in operation and maintenance practices;
- xii. Procurement of low-cost energy supplies of all types, including electricity, natural gas and other fuel sources, and water;
- xiii. Indoor air quality improvements that conform to applicable building code requirements;
- xiv. Daylighting systems;
- xv. Building operation programs that reduce utility and operating costs including computerized energy management and consumption tracking programs, staff and occupant training, and other similar activities;
- xvi. Services to reduce utility costs by identifying utility errors and optimizing existing rate schedules;
- xvii. Any other location, orientation, or design choice related to, or installation, modification of installation or remodeling of, building infrastructure improvements that produce utility or operational cost savings for their appointed functions in compliance with applicable state and local building codes;
- xviii. Vehicle fleet operational and fuel cost savings;
- xix.** When an energy saving measure involves a cogeneration system, the sale of excess cogenerated energy shall be subject to the same state and federal regulatory requirements as the sale of all other cogenerated energy, as set forth in **§29-12.5-103(3), C.R.S.**

Within this Contract, Utility Cost-Savings Measures, Energy Saving Measures, Energy Cost-Saving Measures, Energy Conservation Measures (ECMs) and Facility Improvement Measures (FIMs) shall be interchangeable as necessary and may include vehicle fleet operational and fuel cost savings measures.

MM. Vehicle Fleet Operational and Fuel Cost Savings

“Vehicle Fleet Operational and Fuel Cost Savings” means a measurable decrease in the operation and maintenance costs of Political Subdivision vehicles that is associated with fuel or maintenance based on higher efficiency ratings or alternative fueling methods, including but not limited to savings from the

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reduction in maintenance requirements and a reduction in or the elimination of projected fuel purchase expenses as a direct result of investment in higher efficiency or alternative fuel vehicles or vehicle or charging infrastructure.

NN. Vehicle Fleet Operational and Fuel Cost-Savings Contract

“Vehicle Fleet Operational and Fuel Cost-Savings Contract” means the definition set forth in **§29-12.5-101(11), C.R.S.**, means an Energy Performance Contract or any other agreement in which Vehicle Fleet Operational and Fuel Cost Savings are used to pay for the cost of the vehicle or associated capital investments.

OO. Vehicle Fleet Operational and Fuel Cost-Savings Measure

“Vehicle Fleet Operational and Fuel Cost-Savings Measure” is defined in **§29-12.5-101(12), C.R.S.**, means any installation, modification, or service that is designed to reduce energy consumption and related operating costs in vehicles and includes, but is not limited to, the following:

- i. Vehicle purchase or lease costs either in full or in part;
- ii. Charging or fueling infrastructure to appropriately charge or fuel alternative fuel vehicles included in an energy performance contract.

SECTION 2. Pre-Audit Conference

The Pre-Audit Conference is the initial meeting including the Political Subdivision’s key staff, the Colorado Energy Office (CEO) representative, and all critical ESCO staff to present and discuss the Investment Grade Audit (IGA) approach, its activities, individual and mutual responsibilities, and proposed schedule.

ESCO shall prepare an agenda and conference record to include, but not be limited to, the following agenda outline and topics:

A. Introductions/Roles

- i. Roles of key representatives
- ii. Preferred means of communication and protocols
- iii. Contact Information

B. Objectives and Goals

- i. Political Subdivision’s interests, goals, objectives and priorities (Owner/Political Subdivision project requirements)
- ii. Level of management, facility, and staff support
- iii. Discussion by ESCO of their approach to the project
- iv. Review of CEO program support documents, process, forms (CEO IGA/EPC Review Matrix, Record of Review, M&V Policy, other items)

C. Technical Expectations

- i. General discussion on EPC scope, buildings and potential Utility Cost-Savings Measures or FIMS to be considered
- ii. Discussion of any Federal, State, Local, or Political Subdivision environmental, occupancy, construction specifications, performance or other reporting or certification requirements
- iii. Long-term plans at the facilities including additional capacity, demolition, new construction
- iv. Operations and maintenance, training and educational needs and expectations
- v. Commissioning (Cx) and Retro-Commissioning (RCx) priorities for EPC scope and the existing facilities
- vi. Deferred maintenance project priorities of the facilities
- vii. Code Compliance: State and local jurisdiction building code requirements, as applicable
- viii. Hazardous materials and other considerations/issues
- ix. Other studies, reports information available

D. Project Financial Parameters

- i. Simple payback, contract term, utility escalation rates, inflation rate, capital and other financial contributions, and other investment parameters
- ii. Potential cost of Political Subdivision’s Maintenance Responsibilities (as indicated in an **EPC Schedule**) or any other long-term Operation and Maintenance (O&M) services as applicable, and the Political Subdivision’s desire or ability to support these costs
- iii. M&V savings verification options and extent

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- iv. Rebates and other financial incentives
- E. Investment Grade Audit Process and Schedule**
 - i. Logistics and access; testing/metering to be accomplished
 - ii. Security and access requirements to restricted areas, escorts, tool control, etc.
 - iii. Safety requirements, training, hazards
- F. Schedule/timeline with significant milestones**
 - i. Action Items & Next Steps
 - ii. Recap of action items including directives from the Political Subdivision
 - iii. Set next meeting or conference call time.

SECTION 3. Data Collection and Building/Equipment Schedules

ESCO shall coordinate collection of Political Subdivision-provided facility data and additional information with the goal of developing the existing conditions, operating schedules and utility usage/cost to determine the Political Subdivision's accepted baselines. The Political Subdivision shall provide the necessary and available information referenced in this **Section 3** or as required for ESCO to perform Work under the IGA Contract, concerning facility operation and energy use.

- A. Building Data** (by Building/infrastructure as listed in IGA Exhibit B):
 - i. Construction date(s) of buildings and major additions including building envelope.
 - ii. Infrastructure information as necessary (tunnels, steam lines, chiller water lines, water treatment plants, etc.).
 - iii. Inventory and description of the existing facilities and their major mechanical, electrical, water systems and any other systems as necessary (itemized by energy source, equipment type, capacity, services years, and condition).
 - iv. Building operation/occupancy schedules, equipment operation schedules (including weekly and seasonal use schedules, unoccupied buildings and areas).
 - v. Drawings of mechanical, plumbing, electrical, building automation and temperature controls, structural, architectural, infrastructure, modifications and remodels, etc., as available.
 - vi. Original construction submittals and factory data such as equipment specifications, pump curves, etc., as available.
 - vii. Operating engineer logs, maintenance work orders, etc., as available.
 - viii. Records of maintenance expenditures on energy-using equipment, including service contracts.
 - ix. Prior energy audits or studies.
- B. Utility Data:**

Political Subdivision shall provide, at a minimum, one year of actual historical utility invoices, and provide access to utility service providers for historical energy and water use (by energy source provider and master, sub-metered areas), for the designated three years (last three years or selected number of years by mutual agreement, as available).
- C. Energy Management:**
 - i. Description of energy management program
 - ii. Description of any building automation systems and other control systems/procedures
 - iii. Description of any energy or water-related improvement projects, completed or in progress
 - iv. Description of any changes in the facility or energy-using or water-using equipment
- D. Capital Construction Projects:**
 - i. Description of existing capital construction projects
 - ii. Description of future plans regarding building modifications, renovations, repairs, decommissioning, or equipment modifications, replacements
- E. Interviews:**

ESCO shall coordinate and conduct, in conjunction with the Political Subdivision, the interviews. The Political Subdivision shall make available individuals with knowledge of the facility such as the facility or plant manager, maintenance staff, and occupants of each building regarding:

 - i. Facility operation, including energy management systems and procedures
 - ii. Equipment maintenance problems including deferred and un-scheduled maintenance
 - iii. Occupant comfort problems and standards of comfort requirements

IGA Exhibit A

Scope of Work

- iv. Equipment reliability including frequency of unscheduled or emergency maintenance and potential loss-of-use of facility, building, or portions thereof
- v. Projected equipment needs including upgrade, replacement, and/or repairs
- vi. Occupancy and weekly use schedules for the facility and specific equipment
- vii. Facility improvements – past, planned and desired

F. Systems Survey:

Political Subdivision shall provide site-knowledgeable escorts and facility access to ESCO who shall identify major utility-impacting components, which may include, but is not limited to, lighting, both indoor and outdoor; heating and heat distribution systems, cooling systems and related equipment, central plants, automatic temperature control systems and equipment, air distribution systems and equipment, outdoor ventilation systems and equipment; exhaust systems and equipment; hot water generation and distribution systems, electric motors, transmission and drive systems, special systems such as kitchen/dining equipment, laundry equipment, renewable energy systems, other energy using systems, water consuming systems, such as restroom fixtures, water treatment plant, wastewater treatment plant, water features and irrigation systems; and building envelope.

SECTION 4. Establish Baseline Period Consumption

Establish appropriate baseline period consumption by evaluation of appropriate utility meter data, and utility bills (reference **Section 3**) for electricity, natural gas, propane, steam, water, and any other applicable utilities. Compile baseline period consumption in terms of:

A. Utility provider accounts:

Prepare summary of all utility bills for all fuel types and water. Develop description and itemization of current accounts, billing rates, schedules, riders, and related terms or agreements that affect consumption and energy costs. Consult with Political Subdivision to account for any anomalous schedule or operating conditions on billings that could skew the Baseline. ESCO shall account for periods of time when equipment was broken or malfunctioning in calculating the Baseline Period, provided this information is available from the Political Subdivision's representative.

- i. Energy and Water Units: Units of energy in kWh, kW, ccf, "Therms", thousand gallons, or other units used in bills. List appropriate, supplier-verified conversion factors and convert natural gas, methane, fuel oil, biomass, and propane to MMBtu; show electricity in both kW and kWh and the MMBtu equivalent. Units of water (kgal).
- ii. Energy and Water Units per building square foot per year
- iii. Energy Cost (in dollars) per building square foot per year

B. Describe the process used to determine the baseline period and baseline energy

C. Describe the process to reconcile the proposed utility baseline information with the actual consumption

SECTION 5. Preliminary Analysis and Discussion of Utility Cost-Savings Measures and FIMs and other ESCO Services

ESCO shall prepare and present a preliminary analysis of all Utility Cost-Savings Measures or FIMs considered, initial construction cost estimates and schedule, initial utility and other savings, initial measurement and verification plan, initial training, initial operation and maintenance cost impacts, and other items as requested (mutual agreement between Political Subdivision and ESCO) to determine prioritization of measures for the draft EPC Project Proposal. A draft financial package should be reviewed that includes potential interest rates and potential financing terms, grants, rebates, Political Subdivision capital contributions (one-time or annually), and other potential project funding sources.

A. Preliminary Utility Cost-Savings Measures and FIMs List

- i. Consider technologies in a comprehensive approach including, but not limited to: lighting systems, heating/ventilating/air conditioning equipment and distribution systems, controls systems, building envelope, motors, kitchen equipment, pools, renewable energy systems, other special equipment, irrigation systems, other infrastructure systems (steam, chilled water, compressed air, etc), and water saving devices

IGA Exhibit A

Scope of Work

- ii. Consider services that modify existing equipment/systems/procedures through programs including, but not limited to: commissioning, deep retrofits, ENERGY STAR rating, an existing buildings registration/certification program, or another verification or certification program
- iii. Include services to complete applications/forms for compliance with State statute or policies, for compliance with applicable executive orders, or any other Political Subdivision reporting requirements (if requested by Political Subdivision)

B. Review the Project Financial Parameters

At this stage in the development of the Investment Grade Audit, the project financial parameters need review and updates prior to refining the list of Utility Cost-Savings Measures and FIMs for further analysis. To keep the project on schedule and control the number of re-analyses of the project's financial performance, it is to the benefit of the project that the financial parameters be refined. To sufficiently change the project financial parameters after the detailed analysis is presented by the ESCO could add sufficient time to the delivery of an acceptable report.

- i. Discuss the capability of Political Subdivision to make capital contributions to the project to improve the Project's Financial Performance. Capital contribution could be from a one-time addition of appropriated funds
- ii. Discuss an acceptable range on the financial term and interest rate
- iii. Discuss an acceptable escalation rate for each utility for each year. Reference the CEO/OSA Escalation Policy
- iv. Discuss an acceptance of any operation or maintenance savings. Discuss how these would be determined, escalated, and the maximum number of years allowed
- v. List any known utility rebates, grants, or other financial incentives that affect cost of installation or final maximum project cost

C. Preliminary Measurement and Verification Plan Discussion

The goal of measurement and verification is to reduce the risk to Political Subdivisions by providing a mechanism to evaluate the performance of a project throughout the term of the contract. The challenge of M&V is to balance M&V costs with the value of increased certainty in the cost savings from the conservation measure. At the heart of a performance contract is a guarantee of a specified level of cost savings and performance. One of the primary purposes of M&V is to reduce the risk of non-performance to an acceptable level, which is a subjective judgment based on the Political Subdivision's priorities and preferences.

- i. ESCO should provide a presentation on measurement and verification. The presentation should cover important project risks, assess their potential impacts, and clarify the party responsible for managing the risk. The presentation should discuss the CEO Measurement and Verification Policy. The presentation should cover the four IPMVP M&V options and their advantages and disadvantages.
- ii. For each potential Utility Cost-Savings Measure or FIM, the ESCO shall present the initial M&V options. The ESCO shall provide sufficient information to understand the risk, cost, and responsibilities for each M&V option.
- iii. ESCO shall record for the final M&V plan and post construction M&V discussion, the Political Subdivision's and ESCO's M&V initial responsibilities.

D. Develop a list of recommended measures for further analysis.

Describe how the projected project economics meet the Political Subdivision's Project Financial Goals for completing the final Investment Grade Audit report and the Energy Performance Contract Project Proposal. Discuss assessment of energy use, savings potential, project opportunities, and potential for developing an energy performance contract. The Political Subdivision shall at its discretion have the option to reject any presented calculation of savings; potential savings allowed or project recommendations.

SECTION 6. Detailed Analysis of Utility Cost-Savings Measures and FIMs and other ESCO Services

ESCO shall conduct detailed analysis of recommended measures for further analysis, including construction cost and schedule, utility and other savings, code compliance estimate and permit costs (reference section 2, C, vii), measurement and verification plan, training, operation and maintenance cost impacts, and other items as requested (mutual agreement between Political Subdivision and ESCO) to complete the final Investment Grade Audit report and the negotiated Energy Performance Contract Project Proposal. A financial package should be prepared that

IGA Exhibit A

Scope of Work

includes potential interest rates and financing terms, grants, rebates, Political Subdivision capital contributions (one time or annual), and other potential project funding sources. The ESCO may need to work with the Colorado Department of the Treasury to verify financial options.

ESCO shall evaluate facility and equipment schedules and baseline utility use and costs relative to Work and EPC Project Proposed associated with this IGA Contract including, but not limited to:

A. Weekly Use and Operational Schedule:

ESCO to perform "late-night," weekend trend monitoring devices, and field surveys outside of normal business hours or on weekends to confirm building system and occupancy schedules "impacting measures for further analysis."

B. Evaluate actual operation schedules, conditions for the facilities, equipment and buildings (hours, temperatures, air flows, humidity, etc.):

- i. Estimate loads as necessary and applicable. Equipment loads can change over time. Changes in load can show up as increases or decreases in "savings," depending on the M&V Services. Clarify whether equipment loads are to be measured or stipulated and what the impact will be if they change.
- ii. Where loading or usage is highly uncertain (including variable loads such as cooling), ESCO will use its best judgment, spot measurements or short-term monitoring. ESCO should not assume that equipment run hours equal the operating hours of the building(s) or facility staff estimates.

C. Description of Utility Cost-Savings Measures and FIMs:

Provide a technical description for each Utility Cost-Savings Measure and FIM. Consider the following parameters for each system, component, and associated conservation measure:

- i. Comfort and maintenance problems
- ii. Energy or water source, use, loads, proper sizing, efficiencies and hours of operation
- iii. Current existing systems, controls, and operating condition
- iv. Remaining service life
- v. Feasibility of system replacement
- vi. Hazardous materials and other environmental concerns
- vii. Political Subdivision's future plans for equipment replacement or building renovations
- viii. Facility operation and maintenance procedures that could be affected
- ix. Procedure to measure and verify savings (M&V) (necessary M&V equipment including meters, sub-meters, data-loggers, and control system monitoring/reporting capabilities)

D. Cost Estimate Analysis:

ESCO shall identify and perform next-level analysis on measures which appear potentially cost-effective. The analysis shall include itemized costs of design, engineering, equipment, materials, installation, maintenance, repairs and estimates of vehicle fleet operational and fuel cost measures, as set forth in **§29-12.5-102(2), C.R.S.** The analysis may consider the following sources of data for design and construction cost, potential operation and maintenance costs or other categories as identified by ESCO or Political Subdivision:

- i. Political Subdivision's representative list of acceptable/preferred manufacturers or vendors
- ii. Political Subdivision's construction specifications, requirements, standards
- iii. ESCO's Subcontractor material and labor cost estimates
- iv. ESCO's Subcontractor professional design firm's cost estimates
- v. ESCO's pricing information from historical projects
- vi. ESCO's product specification information
- vii. ESCO's or Political Subdivision's pricing information for hazardous/environmental work

E. Cost Savings Analysis:

For each potentially cost-effective measure, prepare an estimate of utility cost savings, operation and maintenance cost savings and vehicle fleet operational and fuel cost savings. Analysis shall include the description of analysis methodology and supporting calculations and assumptions used to estimate savings. Include itemized costs of design, engineering, equipment, materials, installation, maintenance, repairs, all costs of vehicle operational and fuel cost savings measures, and debt service as required under **§29-12.5-102(2), C.R.S.**

- i. Follow the methodology of the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) or other nationally-recognized authorities following the engineering principle(s) identified for each retrofit option

IGA Exhibit A

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- ii. Utilize assumptions, projections and the baseline period energy consumption and/or the mutually agreed-upon adjusted baseline energy, whichever best represents the value of future energy or operational savings
 - iii. Include accurate energy unit costs at the time the analysis is performed, documentation of material and labor cost savings, adjustments to the baseline to reflect current conditions at the facility, and calculations which account for the interactive effects of the recommended measures
 - iv. Use best judgment regarding the employment of instrumentation and recording durations so as to achieve an accurate and faithful characterization of energy use
 - v. Develop a preliminary measurement and verification plan for each measure
- F. Finalize Project Financial Parameters**
- i. Discuss the willingness and capability of Political Subdivision to make capital contributions to the project to improve the Project's Financial Performance. Capital contribution could be from a one-time addition of funds, monetized value of capital cost avoidance from equipment replacement, or any other Political Subdivision acceptable contribution.
 - ii. Discuss an acceptable financial term and interest rate or a range on term and interest rate.
 - iii. Discuss an acceptable escalation rate for each utility for each year. The escalation rates may be different each year. Reference the CEO/OSA Escalation Policy.
 - iv. Discuss an acceptance of any operation or maintenance savings. Discuss how these would be determined, escalated, and the maximum number of years allowed.
 - v. List any known utility rebates, grants, or other financial incentives that effect cost of insulation or final maximum project cost.

SECTION 7. Draft Investment Grade Audit Report

ESCO shall prepare a draft IGA Report. The Draft and Final IGA Report shall follow this outline format including, but not limited to:

A. Executive Summary:

- i. Project Background and Introduction
- ii. Political Subdivision's Project Requirements (accepted changes to original)
- iii. Summary of Recommended Facility Improvement Measures
- iv. Summary of Total Savings (energy, (units and cost by utility) water, maintenance or other Political Subdivision approved items)
- v. Summary of Project Financials including initial total project cost, potential interest rates (from recent projects or current industry rates), capital contributions (projected or identified), and financing term (per Political Subdivision's requirements). Total project cost is the maximum, not-to-exceed amount Political Subdivision shall pay for the project and ESCO's services.
- vi. Conclusions and Recommendations

B. Facility and Building Data:

For each facility identified in Exhibit B, the ESCO shall provide a brief building description, including the use, square footage, hours of operation and lighting, mechanical and water systems and building envelope/construction;

C. Baseline Period Utility Consumption:

Compile and provide a concise and well organized analysis and written report of the data gathered and necessary to provide baseline utility consumption pursuant to the baseline period consumption **Section 4** of this **Exhibit A** which may include, but not limited to:

- i. Description and itemization of current billing rates, including schedules and riders
- ii. Summary of all utility bills for all energy types
- iii. Identification and definition of baseline energy and period and description of how established
- iv. Reconciliation of estimated end use consumption (i.e. lighting, cooling, heating, fans, plug loads, etc.) with base year (include discussion of any unusual findings)

D. Utility Cost-Savings Measures and FIMs:

IGA Exhibit A

Scope of Work

Update, compile, and provide comprehensive analysis of recommended Utility Cost-Savings Measures and FIMs for consideration, review and comments by the Political Subdivision which include, but are not limited to the following:

Conservation Measure List – Prepare a summary, in table format, of recommended Utility Cost-Savings Measures and FIMs as referenced in **Section 6** of this **Exhibit A**. The summary shall include an itemization for each measure of total design and construction cost, annual operation and maintenance costs, the first year savings (cost avoidance), (in dollars and appropriate utility units), Simple Payback and major equipment service life. The summary shall further include tabulated utility consumption savings per system, building, or facility separated out by contributing Utility Cost-Savings Measure or FIM. For each recommended energy and utility saving conservation measures, provide a summary of the following:

- a. **Existing Conditions** Describe existing conditions, systems, etc. to be affected by the proposed utility conservation measures, and the specific benefits of each to modify each condition, including but not limited to, energy, water or resource conservation, capital improvement, deferred maintenance, long-term performance and reduction of operating costs, etc.
- b. **Project Scope of Work:** Description of improvements, equipment, etc. to be installed and how it shall function
- c. **O&M Procedures:** Include discussion of facility operations and maintenance procedures that shall be affected by installation or implementation
- d. **Implementation Plan:** Present a conceptual plan for the proposed EPC project indicating design and construction timeframes for the Utility Cost-Savings Measure or FIM. Indicate any potential installation time constraints or critical start/completion dates
- e. **Utility Savings Calculations:**
 - a) **Base -Year Consumption:** base year utility use and cost
 - b) **End-Use Consumption Estimate:** Post-retrofit utility use and cost
 - c) **Annual Savings Estimates:** The Utility Cost Savings and Operation and Maintenance Cost Savings shall be determined for each year during the contract period. Savings shall be achieved by the implementation of such measures on an annual basis. Savings shall be limited to savings allowed by the State Statute or Governing Body of the Political Subdivision
 - d) **O&M Savings:** Operation and maintenance savings, including detailed calculations and description. Ensure that maintenance savings are only applied in the applicable years and only during the lifetime of the particular equipment. Operation and Maintenance Cost Savings if considered in the EPC Project Proposal will require Political Subdivision approval and signature on the Record of Reviews
 - e) **Methodology for Savings Estimates:**
 1. Savings estimates including the methodology used in analysis, supporting calculations and assumptions used. Analysis and methodology shall also include description and calculations for any proposed rate changes. Analysis shall further include an explanation of how savings between retrofit options are accounted for in calculations
 2. If computer simulation is used, include a short description and indicate key input data. If requested by Political Subdivision, access shall be provided to the program and all assumptions and inputs used. Printouts shall also be provided of all input files and important output files and included in the Investment Grade Audit with documentation that explains how the final savings figures are derived from the simulation program output printouts
 3. If manual calculations are employed, formulas, assumptions and key data shall be stated
- f. **Conclusions and Analysis: Provide other observations, caveats, etc.**

E. M&V Plan:

Summary of the Measurement and Verification Plan. Cost of the M&V services per year through the financing term.

F. Cost Estimate Analysis:

Summary and update of cost assessment initiated under **Section 6.D** of this **Exhibit A**.

G. Cost Savings Analysis:

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Scope of Work

Summary and update of analysis initiated under **Section 6.E** of this **Exhibit A**, including calculation of cost savings expected if all recommended measures are implemented and total percentage savings of total facility utility cost.

G. Excluded Measures:

List all Utility Cost-Savings Measures or FIMs considered but not recommended with a short paragraph on why it was not included.

H. Political Subdivision Review, Comments, and Prioritization:

Summary of documentation or conference records of Political Subdivision priorities, stipulations, and designated compliance with statute, requirements and policies.

I. Draft Investment Grade Audit Report:

Pursuant to **Section 9** of this **Exhibit A** the Draft IGA Report shall be prepared in the format of the final IGA Report (as required in the IGA Contract and **Section 7** of this **Exhibit A**). The ESCO shall comply with the following items:

- i. Draft IGA Report shall be submitted in a format acceptable to the Political Subdivision labeled to include the project title "Investment Grade Audit report and Energy Performance Contract Project Proposal," the Political Subdivision facility name, name of the ESCO, and date of issuance or revision. Provide additional sets of these documents as requested or required by the Project Representative.
- ii. Contents shall be formatted and tabbed in the exact form and alphanumeric sequence of the outline of **Section 7.A. – Section 7.H** of this **Exhibit A**, with additional outlined formats for other referenced sections of this **Exhibit A**. Content elements not otherwise referenced or required in this **Exhibit A**, if provided, shall appear at the end of the IGA Report under its own tab(s) or in separate document(s).
- iii. Contents contained in the IGA Report shall be complete. ESCOs are encouraged to respond in a concise manner. The use of charts and spreadsheets to summarize certain information is especially encouraged; said information may be accompanied by an explanatory narrative.
- iv. An electronic version of the draft IGA Report and any additional provided or requested information shall be submitted with the written report.

SECTION 8. Post Draft Investment Grade Audit Report Conference

- A.** The ESCO shall prepare an agenda consistent with the format of the Pre-Audit Conference in **Section 2** of this **Exhibit A**, including any modifications as a result of the Pre-Audit Conference. ESCO shall conduct all necessary conference(s) and produce associated documentation to engage the Political Subdivision to review the recommendations, savings calculations and impact of the measures on the operations of the facility. Describe how the projected project economics meet the Political Subdivision's terms for completing the IGA Report. Revise audit as directed by Political Subdivision.
- B. Political Subdivision Review and Comments**
- i. ESCO shall provide all services and deliverables to include, but not be limited to, draft, project proposal(s), supplemental documents and ESCO's responses, etc. necessary to support written acceptance by Political Subdivision.
 - ii. The Political Subdivision and CEO shall perform concurrent reviews and all comments are shared by all parties, including CEO third party reviews.
 - iii. The Political Subdivision and CEO may submit written comments at any time during the IGA Contract and the ESCO shall provide supplemental responses.
- C. Finalize Political Subdivision Financial Targets:** Capital contribution, maximum financial term and interest rate, utility escalation rates, and operation and maintenance information.
- D. Responses to Political Subdivision Comments** – Revise IGA Report as directed by Political Subdivision which shall be included in the final Energy Performance Contract Proposal.

SECTION 9. Final Investment Grade Audit Report and Energy Performance Contract Project Proposal

- A. Present Final IGA Report.** ESCO to complete and deliver final documents defined in this **Section 7** to Political Subdivision for approval.
- B. EPC Project Proposal.** Pending approval of the Final IGA Report, and the execution of the Notice of Acceptance, prepare an Energy Performance Contract using CEO's Energy Performance Contract documents, subject to IGA Contract terms and provisions, and subject to negotiation and agreement

IGA Exhibit A

Scope of Work

between the Parties pursuant to applicable Federal and State regulatory requirements and the CEO Standards for Success. ESCO shall prepare the applicable schedules to be incorporated in an Energy Performance Contract that includes the following:

- i. Total Project Cost Proposal: the maximum, not-to-exceed amount Political Subdivision shall pay for the project and ESCO's services. Costs shall be consistent with mutually agreed on markups and fees established in IGA **Exhibit C**.
 - ii. Cost Estimate: Include all information required under Cost Savings Analysis in **Section 6** above, as well as a detailed scope of the construction work suitable for cost estimating. Include all anticipated costs associated with installation, implementation, and categories outlined in **IGA Exhibit C**. Provide preliminary specifications for major mechanical components as well as detailed lighting and water fixture counts. The following shall also be included:
 - a. Engineering/design costs
 - b. ESCO/vendor estimates for labor, materials, and equipment; include special provisions, overtime, and all other appropriate items, as needed to accomplish the work with minimum disruption to the operations of the facilities
 - c. Code compliance estimate and permit costs (reference section 2, C, vii)
 - d. Costs (disposal, avoided emissions, handling of hazardous materials, and any other related costs) as relates to handling and disposal of hazardous lighting materials, but not as relates to remediation or abatement work
 - iii. Base-Year Consumption: Disclose baseline basis for cost savings. Summary of annual utility use by type and costs of existing or base year condition.
 - iv. Cost Savings Calculations: Calculation of cost savings expected if all recommended utility conservation measures are implemented and total percentage savings of total facility utility cost.
 - v. End-Use Consumption Estimate: Outline the proposed utility use reduction and end use consumption for the system or facility.
 - vi. Contract Term: Years of the Energy Performance Contract.
 - vii. Utility Rate Escalation Factor: Escalation or decline based on historical trends, utility provider rate forecasts, and economic forces of supply and demand (global, national, local or regional), natural resource availability, technology, utility capital investment, and environmental requirements. (Consistent with CEO/OSA Utility Escalation Policy).
 - viii. Financial Terms: Description of how the project may be financed, including available indicative interest rates and potential financing terms, based on interest rates likely available to Political Subdivision at this time and based on interest rate lock options available. Analysis of annual cash flow for Political Subdivision during the contract term.
 - ix. Weather Adjustments: If applicable, proposed modification to how the savings shall be calculated and adjusted due to weather (such as heating and cooling degree days), occupancy or other factors.
 - x. Measurement and Verification: Proposal consistent with the CEO Measurement and Verification Policy at time this contract is made:
 - xi. Commissioning Plan: Preliminary Commissioning plan
 - xii. Operations and Maintenance Plan
 - xiii. Implementation Plan and Schedule
- The ESCO shall propose a milestone schedule with activity durations of all Energy Performance Contract phases, including, but not limited to, ESCO services, commissioning, M&V activities, etc. to include written acceptance by the Political Subdivision, as follows:
- a. The ESCOs shall submit an implementation plan for all Utility Savings and Cost Savings measures with a narrative describing design-build and bidding strategies and recommended delivery options;
 - b. Training, operation and maintenance activities, interim and milestone responsibilities for maintenance, etc.

END OF EXHIBIT A – SCOPE OF WORK

IGA Exhibit B Location of Audit

Buildings and Infrastructure Included in Scope of Work
(Update the tables as necessary for the IGA contract.
Update the tables for the IGA audit report and the
Energy Performance Contract Project Proposal)

Political Subdivision Name: Town of Eagle, Colorado

The following tables list the buildings included in the Investment Grade Audit (IGA) Scope of Work. Add additional rows as necessary to list all buildings and non-typical facilities. Since building names may change over time, a unique agency building shall be included.

EXHIBIT B, TABLE 1 - BASE COST TABLE

Building Name & Address	Building Type	Building Age	Building Gross Square Feet-GSF	Bldg. Audit \$/SF	Bldg. Total Audit \$
BASE COST TOTAL					0

Indicate the cost for Non-Typical facilities (buildings or infrastructure) where the GSF audit fee may not be appropriate, e.g., water treatment plants, wastewater treatment plants, warehouses, arenas, street lighting and others. (Consult with CEO for appropriateness of fees).

EXHIBIT B, TABLE 2 - NON-TYPICAL FACILITY COST TABLE

Building or Infrastructure	Facility Type	Facility Age	Facility GSF (or other applicable measurement)	Unit cost for audit (if applicable)	Facility Total Audit Cost \$
Town's Water Meters	N/A	N/A	N/A	\$32,500	\$32,500
WWTP	N/A	N/A	N/A	\$10,000	\$10,000
Solar PV at WWTP	N/A	N/A	N/A	\$5,000	\$5,000
Fac. Benchmarking	N/A	N/A	N/A	\$2,000	\$2,000
Grant Assistance	N/A	N/A	N/A	Included	Included
Water Meter Sampling	N/A	N/A	N/A	TBD	TBD
NON-TYPICAL FACILITY COST TOTAL					\$49,500

TOTAL COST OF IGA: \$49,500

Note #1: Grant Assistance is included for up to (2) grants. Grants discussed at this time include Department of Local Affairs and the Bureau of Reclamation. Grant assistance includes the necessary energy/efficiency/engineering studies required in order to submit such grants.

Note #2: Cost for performing the strategic sampling of the water meters is not included in the cost above. The amount of meters to be included in the sampling effort still needs to be discussed/determined by the Town of Eagle. The cost of sampling will be a complete passthrough to the Town of Eagle.

IGA Exhibit C

COST AND PRICING ELEMENTS

COST AND PRICING

The cost of the IGA is calculated from the Base Cost plus the cost for any Non-Typical Facilities. The Base Cost is established by the Colorado Energy Performance Contracting Program for participating ESCOs and is determined by the sum of the cost associated with each building's total square footage and location. The Non-Typical Facilities cost for infrastructure and other non-building projects is negotiated prior to signing the IGA contract. The Pricing for the Project Percentages and Annual Cost are calculated based upon the specific project scope of Work and the information each ESCO submitted in the proposal/renewal provided to the Colorado Energy Office (CEO). The calculated cost is equal to or less than the ESCO's maximum established percentages submitted to CEO.

IGA Costs (base cost plus non-typical facilities cost)

The proposal includes the initial list of buildings with their square footage and the distance from the CEO office.

The Base cost of the IGA is determined by the CEO-established table similar to the table below. All ESCOs shall use the CEO-developed IGA costs in their proposal.

Standard IGA Pricing Table				
Tiered Pricing (\$/sq ft)		Total Facility Square Footage		
		Under 250K	250 – 500K	500K +
Distance from CEO at 1580 Logan St., Denver	Under 75 miles	\$ 0.250	\$ 0.225	\$ 0.200
	75 – 150 miles	\$ 0.275	\$ 0.250	\$ 0.225
	Over 150 miles	\$ 0.300	\$ 0.275	\$ 0.250

Political Subdivisions with Non-Typical Facilities (e.g. waste water treatment, irrigation systems, pools, street lighting, etc.) should incorporate information about these types of facilities and infrastructure in their proposal. The additional costs for performing the IGA on these Non-Typical Facilities shall be negotiated with the selected ESCO as part of finalizing the IGA contract. The final, negotiated cost of the IGA is indicated on an updated IGA Exhibit B.

The Base Cost (from Exhibit B, Table 1) is	\$0
The Non-Typical Facility Cost (from Exhibit B, Table 2) is	\$49,500
Total Investment Grade Audit Cost is	\$49,500

Note: Cost for performing the strategic sampling of the water meters is not included in the cost above. The amount of meters to be included in the sampling effort still needs to be discussed/determined by the Town of Eagle. The cost of sampling will be a complete passthrough to the Town of Eagle.

Project Percentages

Percentages of the total project for each line item shall be calculated and should not exceed what is stated for the duration of the project. Use only the categories shown. Supplying ranges for the percentages is acceptable.

	Project Costing Categories	IGA Contract Maximum % of Total Project Cost	Actual Final IGA Calculated % of Total Project Cost	Actual Final IGA Cost	Sub-Totals	Totals
1	Investment Grade Audit (IGA)					
2	Total Facility Area	N/A	N/A			
3	\$ / Sq Ft	N/A	N/A			
4	Investment Grade Audit Total Cost				\$ 49,500	
5						
6	Implementation Costs					
7	Pre-Construction Costs*					
8	Design and Other Engineering	4-6%	0.00%			
9	Pre-Construction Services	2-3%	0.00%			
10	Other Pre-Construction Costs	1-2%	0.00%			
11	Pre-Construction Cost Subtotal		0.00%		\$ -	
12	Construction Costs*					
13	Trade Subcontracts		0.00%			
14	Design/Build Subcontracts		0.00%			
15	Direct Purchase Equipment		0.00%			
16	Construction Management	3-6%	0.00%			
17	Project Engineering	1-2%	0.00%			
18	General Conditions	1-2%	0.00%			
19	Construction Completion	1-5%	0.00%			
20	Other Construction Costs	1-5%	0.00%			
21	Construction Cost Subtotal		0.00%		\$ -	
22	Implementation Costs Subtotal*					\$ -
23						
24	Profit*	6-10%				\$ -
25						
26	Estimated Project Amount*					\$ -
27						
28	Contingency*	2-6%				\$ -
29						
30	Total Funded Amount*					\$ 49,500

Annual Costs

Use only the categories shown. Proper cost determination and expected length of service should be noted for all services.

ANNUAL COSTS			
Category	Total Annual Cost	How Price is Determined	Years Applied (One time, Annual, etc.)
Warranty*	TBD	Warranty is included in "Trade Subcontracts" Cost, as these are typically covered by manufacturers and the installation subcontractors. Annual, or extended warranties, are determined during the IGA process.	TBD
Measurement and Verification*	TBD, Maximum of 8% of annual Guaranteed Savings	Annual M&V costs are determined case-by-case, based on the needs of both the client and project parameters.	As determined by client
Other*		Any ongoing annual costs will be determined by the client based on project needs.	



To: Mayor Turnipseed and Town Council

From: Chief of Police, Joey Staufer

Date: February 17, 2022

Re: Intergovernmental Agreement between Eagle County School District/Town of Eagle to incorporate a shared cost process and agreement for a School Resource Officer (SRO)

REQUEST:

Staff respectfully requests the approval of the Intergovernmental Agreement (IGA) between the Town of Eagle and the Eagle County School District. This would be in the best interest for our community, in order to maintain a more consistent focus with our (public) school partners by dedicating a full-time employee (FTE) School Resource Officer position for the Eagle Police Department.

INTRODUCTION:

Partnerships between first responders and our community youth are invaluable. For years, the Eagle Police Department has attempted to supplement school-based initiatives with part-time resource officers or liaisons. While this has yielded positive results, staffing issues have taken a toll on these supplemental programs and our Eagle Police Department has been unable to maintain consistency with school-based youth-prevention initiatives, mentoring programs, school event ambassadors and other proactive activities. The need for this consistency, in conjunction with the increased calls for service at our local schools (and those involving our school-aged youth), provided the need for a dedicated SRO FTE.

The main difference separating an SRO from other police officers is that they have special training on how to work with our youth. Colorado Peace Officer Standards and Training requires each law enforcement agency with a school to have at least one peace officer specialty trained as an SRO, with the minimum qualification of the 40-hour basic National Association of School Resource Officers (NASRO) training. This training includes content regarding the adolescent brain, cyber safety and violence prevention in schools, among other topics. The other difference is that our SRO may focus on youth and school activities, while patrol officers continue with their focus on our community.

SRO's play a tripartite role of law enforcement, informal mentoring/counseling and in-person teaching. In this sense, school-based policing is aligned with that of community policing: using local partnerships with other public entities to bring more resources to bear on safety and positive programs for our youth and their families. The far-reaching benefits in our community have been evident with successful interventions of our part-time programs, along with examples of other full-time professional SRO programs in our region.

Our school district recognizes the value of an SRO and has agreed to supplement costs of adding an SRO as a new FTE, beginning in 2022, using a cost-sharing formula, as denoted in the IGA. Effectively, our Eagle County School District has agreed to supplement about ½ the cost of the SRO FTE salary.

Additionally, during the remodeling of the Eagle Valley Middle School, our Eagle County School District anticipated the need for an FTE SRO and build a small office for a future EPD SRO.

All municipalities in Eagle County (to include those under contract with Eagle County) and the Eagle County Sheriff's Office have dedicated SRO FTE(s).

ANALYSIS AND ALTERNATIVES:

Upon review by the Office of the Chief of Police and the Town's legal office, the IGA is acceptable in legal terms.

The IGA is in conjunction with the Town's approval of an SRO in the 2022 Public Safety Budget.

The IGA remains aligned with our Town of Eagle Strategic Plan and our Guiding Principles:

- Appropriate investment
- Progressive community-based law enforcement
- Protecting public health, safety and the environment
- Reliable and cost-effective services
- Sound planning

COMMUNITY INPUT:

Propose to open the consideration for public comment during motion considerations.

BUDGET / STAFF IMPACT:

The SRO position shall be funded jointly by the Parties, with the District paying \$67,326 annually per SRO. For the initial 18-month term, the District shall 150% of this amount. The District funding amount shall be increased for each subsequent term by 3%.

RECOMMENDED ACTION AND PROPOSED MOTION:

Approve the Intergovernmental Agreement between the Town of Eagle and the Eagle County School District with providing a cost-sharing solution and process to enable the Eagle Police Department to add a full-time School Resource Officer position.

PREPARED BY:

Chief of Police Joey Staufer.

ATTACHMENTS:

Intergovernmental Agreement between the Town of Eagle, a Colorado home rule municipality with an address of P.O. Box 609, Eagle, CO 81631 (the "Town") and the Eagle County School District RE 50J, a Colorado school district with an address of P.O. Box 740 Eagle, CO 81631 (the "District") (each a "Party" and collectively the "Parties").

RESOLUTION NO. 21

(Series 2022)

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN EAGLE
COUNTY SCHOOL DISTRICT RE50J FOR THE PURPOSES OF PROVIDING A SCHOOL
RESOURCE OFFICER**

WHEREAS, the Town of Eagle desires to contract with Eagle County School District RE50J for the performance of the described services in the attached Exhibit "A" on the terms and conditions set forth therein; and

WHEREAS, the School District agrees to perform such services on the terms and conditions set forth in Exhibit "A"; and

WHEREAS, this Intergovernmental Agreement is authorized pursuant to Section 29-1-201 and 30-11-101, Colorado Revised Statutes, as amended, and Article XIV, Section 18, of the Colorado Constitution.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF EAGLE,
COLORADO:

The Town Council approves an Intergovernmental Agreement with Eagle County School District RE50J to provide for a school resource officer attached as Exhibit "A."

RESOLVED, APPROVED AND ADOPTED THIS 22nd DAY OF FEBRUARY 2022.

TOWN OF EAGLE, COLORADO

BY: _____
Mayor, Scott Turnipseed

ATTEST:

Town Clerk, Jenny Rakow

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (the "IGA") is entered into as of the _____ day of _____, 2022 (the "Effective Date") by and between the Town of Eagle, a Colorado home rule municipality with an address of P.O. Box 609, Eagle, CO 81631 (the "Town") and the Eagle County School District RE 50J, a Colorado school district with an address of P.O. Box 740 Eagle, CO 81631 (the "District") (each a "Party" and collectively the "Parties").

WHEREAS, the Town and District recognize a need to provide a School Resource Officer ("SRO") to schools in Eagle to support students, teachers, school officials, parents, and the community;

WHEREAS, the SRO designated under this Agreement will act both as a resource for students, teachers, parents, and administrators, and as a law enforcement figure at Brush Creek Elementary School, Eagle Valley Elementary School and Eagle Valley Middle School (the "Schools"), to increase the level of safe and effective interaction between the Eagle Police Department, students, teachers, school officials, parents, and the community;

WHEREAS, the District desires to partner with the Town by way of providing additional funding for the SRO positions so as to create and maintain a safe and orderly learning environment for its students, staff and teachers;

WHEREAS, the Town is willing to train and supervise the SRO; and

WHEREAS, the District is authorized by the provisions of C.R.S. § 22-32-109.1(3) to enter into such agreements to keep its school environments safe; and,

WHEREAS, SRO programs are recognized as being effective in the development of a positive relationship between law enforcement, school district employees, and youth; and

WHEREAS, intergovernmental agreements between political subdivisions of the State of Colorado to provide functions and services including the sharing of cost of such services or functions are specifically authorized by C.R.S. § 29-1-203.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Employment.** The Town will employ a law enforcement officer to be designated as the SRO to provide general law enforcement services and other school-resource assistance, with the standards for national training of school resource officers serving as a guide. All supervision, coordination, and management of the services, performance and other personnel matters, including discipline, will be the duty of the Town. The SRO is subject to the Town's chain of command and supervision of assigned supervisors. The SRO shall comply with District policies and regulations, to the extent such policies and regulations are not in conflict with those of the Town, other terms contained herein, or with federal, state, or Town laws. The SRO's performance

shall be evaluated consistent with Town policies and procedures by the SRO's supervisor. Such supervisor shall seek and accept the input from the District for the evaluation. The Town will promptly report to the District any personnel problems that directly relate to the safety of the schools and those who attend them. The Town will facilitate the purchase of an SRO patrol vehicle, outfit the vehicle as necessary for SRO use, train the officer to Colorado Peace Officers Standards and Training (POST), and provide appropriate wage and benefits package to the SRO, along with any training costs.

2. Shared Costs. The SRO position shall be funded jointly by the parties, with the District paying \$41,947 per SRO for the first year. Thereafter, the District funding amount shall be increased on January 1st of each year during the Term by 3% over the funding amount for the previous year.

3. Outside Services. The District acknowledges that the SRO will be, at times, required to render law enforcement services to areas outside the District property, and such absence shall not be deemed to be a violation of this IGA. However, it is understood that the SRO's primary duties will be to provide law enforcement services at the Schools and surrounding areas.

4. Term and Termination. This IGA shall commence on the Effective Date and shall continue through June 30, 2023 (the end of the District's 2022-2023 fiscal year) (the "Initial Term"). Thereafter, the Agreement will automatically renew for successive one-year terms on an annual basis every June 30th. This Agreement may be terminated without cause by either Party upon 30 days' written notice. Upon any termination of this IGA, any funds advanced by the District for a current District Fiscal Year period shall be returned to the District on a *pro rata* basis for the balance of that fiscal year.

5. Parties as Independent Actors. This IGA is intended to facilitate cooperation between the Parties in the provision of the services provided herein, but does not establish a separate legal entity to do so, and, except as set forth herein, this Agreement does not authorize either Party to act on behalf of the other Party for any purpose whatsoever. This IGA does not establish any employee of either Party as an agent of any other Party for any purpose whatsoever. This IGA provides only for sharing of in-kind services and costs by the Parties in the achievement of a common mutual goal, said goal being the sharing of the information and resources to maximize the safety and security of the community and its children.

6. Information Sharing. The Parties agree to abide by and share information that is in accordance with state and federal law that mandates the sharing of information between these separate agencies, as well as to facilitate information sharing when requested by the other Party related to the handling of delinquency, dependency and neglect cases, truancy and other education-related needs.

7. Insurance.

a. Each Party shall provide its own insurance coverage for claims arising from this Agreement, and respectively, as named insureds, shall include the other Party, its officers, employees, and agents, as additional insureds under the named insured's insurance policies. Each Party shall maintain the following coverage:

i. Workers' Compensation insurance as required by law.

ii. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The policy shall be applicable to all premises, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), and blanket contractual, products, and completed operations.

iii. Public Officials Liability insurance with minimum limits of \$1,000,000 each claim and \$2,000,000 general aggregate.

b. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be cancelled, terminated, or materially changed without at least 30 days' prior written notice to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

c. The Parties shall exchange certificates of insurance showing the required policies are in full force and effect. The certificates shall identify this Agreement.

8. Annual Evaluation. The Parties shall evaluate the SRO program on a yearly basis and make recommendations on how the program can better serve the school in the areas of enforcement, prevention, and safety.

9. Miscellaneous.

a. *Governing Law and Venue*. This IGA shall be governed by and construed in accordance with the laws of the State of Colorado, and venue for any action arising out of any dispute pertaining to this IGA shall be brought in Eagle County, Colorado.

b. *No Waiver*. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligations of this Agreement.

c. *Integration*. This Agreement and any attached exhibits constitute the entire Agreement between the Parties, superseding all prior oral or written communications.

d. *Third Parties*. There are no intended third-party beneficiaries to this Agreement.

e. *Notice.* Any notice required under this IGA shall be in writing and may be personally delivered or mailed in the United States mail, first-class postage prepaid to the Party to be served at the address set forth on the first page of this IGA.

f. *Severability.* If any provision of this IGA is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

g. *Modification.* This IGA may only be modified upon written agreement to the Parties.

h. *Assignment.* Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

i. *Governmental Immunity.* The Parties and their officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Parties and their officers, attorneys, or employees.

j. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of either Party not performed during the current fiscal year are subject to annual appropriation, and thus any obligations of either Party hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, or liability beyond the current fiscal year.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF EAGLE, COLORADO

Scott Turnipseed, Mayor

ATTEST:

Jenny Rakow, Town Clerk

**RE 50J SCHOOL DISTRICT
EAGLE, COLORADO**

School Board President

ATTEST:

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (the "IGA") is entered into as of the _____ day of _____, 2022 (the "Effective Date") by and between the Town of Eagle, a Colorado home rule municipality with an address of P.O. Box 609, Eagle, CO 81631 (the "Town") and the Eagle County School District RE 50J, a Colorado school district with an address of P.O. Box 740 Eagle, CO 81631 (the "District") (each a "Party" and collectively the "Parties").

WHEREAS, the Town and the District recognize a need to provide a School Resource Officer ("SRO") to schools in Eagle to support students, teachers, school officials, parents, and the community;

WHEREAS, the SRO designated under this Agreement will act both as a resource for students, teachers, parents, and administrators, and as a law enforcement figure at Brush Creek Elementary School and Eagle Valley Middle School (the "Schools"), to increase the level of safe and effective interaction between the Eagle Police Department, students, teachers, school officials, parents, and the community;

WHEREAS, the District desires to partner with the Town by way of providing additional funding for the SRO positions so as to create and maintain a safe and orderly learning environment for its students, staff and teachers;

WHEREAS, the Town is willing to train and supervise the SRO;

WHEREAS, the District is authorized by the provisions of C.R.S. § 22-32-109.1(3) to enter into such agreements to keep its school environments safe;

WHEREAS, SRO programs are recognized as being effective in the development of a positive relationship between law enforcement, school district employees, and youth; and

WHEREAS, intergovernmental agreements between political subdivisions of the State of Colorado to provide functions and services including the sharing of cost of such services or functions are specifically authorized by C.R.S. § 29-1-203.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

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2/22/2022

C:\USERS\JENNYRAKOW\ONEDRIVE - TOWN OF EAGLE\TOWN COUNCIL AGENDA\2022 AGENDAS\2.22.22\SRO IGA-A012622.DOCX

shall be evaluated consistent with Town policies and procedures by the SRO's supervisor. Such supervisor shall seek and accept the input from the District for the evaluation. The Town will promptly report to the District any personnel problems that directly relate to the safety of the Schools and those who attend them. The Town will facilitate the purchase of an SRO patrol vehicle, outfit the vehicle as necessary for SRO use, train the officer to Colorado Peace Officers Standards and Training (POST), and provide appropriate wage and benefits package to the SRO, along with any training costs. The District shall furnish an office for the SRO at one of the schools in which the SRO will be working.

2. Shared Costs. The SRO position shall be funded jointly by the Parties, with the District paying \$67,326 annually per SRO. For the initial 18-month term, the District shall 150% of this amount. The District funding amount shall be increased for each subsequent term by 3%.

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- ii. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The policy shall be applicable to all premises, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), and blanket contractual, products, and completed operations.
- iii. Public Officials Liability insurance with minimum limits of \$1,000,000 each claim and \$2,000,000 general aggregate.

b. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be cancelled, terminated, or materially changed without at least 30 days' prior written notice to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

c. The Parties shall exchange certificates of insurance showing the required policies are in full force and effect. The certificates shall identify this Agreement.

8. Annual Evaluation. The Parties shall evaluate the SRO program on a yearly basis and make recommendations on how the program can better serve the school in the areas of enforcement, prevention, and safety.

9. Miscellaneous.

a. *Governing Law and Venue*. This IGA shall be governed by and construed in accordance with the laws of the State of Colorado, and venue for any action arising out of any dispute pertaining to this IGA shall be brought in Eagle County, Colorado.

b. *No Waiver*. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligations of this Agreement.

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d. *Third Parties*. There are no intended third-party beneficiaries to this Agreement.

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f. *Severability.* If any provision of this IGA is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

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j. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of either Party not performed during the current fiscal year are subject to annual appropriation, and thus any obligations of either Party hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, or liability beyond the current fiscal year.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF EAGLE, COLORADO

Scott Turnipseed, Mayor

ATTEST:

Jenny Rakow, Town Clerk

**RE 50J SCHOOL DISTRICT
EAGLE, COLORADO**

School Board President

ATTEST:



To: Mayor and Town Council

From: Peyton Heitzman, Planner, Community Development Department

Date: February 22, 2022

Agenda Item: Indoor Recreational Uses in Nonresidential Zone Districts

REQUEST:

For Town Council to continue the public hearing to March 8, 2022.

INTRODUCTION:

Due to a discrepancy in the Municipal Code, more research is required before this code amendment can be brought before the Town Council.

ANALYSIS:

Analysis of the proposed code amendment will be provided at the Public Hearing on March 8th.

COMMUNITY INPUT:

None.

BUDGET / STAFF IMPACT:

None.

STRATEGIC PLAN ALIGNMENT/STANDARDS ACHIEVED:

Analysis of the code amendment against the Strategic Plan will be included in the March 8th staff report.

RECOMMENDED ACTION OR PROPOSED MOTION:

I move to CONTINUE file LURA22-01, an amendment to Section 4.04.070. of the Land Use and Development Code to add an indoor recreational use in nonresidential zone districts and the associated definition to be located in Section 4.03.040, to the March 8, 2022 Town Council meeting.

ATTACHMENTS:

None.



To: Mayor and Town Council

From: Peyton Heitzman, Planner, Community Development Department

Date: February 22, 2022

Agenda Item: Resolution No. 22, Series 2022, A Resolution of the Town Council of the Town of Eagle, Colorado, Approving a Lot Line Adjustment for Lots 15 and 16, Block 22, Town of Eagle.

REQUEST:

For Town Council to consider a final plat vacating the lot line between lots 15 and 16, Block 22, Town of Eagle, consolidating two lots into one lot.

INTRODUCTION:

JEH Investments, LLC is the owner of 410 Broadway, consisting of lots 15 and 16, Block 22, as described on the Town of Eagle original plat. The owner is requesting to vacate a lot line and consolidate two lots into one, which will be Lot 15A. The property received a development permit in 2019 for a mixed-use building consisting of nine residential units and office/retail space on the first floor. Prior to construction of the approved building, the owner is required to consolidate the two lots into one lot.

In addition to the vacation of the lot line between lots 15 and 16, the final plat creates an encroachment easement along the northern property line. This new easement addresses a buried concrete footer from the building on 404 Broadway that is encroaching onto 410 Broadway.

There are two conditions of approval with this application. Within 30 days of approval, the Final Plat shall be revised to reflect technical comments from staff. This is a condition typical to subdivision approvals. It provides applicants a flexible timeline to address technical comments after final approval. While Public Works records only show that one potable water and sanitary sewer line exist on the two lots, the second condition of approval requires the Applicant abandon any additional service lines found during the construction of the new building.

The Planning & Zoning Commission reviewed this application during their February 15, 2022 meeting and unanimously recommended approval with the abovementioned conditions of approval.

ANALYSIS:

The Municipal Code requires that final subdivision plats conform to the Town's regulations, goals, and policies. Final Plat has been reviewed by the Town Engineer, Planning, the Town Attorney, and a 3rd party surveyor to ensure the document has been prepared to meet all requirements set forth in [Section 4.12.020.C](#) of the Municipal Code. Staff reviewed the application against goals and policies in the Elevate Eagle Comprehensive Plan (Comprehensive Plan). While the lot consolidation is not specifically supported by policies in the Comprehensive Plan ([LINK](#)), approval of this file avoids a nonconforming situation on the lot and allows for the construction of the 410 Broadway building. Construction of the

building is supported by numerous economic development, housing, and Broadway-specific goals and policies.

COMMUNITY INPUT:

No public comment has been received as of February 16, 2022. Letters received after this time will be gathered and entered into the public record at the hearing.

BUDGET / STAFF IMPACT:

None.

STRATEGIC PLAN ALIGNMENT/STANDARDS ACHIEVED:

This application is supported by the major objective to 'Stimulate Economic Vitality and Development'. The application is supported by the Elevate Eagle Comprehensive Plan and allows for the development of a building that will bring economic benefits to the downtown.

RECOMMENDED ACTION OR PROPOSED MOTION:

I move to **APPROVE** Resolution No. 22, Series 2022, A Resolution of the Town Council of the Town of Eagle, Colorado, Approving a Lot Line Adjustment for Lots 15 and 16, Block 22, Town of Eagle.

ATTACHMENTS:

- Project Application
- Aerial and Photos of Site
- Final Plat
- P&Z Commission Meeting Minutes Dated February 15, 2022
- Resolution No. 22, Series 2022



TOWN OF EAGLE
COMMUNITY DEVELOPMENT
200 BROADWAY • PO BOX 609 • EAGLE, CO 81631
PHONE: 970-328-9655 • FAX: 970-328-9656
www.townofeagle.org

LAND USE & DEVELOPMENT APPLICATION

Pursuant to the Land Use & Development Code, Title 4

ZONING REVIEW	DEVELOPMENT REVIEW	SUBDIVISION REVIEW
☐ Special Use Permit	☐ Minor Development Permit	☐ Concept Plan
☐ Zoning Variance	☐ Major Development Permit	☐ Preliminary Plan
☐ Rezoning		☐ Final Plat
☐ Temporary Use Permit	PLANNED UNIT DEVELOPMENT (PUD) REVIEW	☒ Lot Line Adjustment
☐ Amendment to Zone District Regulations	☐ PUD Zoning Plan	☐ Condominium / Townhouse
☐ Encroachment Permit	☐ PUD Development Plan	☐ Minor Subdivision

PROJECT NAME 410 BROADWAY

PRESENT ZONE DISTRICT _____ PROPOSED ZONE DISTRICT _____
(if applicable)

LOCATION

STREET ADDRESS 410 BROADWAY

PROPERTY DESCRIPTION

SUBDIVISION TOWN OF EAGLE LOT(S) 15 & 16 BLOCK 22
(attach legal description if not part of a subdivision)

DESCRIPTION OF APPLICATION/PURPOSE VACATE LOT LINE
PER TDE FOR CONSTRUCTION OF 410 BROADWAY
NEW CONSTRUCTION BUILDING - NO MINERAL INTEREST

APPLICANT NAME BRYAN DESMOND PHONE _____

ADDRESS PO Box 3518 EMAIL _____

OWNER OF RECORD JFH INVESTMENTS PHONE _____

ADDRESS BRVIN LLC EMAIL _____

REPRESENTATIVE* [Signature] PHONE _____

ADDRESS _____ EMAIL _____

*A representative must submit an affidavit or power of attorney signed by the property owner of record authorizing the representation.

APPLICATION SUBMITTAL ITEMS:

The following submittal materials must be submitted in full before the application will be deemed complete (please check all items that are being submitted):

- ☐ Applicable fees and deposits.
- ☐ Project Narrative, describing the project, its compliance with any applicable review criteria, any impacts to the surrounding area, and any other relevant information.
- ☐ Surrounding and interested Property Ownership Report (see project specific checklist for more information).
- ☐ Proof of Ownership (ownership & encumbrance report) for subject property.
- ☐ Site Plan, drawn to scale and depicting the locations and boundaries of existing and proposed lots and structures.
- ☐ Project specific checklist.

FEES AND DEPOSITS:

See Eagle Municipal Code Section 4.03.080

1. Application fees shall be paid in full at the time of the filing of the application and unless paid, the application shall not be deemed complete. All fees are nonrefundable.
2. As described in Eagle Municipal Code § 4.03.080, third-party consultants may be necessary for the review and processing of applications. These costs ("pass-through costs") must be paid by the applicant. If pass-through costs are expected, the applicant must pay a deposit at the time the application is filed. If at any time the deposit does not fully cover the pass-through costs, the applicant must pay another subsequent deposit before the Town will continue processing the application.
3. The Town may withhold the recording of any Subdivision Final Plat or Development Plan or the signing of any Resolution or Ordinance until all pass-through fees are paid in full.
4. Within 30 days of approval or denial of an application, any remaining deposit shall be returned to the applicant. If an application is withdrawn, any remaining deposit shall be returned to the applicant within 60 days.

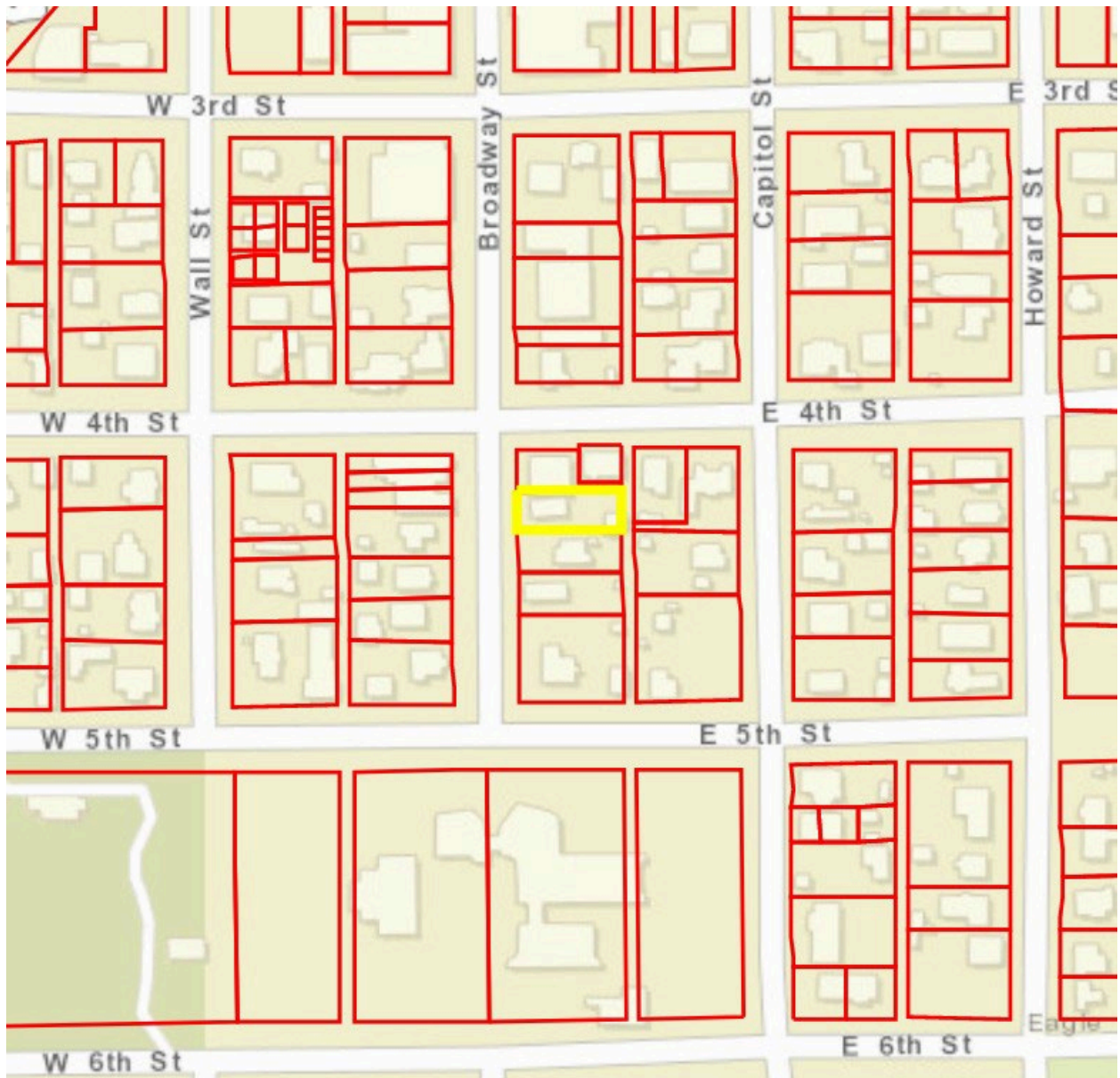
I have read the application form and certify that the information contained herein is correct and accurate to the best of my knowledge. I understand that it is my responsibility to provide the Town with accurate information related to this application. I UNDERSTAND THAT FILING AN APPLICATION IS NOT A GUARANTEE THAT THE APPLICATION WILL BE APPROVED.

 1-14-22
Signature Date

FOR OFFICE USE ONLY

DATE RECEIVED _____	BY _____	FILE NUMBER _____
REVIEW FEE _____	DATE PAID _____	RECEIVED BY _____
DATE CERTIFIED COMPLETE _____	BY _____	
P&Z HEARING DATE _____	DECISION _____	
BOT HEARING DATE _____	DECISION _____	

Aerial

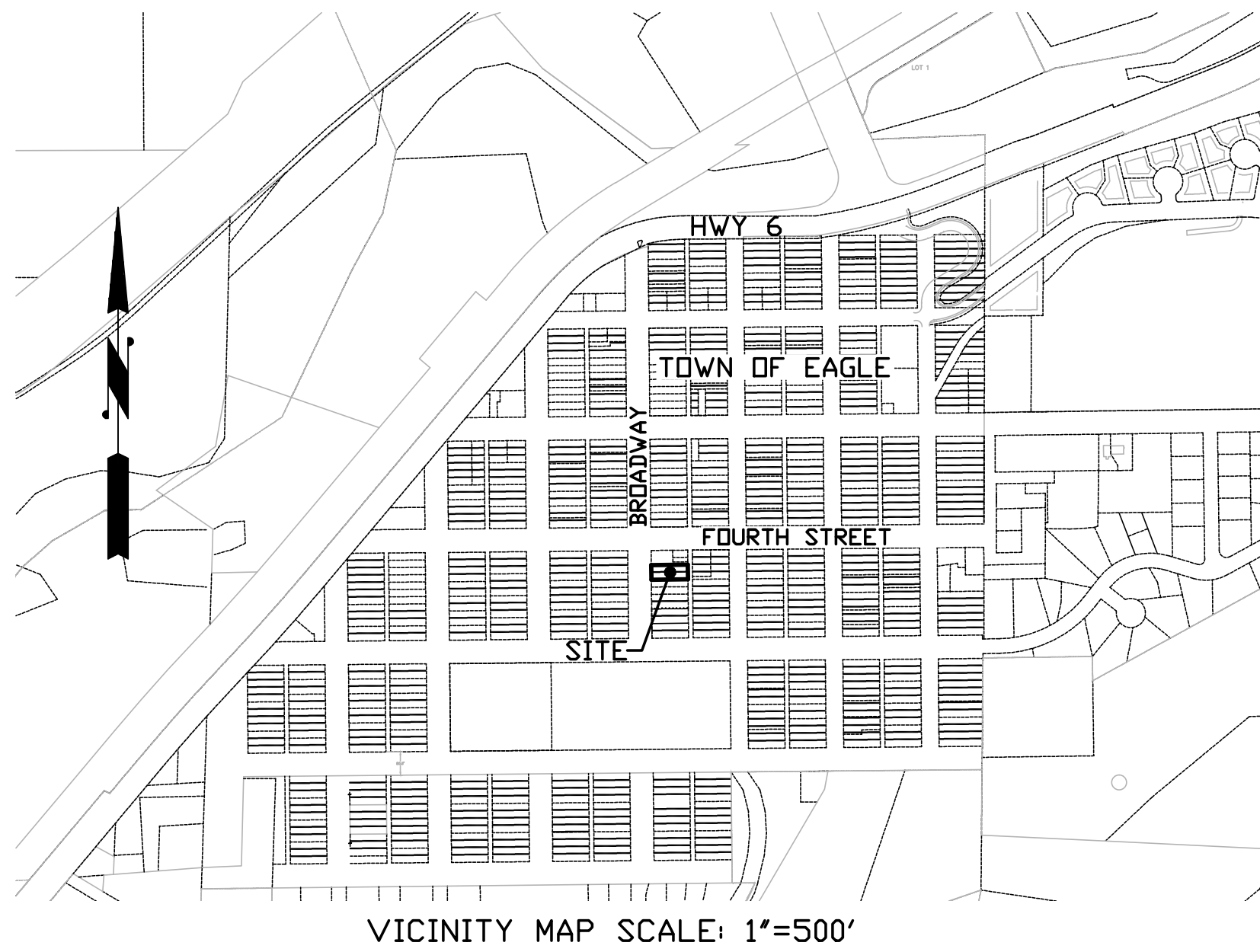


Photos of Site





FINAL PLAT
TOWN OF EAGLE - LOT 15A
A Consolidation of Lot 15 and Lot 16, Block 22, Town of Eagle
Town of Eagle, County of Eagle, State of Colorado



CERTIFICATE OF DEDICATION AND OWNERSHIP

Know all men by these presents that JEH INVESTMENTS LLC, A COLORADO LIMITED LIABILITY COMPANY, the sole owners in fee simple of all that real property described as follows:

LOTS 15 AND 16, BLOCK 22, TOWN OF EAGLE, according to the FINAL PLAT recorded January 1, 1905 in Book E, Page 2 at the Eagle County Clerk and Records Office, Eagle County, Colorado, containing 0.1435 acres more or less;

have by these presents laid out, platted and subdivided the same into lots and blocks as shown on this plat and designate the same as TOWN OF EAGLE – LOT 15A, A CONSOLIDATION OF LOT 15 AND LOT 16, BLOCK 22, TOWN OF EAGLE, the Final Plat thereof, a Subdivision in the Town of Eagle, County of Eagle, State of Colorado; and do hereby grant, convey, dedicate and set apart to the Town of Eagle, County of Eagle, Colorado, for public use the streets shown hereon, including avenues, drives, courts, places and alleys, the public lands shown hereon for their indicated public use and the utility and drainage easements shown hereon for utility and drainage purposes only.

We hereby accept the responsibility for the completion of all required public improvements for the Subdivision, and further, hereby grant the right to install and maintain all necessary structures to the entity responsible for providing the services for which the easements are established.

We further state that this subdivision shall be subject to the protective covenants filed and recorded for this subdivision in the offices of the Clerk and Recorder of Eagle County, at Reception No. _____

EXECUTED this _____ day of _____, 2022.

Owner: JEH INVESTMENTS LLC, A COLORADO LIMITED LIABILITY COMPANY

Address: 9605 POUNDSTONE PLACE
GREENWOOD VILLAGE, CO 80111

STATE OF _____ }
COUNTY OF _____ } SS

The foregoing Certificate of Dedication and Ownership was acknowledged before me this _____ day of _____, 2022, by _____.

Witness my hand and official seal _____

My commission expires: _____

Notary Public

TITLE CERTIFICATE

Land Title Guarantee Company, does hereby certify that I have examined the title to all lands shown on this plat and that title to such lands is vested in JEH INVESTMENTS LLC, a Colorado Limited Liability Company, free and clear of all liens and encumbrances, except as follows:

EXECUTED this _____ day of _____, 2022.

Title Examiner

TOWN COUNCIL CERTIFICATE

This plat is approved by the Town Council of the Town of Eagle, Colorado, this _____ day of _____, 2022 for filing with the Clerk and Recorder of Eagle County, and for conveyance or dedication to the Town of Eagle of the public dedications shown hereon; subject to the provisions that approval in no way obligates the Town of Eagle for financing or constructing of improvements on said lands, streets or easements dedicated to the public except as specifically agreed to by the Town Council of the Town of Eagle. Further, said approval in no way obligates the Town of Eagle for maintenance of public improvements until construction of said improvements has been completed in accordance with the Town of Eagle's specifications and the Town of Eagle has agreed to accept said improvements. This approval does not guarantee that the size, soil conditions, sub-surface geology, ground water conditions, or flooding conditions of any lot shown hereon are such that a building permit, development permit, or any other required permit will be issued. This approval is with the understanding that all expenses involving required improvements for all utility services, paving, grading, landscaping, curbs, gutters, sidewalks, road lighting, road signs, flood protection devices, drainage structures, and all other improvements that may be required shall be the responsibility of the owners designated hereon and not the Town of Eagle, unless otherwise specifically agreed to in writing by the Town Council.

Town of Eagle, Colorado

By: _____
Mayor

Witness my hand and seal of the Town of Eagle, Colorado

ATTEST: _____
Town Clerk

CERTIFICATE OF TAXES PAID

I, the undersigned, do hereby certify that the entire amount of taxes and assessments due and payable as of _____ upon all parcels of real estate described on this Plat are paid in full.

Dated this _____ day of _____, A.D., 2022.

Treasurer of Eagle County

PLANNING COMMISSION CERTIFICATE

This Plat approved by the Town of Eagle Planning Commission on this _____ day of _____, 2022.

Chairman

SURVEYOR'S CERTIFICATE

I, Randall P. Kipp, do hereby certify that I am a registered land surveyor licensed under the laws of the State of Colorado, that this plat is a true, correct, and complete plat of TOWN OF EAGLE – LOT 15A, A CONSOLIDATION OF LOT 15 AND LOT 16, BLOCK 22, TOWN OF EAGLE, the Final Plat thereof, as laid out, platted, dedicated and shown hereon, that such plat was made from an accurate survey of said property by me and under my supervision and correctly shows the location and dimensions of the lots, staked upon the ground in compliance with Title 38, Article 51, C.R.S., as amended, and all other regulations governing the subdivision of land.

EXECUTED this _____ day of _____, 2022.

Randall P. Kipp
Colorado Licensed Professional Land Surveyor
License Number #38079

PLAT NOTES

1. THE PURPOSE OF THIS FINAL PLAT IS TO (1) VACATE THE COMMON LOT LINE BETWEEN LOT 15 AND LOT 16. BLOCK 22, TOWN OF EAGLE AND (2) CREATE A ENCROACHMENT AGREEMENT EASEMENT.
2. SURVEY DATE: OCTOBER 29, 2021.
3. U.S. SURVEY FEET WAS USED FOR THIS SURVEY.
4. ADDRESS: 410 BROADWAY (NOT POSTED).
5. THE LEGAL DESCRIPTION SHOWN HEREON WAS BASED ON A TITLE COMMITMENT PROVIDED BY LAND TITLE GUARANTEE COMPANY , ORDER NO. V50064345 WITH AN EFFECTIVE DATE OF 1–06–2022, FINAL PLAT, TOWN OF EAGLE, BOOK E, PAGE 2 AND SURVEY MONUMENTS FOUND AT THE TIME OF THE SURVEY.
6. BASIS OF BEARINGS: AN ASSUMED BEARING OF S 00° 33' 00" E FROM THE TOWN OF EAGLE FINAL PLAT BOOK E, PAGE 2, BETWEEN A 2.5" ALUMINUM CAP, LS #30091, SET IN MONUMENT BOX AT THE INTERSECTION OF BROADWAY AND SECOND STREET AND A 2.5" ALUMINUM CAP, LS #30091, SET IN MONUMENT BOX AT THE INTERSECTION OF BROADWAY AND FIFTH STREET.
7. BEARINGS AND DISTANCES SHOWN HEREON ARE BOTH PLATTED AND MEASURED.
8. THE ENCROACHMENT EASEMENT DEDICATED TO 404 BROADWAY BUILDING CONDOMINIUMS SHOWN ON SHEET 2 OF 2 IS FOR A BURIED CONCRETE FOOTER ENCROACHMENT ON THE SUBJECT PROPERTY FROM THE BUILDING TO THE NORTH (404 BROADWAY BUILDING CONDOMINIUMS) AND IS MORE PARTICULARLY DESCRIBED ON SHEET 2 OF 2.
9. THIS PROPERTY DOES NOT LAND WITHIN A FLOOD PLAIN PER THE FEMA FLOOD MAP SERVICE.
10. NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT, IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.
11. THIS PROPERTY IS ALSO SUBJECT TO THE FOLLOWING:

- RIGHT OF THE PROPRIETOR OF A VEIN OR LODE TO EXTRACT AND REMOVE HIS ORE THEREFROM, SHOULD THE SAME BE FOUND TO PENETRATE OR INTERSECT THE PREMISES HEREBY GRANTED, AND A RIGHT OF WAY FOR DITCHES OR CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES, AS RESERVED IN UNITED STATES PATENT RECORDED APRIL 19, 1891 IN BOOK 48 AT PAGE 149.
- EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF THE TOWN OF EAGLE RECORDED JANUARY 1, 1876 IN PLAT BOOK E AT PAGE 2.

CLERK AND RECORDER'S CERTIFICATE

This Plat was filed for record in the office of the Clerk and Recorder at _____ o'clock _____ on this _____ day of _____, 2022, and is duly recorded as Reception No. _____.

Clerk and Recorder

By: _____
Deputy

LAND USE SUMMARY

LOT 15A 410 BROADWAY 0.1435 Acres 6250.0 s.f. MULTI FAMILY

FINAL PLAT TOWN OF EAGLE - LOT 15A <i>A Consolidation of Lot 15 and Lot 16, T.O.E., Blk 22 Town of Eagle, County of Eagle, State of Colorado</i>	
JOB NO.: 211042	DATE: 02–07–2022
SHEET 1 OF 2	DWG NAME: 211042– L15–16 TOE

KIPP LAND SURVEYING

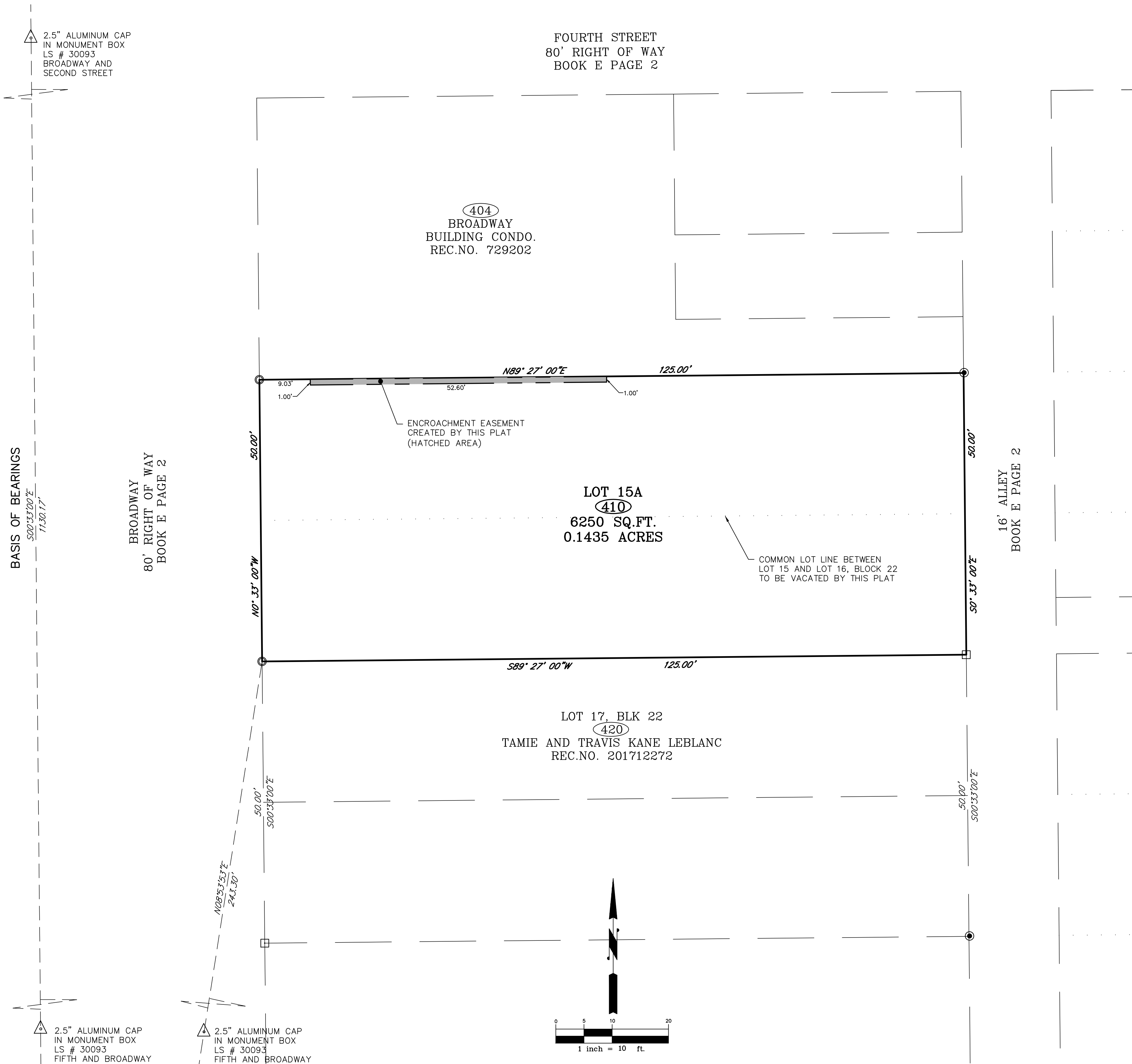
RANDY KIPP P.L.S.
P.O. Box 3154
Eagle, CO 81631
(970) 390-9540

email: randy@kipplandsurveying.com
web: kipplandsurveying.com

FINAL PLAT

TOWN OF EAGLE - LOT 15A

A Consolidation of Lot 15 and Lot 16, Block 22, Town of Eagle
Town of Eagle, County of Eagle, State of Colorado



LEGEND:

- DENOTES BOUNDARY LINE
- DENOTES ADJOINER PROPERTY LINES
- DENOTES TIE LINE
- DENOTES ORIGINAL TOWN OF EAGLE LOT LINE VACATED
- DENOTES EASEMENT CREATED BY THIS PLAT
- DENOTES FOUND SURVEY MONUMENT — 1.5" ALUMINUM CAP ON #5 REBAR, LS #14109
- DENOTES FOUND SURVEY MONUMENT — #5 REBAR
- DENOTES FOUND SURVEY MONUMENT — 1.5" ALUMINUM CAP ON #5 REBAR, LS #ILLEGIBLE
- DENOTES TOWN OF EAGLE STREET MONUMENTS

FINAL PLAT TOWN OF EAGLE - LOT 15A A Consolidation of Lot 15 and Lot 16, T.O.E., Blk 22 Town of Eagle, County of Eagle, State of Colorado		KIPP LAND SURVEYING RANDY KIPP P.L.S. P.O. Box 3154 Eagle, CO 81631 (970) 390-9540 email: randy@kipplandsurveying.com web: kipplandsurveying.com
JOB NO.: 211042	DATE: 02-07-2022	
SHEET 2 OF 2	DWG NAME: 211042- L15-16 TOE	



MEETING MINUTES
Planning & Zoning Commission
Tuesday, February 15, 2022, 6:00 PM
Public Meeting Room / Eagle Town Hall
200 Broadway, Eagle, CO 81631

This agenda and the meetings can be viewed at www.Townofeagle.org.

PUBLIC WIFI - TOEE – ((TOEEWireless))

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This was an in-person meeting with access for the public to attend virtually via Zoom.

6:00 PM REGULAR MEETING CALLED TO ORDER

Chair Hood called the meeting to order at 6:01 PM.

COMMISSIONERS PRESENT

Matt Hood, Bill Nutkins, Jesse Gregg,
Charlie Perkins, Keegan Winkeller,
Kyle Hoiland

COMMISSIONERS ABSENT

Robert Townsend, Lani Webb

STAFF

Chad Phillips – Community Development Director
Dennis Wike – Town Engineer
Peyton Heitzman – Planner II
Tez Hawkins – Senior Planner
Nikki Davis - Administrative Tech II
Jim White – Interim Town Manager

APPROVAL OF MINUTES

1. Minutes dated February 1, 2022

The February 1, 2022 meeting minutes were approved without change.

PUBLIC COMMENTS

Public comment opened at 6:03 PM.

Laurel Broy, 401 W Seventh St. – Broy is opposed to the Mountain Tots Preschool project, she lives directly across the street from the property. She is concerned about setting a precedent for homes to be converted to businesses as well as the traffic impacts.

Laurie Diversey, 624 McIntire St. – Diversey is opposed to the project. She expressed concerns about lack of parking, traffic impacts, and adequate space both inside and outside the building to accommodate 30 kids. She asked if the applicant could change the use or build something larger once they receive the Special Use Permit.

Carmen Weiland, 335 W Seventh St. – Weiland is opposed to the project. They recently purchased their property and have concerns about excessive noise. She is a beekeeper and explained how loud, excessive noise can affect their behavior.

Public comment closed at 6:11 PM.

PUBLIC HEARINGS

1. Project: Mountain Tots Preschool Special Use Permit
 File #: SU22-01
 Applicant: Mountain Tots Preschool
 Location: 641 McIntire Street
 Staff Contact: Tez Hawkins, Senior Planner
 Request: To obtain a Special Use Permit to operate a childcare facility.

Staff Presentation

Hawkins explained that staff is requesting additional information related to traffic, parking, stacking, and queuing to ensure the use would be compatible with the overall area.

Q & A

Nutkins asked to confirm if this application is for a preschool and Hawkins replied yes, the school would be for children ages 2-7. Nutkins also asked if staff is reviewing state regulations for preschools including square footage requirements. Hawkins explained that the applicant confirmed adequate indoor and outdoor space compared to state requirements. Additionally, the applicant must obtain local approval prior to obtaining state approval on the facility. The application was referred to Eagle County Environmental Health and once the Town grants approval, this agency will provide their comments.

MOTION: HOILAND MOTIONED TO CONTINUE FILE # SU22-01, THE SPECIAL USE PERMIT FOR 641 MCINTIRE STREET, TO THE MARCH 1, 2022 PLANNING & ZONING COMMISSION MEETING. MOTION WAS SECONDED BY NUTKINS AND PASSED UNANIMOUSLY.

Hood closed file # SU22-01.

2. Project: 410 Broadway Lot Line Adjustment
 File #: LLA22-01
 Applicant: Bryan Desmond on behalf of JEH Investments, LLC
 Location: 410 Broadway
 Staff Contact: Peyton Heitzman, Planner II
 Request: To approve a final plat vacating the lot line between lots 15 and 16, Block 22, Town of Eagle, consolidating two lots into one lot.

Staff Presentation

Heitzman described how the new plat would vacate the property's center lot line and create a new encroachment easement along the northern property line. The applicant has already revised the plat in response to the technical comments provided by the Town. Staff noted the vacation of the lot line is procedural in order for the applicant to obtain a building permit. Staff recommended approval of the application with two conditions.

Q & A

Nutkins asked if Public Works found any necessity for a utility easement. Wike replied, no.

Applicant Presentation

Desmond noted that the Town's attorney requested the vacation of the lot line.

Public Comment

Public comment opened at 6:19 PM. There was no public comment.

Discussion

The Commission expressed unanimous support for approval.

MOTION: PERKINS MOTIONED TO APPROVE FILE # LL22-01, 410 BROADWAY LOT LINE ADJUSTMENT, WITH THE FOLLOWING CONDITIONS:

- 1. WITHIN 30 DAYS OF APPROVAL, THE FINAL PLAT SHALL BE REVISED TO REFLECT TECHNICAL COMMENTS FROM THE TOWN PLANNING AND PUBLIC WORKS DEPARTMENTS, THE TOWN ATTORNEY, AND THE TOWN'S 3RD PARTY SURVEYOR.**
- 2. APPLICANT NEEDS TO REMOVE AND PERMANENTLY ABANDON ANY SECONDARY SANITARY SEWER AND/OR POTABLE WATER SERVICE LINES FOUND DURING THE COURSE OF CONSTRUCTION ON 410 BROADWAY.**

MOTION WAS SECONDED BY NUTKINS AND PASSED UNANIMOUSLY.

Hood closed file # LLA22-01.

3. Project: Code Amendment to Section 4.04.070 – Indoor Recreation in Nonresidential Zone Districts
 File #: LURA22-01
 Applicant: Town of Eagle
 Location: Town of Eagle
 Staff Contact: Peyton Heitzman, Planner II
 Request: Amend Section 4.04.707. to include additional indoor recreational uses in the Schedule of uses and the associated definitions to be located in Section 4.03.040.

Staff Presentation

Heitzman began by explaining the Town's Code currently allows for indoor recreation through a Special Use Permit in most of the nonresidential zone districts, except for areas zoned as industrial. Staff is proposing a new use called Indoor Recreation (less than 2,500 square feet) which would be use by right in commercial and public areas and prohibited in industrial zones. A new definition would accompany the code amendment to provide clarity on the small-scale indoor

recreation use. Staff researched neighboring Western Slope towns and confirmed that similar communities allow indoor recreation as a use by right. When determining the square footage requirement, staff examined other indoor recreation properties in town such as Yoga Off Broadway, the climbing gym, and the old Bonfire taproom. Staff believes the new use supports Town goals and policies including economic development and promoting a mix of uses in the Broadway commercial core. With that analysis, staff recommended approval of the new use and definition.

Q & A

Hoiland asked if the new use accounts for an indoor shooting range such as firearms and archery to which Heitzman replied, no. Phillips explained this definition is intended for boutique recreation, particularly as a use by right in areas like the Broadway district. Additionally, the new use is intended to be a broad net and that the standard should govern. Hood confirmed that shooting range already exists as its own use.

Winkeller asked to clarify the process for amending a zone district. Fellow Commissioners replied that this request is for a change in use only.

Gregg asked if this would generate more parking than other commercial uses. Heitzman explained that the new Parking Fee in-Lieu program modified parking standards by requiring additional parking or fee when there is a change in use that results in the need for additional parking. Considering the implications of this requirement, staff will be presenting these standards to the Commission for reassessment. Gregg asked what the current parking requirements are for the existing indoor recreation use. Phillips noted that the parking ratio section of the Code is limited but staff could research other options. Additionally, this section can be covered in the Land Use Code update.

Hood called attention to Ordinance No. 12, Series 2016 which amended Section 4.04.070. of the Municipal Code adding “Indoor Recreation Facilities”, “Shooting Range, and “Theater” to the schedule of uses permitted in non-residential zone districts. This ordinance permitted indoor recreation as a use by right, including industrial areas, except for uses over 6,500 square feet in the Central Business District. The latter triggered the Special Use Permit process. Hood expressed favor towards keeping this definition, stating the climbing gym on Chambers Avenue is a good example of what could have been a use by right approval. Several Commissioners agreed with this suggestion.

Gregg asked about the industrial zone district and the possibilities of new recreation facilities in East Eagle. Hood suggested that this use in an industrial area should require a Special Use Permit, regardless of size.

Staff shared that they were unaware of the 2016 Ordinance and the approval is not reflected in MuniCode where the Land Use Code currently lives. Phillips requested continuance of the file for staff to investigate why the 2016 approval is not in the current Land Use Code.

MOTION: HOILAND MOTIONED TO CONTINUE FILE # LURA22-01, THE CODE AMENDMENT TO SECTION 4.04.070 – INDOOR RECREATION IN NONRESIDENTIAL ZONE DISTRICTS, TO THE MARCH 1, 2022 PLANNING & ZONING COMMISSION MEETING. MOTION WAS SECONDED BY GREGG AND PASSED UNANIMOUSLY.

Hood closed file # LURA22-01.

COMMUNITY DEVELOPMENT DEPARTMENT AND TOWN COUNCIL UPDATE

1. Department and Council Updated: February 15, 2022

Community Development has created a customer satisfaction survey for Planning requests and applications. The intent is to collect more feedback and present an annual report to the Planning Commission and Town Council. The quarterly CTIX (Construction Trades Information Exchange) newsletter is also another communication piece from the department.

Wike provided an update on the installation of rapid blocks at the Eagle River Park. Public Works continues to meet with the Core of Engineers, contractors, and consultants with a goal of obtaining permits and beginning installation in 2023.

Phillips included an update on the recent West Eagle affordable housing work session with Eagle County. The county has hired a design team, but they continue to have challenges with establishing road access. Additionally, there was a separate meeting held with Grand Avenue property owners, representatives from Eagle County, the Grand Avenue consultant, and the Town to discuss how these various West Eagle projects can dovetail. Each project relies on or impacts a neighbor.

As for the Hockett Gulch project, Phillips noted the applicant is working through the second round of referral agency responses and that staff anticipates more activity in the spring. Hood requested for additional lead time when large development applications become available so that the Commission has plenty of time to review the materials.

Wike provided an update on the upcoming art mural project at Alpine Lumber. Proposals have been reviewed with a landscaping architect and Public Works has met with the artist to establish a project timeline. The project rendering and budget will be submitted soon, followed by project initiation in late spring or early summer. Phillips included Alpine Lumber has expressed interest in rebuilding the shed along Eby Creek Road.

OPEN DISCUSSION

No additional discussion items.

ADJOURN

MOTION: HOILAND MOTIONED TO ADJOURN. MOTION WAS SECONDED BY NUTKINS AND PASSED UNANIMOUSLY.

MEETING ADJOURNED AT 7:08 PM.

APPROVED:

DATE:

Matthew Hood, Chairman

Nikki Davis, Administrative Tech II

TOWN OF EAGLE, COLORADO
RESOLUTION NO. 22
(Series of 2022)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO
APPROVING A LOT LINE ADJUSTMENT FOR LOTS 15 AND 16, BLOCK 22, TOWN OF
EAGLE

WHEREAS, JEH Investments, LLC ("Owner") owns the real property described as Lot 15, Block 22, Town of Eagle and Lot 16, Block 22, Town of Eagle, both located in Eagle, Colorado, also known as 410 Broadway;

WHEREAS, Owner filed an Application for a Lot Line Adjustment to vacate the lot line between Lots 15 and 16 (the "Application");

WHEREAS, on February 15, 2022, the Planning Commission held a properly-noticed public hearing on the Application and recommended that the Town Council approve the Application with conditions; and

WHEREAS, on February 22, 2022, the Town Council held a properly-noticed public hearing on the Application, at which the Applicant, Town staff and the public were provided an opportunity to be heard on the Application.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. Findings. Based on the Application, the recommendation of the Planning Commission, input from Town staff and any public comment received, the Town Council finds that the Lot Line Adjustment complies with the applicable criteria in Section 4.12.040 of the Eagle Municipal Code.

Section 2. Decision. Based on the foregoing findings, the Council approves the Lot Line Adjustment, subject to the following conditions:

- a. Within 30 days of the date of this Resolution and prior to recordation of the plat depicting the Lot Line Adjustment, Owner shall make technical corrections to the Application documents as directed by Town staff.
- b. Owner shall remove and permanently abandon any secondary sanitary sewer and/or potable water service lines found during the course of construction of 410 Broadway.

INTRODUCED, READ, PASSED AND ADOPTED ON FEBRUARY 22, 2022.

TOWN OF EAGLE, COLORADO

Scott Turnipseed, Mayor

ATTEST:

Jenny Rakow, Town Clerk



To: Mayor and Town Council

From: Kevin Aoki, Information Technology Manager

Date: February 18, 2022

Agenda Item: Town of Eagle to bid on Eagle Valley Library District broadband connection.

REQUEST:

Authorize staff to pursue completion of project if awarded to Town of Eagle.

BACKGROUND:

The Eagle Valley Library District's current broadband contract is up for renewal. The Library District has extended its deadline to allow the Town of Eagle time to respond with a proposal. The Town intends to submit a bid to extend fiber from the Town Hall meet me center into the Eagle Valley Library District, Eagle branch to provide 1-2GB service for a term of 3-5 years. If the contract is awarded to the Town of Eagle, a supplemental budget item will be proposed in March.

ANALYSIS:

This contract would accomplish the following:

- Boring of new underground conduit from existing handhole on the SW corner of Capitol & 6th Street into Eagle Valley Library, Eagle branch.
- Up to 96 count fiber connection from Town Hall to the handhold located near the corner of 6th and Capitol.
- If awarded the contract, provide the Eagle Valley Library District, Eagle branch, 1-2GB broadband service for a term determined by the accepted contract.

COMMUNITY INPUT:

None required.

BUDGET / STAFF IMPACT:

No immediate impact to Town budget. If the Town is awarded the contract, estimated total expenses for the project are roughly \$19,900 with an estimated 18-24 month return on investment.

STRATEGIC PLAN ALIGNMENT / STANDARDS ACHIEVED:

This proposal does align with the Town's commitment to project THOR and providing broadband services to neighboring municipalities and community.

RECOMMENDED ACTION OR PROPOSED MOTION:

Authorize staff to pursue completion of project if awarded to Town of Eagle.



To: Mayor and Town Council

From: Jim White, Interim Town Manager

Date: February 22, 2022

Agenda Item: Grant Writing Professional Services Agreement

REQUEST: Support for securing a grant writer for the Town of Eagle, CO.

BACKGROUND: Grant funds are available for many of the needs that face the Town of Eagle at the present time. We have an opportunity to seek grants to secure funds from the recently passed Infrastructure Bill and other resources available in Colorado.

ANALYSIS: This proposal utilizes the skills of a seasoned grant writer to augment the needs of the Town of Eagle and enhance infrastructure financial assistance.

COMMUNITY INPUT: None required.

BUDGET / STAFF IMPACT: This is a very reasonable financial request which will include research and submittal of grant opportunities and take the burden off our staff. The fee request is 5% of any grant preparation and 5% of successful grant proposals, prorated if partially awarded.

STRATEGIC PLAN ALIGNMENT / STANDARDS ACHIEVED: Grants are a great supplement to our existing budget and often allow projects to be completed more expeditiously.

RECOMMENDED ACTION OR PROPOSED MOTION: Motion to direct the Town Manager to obtain a Professional Services Agreement with Dr. Wilkinson for grant writing.

ATTACHMENTS:

1. VHW Grant Writing Resume

Dr. Virginia H. Wilkinson, Grant Writer

303-819-1995 houlding@aol.com

Scientific Career – 1980-2009

I have 29 years of professional experience as an academic research scientist, corporate research lab director, and finally as Chief Technology Officer of Matheson Tri-Gas, a \$1+ Bn chemical gas company. My work involved writing research papers (35) and patents (3), writing and administration of research grants from major US government agencies, development of products for the semiconductor industry, development of corporate research strategy, and management of a research division of over 100 scientists. I retired in 2009 to pursue other interests.

Municipal and County Grant Writing Experience – 2013-present

Working with key administrative principals of the Town of Grand Lake and the Grand County Economic Development Office, I have helped to research, prepare, and submit applications to State of Colorado and Federal grant agencies. My strengths are in background research, narrative writing, and organization of grant applications; grant scope and budget are supplied by the administrative principal. The following is a list of successful grant applications:

2013

Grand County CO Tourism Board Grant - \$4000 to Friends of Trail River Ranch for promotion of Trail River Ranch in Rocky Mountain National Park

2014

GOCO Planning Grant - \$3750 to Town of Grand Lake for revision of Parks, Open Space, and Trails Plan

2016

DOLA REDI Grant - \$85,000 to Town of Grand Lake for Grand Lake Center business plan

2017

GOCO Construction Grant - \$215,500 to Town of Grand Lake for upgrade of municipal boat ramp. Partial award of \$47,000

USDA RBEG Grant - \$37,500 to Grand County Economic Development Office for Grand County Community Reinvention project

DOLA EIAF Tier II Grant - \$500,000 to Town of Grand Lake for Streetscape Phase 1

2021

DOLA “Open for Business” Grant - \$1M to Town of Grand Lake for renovation and energy upgrades to multiple downtown businesses

Fee Schedule

I prefer to work on a project basis, not an hourly fee schedule. I propose the following:

5% of proposed project budget for completed application, whether submitted or not

5% bonus if application is successful, prorated if partially awarded.