



**Town Board of Trustees
Tuesday, March 24, 2020
ON-LINE MEETING**

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

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION *Meetings will be broadcast using Crowdcast. Crowdcast requires a registered account to attend the meeting. Accounts are free to register, and can be accessed by PC, Mac, and on all mobile devices through the Crowdcast App in the Google Play Store and Apple App Store.*

1.
 - Meeting URL: <https://www.crowdcast.io/e/eaglebot03-24-20>
 - Public comments can be made by using "ask a question." The Mayor or meeting facilitator will review comments at the end of the business item discussion.
 - All public meeting attendees will be muted during the meeting, unless the Mayor or meeting facilitator invites them to speak live during the meeting.
 - Meetings are recorded and will be published on the Town's web page.
 - Chatlogs and questions asked during the meeting will become part of the record.

CALL TO ORDER - 6:00 PM

ROLL CALL - 6:05 PM

ADOPTION OF AGENDA - 6:05 PM *Opportunity for amendment or deletions to the agenda.*

PUBLIC COMMENT - 6:10 PM *Citizens are invited to comment on any item not on the Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person per topic unless arrangements have been made for a presentation with the Town Clerk. Those who are speaking are requested to sign in.*

CONSENT AGENDA - 6:15 PM *Consent agenda items are routine Town business, items which have received clear direction previously from the board, final land use file documents after the public hearing has been closed, or which do not require board deliberation. (5 Minutes)*

1. Minutes - March 10, 2020
2. Minutes - March 19, 2020 Special Meeting
3. Audit Engagement Letter for Maggard & Hood PC, Jill Kane, Finance Director/Treasurer
4. Resolution 13, Series 2020 a Resolution of the Board of Trustees of the Town of Eagle, Colorado, Authorizing Release of Funds in Escrow Due to Completion of Public Improvements (Haymeadow)

STAFF REPORTS - 6:20 PM *The Town Manager and Department Staff prepare and provide internal updates to the Board.*

1. Town Manager Update - COVID-19 Report

BUSINESS ITEMS - 6:30 PM *Items and / or Public Hearings are listed under Business may be old or new and may require review or action by the Board.*

1. **PUBLIC HEARING - LIQUOR LICENSE AUTHORITY**

Modification of Premises/Addition of Sidewalk Service Area for Katch of the Day LLC; Address: 228 Broadway, Eagle, CO

2. Community Development Budget Request

The Board of Trustees will review a request to reallocate funds to cover a fleet purchase the was not budgeted.

3. Mountain Recreation and Eagle School District Proposal - Noon Ball Program Change Request

The Board of Trustees will review a proposal to make programmatic changes to the IGA for cooperative use of public facilities between Mountain Recreation, School District and the Town of Eagle.

BOARD DISCUSSION AND FUTURE AGENDA ITEMS - 7:00 PM

ADJOURN - 7:15 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

PUBLIC WIFI - TOEG – townofeagle2019



MEETING MINUTES
Town Board of Trustees
Tuesday, March 10, 2020
Public Meeting Room / Eagle Town Hall
200 Broadway Eagle, CO

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CALL TO ORDER

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

ROLL CALL - 6:05 PM

TRUSTEES PRESENT

Anne McKibbin, Kevin Brubeck, Matt Solomon, Andy
Jessen, Mikel, Kerst, Scott Turnipseed, Paul Witt

TRUSTEES ABSENT

None

STAFF PRESENT

Brandy Reitter, Town Manager
Matt Mire, Town Attorney
Bill Shrum, Assistant to the Town Manager
Jenny Rakow, Town Clerk
Jill Kane, Finance Director/Treasurer
Bryon McGinnis, Public Works Director
Joey Stauffer, Police Chief

ADOPTION OF AGENDA

There were no changes to the agenda.

PUBLIC COMMENT

Ellen Bodenhemier – introduced herself as a candidate for Board of Trustees.

Andy Gould 2441 Brush Creek Road – inquired about the Haymeadow project across the road from his property. Concern that a land swap was done this winter for wetlands and location of the road. Bryon McGinnis stated they are getting their construction access from another property and this was not a land swap. Bryon will follow up. Andy also inquired about location of the water line; Bryon provided it will be Ouzel Lane.

Mayor McKibbin updated the board on the COVID 19 meeting with Eagle County.

PRESENTATIONS

1. Lower Basin Water Treatment Plant, MWH Constructors - Project Update Presentation
MWH Construction - Tyler Hendrix and gave presentation on Lower Basin Water Treatment Plan schedule and progress. Next update will be in June.

CONSENT AGENDA

1. Minutes - February 25, 2020

Board Comments: requested the Town Clerk to correct motion for Ordinance 5. Inquiry on payment to Ewing Trucking. Staff provided this was for annual sand delivery. Inquiry on tap fund refund. Staff provided the fees were miscalculated and a refund was due. Further discussion on collection of fees and timing. Staff stated oversight will continue with engineer, public works and comm dev, and will be improved to limit errors on fee charges.

2. Bill Pay - February 2020

MOTION: Trustee Paul Witt motioned to Approve the Consent Agenda with correction. Motion was seconded and passed with a vote of 6 in favor, 0 opposed and 1 abstain (McKibbin).

STAFF REPORTS

1. Town Manager Update

Brandy Reitter reviewed her manager report. Currently working on COVID virus planning with the leadership team. A communication will go out to all staff. Also included in report was the board budget. Staff is looking for any changes or comments. The candidate forum is next Wednesday.

2. Department Update

Board Comments: Inquiry on the meeting with Terrace homeowners about the new water tank. Inquiry on increase in sales tax and if we can update the budget mid-year with the added revenue.

BUSINESS ITEMS

1. Resolution No. 11, Series 2020, A Resolution of the Board of Trustees of the Town of Eagle, Colorado Approving an Amendment to the Development Improvements Agreement for the Village Market.

Brandy Reitter opened this item and stated John Buxom, as representative, is here to answer questions. Mr. Buxom stated they are trying to add time to the process and let business catch up with cost of construction. The projects in Town are becoming a reality to support this location. This increase will help us do this project financially.

Board Comments – Inquiry on whether an outside party is being asked to develop the location and if a two-year extension will allow something meaningful to happen in 24 months. Additional Board concern regarding the contentious process to approve this project initially and impacts on surrounding neighborhood. Expected this project to be further along during this timeframe.

MOTION: Trustee Andy Jessen motioned to Approve Resolution No. 11, Series 2020, A Resolution of the Board of Trustees of the Town of Eagle, Colorado Approving an Amendment to the Development Improvements Agreement for the Village Market. Motion was seconded and passed with a vote of 6 in favor and 1 opposed.

2. **PUBLIC HEARING:** Ordinance 03, Series 2020, An Ordinance of the Board of Trustees of the Town of Eagle, Colorado, Amending the Holy Cross Energy Franchise Agreement By Increasing the Franchise Fee from 3% to 4%.

Brandy Reitter presented this item. The Board had previously asked about ratepayer impacts. Brandy reviewed the 1% impacts on average users, with an annual increase of \$14.55 per year. The increase would go towards funding our municipal broadband.

Board Comments – Concern regarding passing this now and preference to wait until after the election. Inquiry on timing and if continuing would be better. Town Attorney provided the board could continue to a date certain.

Mayor McKibbin opened the public hearing. There was no public comment.

Additional Board Comments: Concern on approving an increase without specifics on what the money would be used for at this time. Preference to continue to May.

MOTION: Trustee Matt Solomon motioned to Continue Ordinance 03, Series 2020, An Ordinance of the Board of Trustees of the Town of Eagle, Colorado, Amending the Holy Cross Energy Franchise Agreement By Increasing the Franchise Fee from 3% to 4% until the May 12, 2020 Town Board Meeting. Motion was seconded and passed with a vote of 7 in favor and 0 opposed.

3. Ordinance 09, Series 2020, An Ordinance Of The Board Of Trustees Of The Town Of Eagle, Colorado Amending Section 4.04.060 Of The Eagle Municipal Code, To Allow Recreational Vehicle Parks As A Special Use In The Rural Residential Zone District.

Brandy Reitter presented this item. Recreational camping would be included with lodging tax collections.

Board Comments - Inquiry on fees and tap fees. Discussion on location of rural residential locations and impact on annexations to town to allow.

MOTION: Trustee Scott Turnipseed motioned to Approve Ordinance 09, Series 2020, An Ordinance Of The Board Of Trustees Of The Town Of Eagle, Colorado Amending Section 4.04.060 Of The Eagle Municipal Code, To Allow Recreational Vehicle Parks As A Special Use In The Rural Residential Zone District. Motion was seconded and passed with a vote of 7 in favor and 0 opposed.

4. Short Term Rentals and Financial Analysis

Bill Shrum presented this item.

Board Comments – Discussion on breakeven point and amount of license fees and whether to charge a different amount for Short Term Rentals than hotels. Discussion on life safety inspections and whether that should impact license fees for this type. Request to have CIRSA review for risk mitigation and suggestions. Board agreed on definition of short-term rental, collection of the lodging fee, collection of sales tax and business license fee at \$75. Third party process for managing would be up to staff. Staff will prepare a draft ordinance and analysis for inspections. Will also provide additional information on the hotel safety inspection process with the state or other entities for comparison. Staff will also do outreach seeking public input and can set a public hearing prior to requesting board to consider for approval.

5. Board of Trustees Facilitators Proposals

Brandy Reitter presented this item.

Board Comments: The current budget is \$8000 and was for a strategic plan update. Board has also requested a facilitator for a DISC assessment and training. Discussion of pros and cons of the facilitators provided by staff. Conclusion and consensus on using a new facilitator for strategic plan update. Preference on using expanded DISC assessment with Dr. Nicolson. Staff will work on location and food budget.

MOTION: Trustee Scott Turnipseed motioned to Approve using SBrand Consulting for the Strategic Plan Update and Dr. Nicolson for the DISC assessment. Motion was seconded and passed with a vote of 7 in favor and 0 opposed.

BOARD DISCUSSION AND FUTURE AGENDA ITEMS

1. BOT Policy Governance Document

Board Comments: Document is long. Would like to see the clean version with all comments included. Discussion on some policies for discussion and whether the Charter would address some of them. Agreed to provide clean draft to Town Attorney for review and then forward to CIRSA by end of the week. The intent is to have ready for the new board end of April.

2. 2020 Trustee Vacancy Process

Board Comments: Discussion on whether the new board should decide the appointment process. Staff wanted to know if there was a direction or policy the board wanted to ensure the process could move quickly with intent to have a full board seated as soon as possible. Town Attorney advised that a policy could not be created, and the Charter would supersede if passed. Advice was to wait for new board to be seated to address this topic.

3. Special Event Liquor Encroachment

Brandy Reitter updated the board with communities that have parklets and outdoor space within events. Most other entities allowed these uses during events. Staff will be handling specifics of outdoor spaces during events with Encroachment Agreements. These will take into consideration specific locations and attendance. This will be separate from liquor license modifications and outside areas on a case by case basis. Board agreed that staff will handle these administratively.

Trustee Turnipseed - Would like to provide information on the ballot question regarding the tobacco tax so citizens know that the Town will be collecting the tax instead of Eagle County. Currently it is confusing to them. Town Attorney provided that you can pass a resolution iterating those points and there is still time do to so. Board members can speak on this subject on their own time. They key is not using town resources to promote.

Trustee Turnipseed stated he will be interviewed in a pod cast about home rule. Town Attorney will check on rules.

Trustee Brubeck – stated he received concerns regarding the Eagle Landing process and frustration with planning department. Brandy stated she met with them and it is on track.

Mayor McKibbin – stated input was requested from the Town on a high voltage line in East Avon to Gilman. There was no interest from the board to provide comments.

EXECUTIVE SESSION

- To receive legal advice on specific legal questions and to develop a negotiation strategy and instruct negotiators
1. regarding Hockett Gulch assignment and assumption, pursuant to C.R.S. § 24-6-402(4)(b) as it relates to Reserve at Hockett Gulch.

MOTION: Mayor McKibbin motioned to adjourn into Executive Session to receive legal advice on specific legal questions and to develop a negotiation strategy and instruct negotiators regarding Hockett Gulch assignment and assumption, pursuant to C.R.S. § 24-6-402(4)(b) as it relates to Reserve at Hockett Gulch and to adjourn from the regular meeting at its conclusion. Motion was seconded and passed with a vote of 7 in favor and 0 opposed. (9:00 p.m.)

MOTION: Mayor McKibbin motioned to adjourn from the Executive Session. Motion was seconded and passed with a vote of 7 in favor and 0 opposed. (9:15 p.m.)

ADJOURN - 9:15 PM

Approved:

Date:

Anne McKibbin, Mayor

Jenny Rakow, CMC Town Clerk



**MEETING MINUTES
SPECIAL MEETING
Town Board of Trustees
Thursday, March 19, 2020
CONDUCTED ON ZOOM**

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CALL TO ORDER - 6:00 PM

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

ROLL CALL - 6:05 PM

TRUSTEES PRESENT

Anne McKibbin, Kevin Brubeck, Matt Solomon, Andy
Jessen, Scott Turnipseed, Paul Witt, Mikel, Kerst

TRUSTEES ABSENT

None

STAFF PRESENT

Brandy Reitter, Town Manager
Matt Mire, Town Attorney
Bill Shrum, Assistant to the Town Manager
Jenny Rakow, Town Clerk
Bryon McGinnis, Public Works Director
Lynette Horan, Human Resources Manager

All were present via zoom connection.

ADOPTION OF AGENDA

Request to add discussion under Board discussion. There were no changes to the agenda.

BUSINESS ITEMS

1. Resolution 12, Series 2020 A Resolution of the Board of Trustees of the Town of Eagle, Colorado Declaring a Local Disaster Emergency

Town Attorney Matt Mire provided the Board is being requested to ratify the emergency order the Mayor signed on Sunday, March 15, 2020. The full board vote is required in order to extend an additional 30 days.

MOTION: Trustee Paul Witt motioned to Approve Resolution 12, Series 2020 A Resolution of the Board of Trustees of the Town of Eagle, Colorado Declaring a Local Disaster Emergency. Motion was seconded and Passed with a vote of 7 in favor and 0 opposed.

2. Town of Eagle Remote Meeting Policy

Board Comments: Clarification that quasi-judicial hearings can be held with consent from the applicant. Matt Mire confirmed this can be done.

MOTION: Trustee Matt Solomon motioned to Approve the Town of Eagle Remote Meeting Policy. Motion was seconded and passed with a vote of 7 in favor and 0 opposed.

- Ordinance 12, Series 2020 An Emergency Ordinance of the Board of Trustees of the Town of Eagle, Colorado
3. Amending Section 11.04.060 of the Eagle Municipal Code, Concerning the Procedure for the Scheduling of Appearances on Non-Criminal Traffic Offenses

Mayor McKibbin opened this item. There was no further discussion.

MOTION: Trustee Kevin Brubeck motioned to Approve Ordinance 12, Series 2020 An Emergency Ordinance of the Board of Trustees of the Town of Eagle, Colorado Amending Section 11.04.060 of the Eagle Municipal Code, Concerning the Procedure for the Scheduling of Appearances on Non-Criminal Traffic Offenses. Motion was seconded and Passed with a vote of 7 in favor and 0 opposed.

BOARD DISCUSSION AND FUTURE AGENDA ITEMS

Trustee Solomon introduced suggestion for the board to consider relinquishing their monthly stipends to the general fund during this emergency declaration. Further discussion with Town Attorney this could be done administratively with Town Manager. Consensus to contact Town Manager individually and after the new board takes office requested an agenda item to reconsider the suspension of the stipend.

MOTION: Trustee Matt Solomon motioned to suspend the Town Board's monthly stipend until the new board reconsiders extending it on April 28th. The motion was seconded and passed with a vote of 7 in favor and 0 opposed.

ADJOURN - 6:30 PM

MOTION: Trustee Kevin Brubeck motioned to Adjourn. Motion was seconded and Passed with a vote of 7 in favor and 0 opposed.

Approved:

Date:

Anne McKibbin, Mayor

Jenny Rakow, CMC Town Clerk



To: Mayor and Town Board of Trustees

From: Jill Kane, Treasurer/Finance Director

Date: March 18, 2020

Agenda Item: Audit Engagement Letter for the year ended December 31, 2019

REQUEST: Review the Audit Engagement Letter between the Town and Maggard & Hood, P.C. for the year ended December 31, 2019.

INTRODUCTION: The Town's 2019 annual audit has been scheduled for April 20th – April 24th. Prior to commencement of the audit, the Town Manager and Board 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.

ANALYSIS: The Engagement Letter includes standard language in accordance with Generally Accepted Auditing Standards (GAAS) and has not had any significant changes from the 2018 Engagement Letter.

COMMUNITY INPUT: None

BUDGET / STAFF IMPACT: The 2020 budget includes \$33,000 for auditing and accounting services. This includes services for the annual audit as well as any additional accounting, auditing, or actuarial services required. The 2019 audit will require additional audit work due to the receiving loan proceeds for the Water Treatment Plant which included federal funds exceeding \$750,000. In 2019 the Town spent \$27,994.74 on the 2018 annual audit. Maggard & Hood's hourly rates are below:

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/STANDARDS ACHIEVED:

Major Objective #2: Enhance the Financial Health of the Town – Ensuring accuracy of financial records, compliance with accounting methods, and soundness of financial practices, including internal controls.

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to **approve** or **deny** the Maggard & Hood, P.C. 2019 Audit Engagement Letter.

ATTACHMENTS:

- 2019 Audit Engagement Letter

March 16, 2020

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, 2019. 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, 2019.

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.

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. 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, and will include tests of the accounting records and other procedures we consider necessary to enable us to express such opinions. We will issue a written report on completion of our audit of the financial statements. Our report 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.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements as required by *Government Auditing Standards*. The report on internal control and on compliance and other matters will include a paragraph that states (1) that 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 on compliance, and (2) that 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 paragraph will also state that the report is not suitable for any other purpose. If during our audit we become aware that the Town of Eagle is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

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.

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. 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. 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, 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*.

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 and *Government Auditing Standards*.

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*.

Other Services

We will also assist in preparing the financial statements 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 statement 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, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; following laws and regulations; 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 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

Management Responsibilities - *continued*

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, (2) additional information that we may request for the purpose of the audit, and (3) 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.

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.

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.

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.

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 April 20, 2020 and to issue our reports in May 2020. Roger Maggard is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

Our fees for these services will be based on the actual time spent at our standard hourly rates plus travel and 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 over a horizontal line.

MAGGARD & HOOD, P.C.

Roger D. Maggard

Partner-in-Charge

RESPONSE:

This letter dated March 16, 2020 correctly sets forth the understanding of the Town of Eagle.

By: _____

Title: _____

Date: _____



To: Mayor and Town Board of Trustees

From: Jill Kane, Finance Director

Date: March 24, 2020

Agenda Item: A resolution authorizing release of funds in escrow due to completion of public improvements (Haymeadow)

REQUEST:

Staff is requesting the Board of Trustees to review and approve the resolution to release a partial draw from the escrow fund for the performance guarantee for the Haymeadow Filing No. 1.

INTRODUCTION:

The Town entered into an escrow agreement with Haymeadow Metropolitan District No. 6 (Haymeadow). The Subdivision Improvements Agreement and the Annexation and Development Agreement require the Developer or District to provide a Performance Guarantee in the amount of 110% of the estimated cost of completing the public improvements within the Subdivision. Haymeadow set up and deposited \$6,109,102.91 into an escrow account, which is being administered by the Town. The escrow agreement states that upon completion and inspection of public improvements by the Town Engineer, the Town will release funds in escrow on a no more than a quarterly basis.

ANALYSIS: The Town Engineer has inspected and approved the public improvements completed to date. Staff is recommending a draw request of \$1,853,608.70 from the Haymeadow escrow account.

COMMUNITY INPUT: None Required

BUDGET / STAFF IMPACT:

Releasing escrow funds has no budget impact, as it is a liability to the Town and not a revenue or expense. It does take additional administrative and engineering staff time to implement partial performance guarantee releases on a quarterly basis, instead of when the public improvements are complete for an entire project.

STRATEGIC PLAN ALIGNMENT/STANDARDS ACHIEVED:

Major Objective #5 – Stimulate Economic Vitality and Development
Major Objective #5 – Improve Housing Availability and Affordability

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to **approve** or **deny** adoption of resolution 13-2020, "A resolution of the Board of Trustees of the Town of Eagle, Colorado, Authorizing release of funds in escrow due to completion of public improvements."

ATTACHMENTS:

- Contractor's Pay Application: Draw Request – Approved by Town engineer

TOWN OF EAGLE, COLORADO
RESOLUTION NO. 13
(Series of 2020)

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE,
COLORADO, AUTHORIZING RELEASE OF FUNDS IN ESCROW DUE TO COMPLETION
OF PUBLIC IMPROVEMENTS (HAYMEADOW)

WHEREAS, on May 22, 2019, the Town entered into an Escrow Agreement with the Haymeadow Metropolitan District No. 6 (the "District") related to the escrow of funds for the performance guarantee for the public improvements associated with Haymeadow Filing No. 1 (the "Project");

WHEREAS, pursuant to the Escrow Agreement, as amended, the Developer deposited \$6,109,102.91 (the "Escrow Funds") with a selected Escrow Agent;

WHEREAS, Section 2 of the Escrow Agreement provides that, upon completion of the improvements and final inspection and acceptance by the Town Engineer, the Board of Trustees may authorize a disbursement of Escrow Funds;

WHEREAS, on January 23, 2020, the Town received a draw request from the District in the amount of \$ \$1,853,608.70 (the "Draw Request"); and

WHEREAS, the Town Engineer inspected the Project and found no deficiencies in the completed public improvements associated with the draw request, and has recommended approval of the Draw Request.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF TOWN OF EAGLE, COLORADO, THAT:

Section 1. The Board of Trustees hereby approves the Draw Request and authorizes the release of \$ \$1,853,608.70 from the escrow account established by the Agreement.

INTRODUCED, READ, PASSED AND ADOPTED ON MARCH 24, 2020.

TOWN OF EAGLE, COLORADO

Anne McKibbin, Mayor

ATTEST:

Jenny Rakow, Town Clerk

Contractor's Application for Payment No. 2

Application Period: 8/1/2019 to 12/12/2019		Application Date: 1/23/2020
To (Owner): Haymeadow Metropolitan District	From (Contractor): Johnson Construction, Inc	Via (Consultant): Cairn Consulting Services
Project: Haymeadow Filing 1	Contract:	
Owner's Contract No.:	Contractor's Project No.:	Consultant's Project No.:

**Application For Payment
Change Order Summary**

Approved Change Orders			1. ORIGINAL CONTRACT PRICE.....	\$ \$5,553,729.92
Number	Additions	Deductions	2. Net change by Change Orders.....	\$ \$0.00
			3. Current Contract Price (Line 1 ± 2).....	\$ \$5,553,729.92
			4. TOTAL COMPLETED AND STORED TO DATE	
			(Column H total on Progress Estimates).....	\$ \$2,594,919.95
			5. RETAINAGE:	
			a. 25% X \$503,498.00 Work Completed (Not Accepted)	\$ \$125,874.50
			b. 10% X \$333,626.68 CO Work Completed (Accepted)	\$ \$33,362.67
			c. 25% X \$35,548.52 CO Work Completed (Not Accepted)	\$ \$8,887.13
			d. Total Retainage (Line 5.a + Line 5.b).....	\$ \$168,124.30
			6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5.c).....	\$ \$2,426,795.65
			7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application).....	\$ \$573,186.95
			8. AMOUNT DUE THIS APPLICATION.....	\$ \$1,853,608.70
			9. BALANCE TO FINISH, PLUS RETAINAGE	
			(Column G total on Progress Estimates + Line 5.c above).....	\$ \$3,126,934.27
TOTALS	\$0.00	\$0.00		
NET CHANGE BY CHANGE ORDERS	\$0.00			

Contractor's Certification

The undersigned Contractor certifies, to the best of its knowledge, the following:
 (1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;
 (2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all Liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such Liens, security interest, or encumbrances); and
 (3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Contractor Signature

By: _____ Date: _____

Payment of: \$ 1,853,608.70
 (Line 8 or other - attach explanation of the other amount)

is recommended by: *mf Hall* 01-29-2020
 (Engineer) (Date)

Payment of: \$ _____
 (Line 8 or other - attach explanation of the other amount)

is approved by: _____
 (Owner) (Date)

Approved by: _____
 (Town of Eagle) (Date)

Progress Estimate - Unit Price Work

Contractor's Application

For (Contract):														Application Number: 2					
Application Period:														Application Date: 1/23/2020					
A					B		C	D	E	F	G	H	I	J	K	L			
Item					Contract Information			Total Quantity Installed and Accepted	Value of Work Installed and Accepted to Date	Total Quantity Installed and Not Accepted	Value of Work Installed and Not Accepted to Date	Total Quantity Installed	Value of Work Installed to Date	Total Quantity Installed per Contractor's Pay App	Value of Work Installed to Date per Contractor's Pay App	Materials Presently Stored (not in C)	Total Completed and Stored to Date (D + E)	% (F / B)	Balance to Finish (B - F)
Bid Item No.	Description				Item Quantity	Units	Unit Price												
		CONTRACT REQUIREMENTS																	
A.		Miscellaneous																	
	1.	Clearing and Grubbing	1	LS	25,000.00	\$25,000.00	1	\$25,000.00		\$0.00	1	\$25,000.00	1.00	\$25,000.00		\$25,000.00	100.0%	\$0.00	
	2.	Revegetation	1	LS	110,000.00	\$110,000.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$110,000.00	
B.		Sylvan Lake Road & Roundabout & Brush Creek																	
	3.	Topsoil Remove and Stockpile (14.25")	9,446	CY	3.50	\$33,061.00	9446	\$33,061.00		\$0.00	9446	\$33,061.00	9446	\$33,061.00		\$33,061.00	100.0%	\$0.00	
	4.	Topsoil Replace (6")	3,977	CY	7.00	\$27,839.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$27,839.00	
	5.	Excavation	700	CY	5.00	\$3,500.00	700	\$3,500.00		\$0.00	700	\$3,500.00	700	\$3,500.00		\$3,500.00	100.0%	\$0.00	
	6.	Embankment	5,038	CY	5.25	\$26,449.50	5038	\$26,449.50		\$0.00	5038	\$26,449.50	5038	\$26,449.50		\$26,449.50	100.0%	\$0.00	
	7.	Subgrade Preparation Roads	17,328	SY	2.10	\$36,388.80	13850	\$29,085.00		\$0.00	13850	\$29,085.00	13850	\$29,085.00		\$29,085.00	79.9%	\$7,303.80	
	8.	Asphalt (4")	2,133	TN	100.00	\$213,300.00	456	\$45,600.00		\$0.00	456	\$45,600.00	456	\$45,600.00		\$45,600.00	21.4%	\$167,700.00	
	9.	Base Course (8" Class 6)	3,870	TN	35.00	\$135,450.00	3485	\$121,975.00		\$0.00	3485	\$121,975.00	3485	\$121,975.00		\$121,975.00	90.1%	\$13,475.00	
	10.	Base Course (18" Class 2)	9,658	TN	32.75	\$316,299.50	8651	\$283,320.25		\$0.00	8651	\$283,320.25	8651	\$283,320.25		\$283,320.25	89.6%	\$32,979.25	
	11.	Concrete Curb and Gutter (6" Vertical)	1,710	LF	17.50	\$29,925.00	1710	\$29,925.00		\$0.00	1710	\$29,925.00	1710	\$29,925.00		\$29,925.00	100.0%	\$0.00	
	12.	Concrete Curb and Gutter (1.5' x 6" Vertical)	233	LF	30.00	\$6,990.00	233	\$6,990.00		\$0.00	233	\$6,990.00	233	\$6,990.00		\$6,990.00	100.0%	\$0.00	
	13.	Concrete Curb and Gutter (3" Mountable)	285	LF	27.25	\$7,766.25	285	\$7,766.25		\$0.00	285	\$7,766.25	285	\$7,766.25		\$7,766.25	100.0%	\$0.00	
	14.	Concrete Crosswalks (95 LF)	5	EA	2,525.00	\$12,625.00	5	\$12,625.00		\$0.00	5	\$12,625.00	5	\$12,625.00		\$12,625.00	100.0%	\$0.00	
	15.	Concrete Crosswalks Splitter Island Ped Cut (23 LF)	2	EA	1,050.00	\$2,100.00	2	\$2,100.00		\$0.00	2	\$2,100.00	2	\$2,100.00		\$2,100.00	100.0%	\$0.00	
	16.	Concrete Apron at Roundabout	12	SY	430.00	\$5,160.00	12	\$5,160.00		\$0.00	12	\$5,160.00	12	\$5,160.00		\$5,160.00	100.0%	\$0.00	
	17.	Concrete Cross Pans (6' Wide)	2	EA	6,900.00	\$13,800.00	2	\$13,800.00		\$0.00	2	\$13,800.00	2	\$13,800.00		\$13,800.00	100.0%	\$0.00	
	18.	6" Concrete at Roundabout	9,735	SF	10.10	\$98,323.50	9735	\$98,323.50		\$0.00	9735	\$98,323.50	9735	\$98,323.50		\$98,323.50	100.0%	\$0.00	
	19.	Roundabout Flatwork	192	SY	117.00	\$22,464.00	192	\$22,464.00		\$0.00	192	\$22,464.00	192	\$22,464.00		\$22,464.00	100.0%	\$0.00	
	20.	Path - Asphalt (3")	701	TN	101.00	\$70,801.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$70,801.00	
	21.	Path - Base Course (8" Class 6)	1,164	TN	38.00	\$44,232.00	990	\$37,620.00		\$0.00	990	\$37,620.00	990	\$37,620.00		\$37,620.00	85.1%	\$6,612.00	
	22.	Path - Subgrade Preparation	3,115	SY	2.15	\$6,697.25	2200	\$4,730.00		\$0.00	2200	\$4,730.00	2200	\$4,730.00		\$4,730.00	70.6%	\$1,967.25	
	23.	Install Block Wall - Use Keystone Compac Block Vail Blend	192	LF	160.00	\$30,720.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$30,720.00	
	24.	Detectable Warning Pads	8	EA	490.00	\$3,920.00	8	\$3,920.00		\$0.00	8	\$3,920.00	8	\$3,920.00		\$3,920.00	100.0%	\$0.00	
	25.	Bollard Lights	13	EA	3,425.00	\$44,525.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$44,525.00	
	26.	Standard Signs	17	EA	500.00	\$8,500.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$8,500.00	
	27.	Tapco Crosswalk Sign	4	EA	4,200.00	\$16,800.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$16,800.00	
	28.	Relocate Existing Signs	1	LS	335.00	\$335.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$335.00	
	29.	Delineator Posts	22	EA	30.00	\$660.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$660.00	
	30.	Road Striping (4" Solid White)	4,620	LF	0.34	\$1,570.80		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$1,570.80	
	31.	Road Striping (4" Solid Yellow)	5,360	LF	0.67	\$3,591.20		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$3,591.20	
	32.	Striping (Bike Symbol)	10	EA	54.00	\$540.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$540.00	
	33.	Streetlight - P1	1	EA	18,450.00	\$18,450.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$18,450.00	
	34.	Streetlight - P1-2B	2	EA	13,500.00	\$27,000.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$27,000.00	
	35.	20-foot Ranch Gate	2	EA	1,050.00	\$2,100.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$2,100.00	

Progress Estimate - Unit Price Work

Contractor's Application

For (Contract):														Application Number: 2				
Application Period:														Application Date: 1/23/2020				
A					B		C	D	E	F	G	H	I	J	K	L		
Item		Contract Information			Total Quantity Installed and Accepted	Value of Work Installed and Accepted to Date	Total Quantity Installed and Not Accepted	Value of Work Installed and Not Accepted to Date	Total Quantity Installed	Value of Work Installed to Date	Total Quantity Installed per Contractor's Pay App	Value of Work Installed to Date per Contractor's Pay App	Materials Presently Stored (not in C)	Total Completed and Stored to Date (D + E)	% (F / B)	Balance to Finish (B - F)		
Bid Item No.	Description	Item Quantity	Units	Unit Price													Total Value Item (\$)	
C.		Local Roads & Tract D Parking Lot																
36.	Topsoil Remove and Stockpile (8")	4,297	CY	3.50	\$15,039.50	4297	\$15,039.50		\$0.00	4297	\$15,039.50	4297	\$15,039.50		\$15,039.50	100.0%	\$0.00	
37.	Topsoil Replace (6")	2,865	CY	7.00	\$20,055.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$20,055.00	
38.	Excavation	8,175	CY	4.00	\$32,700.00	8175	\$32,700.00		\$0.00	8175	\$32,700.00	8175	\$32,700.00		\$32,700.00	100.0%	\$0.00	
39.	Embankment	1,902	CY	5.25	\$9,985.50	1902	\$9,985.50		\$0.00	1902	\$9,985.50	1902	\$9,985.50		\$9,985.50	100.0%	\$0.00	
40.	Subgrade Preparation Roads	12,776	SY	2.10	\$26,829.60		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$26,829.60	
41.	Asphalt (4")	1,786	TN	100.00	\$178,600.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$178,600.00	
42.	Base Course (6" Class 6)	2,000	TN	35.00	\$70,000.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$70,000.00	
43.	Base Course (18" Class 2)	5,129	TN	32.75	\$167,974.75		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$167,974.75	
44.	6" Class 6 Base Course Temp. Turnaround (2)	223	TN	35.00	\$7,805.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$7,805.00	
45.	Concrete Curb and Gutter (6" Vertical)	4,175	LF	18.75	\$78,281.25		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$78,281.25	
46.	Concrete Curb and Gutter (6" Vertical) - Spill	156	LF	23.25	\$3,627.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$3,627.00	
47.	Concrete Pan (3')	1,305	LF	31.00	\$40,455.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$40,455.00	
48.	Concrete ADA Ramp	30	EA	550.00	\$16,500.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$16,500.00	
49.	Subgrade Preparation Sidewalks	2,500	SY	3.50	\$8,750.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$8,750.00	
50.	Concrete Sidewalk (5' Wide)	2,884	LF	27.50	\$79,310.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$79,310.00	
51.	Concrete Sidewalk (7' Wide)	260	LF	37.75	\$9,815.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$9,815.00	
52.	Sidewalk Base Course	298	TN	40.00	\$11,920.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$11,920.00	
53.	Concrete Cross Pans (6' Wide)	15	EA	4,300.00	\$64,500.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$64,500.00	
54.	Detectable Warning Pads	32	EA	490.00	\$15,680.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$15,680.00	
55.	Path - Subgrade Preparation	337	SY	3.50	\$1,179.50		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$1,179.50	
56.	Path - Asphalt (3")	75	TN	101.00	\$7,575.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$7,575.00	
57.	Path - Base Course (6" Class 6)	475	TN	38.00	\$18,050.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$18,050.00	
58.	Standard Signs	18	EA	500.00	\$9,000.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$9,000.00	
59.	4" Solid White Striping	423	LF	0.34	\$143.82		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$143.82	
60.	Thermoplastic Striping (10' W x 1.5'H w/ 2' Gaps)	23	LF	95.00	\$2,185.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$2,185.00	
61.	Concrete Crosswalks Detail	52	LF	1,050.00	\$54,600.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$54,600.00	
62.	Streetlight	5	EA	9,650.00	\$48,250.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$48,250.00	
D.		West Cutoff Ditch																
	63.	Topsoil Remove and Stockpile (8")	466	CY	3.50	\$1,631.00	150	\$525.00		\$0.00	150	\$525.00	150	\$525.00		\$525.00	32.2%	\$1,106.00
	64.	Topsoil Replace (6")	311	CY	7.00	\$2,177.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$2,177.00
	65.	Excavation	680	CY	5.00	\$3,400.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$3,400.00
	66.	Embankment	37	CY	5.25	\$194.25		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$194.25
E.		West Trail Connect																
	67.	Topsoil Remove and Stockpile (8")	175	CY	3.50	\$612.50	100	\$350.00		\$0.00	100	\$350.00	100	\$350.00		\$350.00	57.1%	\$262.50
	68.	Topsoil Replace (6")	117	CY	7.00	\$819.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$819.00
	69.	Excavation	983	CY	5.00	\$4,915.00	250	\$1,250.00		\$0.00	250	\$1,250.00	250	\$1,250.00		\$1,250.00	25.4%	\$3,665.00
	70.	Embankment	36	CY	5.25	\$189.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$189.00
F.		Emergency Access Road																
	71.	Clearing/Grub remove unsuitable soil. Haul to on-site waste site.	34,022	SF	0.30	\$10,206.60	14283	\$4,284.90		\$0.00	14283	\$4,284.90	14283	\$4,284.90		\$4,284.90	42.0%	\$5,921.70
	72.	Topsoil Remove and Stockpile (12")	1,809	CY	3.50	\$6,331.50	549	\$1,921.50		\$0.00	549	\$1,921.50	549	\$1,921.50		\$1,921.50	30.3%	\$4,410.00
	73.	Topsoil Replace (6")	905	CY	7.00	\$6,335.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$6,335.00
	74.	Excavation	926	CY	5.00	\$4,630.00	926	\$4,630.00		\$0.00	926	\$4,630.00	926	\$4,630.00		\$4,630.00	100.0%	\$0.00
	75.	Embankment	22	CY	5.25	\$115.50	22	\$115.50		\$0.00	22	\$115.50	22	\$115.50		\$115.50	100.0%	\$0.00
	76.	Subgrade Preparation Roads	3,633	SY	2.10	\$7,629.30		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$7,629.30
	77.	Base Course (18" Class 2)	1,164	TN	32.75	\$38,121.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$38,121.00
	78.	Base Course (8" Class 6)	472	TN	38.00	\$17,936.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$17,936.00
	79.	Base Course (6" Class 6)	646	TN	35.00	\$22,610.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$22,610.00

Progress Estimate - Unit Price Work

Contractor's Application

For (Contract):															Application Number: 2			
Application Period:															Application Date: 1/23/2020			
A					B		C	D	E	F	G	H	I	J	K	L		
Item			Contract Information				Total Quantity Installed and Accepted	Value of Work Installed and Accepted to Date	Total Quantity Installed and Not Accepted	Value of Work Installed and Not Accepted to Date	Total Quantity Installed	Value of Work Installed to Date	Total Quantity Installed per Contractor's Pay App	Value of Work Installed to Date per Contractor's Pay App	Materials Presently Stored (not in C)	Total Completed and Stored to Date (D + E)	% (F / B)	Balance to Finish (B - F)
Bid Item No.	Description	Item Quantity	Units	Unit Price	Total Value Item (\$)													
G.		Pool/Rink Path and Debris Catchment																
	80.	Topsoil place (6")	4,920	CY	7.00	\$34,440.00	4000	\$28,000.00		\$0.00	4000	\$28,000.00	4000	\$28,000.00		\$28,000.00	81.3%	\$6,440.00
	81.	Excavation	32,254	CY	2.60	\$83,860.40	32254	\$83,860.40		\$0.00	32254	\$83,860.40	32254	\$83,860.40		\$83,860.40	100.0%	\$0.00
	82.	Embankment	6,235	CY	4.50	\$28,057.50	6235	\$28,057.50		\$0.00	6235	\$28,057.50	6235	\$28,057.50		\$28,057.50	100.0%	\$0.00
	83.	Haul excess Structural to Stockpile	26,019	CY	2.35	\$61,144.65	26019	\$61,144.65		\$0.00	26019	\$61,144.65	26019	\$61,144.65		\$61,144.65	100.0%	\$0.00
	84.	Path - Subgrade Preparation	4,000	SY	2.25	\$9,000.00	4000	\$9,000.00		\$0.00	4000	\$9,000.00	4000	\$9,000.00		\$9,000.00	100.0%	\$0.00
	85.	Path - Asphalt (3")	600	TN	101.00	\$60,600.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$60,600.00
	86.	Path - Asphalt (4")	59	TN	100.00	\$5,900.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$5,900.00
	87.	Path - Base Course (8" Class 6)	1,164	TN	38.00	\$44,232.00	1164	\$44,232.00		\$0.00	1164	\$44,232.00	1164	\$44,232.00		\$44,232.00	100.0%	\$0.00
	88.	Remove and Replace 6" Class 6	15	TN	12.00	\$180.00	15	\$180.00		\$0.00	15	\$180.00	15	\$180.00		\$180.00	100.0%	\$0.00
	89.	Signs	1	EA	500.00	\$500.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$500.00
H.		Drainage																
	90.	18" Diameter HDPE	1,648	LF	54.00	\$88,992.00		\$0.00	1346	\$72,684.00	1346	\$72,684.00	1346	\$72,684.00		\$72,684.00	81.7%	\$16,308.00
	91.	18" CMP FES	11	EA	475.00	\$5,225.00		\$0.00	4	\$1,900.00	4	\$1,900.00	4	\$1,900.00		\$1,900.00	36.4%	\$3,325.00
	92.	24" Diameter HDPE	426	LF	71.50	\$30,459.00		\$0.00	186	\$13,299.00	186	\$13,299.00	186	\$13,299.00		\$13,299.00	43.7%	\$17,160.00
	93.	24" CMP FES	10	EA	658.00	\$6,580.00		\$0.00	4	\$2,632.00	4	\$2,632.00	4	\$2,632.00		\$2,632.00	40.0%	\$3,948.00
	94.	36" Diameter HDPE	4	LF	122.00	\$488.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$488.00
	95.	36" CMP FES	5	EA	1,250.00	\$6,250.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$6,250.00
	96.	RCP 18"	2,538	LF	65.00	\$164,970.00		\$0.00	533	\$34,645.00	533	\$34,645.00	533	\$34,645.00		\$34,645.00	21.0%	\$130,325.00
	97.	RCP 18" FES	1	EA	1,260.00	\$1,260.00		\$0.00	1	\$1,260.00	1	\$1,260.00	2	\$2,520.00		\$1,260.00	100.0%	\$0.00
	98.	RCP 24"	827	LF	85.00	\$70,295.00		\$0.00	139	\$11,815.00	139	\$11,815.00	139	\$11,815.00		\$11,815.00	16.8%	\$58,480.00
	99.	RCP 24" FES	6	EA	1,615.00	\$9,690.00		\$0.00	3	\$4,845.00	3	\$4,845.00	3	\$4,845.00		\$4,845.00	50.0%	\$4,845.00
	100.	RCP 36"	234	LF	155.00	\$36,270.00		\$0.00	168	\$26,040.00	168	\$26,040.00	168	\$26,040.00		\$26,040.00	71.8%	\$10,230.00
	101.	RCP 36" FES	5	EA	2,593.00	\$12,965.00		\$0.00	2	\$5,186.00	2	\$5,186.00	2	\$5,186.00		\$5,186.00	40.0%	\$7,779.00
	102.	2'x2' Area Inlet	4	EA	2,585.00	\$10,340.00	1	\$2,585.00		\$0.00	1	\$2,585.00	1	\$2,585.00		\$2,585.00	25.0%	\$7,755.00
	103.	3'x3' Area Inlet (Type C)	16	EA	3,765.00	\$60,240.00	2	\$7,530.00	7	\$26,355.00	9	\$33,885.00	9	\$33,885.00		\$33,885.00	56.3%	\$26,355.00
	104.	2'x3' Curb Inlet	42	EA	3,305.00	\$138,810.00	4	\$13,220.00	7	\$23,135.00	11	\$36,355.00	11	\$36,355.00		\$36,355.00	26.2%	\$102,455.00
	105.	2'x3' Valley Grate	1	EA	3,010.00	\$3,010.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$3,010.00
	106.	Encase in concrete at water crossing	2	EA	725.00	\$1,450.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$1,450.00
	107.	4' Diameter Standard Manhole	3	EA	3,450.00	\$10,350.00	2	\$6,900.00	1	\$3,450.00	3	\$10,350.00	3	\$10,350.00		\$10,350.00	100.0%	\$0.00
	108.	5' Diameter Standard Manhole	1	EA	4,500.00	\$4,500.00	1	\$4,500.00		\$0.00	1	\$4,500.00	1	\$4,500.00		\$4,500.00	100.0%	\$0.00
	109.	24' FES w/ headwall/grate	1	EA	4,750.00	\$4,750.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$4,750.00
	110.	Debris Flow Outlet Structure	1	EA	11,250.00	\$11,250.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$11,250.00
	111.	Riprap Outlet D/C9.05	7	EA	4,150.00	\$29,050.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$29,050.00
	112.	Pond 1A - All Inclusive	1	EA	28,000.00	\$28,000.00	0.06	\$1,750.00		\$0.00	0.06	\$1,750.00	0.06	\$1,750.00		\$1,750.00	6.3%	\$26,250.00
	113.	Pond 1B - All Inclusive	1	EA	26,000.00	\$26,000.00	0.07	\$1,750.00		\$0.00	0.07	\$1,750.00	0.07	\$1,750.00		\$1,750.00	6.7%	\$24,250.00
	114.	Pond 1D - All Inclusive	1	EA	21,500.00	\$21,500.00	0.08	\$1,750.00		\$0.00	0.08	\$1,750.00	0.08	\$1,750.00		\$1,750.00	8.1%	\$19,750.00
	115.	Road Cut	2	EA	5,550.00	\$11,100.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$11,100.00
	116.	Turf Reinforcement Mat (TRM)	406	SY	5.50	\$2,233.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$2,233.00
I.		Sediment and Erosion Control																
	117.	Erosion Log Inlet Protection	5	EA	120.00	\$600.00	2	\$240.00		\$0.00	2	\$240.00	2	\$240.00		\$240.00	40.0%	\$360.00
	118.	Beaver Dam Curb Inlet Protection	4	EA	175.00	\$700.00	2	\$350.00		\$0.00	2	\$350.00	2	\$350.00		\$350.00	50.0%	\$350.00
	119.	Silt Fence &/or Straw Wattle (5800 LF)	9,300	LF	1.85	\$17,205.00	9300	\$17,205.00		\$0.00	9300	\$17,205.00	9300	\$17,205.00		\$17,205.00	100.0%	\$0.00
	120.	Ditch Straw Wattle	2	EA	150.00	\$300.00	2	\$300.00		\$0.00	2	\$300.00	2	\$300.00		\$300.00	100.0%	\$0.00
	121.	Stabilized Construction Entrance (A/9.09)	4	EA	2,350.00	\$9,400.00	2	\$4,700.00		\$0.00	2	\$4,700.00	2	\$4,700.00		\$4,700.00	50.0%	\$4,700.00
	122.	Temp Sediment Trap Riser	3	EA	375.00	\$1,125.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$1,125.00
	123.	Temp Stone Outlet E/C9.09	6	EA	565.00	\$3,390.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$3,390.00
	124.	Landlok 450 TRM or Approved Equal	964	LF	14.00	\$13,496.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$13,496.00
	125.	Stormwater System Clean UP	1	EA	7,250.00	\$7,250.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$7,250.00

Progress Estimate - Unit Price Work

Contractor's Application

For (Contract):														Application Number: 2				
Application Period:														Application Date: 1/23/2020				
A						B		C	D	E	F	G	H	I	J	K	L	
Item			Contract Information				Total Quantity Installed and Accepted	Value of Work Installed and Accepted to Date	Total Quantity Installed and Not Accepted	Value of Work Installed and Not Accepted to Date	Total Quantity Installed	Value of Work Installed to Date	Total Quantity Installed per Contractor's Pay App	Value of Work Installed to Date per Contractor's Pay App	Materials Presently Stored (not in C)	Total Completed and Stored to Date (D + E)	% (F / B)	Balance to Finish (B - F)
Bid Item No.	Description		Item Quantity	Units	Unit Price	Total Value Item (\$)												
J.		Water																
	126.	Connect to Existing 12" DIP Main	2	EA	3,250.00	\$6,500.00	1	\$3,250.00		\$0.00	1	\$3,250.00	1	\$3,250.00		\$3,250.00	50.0%	\$3,250.00
	127.	12" DIP	5,015	LF	94.00	\$471,410.00	4,841	\$455,054.00		\$0.00	4841	\$455,054.00	4841	\$455,054.00		\$455,054.00	96.5%	\$16,356.00
	128.	Fire Hydrant Assembly	11	EA	6,100.00	\$67,100.00	9	\$54,900.00		\$0.00	9	\$54,900.00	9	\$54,900.00		\$54,900.00	81.8%	\$12,200.00
	129.	8" Gate Valves	4	EA	2,015.00	\$8,060.00	4	\$8,060.00		\$0.00	4	\$8,060.00	4	\$8,060.00		\$8,060.00	100.0%	\$0.00
	130.	12" Gate Valves	27	EA	3,260.00	\$88,020.00	27	\$88,020.00		\$0.00	27	\$88,020.00	27	\$88,020.00		\$88,020.00	100.0%	\$0.00
	131.	Water Service (Single Family), 1" Type K Copper w/ curb stop (55 EA)	2,066	LF	40.00	\$82,640.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$82,640.00
	132.	Air Release Valve	4	EA	6,400.00	\$25,600.00	4	\$25,600.00		\$0.00	4	\$25,600.00	4	\$25,600.00		\$25,600.00	100.0%	\$0.00
	133.	Install Horizontal Thrust Block	13	EA	235.00	\$3,055.00	13	\$3,055.00		\$0.00	13	\$3,055.00	13	\$3,055.00		\$3,055.00	100.0%	\$0.00
	134.	Temp. Blowoff Valve & Stub	8	EA	900.00	\$7,200.00	8	\$7,200.00		\$0.00	8	\$7,200.00	8	\$7,200.00		\$7,200.00	100.0%	\$0.00
	135.	Insulate Water Main	1	EA	385.00	\$385.00	1	\$385.00		\$0.00	1	\$385.00	1	\$385.00		\$385.00	100.0%	\$0.00
	136.	Wetland Plant and Soil Material - Remove, Stockpile & Replace (1' Deep)	150	CY	25.00	\$3,750.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$3,750.00
	137.	Export Unsuitable Trench Material (Cost/100 LF of Trench)	440	CY	4.00	\$1,760.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$1,760.00
	138.	Import Select Trench Backfill (Cost/100 LF of Trench)	440	CY	16.00	\$7,040.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$7,040.00
	139.	Dewatering	20	DAY	1,500.00	\$30,000.00		\$0.00		\$0.00	0	\$0.00	0	\$0.00		\$0.00		\$30,000.00
K.		Sewer																
	140.	Connect to Existing	1	EA	4,500.00	\$4,500.00	1	\$4,500.00		\$0.00	1	\$4,500.00	1	\$4,500.00		\$4,500.00	100.0%	\$0.00
	141.	8" PVC SDR35	1,909	LF	57.00	\$108,813.00	247	\$14,079.00	1,662	\$94,734.00	1909	\$108,813.00	1909	\$108,813.00		\$108,813.00	100.0%	\$0.00
	142.	12" PVC SDR35	2,691	LF	69.00	\$185,679.00	377	\$26,013.00	2,314	\$159,666.00	2691	\$185,679.00	2691	\$185,679.00		\$185,679.00	100.0%	\$0.00
	143.	18" PVC SDR36	83	LF	120.00	\$9,960.00	83	\$9,960.00		\$0.00	83	\$9,960.00	83	\$9,960.00		\$9,960.00	100.0%	\$0.00
	144.	6" PVC SDR35 Service (3 EA)	198	LF	38.00	\$7,524.00		\$0.00	198	\$7,524.00	198	\$7,524.00	198	\$7,524.00		\$7,524.00	100.0%	\$0.00
	145.	4" PVC SDR35 Service (25 EA)	398	LF	36.00	\$14,328.00		\$0.00	398	\$14,328.00	398	\$14,328.00	398	\$14,328.00		\$14,328.00	100.0%	\$0.00
	146.	5' Diameter Standard Manhole	3	EA	7,850.00	\$23,550.00	3	\$23,550.00		\$0.00	3	\$23,550.00	3	\$23,550.00		\$23,550.00	100.0%	\$0.00
	147.	4' Diameter Standard Manhole	25	EA	5,285.00	\$132,125.00	25	\$132,125.00		\$0.00	25	\$132,125.00	25	\$132,125.00		\$132,125.00	100.0%	\$0.00
	148.	Export Unsuitable Trench Material (Cost/100 LF of Trench)	210	CY	4.00	\$840.00	210	\$840.00		\$0.00	210	\$840.00	210	\$840.00		\$840.00	100.0%	\$0.00
	149.	Import Select Trench Backfill (Cost/100 LF of Trench)	210	CY	16.00	\$3,360.00	210	\$3,360.00		\$0.00	210	\$3,360.00	210	\$3,360.00		\$3,360.00	100.0%	\$0.00
	150.	Dewatering	20	DAY	1,500.00	\$30,000.00	20	\$30,000.00		\$0.00	20	\$30,000.00	20	\$30,000.00		\$30,000.00	100.0%	\$0.00
L.		Non-Potable Irrigation System																
	151.	Irrigation	1	LS	324,317.00	\$324,317.00					0	\$0.00	0	\$0.00		\$0.00		\$324,317.00
M.		Landscaping																
	152.	Landscaping	1	LS	195,259.00	\$195,259.00					0	\$0.00		\$0.00		\$0.00		\$195,259.00
		Totals				\$5,553,729.92		\$2,091,421.95		\$503,498.00		\$2,594,919.95		\$2,596,179.95	\$0.00	\$2,594,919.95	46.7%	\$2,958,809.97



To: Mayor and Board of Trustees

From: Brandy Reitter, Town Manager

Date: January 28, 2020

Re: Town Manager Report and COVID-19 Update

Because of the COVID-19 public health crisis staff has spent most of our time dedicated to emergency preparedness since the meeting on March 10. The STR and stormwater management enterprise policies will be presented at the next meeting on April 14. Since most of my time has been focused on COVID-19 I am dedicating my report to the efforts that have taken place and the plan moving forward.

Town of Eagle COVID-19 Summary and Update

Since March 11, 2020 the Town of Eagle has prioritized making operational changes in response to COVID-19. All non-essential functions and tasks have been delayed, while prioritizing the items that staff needed to put in place to respond to public health orders. After observing what was occurring around the country the last two weeks, the organization took a proactive approach to begin the daunting task of preparing to work from home and limit public interactions. In this memo, staff has outlined the steps taken to respond and the approach the departments are taking. Each department is either categorized as essential/non-essential. Regardless of category, town will attempt to provide a limited level of service, to the extent possible during the transition.

Operational Planning & Steps

- March 13, 2020 – IT staff was deployed to begin the process of setting everyone up to work from home by Tuesday. This included migrating servers and files, forwarding phones, assigning equipment to the team who didn't have computers at home, and setting up remote desktops.
- March 14, 2020 – Public Works and Police identified essential staff and operations and developed an operating staffing plan to support social distancing while providing critical 24/7 operations.
- March 15, 2020 - Mayor Anne McKibbin executed an Emergency Declaration and the Town of Eagle issued a press release indicating TOE's COVID-19 response.
- March 16, 2020 – Staff began the process of identifying meeting software to assist with public meetings and preparing the team to start the process of working from home.
- March 17, 2020 – All town facilities were closed to the public, with meetings being done by appointment only. Planning & Zoning Commission was cancelled, and files will be noticed for April 21. The leadership team met to discuss next steps and contingency planning through the end of April.
- March 18, 2020 – Staffing, operational and contingency plans were successfully executed for all departments.

- March 19, 2020 – The Board of Trustees held an emergency meeting to ratify the emergency declaration and approve policy changes to support the COVID-19 changes.

Community Development Operational Changes (Non-Essential Services)

- Development and building permits/plans are being submitted online only. Payments will be taken online or in the utility billing drop box.
- Plans will be delivered to applicants in the town hall parking lot by appointment only. Inspections will continue but with social distancing on site.
- Unless code enforcement is a health/life safety issue, the response is postponed.
- Land Use hearings will move forward but with the consent of the applicant for electronic meetings. Planning and Zoning Commission training is scheduled for March 31 remotely.
- The response time for the department is 1 – 3 business days.
- All long-range planning has been delayed until future notice – this is mainly a result of having to adjust the 2020 budget.

Public Works (Essential Services)

- Water and Wastewater operators are on staggered shifts to encourage social distancing for monitoring and compliance of utility operations. No more than one employee at a time.
- Utility staff is partnering with the Eagle River Water and Sanitation District and their Incident Command Team to help the Town of Eagle with emergency response issues.
- Buildings and grounds staff are on call to respond to emergencies only. They are not sanitizing playground equipment because of staffing resources. Public restrooms are closed. Maintenance continues but only one employee at a time in a facility, i.e. painting, cleaning.
- Streets and mechanic staff are on call to respond to plowing or any emergency repairs. Maintenance is done on a limited basis with only one employee at a time on jobs.
- Permits are still being process electronically and inspections continue with appropriate social distancing.
- Engineering services and project management continues to move forward. Utility projects move forward, but town has delayed general fund projects.
- The LBWTP is on hold based on correspondence the town received from MWH that was shared with the BOT and staff.

Police (Essential)

- Patrol staff are taking precautions to practice social distancing in responding to calls and working together.
- The department is responding to calls via phone and email and has prioritized calls that involved have serious life safety risks, i.e. domestics
- Reports are taken over the phone and staff has suspended VIN checks and other non-essential duties.
- The department continues to focus on mental health as a result of the COVID-19 crisis.
- The Chief participates in the EOC communications and gives regular updates to town leadership.

Administration & Finance (Essential)

Clerk & Court

- Staff continues to process marijuana, liquor and business licenses with no delays.
- Elections are coming up and staff has a solid plan. Ballots are being mailed and dropped off in the utility bill drop box. Election judges are in place and will begin pre-sorting once town receives enough ballots to warrant. Election staff will utilize the council chambers and will be able to process ballots in 2 days including election day. Social distancing will be a priority. On election day, citizens will use the drop box outside and staff will collect ballots from boxes until the polls close. Gloves and cleaning supplies will be utilized in addition to social distancing.
- Court has been delayed until June. Court staff continues to process summons, court documents, and communicates with customers through this transition.

Human Resources

- Staff continues to coordinate emergency benefits and risk management associated with COVID-19, the volume has increased substantially because of COVID-19. HR continues coordinating with IT on access to technology during this transition for employees.
- For positions that are high priority, HR is coordinating with candidates who have been hired and need to be onboarded. Screening and interview processes continue for the Community Development Director.
- HR is tracking the ever-changing labor legislation coming from the federal and state governments to ensure that the Town of Eagle is compliant during the transition.
- HR continues to address employee issues and regularly communicates with the organization on benefits, compliance, and risk mitigation.

Events & Info Center

- The town has closed the info center and staff will be paid for the duration.
- Staff is looking at making an announcement early next week on delaying events through the end of May. Vail has done the same thing and town will likely model the same policy.
- The re-branding effort and grant provided by the CTO is delayed until the town can have public meetings again.

Finance and Utility Billing

- Staff is processing payroll, a/p, and billing remotely. Facility rentals have been cancelled through April 8 and will look to extend that policy through the end of May. Town has refunded customers money and waived cancellation fees.
- The town will waive all late fees associated with utility billing payments. If citizens delay making utility billing payments, town will not penalize them for doing so.
- Staff is still preparing for the audit and will do the best possible to get the audit completed by June. However, the town might need to ask for an extension. The state is allowing extra time.
- Staff is preparing a proposal to adjust the 2020 budget, that staff will present this on April 14.
- Staff continues to process the backlog of Use Tax refunds to issue to applicants. This process should be completed by the end of March or early April.

Town Manager

- Most of the effort has been dedicated to responding to the COVID-19 emergency. Seventy percent of the time over the last 2 weeks has been preparing the organization and governing bodies to make significant adjustments to operations.
- Communication efforts have increased to ensure that the organization, governing bodies, and regional partners are aware of the TOE's response, as well as dissemination information back to the organization.
- Staff will work over the next several days to implement public health orders by Eagle County and the State of Colorado.
- Focus will shift to FEMA tracking and compliance as a result of COVID-19 so that the town can take advantage of any financial losses over the next coming weeks.
- Staff is working to connecting business to resources when they reach out in addition to coordinating the communication and outreach strategy.
- Management continues to provide department head level support to the community development staff. This takes up the remaining bandwidth but continues to be necessary to move the development along, keep morale up, provide direction, and establish priorities for the department.
- Now that the organization is physically and legally set up for remote operations, staff will step up external communication efforts. The Communication Committee has set up daily briefings at 10 AM starting next week to begin to implement COVID-19 communication strategies.
- The Town of Eagle will set up a weekly electronic town hall meeting where citizens can interface with their town government. The purposed is to hear from the community, see how we are doing, and to answer questions anyone has. It's lonely out there.

The Town of Eagle will continue to be impacted by COVID-19 over the next several weeks and months. Listed below are the challenges the town will face:

- Staffing levels will be impacted because our team members might get sick. The town has already experience abnormally high cold and flu cases since January. This could continue because of COVID-19. While the administration encourages the use of sick leave, it does impact the ability to provide services.
- The Town of Eagle will experience negative financial impacts due to the public health orders that were announced by the county and state. Every month that the public is order stay home and businesses remain closed, this will result in dramatic reductions to town revenues.
- Uncertainty is a challenge. Public health officials have no idea how long the COVID-19 crisis will last in the United States. The public should prepare for this holding pattern to exist for 4 – 12 weeks, if not longer.
- Operational effectiveness and levels of services are not at the level that the public expects. Town can only provide for a level of service that aligns with the resources that are available. Due to social distancing, school closures, sick leave, and reduction in financial resources, this will impact the town's ability to provide a level of service that the community is used to or that staff is proud of.

- Adjustments that are required for the 2020 budget will result in putting strategic priorities on the back burner.

In conclusion, this event continues to put a strain on operations. The staff has done a wonderful job with the coordination of this massive undertaking in a matter of days. As always, town still moves along, and the workloads remain the same. I can assure you that none of the staff are experiencing a staycation. They are working very hard to maintain a continuity of operations. The staff appreciates the support by the board, partners and the community.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Brandy Reitter".

Brandy Reitter
Town Manager



To: Mayor and Town Board of Trustees

From: Jenny Rakow, Town Clerk

Date: March 24, 2020

Agenda Item: PUBLIC HEARING - LIQUOR LICENSE AUTHORITY

Modification of Premises/Addition of Sidewalk Service Area for Katch of the Day LLC; Address: 228 Broadway, Eagle, CO

REQUEST: The Town Board, acting as the Liquor License Authority, is requested to review and consider approval of a Modification of Premises, adding a sidewalk service area to Katch of the Day LLC located at 228 Broadway.

BACKGROUND: This application was received on December 12, 2019 and the reviews and subsequent findings of completion and approval have been performed by town staff. Applicant has met all conditions for approval pursuant to Colorado Liquor Code, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-202(2)(a)(I)(D), C.R.S. and Eagle Municipal Code Chapter 5.06. - Sales within the Public Rights-of-Way and on other Public Property and Section 9.28.070. - Encroachments. Encroachment Permits are subject to all rules and regulations as established by the Town of Eagle's Municipal Code and the signed Encroachment License Agreement.

Unique conditions for the permit include: required minimum 10 foot access for public use of the sidewalk, liquor control signage and marking for customers to keep alcohol within the licensed area and removal of signage while business is closed.

ANALYSIS: As part of the review process, staff reviews applications using Colorado Revised Statutes and the Eagle Municipal Code as the guide for requirements. The Town Clerk, Eagle Police and Community Development have reviewed this application and have accepted and submitted the application to the Liquor License Authority based upon these requirements.

In 2019 the Colorado Department of Revenue Liquor Enforcement Division allowed a new modification for businesses that have public property located adjacent with public property that forms a contiguous area to their licensed premises. This will be the first "sidewalk service area" application the Town has processed.

The annual fee for a sidewalk service area is \$75 and will be part of their annual state renewal, which also prompts a local review.

In addition to the modification, the applicant was required to obtain an Encroachment Agreement and Permit allowing use of public property. The Encroachment License Agreement and Permit were both approved by the applicant and Planning Department. These documents are required for the modification and are included to show the complete application to the Authority. While the Town Board does not approve Encroachment Permits, feedback is welcome.

COMMUNITY INPUT: This is a public hearing and should be opened for public comment.

BUDGET / STAFF IMPACT: There was no budget impact, application reviews are part of normal staff operations. There is no anticipated impacts on the public property, as the applicant will be responsible for the upkeep. The Encroachment

Permit fee is \$250.00.

STRATEGIC PLAN ALIGNMENT / STANDARDS ACHIEVED: There is no direct strategic plan alignment, however, the approval process allows the town to meet the business values of protecting public health, safety, and the environment and intends to support economic development.

RECOMMENDED ACTION OR PROPOSED MOTION: PROPOSED MOTION: APPROVE OR DENY the Findings and Order Approving a Modification of Premises for a sidewalk service area for Katch of the Day LLC located at 228 Broadway.

ATTACHMENTS:

1. 2020 MODIFICATION STATE APPLICATION
2. NOTICE OF FINDINGS AND ORDER - KATCH MODIFICATION

Permit Application and Report of Changes

Current License Number 03-12167
All Answers Must Be Printed in Black Ink or Typewritten
Local License Fee \$ 75.00

1. Applicant is a		Present License Number
☐ Corporation ☐ Individual ☐ Partnership ☒ Limited Liability Company		03-12167
2. Name of Licensee Katch of the Day LLC	3. Trade Name Katch of the Day	
4. Location Address 228 Broadway Street		
City Eagle	County Eagle	ZIP 81631

SELECT THE APPROPRIATE SECTION BELOW AND PROCEED TO THE INSTRUCTIONS ON PAGE 2.

Section A – Manager reg/change	Section C
• License Account No. _____ ☐ Manager's Registration (Hotel & Restr.) \$75.00 ☐ Manager's Registration (Tavern) \$75.00 ☐ Manager's Registration (Lodging & Entertainment) \$75.00 ☐ Change of Manager (Other Licenses pursuant to section 44-3-301(8), C.R.S.) NO FEE	☐ Retail Warehouse Storage Permit (ea) \$100.00 ☐ Wholesale Branch House Permit (ea) 100.00 ☐ Change Corp. or Trade Name Permit (ea) 50.00 ☐ Change Location Permit (ea) 150.00 ☒ Change, Alter or Modify Premises \$150.00 x <u>E</u> Total Fee <u>\$150.00</u> ☒ Addition of Optional Premises to Existing H/R \$100.00 x _____ Total Fee _____ ☐ Addition of Related Facility to an Existing Resort or Campus Liquor Complex \$160.00 x _____ Total Fee _____ ☐ Campus Liquor Complex Designation No Fee ☒ Sidewalk Service Area \$75.00
Section B – Duplicate License	
• Liquor License No. _____ ☐ Duplicate License \$50.00	

Do Not Write in This Space – For Department of Revenue Use Only

Date License Issued	License Account Number	Period
TOTAL AMOUNT DUE		\$.00

The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.

Instruction Sheet

For All Sections, Complete Questions 1-4 Located on Page 1

☐ **Section A**

To Register or Change Managers, check the appropriate box in section A and complete question 8 on page 5. Proceed to the Oath of Applicant for signature. Submit to State Licensing Authority for approval.

☐ **Section B**

For a Duplicate license, be sure to include the liquor license number in section B on page 1 and proceed to page 5 for Oath of Applicant signature.

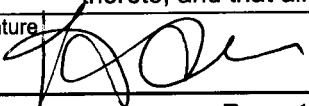
☒ **Section C**

Check the appropriate box in section C and proceed below.

- 1) **For a Retail Warehouse Storage Permit**, go to page 3 complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 2) **For a Wholesale Branch House Permit**, go to page 3 and complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 3) **To Change Trade Name or Corporation Name**, go to page 3 and complete question 6 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 4) **To modify Premise, or add Sidewalk Service Area**, go to page 4 and complete question 9. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 5) **For Optional Premises** go to page 4 and complete question 9. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County).
- 6) **To Change Location**, go to page 3 and complete question 7. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 7) **Campus Liquor Complex Designation**, go to page 4 and complete question 10. Submit the necessary information and proceed to page 5 for Oath of Applicant signature.
- 8) **To add another Related Facility** to an existing Resort or Campus Liquor Complex, go to page 4 and complete question 11.

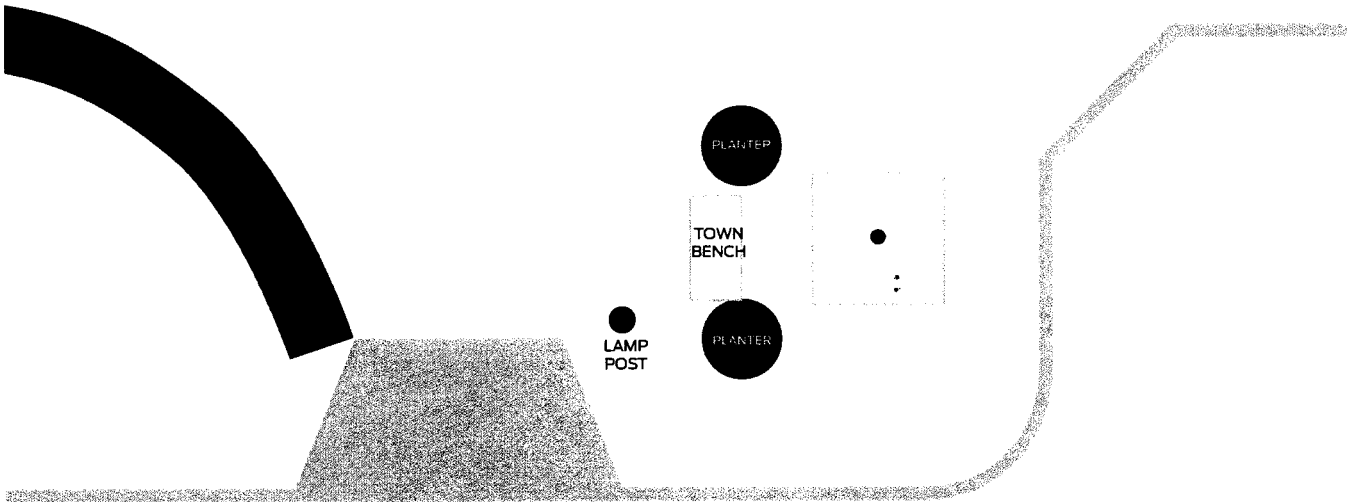
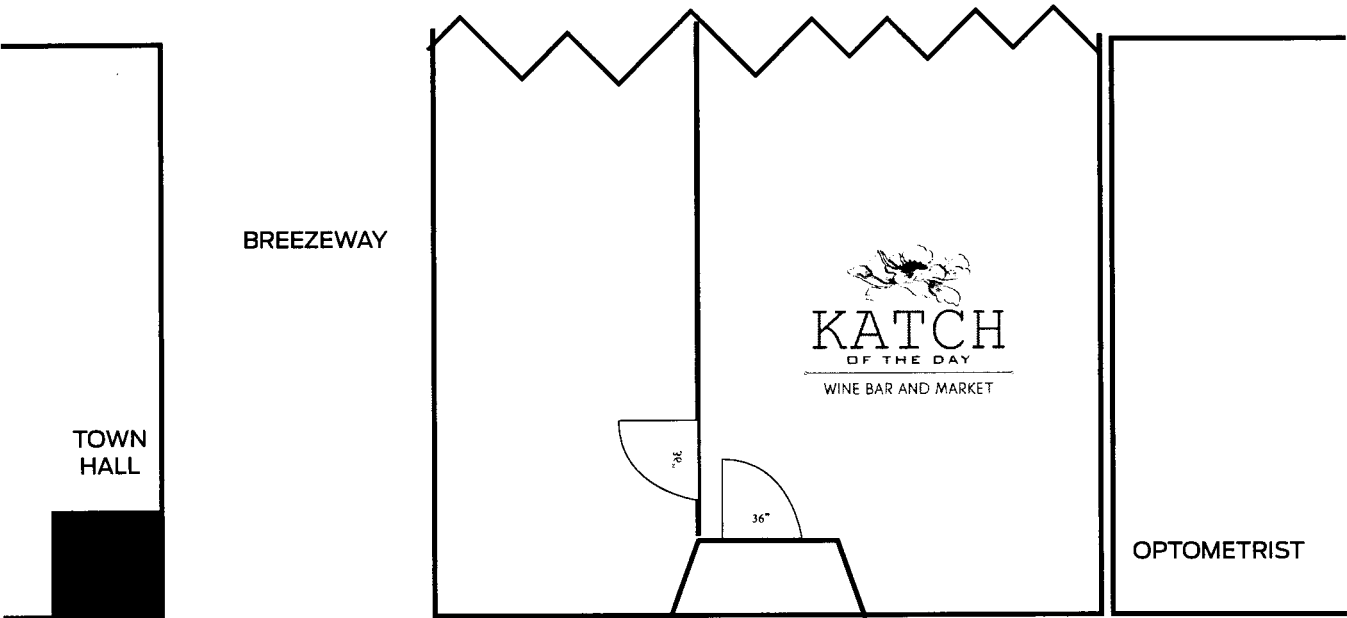
Storage Permit	5. Retail Warehouse Storage Permit or a Wholesalers Branch House Permit ☐ Retail Warehouse Permit for: ☐ On-Premises Licensee (Taverns, Restaurants etc.) ☐ Off-Premises Licensee (Liquor stores) ☐ Wholesalers Branch House Permit Address of storage premise: _____ City _____, County _____, Zip _____ Attach a deed/ lease or rental agreement for the storage premises. Attach a detailed diagram of the storage premises.				
Change Trade Name or Corporate Name	6. Change of Trade Name or Corporation Name ☐ Change of Trade name / DBA only ☐ Corporate Name Change (Attach the following supporting documents) 1. Certificate of Amendment filed with the Secretary of State, or 2. Statement of Change filed with the Secretary of State, <u>and</u> 3. Minutes of Corporate meeting, Limited Liability Members meeting, Partnership agreement. <table border="1" style="width: 100%;"> <tr> <td style="width: 50%;">Old Trade Name</td> <td style="width: 50%;">New Trade Name</td> </tr> <tr> <td>Old Corporate Name</td> <td>New Corporate Name</td> </tr> </table>	Old Trade Name	New Trade Name	Old Corporate Name	New Corporate Name
Old Trade Name	New Trade Name				
Old Corporate Name	New Corporate Name				
Change of Location	7. Change of Location NOTE TO RETAIL LICENSEES: An application to change location has a local application fee of \$750 payable to your local licensing authority. You may only change location within the same jurisdiction as the original license that was issued. Pursuant to 44-3-311(1) C.R.S. Your application must be on file with the local authority thirty (30) days before a public hearing can be held. Date filed with Local Authority _____ Date of Hearing _____ (a) Address of current premises _____ City _____ County _____ Zip _____ (b) Address of proposed New Premises (Attach copy of the deed or lease that establishes possession of the premises by the licensee) Address _____ City _____ County _____ Zip _____ (c) New mailing address if applicable. Address _____ City _____ County _____ State _____ Zip _____ (d) Attach detailed diagram of the premises showing where the alcohol beverages will be stored, served, possessed or consumed. Include kitchen area(s) for hotel and restaurants.				

Change of Manager	8. Change of Manager or to Register the Manager of a Tavern, Hotel and Restaurant, Lodging & Entertainment liquor license or licenses pursuant to section 44-3-301(8). (a) Change of Manager (attach Individual History DR 8404-I H/R, Tavern and Lodging & Entertainment only) Former manager's name _____ New manager's name _____ (b) Date of Employment _____ Has manager ever managed a liquor licensed establishment? Yes ☐ No ☐ Does manager have a financial interest in any other liquor licensed establishment? Yes ☐ No ☐ If yes, give name and location of establishment _____
Modify Premises or Addition of Optional Premises, Related Facility, or Sidewalk Service Area	9. Modification of Premises, Addition of an Optional Premises, Addition of Related Facility, or Addition of a Sidewalk Service Area NOTE: Licensees may not modify or add to their licensed premises until approved by state and local authorities. (a) Describe change proposed <u>Adding outdoor patio space in front of building</u> _____ _____ (b) If the modification is temporary, when will the proposed change: Start _____ (mo/day/year) End _____ (mo/day/year) NOTE: THE TOTAL STATE FEE FOR TEMPORARY MODIFICATION IS \$300.00 (c) Will the proposed change result in the licensed premises now being located within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary? (If yes, explain in detail and describe any exemptions that apply) Yes ☐ No ☒ (d) Is the proposed change in compliance with local building and zoning laws? Yes ☒ No ☐ (e) If this modification is for an additional Hotel and Restaurant Optional Premises has the local authority authorized by resolution or ordinance the issuance of optional premises? <u>N/A</u> Yes ☒ No ☐ (f) Attach a diagram of the current licensed premises and a diagram of the proposed changes for the licensed premises. (g) Attach any existing lease that is revised due to the modification. (h) For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), include documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.
Campus Liquor Complex Designation	10. Campus Liquor Complex Designation An institution of higher education or a person who contracts with the institution to provide food services (a) I wish to designate my existing _____ Liquor License # _____ to a Campus Liquor Complex Yes ☐ No ☐
Additional Related Facility	11. Additional Related Facility To add a Related Facility to an existing Resort or Campus Liquor Complex, include the name of the Related Facility and include the address and an outlined drawing of the Related Facility Premises. (a) Address of Related Facility _____ (b) Outlined diagram provided Yes ☐ No ☐

Oath of Applicant		
I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge		
Signature 	Title owner	Date 12/12/19
Report and Approval of LOCAL Licensing Authority (CITY / COUNTY)		
The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 44, Articles 4 and 3, C.R.S., as amended. Therefore, This Application is Approved.		
Local Licensing Authority (City or County) Town of Eagle		Date filed with Local Authority December 12, 2019
Signature	Title	Date
Report of STATE Licensing Authority		
The foregoing has been examined and complies with the filing requirements of Title 44, Article 3, C.R.S., as amended.		
Signature	Title	Date

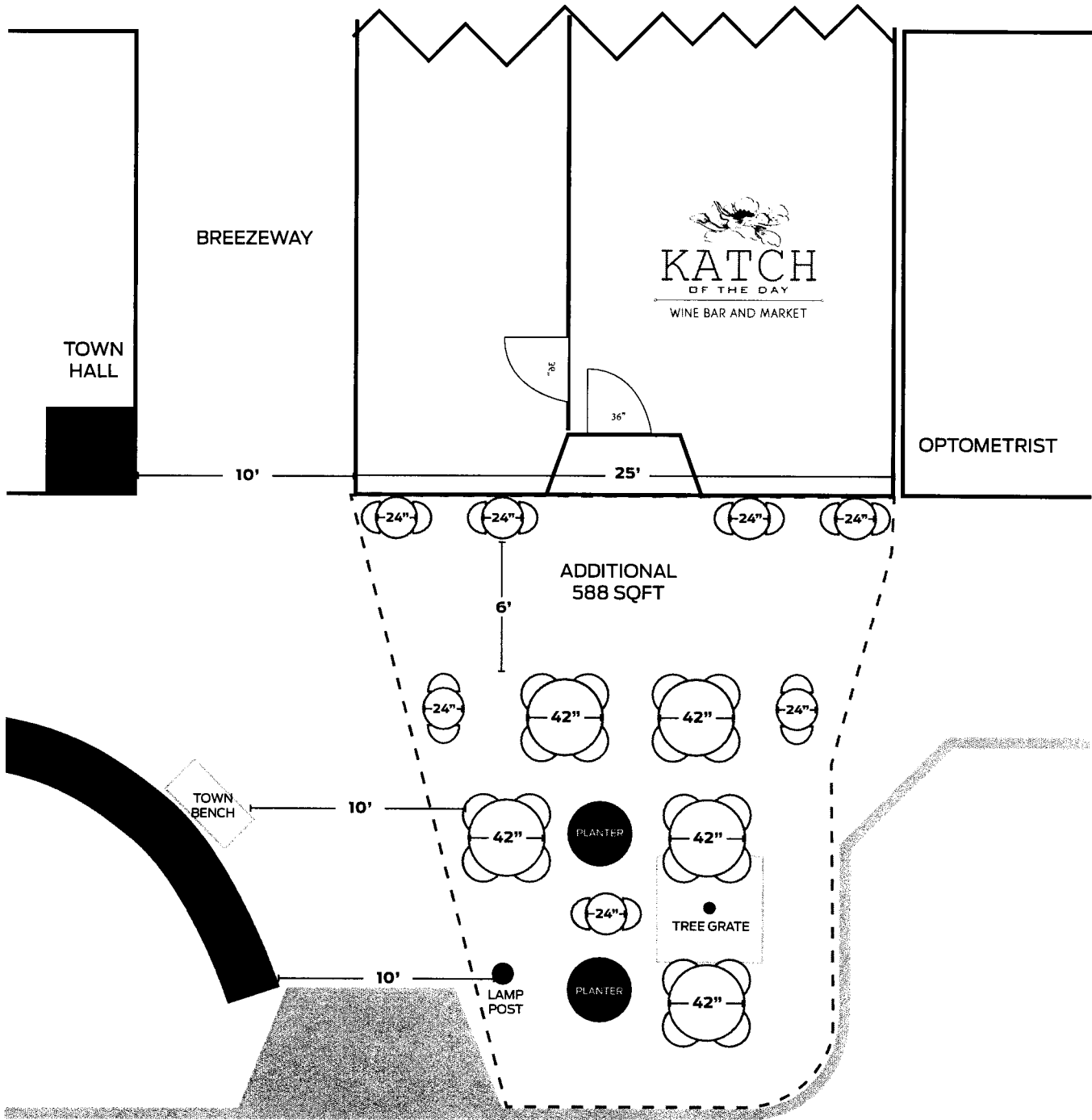
228 BROADWAY, EAGLE CO 81631
FRONT PATIO PLANS

CURRENT



228 BROADWAY, EAGLE CO 81631
FRONT PATIO PLANS

PROSPECTIVE





BEFORE THE TOWN OF EAGLE LIQUOR LICENSING AUTHORITY

200 BROADWAY
PO BOX 609
EAGLE CO 81631

FINDINGS AND ORDER APPROVING MODIFICATION OF LICENSED PREMISES

IN THE MATTER OF

Modification of Premises/Addition of Sidewalk Service Area
Katch of the Day LLC
Address: 228 Broadway, Eagle, CO

Having considered the application of Kathleen Conner Owner of Katch of the Day LLC for a Modification of Premises for an addition of a sidewalk service area, and all attachments submitted therewith (the "Application"), having held a public hearing on the Application on March 24, 2020 following due and proper notice, all in accordance with the Colorado Liquor Code, 44-3-202(1)(b), 44-3-202(2)(a)(I)(A), and 44-3-202(2)(a)(I)(D), C.R.S. and having considered all relevant and competence evidence admitted at the said public hearing, the Local Licensing Authority FINDS THE PROPOSED MODIFICATION WILL MEET THE FOLLOWING:

1. The reasonable requirements of the neighborhood and desires of the adult inhabitants;
2. The licensee will have possession of the premises with an Encroachment Agreement.
3. The proposed modification is in compliance with the applicable zoning laws of the Town of Eagle;
4. The proposed modification protects the economic and social welfare and the health, peace, and morals of the people.
5. Plans and specifications identifying the area accompany the form and fee.
6. The proposed temporary outside service area located on a sidewalk is immediately adjacent to the licensed premises;
7. The licensed premises, as temporarily modified, will comprise a definite contiguous area; and
8. Plans and specifications identifying the temporary outside service area located on a sidewalk accompany the form and fee.

BASED UPON THE FOREGOING, THE LOCAL LICENSING AUTHORITY HEREBY ORDERS that the application of Kathleen Conner Owner of Katch of the Day LLC for a Modification of Premises for an addition of a sidewalk service area is hereby GRANTED.

DATED this 24th day of March 2020

LOCAL LIQUOR LICENSING AUTHORITY
TOWN OF EAGLE

Anne McKibbin, Chair

ATTEST:

Jenny Rakow, Town Clerk



To: Mayor and Board of Trustees

From: Brandy Reitter, Town Manager

Date: March 24, 2020

Agenda Item: Community Development Budget Request

REQUEST:

Staff requests that the Board of Trustees review a request to reallocate funds from the Capital Improvement Fund to pay for a vehicle that was order for Community Development.

INTRODUCTION:

In the 2020 budget development process the administration delayed the purchase of a vehicle for Community Development for the building official to 2021. The department leadership ordered the vehicle without verifying if they had funds in their budget to do so. By the time it was discovered the truck was order and it was too late to cancel the order. To remedy the situation, communication was given to the individuals involved and a process has been developed to prevent unbudgeted expenditures in the future. There is savings in a project that will not happen this year. The art wall was delayed due to the timing of the replacement of the Alpine Lumber shed. Staff is requesting to use those funds to cover the expense.

ANALYSIS:

The process put in place to prevent this from happening again:

- All CIP expenditures need budget verification clearance from finance prior to execution
- Departments will be held accountable for not tracking or understanding their budgets
- Finalize the fleet management program to improve tracking, budgeting, and maintenance

The community development truck costs \$27,324 and the budget for the art wall project was \$50,000. Once funds are reduced there will be \$22,676. The remaining funds will be swept and frozen to respond to the economic situation as a result of COVID-19.

As always, the administration will be open and honest with the BOT when there are errors that need to be remedied.

COMMUNITY INPUT:

None required.

BUDGET / STAFF IMPACT:

This request doesn't have an impact on the budget as staff has identified savings to cover the expenditure.

STRATEGIC PLAN ALIGNMENT/STANDARDS ACHIEVED:

This proposal doesn't align with any standards or strategic objectives. It is an administrative error that needs correction.

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to reallocate funds from the art wall project totaling \$27,324 to cover the vehicle purchase for community development. *(roll call vote)*

ATTACHMENTS:

- None



To: Mayor and Board of Trustees

From: Brandy Reitter, Town Manager

Date: March 24, 2020

Agenda Item: Mountain Recreation and Eagle County School District Proposal – Noon Ball
Program Change Request

REQUEST:

Staff requests that the Board of Trustees review a proposal to make programmatic and IGA changes regarding the cooperative use of public facilities between Mountain Recreation, School District and town.

INTRODUCTION:

The Town of Eagle is party to an IGA that was executed in July 1995 that established a partnership with the School District and Mountain Recreation in the construction of a shared gymnasium facility. The town participated financially in the construction of the facility in exchanged for shared community recreation uses. One of these uses is the noon ball program. At that time, there were no recreation facilities constructed in or near the Town of Eagle for recreational programming. Since then, changes to security in schools across the country have made public access to schools challenging. Mountain Recreation has also constructed recreation centers that can accommodate all types of recreational programs in Eagle and the valley. The School District and Mountain Recreation are presenting a proposal to the Board of Trustees to make changes to the noon ball program at the Eagle Valley Elementary School. Attached to this memo is the original IGA, an amendment, and letters from the staff and governing bodies for Mountain Recreation and the School District.

ANALYSIS:

Staff has provided a summary of the town's obligations in the 1995 IGA:

- The town paid \$431,040 for the construction of the gymnasium of which \$91,120 was PIF waivers.
- The school district granted non-exclusive use of the gym and facilities to the town and Mountain Recreation
- The priority of use includes (1) school district (2) Mountain Recreation/town (3) other community groups
- Mountain Recreation/town have very specific access timeframes that reflect when the gym will be made available
- The terms are for 50 years and town is at year 25 of the IGA

- The IGA indicates procedures for scheduling activities
- Supervision of activities are assigned to Mountain Recreation/town
- The School District is responsible for repairs and maintenance of the facility and utilities
- Upon the expiration of the useful life of the gym Mountain Recreation/town shall pay 25% of the cost to the school district for wear and tear

Mountain Recreation worked with the School District in 2019 to modernize the IGA and made updates. That document is attached to this memo.

COMMUNITY INPUT:

Community input was solicited by the boards for Mountain Recreation and the School District. Feedback was solicited by noon ball participants last year to negotiate usage and hours to make accommodations for the program. Communication regarding this proposal was sent to program participants prior to the BOT meeting.

BUDGET / STAFF IMPACT:

This request does have an impact on the budget. The School District is proposing to buy the town out of the IGA and move the program to Mountain Recreation facilities.

STRATEGIC PLAN ALIGNMENT/STANDARDS ACHIEVED:

This proposal doesn't align with any standards or strategic objectives. It is a request being made by community partners.

RECOMMENDED ACTION OR PROPOSED MOTION:

Give staff direction on the School District and Mountain Recreation's proposal. Feedback will result in an amendment to the IGA.

ATTACHMENTS:

- Letters from the Mountain Recreation and the school district
- July 1995 IGA
- March 2019 IGA

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE EAGLE COUNTY
SCHOOL DISTRICT RE-50J; AND THE TOWN OF EAGLE, COLORADO; AND THE
WESTERN EAGLE COUNTY METROPOLITAN RECREATION DISTRICT
CONCERNING THE CONSTRUCTION AND USE OF A SCHOOL GYMNASIUM
FACILITY.**

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into this 25th day of July, 1995, by and between the Eagle County School District Re-50J, a Colorado School District, acting by and through its Board of Education ("School District"); and the Town of Eagle, Colorado, a municipal corporation, by and through its Board of Trustees ("Town"); and the Western Eagle County Metropolitan Recreation District, a Colorado special district, by and through its Board of Directors ("Recreation District").

RECITALS

WHEREAS, the School District intends to construct an addition to the Eagle Valley Elementary School/Eagle Valley Middle School building; and

WHEREAS, the School District previously intended to construct a gymnasium consisting of approximately nine thousand square feet (9,000 sq. ft.) as part of such addition to the Eagle Valley Elementary School/Eagle Valley Middle School; and

WHEREAS, the Town and the Recreation District desire to share the use of such gymnasium with the School District for the purpose of providing community recreation, athletic and leisure activities and programs for the residents of the Town and the Recreation District; and

WHEREAS, the Town and the Recreation District believe the proposed gymnasium should be expanded to twelve thousand four hundred square feet (12,400 sq. ft.) for the purpose of permitting enhanced recreation, athletic and leisure activities for the benefit of elementary and middle school students as well as other members of the community; and

WHEREAS, the Town and the Recreation District are willing to pay the additional construction costs associated with expanding the gymnasium facility from nine thousand square feet (9,000 sq. ft.) to twelve thousand four hundred square feet (12,400 sq. ft.); and

WHEREAS, the School District, the Town and the Recreation District desire to cooperate with one another in the construction and use of the new gymnasium facility; and

WHEREAS, this Intergovernmental Agreement is authorized pursuant to Section 18, Article XIV of the Colorado Constitution, Section 29-1-203, C.R.S., Section 22-32-110(1)(f), C.R.S., and other applicable law.

NOW, THEREFORE, in consideration of the recitals stated above and the mutual covenants and promises of the parties hereto, the receipt and sufficiency of which is acknowledged, the School District, the Town, and the Recreation District agree as follows:

SECTION ONE CONSTRUCTION OF FACILITY

1.1 The School District shall construct a gymnasium facility, consisting of at least twelve thousand four hundred square feet (12,400 sq. ft.), as part of an addition to the Eagle Valley Elementary School/Eagle Valley Middle School building in accordance with plans and specifications approved by the parties. Such gymnasium shall be substantially completed no later than December 31, 1996.

1.2 The gymnasium shall include an entrance separate from the access to the remainder of the school building in order to permit the remainder of the school to be locked off from the gymnasium and related facilities. In addition, the gymnasium shall include adequate facilities for the storage of recreation equipment containing not less than two hundred square feet (200 sq. ft.) The gymnasium shall also contain moveable partitions to separate School District activities from Town and Recreation District activities and to permit multiple recreation activities to occur simultaneously.

1.3 The School District shall be solely responsible for the design and construction of the gymnasium and related facilities, as well as the payment of all costs associated therewith, except as otherwise provided in this Agreement. Nevertheless, the School District shall periodically provide the Town and the Recreation District with status reports during construction of the facility and shall obtain input from the Town and the Recreation District in the event design changes become necessary. Any major design changes which could affect the usage of the gymnasium and associated facilities by the Town and the Recreation District shall be approved by all parties.

1.4 The gymnasium and related facilities shall be owned, operated and maintained by the School District subject to the terms of this Agreement.

SECTION TWO PAYMENT OF COSTS FOR EXPANDED GYMNASIUM

2.1 The Town and the Recreation District agree to pay the School District the following costs associated with expansion of the subject gymnasium from nine thousand square feet (9,000 sq. ft.) to twelve thousand four hundred square feet (12,400 sq. ft.):

Additional Hard Construction Costs

\$92/Square foot x 3400 square feet	\$312,800
Plus an Associated Square Footage Markup Costs 30% of above amount	+93,840

Architectural Fees

6% x above total	+24,400
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<u>Total Costs to be Repaid by Town and Recreation District</u>	\$431,040
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Less value of waived water and sewer tap fees	-92,120
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<u>Net Payback Amount</u>	<u>\$338,920</u>
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2.2 The Town agrees to waive all water plant investment (tap) fees and sewer tap fees associated with the construction of the addition to the Eagle Valley Elementary School/Eagle Valley Middle School in the amount of \$92,120.00. The School District shall remain responsible for the payment of tapping charges as described in Title 12 of the Eagle Municipal Code and all other costs associated with physically connecting the addition to the Town's water and sewer systems. The School District shall be responsible for the payment of all applicable water and sewer user fees in accordance with Town ordinances and regulations.

2.3 The sum of \$338,920 shall be paid to the School District by the Town and the Recreation District in five (5) equal annual payments. On or before February 1 of each consecutive year, the Town and the Recreation District shall each pay to the School District the sum of \$33,892.00 until the total sum of \$338,920.00 is fully paid. The first annual payment shall be due and payable on or before February 1 of the year following substantial completion of the gymnasium and associated facilities. In the event either the Town or the Recreation District fails to make an annual installment payment when due, the other party may elect to make such installment payment in order to maintain this Agreement in full force and effect.

2.4 The parties understand and agree that Section 20 of Article X of the Colorado Constitution contains certain restrictions on multiple fiscal year financial obligations. Therefore, the financial obligations of the Town and the Recreation District, payable under the provisions of this Agreement, are expressly contingent upon such funds being appropriated, budgeted and otherwise made available each year on an annual basis. In the event the Town or the Recreation District fails to appropriate, budget or otherwise make such funds available in any year to fulfill the obligations

under this Agreement, any party may terminate this Agreement. In such an event, no party shall have any further rights, claims, obligations, liabilities or remedies under this Agreement, and this Agreement shall be null and void and of no further effect.

SECTION 3 USE OF GYMNASIUM FACILITY

3.1 The School District hereby grants to the Town and the Recreation District a license for the nonexclusive use of the new gymnasium and related facilities including locker rooms, changing area, showers, restrooms and permanent or long term use equipment to be located in the Eagle Valley Elementary School/Eagle Valley Middle School building, 737-747 E. Third Street, Town of Eagle, County of Eagle, State of Colorado (the "premises") subject to the terms of this Agreement, for the purpose of providing recreation, athletic and leisure activities and programs open to the general public. "Permanent or long term use equipment" shall include basketball hoops, volleyball nets and standards, floor mats, exercise equipment, etc. "Consumable equipment" such as basketballs, volleyballs, etc. shall be provided by the Town and/or the Recreation District.

3.2 In general terms, the use priority for the gymnasium and associated facilities shall be in the following order: (a) School District (Eagle Valley Elementary School/Eagle Valley Middle School only), (b) Recreation District and the Town, (c) other community groups including high school activities.

3.3 Notwithstanding the priorities stated in Section 3.2, during days when school is in session, the Town and/or the Recreation District shall be entitled to the exclusive use of at least one-half ($\frac{1}{2}$) of the gymnasium for two (2) hours immediately preceding the commencement of school for the purpose of providing morning activities such as aerobics. The Town and/or the Recreation District shall be entitled to exclusive use of at least one-half ($\frac{1}{2}$) of the gymnasium during the noon hour for a period of one and one-half ($1\frac{1}{2}$) hours scheduled to occur during two (2) whole periods of the Eagle Valley Middle School. For example, under the current Eagle Valley Middle School schedule, the Town and/or the Recreation District shall be entitled to exclusive use of at least one-half ($\frac{1}{2}$) of the gymnasium from 12:00 p.m. to 1:30 p.m. The Town and/or the Recreation District shall be entitled to exclusive use of at least one-half ($\frac{1}{2}$) of the gymnasium for evening and night activities from 5:30 p.m. until 10:00 p.m. The School District shall be entitled to use the remaining half of the new gymnasium and the existing middle school gymnasium from 5:30 p.m. until 10:00 p.m. pursuant to the scheduling procedures described below. In the event the School District does not schedule activities in the remaining one-half ($\frac{1}{2}$) of the gymnasium or the middle school gymnasium from 5:30 p.m. until 10:00 p.m. on days when school is in session, the Town and/or the Recreation District shall be entitled to use such facilities pursuant to the scheduling procedures described below.

3.4 The Town and/or the Recreation District shall be entitled to use the gymnasium facility on weekdays during the school year commencing after school until 5:30 p.m., and from 8:00 a.m. until 10:00 p.m. on Saturdays and Sundays, provided no conflict exists with School District activities

scheduled pursuant to the procedure set forth below.

3.5 During weekdays when school is not in session, such as school vacations, or teacher in-service days, the Town and/or the Recreation District shall be entitled to exclusive use of the gymnasium from 8:00 a.m. until 10:00 p.m. provided no conflict exists with school activities scheduled pursuant to the procedures set forth below.

3.6 In addition to use of the gymnasium facility for the provision of recreation, athletic and leisure activities and programs, the Town and/or the Recreation District shall be entitled to use the facility during the times set forth in this Agreement for the purpose of holding or sponsoring other community events, subject to prevailing school policies including the prohibition against the use of alcohol or tobacco.

3.7 The Town and/or the Recreation District shall be entitled to use the existing gymnasium at the Eagle Valley Middle School and associated facilities for the purpose of conducting a supervised roller skating program. Provided, however, such program shall be discontinued if abnormal wear and tear occurs to the floor surface or other parts of the structure. Use of the facilities for roller skating shall be in accordance with the schedule set forth in this Agreement or as otherwise mutually agreed by the parties.

3.8 The term of the license set forth in this Agreement shall commence upon completion of the new gymnasium and associated facilities and shall terminate fifty (50) years from the date of commencement. On or before six (6) months prior to the date of termination, the regulations, conditions and activities carried out under the terms of the license established in this Section shall be reviewed and evaluated by all parties. If all parties are benefiting from this Agreement and if all parties can mutually agree upon the terms, the parties may enter into an agreement providing a license to the town and the Recreation District to use the premises for an additional term.

3.9 The Town and the Recreation District agree to accept use of the premises "as is" so long as the premises are constructed in accordance with approved plans and specifications. The Town and the Recreation District acknowledge that the School District has not made any representations or warranties as to the suitability of the premises for the conduct of the Town's activities and programs or the Recreation District's activities and programs.

3.10 The Town and/or the Recreation District shall not use the premises in a manner contrary to this Agreement which in any way interferes with the use of the premises by the School District or other tenants or licensees of the School District. Similarly, the School District shall not use, nor shall the School District permit its tenants, licensees, employees, invitees or agents to use the premises in a manner contrary to this Agreement which in any way interferes with the operations and activities of the Town or the Recreation District. Such interference shall be deemed a material breach by the interfering party, who shall, upon notice from the other, be responsible for terminating said interference. In the event such interference does not cease promptly, the parties acknowledge

that continuing interference may cause irreparable injury and, therefore, the injured party shall have the right, in addition to any other rights that it may have at law or in equity, to bring an action to enjoin such interference.

3.11 The School District covenants and warrants to the Town and the Recreation District that the School District has full right, power, and authority to grant such license and execution and performance of this Agreement will not violate any laws, regulations covenants or the provisions of any bond agreement or other agreement binding on the School District. The School District covenants that at all times during the term of the license, the Town's and Recreation District's quiet enjoyment of the property and premises shall not be disturbed so long as the Town and/or the Recreation District are not in default under the terms of this Agreement.

SECTION 4 PROCEDURES FOR SCHEDULING OF ACTIVITIES

4.1 The Principal of each school will be responsible for the long range planning and scheduling of School District activities in the areas covered by this Agreement. Firm fall schedules shall be completed by September 1 of each year and firm winter/spring schedules shall be completed by December 1 of each year. Such schedules shall not conflict with the requirements contained in this Agreement. Each Principal shall notify the Town and the Recreation District of the School District's schedule no later than the above stated dates.

4.2 The Town and the Recreation District shall complete their firm fall schedules for activities in the areas covered by this Agreement no later than September 15 of each year. Firm winter/spring schedules shall be completed by the Town and the Recreation District no later than December 15 of each year. The Town's and the Recreation District's schedules shall comply with the requirements contained in this Agreement.

4.3 It is understood and agreed by the parties that the Town and the Recreation District are absolutely entitled to use the premises and associated facilities during the times so indicated in Section 3 of this Agreement. As to other times, it is agreed that the School District shall have the final decision in the use of the gymnasium and associated facilities. Therefore, all schedules promulgated by the Town and the Recreation District must be submitted to the Principal of each school for approval and then to the Assistant Superintendent of Schools for final approval.

4.4 The parties understand and agree that on occasion special school activities may need to be scheduled following completion of the schedules described above. Provided, however, such special school activities shall not be scheduled during the times the Town and the Recreation District are entitled to first priority usage of the gymnasium and associated facilities pursuant to Sections 3.3 and 3.5 of this Agreement. In the event a special school activity conflicts with a Town or Recreation District activity scheduled when the Town and Recreation District have second priority usage, under Sections 3.3, 3.4 and 3.5 of this Agreement, the special school activity shall have priority so long as the School District furnishes at least ten (10) days advance notice to the Town and Recreation

District of the special activity. In the event the School District fails to provide such advance notice, the Town or Recreation District, to the extent possible, shall attempt to accommodate the special School activity without unduly disrupting a previously scheduled Town or Recreation District activity or program. The School District shall, to the extent possible, furnish at least ten (10) days advance notice to the town and Recreation District of the special activity. To the extent possible, the School District shall make every effort not to disrupt a previously scheduled Town or Recreation District activity or program when scheduling a special school activity.

4.5 Subject to the provisions of this Agreement, the parties agree to consult in good faith with one another concerning scheduling disputes. In the event the parties are not able to resolve such disputes among themselves, they agree to submit any unresolved disputes to arbitration. The arbitration shall be conducted by a person mutually agreed to by all parties. If the parties cannot agree on a single arbitrator, the School District shall select one arbitrator and the Town and Recreation District shall select one arbitrator. Those two (2) arbitrators shall then select a third arbitrator who together shall settle the dispute.

SECTION 5 SUPERVISION OF ACTIVITIES

5.1 The Town and/or the Recreation District assume full responsibility for the character, acts, and conduct of all persons admitted to the premises by the Town and/or the Recreation District or by or with consent of any person acting for or on behalf of such parties.

5.2 The Town and/or the Recreation District shall be responsible for providing a supervisor to be present at all times during Town and/or Recreation District sanctioned activities and programs. Such person shall direct, supervise and enforce the provisions contained in this Agreement and all applicable rules of conduct. When school employees are not present, the supervisor shall be responsible for the security of the facility and shall lock and close down the facility following completion of the scheduled activity. Supervisors shall be issued necessary keys under the prevailing School District key policy in effect. Payment for the supervisor shall be the sole responsibility of the Town and/or the Recreation District.

5.3 The Town and/or the Recreation District shall be solely responsible for their recreation, athletic and leisure programs' format, safety and implementation. School District employees may provide program ideas and recommendations.

SECTION 6 COMPLIANCE WITH LAWS, RULES AND REGULATIONS

6.1 When using the gymnasium and related facilities, the Town and/or the Recreation District shall comply with all laws of the United States and of the State of Colorado, all ordinances and regulations of the Town of Eagle and Eagle Fire Protection District, and all rules and regulations of the School District not in conflict with this Agreement. The Town and/or the Recreation District

and its agents, employees, and invitees shall not do or permit to be done anything on the premises during the term of this Agreement in violation of such laws, rules, and regulations. If the attention of the School District is called to any such violation on the part of the Town and/or the Recreation District or any person employed by or admitted to the premises by the Town and/or the Recreation District, the Town and/or the Recreation District will immediately desist from and correct or cause such violation to be corrected.

6.2 No consumption of alcoholic beverages and no tobacco usage shall be permitted in the gymnasium or related facilities when used by the Town and/or the Recreation District. The enforcement and/or supervision of these rules and regulations shall be the responsibility of the Town and/or the Recreation District.

6.3 In the event the School District receives a complaint concerning Town and/or Recreation District programs or activities, such complaint shall be referred to the Recreation District Director or Town Administrator by the school Principal or his designee. The Recreation District Director or the Town Administrator shall then investigate the complaint and contact the Principal or his designee regarding its resolution in a timely manner.

SECTION 7 MAINTENANCE AND REPAIR OBLIGATIONS

7.1 Except for damage caused by the negligence or intentional act or omission of the Town and/or the Recreation District, or their agents, employees, and invitees; and except as otherwise provided in this Section, the School District, at the School District's expense, shall keep in good order, condition, and repair the premises and every part thereof.

7.2 The Town and/or the Recreation District shall repair any damage to the premises caused by the negligence or intentional act or omission of the Town and/or the Recreation District, their agents, employees, or invitees at the Town's and/or Recreation District's sole expense.

7.3 The School District shall be responsible for the normal maintenance and cleaning of all areas in the premises. Any extraordinary maintenance solely attributable to the Town's or Recreation District's usage shall be the responsibility of the respective entity. Such entity shall pay to the School District the actual costs of such extraordinary maintenance incurred by the School District.

7.4 Upon the expiration of the useful life of the gymnasium partition or the gymnasium floor resulting from ordinary wear and tear, the School District shall be responsible for paying fifty percent (50%) of the replacement cost of such item. The Town and the Recreation District shall each be responsible for paying twenty-five percent (25%) of such cost. In the event any party to this Agreement believes that such an item needs to be replaced under the conditions set forth herein, such party shall confer with the other parties to this Agreement. Any decision to replace such an item shall be mutually agreed upon by all parties to this Agreement on or before June 15 of the year preceding

the calendar year in which such item is scheduled to be purchased or installed. In the event any party fails to appropriate, budget or otherwise make such funds available in any year to fulfill the obligations under this Section, following agreement by the parties to replace an item, any party may terminate this Agreement. In such an event, no party shall have any further rights, claims, obligations, liabilities or remedies under this Agreement, and this Agreement shall be null and void and of no further effect.

SECTION 8 UTILITIES

8.1 The School District shall be solely responsible for the payment of all utility costs associated with the Town's or Recreation District's usage of the gymnasium and associated facilities.

SECTION 9 LIABILITY AND INDEMNIFICATION

9.1 The Town and the School District shall indemnify, defend and hold the School District harmless from and against any and all claims arising from the Town's and/or Recreation District's use of the gymnasium and associated facilities or from the conduct of any activity, program or thing that may be permitted or suffered by the Town and/or the School District in or about the premises. The Town and the Recreation District shall also indemnify, defend and hold the School District harmless from and against any and all claims arising from any breach or default in the performance of any obligation on the Town's and Recreation District's part to be performed under the provisions of this Agreement or arising from any negligence, intentional acts or omissions of the Town and/or the Recreation District or any of their agents, employees or invitees and from any and all costs, attorneys fees, expenses and liabilities incurred in the defense of any such claim or action or proceeding brought on any such claim. Provided, however, nothing contained herein waives or is intended to waive any protections that may be applicable to the Town or the Recreation District under the Governmental Immunity Act, Section 24-10-101 *et. seq.*, C.R.S., or any other rights, protections, immunities, defenses or limitations on liability provided by law, and subject to any applicable provisions of the Colorado Constitution and applicable laws.

9.2 The School District shall indemnify, defend and hold the Town and the Recreation District harmless from and against any and all claims arising from the School District's ownership or use of the premises or from the conduct of its work, activities, programs or thing that may be permitted or suffered by the School District in or about the subject premises. The School District shall also indemnify, defend and hold the Town and the Recreation District harmless from and against any and all claims arising from any breach or default in the performance of the obligations on the School District's part to be performed under the provisions of this Agreement, or arising from any intentional acts, negligence or omissions of the School District or any of its agents, employees, or invitees and from any and all costs, attorneys fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought on any such claim. Provided, however, nothing contained herein waives or is intended to waive any protections that may be applicable to the School

District under the Governmental Immunity Act, Section 24-10-101, *et. seq.*, C.R.S., or any other rights, protections, immunities, defenses or limitations on liability provided by law, and subject to any applicable provisions of the Colorado Constitution and applicable laws.

SECTION 10 INSURANCE

10.1 The School District shall maintain in force during the term of the license a policy of insurance issued by a company authorized to engage in the insurance business in the State of Colorado insuring the gymnasium and related facilities for an amount not less than one hundred percent (100%) of its replacement cost against damage or destruction by fire and/or by perils covered by the standard form or extended coverage endorsements to fire insurance policies in the State of Colorado in effect at the time that the policies are obtained.

10.2 Each party agrees to maintain, as part of its insurance coverage, during the term of the license granted under this Agreement comprehensive public liability insurance covering and insuring such party against liability arising out of the ownership, use, occupancy, or maintenance of the premises and all areas appurtenant to the premises. The bodily and personal injury limits of such policies shall be no less than the statutory limitations as defined in the Colorado Governmental Immunity Act, Section 24-10-114, C.R.S., with an amount of \$150,000.00 per occurrence and \$600,000.00 in the aggregate, or such other amounts as provided by law. The policies of insurance required under this Section shall name the other parties as additional insureds.

SECTION 11 DAMAGE OR DESTRUCTION OF THE PREMISES

11.1 In the event of damage or destruction to the gymnasium and related facilities by fire or other casualty not resulting from the neglect or other fault of the Town and/or the Recreation District, the School District, at its sole expense, shall promptly make all necessary repairs and restorations so as to restore the premises to its previous condition.

11.2 In the event that the premises, or any part of the premises, shall be rendered untenable by fire or other casualty or by deterioration not the fault of the Town or the Recreation District, the term of the license shall be extended by the period of time that the Town and the Recreation District are unable to use the premises.

SECTION 12 REMEDIES

12.1 Time is of the essence in this Agreement.

12.2 If a party violates or breaches or fails to keep or perform any covenant, agreement, term or condition of this Agreement at the time designated; or in the event a party is in default or in

violation of a term of this Agreement for which no specific time is designated, and the default or violation continues or is not remedied within thirty (30) days after notice in writing is given by the non-breaching party to the other party specifying the matter claimed to be in default, the non-breaching party shall be entitled to pursue all remedies available at law or in equity to enforce the terms of this Agreement, including the right of specific performance. Provided, however, with respect to any default that cannot be cured within thirty (30) days, such legal remedies shall not be pursued if the breaching party takes all steps necessary to cure the default within such period and thereafter continuously exercises due diligence to cure the default.

12.3 In the event that any court action is filed or maintained by any party in relation to this Agreement, the prevailing party shall be entitled to its costs and reasonable attorneys fees.

SECTION 13 NOTICES

13.1 All notices that may be required or given pursuant to this Agreement by a party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States first class mail, postage prepaid, and addressed as follows:

SCHOOL DISTRICT

Superintendent of Schools
Eagle County School District, RE-50J
P.O. Box 740
Eagle, CO 81631

TOWN

Town Administrator
Town of Eagle
P.O. Box 609
Eagle, CO 81631

RECREATION DISTRICT

Recreation Director
Western Eagle County Metropolitan Recreation District
P.O. Box 246
Eagle, CO 81631

13.2 The address to which any notice, other writing may be given to any party as above provided may be changed by written notice given by such party as above provided.

SECTION 14 MISCELLANECUS PROVISIONS

14.1 No modification or waiver of this Agreement or any covenant, condition or provision contained herein shall be valid unless in writing and duly executed by all parties.

14.2 This written Agreement embodies the whole Agreement between the parties and there are no inducements, promises, terms, conditions or other obligations made or entered into by the parties other than those contained herein.

14.3 This Agreement shall be binding upon the parties hereto, the respective successors or assigns, and may not be assigned by any party without the express written consent of the other parties.

14.4 All terms contained in this Agreement are severable and in the event that any of them shall be held invalid by a court of competent jurisdiction, this Agreement shall be interpreted as if such invalid term or condition is not contained herein.

14.5 The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made.

14.6 This Agreement may be amended from time to time by written Agreement duly authorized by all the parties to this Agreement.

14.7 This Agreement does not and shall not be deemed to confer upon or grant to any third party any right enforceable at law or equity arising out of any term, covenant, or condition herein or the breach thereof.

14.8 This Agreement, or a memorandum of this Agreement, may be recorded in the records of the Eagle County Clerk and Recorder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

THE EAGLE COUNTY SCHOOL DISTRICT
Re-50J, by and through its Board of Education.

ATTEST:

Raenette Johnson
Secretary

By:

President

[Signature]

THE TOWN OF EAGLE, COLORADO, by and
through its Board of Trustees.

ATTEST:

Marlene M. Miller
Town Clerk

By:

Mayor

Bill Cunningham

THE WESTERN EAGLE COUNTY
METROPOLITAN RECREATION DISTRICT, by
and through its Board of Directors.

ATTEST:

Dena A. Eaton
Secretary

By:

Chairman

Chi Miller

INTERGOVERNMENTAL AGREEMENT BETWEEN THE EAGLE COUNTY SCHOOL DISTRICT RE-50J
AND MOUNTAIN RECREATION METROPOLITAN DISTRICT
FOR THE COOPERATIVE USE OF PUBLICLY OWNED FACILITIES

This intergovernmental agreement is made and entered into this 13th day of March, 2019, by and between Eagle County School District RE-50J, a Colorado School District, acting by and through its Board of Education (“School District”), and Mountain Recreation Metropolitan District, a Colorado Special District, by and through its Board of Directors (“Recreation District”).

WHEREAS, the School District, and Recreation District, recognize that they jointly serve the community;

WHEREAS, the School District desires to support and encourage out of school time use of school district facilities for public recreation and enrichment programs that benefit the growth and development of students, and improve the health and wellbeing of families;

WHEREAS, the Recreation District desires to support and encourage the school time use of its facilities operated to enhance the School District’s curriculum and challenge students in new ways;

WHEREAS, the School District, Recreation District, Town of Eagle, and Town of Gypsum have partnered financially in the past to construct facilities including a gymnasium at Eagle Valley Middle School, a gymnasium at Eagle Valley Elementary School, a gymnasium at Red Hill Elementary School, and a baseball field in Gypsum;

WHEREAS, the School District and the Recreation District desire to cooperate with one another in the use of each other’s public facilities for the purpose of providing enhanced curricular and extracurricular activities, and community recreation, athletics, and leisure programs for residents;

WHEREAS, the Parties previously have entered and amended various agreements that encompassed the use of School District facilities, and now wish to replace those agreements and amendments thereto with this Agreement; and

WHEREAS, this Intergovernmental Agreement is authorized pursuant to Section 18, Article XIV of the Colorado Constitution, Section 29-1-203, C.R.S., Section 22-32-110(1)(f), C.R.S., and other applicable law.

NOW, THEREFORE, in consideration of the recitals stated above and mutual covenants and promises of the parties hereto, the receipt and sufficiency of which is acknowledged, the School District and Recreation District agree as follows:

1.0 SHARED USE OF FACILITIES

1.1 Recreation District Use of School District Facilities

The Recreation District and School District agree that the Recreation District will be afforded the nonexclusive use of certain School District facilities second in priority after School District activities are scheduled each school term. The School District shall have the final decision in the use of school facilities.

1.1.1 Schools, Areas, and Equipment

1.1.1.1 SCHOOLS - The Recreation District may request use of the following schools located within the Recreation District boundaries:

- Eagle Valley High School
- Battle Mountain High School
- Eagle Valley Middle School
- Eagle Valley Elementary School
- Gypsum Elementary School
- Edwards Elementary School
- Berry Creek Middle School
- June Creek Elementary
- Brush Creek Elementary School
- Red Hill Elementary School
- Gypsum Creek Middle School
- Red Canyon High School
- Homestake Peak School

1.1.1.2 AREAS - The Recreation District may request use of the following areas on the above campuses:

- Locker rooms
- Rest rooms
- Designated storage areas
- Gymnasiums
- Outside play areas

1.1.1.3 EQUIPMENT - The Recreation District may request use of fixed equipment such as basketball hoops, volleyball standards, floor mats and the like. Consumable equipment required for programming, such as basketballs and volleyballs, shall be provided by the Recreation District for use in its programs.

1.1.2 Permitted uses – In addition to the use of school district facilities for recreation programs, the Recreation District may request use of facilities for the purpose of holding or sponsoring community events, subject to prevailing School District policies, including the prohibition against the use of alcohol or tobacco.

1.1.3 Priority Days of the Week and Times of Day

1.1.3.1 WEEKDAY USAGE – On weekdays when school is in session, the Recreation District shall be permitted to use facilities commencing after school until 10:00pm provided no conflict exists with school activities scheduled pursuant to the procedure for scheduling set forth below.

- 1.1.3.2 WEEKEND USAGE – The Recreation District shall be permitted use of school facilities from 8:00am until 10:00pm on Saturdays and Sundays provided no conflict exists with school activities scheduled pursuant to the procedure for scheduling set forth below.
- 1.1.3.3 HOLIDAYS/BREAKS - When school is not in session, such as school vacations or teacher in-service days, the Recreation District shall be permitted to use facilities from 8:00am until 10:00pm provided no conflict exists with school activities scheduled pursuant to the procedure for scheduling set forth below.
- 1.1.3.4 EVMS Noon Ball – Per Section 3.3 of the MOU dated the 22nd day of February, 2000, between the School District, the Town of Eagle and the Recreation District, the Town and/or Recreation District shall be entitled to exclusive use of at least one-half (1/2) of the gymnasium during the noon hour for a period of one and one-half (1 1/2) hours scheduled to occur during two whole periods of the Eagle Valley Middle School. All parties agree to honor the original intent of the MOU however, agree to be flexible to meet all parties needs until sometime as another location will be permitted.

1.1.4 Procedures for Scheduling School District Facilities

- 1.1.4.1 GENERAL – Subject to the provisions of this Agreement, the parties agree to consult in good faith concerning any disputes or disagreements over scheduling matters. In the event that the parties are unable to resolve such disputes or disagreements between themselves, parties agree to submit any unresolved disputes or disagreements to mediation by a mutually agreed upon third party mediator. The following priorities shall prevail concerning the scheduling of School District facilities:
 - First Priority – School District Uses
 - Second Priority – Recreation District Uses
 - Third Priority – Town Uses
 - Fourth Priority – Community Uses
- 1.1.4.2 SCHEDULING RESPONSIBILITY - The principal of each school will be responsible for the long-range planning and scheduling of School District activities in areas covered by this Agreement.
- 1.1.4.3 FALL SEMESTER SCHEDULING DEADLINES – Firm fall schedules of school activities shall be completed by September 1. Each principal shall notify in writing the Recreation District of the school's schedule no later than September 1. The Recreation District shall be responsible for submitting in writing a draft schedule for the use of school facilities for Recreation

District activities from the available time left after School District scheduled use to each school principal by September 1. Each principal shall issue a written notice of approved and unapproved Recreation District uses by September 15. It is understood that the school principals will begin to schedule other Town and community use of School District facilities after September 15.

- 1.1.4.4 WINTER/SPRING SEMESTER SCHEDULING DEADLINES - Firm winter/spring schedules of school activities shall be completed by December 1. Each principal shall notify the Recreation District in writing of the school's schedule no later than December 1. The Recreation District shall be responsible for submitting a written draft schedule for the use of school facilities for Recreation District activities from the available time left after School District scheduled use to each school principal by December 1. Each principal shall issue a written notice of approved and unapproved Recreation District uses by December 15. It is understood that the school principals will begin to schedule other Town and community use of School District facilities after December 15.
- 1.1.4.5 SUMMER BREAK SCHEDULING DEADLINES - Firm summer schedules of school activities shall be completed by March 15. Each principal shall notify the Recreation District in writing of the school's schedule no later than March 15. The Recreation District shall be responsible for submitting a written draft schedule for the use of school facilities for Recreation District activities from the available time left after School District scheduled use to each school principal by March 15. Each principal shall issue a written notice of approved and unapproved Recreation District uses by March 15. It is understood that the school principals will begin to schedule other Town and community use of School District facilities after April 1.
- 1.1.4.6 CHANGES TO SCHEDULES – The parties agree and understand that occasionally a special school activity may need to be scheduled following completion of the schedules described above. In the event that a special school activity conflicts with a scheduled Recreation District activity, the special school activity shall have priority so long as the principal furnishes at least ten days advance written notice to the Recreation District of the special activity. In the event that the nature of the activity does not permit the principal to furnish at least ten days advance notice, the Recreation District, to the extent possible, shall attempt to accommodate the special school activity without unduly disrupting a previously scheduled Recreation District activity.

1.1.5 Requirements for Use of School District Facilities

1.1.5.1 SUPERVISION OF ACTIVITIES – The Recreation District shall be responsible for providing a supervisor to be present at all times during Recreation District sanctioned activities and programs. Such person shall direct, supervise, and enforce the provisions contained in this Agreement and all applicable rules of conduct. When School District employees are not present, the supervisor shall be responsible for the security of the facility and shall lock and close down the facility following completion of the scheduled activity. Supervisors shall be issued access key cards only as required for scheduled activities under the School District security policy in effect. Payment for the supervisor shall be the sole responsibility of the Recreation District.

The Recreation District shall be solely responsible for their recreation, athletic, and leisure programs' format, safety, and implementation. School District employees may provide program ideas and recommendations.

1.1.5.2 RESPONSIBILITY FOR INVITED GUESTS - The Recreation District assumes full responsibility for the character, acts, and conduct of all persons admitted to the premises by the Recreation District or by or with consent of any person acting for or on behalf of the Recreation District.

1.1.5.3 CUSTODIAL ASSISTANCE – Normal wear and tear notwithstanding, the Recreation District shall provide light custodial services after programs conclude each day to leave the scheduled facilities in the condition in which they were found. If excessive clean up is required prior to use by the School District, the School District may provide custodial services and charge the Recreation District for time and materials.

1.1.5.4 AS IS CONDITION – The Recreation District agrees to accept use of the premises “as is” so long as the premises are maintained in accordance with standard practice for such facilities. The Recreation District acknowledges that the School District has not made any representations or warranties as to the suitability of the premises for the conduct of the Recreation District's activities or programs.

1.1.5.5 ALCOHOL/TOBACCO/OTHER SUBSTANCES – No possession or consumption of alcoholic beverages and no possession or use of tobacco, alternative nicotine, THC, and vapor products shall be permitted on school district premises when scheduled for use by the Recreation

District. The enforcement of such regulation shall be the responsibility of the Recreation District.

1.2 School District Use of Recreation District Facilities

The Recreation District and School District agree that the School District will be afforded the nonexclusive use of certain Recreation District facilities in priority after Recreation District activities are scheduled, with certain exceptions. The Recreation District shall have the final decision in the use of recreation facilities.

1.2.1 Facilities, Areas, Equipment

1.2.1.1 FACILITIES AND AREAS – The School District may request use of the following Recreation District facilities and areas:

- Gypsum Recreation Center – Indoor pool, climbing and bouldering areas, gymnasium, meeting room(s), cardio studios, and gymnastics area.
- Eagle Pool & Ice Rink – Seasonal indoor skating rink and outdoor pool.
- Eagle Sports Complex – Seasonal outdoor multipurpose turf field and outdoor natural turf fields.
- Edwards Field House – Sport court, indoor turf, climbing and bouldering facilities, and gymnastics area.
- Eagle County Freedom Park – Seasonal skate park, outdoor multipurpose turf field, outdoor natural turf fields, ball fields, and pond.

1.2.1.2 EQUIPMENT - The School District may request use of fixed equipment such as basketball hoops, volleyball standards, floor mats and the like. Consumable equipment required for programming, such as basketballs, volleyballs, and ice skates, shall be provided by the School District for use in its activities or rented from the Recreation District.

1.2.1.3 EXCEPTIONS

1.2.1.3.1 Town of Gypsum use of Gypsum Recreation Center – As the owner of the Gypsum Recreation Center, the Town of Gypsum shall have scheduling priority for special events over school district activities. Use of the Gypsum Recreation Center shall be guided by the Operating Agreement in place between the Town of Gypsum and the Recreation District.

1.2.1.3.2 Town of Eagle use of the Eagle Pool & Ice Rink – As part owner of the Pool & Ice Rink, the Town of Eagle shall have scheduling priority for special events over school district

activities. Use of the Pool & Ice Rink shall be guided by the intergovernmental agreement in place between the Town of Eagle and the Recreation District.

1.2.1.3.3 Membership Value Preservation – Recreation District facility operations are not sustained wholly by taxpayer support and must generate revenues from memberships and admissions. Certain areas of each recreation center and other areas during peak use periods will not be made available to the School District in order to preserve the value of paid admission or membership.

1.2.1.3.4 Operational Cost Limitations – Due to the high cost of providing safe ice rink facilities and the limited availability of ice time, the Eagle Ice Rink will be made available to the School District for athletic practices at a reduced, but not free, hourly rate. Use of the rink will be scheduled to balance recreational use by the Recreation District, league use by the youth sports club operating hockey, and athletic needs of the School District.

1.2.2 Permitted Uses - In addition to the use of Recreation District facilities for curricular activities, the School District may request use of facilities for the purpose of holding or sponsoring extracurricular activities, athletic events, and community engagement forums, subject to availability.

1.2.3 Priority Days of Week and Times of Day

1.2.3.1 WEEKDAY USAGE - On weekdays when school is in session, the School District shall be permitted to use recreation facilities during school hours provided no conflict exists with recreation activities scheduled pursuant to the procedure for scheduling set forth below.

1.2.3.2 AFTER SCHOOL USE – The School District shall be permitted to use recreation facilities after school only when those activities can occur prior to peak public use times and provided that such use does not conflict with recreation activities scheduled pursuant to the procedure for scheduling set forth below.

1.2.3.3 HOLIDAYS/BREAKS – Holidays and break periods are peak use times for recreation activities. School District use shall be limited during these periods.

1.2.4 Procedures for Scheduling Recreation District Facilities

1.2.4.1 SCHEDULING RESPONSIBILITY - The facility supervisor of each recreation center will be responsible for the long-range planning and scheduling of Recreation District activities and services in areas covered by this Agreement.

1.2.4.2 FALL SEMESTER DEADLINES - Firm fall schedules of recreation activities held in Recreation District facilities shall be completed by August 15. School District Principals shall request use of Recreation District facilities beginning August 15. School District facility use requests shall be processed and Principals notified of confirmed use by September 1. It is understood that the facility supervisors will begin to schedule other community use of Recreation District facilities after September 15.

1.2.4.3 WINTER/SPRING DEADLINES - Firm fall schedules of recreation activities held in Recreation District facilities shall be completed by November 15. School District Principals shall request use of Recreation District facilities beginning November 15. School District facility use requests shall be processed and Principals notified of confirmed use by December 1. It is understood that the facility supervisors will begin to schedule other community use of Recreation District facilities after December 15.

1.2.4.4 SUMMER SCHEDULING - Firm fall schedules of recreation activities held in Recreation District facilities shall be completed by March 15. School District Principals shall request use of Recreation District facilities beginning March 15. School District facility use requests shall be processed and Principals notified of confirmed use by April 1. It is understood that the facility supervisors will begin to schedule other community use of Recreation District facilities after April 15.

1.2.4.5 CHANGES TO SCHEDULE - The parties agree and understand that occasionally a special recreation activity may need to be scheduled following completion of the schedules described above. In the event that a special recreation activity conflicts with a scheduled School District activity, the special recreation activity shall have priority so long as the facility supervisor furnishes at least ten days advance notice to the School District of the special activity. In the event that the nature of the activity does not permit the facility supervisor to furnish at least ten days advance notice, the School District, to the extent possible, shall attempt to accommodate the special recreation activity without unduly disrupting a previously scheduled School District activity

1.2.5 Facility Use Requirements

- 1.2.5.1 SUPERVISION OF ACTIVITIES – The School District shall be responsible for providing supervision at all times during School District sanctioned activities and programs. School District staff shall direct, supervise, and enforce the provisions contained in this Agreement and all applicable rules of conduct. Payment for supervision shall be the sole responsibility of the School District.

The School District shall be solely responsible for its activities' format, safety, and implementation. Recreation District employees may provide program ideas and recommendations.

- 1.2.5.2 RESPONSIBILITY FOR INVITED GUESTS – To the extent permitted by law, the School District assumes full responsibility for the character, acts, and conduct of all persons admitted to the premises by the School District or by or with consent of any person acting for or on behalf of the School District.

- 1.2.5.3 CUSTODIAL ASSISTANCE – Normal wear and tear notwithstanding, the School District shall provide light custodial services after programs conclude each day to leave the scheduled facilities in the condition in which they were found. If excessive cleanup is required prior to use by the Recreation District, the Recreation District may provide custodial services and charge the School District for time and materials.

- 1.2.5.4 AS IS CONDITION – The School District agrees to accept use of the premises "as is" so long as the premises are maintained in accordance with standard practice for such facilities. The School District acknowledges that the Recreation District has not made any representations or warranties as to the suitability of the premises for the conduct of the School District's activities or programs.

- 1.2.5.5 LIFEGUARDS REQUIRED – Any use of aquatic centers and facilities requires certified lifeguards to be present. Lifeguard staffing shall be provided by the Recreation District. The Recreation District may charge the School District for additional guards required to be on duty beyond normal facility staffing levels.

- 1.2.5.6 BELAY CERTIFICATION – Use of climbing and bouldering facilities requires specially qualified supervision. The School District may request the Recreation District provide staffing of qualified personnel for climbing facilities or School District must provide its own certified supervisors.

The Recreation District may charge the School District for additional staff required to be on duty beyond normal facility staffing levels.

1.2.5.7 TRAMPOLINE INSTRUCTION - Use of gymnastics and trampoline areas requires specially qualified supervision. Gymnastics and trampoline facility staffing shall be provided by the Recreation District. The Recreation District may charge the School District for staff required to be on duty beyond normal facility staffing levels.

2.0 FEES CHARGED – WHEN

- 2.1 The School District and Recreation District agree that it is in the best interest of the community to share use of public facilities. There is to be no rent charged wherever possible for shared use. However, when the use of facilities creates an additional cost solely attributable to the program or activity held on premises, the party responsible for the program or activity may be required to reimburse the other party for such costs.
- 2.2 Custodial Charges – The School District or Recreation District may charge the facility user for custodial services if excessive cleanup is required after program use. (See 1.2.5.3)
- 2.3 Damages - Normal wear and tear notwithstanding, the School District and Recreation District, each for itself, shall repair any damages to the other party's premises arising out of the use of covered facilities either by accident or by the intentional act or omission by their agents, employees, or invitees during such programs or activities.
- 2.4 Destruction of premises – In the event of damage or destruction of facilities covered by this Agreement by fire or other casualty not resulting from neglect or other fault of either party, the owner of the premises shall, at its sole expense, promptly make all necessary repairs and restorations so as to restore the premises to its previous condition. In the event that any facility or area shall be rendered untenable by fire or other casualty or by deterioration not the fault of either party, the term of the license shall be extended by the period of time that the premises are unable to be used.
- 2.5 Utilities – Each party shall provide utilities at its sole expense for its respective facilities and areas covered by this Agreement.
- 2.6 Maintenance – Except for damage caused by the negligence or intentional act or omission of the using party, its agents, employees, and invitees; and except as otherwise provided in this Agreement, the owning or operating party shall, at its sole expense, keep in good order, condition, and repair the premises and every part thereof.

2.7 Capital Repairs and Improvements

- 2.7.1 Eagle Valley Middle School Gymnasium - Per the *Second Intergovernmental Agreement between the Eagle County School District RE-50J; and the Town of Eagle, Colorado; and the Western Eagle County Metropolitan Recreation District Concerning the Construction and Use of a School Gymnasium Facility (2000)* : Upon the expiration of the useful life of the gymnasium floor resulting from ordinary wear and tear, the School District shall be responsible for paying fifty percent (50%) of the replacement cost of such item. The Town and the Recreation District shall each be responsible for paying twenty-five percent (25%) of such cost. In the event any party to the 2000 Agreement believes that such an item needs to be replaced under the conditions set forth, such party shall confer with the other parties. Any decision to replace such item shall be mutually agreed upon all parties on or before June 15 of the year preceding the calendar year in which such item is scheduled to be purchased or installed.

2.8 Money Making Activities or Events

- 2.8.1 “Money Making Activities” shall be defined as those programs or events outside the core purpose and mission of the Recreation District designed and operated to generate revenue for the Recreation District.
- 2.8.2 If Money Making Activities or events are scheduled in School District facilities, the Recreation District shall be charged a fee for custodial service. This fee shall be 1.5 times the regular hourly rate for the custodian plus 30% for benefits. The Recreation District agrees to pay the School District for such charges within 30 days of receipt of the School District’s statement.
- 2.8.3 State High School Athletic Association required fees for admission to athletic events held in Recreation District facilities shall be collected and retained by the School District.

2.9 School Affiliated Organizations

- 2.9.1 From time to time, school affiliated organizations, such as parent teacher associations, request use of Recreation District facilities for fund raising events. As these organizations positively impact the School District, these events will be permitted to be scheduled after all Recreation District and School District activities have been scheduled following the scheduling procedures above.

- 2.9.2 School affiliated organization events shall be charged a fee for use of facilities for fundraising. School affiliated organizations will be permitted to retain a portion of the proceeds from admission fees attributable to the organization's event.

3.0 OTHER PROVISIONS

3.1 Concessions

- 3.1.1 The Recreation District shall not have access to School District kitchens or concession stands. Concessions may be sold during programs and activities but must be served from a stand-alone table. Concessions activities must be in compliance with food handling and permitting requirements of Eagle County.
- 3.1.2 The School District shall not have access to Recreation District kitchens or concession stands. Concessions may be sold during programs and events but must be served from a stand-alone table. Concessions activities must be in compliance with food handling and permitting requirements of Eagle County.
- 3.2 Parking – Both parties recognize that there may be occasions where parking for events may present a challenge. The parties agree to make every effort to communicate about and coordinate efforts to manage parking when overcrowding is foreseeable.
- 3.3 Facilitated Programs – Both parties recognize that there may be occasions when one party desires a program to be facilitated by the other party, such as the Recreation District providing lifeguarding training courses for high schools or a high school sports team facilitates a pre-season clinic for the Recreation District. For such facilitated programs, the parties shall set forth an agreement in advance of the activity detailing the operations and expectations of each party.

4.0 CONSULTATION AND ANNUAL REVIEW

- 4.1 The parties acknowledge that, over the term of this Agreement, issues may arise concerning implementation of this Agreement which the parties have not now contemplated. Recognizing that a high level of cooperation between the parties is necessary and desirable, the parties agree to consult with each other from time to time concerning implementation of this Agreement and further agree that their respective representatives will meet to conduct such consultation upon ten day's written request given by one party to the other party. In addition, each party shall from time to time designate in writing each party's contact person for all matters involving the administration of this Agreement.
- 4.2 The parties to this Agreement shall meet annually to review the Agreement and to forward any recommended amendments to the governing bodies of each party.

5.0 INSURANCE

5.1 Both parties shall maintain in force during the term of the license granted under this Agreement, a policy of insurance issued by a company authorized to engage in the insurance business in the State of Colorado insuring facilities covered by this Agreement for an amount not less than one hundred percent (100%) of its replacement cost against damage or destruction by fire and/or perils covered by the standard form or extended coverage endorsements to fire insurance policies in the State of Colorado in effect at the time that the policies are obtained.

5.2 Each party agrees to maintain, as a part of its insurance coverage, during the term of license granted under this Agreement comprehensive public liability insurance covering and insuring such party against liability arising out of ownership, use, occupancy, or maintenance of the premises and all areas appurtenant to the premises. The bodily and personal injury limits shall be no less than the statutory limitations as defined in the Colorado Governmental Immunity Act, Section 24-20-114, C.R.S., in effect at the time that the policies are obtained or renewed. The policies of insurance required under this section shall name the other party as additionally insured.

6.0 TERM AND TERMINATION OF AGREEMENT. The Term of this Agreement shall be five (5) years from the date of execution of the Agreement, and shall automatically renew for subsequent five (5) year terms thereafter, unless terminated as provided herein. Either party may terminate this Agreement with or without cause upon sixty (60) days' prior written notice to the other party.

7.0 GENERAL TERMS

7.1 Compliance with laws, rules and regulations – When using facilities and areas covered by this Agreement, parties shall comply with all laws of the United States and the State of Colorado, all ordinances and regulations of local governments and special districts, and all rules and regulations of the Recreation District and School District not in conflict with this Agreement. Both parties, each for itself, and its agents, employees, and invitees shall not do or permit to be done anything on the premises during the term of this Agreement in violation of such laws, rules, and regulations. If attention of the owner/operator is called to any such violation on the part of the other party or any person employed by or admitted to the premises by the other party, the offending party shall immediately desist from and correct or cause such violation to be corrected.

7.2 Assignment or Sublease – Neither party shall assign or sublease the license afforded herein to a third party without the express written consent of the other party to this Agreement.

7.3 Liability and indemnification - To the extent legally permissible, each party shall indemnify, defend, and hold the other party harmless from and against all claims arising from the use of

facilities and areas covered by this Agreement or from the conduct of any activity, program, or thing that may be permitted in or about the premises. Further, to the extent permitted by law, both parties, each for itself, shall also indemnify, defend, and hold the other party harmless from and against any and all claims arising from any breach or default in the performance of any obligation to be performed under the provisions of this Agreement or arising from any negligence, intentional acts or omissions of the party using the facilities, its agents, employees, or invitees and from any and all costs, attorney fees, expenses and liabilities incurred in the defense of any such claim or action or proceeding brought on any such claim; provided, however, nothing contained herein waives or is intended to waive any protections that may be applicable to either party under the Governmental Immunity Act, Section 24-10-101 et. Seq., C.R.S., or any other rights, protections, immunities, defenses, or limitations on liability provided by law, and subject to any applicable provisions of the Colorado Constitution and applicable laws.

7.4 Remedies

- 7.4.1 If a party violates or breaches or fails to keep or perform any covenant, agreement, term or condition of this Agreement at the time designated; or in the event a party is in default or in violation of a term of this Agreement for which no specific time is designated, and the default or violation continues or is not remedied within thirty (30) days after notice in writing is given by the non-breaching party to the other party specifying the matter claimed to be in default, the non-breaching party shall be entitled to pursue all remedies available at law or in equity to enforce the terms of this Agreement, including the right of specific performance; provided, however, with respect to any default that cannot be cured within thirty (30) days, such legal remedies shall not be pursued if within such period the breaching party takes all steps necessary to cure the default and thereafter continuously exercises due diligence to cure the default.
- 7.4.2 If, following the consultation required by paragraph 4.1 above and good faith efforts on the part of all parties to resolve any disputes regarding this Agreement (other than scheduling disputes which are addressed in Paragraphs 1.1 and 1.2 above) a dispute still exists, the parties agree to submit such dispute to non-binding mediation. If the parties fail to reach a settlement of this dispute within thirty days after the earliest upon which one of the parties has notified the other party of its desire to attempt to resolve the dispute, then the dispute shall be promptly submitted to non-binding mediation by a single mediator provided by the Judicial Arbitrator Group (JAG) of Denver, Colorado, any successor to JAG, or any similar mediation provider who can furnish a former judge to conduct such mediation if JAG or a successor to JAG is no longer in existence. If, following such mediation process, the parties' dispute still exists, the parties shall have the right to pursue any other remedies provided under Colorado law.

7.5 Notices – All notices that may be required or given pursuant to this Agreement by a party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States First Class mail, postage prepaid, and addressed as follows:

School District

Superintendent of Schools
Eagle County School District RE-50J
PO Box 740
Eagle, CO 81631

Recreation District

Executive Director
Mountain Recreation Metropolitan District
PO Box 375
Gypsum, CO 81637

7.6 Miscellaneous Provisions

- 7.6.1 No modification or waiver of this Agreement or any covenant, condition, or provision contained herein shall be valid unless in writing and duly executed by all parties.
- 7.6.2 This written Agreement embodies the whole Agreement between the parties and replaces all prior agreements and amendments thereto that cover the same subjects as set forth herein, and there are no inducements, promises, terms, conditions, or other obligations made or entered into by the parties other than those contained herein.
- 7.6.3 This Agreement shall be binding upon the parties hereto, the respective successors or assigns, and may not be assigned by any party without the express written consent of the other party.
- 7.6.4 All terms contained in this Agreement are severable and, in the event, that any of them shall be held invalid by a court of competent jurisdiction, this Agreement shall be interpreted as if such invalid term or condition is not contained herein.
- 7.6.5 The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings, and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made.
- 7.6.6 This Agreement may be amended from time to time by written Agreement duly authorized by all the parties to this Agreement.
- 7.6.7 This Agreement does not and shall not be deemed to confer upon or grant any third party right enforceable law or equity arising out of any term, covenant, or condition herein or the breach thereof.
- 7.6.8 This Agreement, or a memorandum of this Agreement, may be recorded in the records of the Eagle County Clerk and Recorder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

Eagle County School District RE-50J

By: _____

Title: _____

Date: _____

Mountain Recreation Metropolitan District

By: _____

Title: _____

Date: _____

COLORADO LAW ADDENDUM

THIS COLORADO LAW ADDENDUM (this "Addendum") is entered into by the Eagle County School District RE-50J, a school district in the State of Colorado (the "School District"), and Mountain Recreation Metropolitan District, a Colorado special District (the "Recreation District"), as of _____, 2019 (the School District and the Recreation District may be referred to herein individually as a "Party" or collectively as the "Parties").

This Addendum is attached to and incorporated in the Intergovernmental Agreement entered into by the Parties on _____, 2019 (the "Contract").

The Parties hereby agree to enter into this Addendum in order to ensure compliance with Colorado and federal law. Notwithstanding anything in the Contract to the contrary, the Parties agree as follows:

1. **NON-APPROPRIATION/TABOR.** The Parties understand and acknowledge that the School District and the Recreation District are subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The Parties do not intend to violate the terms and requirements of TABOR by the execution of this Addendum or the Contract. It is understood and agreed that this Addendum and the Contract do not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Addendum and the Contract to the contrary, any payment obligation of the School District or of the Recreation District are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the current fiscal period ending upon the next succeeding June 30 for the School District and the next succeeding December 31 for the Recreation District. Financial obligations payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the School District or the Recreation District, as applicable, and other applicable law. Notwithstanding any other provision of this Addendum and the Contract concerning termination, upon the School District's or the Recreation District's failure to appropriate such funds, this Addendum and the Contract shall automatically terminate.
2. **GOVERNMENTAL IMMUNITY.** No term or condition of the Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, §24-10-101 et seq. C.R.S
3. **INDEPENDENT CONTRACTOR.** The Parties shall perform their respective duties hereunder as an independent contractor and not as an employee. Neither Party nor any of its agents or employees shall be deemed to be an agent or employee of the other. Neither Party nor its respective employees and agents are entitled to unemployment insurance or workers compensation benefits through the other and neither party shall pay for or otherwise provide such coverage for the other or any of its agents or employees. Unemployment insurance benefits will be available to a Party and its employees and agents only if such coverage is made available by that Party or a third party.

Each Party shall pay when due all of its own applicable employment taxes and income taxes and local head taxes incurred pursuant to the Contract. Neither Party shall have authorization, express or implied, to bind the other to any agreement, liability or understanding, except as expressly set forth herein. Each Party shall (i) provide and keep in full force and effect at all times workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide written proof thereof when requested by the other, and (iii) be solely responsible for its acts and those of its own employees and agents.

4. **COMPLIANCE WITH LAW.** Each Party shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
5. **CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Addendum and the 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 as of the execution of this Addendum which purports to negate this or any other provision of this Addendum 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 the Contract, to the extent capable of execution.
6. **BINDING ARBITRATION PROHIBITED.** The School District does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in the Contract or incorporated herein by reference shall be null and void.
7. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** School District or other public funds payable under the Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Recreation District hereby certifies and warrants that, during the term of the Contract and any extensions, Recreation District has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the School District determines that Recreation District is in violation of this provision, the School District may seek any and all remedies available at law, in equity, or under the Contract, including, without limitation, immediate termination of the Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.
8. **PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, et seq. C.R.S.**
 - a. **UNLAWFUL EMPLOYEES, AND SUBCONTRACTS.** The Parties shall not knowingly employ or contract with an illegal alien to perform work under the Contract. Further, neither Party shall employ subcontractors in connection with the Contract.

- b. **VERIFICATION REGARDING ILLEGAL ALIENS.** Each Party has confirmed or attempted to confirm the employment eligibility of all employees who will perform work under the Contract. The Parties shall not employ newly hired employees in connection with the Contract.
 - c. **LIMITATION REGARDING BASIC PILOT PROGRAM.** The Parties shall not use the verification program procedures authorized by the Colorado Department of Labor to undertake pre-employment screening of job applicants for work in connection with the Contract while performing this Contract.
 - d. **DUTY TO TERMINATE A SUBCONTRACT; EXCEPTIONS.** If a Party obtains actual knowledge that subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Party shall:
 - i. Notify the subcontractor and the other Party within three days that the notifying Party has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and,
 - ii. Terminate the subcontract with the subcontractor if, within three days of receiving notice required pursuant to Section 8-17.5-102(2)(b)(III)(A), C.R.S., the subcontractor does not stop employing or contracting with the illegal alien. The Party receiving notice shall not terminate the contract with the subcontractor if during the three days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
 - e. **DUTY TO COMPLY WITH STATE INVESTIGATION.** The Parties shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation pursuant to Section 8-17.5-102(5), C.R.S.
 - f. **DAMAGES FOR BREACH OF CONTRACT.** In addition to any other legal or equitable remedy, the non-breaching Party may be entitled to for a breach of this Contract, if the non-breaching Party terminates this Contract, in whole or in part, due to the other Party's breach of the obligations set forth in Paragraph 8 above, the breaching Party shall be liable for actual and consequential damages to the other Party.
9. **INSURANCE.** For contracts with a total value of \$25,000 or more, the Recreation District shall secure and maintain during the life of the project such insurance, from an insurance company authorized to write casualty insurance in the State of Colorado, as will protect himself, his subcontractors, and the School District from claims for bodily injury, death, or property damage which may arise and shall have filed the Certificate of Insurance or the certified copy of the insurance policy with the School District. Recreation District agrees that it will not cancel any such insurance policies without ten day's written notice to the School District. The amounts of such insurance shall not be less than the following.

- a. Worker's Compensation and Employer's Liability Insurance shall be secured and maintained as required by the State of Colorado for full coverage of all persons employed on the project. Employer's liability coverage per accident
shall be\$1,000,000.00
- b. General Liability and Vehicular Liability: Bodily injury and property damage:
 - i. Injury to or sickness or disease or death of
one person.....\$500,000.00
 - ii. Injury to or sickness or disease or death of two or
more persons in a single occurrence.....\$1,000,000.00
 - iii. Property damage to property of one person.....\$500,000.00
 - iv. Property damage to property of two or more
persons in a single occurrence\$1,000,000.00

Recreation District certifies that the aforementioned insurance is in effect and Recreation District has provided copies of applicable insurance certificates to the School District with this Addendum.

Contracts with a total value of less than \$25,000 shall be governed by the insurance provisions contained in the original contract. If not specifically provided for in the Contract, then the insurance provisions in the Addendum shall be applicable.

13. **VENUE.** Venue shall be in the County of Eagle, State of Colorado.

14. **CONFLICT OR INCONSISTENCY.** In the event of a conflict or inconsistency between this Addendum and the Contract and any Exhibits or attachments, the provisions of this Addendum shall control.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have executed this Addendum on the date first written above.

SCHOOL DISTRICT:

Eagle County School District RE-50J,
a school district in the State of Colorado

Signature: _____

Name: _____

Title: _____

RECREATION DISTRICT:

Mountain Recreation Metropolitan District,
a Colorado special district

Signature: _____

Name: _____

Title: _____

Sandra Mutchler, C.P.A., S.F.O.

Chief Operating Officer
sandra.mutchler@eagleschools.net



March 19, 2020

RE: Noon Basketball Program at Eagle Valley Middle School

We have struggled through this last year to come to a reasonable agreement to support the students at Eagle Valley Middle School and also the community that participates in the noon basketball program through Mountain Recreation. We have had multiple meetings in an effort to come up with alternative resolutions to reduce the liability of having community members accessing district facilities during student contact times. So far we haven't been able to come up with an agreed-upon resolution that meets the needs of the school district and the programming.

Based on this Eagle County Schools proposed to Mountain Recreation to move the noon basketball program to the Gypsum Recreation Center. This provides a quality facility with appropriate amenities so the programming continues. On March 18, 2020, Mountain Recreation Board considered the proposal and ultimately determined it was in the best interest of Eagle County Schools and Mountain Recreation to relocate the program to the Gypsum Recreation. Mountain Recreation Board determined they would provide access to the facility for three months at no fee.

Both entities will be bringing this before the Town of Eagle to present the proposal based on the original 1995 agreement to provide the facilities and jointly host the programming under a 50-year agreement. Unfortunately, times have changed over the last 25 years that it no longer makes sense to continue to mix the student population with community members. Both organizations feel the liability risk is too great to continue the program in the school and it could better be provided through the local recreation center just a few miles from the middle school.

Because of the current COVID 19 circumstances, we would anticipate the change in location and the three-month waiver to begin with the reopening of the Gypsum Recreation Center.

Regards,

Sandra Mutchler

Sandra Mutchler
Chief Operating Officer

pho: 970 328-2747 fax: 970 328-1024

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Sandra Mutchler, C.P.A., S.F.O.

Chief Operating Officer
sandra.mutchler@eagleschools.net



February 26, 2020

Board of Directors
Mountain Recreation

RE: Noon Basketball Program at Eagle Valley Middle School

Per a 1995 Inter Governmental Agreement between Eagle County School District, Mountain Recreation and the Town of Eagle, space for a Mountain Recreation, adult noon basketball program was provided by adding space to the planned construction of a new gym. We are now 25 years into the 50 year agreement and are requesting to have the basketball program moved to the Gypsum Recreation Center.

Times have changed and hosting the program at the school, during the school day when students are present, is putting our students and staff at risk. Safety must be a priority and limiting opportunity for access to the school is imperative.

Since the renovation of Eagle Valley Middle School and relocation of Eagle Valley Elementary, access to the gym and general student population can no longer be monitored and controlled at the needed level to provide a high level of security in the building.

We believe the program needs could easily be met at the Gypsum Recreation Center. This facility has been built since the inception of the original 1995 agreement and can more than meet the needs of the program.

Eagle County Schools is still interested and intends to continue partnering with Mountain Recreation to provide facilities for programming outside of the student contact time and are requesting the board to consider moving the noon program.

Please do not hesitate to contact me with any questions.

Regards,

Sandra Mutchler

Sandra Mutchler
Chief Operating Officer

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March 19, 2020

Town of Eagle
Brandy Reitter, Town Manager

Re: Noon Basketball Program Relocation

Ms. Reitter:

Mountain Recreation received a request from the Eagle County School Board to consider relocating the noon basketball program from the Eagle Valley Middle School to the Gypsum Recreation Center. I have enclosed the letter from Sandra Mutchler for reference.

Given the liability associated with bringing the public into a school facility during the school day, and the opportunity to shift the program to a more suitable recreation facility in Gypsum, the Mountain Recreation Board directed staff to relocate the program to the Gypsum Recreation Center.

The Board considered the long-standing tradition of the program and the imposition of having to drive to Gypsum. The board directed staff to provide free access to the program at no cost to participants for three months to encourage the transition to Gypsum.

If you need any further information or have questions about these concerns, please feel free to contact me. I can be reached at 970-688-7335 or via JBartnik@MountainRec.org.

Sincerely,



Janet Bartnik, M.S., CPRP
Executive Director
Mountain Recreation

Hours of Access	Total Days	Total Hours of Access	Percentage of Program Hours
2 before school			
2 noon	171	257	6.28%
5 after school			
8 Total	171	1,368	
14 Saturdays	49	686	
14 Sundays	48	672	
14 Non contact days	97	1,358	
Totals	365	4,084	
Number of Years		50	
Total Hours of Access		204,200	
Total Paid		431,040	
\$ per Hour of Access		2.11	
Years Remaining		25	
Hours per year		4,084	
Total Hours of Access Remaining		102,100	
\$ per Hour of Access		2.11	
Total Value Remaining		215,520	
Total % of noon Program		6.28%	
Total Value of Noon Program Remaining		\$ 13,535.96	