The Mission of the Town of Estes Park is to provide high-quality, reliable services for the benefit of our citizens, guests, and employees, while being good stewards of public resources and our natural setting.

BOARD OF TRUSTEES - TOWN OF ESTES PARK

Tuesday, May 14, 2024
7:00 p.m.

ACCESSING MEETING TRANSLATIONS

(Accediendo a las Traducciones de la Reunión)

To access written translation during the meeting, please scan the QR Code or click this link for up to 48 other languages (Para acceder a la traducción durante la reunión, por favor escanee el código QR o haga clic en el enlace para hasta 48 idiomas más):

https://attend.wordly.ai/join/UOFH-5928

Choose Language and Click Attend (Seleccione su lenguaje y haga clic en asistir)

Use a headset on your phone for audio or read the transcript can assist those having difficulty hearing (Use un auricular en su teléfono para audio o lea la transcripción puede ayudar a aquellos que tienen dificultades para escuchar).

The Town of Estes Park will make reasonable accommodations for access to Town services, programs, and activities and special communication arrangements for persons with disabilities. Please call (970) 577-4777. TDD available or use the link above to access audio or read the transcript.

ADVANCED PUBLIC COMMENT

By Public Comment Form: Members of the public may provide written public comment on a specific agenda item by completing the form found at https://dms.estes.org/forms/TownBoardPublicComment. The form must be submitted by 12:00 p.m. the day of the meeting in order to be provided to the Town Board prior to the meeting. All comments will be provided to the Board for consideration during the agenda item and added to the final packet.

PLEDGE OF ALLEGIANCE.
(Any person desiring to participate, please join the Board in the Pledge of Allegiance).

AGENDA APPROVAL.

PUBLIC COMMENT.  (Please state your name and address).

TOWN BOARD COMMENTS / LIAISON REPORTS.

TOWN ADMINISTRATOR REPORT.

CONSENT AGENDA:

2. Town Board Minutes dated April 23, 2024.
3. Transportation Advisory Board Minutes dated February 21, 2024 (acknowledgment only).

7. Reappointment of Guy 'Wayne' Newsom to the Estes Park Board of Adjustment for a term expiring March 31, 2027.

REPORTS AND DISCUSSION ITEMS: (Outside Entities).

1. **BASE FUNDING REPORT - CROSSROADS MINISTRIES**, Executive Director Schaffer.

2. **2024 NORTHERN COLORADO INTERSECTIONS REPORT**, Community Foundation of Northern Colorado Director Bouchard.
   Introduction and summary of the Northern Colorado Intersections report.

3. **TUITION ASSISTANCE IN THE ESTES VALLEY**, Manager Bangs.
   Presentation on the current status of tuition assistance programs in the Estes Valley and the presentation of the 2023 Tuition Assistance report from EVICS.

ACTION ITEMS:

1. **RESOLUTION 41-24 SUPPLEMENTAL BUDGET APPROPRIATIONS #3 TO THE 2024 BUDGET**, Director Creamean.
   To appropriate for the extension of 1A funds, Enterprise Resource Planning project additional funds, the Revitalizing Main Street grant received from the State, and certain other budget corrections.

2. **RESOLUTION 42-24 CONTRACT WITH TYLER TECHNOLOGIES FOR ACCOUNTING SOFTWARE ACQUISITION AND IMPLEMENTATION**, ERP Manager Hudson.
   To enter into a contract to acquire and implement a new Software as a Service (SaaS) accounting system from Tyler Technologies.

3. **RESOLUTION 43-24 CONTRACT WITH SPRYPOINT SERVICE, INC. FOR UTILITY BILLING SOFTWARE ACQUISITION AND IMPLEMENTATION**, ERP Manager Hudson.
   To enter into a contract to acquire and implement a new Software as a Service (SaaS) utility billing system from SpryPoint Service, Inc.

   To allow for daily 9 a.m. – 9 p.m. operation of the Red Route Shuttle from May 24 - Oct 20, 2024.

5. **RESOLUTION 45-24 INTERGOVERNMENTAL AGREEMENT WITH CDOT FOR 2024 THE "BUSTANG TO ESTES" TRANSIT SERVICE**, Manager Klein.
   To allow for 40 days of operation of CDOT's Interregional Express bus service to Estes Park.

   Resurfacing of West Elkhorn Avenue and other streets.

7. **RESOLUTION 47-24 CONTRACT WITH DIETZLER CONSTRUCTION CORPORATION FOR GRAVES AVENUE SAFE ROUTES TO SCHOOL IMPROVEMENTS PROJECT**, Engineer Wittwer.
   For sidewalk improvements along Graves Avenue.

*Agenda continues on Page 3*
8. INTERVIEW COMMITTEE FOR THE ESTES PARK PLANNING COMMISSION.
   Town Clerk Williamson.

EXECUTIVE SESSION:
For discussion of specialized details of security arrangements or investigations Section 24-6-402(4)(d), C.R.S. – Regarding Board Security.

ADJOURN.
Minutes of a Regular meeting of the Board of Trustees of the Town of Estes Park, Larimer County, Colorado. Meeting held in the Town Hall and Virtually in said Town of Estes Park on the 23rd day of April, 2024.

Present: Wendy Koenig, Mayor
Marie Cenac, Mayor Pro Tem
Trustees Kirby Hazelton
Frank Lancaster
Barbara MacAlpine
Patrick Martchink
Cindy Younglund

Also Present: Travis Machalek, Town Administrator
Jason Damweber, Assistant Town Administrator
Dan Kramer, Town Attorney
David Thrower, Municipal Judge
Jackie Williamson, Town Clerk
Bunny Victoria Beers, Deputy Town Clerk

Absent: None

Mayor Koenig called the meeting to order at 7:00 p.m.

PROCLAMATION – PUBLIC SERVICE RECOGNITION WEEK.
Mayor Koenig proclaimed May 5th through the 11th public service recognition week and recognized the accomplishments and contributions of government employees at all levels.

AGENDA APPROVAL.
Town Administrator Machalek requested an addition of the Future Study Session discussion as Action Item one following the swearing-in ceremony. It was moved and seconded (Younglund/MacAlpine) to approve the Agenda with the addition of a future study session agenda item as Action Item one, and it passed unanimously.

PUBLIC COMMENTS.
Richard Laskey/Estes Valley Fire Protection District (EVFPD) Chief introduced himself to the community and the Board, and stated he was hired in January 2024. He commented on his eagerness to serve the community, spoke regarding the commitment of the volunteers, and looked forward to building relationships as the Fire Chief.

TRUSTEE COMMENTS.
Trustee comments have been summarized: Earth Week Celebrations would take place to include: environmental film festivals, one hosted by local students, seedling giveaways, the Watershed Coalition and VEP would host a symposium on Water in the west, Lauren Shriver/Astronaut would speak at the YMCA of the Rockies on his shuttle mission, and a Community Clean Up along the riverwalk and downtown ahead of spring blooms. In July 2024, Sister Cities would be traveling to Monteverde, Costa Rica to learn about their government leadership, local economy, and education systems to prepare for future adult and student exchanges. It was suggested the dark skies initiatives and opportunities could expand tourism by promoting the ability to see the Milky Way in Estes Park. Trustee MacAlpine has assembled an exploratory committee to investigate opportunities to form a Colorado Mountain College in Estes Park. Rooftop Rodeo would take place July 5th through 10th. The public was reminded to attend the next Trustee Talk hosted by Mayor Pro Tem Cenac and Trustee Lancaster. The Economic Development and Workforce Council would be defining metrics for the organization to adequately measure success in the future. The Platte River Power Authority stated they were on schedule to provide renewable energy by 2030. Mayor Koenig encouraged Efficiency Works to provide a presentation to the incoming Board. The Board recognized Mayor Koenig and Trustees MacAlpine and Martchink for their time and service on the Board of Trustees. Outgoing Board members stated gratitude.
for the opportunity to serve and encouraging other citizens to consider running in the future.

**TOWN ADMINISTRATOR REPORT.**

Town Administrator Machalek presented the 2024 Organization Plan as required by Board Policy 3.13 and following the certification of results of each biennial election. He presented policy governance report for policies 3.3 and 3.7 and reported full compliance outside of 3.3.2 and 3.3.4 where he reported partial compliance due to three budgeting errors causing budget spending to materially deviate from the levels approved in the adopted budget including: 2024 Budgeted Salary Projection, 2023/2024 Purchase Power, and the Internal Services Director allocation. He stated secondary checks on purchase power budget entries would be conducted moving forward, and the power budget would increase at a projected rate of 6% per year to ensure the budget covers purchase power if demand exceeds projections. In order to maintain structural balance, staff would continue to monitor sales tax which was trending 8% lower than budget.

He recognized Mayor Koenig and Trustees MacAlpine and Martchink for their years of service on the Board of Trustees and spoke briefly on their strengths.

1. **CONSENT AGENDA:**

   1. Bills.
   2. Town Board Minutes and Study Session Minutes dated April 9, 2024.
   3. Resolution 34-24 Intergovernmental Agreement for 2024 Fiscal Year Certifications and Assurances as required for Federal Transit Administration Funding for Public Transportation with CDOT.
   5. Resolution 37-24 Authorizing Town Staff to Administer an Account on the Application Intake System of the United States Department of Agriculture.

   It was **moved and seconded** (Martchink/Hazelton) to approve the Consent Agenda, and it passed unanimously.

**ACTION ITEMS:**

1. **RESOLUTION 35-24 6E FUNDING EXPENDITURE FOR A CHILDCARE FUNDING AGREEMENT WITH THE YMCA OF THE ROCKIES.** Manager Bangs expressed gratitude for the Board’s commitment to childcare and workforce housing initiatives. She presented a resolution to approve an expenditure to the YMCA of the Rockies to support out-of-school programming, additional staffing and assistance to local families with children with special needs. The request would fund a new lead Inclusion Counselor, additional Inclusion Counselor for children under 5 years old and tuition assistance totaling $35,420. Town staff recommended approval. It was **moved and seconded** (MacAlpine/Cenac) with a correction to the reference to EVRPD in Section 15 of the Agreement to YMCA, and the motion passed unanimously.

**ACKNOWLEDGEMENT OF MAYOR KOENIG AND TRUSTEES MACALPINE AND MARTHINK.** Resolutions of Respect were read for Mayor Koenig, and Trustees MacAlpine and Martchink and Town Administrator Machalek acknowledged each member and thanked them for their service to the community. Mayor Koenig was further recognized as serving the Town as the first woman mayor.

Mayor Koenig called a break at 8:00 p.m. and the meeting was reconvened at 8:23 p.m.

**SWEARING-IN CEREMONY FOR NEWLY-ELECTED MAYOR AND TRUSTEES.** Judge Thrower conducted a swearing-in ceremony for newly-elected Mayor Gary Hall and Trustees Bill Brown, Mark Igel, Frank Lancaster and Cindy Younlund.
ACTION ITEMS:

1. **FUTURE STUDY SESSION AGENDA ITEMS.** Mayor Hall requested Board interest in adding future study session agenda items. It was requested and determined the following would be added to future study session/unscheduled agenda items: 1) options for relief to downtown businesses impacted by the Downtown Estes Loop construction; 2) the Town’s noise ordinance; 3) annexation of unincorporated area of the Estes Valley; and 4) possible reimplementation of the joint planning area.

2. **APPOINT MAYOR PRO TEM.** It was moved and seconded (Hall/Younglund) to approve the appointment of Trustee Marie Cenac as Mayor Pro Tem, and the motion passed unanimously.

3. **TOWN BOARD POLICY 101 – BOARD ASSIGNMENTS.** Policy Governance 101 Board Appointments outline the appointments to a number of Boards, Commissions and Task Forces. The following were considered by the Board for formal approval and appointment:

<table>
<thead>
<tr>
<th>Board, Commission or Task Force</th>
<th>Liaison</th>
<th>Staff Liaison</th>
<th>Type of Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estes Park Planning Commission</td>
<td>Trustee Lancaster</td>
<td>Steve Careccia</td>
<td>Advisory/Decision Making</td>
</tr>
<tr>
<td>Estes Park Board of Adjustment</td>
<td>Trustee Brown</td>
<td>Steve Careccia</td>
<td>Decision Making</td>
</tr>
<tr>
<td>Rooftop Rodeo Committee</td>
<td>Trustee Cenac</td>
<td>n/a</td>
<td>Outside</td>
</tr>
<tr>
<td>Estes Park Museum Friends and Foundation Inc.</td>
<td>n/a</td>
<td>Derek Fortini</td>
<td>Outside</td>
</tr>
<tr>
<td>Police Auxiliary</td>
<td>Trustee Igel</td>
<td>Ian Stewart (Interim)</td>
<td>Working Group</td>
</tr>
<tr>
<td>Transportation Advisory Board</td>
<td>Trustee Igel</td>
<td>Greg Muohon</td>
<td>Advisory</td>
</tr>
<tr>
<td>Estes Valley Restorative Justice</td>
<td>Trustee Hazelton</td>
<td>Becky Weller (Interim)</td>
<td>Working Group</td>
</tr>
<tr>
<td>Estes Park Board of Appeals</td>
<td>Trustee Younglund</td>
<td>Steve Careccia</td>
<td>Advisory/Decision Making</td>
</tr>
<tr>
<td>Sister Cities</td>
<td>Trustee Younglund</td>
<td>n/a</td>
<td>Working Group</td>
</tr>
<tr>
<td>Estes Park Housing Authority Board of Commissioners</td>
<td>Trustee Brown</td>
<td>n/a</td>
<td>Outside</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Committee or Board</th>
<th>Appointed Member(s)</th>
<th>Staff Liaison</th>
<th>Type of Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Audit Committee</td>
<td>Mayor Hall Trustee Cenac Trustee Brown</td>
<td>Travis Machalek</td>
<td>Advisory</td>
</tr>
<tr>
<td>Colorado Association of Ski Towns (CAST)</td>
<td>Voting Designee – Trustee Cenac Alt Designee Trustee Hazelton</td>
<td>n/a</td>
<td>Outside</td>
</tr>
<tr>
<td>Platte River Power Authority Board of Directors</td>
<td>Mayor Hall</td>
<td>Reuben Bergsten</td>
<td>Outside</td>
</tr>
<tr>
<td>Estes Chamber of Commerce Economic Development and Workforce Council</td>
<td>Trustee Hazelton &amp; TA Machalek or Designee</td>
<td>n/a</td>
<td>Outside</td>
</tr>
<tr>
<td>Larimer County Regional Opioid Abatement Council</td>
<td>Trustee Younglund expires 02/14/2025</td>
<td>n/a</td>
<td>Outside</td>
</tr>
<tr>
<td>Larimer County Solid Waste Policy Council</td>
<td>Trustee Lancaster expires 11/30/2024</td>
<td>n/a</td>
<td>Outside</td>
</tr>
<tr>
<td>Local Marketing District (Visit Estes Park)</td>
<td>Trustee Brown Alt Designee Trustee</td>
<td>n/a</td>
<td>Outside</td>
</tr>
</tbody>
</table>
It was moved and seconded (Cenac/Igel) to approve the revisions to Policy 101 Board of Trustees Division of Responsibilities. No vote was cast as the substitute motion was passed. Board discussion ensued regarding the proposed Local Market District (LMD) appointment, the need for an alternate designee on the LMD, and the workload for a new Trustee. Trustee Lancaster stated the previous Board was committed to discussing whether the appointed Town Board member would be a voting member of the LMD or a citizen liaison. Board consensus was to remove the alternate designee and to maintain a Board member as a voting member of the LMD Board. Kent Smith/Town citizen and Greg Rosener/Town citizen stated support to maintain a Trustee member on the VEP Board. Kara Franker, CEO of Visit Estes Park (LMD) stated the District would support the Board’s decision and would work with the Board member appointed.

Additional discussion on the LMD Board appointment has been summarized: clarification on the reasoning behind the recommended appointment; whether a fresh perspective and opinion was of value; the commitment level for certain liaison responsibilities; and the learning curve for newly elected members. Both Trustees Brown and Hazelton stated a willingness to serve the community and both shared interest in serving on the LMD Board. A substitute motion was made (Lancaster/Younglund) to adopt Policy 101 appointing Trustee Hazelton to the LMD, removing the alternate designee, and appointing Trustee Brown to the Estes Chamber of Commerce Economic Development and Workforce Council, and it passed with Mayor Hall, Trustee Brown, and Trustee Igel voting “No”.

4. STAFF ASSIGNMENTS. Town Clerk Williamson presented the staff appointments and noted a minor change on the Assistant Municipal Judge position. Assistant Municipal Judge Courtenay Patterson would be stepping down from the position due to other judicial commitments. The Town would consider a process for filling the position at a later date. It was moved and seconded (Hazelton/Igel) to approve the appointments of Jackie Williamson as Town Clerk, Jeremy Creamean as Town Treasurer/Town Clerk Pro Tem, Dan Kramer as Town Attorney, David Thrower as the Municipal Judge and Travis Machalek as the Town Administrator, and it passed unanimously.

5. RESOLUTION 36-24 CONTRACT WITH DAVID THROWER FOR MUNICIPAL JUDGE SERVICES. Town Clerk Williamson presented a new contract for Municipal Judge Thrower. The contract would run through the next regular municipal election in 2026. No changes to the contract were proposed. Judge Thrower also presides as the Liquor Authority as outlined in the Municipal Code through the proposed contract. The contract would begin on April 24, 2024 and terminate on April 28, 2026 with all other conditions remaining the same. It was moved and seconded (Brown/Cenac) to approve Resolution 36-24, and it passed unanimously.

Whereupon Mayor Hall adjourned the meeting at 9:19 p.m.

Gary Hall, Mayor

Bunny Victoria Beers, Deputy Town Clerk
Minutes of a Regular meeting of the TRANSPORTATION ADVISORY BOARD of the Town of Estes Park, Larimer County, Colorado. Meeting held in the Municipal Building in said Town of Estes Park on the 21st day of February, 2024.

Board: Chair Belle Morris; Vice-Chair Kristen Ekeren; Members Javier Bernal, Jessica Ferko, Ann Finley, Larry Gamble, Linda Hanick, Mark Igel, and Gordon Slack; Trustee Patrick Martchink; Staff Liaison Greg Muhonen

Attending: Chair Morris; Vice-Chair Ekeren; Members Bernal, Finley, Gamble, Hanick, Igel, and Slack; Trustee Martchink; Director Muhonen; Manager Solesbee; Engineer Bailey; Supervisor Klein; Recording Secretary McDonald; Anthony Pratt, Kimley-Horn; Paul Hornbeck, Community Development

Absent: Member Ferko

Chair Morris called the meeting to order at 12:07 p.m.

PUBLIC COMMENT
None.

APPROVAL OF MINUTES DATED JANUARY 17, 2024
It was moved and seconded (Gamble/Ekern) to approve the January 17, 2024, minutes with a minor amendment, and it passed unanimously.

2045 TRANSPORTATION MASTER PLAN & 2030 TRANSIT DEVELOPMENT PLAN
Consultant Pratt presented the 2045 Transportation Plan, with clarifications provided as needed by Manager Solesbee. Presentation summary points included the phenomenal level of public engagement on the online survey and interactive mapping tool, the results of which will remain accessible for viewers; the constructiveness and positivity of comments received; respondent perception, habits, and requests regarding transit; the ranking and summary descriptions of the Plan’s goals, and how they will be prioritized by the Steering Committee and public involvement; and concepts for transit improvements regarding frequency of routes and service, new types of service, and infrastructure projects.

Discussion points for the survey included the importance of distinguishing between visitor and resident feedback; the decision to measure user demographic for the survey but not the mapping tool; public engagement activity following informational mailings, presentations, and other gatherings; the desire to be environmentally thoughtful and resilient in the final version of the plan; the definition and clarification of Vulnerable Road User (VRU) as someone not enclosed in a vehicle; the need to address emergency evacuation planning with engagement of the Larimer County Sheriff and Colorado State
Patrol; the need to describe the transit hub and why the location was chosen; and economic development factors for Colorado Highway 7 (CO 7) businesses. Consultant Pratt advised that topical white papers would be reviewed by the Steering Committee and featured on the website. An open house/workshop is being planned for March, so that public feedback can help shape the prioritization process and the development of a final report that addresses realistic, achievable goals.

ENGINEERING UPDATE
Engineer Bailey reported that the Visitor Center Parking Lot Redesign contract would be presented at the February 27 Town Board meeting. If approved, construction planning could begin immediately.

Utility relocations continue for the Cleave Street Improvements project, with Xcel currently moving the gas main and tying in services; Power and Communications work will follow. TDS lines were discovered and will be moved. The construction contract will be presented at the February 27 Town Board meeting; if approved, the work would begin after the contractor officially completes another Town project. The original goal of a June hard stop for concrete work is not realistic, but utilities should be done by June. TAB members were encouraged to invite people to sign up for the CSI Project Communications email list for weekly and as-needed communications.

A contractor staging area is needed for the Graves Avenue-Safe Routes to School project. Staff is working with the Estes Park School District for temporary use of school property, after which the bid will be advertised with the goal to complete construction by mid-August.

Regarding the ongoing topic of pedestrian safety at Lexington Lane and CO 7, Member Gamble reported that a past traffic study did not warrant traffic signal placement there. Estes Park Middle School Principal John Bryant is in favor of exploring parental preference for an official crossing there this fall after the apartment complex is completed and fully occupied. Chair Morris summarized the Step by Step: How to Start a Walking School Bus at Your School packet item. Discussion points included using a survey to gauge interest in such a program; how adult and student volunteer route leaders could be organized; and the importance of evaluating the program’s effectiveness after any implementation. Member Hanick will provide contact information for the Estes Park Newcomers Club, whose members could be asked to help organize a safe crossing program. It was agreed that this would be a demand-based project.

ADMINISTRATIVE UPDATE
Regarding Downtown Estes Loop (DEL) construction, Director Muhonen reported that buried utilities have delayed work on the north side of the roundabout. The post office parking lot should be paved in May.

The Big Horn Parking Lot Micro-Structure Request for Proposals (RFP), started by Manager Solesbee and Engineer Bailey, will be assigned to the new project manager, whose employment begins March 25.
US 34 Coalition members will gather on March 6 for a kick-off meeting to establish governance and membership structures for the developing US 34 Transportation Management Organization (TMO). Steer Group Consulting will lead the meeting.

The first phase of the CDOT US 34/36 Overlay Project started on February 19 with placement of temporary traffic signals for the retaining wall work along Moraine Avenue. The second phase, paving of the project area, is expected to be completed by September.

TAB members were invited to attend a farewell gathering on February 22 for Manager Solesbee, whose last date of employment is March 1.

Member Hanick inquired about maintenance needed at the Baldwin Park bridge; Director Muhonen will have the Parks Division evaluate.

**TRANSIT UPDATE**

Supervisor Klein summarized the 2023 Year-End Report for The Peak, starting with images of the new branding. Due to fewer exterior advertisement spaces on rental buses, some sponsor dollars were lost; however, use of a local sign service reduced costs for the new branding. For the 157-day transit season, ridership was 99,472, up from 73,266 in 2022. Special Event ridership is an ongoing measure; the Wine & Chocolate Festival hosted 134 riders, and the Estes Valley Library’s (EVL) Daniel Tiger Day hosted 105 riders. With RATP Dev costs up for 2024, staff is seeking alternate funding for the transit program.

Paid parking rates for the 2024 season will be recommended to the Town Board on March 12. Although no changes are being recommended, this administrative formality is required in the Estes Park Municipal Code.

**DISCUSSION OF THE TAB AS AD HOC COMMITTEE**

Trustee Marchink reported that only one TAB member had responded to the February 7 “TAB/Ad hoc feedback” email survey. The meaning of ad hoc, as it could apply to the TAB, was summarized. Discussions points included sensitivity to staff time between and during TAB meetings; reducing the frequency of meetings but still emailing a packet during the off-months to engage members on non-actionable topics; how having a regular meeting time each month functions as a focus group, allowing for robust conversations that might not otherwise take place; the TAB’s service as a conduit between the Town and the community; the possibility of scheduling agenda-driven meetings according to seasonal impacts on member attendance; the inefficiency of meetings that repeat information provided through other Town meetings or platforms; how expanding the agenda item titles can encourage public attendance; how the packet itself could determine whether a meeting should actually be held in a given month; and how having regular meetings provides good opportunity to have timely topics presented by agencies like CDOT and Rocky Mountain National Park (RMNP). Trustee Marchink thanked the TAB for their feedback and will provide a summary to the Town Board.
UPDATE ON PAST PUBLIC COMMENT
Chair Morris reminded the TAB that safe crossing at Lexington Lane is an ongoing conversation generated by past public comment.

OTHER BUSINESS
Chair Morris reminded the TAB of upcoming member term expirations. Vice-Chair Ekeren and Member Bernal intend to reapply; Member Slack will allow his term to expire.

There being no further business, Chair Morris adjourned the meeting at 2:03 p.m.

/s/Lani McDonald, Recording Secretary
Memo

To: Honorable Mayor Hall
    Board of Trustees

Through: Town Administrator Machalek

From: Jacqueline Wesley, Project Manager, Utilities and Trevor Wittwer, Civil Engineer

Date: May 14, 2024


(Mark all that apply)

☐ PUBLIC HEARING ☐ ORDINANCE ☐ LAND USE
☒ CONTRACT/AGREEMENT ☒ RESOLUTION ☐ OTHER______________

QUASI-JUDICIAL ☐ YES ☒ NO

Objective:
To be good stewards of our public resources Utilities and Public Works aim to combine two infrastructure projects together by obtaining Town Board approval of the Construction Contract with Wagner Construction, Inc. for the construction of the 2024 Reclamation Neighborhood water main and roadway improvements.

Present Situation:
The Reclamation Neighborhood was built in the 1940s by the Bureau of Reclamation to support the Colorado-Big Thompson (C-BT) project and was intended to be temporary housing to support C-BT employees. The water lines were installed in the same trench as the sanitary sewer lines, an old practice used for temporary infrastructure. This does not meet today’s standards and CDPHE (the Colorado Department of Public Health and Environment) requires separation of at least ten feet. The ten-foot separation must be completed by November 19, 2024.

The streets are in poor condition and the sidewalks do not comply with Americans with Disabilities Act (ADA) requirements. Public Works prioritized this neighborhood for future improvements including ADA compliance. The water system improvements and roadway/sidewalk improvements have been combined into a single bid package which saves cost and disruption to residents.

Competitive bids were solicited and bids two were opened on April 11, 2024.

<table>
<thead>
<tr>
<th>BIDDER</th>
<th>TOTAL FEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Duran Excavating, Inc.</td>
<td>$4,012,109.00</td>
</tr>
<tr>
<td>Wagner Construction, Inc.</td>
<td>$3,531,040.00</td>
</tr>
</tbody>
</table>
Proposal:
Utilities and Public Works staff propose approving the Construction Contract with Wagner Construction in the amount of $3,531,040.00. Project management and construction oversight will be performed by Town staff.

Advantages:
- Meet CDPHE required relocation of water lines by the deadline of November 19, 2024.
- Consolidated neighborhood discussions to understand the full scope of construction work and impacts.
- Construction cost savings with a single mobilization, demobilization and economies realized through joint construction efforts.
- Improved public perception of the Town Government’s ability to collaborate between Town departments for the benefit of our citizens.

Disadvantages:
- Disruption to traffic in the proposed work areas during construction; however, combining the water and street/sidewalk improvements reduces the overall impact.
- Longer continuous construction duration over a larger area than if only the waterline project was completed; however, once completed streets and sidewalks will be modernized and brought to ADA standards.

Action Recommended:
Utilities and Public Works staff recommend the Town Board approve Project Construction Contract.

Finance/Resource Impact:
- Public Works: 260-2000-420.35-51 (project code WTBRP4), $779,785 expenditure, $1,052,393 available budget as of 04-12-24.

Future One-time or On-going Impacts: This project is not expected to increase future one-time or on-going costs. The drainage and water pipe improvements should lower long-term O&M costs.

Level of Public Interest
High interest in the localized Reclamation Neighborhood area, low interest in the remainder of the public area. Interest may increase during active construction and will be associated with traffic impacts.
Sample Motion:
I move for the approval/denial of Resolution 38-24

Attachments:
1. Resolution 38-24
2. Construction Contract
RESOLUTION 38-24

APPROVING A CONSTRUCTION CONTRACT WITH
WAGNER CONSTRUCTION, INC. FOR THE RECLAMATION
NEIGHBORHOOD IMPROVEMENTS PROJECT

WHEREAS, the Water Activity Enterprise and Public Works Department solicited competitive construction bids; and

WHEREAS, the Water Activity Enterprise and Public Works Department vetted the construction bids and found the lowest bidder, Wagner Construction, Inc., to be a responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO ACTING AS THE GOVERNING BODY OF ITS WATER ACTIVITY ENTERPRISE:

The Board approves and authorizes the Mayor to sign the construction contract referenced in the title of this resolution in substantially the form now before the Board.

DATED this ______ day of ________________, 2024.

TOWN OF ESTES PARK

________________________________________
Mayor

ATTEST:

________________________________________
Town Clerk

APPROVED AS TO FORM:

________________________________________
Town Attorney
CONSTRUCTION CONTRACT

2024 Reclamation Neighborhood Improvements Project

THIS CONTRACT is made at the Town of Estes Park, Colorado, by and between the Town of Estes Park, Colorado (Town), a municipal corporation, and Wagner Construction, Inc. - Colorado (Contractor), a Minnesota corporation, whose address is 3151 Highway 53, International Falls, MN 56649.

In consideration of these mutual covenants and conditions, the Town and Contractor agree as follows:

SCOPE OF WORK. The Contractor shall execute the entire Work described in the Contract Documents.

CONTRACT DOCUMENTS. The Contract incorporates the following Contract Documents. In resolving inconsistencies among two or more of the Contract Documents, precedence will be given in the same order as enumerated.

LIST OF CONTRACT DOCUMENTS.

The Contract Documents, except for Modifications and Change Orders issued after execution of this Agreement, are:

1. Change Orders;
2. Construction Contract;
3. The following addenda, if any:
   i. Number | Date          | Page(s)
   2         | 03/25/2024   | 19
   1         | 03/18/2024   | 1
4. The following Special Conditions of the Contract:
   i. Document Title | Date       | Page(s)
   Special Conditions | 3/15/2024   | 22
   (updated 5/6/2024)
5. General Conditions;
6. The following Technical Specifications:
   i. Document/Title | Page(s) | Date
   Water Division Water System Engineering Design Standards | 153     | 4/8/2022
7. The following Drawings:
   i. Number/Title | Date
   2024 Reclamation Neighborhood Project (RG & Associates 19 pages) | 3/15/2024
8. Notice to Proceed;

Agreement for Construction Contract--Page 1 of 5
9. Notice of Award;  
10. Invitation to Bid  
11. Bid Bond;  
12. Bid Proposal;  
13. Instructions to Bidders;  
14. Performance Bond and Payment Bond;  
15. Insurance Certificates;  
16. Construction Progress Schedule; and  
17. Any other documents listed as Contract Documents in the General Conditions.

**CONTRACT PRICE.** The Town shall pay the Contractor for performing the Work and the completion of the Project according to the Contract, subject to change orders as approved in writing by the Town, under the guidelines in the General Conditions. The Town will pay the base sum of $3,531,040.00 DOLLARS (Contract Price), to the Contractor, subject to full and satisfactory performance of the terms and conditions of the Contract. The Town has appropriated sufficient money for this work.

**COMPLETION OF WORK.** The Contractor must begin work covered by the Contract within 10 work days, and must complete work as described in the Special Conditions.

**LIQUIDATED DAMAGES.** If the Contractor fails to substantially complete the Work within the time period described above and in the Contract Documents, or within such other construction time if modified by a change order, the Town may permit the Contractor to proceed, and in such case, may deduct the sum of $4,500 for each calendar day that the Work shall remain uncompleted for Milestone 1 substantial completion as described in the Contract Documents and for each calendar day that the Work shall remain uncompleted for the full project substantial completion, from monies due or that may become due the Contractor. This sum is not a penalty but is the cost of field and office engineering, inspecting, interest on financing and liquidated damages.

The parties agree that, under all of the circumstances, the daily basis and the amount set for liquidated damages is a reasonable and equitable estimate of all the Town's actual damages for delay. The Town expends additional personnel effort in administrating the Contract or portions of it that are not completed on time, and such efforts and the costs thereof are impossible to accurately compute. In addition, some, if not all, citizens of Estes Park incur personal inconvenience and lose confidence in their government as a result of public projects or parts of them not being completed on time, and the impact and damages, certainly serious in monetary as well as other terms are impossible to measure.

**SERVICE OF NOTICES.** Notices to the Town are given if sent by registered or certified mail, postage prepaid, to the following address:

**TOWN OF ESTES PARK**  
Public Works Department  
Attn: Trevor Wittwer  
PO Box 1200  
Estes Park, CO 80517  

**TOWN OF ESTES PARK**  
Water Division  
Attn: Jacqui Wesley  
1360 Brook Dr.  
Estes Park, CO 80517
INSURANCE PROVISIONS. The Contractor must not begin any work until the Contractor obtains, at the Contractor's own expense, all required insurance as specified in the General Conditions. Such insurance must have the approval of the Town of Estes Park as to limits, form and amount.

RESPONSIBILITY FOR DAMAGE CLAIMS. The Contractor shall indemnify, save harmless, and defend the Town, its officers and employees, from and in all suits, actions or claims of any character brought because of: any injuries or damage received or sustained by any person, persons or property because of operations for the Town under the Contract; the Contractor's failure to comply with the provisions of the Contract; the Contractor's neglect of materials while constructing the Work; because of any act or omission, neglect or misconduct of the Contractor; because of any claims or amounts recovered from any infringements of patent, trademark, or copyright, unless the design, device, materials or process involved are specifically required by Contract; from any claims or amount arising or recovered under the "Workers' Compensation Act," by reason of the Contractor's failure to comply with the act; pollution or environmental liability; or any failure of the Contractor to comply with any other law, ordinance, order or decree. The Town may retain so much of the money due the Contractor under the Contract, as the Town considers necessary for such purpose, for the Town's use. If no money is due, the Contractor's Surety may be held until such suits, actions, claims for injuries or damages have been settled. Money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that the Contractor and the Town are adequately protected by public liability and property damage insurance.

The Contractor also agrees to pay the Town all expenses incurred to enforce this "Responsibility for Damage Claim" agreement and if the Contractor's insurer fails to provide or pay for the defense of the Town of Estes Park, its officers and employees, as additional insureds, the Contractor agrees to pay for the cost of that defense.

Nothing in the INSURANCE PROVISIONS of the General Conditions shall limit the Contractor's responsibility for payment of claims, liabilities, damages, fines, penalties, and costs resulting from its performance or nonperformance under the Contract.

STATUS OF CONTRACTOR. The Contractor is performing all work under the Contract as an independent contractor and not as an agent or employee of the Town. No employee or official of the Town will supervise the Contractor nor will the Contractor exercise supervision over any employee or official of the Town. The Contractor shall not represent that it is an employee or agent of the Town in any capacity. The Contractor and its employees are not entitled to Workers' Compensation benefits from the Town and are obligated to pay federal and state income tax on money earned pursuant to the Contract. This is not an exclusive contract.

THIRD-PARTY BENEFICIARIES. None of the terms or conditions in the Contract shall give or allow any claim, benefit, or right of action by any third person not a party to the Contract. Any person except the Town or the Contractor receiving services or benefits under the Contract shall be only an incidental beneficiary.

INTEGRATION. The Contract is an integration of the entire understanding of the parties with respect to the matters set forth in it, and supersedes prior negotiations, written or oral.
representations and agreements.

**DEFINITIONS.** The Definitions in the General Conditions apply to the entire Contract unless modified within a Contract Document.

EXECUTED this _____ day of _____________, 2024.

(Signature pages to follow.)
TOWN OF ESTES PARK

By: _______________________________ Date
Title: _______________________________

State of ________________) ) ss
County of ________________) 

The foregoing instrument was acknowledged before me by _________________, as __________ ________________ of the Town of Estes Park, a Colorado municipal corporation, on behalf of the corporation, this _____ day of ________________________, 2024.

Witness my hand and official Seal.

My Commission expires _________________.

____________________________________
Notary Public

APPROVED AS TO FORM:

[Signature]

Town Attorney
CONTRACTOR

By: _______________________________  Date
Title: _______________________________

State of ____________)  
County of ____________)  

The foregoing instrument was acknowledged before me by ________________________,  
(Name of party signing)
as ______________________ of ________________________________  
(Title of party signing)  (Name of corporation)
a ______________________ corporation, on behalf of the corporation, this  
(State of incorporation)  
________ day of ________________________, 2024.  

Witness my hand and official Seal.  
My Commission expires ______________________.  

_________________________________________  
Notary Public
Memo

To: Honorable Mayor Hall
   Board of Trustees

Through: Town Administrator Machalek

From: Reuben Bergsten, Utilities Director
       Dan Kramer, Town Attorney

Date: May 14, 2024

RE: Resolution 39-24 Third Amendment to the Intergovernmental Agreement for the Funding and Coordination of a Joint Compensation Study between Platte River Power Authority, Fort Collins, Longmont, Loveland and Estes Park, $1,136.62 Budgeted.

(Mark all that apply)
☐ PUBLIC HEARING  ☒ ORDINANCE  ☐ LAND USE
☒ CONTRACT/AGREEMENT  ☒ RESOLUTION  ☐ OTHER______________

QUASI-JUDICIAL ☐ YES  ☒ NO

Objective:
Improve the quality of service by attracting and retaining staff with competitive wages. Being good stewards of electric customer funding by consolidating common tasks and needs with Platte River Power Authority, Fort Collins, Longmont, and Loveland.

Present Situation:
In 2013 the four municipalities and PRPA collaborated on compensation studies to determine current market wages for the electric industry. This helps the municipalities and PRPA by staying competitive with wages which will help us attract and retain qualified individuals with knowledge, skills, and abilities to enhance our mission of providing high quality and reliable service.

Electric Power staff turn-over has been a systemic problem. Over the past 10 years, we have only been able to hire two Journey Lineworkers. We have instead, hired Apprentice Lineworkers, investing four to five years in training and approximately $352,000 each for them to become Journey Lineworkers. Over that same period, 17 of those apprentices left Estes Park.

The following images illustrate the 2019 movement of staff for the four municipalities and the lost investment.
Proposal:
Staff proposes approval of the IGA.

Advantages:
● Access to market data to improve our competitiveness with similar entities
● Minimal cost for a wage study is specific to the power and communications field

Disadvantages:
● There is a cost to study; however, collaboration lowers our cost to data and Electric Power staff turn-over has a larger cost
Action Recommended:
Staff recommends approving the IGA.

Finance/Resource Impact:

Level of Public Interest
Low

Sample Motion:
I move for the approval/denial of Resolution 39-24

Attachments:

1. Resolution 39-24
2. Intergovernmental Agreement, Third Amendment
3. Intergovernmental Agreement, Original
4. Intergovernmental Agreement, First Amendment
5. Intergovernmental Agreement, Second Amendment
RESOLUTION 39-24

A RESOLUTION APPROVING THE THIRD AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT FOR THE FUNDING AND COORDINATION OF A JOINT COMPENSATION STUDY

WHEREAS, the Town Board desires to enter the intergovernmental agreement referenced in the title of this resolution for the purpose of consolidating work at Platte River Power Authority, supporting operations at Fort Collins, Longmont, Loveland and Estes Park.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO:

The Board approves, and authorizes the Mayor to sign, the intergovernmental agreement referenced in the title of this resolution in substantially the form now before the Board.

DATED this _____ day of _______________, 2024.

TOWN OF ESTES PARK

________________________________________
Mayor

ATTEST:

________________________________________
Town Clerk

APPROVED AS TO FORM:

________________________________________
Town Attorney
THIRD AMENDMENT TO INTERGOVERNMENTAL AGREEMENT FOR THE FUNDING AND COORDINATION OF A JOINT COMPENSATION STUDY

This Third Amendment to the Intergovernmental Agreement for the Funding and Coordination of a Joint Compensation Study ("Amendment") is made and entered into January 1, 2024, (the "Effective Date") by and between Platte River Power Authority, a Colorado political subdivision ("Platte River"), the Town of Estes Park ("Estes Park"), the City of Fort Collins, a Colorado municipal corporation ("Fort Collins"), the City of Longmont, a Colorado municipal corporation ("Longmont"), and the City of Loveland, a Colorado municipal corporation ("Loveland"). The listed municipalities may be referred to collectively as “Municipalities.”

RECITALS

A. In order to attract and maintain employees with the unique skills necessary to manage and operate retail electric distribution systems, the Municipalities previously recognized a common need for reliable data reflecting the compensation levels offered by utilities with whom the Municipalities compete for employees.

B. The parties entered into an Intergovernmental Agreement for the Funding and Coordination of a Joint Compensation Study, dated April 11, 2013, a First Amendment on November 20, 2017, and a Second Amendment on August 5, 2020, to combine resources for the preparation of a joint compensation study ("Amended IGA").

C. The parties desire to further amend the Amended IGA to combine resources for the preparation of an updated joint compensation study.

D. The results of an updated compensation study related to electric distribution utility systems has no relevance to Platte River, but Platte River is willing to pay for one half the total cost of the updated compensation study and to coordinate the performance of the updated compensation study for the benefit of the Municipalities provided it is reimbursed for the remaining balance of costs incurred in retaining a third-party consultant to conduct the research.

AGREEMENT

1. Platte River agrees to pay for one half of the total cost of the updated compensation study and to coordinate the performance of an updated joint compensation study for the benefit of the Municipalities. Coordination will include activities undertaken in conjunction with the Municipalities, including but not limited to, developing a mutually agreeable scope of work and contracting with the consultant that will perform the joint compensation study update.

2. The Municipalities agree to reimburse Platte River for the remaining balance of amounts paid to the consultant under the contract to perform the joint compensation study update, such amounts to be calculated in Exhibit A, attached hereto, and replacing Exhibit A attached to the Amended IGA. Platte River will bill each of the Municipalities separately, with payment due thirty (30) days after receipt of the billing.

3. Unless specifically amended by this Amendment, all terms and conditions of the Amended IGA will remain the same.
4. This Amendment may be executed in counterparts by electronic or physical signature, each of which will be deemed to be an original and all of which together will constitute one original agreement.

5. If any term or provision of this Amendment is adjudicated to be invalid, illegal or unenforceable, this Amendment will be deemed amended to delete therefrom the term or provision thus adjudicated to be invalid, illegal or unenforceable and the validity of the other terms and provisions of this Amendment will not be affected thereby.

SIGNATURES

PLATTE RIVER POWER AUTHORITY

By: Jason Frishie
General Manager/CEO

APPROVED AS TO FORM:

By: Caroline Schmiedt
Senior Counsel

ATTEST:

By: 
Executive Assistant/Admin Services Supervisor
TOWN OF ESTES PARK, COLORADO

By: ________________________
   Mayor

APPROVED AS TO FORM:

By: ________________________
   Town Attorney

ATTEST:

By: ________________________
   Town Clerk
CITY OF FORT COLLINS, COLORADO

By: Kelly DiMartino
Kelly DiMartino, City Manager

APPROVED AS TO FORM:

By: Cyril Vidergar
Assistant City Attorney II

ATTEST:

By: Heather L Walls
Heather L Walls, City Clerk
Interim City Clerk
CITY OF LOVELAND, COLORADO

By: ________________________
    Acting City Manager

APPROVED AS TO FORM:

By: ________________________
    Assistant City Attorney

ATTEST:

By: ________________________
    City Clerk
CITY OF LONGMONT, COLORADO

By: ________________________
    Mayor

APPROVED AS TO FORM AND SUBSTANCE:

By: ________________________
    Director of Longmont
    Power & Communications

APPROVED AS TO FORM:

By: ________________________
    Deputy City Attorney

PROOFREAD:

By: ________________________
Exhibit A

The actual costs of retaining an independent consultant to perform the updated Joint Compensation Study will be split among Platte River and the Municipalities according to the following formula: 1) one half of the actual costs will be paid by Platte River; and 2) one half of the actual costs will be apportioned among the Municipalities in proportion to energy sales from Platte River to each Municipality during 2022. The total actual costs will not exceed $52,500.00 absent written modification of this Exhibit A.

Below is an example of the cost responsibility for Platte River and the Municipalities based on the actual costs of the updated Joint Compensation Study being $52,500.00.

**PLATTE RIVER POWER AUTHORITY**

2024 Compensation Study Allocation Shared with Municipalities

Costs Based on $52,500 Estimate

(Costs Share ½ Platte River and ½ Municipalities Based on 2022 Energy Sales (kWh))

<table>
<thead>
<tr>
<th>Party</th>
<th>Share of First $26,250</th>
<th>2022 Energy Sales (kWh)</th>
<th>Share of 2022 Energy Sales</th>
<th>Share of Second $26,250</th>
</tr>
</thead>
<tbody>
<tr>
<td>Platte River</td>
<td>$26,250.00</td>
<td></td>
<td>0.00%</td>
<td>$26,250.00</td>
</tr>
<tr>
<td>Estes Park</td>
<td>-</td>
<td>140,571,121</td>
<td>4.33%</td>
<td>1,136.62</td>
</tr>
<tr>
<td>Fort Collins</td>
<td>-</td>
<td>1,513,093,406</td>
<td>46.56%</td>
<td>12,222.00</td>
</tr>
<tr>
<td>Longmont</td>
<td>-</td>
<td>847,302,471</td>
<td>26.08%</td>
<td>6,846.00</td>
</tr>
<tr>
<td>Loveland</td>
<td>-</td>
<td>748,433,976</td>
<td>23.03%</td>
<td>6,045.38</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$26,250.00</td>
<td><strong>3,249,400,974</strong></td>
<td><strong>100.00%</strong></td>
<td><strong>$26,250.00</strong></td>
</tr>
</tbody>
</table>
INTERGOVERNMENTAL AGREEMENT
FOR THE FUNDING AND COORDINATION OF A
JOINT COMPENSATION STUDY

This Agreement is made and entered on the 1st day of April, 2013, by and between Platte River Power Authority, a Colorado political subdivision (Platte River), the Town of Estes Park, (Estes Park), the City of Fort Collins, a Colorado municipal corporation (Fort Collins), the City of Longmont, a Colorado municipal corporation (Longmont), and the City of Loveland, a Colorado municipal corporation (Loveland). The listed municipalities may be referred to collectively as “Municipalities”.

RECITALS

a. Platte River was formed by contract among the Municipalities pursuant to C.R.S. § 29-1-204 to provide electric generation and transmission services and other related functions of benefit to the Municipalities.

b. The Municipalities operate electric distribution systems providing retail utility service to customers within their municipal boundaries and service territories.

c. In order to attract and maintain employees with the unique skills necessary to manage and operate retail electric distribution systems, the Municipalities have a common need for reliable data reflecting the compensation levels offered by utilities with whom the Municipalities compete for employees.

d. Some of the necessary compensation data is of common use to the Municipalities, but some of the information needed may be useful only to a subset of the Municipalities.

e. There are economies of scale in conducting one comprehensive compensation study that addresses the common and unique needs of the Municipalities for compensation information.

f. The Municipalities believe that a compensation study of this nature and magnitude would best be performed by a third party with expertise in this type of research.
g. The results of a compensation study related to electric distribution utility systems has no relevance to Platte River, but Platte River is willing to coordinate the compensation study for the benefit of the Municipalities provided it is reimbursed for the costs incurred in retaining a third party consultant to conduct the research.

AGREEMENT

1) Platte River agrees to coordinate the performance of a joint compensation study for the benefit of the Municipalities. Coordination will include activities undertaken in conjunction with the Municipalities, including but not limited to, developing a mutually agreeable scope of work, bid solicitation and contracting with the consultant that will perform the joint compensation study.

2) The Municipalities agree to reimburse Platte River for amounts paid to the consultant under contract to perform the joint compensation study, such amounts to be calculated pursuant to Exhibit A. Platte River will bill each of the Municipalities separately, with payment due thirty (30) days after receipt of the billing.

3) Platte River will contract directly with the consultant chosen to complete the joint compensation study. It is anticipated that Platte River will contract with Strategic Staffing Placement LLC on a sole source basis. Under the Platte River Fiscal Resolution, competitive bids are unnecessary in this instance if the General Manager determines that Strategic Staffing Placement LLC will provide a specialized service for which a competitive bid process is not practicable or advantageous. Compensation of the consultant will be on an hourly basis plus expenses, capped at an amount not to exceed $50,000.00. If the contract cannot be completed for $50,000.00, Platte River will not be obligated to complete the study unless the Municipalities commit to provide sufficient additional funds through a modification of Exhibit A.
4) Platte River, after consultation with the Municipalities, may terminate the joint compensation study pursuant to the terms of its agreement with consultant. In the event that the joint compensation study is terminated prior to completion the Municipalities will be billed for the work completed, but in no event more than the amounts set forth in Exhibit A, and the Municipalities agree to pay the amounts billed. All work product and any intellectual property shall be provided to, and shall be the joint property of, the Municipalities. In the event of termination, Platte River will have no further obligations under this Agreement.

5) This Agreement is the entire agreement between Platte River and the Municipalities concerning the joint compensation study and shall be modified only by written instrument approved by the governing bodies of the Municipalities and Platte River.

6) All of the Municipalities' financial obligations under this Agreement are contingent upon appropriation, budgeting, and availability of specific funds to discharge those obligations. Nothing in this Agreement constitutes a debt, a direct or indirect multiple fiscal year financial obligation, or a pledge of the Municipalities' credit.

7) Platte River agrees to manage, and require the consultant to carry out, the joint compensation study in accordance with all applicable legal requirements.

IN WITNESS WHEREOF, the Parties have caused this Agreement, to be executed the day and year first above written.

PLATTE RIVER POWER AUTHORITY

By: Jackie A. Sargent
General Manager

ATTEST:

TOWN OF ESTES PARK, COLORADO

ATTEST:

Intergovernmental Agreement for the Funding and Coordination of a Joint Compensation Study

01/30/2013

Page 3 of 5
CITY OF FORT COLLINS, COLORADO

By: Karen Weidenmier
Mayor

APPROVED AS TO FORM:

By: Carol Deff
Deputy City Attorney

CITY OF LOVELAND, COLORADO

By: William Calvert
City Manager

APPROVED AS TO FORM:

By: Erin Clark
Assistant City Attorney

CITY OF LONGMONT, COLORADO

By: Dennis L. Groentje
Mayor

APPROVED AS TO FORM AND SUBSTANCE:

J. Kommer
Director of Longmont Power & Communications

Intergovernmental Agreement for the Funding and Coordination of a Joint Compensation Study

01/30/2013

Page 4 of 5
Intergovernmental Agreement for the Funding and Coordination of a Joint Compensation Study

Page 5 of 5
EXHIBIT A

The actual costs of retaining an independent consultant to perform the Joint Compensation Study will be split between the Municipalities according to the following formula: 1) one half of the actual costs will be split evenly between the Municipalities; and 2) one half of the actual costs will be apportioned between the Municipalities in proportion to energy sales from Platte River to each Municipality during 2012. The total of actual costs will not exceed $50,000.00 absent written modification of this Exhibit A.

Attached is an example of the cost responsibility for all of the Municipalities based on the actual costs of the Joint Compensation Study being $50,000.
PLATTE RIVER POWER AUTHORITY
2013 Compensation Study Allocation Shared with Municipalities

Costs Based on $50,000 Estimate
(Costs Share 1/2 Equally and 1/2 Based on 2012 MWh Sales)

<table>
<thead>
<tr>
<th></th>
<th>1/2 ALLOCATED</th>
<th>2012 ENERGY SALES (MWH)</th>
<th>% OF TOTAL MUNICIPAL SALES</th>
<th>1/2 ALLOCATED BASED ON 2012 SALES</th>
<th>TOTAL Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>ESTES PARK</td>
<td>$ 6,250</td>
<td>126,889</td>
<td>3.975%</td>
<td>$ 994</td>
<td>$ 7,244</td>
</tr>
<tr>
<td>FORT COLLINS</td>
<td>6,250</td>
<td>1,508,735</td>
<td>47.263%</td>
<td>11,816</td>
<td>18,066</td>
</tr>
<tr>
<td>LONGMONT</td>
<td>6,250</td>
<td>813,675</td>
<td>25.489%</td>
<td>6,372</td>
<td>12,622</td>
</tr>
<tr>
<td>LOVELAND</td>
<td>6,250</td>
<td>742,919</td>
<td>23.273%</td>
<td>5,818</td>
<td>12,068</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$ 25,000</strong></td>
<td><strong>3,192,218</strong></td>
<td><strong>100.000%</strong></td>
<td><strong>$ 25,000</strong></td>
<td><strong>$ 50,000</strong></td>
</tr>
</tbody>
</table>
FIRST AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT
FOR THE FUNDING AND COORDINATION OF A
JOINT COMPENSATION STUDY

This First Amendment to the Intergovernmental Agreement for the Funding and Coordination of a Joint Compensation Study ("Amendment") is made and entered on the ___ day of __________, 2017, by and between Platte River Power Authority, a Colorado political subdivision (Platte River), the Town of Estes Park, (Estes Park), the City of Fort Collins, a Colorado municipal corporation (Fort Collins), the City of Longmont, a Colorado municipal corporation (Longmont), and the City of Loveland, a Colorado municipal corporation (Loveland). The listed municipalities may be referred to collectively as "Municipalities".

RECITALS

a. In order to attract and maintain employees with the unique skills necessary to manage and operate retail electric distribution systems, the Municipalities previously recognized a common need for reliable data reflecting the compensation levels offered by utilities with whom the Municipalities compete for employees.

b. The parties entered into an Intergovernmental Agreement For The Funding and Coordination of a Joint Compensation Study, dated April 11, 2013, to combine resources for the preparation of a joint compensation study ("2013 IGA").

c. The parties desire to amend the 2013 IGA to combine resources for the preparation of an updated joint compensation study.

d. The results of an updated compensation study related to electric distribution utility systems has no relevance to Platte River, but Platte River is willing to coordinate the updated compensation study for the benefit of the Municipalities provided it is reimbursed for the costs incurred in retaining a third party consultant to conduct the research.

AGREEMENT

1) Platte River agrees to coordinate the performance of an updated joint compensation study for the benefit of the Municipalities. Coordination will include activities undertaken in conjunction with the Municipalities, including but not limited to, developing a mutually agreeable scope of work and contracting with the consultant that will perform the joint compensation study update.

2) The Municipalities agree to reimburse Platte River for amounts paid to the consultant under contract to perform the joint compensation study update, such amounts to be calculated pursuant to EXHIBIT A, attached hereto, and replacing Exhibit A attached to the 2013 IGA. Platte River will bill each of the Municipalities separately, with payment due thirty (30) days after receipt of the billing.
3) Unless specifically amended by this Amendment, all terms and conditions of the 2013 IGA shall remain the same.

4) This Amendment may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one original agreement.

5) If any term or provision of this Amendment shall be adjudicated to be invalid, illegal or unenforceable, this Amendment shall be deemed amended to delete therefrom the term or provision thus adjudicated to be invalid, illegal or unenforceable and the validity of the other terms and provisions of this Amendment shall not be affected thereby.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment the day and year set forth above.

PLATTE RIVER POWER AUTHORITY

By: __________________________
   General Manager/CEO

APPROVED AS TO FORM:

By: __________________________
   Deputy General Counsel

TOWN OF ESTES PARK, COLORADO

By: __________________________
   Mayor

ATTEST:

By: __________________________
   Assistant Secretary

CITY OF FORT COLLINS, COLORADO

By: __________________________
   City Manager

APPROVED AS TO FORM:

By: __________________________
   Deputy City Attorney

CITY OF LOVELAND, COLORADO

ATTEST:

By: __________________________
   City Clerk

First Amendment to Intergovernmental Agreement for the
Funding and Coordination of a Joint Compensation Study

08/08/2017
Page 2 of 5
CITY OF LONGMONT, COLORADO

By: ____________________________
    Mayor

APPROVED AS TO FORM AND SUBSTANCE:

________________________________________
    Director of Longmont Power & Communications

APPROVED AS TO FORM:

By: ____________________________
    Deputy City Attorney

PROOFREAD:

________________________________________
EXHIBIT A

The actual costs of retaining an independent consultant to perform the updated Joint Compensation Study will be split between the Municipalities according to the following formula: 1) one half of the actual costs will be split evenly between the Municipalities; and 2) one half of the actual costs will be apportioned between the Municipalities in proportion to energy sales from Platte River to each Municipality during 2016. The total of actual costs will not exceed $30,000.00 absent written modification of this Exhibit A.

Attached is an example of the cost responsibility for all of the Municipalities based on the actual costs of the updated Joint Compensation Study being $30,000.00.
PLATTE RIVER POWER AUTHORITY
2017 Compensation Study Allocation Shared with Municipalities

Costs Based on $30,000 Estimate
(Costs Share 1/2 Equally and 1/2 Based on 2016 MWh Sales)

<table>
<thead>
<tr>
<th>Municipality</th>
<th>25% of first $15,000</th>
<th>2016 Energy Sales (kWh)</th>
<th>Percent of 2016 Energy Sales</th>
<th>Share of second $15,000</th>
<th>Municipality Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estes Park</td>
<td>$3750</td>
<td>131,274,412</td>
<td>4%</td>
<td>$600</td>
<td>$4,350</td>
</tr>
<tr>
<td>Fort Collins</td>
<td>$3750</td>
<td>1,541,509,232</td>
<td>48%</td>
<td>$7200</td>
<td>$10,950</td>
</tr>
<tr>
<td>Longmont</td>
<td>$3750</td>
<td>812,037,045</td>
<td>25%</td>
<td>$3750</td>
<td>$7,500</td>
</tr>
<tr>
<td>Loveland</td>
<td>$3750</td>
<td>731,650,169</td>
<td>23%</td>
<td>$3450</td>
<td>$7,200</td>
</tr>
<tr>
<td>Total</td>
<td>$15,000</td>
<td>3,216,470,858</td>
<td>1</td>
<td>$15,000</td>
<td>$30,000</td>
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SECOND AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT
FOR THE FUNDING AND COORDINATION OF A
JOINT COMPENSATION STUDY

This Second Amendment to the Intergovernmental Agreement for the Funding and Coordination of a Joint Compensation Study ("Amendment") is made and entered on the _____ day of ___________ 2020, by and between Platte River Power Authority, a Colorado political subdivision ("Platte River"), the Town of Estes Park ("Estes Park"), the City of Fort Collins, a Colorado municipal corporation ("Fort Collins"), the City of Longmont, a Colorado municipal corporation ("Longmont"), and the City of Loveland, a Colorado municipal corporation ("Loveland"). The listed municipalities may be referred to collectively as "Municipalities".

RECITALS

a. In order to attract and maintain employees with the unique skills necessary to manage and operate retail electric distribution systems, the Municipalities previously recognized a common need for reliable data reflecting the compensation levels offered by utilities with whom the Municipalities compete for employees.

b. The parties entered into an Intergovernmental Agreement for the Funding and Coordination of a Joint Compensation Study, dated April 11, 2013, and amended on November 20, 2017, to combine resources for the preparation of a joint compensation study ("IGA").

c. The parties desire to amend the IGA to combine resources for the preparation of an updated joint compensation study.

d. The results of an updated compensation study related to electric distribution utility systems has no relevance to Platte River, but Platte River is willing to pay for one half the total cost of the updated compensation study and to coordinate the performance of the updated compensation study for the benefit of the Municipalities provided it is reimbursed for the remaining balance of costs incurred in retaining a third-party consultant to conduct the research.

AGREEMENT

1) Platte River agrees to pay for one half of the total cost of the updated compensation study and to coordinate the performance of an updated joint compensation study for the benefit of the Municipalities. Coordination will include activities undertaken in conjunction with the Municipalities, including but not limited to, developing a mutually agreeable scope of work and contracting with the consultant that will perform the joint compensation study update.

2) The Municipalities agree to reimburse Platte River for the remaining balance of amounts paid to the consultant under the contract to perform the joint compensation study update, such amounts to be calculated pursuant to EXHIBIT A, attached hereto, and replacing EXHIBIT A attached to the IGA. Platte River will bill each of the Municipalities separately, with payment due twenty (20) days after receipt of the billing.

3) Unless specifically amended by this Amendment, all terms and conditions of the IGA shall remain the same.
4) This Amendment may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one original agreement.

5) If any term or provision of this Amendment shall be adjudicated to be invalid, illegal or unenforceable, this Amendment shall be deemed amended to delete therefrom the term or provision thus adjudicated to be invalid, illegal or unenforceable and the validity of the other terms and provisions of this Amendment shall not be affected thereby.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment the day and year set forth above.

PLATTE RIVER POWER AUTHORITY

By: ______________________
General Manager/CEO

APPROVED AS TO FORM:

By: ______________________
Deputy General Counsel

TOWN OF ESTES PARK, COLORADO

By: ______________________
Mayor

THE CITY OF FORT COLLINS, COLORADO, a Colorado municipal corporation

By: ______________________
City Manager

APPROVED AS TO FORM:

By: ______________________
City Attorney II

ATTEST:

By: ______________________
Angela Walsh
Secretary

ATTEST:

By: ______________________
Mayor

ATTEST:

By: ______________________
City Clerk

Page 2 of 5
4) This Amendment may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one original agreement.

5) If any term or provision of this Amendment shall be adjudicated to be invalid, illegal or unenforceable, this Amendment shall be deemed amended to delete therefrom the term or provision thus adjudicated to be invalid, illegal or unenforceable and the validity of the other terms and provisions of this Amendment shall be not affected thereby.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment the day and year set forth above.

PLATTE RIVER POWER AUTHORITY

By: __________________________
    General Manager/CEO

APPROVED AS TO FORM:

By: __________________________
    Deputy General Counsel

ATTEST:

By: __________________________
    Secretary

TOWN OF ESTES PARK, COLORADO

By: __________________________
    Mayor

ATTEST:

By: __________________________
    Town Clerk

CITY OF FORT COLLINS, COLORADO

By: __________________________
    City Manager

APPROVED AS TO FORM:

By: __________________________
    Deputy City Attorney

ATTEST:

By: __________________________
    City Clerk
CITY OF LOVELAND, COLORADO

By: ________________________
   City Manager

APPROVED AS TO FORM:

By: ________________________
   Assistant City Attorney

CITY OF LONGMONT, COLORADO

By: ________________________
   Mayor

APPROVED AS TO FORM AND SUBSTANCE:

By: ________________________
   Director of Longmont
   Power & Communications

APPROVED AS TO FORM:

By: ________________________
   Assistant City Attorney

PROOFREAD:

By: ________________________

ATTEST:

By: ________________________
   Assistant City Clerk

ATTEST:

By: ________________________
   City Clerk
APPROVED AS TO FORM:

By: ________________________________
    Deputy City Attorney

CITY OF LOVELAND, COLORADO

By: ________________________________
    City Manager

APPROVED AS TO FORM:

By: ________________________________
    Assistant City Attorney

CITY OF LONGMONT, COLORADO

By: ________________________________
    Mayor

APPROVED AS TO FORM AND SUBSTANCE:

By: ________________________________
    Executive Director of Electric Services
    Longmont Power & Communications

APPROVED AS TO FORM:

By: ________________________________
    Assistant City Attorney

PROOFREAD:

By: ________________________________

CA File: 20-000725
RESOLUTION R-2020-34


THE COUNCIL OF THE CITY OF LONGMONT, COLORADO, RESOLVES:

Section 1

Under section 13.7 of the Longmont Home Rule Charter, the Council approves, and authorizes the Mayor to sign, the intergovernmental agreement referenced in the title of this resolution, in substantially the form now before the Council.

Section 2

The Council repeals all resolutions or parts of resolutions in conflict with this resolution, but only to the extent of such inconsistency.

Passed and adopted this 14th day of April, 2020.

MAYOR

ATTEST:

CITY CLERK
APPROVED AS TO FORM:

ASSISTANT CITY ATTORNEY

PROOFREAD

DATE

DATE

APPROVED AS TO FORM AND SUBSTANCE:

ORIGINATING DEPARTMENT

DATE

CA File: 20-000725
EXHIBIT A

The actual costs of retaining an independent consultant to perform the updated Joint Compensation Study will be split among Platte River and the Municipalities according to the following formula: 1) one half of the actual costs will be paid by Platte River; and 2) one half of the actual costs will be apportioned among the Municipalities in proportion to equity share of energy sales from Platte River to each Municipality during 2018. The total of actual costs will not exceed $42,000.00 absent written modification of this EXHIBIT A.

Attached is an example of the cost responsibility for Platte River and the Municipalities based on the actual costs of the updated Joint Compensation Study being $42,000.00
PLATTE RIVER POWER AUTHORITY  
2020 Compensation Study Allocation Shared with Municipalities  

Costs Based on $42,000 Estimate  
(Costs Share ½ Platte River and ½ Municipalities Based on Equity Share of 2018 MWh Sales)

<table>
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<tr>
<th>Party</th>
<th>Share of First $21,000</th>
<th>2018 Energy Sales (MWh)</th>
<th>Equity Share of 2018 Energy Sales</th>
<th>Share of second $21,000</th>
<th>Party Share</th>
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<tr>
<td>Platte River</td>
<td>$21,000.00</td>
<td>-</td>
<td>-</td>
<td>$0.00</td>
<td>$21,000.00</td>
</tr>
<tr>
<td>Estes Park</td>
<td>$0.00</td>
<td>132,722,351</td>
<td>4.28%</td>
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<tr>
<td>Fort Collins</td>
<td>$0.00</td>
<td>1,545,583,315</td>
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</tr>
<tr>
<td>Longmont</td>
<td>$0.00</td>
<td>807,217,867</td>
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<td>$5,481.00</td>
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<tr>
<td>Loveland</td>
<td>$0.00</td>
<td>743,016,235</td>
<td>21.56%</td>
<td>$4,527.60</td>
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<tr>
<td><strong>Total</strong></td>
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<td><strong>100%</strong></td>
<td><strong>$21,000</strong></td>
<td><strong>$42,000</strong></td>
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Memo

To: Honorable Mayor Hall
    Board of Trustees

Through: Town Administrator Machalek

From: Reuben Bergsten, Utilities Director; Joe Lockhart, Line Superintendent
      Jamie Kuryllo, Grant Writer

Date: May 14, 2024

RE: Resolution 40-24 Requesting USDA ReConnect Program Funding

☐ PUBLIC HEARING  ☐ ORDINANCE  ☐ LAND USE
☐ CONTRACT/AGREEMENT  ☑ RESOLUTION  ☐ OTHER Letter of Support

QUASI-JUDICIAL  ☐ YES  ☑ NO

Objective:
Power and Communications Division aims to be good stewards of customer resources by applying for USDA ReConnect grant.

Present Situation:
The USDA ReConnect broadband program funding application requires a resolution from the Town Board the application to be submitted and stating the application’s funding category and maximum award amount.

Proposal:
Power and Communications Division staff recommends the Town Board pass the attached resolution to authorize the Town acting by and through its Power and Communication enterprise activity to submit a USDA ReConnect Grant application to build out the middle mile fiber infrastructure in Allenspark and down highway 34.

The application is for $3 million with $1 million matching cash from the P&C working capital fund balance.

Advantages:
● This funding will support the build out of fiber-optic infrastructure in the P&C service area.
● This request supports the Town Board’s 2024 Strategic Plan policy statement “to ensure access to high-speed, high-quality, reliable Trailblazer Broadband service.”
● Leveraging $1 Million to get $3 million can be positively viewed as good financial stewardship.
Managing grants adds additional work to staff; however, we have a lot of positive experience working with the USDA.

This reduces P&C’s working capital fund balance of $2,636,675 (see budget amendment #3) by $1 million

**Action Recommended:**
Staff recommends approval of the resolution.

**Finance/Resource Impact:**
If awarded P&C’s Unreserved Budgetary Fund Balance at the end of 12/31/2024 would be $1,636,675 (see budget amendment #3).

**Level of Public Interest:**
High for those living in areas of the P&C service area who do not yet have access to Trailblazer’s modern broadband service.

**Sample Motion:**
I move for the approval/denial of Resolution 40-24.

**Attachments:**
1. Resolution 40-24
RESOLUTION 40-24

A RESOLUTION REQUESTING RECONNECT PROGRAM FUNDING FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE

WHEREAS, the Board acting by and through its Power and Communications Enterprise requests United States Department of Agriculture (USDA) ReConnect program funding in the 100% grant funding category; and

WHEREAS, the grant requires a cash match equaling 25% of the four-million-dollar project cost; and

WHEREAS, the three million dollars ReConnect maximum grant award and intended one-million-dollar match from the P&C fund will be used to build fiber-optic infrastructure in our electric service area's most remote rural areas.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO ACTING AS THE GOVERNING BODY OF ITS POWER AND COMMUNICATIONS ACTIVITY ENTERPRISE:

The Board authorizes an application for USDA ReConnect program grant funding.

DATED this ______ day of ________________, 2024.

TOWN OF ESTES PARK

__________________________________________
Mayor

ATTEST:

__________________________________________
Town Clerk

APPROVED AS TO FORM:

__________________________________________
Town Attorney
Memo

To: Honorable Mayor Hall
   Board of Trustees

Through: Town Administrator Machalek

From: Jackie Williamson, Town Clerk

Date: May 14, 2024

RE: Reappointment of Guy ‘Wayne’ Newsom to the Estes Park Board of Adjustment for a term expiring March 31, 2027

(Mark all that apply)

☐ PUBLIC HEARING  ☑ ORDINANCE  ☑ LAND USE
☐ CONTRACT/AGREEMENT  ☑ RESOLUTION  ☑ OTHER Appointment

QUASI-JUDICIAL  ☑ YES  ☐ NO

Objective:
To consider the reappointment of Guy ‘Wayne’ Newsom to the Estes Park Board of Adjustment.

Present Situation:
The term of Wayne Newsom expired March 31, 2024, and the Clerk’s Office advertised for the position on the Board. One application was received from Wayne Newsom for reappointment.

Proposal:
As only one application was received, the application is being submitted to the Board for consideration to reappoint Wayne Newsom for a three-year term expiring March 31, 2024.

Wayne has served on the Estes Park Board of Adjustment since its inception in 2020, and prior to this he served on the Estes Valley Board of Adjustment from 1998 to 2020.

Advantages:
Provides continuity on the Estes Park Board of Adjustment and would complete the three-member board.

Disadvantages:
If the reappointment is not made, the position would remain vacant until additional applications are received, and interviews conducted.

Action Recommended:
Reappoint Wayne Newsom to a three-year term expiring March 31, 2027.
**Finance/Resource Impact:**
None.

**Level of Public Interest**
Low.

**Sample Motion:**
I move to approve/deny the reappointment of Wayne Newsom to the Estes Park Board of Adjustment for a term expiring March 31, 2027.

**Attachments:**
None.
TOWN BOARD MEETING
May 14, 2024

Report and Discussion Item #1 Base Funding Report – Crossroads Ministries.

No packet material was provided for this item.
TOWN BOARD MEETING
May 14, 2024


Link to Report
Memo

To: Honorable Mayor Hall
   Board of Trustees

Through: Town Administrator Machalek

From: Carlie Bangs, Housing & Childcare Manager

Date: May 14, 2024

RE: Tuition Assistance in the Estes Valley and the 2023 EVICS Tuition Assistance Report

(Mark all that apply)

☐ PUBLIC HEARING   ☐ ORDINANCE   ☐ LAND USE
☐ CONTRACT/AGREEMENT ☐ RESOLUTION    ☒ OTHER: Report and Discussion Item

QUASI-JUDICIAL ☐ YES ☒ NO

Objective:
Provide an overview of tuition assistance resources available to Estes Valley residents and review the 2023 Tuition Assistance report from the EVICS Family Resource Center.

Present Situation:
The 2024 Annual Workforce Housing and Childcare Funding Plan calls for the use of 6E funds to support tuition assistance, stating that “tuition assistance continues to be a prioritized need for Estes Valley families” and it should “receive additional funding support in upcoming years.”

Today’s staff presentation will provide information about tuition assistance programs available to Estes Valley residents over the past year, followed by a report on the EVICS Tuition Assistance program and their use of 6E funds.

EVICS Childcare Scholarship
The EVICS Childcare Scholarship program provides temporary childcare and preschool tuition assistance to Estes Park families who demonstrate financial need and for whom other funding sources are not available. Applicants are first reviewed to see if they may qualify for the Colorado Childcare Assistance Program (CCAP). If they do not qualify for CCAP, EVICS then considers applications for scholarships.

EVICS assistance program currently serves families at the same income level requirements as the Colorado Childcare Assistance Program and asks that parents pay a fee that is scaled between 1-14% of their monthly income based on their Federal Poverty Level (FPL).
Larimer County Childcare Fund (LCCF)
The Larimer County Childcare Fund (LCCF) was established by the United Way of Larimer County and is administered by the Early Childhood Council of Larimer County (ECCLC) to complement CCAP. Families who do not qualify for CCAP are eligible for LCCF if their income is less than 115% AMI. The program is set up so that a family will not pay more than 15% of their income on childcare. Unfortunately, the program is open for enrollment only annually in April and only one Estes Park family has been a recipient of assistance since its inception for various reasons.

The Larimer County Childcare Fund is set up to serve the entire Larimer County and can earmark funds for specific areas. For example, Fort Collins has additional funds that are used only to serve their community. Of the $600,000 in tuition awards last year, $510,000 was funded by UWLC and $90,000 from the City of Fort Collins.

It is worth noting that LCCF is run as a private funding program based on referrals from childcare providers, rather than a public assistance program. A private tuition assistance program means it is funded by private donations, rather than a public assistance program which is funded through public dollars, such as CCAP.

Colorado Childcare Assistance Program (CCAP)
The Colorado Childcare Assistance Program (CCAP) provides childcare assistance to families who meet certain income guidelines and other eligibility requirements, and families who are enrolled in the Colorado Works program.

Each county’s Department of Social/Human Services manages the CCAP program and sets its eligibility requirements for families, but must help families that have an income of 185% or less of the federal poverty guidelines. Counties will not serve families that have an income over 85% of the state median income. Parents then pay a tiered parent fee ranging between 1-14% of their monthly income on childcare based on size of household, income, number of children in childcare, and total number of childcare hours needed.

As of February 2024, due to budget constraints, the Larimer County Department of Human Services implemented an immediate enrollment freeze for CCAP. Current CCAP families can remain on the program, provided that they continue to meet eligibility criteria. Prospective applicants are encouraged to still apply, but a full eligibility review is postponed until the freeze is lifted. Exceptions are made for families in child welfare or the Colorado Works program, ensuring their eligibility determination and potential inclusion in the program if qualified.

Universal Preschool (UPK)
In 2022, the Colorado Universal Preschool Program was passed in legislation to offer voluntary, high-quality universal preschool to every Colorado child in the year before kindergarten. The Colorado Department of Early Childhood (CDEC) is charged with operating the program.

All children in Colorado can register for up to 15 hours of free, high-quality preschool in their year before kindergarten through Colorado’s UPK program. Qualifying factors allow for additional children to be eligible for the program.
Children can qualify for UPK and still receive CCAP and LCCF to cover the costs associated with care beyond the 15 hours of free preschool.

**Proposal:**
For the purposes of this agenda item, staff proposes only that the Town Board hear the presentations and ask clarification questions.

As for next steps, the Town has been collaborating with regional and local partners to strategize the best way to support local children and families since the CCAP freeze was announced. A joint statement was released describing the current status of childcare in Larimer County (Exhibit B). At this time, there are no other regional or county-wide tuition assistance resources filling the gap for families during the CCAP freeze. In February 2024 there were 27 children receiving assistance through the EVICS Childcare Scholarship program.

To provide stability to our local children and families, as well as our workforce, the Town would like to allocate additional funds to tuition assistance in 2024. Based on the number of families receiving assistance through the EVICS Childcare Scholarship when the freeze was announced in February and the influx of families who typically need assistance in the summer, it is estimated that $200,000 of 6E childcare funds may be needed to address this unforeseen challenge.

Staff plans to bring forth a funding request from EVICS Family Resource Center for the Town Board’s consideration at your next meeting proposing the future of local assistance.

**Advantages:**
N/A

**Disadvantages:**
N/A

**Action Recommended:**
None at this time.

**Finance/Resource Impact:**
None.

**Level of Public Interest**
Moderate.

**Sample Motion:**
None.

**Attachments:**
1. EVICS 2023 Tuition Assistance report
2. Joint Statement from Larimer County Department of Human Services
EVICS 2023 Tuition Assistance Report
EVICS EXECUTIVE SUMMARY

In 2023, EVICS Family Resource Center experienced a year of significant growth in services and support for our families in the Estes Valley. Staying true to our mission of supporting family prosperity in the Estes Valley focus was set on strategic planning and setting actionable goals that fortified our services and reaffirmed our organizational values. With the easing of pandemic restrictions in 2023, we expanded our programming to meet the community’s eagerness for engagement and adaptability to ongoing changes. In collaboration with the Town of Estes Park and 6E funding, we enhanced our Tuition Assistance program, providing increased financial support to working families seeking quality childcare. With a total spend of $111,000 in Tuition Assistance it is clear we saw an increased need for monetary assistance to secure childcare in the Estes Community.

The EVICS Tuition Assistance program, guided by qualifications and principles akin to CCAP and LCCF, adopts a personalized approach, reflecting our commitment to comprehensive family services. Understanding the dual need for affordability and quality in childcare, EVICS remains dedicated to helping Estes Park families navigate these challenges and ensure the success of their children.

Our engagement with community partners, stakeholders, donors, board members, and the families we serve reinforced EVICS as a cornerstone of trust within the Estes Valley. Our dedication to inclusivity, support, and connection has further cemented EVICS as a trusted partner and advocate for children and families.
In July 2023, EVICS Family Resource Center submitted a request to the Town of Estes Park for $100,000 in support, divided equally between supplementing tuition assistance for local families and funding a Tuition Assistance Navigator position. With the town's approval, priority was given to direct tuition assistance, addressing the increased demand evidenced by the $55,000 already distributed by EVICS at the time of the application. This need was further amplified by the educational efforts and promotion of the Tuition Assistance Program, particularly following the 6E approval and outreach to the workforce and Spanish-speaking community.

The application process for EVICS Tuition Assistance serves as an interim solution while families are supported in qualifying for other programs like CCAP and LCCF. However, in 2023, challenges such as legal issues, documentation barriers, and seasonal employment fluctuations led to a high rate of CCAP application denials. The Tuition Assistance Navigator played a crucial role in assisting families with these hurdles, ensuring they had the necessary support and documentation to reapply when circumstances allowed. With the additional 6E funds, EVICS was able to maintain assistance for families ineligible for other funding sources, demonstrating the program's adaptability and commitment to the community's needs.
Points to note:
Mountaintop Childcare serves largest number of families with Tuition Assistance support. EVICS and Mountaintop work closely to complete follow up and follow through to help support registered families on applying for additional tuition support.

A decline in dollars spent in September as we saw UPK begin. Due to the required holding of UPK space at preschools a drop in enrollment was experienced. Now that the UPK program has ongoing availability and enrollment we are able to get families signed up at the time their child is eligible by age and enrollment.
# Quick Statistics

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<tr>
<th>DETAILS</th>
<th>OUTCOME</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>36</strong> Families supported</td>
<td>Support was able to be increased to more families in 2023 over any other year</td>
</tr>
<tr>
<td><strong>$111K</strong> Tuition Assistance support given</td>
<td>Significant increase in need over 2021 and 2022.</td>
</tr>
<tr>
<td><strong>23</strong> Families receiving TA support</td>
<td>10 Families on TA program 1/2023 compared to 23 12/2023</td>
</tr>
<tr>
<td><strong>12</strong> Families applied but declined TA support</td>
<td>Families put on follow up rotation to reapply.</td>
</tr>
<tr>
<td><strong>57</strong> Tuition Applications received</td>
<td>Word of mouth and community connections have increased trust in EVICS</td>
</tr>
<tr>
<td>2023 Tuition Assistance</td>
<td>Families approved through EVICS Application process to receive TA support</td>
</tr>
<tr>
<td>Total $ distributed to providers for families in TA program</td>
<td>$50K in 6E funds approved 7/2023 for extension of TA support through EVICS</td>
</tr>
<tr>
<td>Current families enrolled in TA</td>
<td>With additional 6E funds EVICS was able to increase support to local families</td>
</tr>
<tr>
<td>Families applied but did not qualify for Tuition Assistance support from EVICS</td>
<td>Income was too great at time of application to qualify for the program</td>
</tr>
<tr>
<td>Application collected and processed for TA support</td>
<td>Applications increased by almost 2x because of outreach for TA program</td>
</tr>
</tbody>
</table>
CHALLENGES AND INSIGHTS GAINED

Cost of Living: Expanding tuition assistance in Estes Park faces the challenge of incorporating the high cost of living into eligibility assessments. The Family Advocacy Coalition (FAC) has highlighted affordability as a critical obstacle for families, with childcare costs being a prominent example. The EVICS program is vital for families affected by seasonal employment fluctuations, which often disqualify them from other forms of support. Currently, there is no established method to factor in living expenses, business ownership, or personal debts. Applicant income is verified by obtaining 30 days of current pay stubs or the like and using the Federal Poverty Calculator with the gross income to determine eligibility and parent copay amounts. This process requires significant management and follow up to ensure EVICS is gaining a fair and accurate picture of the family’s total income. Collaborative efforts with partner organizations are underway to understand how other debts and expenses are considered in similar programs. The key takeaway is the necessity of developing a system that acknowledges the unique costs associated with mountain community living which significantly impact family budgets.

Seasonality: With the known challenges of seasonal employment and income fluctuations capturing an accurate income for those in the service industry required continuous ‘pulling’ of income verification. The EVICS tuition assistance program is crucial for families to maintain employment amidst seasonal work and fluctuating incomes.

Other Tuition Assistance sources:

CCCAP:
CCAP eligibility and application process presents significant challenges for many of our families that are enrolled in Tuition Assistance. Factors include seasonal employment, legal issues that disqualify families (i.e. separation/divorce in process, custody disputes, adoptions, guardianship, etc.), parental citizenship and documentation (CCAP does not allow for undocumented parents/guardians to apply, nor those that are in the citizenship process. Another barrier, is that if you are a citizen who is sponsoring a family member in the citizenship process it is advised to not receive state, federal or county assistance). EVICS currently has 23 families receiving tuition assistance only 10 of these current families are eligible for CCAP. 6 of these families were in the application process when the Larimer County CCAP Freeze took place. 4 were still in the first months of their EVICS Tuition Assistance Award and eligibility is unknown. Our families that have been approved for CCAP in Larimer County have reported alarmingly high parent copays compared to what they are currently approved for with EVICS. One family seeing an increase of $500 of what they are currently paying. In some circumstances, EVICS agreed to help CCAP recipients with the gap coverage to offset the cost.
CHALLENGES AND INSIGHTS GAINED CONTINUED

CCAP reports to assist families that fall below 185% of the Federal Poverty Level and under 85% of the state median income. At EVICS our Tuition Assistance recipients for 2023 all fall under 65% of Average Median Income (AMI). While 97% of 2023 recipients are 165% land below the Federal Poverty Level (FPL). Despite all recipient families falling below 65% of the Average Median Income and 97% below 165% of the Federal Poverty Level, complexities in eligibility criteria prevent many from qualifying for additional funding through the CCAP program.

LCCF:
The Larimer County Childcare Fund (LCCF) intended to expand eligibility but fell short in supporting local Estes Valley families, with issues in application follow-up and rapid expenditure of funds. Our office guided families to apply for LCCF to at least be placed on their waitlist. Currently only 1 family receives any funding from LCCF, they were extended from 2022. 2 Estes Park families are on the LCCF waiting list. Other families that EVICS has assisted with LCCF applications have not reported any communication or notification of movement on the waitlist or aid availability.

UPK:
Universal Pre-Kindergarten was implemented with immense challenges and was ultimately underfunded for some of the intended programming, such as coverage for eligible 3 year-olds. UPK also replaced and altered the funding format for preschool slots. The payment system to providers was confusing. This complicated the landscape of childcare and made fragile the availability of slots and planning by providers. We work closely with providers approved for UPK funding to find places for these children (4–5 years old) to attend the UPK programs. A challenge has been that some parents have declined UPK due to only being approved for ½ day UPK at 1 location and needing to find care for the other half of the day. Transportation between two childcare facilities is unavailable and has led to keeping the child at the original provider. EVICS tracks UPK spaces at Mountaintop Childcare, and the YMCA program and continuously encourages parents to enroll.

Eligibility for Estes Valley Working Families:
EVICS had to turn away 12–15 families who were applying for Tuition Assistance support because they qualified just at or over 185% of the FPL. Thus requiring they have pay a parent copay of 13–15% of their monthly income. In many cases this amount would be equal to or exceed the cost of childcare they were receiving. In follow up with these families it was learned that some were able to put together childcare with adjusted parent schedules, favors from neighbors or friends, or some chose to have a parent leave or alter employment to be home for their children.
It’s New!:
The new 6E funding presents a challenge due to its novelty and the ongoing development of related procedures, policies, and allocations. Ensuring that the funding’s goals align with actual needs of our working families requires diligent monitoring and follow-up. The T.A. Navigator role is key in maintaining close connections with families, understanding their needs, and assessing the impact of support on their wellbeing and participation. This role also facilitates communication with the Housing and Childcare Manager, highlighting issues such as the increased parent fee for CCAP-approved families, and how the 6E funding can bridge affordability gaps, thereby contributing to sustainable tuition assistance.

Establishing clear direction and securing consistent funding are crucial for the strategic growth and expansion of EVICS’s tuition assistance services. Consistent funding ensures the ability to meet family needs and adapt to the evolving childcare landscape, while the T.A. Navigator’s data monitoring informs the program’s impact and guides future planning for efficient fund utilization and leveraging additional support.
In short, the future goal of the EVICS Tuition Assistance program should be to ensure that affordability of childcare for our local workforce is never a barrier.

The EVICS Tuition Assistance program is committed to a future that ensures that childcare affordability is never an obstacle for the local workforce. With the strategic use of 6E allocation funding, the program aims to expand tuition assistance, anticipating an increase in demand as the community grows and other funding sources are halted.

The T.A. Navigator’s role in tracking data is crucial for guiding the program’s future and ensuring funds are used effectively. Efforts to streamline and create efficiency in the application and the eligibility process are ongoing, with the aim to serve more families without compromising the program’s success. Past challenges have underscored the importance of reliable funding to support families through various crises, allowing the program to pivot and fill gaps in affordability when necessary.

EVICS Family Resource Center would love to see:
- Increased eligibility for families seeking tuition assistance at our local level that is ongoing and consistent
- To be able to serve those working families that are right along the threshold of tuition assistance eligibility and are expending 15% of their income
- To see providers being able to bill a state average cost of care to families without worry of losing business For providers to be able to bill for spaces held for the child versus on attendance to create a more consistent income
- Increased infant and toddler spots in facilities and home care
- A renewed interest in the childcare profession here locally because it is a well compensated and supported field

Thank you!

Please direct any inquiries or questions about this report to:

Garett Faillaci – Tuition Assistance Navigator
garrett@evics.org
970-586-3055
Joint Statement from Larimer County Department of Human Services
JOINT STATEMENT

The importance and impact of quality and affordable early childhood care in Larimer County

Affordable and quality childcare in Larimer County is hard to find for everyone, particularly for families struggling to make ends meet. According to the Colorado Information Marketplace, managed by the State of Colorado, there are 340 licensed childcare providers in Larimer County that provide over 9,255 spaces for our children. Even with these licensed provider spaces, there is a gap in availability for all children in Larimer County. According to Larimer Thrive by Five, Larimer County providers only have capacity to serve 16% of children ages 0 to 18 months and capacity for only 36% of children age 18 to 36 months. This lack of capacity translates to a shortfall of approximately 3,992 seats for ages 0 to 18 months and 3,205 seats for ages 18 to 36 months. This means that four out of five families with infants do not have access to quality and affordable childcare, and three out of five families of toddlers cannot find licensed child care. To compound the issue, the Larimer County population is expected to grow by 37% by 2050, with the number of children under the age of four anticipated to increase by 22%.

The cost to live in Larimer County is 6.9% higher than the national average, a portion of which is attributed to the high cost of quality childcare. Cost of living data includes the expenses incurred for food, shelter, transportation, energy, clothing, education, healthcare, childcare, and entertainment. The United States Department of Human Services recommends that no more than 7% of a household’s income should be spent on childcare; In Larimer County, families are spending between 12-20% of their annual income on the cost of childcare (the fifth highest in the nation). Childcare in Larimer County costs between $240 and $489 per week per child, depending on the age of the child – which equates to $10,348 to $16,848 per year for one child. The cost of childcare has many families in our community leaving the workforce or looking for programs to relieve the heavy burden of making ends meet to enroll their children in quality childcare while balancing their household budgets. One of those programs, the Colorado Child Care Assistance Program (CCAP or CCCAP), has seen an increase in the number of children and families served. Since December of 2020 to January of 2024, the number of children and families served in Larimer County has increased 62% and 118%, respectively. In 2024, the Larimer County Department of Human Services enacted an enrollment freeze for CCAP. Larimer County received a CCAP allocation of approximately $8.2 million for state fiscal year 23-24 which consists of federal, state, and county funding. This allocation also included additional emergency federal funding provided to Colorado as a result of the COVID public health emergency. With the emergency funding coming to an end in the next several months, the CCAP allocation is slated to be reduced significantly for state fiscal year 24-25. The need for
assistance to access quality and affordable childcare is evident. However, CCAP and other community-based programs will not fill the gap to provide funding for the 11.1% of Larimer County residents who live at or below the poverty level.

The educators we trust to help our children develop in their early years are often those who need the most support in our community. On average, early childhood educators are paid between $16-19 per hour, making it difficult to find qualified educators in Larimer County. In Colorado, 15.1% of our early childhood educators live in poverty. In order to bring those educators up to a living wage, their hourly rates would need to increase by at least 42%. Increasing this wage to an acceptable level would cause a childcare rate increase to families who are already struggling in the community. Additionally, we need to support those people we rely on to teach our children while we make a living wage and who we rely on to help us know the next best step for our children to grow and develop before they start school.

Quality child care is necessary for better outcomes for our children and our community and helps grow a valuable workforce for the future. Consistent, quality childcare before the age of five has been proven to increase early childhood mental health, increase graduation rates, increase salary rate in adulthood, decrease reliance on social services in adulthood, and decrease crime rates. All of these result in a better community for everyone, but only if our children have access to quality and affordable child care. Early childhood experiences have the ability to create very strong or very weak foundations for our children’s futures; the experiences our children have can predict their futures and are likely to be passed on to future generations. This means that positive and meaningful interactions early in life can lead to a life that is less stressful and more fruitful into adulthood and then passed along to our children’s children. Early childhood care can also build soft skills that are valued in the workplace like language, teamwork, negotiation skills, ethics, creative thinking and problem solving. Communities that prioritize early childhood care can attract and retain workforce employees who are more present, prepared and productive for their employers.

A sustainable, customized early childhood funding source that is uniquely Larimer County is needed to meet the needs of our community. Current funding sources from the federal, state, and local governments are not enough to address the issue fully. Budget constraints and competing interests prohibit the ability to increase allocations and laws restrict the ability to innovatively spend the allocation. The braiding and blending of public, private, and philanthropic dollars is required to provide wrap-around early childhood services that benefit the children, families, early childhood educators, and early childhood programs in Larimer County. There are many programs in the community that provide support to some members of our community, however there are none that have the ability to provide enough support to help everyone and solve every problem we have.
The following is needed to relieve some of the early childhood care access issues we are experiencing:

● Subsidize child care costs to those who need it the most
● Support the early childhood workforce through increased salaries, access to health insurance, training and more
● Reduce and simplify the requirements and red tape for providers opening an early childhood center in Larimer County.
● Provide support for capital projects that would increase the number of licensed child care slots in Larimer County

If you would like to participate in this conversation and learn more about this issue, we invite you to reach out to the Early Childcare Council of Larimer County by calling 970-377-3388.
Memo

To: Honorable Gary Hall
   Board of Trustees
Through: Town Administrator Machalek
From: Jeremy Creamean, Finance Director
Date: May 14, 2024
RE: Resolution 41-24, Supplemental Budget Appropriations #3 to the 2024 Budget

(Mark all that apply)
□ PUBLIC HEARING  □ ORDINANCE  □ LAND USE
□ CONTRACT/AGREEMENT  ✔ RESOLUTION  □ OTHER__________
QUASI-JUDICIAL  □ YES  ✔ NO

Objective:
To appropriate for 1A extension funds, additional amounts for the Enterprise Resource Planning project, the Revitalizing Main Street grant received from the State, and certain other budget corrections.

Present Situation:
As each year progresses, needs are identified that have not been included in the budget. This may include new capital projects, new grants, or operational needs that have recently come to light. Periodically, the budget needs to be amended to address these needs.

Proposal:
Staff is seeking approval of the budget resolution authorizing the proposed budget amendments. Detailed schedules of the proposed amendments are included in the packet materials listing out each purchase order, capital project, other amendment and related grant revenues. The following contains explanations of the more significant items to be rolled forward or added to 2024:

Summary of Supplemental Appropriations:

General Fund – Decrease of $251,309
This includes appropriations for a transit operating grant received for 2024 in the amount of $71,050, additional appropriations for transit arising from a transfer from the Parking Services fund in the amount of $98,074, a correction to the 2024 budget arising from an error in calculating salaries totaling $147,535, and fixing some issues with purchase orders rolled over from 2023 to 2024 due to a system error, which reduces
appropriations by $105,080. Finally, transfers to the Community Reinvestment Fund are reduced by $443,196.

Community Reinvestment Fund – Increase of $361,191
This includes $131,815 for additional appropriations for the Enterprise Resource Planning project based on actual bids received as well as restoring a purchase order of $229,376 that should have rolled from 2023 to 2024.

Conservation Trust Fund – Increase of $19,000
This increase includes rollover of $19,000 for the Thumb Open Space parking lot improvements.

Larimer County Open Space Fund – Increase of $951
This includes an adjustment of $951 from the salary calculation error.

Wildfire Mitigation Fund – Increase of $244,324
This is a new fund that is being created after the passage of the 1A sales tax extension. This is to appropriate the monies expected to be received for Wildfire Mitigation, which will be transferred to the Estes Valley Fire Protection District in accordance with the 1A sales tax provisions.

Trails Improvement Fund – Increase of $37,433
This includes an appropriation for a term-limited civil engineer position for the remainder of 2024 in light of the passage of 1A.

Trails Improvement Extension Fund – Increase of $319,000
This is a new fund that is being created after the passage of the 1A sales tax extension. A new fund is being created because the ballot language is slightly different from the original sales tax and staff believed it would be better to segregate these funds until the funds from the original tax are fully expended. This includes an appropriation of $319,000 for the Graves Avenue Trail project based on actual bids received.

Parking Services Fund – Decrease of $54,845
This includes an appropriation to transfer $98,074 to the General Fund to support transit operations. It also includes some budget fixes due to a system error that caused $92,974 in purchase orders to roll forward incorrectly and to correct a misallocation of the internal services director position in the amount of $63,234. Both of these fixes reduce the budget for the Parking Services Fund.

Street Improvement Fund – Increase of $1,108,204
This includes an appropriation of $200,000 from the new 1A sales tax funds to complete the Cleave Street rehabilitation project, $500,000 from the 1A sales tax to fully fund the Overlay program, $268,111 for the Revitalizing Main Street grant received from the state, $35,692 to extend a term limited civil engineer position through the end of the year to support 1A funded projects, and $62,234 to correct an error in the Internal Services Director position allocation.

Stormwater Fund – Increase of $88,769
This is a new fund created after the passage of the 1A sales tax extension. This includes an appropriation to create a new stormwater engineer position to start planning the Town’s stormwater management program.

Power and Communications Fund – Increase of $154,121
This includes an additional appropriation of $404,654 for the new enterprise resource planning and utility billing system project based on actual bids received, as well as a reduction of $228,483 arising from overbudgeting the expenses associated with the congressionally directed spending project for fire mitigation. There is also a reduction of $85,107 from accounts payable that were entered into 2023 after the passage of BA#2 and some fixes related to purchase orders that were rolled incorrectly due to a system issue. Finally, there is an additional $63,057 in appropriations due to the previously mentioned payroll fixes.

Water Fund – Decrease of $2,555,928
This includes a scope reduction for a grant funded project of $1,800,000 due to the grant not being received. It also includes cancellation of certain other projects not deemed necessary. There was also a large 2023 invoice ($747,464) that was received after BA#2 was prepared that was expensed in 2023, and should not be reflected in the 2024 budget. In addition, this includes $201,261 in additional appropriations for the enterprise resource planning and utility billing project based on actual bids received.

Fleet Maintenance Fund – Increase of $70,635
This includes an additional $61,277 for local match for the Trolley Barn project, as well as a $13,909 to correct the 2024 payroll budget.

Information Systems Technology Fund - Increase of $10,329
This is for a correction to the payroll budget arising from an error in creating the 2024 budget.

**Advantages:**
The Town will continue to operate in compliance with statutory requirements regarding municipal budget law.

**Disadvantages:**
None identified.

**Action Recommended:**
Staff recommends approval of the 2024 supplemental budget appropriation #3 resolution.

**Finance/Resource Impact:**
After reflecting this budget amendment, the General Fund reserves are projected at 32.5% of 2024 operating expenditures.
Level of Public Interest
Limited – no comments received.

Sample Motion:
I move for the approval/denial of Resolution 41-24.

Attachments:
1. Resolution 41-24 Supplemental Budget Appropriations # 3 to the 2024 Budget.
2. Link to Recaps of Proposed Budget Adjustments and Supporting Documents
RESOLUTION 41-24
SUPPLEMENTAL BUDGET APPROPRIATIONS # 3 TO THE 2024 BUDGET

WHEREAS, the Board of Trustees of the Town of Estes Park adopted the 2024 annual budget in accordance with the Local Government Budget Law on November 14th, 2023; and

WHEREAS, certain projects and expenditures have additional funding needs which were identified after adoption of the original annual budget; and

WHEREAS, it is not only required by law, but also necessary to appropriate the revenues provided in the budget to and for the purposes described below, so as not to impair the operations of the Town of Estes Park.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO:

That the appropriations for 2024 be decreased by $467,160 for the funds specified below and these amounts are hereby appropriated from additional revenue or available fund balance of each fund.

<table>
<thead>
<tr>
<th>Fund #</th>
<th>Fund Name</th>
<th>Existing Appropriations</th>
<th>Amendment</th>
<th>Amended Appropriations</th>
</tr>
</thead>
<tbody>
<tr>
<td>101</td>
<td>General Fund</td>
<td>30,463,305</td>
<td>(251,309)</td>
<td>30,211,996</td>
</tr>
<tr>
<td>204</td>
<td>Community Reinvestment Fund</td>
<td>9,211,275</td>
<td>361,191</td>
<td>9,572,467</td>
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<tr>
<td>211</td>
<td>Conservation Trust Fund</td>
<td>54,000</td>
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<td>54,000</td>
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<tr>
<td>220</td>
<td>Larimer County Open Space Fund</td>
<td>1,155,092</td>
<td>915</td>
<td>1,156,006</td>
</tr>
<tr>
<td>236</td>
<td>Emergency Response System Fund</td>
<td>66,746</td>
<td>0</td>
<td>66,746</td>
</tr>
<tr>
<td>238</td>
<td>Community Center Fund</td>
<td>459,171</td>
<td>0</td>
<td>459,171</td>
</tr>
<tr>
<td>240</td>
<td>Wildfire Mitigation Fund</td>
<td>0</td>
<td>244,324</td>
<td>244,324</td>
</tr>
<tr>
<td>244</td>
<td>Trails Improvement Fund</td>
<td>5,598,092</td>
<td>37,433</td>
<td>5,635,524</td>
</tr>
<tr>
<td>246</td>
<td>Trails Improvement Extension Fund</td>
<td>0</td>
<td>319,000</td>
<td>319,000</td>
</tr>
<tr>
<td>256</td>
<td>Parking Services Fund</td>
<td>3,061,688</td>
<td>(54,845)</td>
<td>3,006,843</td>
</tr>
<tr>
<td>260</td>
<td>Street Fund</td>
<td>6,255,660</td>
<td>1,108,204</td>
<td>7,363,863</td>
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<tr>
<td>265</td>
<td>Stormwater Fund</td>
<td>0</td>
<td>88,769</td>
<td>88,769</td>
</tr>
<tr>
<td>270</td>
<td>Workforce Housing Lodging Tax Fund</td>
<td>5,157,470</td>
<td>0</td>
<td>5,157,470</td>
</tr>
<tr>
<td>502</td>
<td>Power and Communications Fund</td>
<td>30,296,849</td>
<td>154,121</td>
<td>30,450,968</td>
</tr>
<tr>
<td>503</td>
<td>Water Fund</td>
<td>27,847,822</td>
<td>(2,555,928)</td>
<td>25,291,895</td>
</tr>
<tr>
<td>505</td>
<td>Workforce Housing Fund</td>
<td>500,000</td>
<td>0</td>
<td>500,000</td>
</tr>
<tr>
<td>606</td>
<td>Medical Insurance Fund</td>
<td>4,310,000</td>
<td>0</td>
<td>4,310,000</td>
</tr>
<tr>
<td>612</td>
<td>Fleet Maintenance Fund</td>
<td>1,335,176</td>
<td>70,635</td>
<td>1,405,812</td>
</tr>
<tr>
<td>625</td>
<td>Information Technology Fund</td>
<td>1,212,297</td>
<td>10,329</td>
<td>1,222,626</td>
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<tr>
<td>635</td>
<td>Vehicle Replacement Fund</td>
<td>1,098,131</td>
<td>0</td>
<td>1,098,131</td>
</tr>
<tr>
<td>645</td>
<td>Risk Management Fund</td>
<td>568,164</td>
<td>0</td>
<td>568,164</td>
</tr>
<tr>
<td>Total</td>
<td>All Funds</td>
<td>128,650,938</td>
<td>(467,161)</td>
<td>128,183,775</td>
</tr>
</tbody>
</table>
DATED this _____ day of _____________, 2024.

TOWN OF ESTES PARK

________________________________
Mayor

ATTEST:

________________________________
Town Clerk

APPROVED AS TO FORM:

________________________________
Town Attorney
Memo

To: Honorable Mayor Hall
   Board of Trustees

Through: Town Administrator Machalek

From: Duane Hudson, ERP Project Manager

Date: 5/14/2024

RE: Resolution 42-24 Approving a Contract with Tyler Technologies for Accounting Software Acquisition and Implementation

(Mark all that apply)

☐ PUBLIC HEARING  ☐ ORDINANCE  ☐ LAND USE
☐ CONTRACT/AGREEMENT  ☒ RESOLUTION  ☐ OTHER______________

QUASI-JUDICIAL  ☐ YES  ☐ NO

Objective:
To enter into a contract to acquire and implement a new Software as a Service (SaaS) accounting system from Tyler Technologies.

Present Situation:
In 2022, the Town began the process of replacing our Enterprise Resource Planning system (ERP – a.k.a. accounting system) originally implemented in 1993 with a needs assessment. The needs assessment was completed in 2023 with the issuance of the July 18, 2023 Needs Assessment report.

Software specifications were then completed and posted with proposals due December 4, 2023. The Town received nine proposals which were reviewed by staff from multiple departments with four vendors selected for software demonstration.

Software demonstrations were then held over 13 days during January and February 2024 with staff from the Town Administrator’s Office, Information Technology, Finance, Human Resources, Public Works, Water, Electric and Broadband participating. After the software demonstrations, the Town participants met virtually on Feb 15th and made the following recommendation which was accepted by the ERP Steering Committee later that afternoon.

- **Tyler Technologies ERP** - for core accounting, fleet management, purchasing, accounts payable, miscellaneous accounts receivable, inventory, general ledger, reporting, etc.

- **SpryPoint** – for utility billing, customer online payment portal, etc.
• **Seek separate proposals for HR / Payroll** – want to compare stand-alone HR/payroll system functionality with that found in the Tyler ERP

All of these solutions are Software as a Service (SaaS) offerings, which has become the new norm for this type of accounting software. Many of the current software offerings are no longer available for local on-premises installation. The software will be hosted on the vendor's servers and the Town will access the software over the internet. The Town will not need to buy, install and eventually replace the expensive servers to house the software, nor will our IT Department need to maintain the servers, apply server software patches, apply the ERP software updates and patches, pay for server software licensing, etc.

The Tyler Technologies proposal was for their Tyler Technologies ERP (formerly known as MUNIS) system. This will replace most of the current Naviline accounting system with the separate SpryPoint Services software replacing the utility billing functionality.

**Proposal:**
The Tyler Technologies proposal includes multiple modules and functions all designed to work together, reducing or eliminating duplicate entry of data into multiple systems. The primary modules or functions include:
- Financial management general ledger module
- Purchasing and eProcurement
- Bid management
- Budgeting
- Accounts payable
- Capital assets and depreciation
- Cash management functionality
- Contract management
- Project and grant accounting
- Accounts receivable
- Cashiering
- Inventory for fleet maintenance
- Enterprise asset management (fleet maintenance)
- Content management (integrated document management system)

The Tyler Technologies ERP is a fully developed system with over a decade of refinement and improvements in functionality. It is custom developed for governments only, not a generic system that is modified to handle governmental accounting needs. This government specific development process allows Tyler to be more responsive to the unique needs of governments and provide a more comprehensive purpose built system. This was apparent in some of the functionality presented during the system demonstration sessions.

Many local governments, including several Colorado municipalities, use the Tyler ERP. Several existing Town staff members have also used the system and are familiar with it. The ERP Project Manager even implemented this same system at the City of Boulder about 9-10 years ago.
Project implementation includes a team of two dedicated Town staff members (term-limited positions that end when the project is completed) and the software configuration consulting team included in this contract. Town staff is planning to do the data extraction necessary for implementation of the Tyler system and is not currently planning on using a data extraction and migration consultant which will be necessary for the utility billing system. The dedicated project team will be supplemented with existing Town staff as appropriate. The implementation is anticipated to begin this summer, as soon as we can get on Tyler’s implementation schedule. Implementation is currently expected to take 12 months and must be coordinated between implementation of the two systems. The actual schedule will be developed after contact execution.

Advantages:
As mentioned above, this project is expected to result in benefits for Town processes with limited external impacts. Some of these benefits include:

- Enhanced reporting capability
- Enhanced data extraction and analysis capabilities, including direct export from the screen into excel files
- Greatly improved data inquiry directly within the system, including direct drill-down to underlying supporting documentation and invoice images instead of a separate system like Laserfiche or even hard copy files
- Electronic workflow for many internal documents, including purchase orders (POs), invoices, journal entries, etc.
- Elimination of many shadow systems like separate spreadsheets to manually track specific info or using QuickBooks for miscellaneous accounts receivable billing and tracking
- Greatly improved grant and project tracking capabilities
- Greatly improved data access and self-service capabilities for users in other departments
- Fully developed windows functionality
- Increased IT efficiency due to the SaaS environment

Disadvantages:
The disadvantages of this implementation are more limited. These include:

- Staff will need to learn new processes and procedures
- Change management can be challenging with such a large scale project
- Existing staff will have increased workloads as they assist with implementation of relevant sections or modules. This may limit their ability to take on significant new initiatives during implementation.

Action Recommended:
Approve the resolution authorizing the Mayor to sign the contract with Tyler Technologies.
Finance/Resource Impact:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual SaaS fees</td>
<td>$119,062</td>
</tr>
<tr>
<td>Other Third Party Annual License fees</td>
<td>$14,372</td>
</tr>
<tr>
<td>Implementation Services</td>
<td>$434,623</td>
</tr>
<tr>
<td>Travel Expenses</td>
<td>$22,737</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$590,794</strong></td>
</tr>
</tbody>
</table>

Current Impact:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Account Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Reinvestment Fund</td>
<td>204-5400-544-33-33</td>
<td>$295,397</td>
</tr>
<tr>
<td>Power and Communications Fund</td>
<td>502-7001-580-33-33</td>
<td>$194,962</td>
</tr>
<tr>
<td>Water Fund</td>
<td>503-7001-580-33-33</td>
<td>$100,435</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$590,794</strong></td>
</tr>
</tbody>
</table>

A proposed project budget increase was included in Budget Amendment #3 presented on May 14th to fully fund this system acquisition, implementation and the first year’s SaaS fees.

Future Ongoing Impacts:
The Town will need to pay for the annual SaaS fees each year the system is used. Annual fees are paid in advance and upon expiration of the initial term, annual fees will be at the rates in effect at the time or renewal. This SaaS fee is in lieu of the current annual maintenance fees paid for Naviline.

Future One Time Impacts:
This contract is not expected to impact future one-time costs.

Level of Public Interest
We have not had significant public interest expressed at this time. The SpryPoint utility system implementation is expected to impact the general public more than the Tyler ERP implementation so limited public interest is expected at this time.

Sample Motion:
I move for the approval/denial of Resolution 42-24.

Attachments:
1. Resolution 42-24
2. Link to the Tyler contract – Software as a Service Agreement & Exhibits B-D
   - Tyler contract – Exhibit A – Investment Summary is considered confidential by Tyler Technologies Inc., and has not been included
   - Link to Exhibit E – Statement of Work
RESOLUTION 42-24

APPROVING A CONTRACT WITH TYLER TECHNOLOGIES FOR UTILITY BILLING SOFTWARE

WHEREAS, the Town Board wishes to enter into a software as a service (SaaS) contract with Tyler Technologies to acquire and implement a new Enterprise Resource Planning accounting system to replace the current system.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO:

The Board approves, and authorizes the Mayor to sign, the software contract referenced in the title of this resolution with Tyler Technologies in substantially the form now before the Board. The Board authorizes the Finance Director or designee to spend up to $568,057 for implementation and the first year’s SaaS fees and up to $22,737 for actual travel costs during implementation.

DATED this _____ day of _______________________, 2024.

TOWN OF ESTES PARK

__________________________________________
Mayor

ATTEST:

__________________________________________
Town Clerk

APPROVED AS TO FORM:

__________________________________________
Town Attorney
Memo

To: Honorable Mayor Hall
   Board of Trustees
Through: Town Administrator Machalek
From: Duane Hudson, ERP Project Manager
Date: 5/14/2024

RE: Resolution 43-24 Approving a Contract with SpryPoint Services, Inc. for Utility Billing Software Acquisition and Implementation

(Mark all that apply)

☐ PUBLIC HEARING  ☐ ORDINANCE  ☐ LAND USE
☒ CONTRACT/AGREEMENT  ☒ RESOLUTION  ☐ OTHER______________

QUASI-JUDICIAL  ☐ YES  ☒ NO

Objective:
To enter into a contract to acquire and implement a new Software as a Service (SaaS) utility billing system from SpryPoint Service, Inc.

Present Situation:
In 2022, the Town began the process of replacing our Enterprise Resource Planning system (ERP – a.k.a. accounting system) originally implemented in 1993 with a needs assessment. The needs assessment was completed in 2023 with the issuance of the July 18, 2023 Needs Assessment report.

Software specifications were then completed and posted with proposals due December 4, 2023. The Town received nine proposals which were reviewed by staff from multiple departments with four vendors selected for software demonstration.

Software demonstrations were then held over 13 days during January and February 2024 with staff from the Town Administrator’s Office, Information Technology, Finance, Human Resources, Public Works, Water, Electric and Broadband participating. After the software demonstrations, the Town participants met virtually on Feb 15th and made the following recommendation which was accepted by the ERP Steering Committee later that afternoon.

- Tyler Technologies ERP - for core accounting, fleet management, purchasing, accounts payable, miscellaneous accounts receivable, inventory, general ledger, reporting, etc.
- SpryPoint – for utility billing, customer online payment portal, etc.
• **Seek separate proposals for HR / Payroll** – want to compare stand-alone HR/payroll system functionality with that found in the Tyler ERP

All of these solutions are Software as a Service (SaaS) offerings, which has become the new norm for this type of accounting software. Many of the current software offerings are no longer even available for local on-premises installation. The software will be hosted on the vendor’s servers and the Town will access the software over the internet. The Town will not need to buy, install and eventually replace the expensive servers to house the software, nor will our IT Department need to maintain the servers, apply server software patches, apply the ERP software updates and patches, pay for server software licensing, etc.

The SpryPoint Services, Inc. proposal was for their utility billing system. This will replace the current utility billing system with the separate Tyler Technologies ERP replacing the rest of the current Naviline accounting system.

**Proposal:**
The SpryPoint proposal is for a SaaS utility billing system, purpose built with DERMS (distributed energy resources management system) functionality in mind. We are not planning on acquiring the DERMS module at this stage but as PRPA and the Town work through this industry shift, the SpryPoint modules will allow the Town to be more agile as more local residents install solar panels, wind turbines and other local power generation capability. If needed for the future, SpryPoint had a purpose built DERMS module and even a Broadband module for scalability.

One of the current challenges with our existing system involves the calculation of utility bills for the residents with the aforementioned power generation capability. The “net meter bank” which tracks excess power generated or used each month is currently a manual process and the number of these “net meter” accounts increases almost monthly. The SpryPoint software will help automate this process, increasing efficiencies within the Finance Department and reducing bill preparation time by approximately one day each month.

The proposed SpryPoint software package includes the utility billing module, cash receipts module, a fully integrated and robust customer service online payment and information portal, and a utility billing work order system for meter issues, etc.

Project implementation includes a team of two dedicated Town staff members (term-limited positions that end when the project is completed), the software configuration consulting team included in this contract, and a data extraction and migration consultant under a separate contract. This will be supplemented with existing Town staff as appropriate. The implementation will begin later this fall after the chart of accounts has been developed within the Tyler ERP system this summer. Implementation is expected to take over 14 months and must be coordinated between implementation of the two systems. The actual schedule will be developed after contact execution.
**Advantages:**
As mentioned above, this project is expected to result in multiple benefits to both internal Town staff and external utility customers. Some of these benefits include:

- Detailed customer information portal including more than just past bills
- Fully integrated customer payment portal
- New improved utility bill formats
- Improved utility bill preparation
- Efficient cash receipting processes
- Tight integration with smart meter reading technology
- Modern windows based system, instead of our current command line green screen program, with better reporting capability
- Future enhancement possibilities with additional modules (i.e. DERMS and Broadband modules)

**Disadvantages:**
The disadvantages of this implementation are more limited. These include:

- Customer inconvenience associated with changing utility account numbers in their online banking portals
- Staff will need to learn a new utility billing system

**Action Recommended:**
Approve the resolution authorizing the Mayor to sign the contract with SpryPoint Services, Inc.

**Finance/Resource Impact:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual SaaS fee</td>
<td>$84,400</td>
</tr>
<tr>
<td>Implementation Services</td>
<td>$291,200</td>
</tr>
<tr>
<td>Travel Expenses</td>
<td>$27,500</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$403,100</strong></td>
</tr>
</tbody>
</table>

**Current Impact:**

<table>
<thead>
<tr>
<th>Fund</th>
<th>Account Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Power and Communications</td>
<td>502-7001-580-33-33</td>
<td>$266,046</td>
</tr>
<tr>
<td>Water Fund</td>
<td>503-7001-580-33-33</td>
<td>$137,054</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$403,100</strong></td>
</tr>
</tbody>
</table>

A proposed project budget increase was included in Budget Amendment #3 presented on May 14th to fully fund this system acquisition, implementation and the first year’s SaaS fees.

**Future Ongoing Impacts:**
The Town will need to pay for the annual SaaS fees each year the system is used. The contract has an annual escalation clause of the larger of 5% or the CPI increase. An estimate of the 2025 SaaS fees is 88,620 based on current estimated users. The actual number of users are audited periodically and the fee is recalculated up or down accordingly. This SaaS fee is in lieu of the current annual maintenance fees paid for Naviline.
**Future One Time Impacts:**
This contract is not expected to impact future one-time costs.

**Level of Public Interest**
We have not had significant public interest expressed at this time. However, as we move forward with the implementation, a public information effort will be needed to create awareness of the new system and educate the public about the new utility bill format, the new utility account numbers and the new online utility customer information and payment portal.

**Sample Motion:**
I move for the **approval/denial** of Resolution 43-24.

**Attachments:**
1. Resolution 43-24
2. SpryPoint contract – Master Subscription Agreement
   - Exhibits A – F are considered confidential by SpryPoint and are not included
RESOLUTION 43-24

APPROVING A CONTRACT WITH SPRYPOINT SERVICES, INC. FOR UTILITY BILLING SOFTWARE

WHEREAS, the Town Board wishes to enter into a software as a service (SaaS) contract with SpryPoint Services, Inc. to acquire and implement a new utility billing system to replace the current system.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO:

The Board approves, and authorizes the Mayor to sign, the software contract referenced in the title of this resolution with SpryPoint Services, Inc. in substantially the form now before the Board. The Board authorizes the Finance Director or designee to spend up to $375,600 for implementation including the first year’s SaaS fees and up to $27,500 for actual travel costs during implementation.

DATED this _____ day of ________________________, 2024.

TOWN OF ESTES PARK

___________________________________________
Mayor

ATTEST:

___________________________________________
Town Clerk

APPROVED AS TO FORM:

___________________________________________
Town Attorney
Master Subscription Agreement

This Master Subscription Agreement is by and between SpryPoint Services, Inc. ("SpryPoint") a Canadian Corporation with offices at 45 Queen Street, Charlottetown, PE C1A 4A4 and Town of Estes Park ("Client") with offices at 170 MacGregor Avenue, PO Box 1200, Estes Park, Colorado 80517 (each a “Party” or collectively “Parties”) and shall come into effect on the date executed by the Parties (“Effective Date”).

Whereas SpryPoint provides a subscription Service to which Client intends to subscribe, this Agreement establishes the business relationship and allocation of responsibilities regarding the Service and the Parties therefore agree as follows.

The exhibits and schedules attached hereto are an integral part of this agreement and are deemed incorporated by reference herein.

SpryPoint agrees to timely perform the services described below in accordance with the terms and conditions of this Agreement and as described in the exhibits and schedules. Should there be a conflict of terms or conditions, this Agreement shall control, and the order of precedence shall be as follows:

1. Master Subscription Agreement
2. Exhibit A – Statement of Work
3. Exhibit B – Pricing Schedule
4. Exhibit C – Service Level Agreement
5. Exhibit D – Insurance Requirements
7. Exhibit F – Data Processing

DEFINITIONS. The following capitalized terms shall have the following meanings whenever used in this Agreement.

“Agreement” means this Master Subscription Agreement, including any exhibits or attachments hereto or any other document explicitly incorporated herein.

“Confidential Information” refers to the following types of material or content one Party to this Agreement ("Discloser") discloses to the other ("Recipient"): (a) any information Discloser marks or designates as "Confidential" at the time of disclosure; and (b) any other non-public, sensitive information disclosed by Discloser including, but not limited to code, inventions, know-how, business, technical, and financial information, or other information which should reasonably be understood by the Recipient to be confidential at the time it is disclosed, due to the nature of the information and the circumstances surrounding such disclosure. Confidential Information does not include information that: (i) is lawfully in Recipient’s possession at the time of disclosure; (ii) is independently developed by Recipient without use of or reference to the Discloser’s Confidential Information; (iii) becomes known publicly, before or after disclosure, other than as a result of Recipient’s or any other person’s or entity’s improper or illegal action or inaction; or (iv) is obtained by the Recipient from a third Party who had the legal right to disclose such information.

“Client Data” means information that is comprised of data obtained from, used in, stored or generated by the Client as the result of the use of the Service.

“Client Input” means suggestions, enhancement requests, recommendations or other feedback provided by Client, its employees, or any other person or entity acting at the Client’s direction, relating to the operation or functionality of the Service.
“**Intellectual Property Rights**” means any and all common law, statutory and other industrial property rights and intellectual property rights, including copyrights, trademarks, trade secrets, patents and other proprietary rights issued, honored or enforceable under any applicable laws anywhere in the world, and all moral rights related thereto.

“**Malicious Code**” means viruses, worms, timebombs, trojan horses and other malicious code, files, scripts, agents, or programs.

“**Messaging Service**” means the messaging capabilities provided with the Service.

“**Service**” means the SpryPoint applications as identified in the Pricing Schedule and further described in the Statement of Work and Documentation.

“**SpryPoint Documentation**” means the Service’s standard user manuals and any other accompanying documents related to the Service delivered to the Client.

“**Updates**” means all changes to the Service and SpryPoint Documentation as developed by SpryPoint and made available to the Client.

1. **Provision of Service.**

   1.1 **SpryPoint Obligations.** SpryPoint shall make the Service available to Client in accordance with the terms of this Agreement.

   1.2 **Client Obligations.** Client must use the Service in compliance with this Agreement and in accordance with the SpryPoint Documentation. Client shall: (a) have sole responsibility for the accuracy, quality, and legality of all Client Data and (b) take commercially reasonable efforts to prevent and be responsible for unauthorized access to, or use of, the Service and notify SpryPoint promptly of any such unauthorized access or use. Client shall not: (aa) use the Service in violation of applicable laws; or (bb) send or store Malicious Code by way of the Service or its related systems or networks. Client shall designate contacts to request and receive support services from SpryPoint. Support contacts must be trained on the SpryPoint Service for which they initiate support requests. Client shall be liable for the acts and omissions of all persons or other legal entities that it allows to access (including unauthorized access) the Service.

   1.3 **Acceptable Use.** Client acknowledges and agrees that SpryPoint does not police the content of Client Data nor communications of Client or its users transmitted through the Service, and that SpryPoint shall not be responsible for the content of any such communications or transmissions. Client shall use the Service exclusively for authorized and legal purposes, consistent with all applicable laws and regulations and this Agreement. Client is solely responsible for (a) assuring that the disclosure and use of Client Data, content, or information provided to SpryPoint does not violate any applicable law or infringe upon the Intellectual Property Rights of any third party and (b) using any reports and other materials prepared by Client through the Service in a manner that will not violate any applicable law or infringe upon the Intellectual Property rights of any third party. Client agrees not to post or upload any content or data into the Service which (aa) is libelous, defamatory, obscene, pornographic, abusive, harassing or threatening; (bb) violates the rights of others, such as data which infringes on any intellectual property rights or violates any right of privacy or publicity; or (cc) otherwise violates any applicable law. SpryPoint may remove any violating content posted or transmitted through the Service, without notice to Client. SpryPoint may suspend or terminate any user’s access to the Service upon notice in the event that SpryPoint reasonably determines that such user has violated the terms and conditions of this Agreement.
2. Fees.

2.1 Invoices & Payment. All fees are quoted and payable in United States Dollars. All invoiced charges are due net 30 days from the invoice date. Late payments may accrue interest at the rate of 1.5% per month. All payment obligations are non-cancelable, and all payments made are non-refundable. SpryPoint, without limiting its other rights and remedies, reserves the right to suspend the Service until such amounts are paid in full. All fees invoiced pursuant to this Agreement do not include any applicable taxes. Client shall be solely responsible for the event any authority imposes a duty, tax, levy, or fee (excluding those based on Provider's net income) directly upon the Client in relation to this Agreement.

3. Proprietary Rights

3.1 SpryPoint Intellectual Property Rights. SpryPoint retains all right, title, and interest in and to the Service, SpryPoint Documentation and other SpryPoint Intellectual Property Rights including any related methodologies, techniques, processes, and instruction developed by SpryPoint and used in the course of delivering the Service under this Agreement. No rights are granted to Client hereunder other than expressly set forth herein. Client shall not and shall not allow or cause any third party to (a) reverse engineer, modify or copy the Service or SpryPoint Documentation or create any derivative works based on the Service and SpryPoint Documentation; (b) copy any features, functions, interfaces, integrations or graphics of the Service or SpryPoint Documentation; (c) access the Service or SpryPoint Documentation in order to build any commercially available product or service.

3.2 Client Rights. SpryPoint hereby grants to Client a non-exclusive, non-transferable, non-perpetual, limited license to use the Service and SpryPoint Documentation in accordance with the terms and conditions of this Agreement.

3.3 License to Host Client’s Data. Client grants SpryPoint and SpryPoint’s hosting partners a worldwide, limited-term license to host, copy, transmit and display Client Data, as necessary for SpryPoint to provide the Service in accordance with this Agreement. As between SpryPoint and Client, SpryPoint acquires no right, title, or interest from Client under this Agreement in, or to, Client Data.

3.4 License to use Client’s Feedback. Client grants to SpryPoint and its affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Service any suggestion, enhancement request, recommendation, correction, or other Client Input relating to the Service. SpryPoint shall have no obligation to incorporate Client Input into the Service.

3.5 Statistical Information. SpryPoint owns all aggregated and statistical data derived from the operation of the Service, including, without limitation, the number of records in the Service, the number and types of transactions, configurations, and performance results for the Service. SpryPoint may anonymously compile statistical information related to the performance of the Service for purposes of improving the Service, provided that such information does not identify Client data or include Client's name.

4. Confidentiality

4.1 Confidentiality. A Party shall not disclose or use any Confidential Information of the other Party except as reasonably necessary to perform its obligations or exercise its rights pursuant to this Agreement except with the other Party’s prior written permission or as required by applicable law or by proper legal or governmental authority. If Client is required to disclose SpryPoint Confidential Information pursuant to applicable law or by proper legal authority, Client shall give SpryPoint notice of any such legal or governmental demand and reasonably cooperate with the other SpryPoint, at SpryPoint's expense, in any effort to seek a protective order or otherwise contest such required disclosure. Nothing herein shall prohibit the Town from complying with the Colorado Open Records Act as it determines is required.
4.2 **Nondisclosure.** A Party shall not use Confidential Information for any purpose other than to facilitate this Agreement. A receiving Party: (a) shall not disclose Confidential Information to any employee or contractor unless such person needs access in order to facilitate the Agreement and executes a nondisclosure agreement with Recipient and (b) shall not disclose Confidential Information to any third party without Discloser’s prior written consent, except as described above.

4.3 **Protection.** Each Party shall protect Confidential Information with the same degree of care it uses to protect its own Confidential Information, but in no event using less than a commercially reasonable standard of care.

4.4 **Injunctive Relief.** Recipient agrees that breach of Confidentiality would cause irreparable injury, for which monetary damages would be inadequate. If a Recipient discloses or uses any Confidential Information of the Discloser in breach of confidentiality protections hereunder, the Discloser shall have the right to, in addition to any other remedies available, injunctive relief to enjoin such acts.

4.5 **Retention of Rights.** This Agreement does not transfer ownership of Confidential Information or grant a license or any other right thereto. Discloser will retain all right, title, and interest in and to all Confidential Information.

5. **Data Privacy & Security**

5.1 **SpryPoint use of Data.** Client hereby grants SpryPoint a limited right to access, process, collect, store, generate, display, and use Client Data for the sole purpose of providing the Service. Notwithstanding the foregoing, SpryPoint may disclose Client Data as required by applicable law or by proper legal or governmental authority. SpryPoint shall give Client notice of any such legal or governmental demand and reasonably cooperate with Client in any effort to seek a protective order or otherwise contest such required disclosure, at Client’s expense.

5.2 **Data Security.** Each Party shall be responsible for establishing and maintaining its own commercially reasonable data privacy and information security policies, including physical, technical, administrative, and organizational safeguards in relation to the Service.

5.3 **Unauthorized Disclosure.** If either Party believes there has been a security breach, such Party must notify the other Party upon the earlier of forty-eight (48) hours after discovery or any time frame required by applicable law unless legally prohibited from doing so. Each Party will provide commercially reasonable assistance to the other Party in mitigating such breach.

6. **Warranties & Disclaimers**

6.1 **From SpryPoint.**

   a) **Function:** SpryPoint represents and warrants that, during the Term, the Service will perform materially in accordance with the SpryPoint Documentation.

   b) **Intellectual Property Rights:** SpryPoint represents and warrants that it owns the Service and has the power and authority to grant the rights in this Agreement without the further consent of any third Party.

   c) **Malicious Code:** SpryPoint represents and warrants that to the best of its knowledge the Service does not contain any Malicious Code.
6.2 From Both Parties. Each Party represents and warrants that it has the full right and authority to enter into, execute, and perform its obligations under this Agreement and that no pending or threatened claim or litigation known to it would have a materially adverse impact on its ability to perform as required by this Agreement.

6.3 Warranty Remedies. In the event of a breach of the warranty as set forth in Section 6.1, or upon the discovery of Malicious Code in the Service, (a) SpryPoint shall correct the non-conforming Service at no additional charge to Client or (b) in the event SpryPoint is unable to correct such deficiencies, after good-faith efforts, Client’s exclusive remedy shall be a refund of the subscription fees actually paid by Client for the twelve (12) month period immediately preceding notice to SpryPoint of such breach or discovery.

6.4 Warranty Disclaimer. EXCEPT FOR THE EXPRESS WARRANTIES OUTLINED IN SECTION 6.1 AND 6.2 ABOVE, SPRYPOINT MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICE AND/OR RELATED SPRYPOINT DOCUMENTATION. SPRYPOINT DOES NOT WARRANT THAT THE SERVICE WILL PERFORM WITHOUT ERROR OR THAT IT WILL RUN WITHOUT INTERRUPTION. THE LIMITED WARRANTIES PROVIDED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO CLIENT IN CONNECTION WITH THE PROVISION OF THE SERVICE.

7. Indemnification. SpryPoint shall protect, defend, hold harmless and indemnify Client harmless against any loss, damage or costs in connection with claims, demands, suits or proceedings (“Indemnified Claims”) made or brought against Client alleging that the use of the Service infringes any third Party’s Intellectual Property Rights; provided, however, that Client: (a) promptly gives written notice of the Claim to SpryPoint; (b) gives SpryPoint sole control of the defense and settlement of the Claim; and (c) provides to SpryPoint, at SpryPoint’s cost, all reasonable assistance. SpryPoint’s obligations set forth in this section do not apply to the extent that such a claim for Indemnification arises out of: (a) Client’s breach of this Agreement; (b) revisions to the Service made without SpryPoint’s written consent; (c) Client’s failure to incorporate Updates; (d) modification of the Service by any person or entity not authorized by SpryPoint to perform such modification (e) unauthorized use of the Service; or (f) use of the Service in a manner inconsistent with the SpryPoint Documentation or the terms of this Agreement. Furthermore, the obligation to indemnify shall not apply if such liability is ultimately adjudicated to have arisen through the negligence or intentional misconduct of Client. If Client is enjoined from using the Service or SpryPoint reasonably believes it will be enjoined, SpryPoint shall have the right at its sole option, to obtain for Client the right to continue use of the Service or to replace or modify the Service so that it is no longer infringing. If neither of the foregoing options is reasonably available to SpryPoint, then use of the Service may be terminated at either Party’s option and SpryPoint’s sole liability shall be to refund any prepaid fees for the Service that were to be provided after the effective date of termination.

8. Limitation of Liability

8.1 Clarifications and Disclaimer. TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT WITH RESPECT TO SPRYPOINT’S INDEMNIFICATION OBLIGATIONS, RECKLESS MISCONDUCT, GROSS NEGLIGENCE, WILLFUL MISCONDUCT AND/OR FRAUD, IN NO EVENT SHALL SPRYPOINT’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE SUBSCRIPTION FEES ACTUALLY PAID BY CLIENT IN CONSIDERATION FOR SPRYPOINT’S SERVICE DELIVERY DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD FOR THE SERVICE FROM WHICH THE CLAIM AROSE. FOR THE AVOIDANCE OF DOUBT, SPRYPOINT’S LIABILITY LIMITS APPLY TO SPRYPOINT’S AFFILIATES, PROVIDERS, AGENTS, SPONSORS, DIRECTORS, OFFICERS, EMPLOYEES, CONSULTANTS AND OTHER REPRESENTATIVES.
8.2 **Exclusion of Damages.** IN NO EVENT SHALL SPRYPOINT HAVE ANY LIABILITY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, OR FOR ANY LOST PROFITS, LOSS OF USE, COST OF DATA RECONSTRUCTION, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION.

9. **Term & Termination**

9.1 **Term of Agreement.** This Agreement shall be valid as of the Effective Date and remain in effect until terminated pursuant to the terms contained herein.

9.2 **Renewal.** The Service shall automatically renew for successive terms of one year unless either Party provides the other written notice of termination a minimum of (30) days prior to the expiration of the current term or the Service has been otherwise terminated in accordance with this Agreement.

9.3 **Annual Escalation.** The annual subscription service fee for the Service shall be subject to adjustment on each annual anniversary of the Effective Date at the higher of the following:

   a) in accordance with the change in the USA Consumer Price Index ("CPI") as published by the Government of the United States. The CPI will be determined based on the percentage increase in the CPI for the twelve (12) month period ending with the calendar month which is three (3) months prior to the annual anniversary of the Effective Date

   b) 5%.

9.4 **Termination for Convenience.** Client shall have the right to terminate this Agreement without cause or penalty, by giving not less than Thirty (30) days’ prior written notice to SpryPoint. Upon termination, Client shall pay SpryPoint all fees due up to the time of termination.

9.5 **Termination for Default.** Either Party may terminate this Agreement upon Thirty (30) days prior written notice in the event of a material breach by the other Party if such breach remains uncured at the expiration of such notice period.

9.6 **Effect of Termination.** Upon any termination of this Agreement, Client shall, as of the date of such termination, immediately cease accessing and otherwise utilizing the applicable Service. Termination for any reason shall not relive Client of the obligation to pay any fees accrued or due and payable to SpryPoint prior to the Effective Date of termination.

9.7 **Access to Client Data.** Upon written request by Client made prior to any expiration or termination of this Agreement, SpryPoint will make Client Data available to Client through the Service solely for purposes of Client retrieving Client Data for a period of up to sixty (60) days. After 60 days, SpryPoint will have no obligation to maintain or provide any Client data and shall thereafter, unless legally prohibited, delete all Client Data and will have no further obligation to make it available to Client.

9.8 **Annual Appropriation.** This Agreement does not create a multiple fiscal year direct or indirect debt or other financial obligation by Client. All financial obligations of the Client under this Agreement are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations.

10. **Messaging.**

10.1 **Supplemental Messaging Service Terms.** If Client elects to use SpryPoint’s Messaging Service, the following supplemental terms ("Messaging Terms") will apply.
10.2 **Responsibility & Risk.** Client shall be solely responsible for the content of any communications which Client initiates or authorizes in connection with the Messaging Services. SpryPoint shall have no responsibility or liability with respect to messages or communications initiated or authorized by Client. Client assumes all risks associated with use of the Messaging Service.

10.3 **Compliance.** SpryPoint is limited to delivering the Messaging Service to the Client as part of the Service, accordingly, compliance with applicable laws is strictly Client’s responsibility with respect to the Messaging Service notwithstanding any provision to the contrary.

11. **Miscellaneous**

11.1 **Independent Contractor.** SpryPoint and all persons employed by or contracted by SpryPoint to furnish labor and/or materials under this Agreement are independent contractors and do not act as agents or employees of Client. SpryPoint has full rights to manage its employees in their performance of the Service under this Agreement. This Agreement does not create, nor is it intended to create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties. There are no third-Party beneficiaries to this Agreement.

11.2 **Governing Law.** This agreement shall be governed exclusively by the internal laws of the State of Colorado. Venue and jurisdiction for any court action filed regarding this agreement shall be only in Larimer County, Colorado.

11.3 **Notices.** All notices under this Agreement shall be in writing and shall be deemed to have been given upon the third business day after first class mailing.

Notices to the Client shall be sent to:

170 MacGregor Avenue  
PO Box 1200  
Estes Park  
Colorado, 80517, USA

Notices to SpryPoint shall be sent to:

Nick Stone  
CFO  
45 Queen Street – Suite #401  
Charlottetown, PE C1A 4A4, Canada

11.4 **Waiver.** No failure or delay by either Party in exercising any right under this agreement shall constitute a waiver of that right or any other right. Neither Client’s review, acceptance nor payments for any of the Services provided under this Agreement shall be constructed to operate as a waiver of any SpryPoint’s rights under this agreement or of any cause of action available to SpryPoint arising out of the performance of this Agreement.

11.5 **Force Majeure.** In no event shall SpryPoint be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that SpryPoint shall use reasonable efforts which are consistent with accepted software industry practices to resume performance as soon as practicable under the circumstances.
11.6 **Assignment.** Neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party (which consent shall not be unreasonably withheld.

11.7 **Severability.** To the extent permitted by the law, the Parties waive any provision of law that would render any clause of this Agreement invalid or unenforceable. In the even that a provision herein is held to be invalid or unenforceable, such provision will be interpreted to fulfills its intended purpose to the maximum extent permitted by the law, and the remaining provisions of this Agreement will continue in full force and effect.

11.8 **Publicity.** Except as required for the Service, SpryPoint shall not use Client’s name, logos, or trademarks in any written press releases, advertisements and/or marketing materials without the prior consent of Client, SpryPoint is authorized to use Client’s name as required to perform the Service.

11.9 **Amendment.** This Agreement may only be amended in writing by authorized representatives of each Party.

11.10 **Execution in Counterparts:** This Agreement may be executed in one or more counterparts. Each counterpart will be an original, but all such counterparts will constitute a single instrument.

(signature block on next page)
<table>
<thead>
<tr>
<th><strong>Town of Estes Park, Colorado</strong></th>
<th><strong>SpryPoint Services, Inc.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature:</td>
<td>Signature:</td>
</tr>
<tr>
<td>Name:</td>
<td>Name:</td>
</tr>
<tr>
<td>Title:</td>
<td>Title:</td>
</tr>
<tr>
<td>Date Signed:</td>
<td>Date Signed:</td>
</tr>
</tbody>
</table>

**APPROVED AS TO FORM:**

Town Attorney

**ATTEST:**

Town Clerk
Memo

To: Honorable Mayor Hall  
    Board of Trustees  
Through: Town Administrator Machalek  
From: Dana Klein, CPP, CCTM, Parking & Transit Manager  
        Greg Muhonen, PE, Public Works Director  
Date: May 14, 2024  
RE: Resolution 44-24 Contract with RATP Dev USA, Inc for 2024 Operation of The Peak’s Red Route  

(Mark all that apply)  
PUBLICATION HEARIN G □  ORDINANCE □  LAND USE □  CONTRACT/AGREEMENT □  RESOLUTION □  OTHER  
QUASI-JUDICIAL □  YES □  NO

Objective:  
Public Works (PW) staff seek Town Board approval of Resolution 44-24, the 2024 Services Contract with RATP Dev USA, Inc. for operation of The Peak transit’s Red Route from May 24 through October 20, 2024.

Present Situation:  
The Town of Estes Park utilizes the same third-party transit service provider as Rocky Mountain National Park (RMNP), RATP Dev USA (formerly MacDonald Transit dba Rocky Mountain Transit). RATP Dev USA was selected by RMNP to continue in their role as its transit service provider from 2023 through 2028, with the option for five additional years through 2033.

As allowed by the Town of Estes Park's adopted Finance Policies and Procedures Manual, Section 3.7.3 (Exemptions from the Public Bidding Process, Use of State Bid Awards), Public Works (PW) intends to piggyback off RMNP's Federal contract with RATP Dev USA for the Town's 2024 Services Contract for operation of The Peak’s Red Route transit service.

Proposal:  
Details of the Town's 2024 Services Contract – Red Route Only includes:

- RATP Dev USA's hourly service rate for 2024 will be $82.50, which includes routine maintenance, shuttle drivers, drug and alcohol testing, training, and insurance
A separate contract with RATP Dev will be presented to the Town Board for the other transit routes after the grant agreement is received from CDOT for the FTA 5311 grant funds.

**Advantages:**
- Reduce the reliance on personal vehicles for locals and guests during the Town's busy summer season.
- Provide a free public transportation option that is available to riders of all ages and abilities.
- Encourage use of the Town's free parking structure, with the goal of reducing traffic congestion in the downtown core.

**Disadvantages:**
- The Peak is a significant General Fund investment; however, PW staff have worked diligently since 2019 to diversify transit funding, and now the General Fund contribution is supplemented by paid parking revenues and Federal grants.

**Action Recommended:**
PW staff recommend approval of the 2024 Contract with RATP Dev USA, Inc. for operation of The Peak’s Red Route.

**Finance/Resource Impact:**
**Current Impact:** Total expenditure for Red Route Only $177,870.00 (budgeted) to be drawn from 101-5600-456.22- 60 (Transportation Fees).

**Future Ongoing Impacts:** The budget for The Peak annual service is set during the regular Town budget process. This contract is through October 20, 2024, only.

**Future One-Time Impacts:** This item is not expected to significantly impact future one-time costs.

**Level of Public Interest**
Public interest in this item is moderate.

**Sample Motion:**
I move for the approval/denial of Resolution 44-24.

**Attachments:**
2. 2024 Contract with RATP Dev USA
RESOLUTION 44-24

SERVICES CONTRACT EXTENSION WITH RATP DEV USA, INC.
FOR OPERATION OF THE TOWN’S RED ROUTE TRANSIT SERVICE IN 2024

WHEREAS, the Town desires to its contract with RATP Dev USA, Inc. to continue operating the Town’s free Red Route transit service (The Peak) for the 2024 summer season; and

WHEREAS, the Town’s annual contract is a piggyback off the 2023 Federal Services Contract between Rocky Mountain National Park and RATP Dev USA, Inc. as allowed by the Town of Estes Park’s adopted procurement policy; and

WHEREAS, the proposed contract extension for 2024 Red Route services with RATP Dev USA, Inc. is for $177,870.00, which is budgeted.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO:

The Board approves, and authorizes the Mayor to sign, the services contract extension referenced in the title of this resolution in substantially the form now before the Board.

DATED this ________ day of ________________________

TOWN OF ESTES PARK

Mayor

ATTEST:

_______________________________
Town Clerk

APPROVED AS TO FORM:

_______________________________
Town Attorney
SERVICES CONTRACT
EXTENSION NO. 1A

Contract with RATP Dev USA, Inc. for Operation of Estes Transit Red Route

The parties, the Town of Estes Park, Colorado (Town), a municipal corporation, and RATP Dev USA, Inc. (Contractor), a Texas corporation, whose address is 300 Throckmorton Street, Suite 670, Fort Worth, Texas 76137, make this Contract Extension this __________ day of ____________________, 2024, at the Town of Estes Park, Colorado, considering the following facts and circumstances:

1 RECATALS:

1.1 Town and Contractor entered into a Services Contract on May 23, 2023, for Operation of Estes Transit (Contract).

1.2 Section 21 of the Contract originally provided that the term would continue through December 31, 2023, and provided for up to five (5) renewals for a period of one year each, upon mutual agreement of the parties.

1.3 The Contract has not yet been extended.

1.4 Town and Contractor desire to extend the Contract for an additional year, but only as it relates to the Red Route as described in the Contractor’s Red Route Proposal for 2024, an email entitled “Red route for 2024”, dated April 24, 2024, consisting of 2 pages (“2024 Red Route Proposal”). Town and Contractor plan to extend the remainder of the Contract as well, at a future date.

2 EXTENSION: The term of the Contract is hereby extended for one additional year as it relates to the 2024 Red Route Proposal. Prices in the Contract are hereby updated to reflect the 2024 Red Route Proposal, with a total price of $177,870 for 2024.

3 PROVISIONS CONTINUE IN EFFECT: All other provisions of the Contract remain in full force and effect. All provisions of the Contract relating to the interpretation or application of the Contract shall apply equally to this Contract Extension as though fully set forth herein. This instrument forms a contract only when executed in writing by duly authorized representatives of Town and Contractor. By their signatures on this document, the signatories represent that they have actual authority to enter this Contract for the respective parties.

Signature pages follow.
CONTRACTOR

By: ________________________________
Title: ______________________________

STATE OF ________________________
COUNTY OF _______________________

The foregoing instrument was acknowledged before me this ______ day of
____________________, 2024, by ______________________________, as
_____________________________ of ______________________________, Contractor. (If by
natural person or persons, insert name or names; if by person acting in representative or official
capacity or as attorney-in-fact, insert name of person as an executor, attorney-in-fact, or other
capacity or description; if by officer of corporation, insert name of such officer or officers as the
President or other officers of such corporation, naming it.)

Witness my hand and official seal.

My Commission Expires ________________________.

________________________________
Notary Public
TOWN OF ESTES PARK

By: ________________________________

Title: ________________________________

State of __________________________)
                                 ) ss:
County of _________________________

The foregoing instrument was acknowledged before me by ________________________,
as ____________________________ of the Town of Estes Park, a Colorado municipal
corporation, on behalf of the corporation, this _____day of _________________, 2024.

Witness my hand and official Seal.

My Commission expires ____________________.

________________________________________
Notary Public

APPROVED AS TO FORM:

________________________
Town Attorney
Memo

To: Honorable Mayor Hall
   Board of Trustees
Through: Town Administrator Machalek
From: Dana Klein, CPP, CCTM, Parking & Transit Manager
       Greg Muhonen, PE, Public Works Director
Date: May 14, 2024
RE: Resolution 45-24 Intergovernmental Agreement with CDOT for 2024 "Bustang to Estes" Transit Service

(Mark all that apply)

☐ PUBLIC HEARING ☐ ORDINANCE ☐ LAND USE
☒ CONTRACT/AGREEMENT ☒ RESOLUTION ☐ OTHER

☐ QUASI-JUDICIAL ☐ YES ☒ NO

Objective:
Public Works staff seek Town Board approval of an Intergovernmental Agreement (IGA) with the Colorado Department of Transportation (CDOT) for 2024 Bustang to Estes service.

Present Situation:
Bustang is CDOT’s Interregional Express bus service that connects commuters along the I-25 Front Range and I-70 Mountain Corridors. By linking urban and rural transit systems, Bustang responds to demand from the traveling public to have a reliable transit alternative along the highest traveled corridors in the state.¹

In 2019, the Town, CDOT and Rocky Mountain National Park (RMNP) partnered to pilot six weekends (13 days) of Bustang service from Denver Union Station to Estes Park, with two stops along US 36 on the south side of Boulder. The 2019 pilot was developed to help address the intense traffic and parking congestion that both the Town and RMNP experience during the peak summer and fall seasons. The pilot also supported CDOT’s goals to improve safety, mobility, access, and rural connectivity to transit services.

Bustang to Estes service expanded in 2021 to include a stop in Lyons, and in 2022 to include direct access to RMNP’s Bear Lake Park-n-Ride. Beginning May 27, 2024 Bustang to Estes will operate forty (40) days of service consisting of Saturdays and Sundays for 37 weekend days through Sunday, October 1, plus three holidays.

¹ Source: RideBustang.com
Service will originate at Denver Union Station and terminate within RMNP at the Bear Lake Road Park-n-Ride, with intermediate stops at Regional Transportation District (RTD) US 36 and Sheridan Station in Westminster; US 36 and Broomfield Station; US 36 and Table Mesa Station in Boulder; the Town of Lyons Park-n-Ride; and the Estes Park Visitor Center.

A roundtrip ticket will cost $15.00 per passenger, with discounts available for youth, college students and seniors. All Bustang buses are fully wheelchair accessible.

**Proposal:**
Public Works staff recommend that the Town Board approve the IGA with CDOT for 2024 Bustang to Estes service.

**Advantages:**
- Help address the intense traffic and parking congestion that both the Town and RMNP experience during the peak summer and fall seasons.
- Provide an affordable transportation option connecting Estes Park to the Front Range, Denver Metro, and Denver International Airport.
- Demonstrates the Town’s commitment to continued and expanded partnership with CDOT, RMNP, and regional partners like Boulder County, the cities of Broomfield, Westminster, and Boulder, and the Town of Lyons.

**Disadvantages:**
- The Bustang vehicles could occupy parking spaces at the Visitor Center during busy summer weekends; however, Town staff are working with Ace Coaches to park Bustang at the Estes Park Events Complex whenever the vehicles are not parked at the RMNP Bear Lake Park-n-Ride.

**Action Recommended:**
Approval of Resolution 45-24.

**Finance/Resource Impact:**
There is no identified impact to the Town budget in 2024. CDOT intends to pay for Bustang to Estes service with fare-box revenue and state funds through SB 09-108 (FASTER funds).

**Level of Public Interest**
The level of public interest is low to moderate.

**Sample Motion:**
I move for the approval/denial of Resolution 45-24.

**Attachments**
1. Resolution 45-24
2. IGA with CDOT for 2024 Bustang to Estes Service
RESOLUTION 45-24

APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE COLORADO DEPARTMENT OF TRANSPORATION FOR 2024 BUSTANG TO ESTES SERVICE

WHEREAS, the Town Board desires to enter the intergovernmental agreement referenced in the title of this resolution for the purpose of allowing CDOT’s operation of 40 days of 2024 Bustang to Estes service; and

WHEREAS, CDOT will operate Bustang commuter services for two roundtrips each day of operation, originating from the Denver Union Station in downtown Denver, CO, with stops at US 36 & Sheridan Station, US 36 & Broomfield Station, US 36 & Table Mesa Station, US 36 & Lyons Park-n-Ride, the Estes Park Visitor Center, and Rocky Mountain National Park Bear Lake Park-n-Ride; and

WHEREAS, CDOT will fund all aspects of the Bustang to Estes in 2024; and

WHEREAS, the Town desires to support CDOT’s state goals to improve safety, mobility, access, and rural connectivity to transit services.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO:

The Board approves, and authorizes the Mayor to sign the intergovernmental agreement referenced in the title of this resolution in substantially the form now before the Board.

DATED this ______ day of ________________, 2024.

TOWN OF ESTES PARK

__________________________________________
Mayor

ATTEST:

__________________________________________
Town Clerk

APPROVED AS TO FORM:

__________________________________________
Town Attorney
STATE OF COLORADO  
INTERGOVERNMENTAL AGREEMENT  

<table>
<thead>
<tr>
<th>State Agency</th>
<th>Contract Number</th>
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<tbody>
<tr>
<td>Department Of Transportation</td>
<td>24-HAA-XC-00058</td>
</tr>
</tbody>
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<thead>
<tr>
<th>Town/Local Agency</th>
<th>Contract Performance Beginning Date</th>
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</thead>
<tbody>
<tr>
<td>Town Of Estes Park</td>
<td>The Effective Date</td>
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</table>

<table>
<thead>
<tr>
<th>Contract Purpose</th>
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<tbody>
<tr>
<td>This Intergovernmental Agreement delineates the Department of Transportation’s and Town of Estes Park’s responsibilities regarding a project to provide limited transit commuter services between Denver and Estes Park.</td>
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<table>
<thead>
<tr>
<th>Exhibits and Order of Precedence</th>
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</thead>
<tbody>
<tr>
<td>The following Exhibits and attachments are included with this Contract:</td>
</tr>
<tr>
<td>1. Exhibit A – Statement of Work</td>
</tr>
<tr>
<td>In the event of a conflict or inconsistency between this Contract and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:</td>
</tr>
<tr>
<td>1. Colorado Special Provisions in §8 of the main body of this Contract.</td>
</tr>
<tr>
<td>2. The provisions of the other sections of the main body of this Contract.</td>
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<tr>
<th>Principal Representatives</th>
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</thead>
<tbody>
<tr>
<td>For the State:</td>
</tr>
<tr>
<td>Brian Pokorny, Project Manager</td>
</tr>
<tr>
<td>CDOT- Division of Transit and Rails (DTR)</td>
</tr>
<tr>
<td>2829 W. Howard Place</td>
</tr>
<tr>
<td>Denver, CO 80204</td>
</tr>
<tr>
<td>(720) 990-0095</td>
</tr>
<tr>
<td><a href="mailto:brian.pokorny@state.co.us">brian.pokorny@state.co.us</a></td>
</tr>
<tr>
<td>For Town/Local Agency:</td>
</tr>
<tr>
<td>Dana Klein, Parking and Transit Manager</td>
</tr>
<tr>
<td>Town of Estes Park</td>
</tr>
<tr>
<td>P.O. Box 1200</td>
</tr>
<tr>
<td>Estes Park, CO 80517</td>
</tr>
<tr>
<td>(970) 577-3957</td>
</tr>
<tr>
<td><a href="mailto:dklein@estes.org">dklein@estes.org</a></td>
</tr>
</tbody>
</table>
SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT
Each person signing this Contract represents and warrants that the signer is duly authorized to execute this Contract and to bind the Party authorizing such signature.

<table>
<thead>
<tr>
<th>TOWN/LOCAL AGENCY</th>
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<tbody>
<tr>
<td>Town of Estes Park</td>
<td>Town of Estes Park</td>
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<td></td>
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<tr>
<td>By: Gary Hall, Mayor</td>
<td>By: Jackie Williamson, Town Clerk</td>
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<tr>
<td>Date:</td>
<td>Date:</td>
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<tr>
<th>TOWN/LOCAL AGENCY</th>
<th>STATE OF COLORADO</th>
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</thead>
<tbody>
<tr>
<td>Town of Estes Park</td>
<td>Jared S. Polis, Governor</td>
</tr>
<tr>
<td></td>
<td>Department of Transportation</td>
</tr>
<tr>
<td></td>
<td>Shoshana M. Lew, Executive Director</td>
</tr>
<tr>
<td>By: Daniel Kramer, Town Attorney</td>
<td>By: Keith Stefanik, P.E., Chief Engineer</td>
</tr>
<tr>
<td>Date:</td>
<td>Date:</td>
</tr>
</tbody>
</table>
1. PARTIES

This Contract is entered into by and between Town/Local Agency named on the Cover Page for this Contract (the “Town/Local Agency”), and the STATE OF COLORADO acting by and through the State agency named on the Cover Page for this Contract (the “State”). Town/Local Agency and the State agree to the terms and conditions in this Contract.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Contract shall not be valid or enforceable until the Effective Date. The State shall not be bound by any provision of this Contract before the Effective Date, and shall have no obligation to pay Town/Local Agency for any Work performed or expense incurred before the Effective Date or after the expiration or sooner termination of this Contract.

B. Initial Term

The Parties’ respective performances under this Contract shall commence on the Contract Performance Beginning Date shown on the Cover Page for this Contract and shall terminate on the Initial Contract Expiration Date shown on the Cover Page for this Contract (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Contract.

C. End of Term Extension

If this Contract approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Town/Local Agency as provided in §6, may unilaterally extend such Initial Term or Extension Term for a period not to exceed two months (an “End of Term Extension”), regardless of whether additional Extension Terms are available or not. The provisions of this Contract in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement contract or modification extending the total term of this Contract.

D. Termination for Cause

If, through any cause, either Party shall fail to fulfill its obligations under this Agreement, or if either Party shall violate any of the covenants, agreements, or stipulations of this Agreement, either Party shall thereupon have the right to terminate this Agreement for cause by giving written notice to the other Party of its intent to terminate and giving at least three (3) days opportunity to cure the default or show cause why termination is otherwise not appropriate.

3. STATEMENT OF WORK

Town/Local Agency shall perform as described in this Contract and in accordance with the provisions of Exhibit A.

4. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Town/Local Agency shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Town/Local Agency under this Contract. Such a conflict of interest would arise when a Town/Local Agency or Subcontractor’s employee, officer or agent were to offer or provide
any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Contract.

B. Apparent Conflicts of Interest

Town/Local Agency acknowledges that, with respect to this Contract, even the appearance of a conflict of interest shall be harmful to the State’s interests. Absent the State’s prior written approval, Town/Local Agency shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Town/Local Agency’s obligations under this Contract.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Town/Local Agency is uncertain whether a conflict or the appearance of a conflict has arisen, Town/Local Agency shall submit to the State a disclosure statement setting forth the relevant details for the State’s consideration. Failure to promptly submit a disclosure statement or to follow the State’s direction in regard to the actual or apparent conflict constitutes a breach of this Contract.

D. Town/Local Agency acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Town/Local Agency further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this Contract.

5. DISPUTE RESOLUTION

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement will be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, the Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of the Department of Transportation. In connection with any appeal proceeding under this clause, the Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Local Agency shall proceed diligently with the performance of the Agreement in accordance with the Chief Engineer’s decision. The decision of the Executive Director or his/her duly authorized representative for the determination of such appeals will be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this Agreement, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

6. NOTICES AND REPRESENTATIVES

Each individual identified as a Principal Representative on the Cover Page for this Contract shall be the principal representative of the designating Party. All notices required or permitted to be given under this Contract shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party’s principal representative at the address set forth below or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Contract. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with
an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party’s principal representative at the address set forth on the Cover Page for this Contract. Either Party may change its principal representative or principal representative contact information or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative by notice submitted in accordance with this section without a formal amendment to this Contract.

7. GENERAL PROVISIONS

A. Assignment

Town/Local Agency’s rights and obligations under this Contract are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Town/Local Agency’s rights and obligations approved by the State shall be subject to the provisions of this Contract.

B. Subcontracts/Sub-Local Agencies

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

The State understands that the Local Agency may intend to perform some, or all of the services required under this Agreement through a Sub-local Agency. The Local Agency agrees not to assign rights or delegate duties under this Agreement or subcontract any part of the performance required under the Agreement without the express, written consent of the State, which shall not be unreasonably withheld.

C. Binding Effect

Except as otherwise provided in §7.A, all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties’ respective successors and assigns.

D. Authority

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

The Town/Local Agency warrants that it possesses the legal authority to enter into this Agreement and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Agreement and to bind the Local Agency to its terms. The person(s) executing this Agreement on behalf of the Local Agency warrants that such person(s) has full authorization to execute this Agreement.

E. Captions and References

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

F. Counterparts

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

G. Entire Understanding

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

H. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

I. Modification

Except as otherwise provided in this Contract, any modification to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Contract, other than contract amendments, shall conform to the policies issued by the Colorado State Controller.

This Agreement is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this Agreement on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this Agreement shall be effective unless agreed to in writing by both Parties in an amendment to this Agreement that is properly executed and approved in accordance with applicable law.

Either party may suggest renegotiation of the terms of this Agreement, provided that the Agreement shall not be subject to renegotiation more often than annually, and that neither party shall be required to renegotiate. If the Parties agree to change the provisions of this Agreement, the renegotiated terms shall not be effective until this Agreement is amended/modified accordingly in writing.

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

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

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

L. Survival of Certain Contract Terms

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

M. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), et seq., C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Town/Local Agency. Town/Local Agency shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Town/Local Agency may wish to have in place in connection with this Contract.

N. Third Party Beneficiaries

Except for the Parties’ respective successors and assigns described in §7.A, this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to this Contract, and do not create any rights for such third parties.

O. Waiver

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

P. CORA Disclosure

To the extent not prohibited by federal law, this Contract and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

Q. Standard and Manner of Performance

Town/Local Agency shall perform its obligations under this Contract in accordance with the highest standards of care, skill and diligence in Town/Local Agency’s industry, trade, or profession.

R. Licenses, Permits, and Other Authorizations.

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

8. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), C.R.S.; then this Contract shall not be valid until it has been approved by the State’s Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State’s risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT TOWN/LOCAL AGENCY.

Town/Local Agency shall perform its duties hereunder as an independent Town/Local Agency and not as an employee. Neither Town/Local Agency nor any agent or employee of Town/Local Agency shall be deemed to be an agent or employee of the State. Town/Local Agency shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Town/Local Agency and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Town/Local Agency or any of its agents or employees. Town/Local Agency shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Town/Local Agency shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

Town/Local Agency 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.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or
actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. **PROHIBITED TERMS.**

Any term included in this Contract that requires the State to indemnify or hold Town/Local Agency harmless; requires the State to agree to binding arbitration; limits Town/Local Agency ’s liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S.

H. **SOFTWARE PIRACY PROHIBITION.**

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

I. **EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.**

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Town/Local Agency has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Town/Local Agency ’s services and Town/Local Agency shall not employ any person having such known interests.
EXHIBIT A, STATEMENT OF WORK

This Exhibit A – Statement of Work is part of that certain Contract #24-HAA-XC-00058 by and between the Town of Estes Park (“Contractor” or “Town”), and the State of Colorado acting by and through the Colorado Department of Transportation (“State” or “CDOT”). This exhibit documents the Services to be performed by Local Agency, including the Deliverables, the responsibility of the Parties, and how a project will generally be managed. In the event of a conflict or inconsistency between the Contract and its exhibits and attachments, such conflict or inconsistency shall be resolved in the manner specified on the Cover Page of the main body of the Contract. Any references to defined terms that are not specifically defined herein shall have the same meaning as those set forth in the Contract and its exhibits.

1. DEFINITIONS

The following list of terms shall be construed and interpreted as follows:

A. “Ace” or “Ace Express” means Ace Express Coaches, LLC, the State’s contracted operator for the Bustang to Estes commuter services.

B. “Deliverable” means any tangible or intangible object produced by Contractor as a result of the Work that is intended to be delivered to the State, regardless of whether the object is specifically described or otherwise identified as a “Deliverable.”

C. “Bustang to Estes” means the limited seasonal recreational transportation service described in Section 2.A and Section 2.B of this Exhibit A.

D. “Force Majeure” means if CDOT is prohibited or prevented, directly or indirectly, from performing any of its obligations under this Contract by reason of weather-related issues, avalanche, fire or other casualty, act of God, war, riot, strike, intervention by civil or military government authorities, orders of the judiciary, or any other cause whatsoever beyond CDOT’s control, as the case may be (any such event, a “Force Majeure Event”).

E. “Key Personnel” means the position or positions that are specifically designated as such in this Exhibit A.

F. “Other Personnel” means individuals and Subcontractors, in addition to Key Personnel, assigned to positions to complete tasks associated with the Work.

2. PROJECT OVERVIEW

A. INTRODUCTION

i. The Colorado Department of Transportation (CDOT) is entering into this agreement with Contractor to provide limited seasonal recreational transportation services to the Estes Park Visitor Center, which is located in Larimer County, Colorado at 500 Big Thompson Avenue, Estes Park, CO 80517.
CDOT will provide forty-one (41) days of transportation between Rocky Mountain National Park and Denver, including service to the Estes Park Visitor Center, beginning Saturday, May 25, 2024. The forty-one (41) days of transportation will consist of operating on Saturdays and Sundays for thirty-eight (38) weekend days through Sunday, September 29, 2024. CDOT will also operate on two (2) Mondays: Memorial Day - May 27, 2024, and Labor Day - September 2, 2024, and one (1) Wednesday*, Juneteenth - June 19, 2024. Each day of transportation will consist of two round trips operated with two separate buses. *Juneteenth – Wednesday, June 19, 2004, will operate only one (1) round trip*

B. SCOPE

i. Each day of transportation service will consist of two (2) round trips, with both trips arriving in Estes Park in the morning and both trips departing Estes Park in the afternoon. *Juneteenth – Wednesday, June 19, 2004, will operate only one (1) round trip*

ii. Days of Service: CDOT will provide forty-one (41) days of transportation service to the Estes Park Visitor Center on Saturdays, Sundays, two (2) Mondays and one (1) Wednesday, excluding any Force Majeure Events.

iii. Service is expected to begin on Saturday, May 25, 2024, with the last trip taking place on Sunday, September 29, 2024.


v. Operating Wednesday: Juneteenth – June 19, 2024.

vi. Stops: Service will originate at Denver Union Station and terminate within Rocky Mountain National Park at the Bear Lake Road Park & Ride, with intermediate stops at US 36 and Sheridan Station in Westminster, US 36 and Broomfield Station, US 36 and McCaslin Station, Boulder Junction at Depot Square Station, Lyons Park-n-Ride, and the Estes Park Visitor Center.

C. FARES

i. CDOT shall be responsible for online ticketing and fare payment processing, and tickets must be purchased via RideBustang.com, mobile app, or webpage.

ii. Fare revenue shall be retained by CDOT to offset the cost of providing the transportation services described in this Exhibit A.

iii. CDOT shall not sell fares for passenger trips taking place entirely between the Estes Park Visitor Center and Rocky Mountain National Park.

iv. Adult round-trip guaranteed seat fare is $15.00 per seat.
v. Senior (at least 65 years old), Disability, and Student round-trip guaranteed seat fare is discounted 25% from the full adult fare, or $11.25 per seat.

vi. Child (2 to 12 years old) round-trip guaranteed seat fare is $5.00 per seat.

vii. Passengers purchasing fares with the student discount must present valid, unexpired student identification issued by a K-12 school, college, or university prior to boarding.

D. ACCESS TO CONTRACTOR’S PROPERTY

i. Contractor shall permit CDOT’s buses to access Contractor’s properties for the purposes of dropping off and picking up passengers.

ii. Contractor shall designate a bus stop location on its property, which shall be at a safe, ADA accessible and convenient location with easy access for guests.

iii. Contractor shall provide for one (1) reserved ACE Express Coaches, LLC support vehicle parking space at the Estes Park Visitor Center Parking Garage located at 691 N. St Vrain Avenue on the days of transportation service listed in Section 2.B. The ACE Express Coaches, LLC support vehicle will fit within a single standard passenger vehicle parking stall.

iv. Contractor shall permit driver and passenger use of restroom facilities at the Estes Park Visitor Center.

v. Contractor shall permit Bustang to Estes passenger parking at the Estes Park Visitor Center Parking Garage.

E. INSURANCE

i. CDOT’s Bustang operator, Ace Express Coaches, LLC, will provide the Federal Motor Carrier Safety Administration (FMCSA) minimum auto liability per occurrence of $5,000,000, and will name Town of Estes Park as an Additional Insured.

3. CONTRACTOR’S OTHER RESPONSIBILITIES

In addition to the responsibilities named elsewhere in this Exhibit A, Contractor shall be responsible for the following list of items:

A. Contractor shall work cooperatively with CDOT staff and, if applicable, the staff of other State contractors to ensure the completion of the Work identified in this Exhibit A. CDOT may, in its sole discretion, use other contractors to perform activities related to the Work that are not contained in the Contract or to perform any of CDOT’s responsibilities. In the event of a conflict between Contractor and any other State contractor, CDOT will resolve the conflict and Contractor shall abide by the resolution provided by CDOT.
B. Contractor shall use and disseminate marketing materials prepared by CDOT’s marketing contractor, Amelie Company, to advertise the Bustang to Estes service to Contractor’s community with the goal of increasing awareness and ridership.

C. Contractor shall create a weblink to CDOT’s RideBustang.com on the Town’s website.

D. Contractor shall install at least one (1) Bustang to Estes bus stop sign at the designated bus stop location prior to the first day of transportation service and continuing through the last day of transportation service.

E. Contractor shall provide qualified Key Personnel and Other Personnel as necessary to perform the Work throughout the term of the Contract. Contractor shall provide CDOT with a final list of all Key Personnel and Other Personnel assigned to the Contract and appropriate contact information for those individuals. Contractor shall designate qualified people to hold the following Key Personnel position(s): Project Manager.

F. Contractor shall ensure Key Personnel and Other Personnel assigned to the Contract are available for meetings with CDOT during CDOT’s normal business hours, as determined by CDOT. Contractor shall also make these personnel available outside of CDOT’s normal business hours and on weekends with prior notice from CDOT.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK
Memo

To: Honorable Mayor Hall
   Board of Trustees

Through: Town Administrator Machalek

From: Trevor Wittwer, EIT, Civil Engineer
      Jeff Bailey, PE, Town Engineer

Date: May 14, 2024

RE: Resolution 46-24 Contract for the 2024 Overlay & Patching Program with Coulson Excavating Company, Inc.

Objective:
Public Works staff seek Town Board approval of Resolution 46-24 for the construction contract with Coulson Excavating Company, Inc. (Coulson) for the 2024 Overlay & Patching Program for the repaving of multiple roads in the Town of Estes Park.

Present Situation:
On February 27, 2024, Public Works staff presented a plan to maintain the condition of Town streets at an overall system-wide Pavement Condition Index (PCI) of 80. To effectively implement this plan, we need to hire a contractor to begin the 2024 Overlay & Patching Program.

On March 21, 2024, Public Works advertised an Invitation to Bid for the 2024 Overlay & Patching Program for the Town of Estes Park. This is an annual program.

After three weeks of advertising, four bids were received on April 11, 2024. The following table contains the bids for each company, and the Engineer’s Estimate:

<table>
<thead>
<tr>
<th>COMPANY</th>
<th>CITY</th>
<th>TOTAL FEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Martin Marietta Materials, Inc.</td>
<td>Fort Collins, CO</td>
<td>$1,141,847.75</td>
</tr>
<tr>
<td>Coulson Excavating Co., Inc.</td>
<td>Loveland, CO</td>
<td>$1,174,256.75</td>
</tr>
<tr>
<td>All Pro Pavement</td>
<td>Loveland, CO</td>
<td>$1,264,038.50</td>
</tr>
<tr>
<td>Simon Contractors</td>
<td>Fort Collins, CO</td>
<td>$1,389,785.69</td>
</tr>
<tr>
<td>Engineer’s Estimate</td>
<td></td>
<td>$1,137,643.00</td>
</tr>
</tbody>
</table>

The apparent low bidder was Martin Marietta; however, Public Works staff intend to award the contract to the next bidder, Coulson. This is due to staff’s dissatisfaction with Martin Marietta’s performance and management during the 2023 contract work.
Proposal:
Public Works staff propose approving the construction agreement for the 2024 Overlay & Patching Program with Coulson Excavating Company, Inc. in the amount of $1,174,256.75.

Advantages:
- Rehabilitation of multiple roads in Estes Park, including a portion of West Elkhorn Avenue
- Utilization of 1A sales tax funds to improve Estes Park streets, which moves forward the 2024 Street Improvement Program (STIP)

Disadvantages:
- Disruption of traffic and parking in the proposed work areas may occur; however, holiday weekends and local events have been identified as non-working days.
- Funds could be used for other purposes; however, this usage is in line with the proposed 2024 STIP Program and Resolution 04-19.

Action Recommended:
Public Works staff recommend approving the construction contract with Coulson in the amount of $1,174,256.75.

Finance/Resource Impact:
This project will be funded from the Street Improvement Fund account numbers 260-2000-420.35-51, 260-2000-420.35-52, and 260-2000-420.25-20.

Level of Public Interest
Public interest on this project is expected to be moderate to high.

Sample Motion:
I move for approval/denial of Resolution 46-24.

Attachments:
1. Resolution 46-24
2. 2024 Overlay & Patching Contract – Coulson Excavating
3. Letter to the Town 2024 Rejected Bid
4. Martin Marietta Documentation 2023
RESOLUTION 46-24

APPROVING A CONTRACT WITH COULSON EXCAVATING COMPANY, INC. FOR THE 2024 OVERLAY & PATCHING PROGRAM

WHEREAS, the Town Board wishes to enter a construction contract referenced in the title of this resolution for overlay and patching.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO:

The Board approves, and authorizes the Mayor to sign, the construction contract referenced in the title of this resolution in substantially the form now before the Board. The maximum expenditure amount is $1,174,256.75 for this construction project.

DATED this ______ day of _____________, 2024.

TOWN OF ESTES PARK

____________________________
Mayor

ATTEST:

____________________________
Town Clerk

APPROVED AS TO FORM:

____________________________
Town Attorney
TOWN OF ESTES PARK

CONSTRUCTION CONTRACT

2024-02 Overlay & Patching

THIS CONTRACT is made at the Town of Estes Park, Colorado, by and between the Town of Estes Park, Colorado (Town), a municipal corporation, and Coulson Excavating Company, Inc. (Contractor), a Colorado corporation, whose address is 3609 Madison Ave, Loveland, CO 80538.

In consideration of these mutual covenants and conditions, the Town and Contractor agree as follows:

SCOPE OF WORK. The Contractor shall execute the entire Work described in the Contract Documents.

CONTRACT DOCUMENTS. The Contract incorporates the following Contract Documents. In resolving inconsistencies among two or more of the Contract Documents, precedence will be given in the same order as enumerated.

LIST OF CONTRACT DOCUMENTS.

The Contract Documents, except for Modifications and Change Orders issued after execution of this Agreement, are:

1. Change Orders;
2. Construction Contract;
3. The following addenda, if any:
   i. Number | Date | Page(s)
   1 | April 5, 2024 | 10
4. The following Special Conditions of the Contract:
   i. Document | Title | Page(s)
   Bid Documents | Special Conditions | 3
   Bid Documents | Project Special Provisions | 11
5. General Conditions;
6. The following Drawings:
   i. Number | Title | Date
   Exhibit A | Overview | March 21, 2024
   Exhibit B | 2024 Overlay | March 21, 2024
   Exhibit C | 2024 Patching Locations | March 21, 2024
   Exhibit D | Staging Area | March 21, 2024
   Pine Knoll Drive Improvements | | March 2024
7. Notice to Proceed;
8. Notice of Award;
9. Invitation to Bid
10. Bid Bond;
11. Bid Proposal;
12. Instructions to Bidders;
13. Performance Bond and Payment Bond;
14. Insurance Certificates;
15. Construction Progress Schedule; and
16. Any other documents listed as Contract Documents in the General Conditions.

**CONTRACT PRICE.** The Town shall pay the Contractor for performing the Work and the completion of the Project according to the Contract, subject to change orders as approved in writing by the Town, under the guidelines in the General Conditions. The Town will pay the base sum of **$1,174,256.75 DOLLARS** (Contract Price), to the Contractor, subject to full and satisfactory performance of the terms and conditions of the Contract. The Town has appropriated sufficient money for this work.

**COMPLETION OF WORK.** The Contractor must begin work covered by the Contract within 10 working days of receiving the Notice to Proceed, and must complete work:
[Select one]

- within ____ calendar days from and including the date of Notice to Proceed, according to the General Conditions.

- X by August 30, 2024.

- as described in the Special Conditions.

**LIQUIDATED DAMAGES.** If the Contractor fails to substantially complete the Work within the time period described above, or within such other construction time if modified by a change order, the Town may permit the Contractor to proceed, and in such case, may deduct the sum of **$2,500.00** for each calendar day that the Work shall remain uncompleted from monies due or that may become due the Contractor. This sum is not a penalty but is the cost of field and office engineering, inspecting, interest on financing and liquidated damages.

The parties agree that, under all of the circumstances, the daily basis and the amount set for liquidated damages is a reasonable and equitable estimate of all the Town's actual damages for delay. The Town expends additional personnel effort in administrating the Contract or portions of it that are not completed on time, and such efforts and the costs thereof are impossible to accurately compute. In addition, some, if not all, citizens of Estes Park incur personal inconvenience and lose confidence in their government as a result of public projects or parts of them not being completed on time, and the impact and damages, certainly serious in monetary as well as other terms are impossible to measure.
SERVICE OF NOTICES. Notices to the Town are given if sent by registered or certified mail, postage prepaid, to the following address:

TOWN OF ESTES PARK
Public Works Department
PO Box 1200
Estes Park, CO 80517

INSURANCE PROVISIONS. The Contractor must not begin any work until the Contractor obtains, at the Contractor's own expense, all required insurance as specified in the General Conditions. Such insurance must have the approval of the Town of Estes Park as to limits, form and amount.

RESPONSIBILITY FOR DAMAGE CLAIMS. The Contractor shall indemnify, save harmless, and defend the Town, its officers and employees, from and in all suits, actions or claims of any character brought because of: any injuries or damage received or sustained by any person, persons or property because of operations for the Town under the Contract; the Contractor's failure to comply with the provisions of the Contract; the Contractor's neglect of materials while constructing the Work; because of any act or omission, neglect or misconduct of the Contractor; because of any claims or amounts recovered from any infringements of patent, trademark, or copyright, unless the design, device, materials or process involved are specifically required by Contract; from any claims or amount arising or recovered under the "Workers' Compensation Act," by reason of the Contractor's failure to comply with the act; pollution or environmental liability; or any failure of the Contractor to comply with any other law, ordinance, order or decree. The Town may retain so much of the money due the Contractor under the Contract, as the Town considers necessary for such purpose, for the Town's use. If no money is due, the Contractor's Surety may be held until such suits, actions, claims for injuries or damages have been settled. Money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that the Contractor and the Town are adequately protected by public liability and property damage insurance.

The Contractor also agrees to pay the Town all expenses incurred to enforce this "Responsibility for Damage Claim" agreement and if the Contractor's insurer fails to provide or pay for the defense of the Town of Estes Park, its officers and employees, as additional insureds, the Contractor agrees to pay for the cost of that defense.

Nothing in the INSURANCE PROVISIONS of the General Conditions shall limit the Contractor's responsibility for payment of claims, liabilities, damages, fines, penalties, and costs resulting from its performance or nonperformance under the Contract.

STATUS OF CONTRACTOR. The Contractor is performing all work under the Contract as an independent contractor and not as an agent or employee of the Town. No employee or official of the Town will supervise the Contractor nor will the Contractor exercise supervision over any employee or official of the Town. The Contractor shall not represent that it is an employee or agent of the Town in any capacity. The Contractor and its employees are not entitled to Workers' Compensation benefits from the Town and are obligated to pay federal and state income tax on money earned pursuant to the Contract. This is not an exclusive contract.
THIRD-PARTY BENEFICIARIES. None of the terms or conditions in the Contract shall give or allow any claim, benefit, or right of action by any third person not a party to the Contract. Any person except the Town or the Contractor receiving services or benefits under the Contract shall be only an incidental beneficiary.

INTEGRATION. The Contract is an integration of the entire understanding of the parties with respect to the matters set forth in it, and supersedes prior negotiations, written or oral representations and agreements.

DEFINITIONS. The Definitions in the General Conditions apply to the entire Contract unless modified within a Contract Document.

EXECUTED this ___ day of __________, 2024.

(Signature pages to follow.)
TOWN OF ESTES PARK

By: ___________________________ Date

Title: ___________________________

State of _______________________

County of ______________________

The foregoing instrument was acknowledged before me by ___________________, as ___________________________ of the Town of Estes Park, a Colorado municipal corporation, on behalf of the corporation, this ___ day of __________________, 2024.

Witness my hand and official Seal.

My Commission expires

______________________________
Notary Public

APPROVED AS TO FORM:

______________________________
Town Attorney

Agreement for Construction Contract—Page 5 of 6
CONTRACTOR

By: ________________________________  4/19/2024  

Title: Vice President

State of Colorado ss:
County of Larimer

The foregoing instrument was acknowledged before me by Matt Causion, (Name of party signing)

as Vice President of Carson Excavating Company Inc. (Title of party signing) (Name of corporation)

a Colorado corporation, on behalf of the corporation, this
(State of incorporation)

19 day of April, 2024.

Witness my hand and official Seal.

My Commission expires 9/4/2026

Caitlyn Kauffman
Notary Public

Agreement for Construction Contract—Page 6 of 6
DATE: April 29, 2024

TO: Mr. Gary Hall
    Mayor - Estes Park

FROM: Ken Carter
    Chief Estimator / Martin Marietta

SUBJECT: Town of Estes Park 2024 Overlay & Patching Project – Project 2024-002

Attached for your reference is correspondence sent to Mr. Jeff Bailey, Town Engineer of Estes Park, regarding the Town of Estes Park’s Overlay and Patching Project (Project Number 2024-02). The purpose of the attached correspondence is to appeal the decision made by the Public Works Group of Estes Park on the upcoming award and potential contracting of the 2024 Overlay & Patching Project.

My Contact Information is: Cell Phone (501) 520-9230, Office Phone (970) 407-3714, email address: ken.carter@martinmarietta.com

Please let me know if you have any questions or need any further information from Martin Marietta or myself.

Respectfully,

Signature: 

Name, Title: Ken Carter, Chief Estimator

Date: 4/29/2024

Northern Asphalt and Paving
1800 North Taft Hill Rd, Fort Collins, CO 80521
 t. (970) 407-3600  f. (970) 407-3900
www.martinmarietta.com
DATE: April 22, 2024

TO: Mr. Jeff Bailey
    Town Engineer – Estes Park

FROM: Ken Carter
    Chief Estimator / Martin Marietta

SUBJECT: Town of Estes Park 2024 Overlay & Patching Project – Project 2024-002

Reference is made to the Town of Estes Park’s Project Number 2024-02, 2024 Town of Estes Park Overlay & Patching Project. Additionally, reference is made to meeting conducted on 4/19/2024 between members of the Town of Estes Park (TOEP) Public works group and Martin Marietta (MM). In our meeting we discussed the recent bid and verbal award of the 2024 paving contract. Below is a summary of the 2024 bidding process as well as a summary of the discussions that occurred in our meeting:

1. In February 2024, Mr. Jesse Geary with MM had discussions with Mr. Trevor Wittwer with the TOEP to inquire about the roll over of the 2023 Paving and Patching project into 2024 as permitted by our 2023 project.
2. On February 2, 2024, Trevor Wittwer responded to Jesse Geary via email and informed him that the 2024 project had significant scope changes and the project would need to be re-bid (See attachment A).
3. On March 21, 2024, the TOEP solicited the contracting community, via an Invitation to Bid (ITB), through Bid Net with a scheduled bid opening on April 11, 2024. (See Attachment B)
4. On April 11, 2024, bid proposals were opened and published by the TOEP. MM was the apparent low, responsible, and responsive bid received by the TOEP. Furthermore, MM was within $4,204 of the Engineer’s Estimate. (See Attachment C)
5. On April 12, 2024, I received and email from Trevor Wittwer informing me that the TOEP, after evaluating bids, careful consideration, and internal discussion, made the decision to invoke the Town’s rights under paragraph 1 on Page 6 to reject any bid when it is in the Town’s best interest to do so. Trevor Wittwer further wrote that the decision was based on the unsatisfactory experience with MM during our 2023 project. (See Attachment D)
6. In response, I requested a meeting with members of the Public Works group to better understand Trevor Wittwer’s email. On April 19, 2024, a meeting was held between the TOEP and MM.
   a. In our meeting, Trevor explained that he was unhappy with the overall communication and managerial efforts from MM field supervisory team provided during the 2023 overlay. Additionally, Trevor explained that MM was slow to complete the punch list and left certain items incomplete. Therefore, in his opinion, using the second bidder would be in the best interest of the TOEP.
   b. I explained that this was the first time I or MM had been informed of our managerial shortfalls and noted that had communication been escalated above our field supervisors, MM could have made managerial changes to our 2023 efforts resulting in better communication and overall project delivery to the project.
7. I explained that 2023 was one of the wettest spring and summer seasons Colorado has ever recorded. The wet start to the 2023 paving season had huge impacts, primarily to project schedules, across our entire industry and this project was no different. (See Attachment E)

At this time, despite the communication problems MM had in 2023, I am requesting that you reconsider your decision to award the 2024 Overlay and Patching Project to the 2nd Bidder. Rather, I am requesting that you award the project to Martin Marietta. This request is made for the following reasons:

1. MM was able to deliver the 2023 project under budget for the TOEP.
2. MM was able to deliver the 2023 project within the projec: schedule specification for the TOEP.
3. MM had no Quality Control issues associated with the projects work in 2023. Further, all work was accepted and paid for by the TOEP.
4. MM provided a safe project delivery to residents of the TOEP. Our efforts resulted in no safety issues or claims to the residents or visitors to the TOEP in 2023.
5. The above was accomplished in a year that saw over 18 inches of precipitation in Colorado and saw the wettest June on record, along with the 10th wettest May on record.

The Town of Estes Park solicited the contracting community via an Invitation to Bid (ITB) for paving services to determine the lowest and most responsive bid for the 2024 Overlay and Patching Project. Furthermore, the ITB process is used to identify a contractor who can effectively complete the project for a fair price within the specified timeframe and adhere to established industry standards.

The solicitation was not presented to the contracting community as a Best Value Proposal (BFP), where subjective selection criteria is used as part of the selectin criteria. MM did offer a very competitive bid in 2024 – Lower than the second bidder by 2%. Most importantly, given the information provided above, it is hard to imagine that in these current economic times, the citizens of Estes Park are best served by paying an additional $32K to the second lowest bidder for paving services in 2024.

Please let me know if you have any questions or need any further information from MM or myself.

Respectfully,

Signature: 

Name, Title: Ken Carter, Chief Estimator

Date: 4/22/2024

CC: Mayor Gary Hall
    Mayor Pro Tem Marie Cenac
    Bill Brown, Trustee
    Kirby Hazelton, Trustee
    Mark Igel, Trustee
    Frank Lancaster, Trustee
    Cindy Younglund, Trustee

Northern Asphalt and Paving
1800 North Taft Hill Rd, Fort Collins, CO 80521
t. (970) 407-3600 f. (970) 407-3900
www.martinmarietta.com
Attachment A

From: Trevor Wittwer <TWittwer@ChinoLakes.com>
Sent: Friday, February 2, 2014 10:59 AM
To: Jesse Gary <Jesse.Gary@northviewtech.com>
Subject: 2014 Overlay Contract

Dear Jesse,

Due to some scope changes and more involved reconstruction aspects, we have decided to re-bid the contract this year. There will be significantly more curb and gutter, and HAP as base material versus the subgrade treatment we did last year.

Thank you,

Trevor Wittwer, P.E.
Civil Engineer
Public Works Department
Town of Estes Park
C: 719-577-0441
Basic Information

Reference Number
0000340661

Owner Organization
Town of Estes Park

Project Number
2024 02

Source ID
PUA.G.USA.2451.C14606226

Issuing Organization
Town of Estes Park

Project Type
ITB - Invitation to Bid (Formal)

Title
Overlay & Patching

Details

Location
United States, Colorado, Larimer County

Job Location
Estes Park

Piggyback Contract
No

Description
Reconstruction, repaving or patching of multiple roadways in the Town of Estes Park. Contractor shall supply all labor, materials, and equipment necessary to complete the work in accordance with the contract specifications.

Dates

Publication
03/21/2024 02:46 PM MDT

Question Acceptance Deadline
04/03/2024 05:00 PM MDT

Questions are submitted online
No

Closing Date
04/11/2024 03:00 PM MDT

Prebid Conference
<table>
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<th>Description</th>
<th>Code</th>
<th>Quantity</th>
<th>Unit</th>
<th>Total Price</th>
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<td>250</td>
<td>1</td>
<td>Unit</td>
<td>1000</td>
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</tbody>
</table>

Note: This is a simplified example of a table. Actual data would vary and could include additional columns such as cost, supplier information, and other pertinent details.
Good afternoon,

After evaluating bids, careful consideration, and internal discussions, the Town has made the decision to invoke our rights under Paragraph 1 on Page 6 of the Invitation to Bidders, under "Evaluation of Bids" to reject any bid when it is in the Town's best interest to do so. As such, we are hereby rejecting the low bid and will select the 2nd low bidder for the award of this contract. This decision is based on our unsatisfactory experience with Martin Marietta Materials, Inc., during the 2023 Overlay & Patching Program, which was a large factor in our decision to decline the renewal of the contract and rebid the program in 2024. Additional details regarding our dissatisfaction with the performance in 2023 that led to this decision can be provided upon request.

Thank you,
DENVER (KUSA) — Even with a summer full of rain, 2023 barely missed making the history books as one of the wettest years on record.

Spring and summer continued to break records with several severe storms hitting Denver and the Front Range. June 2023 was officially the wettest June on record since 1882, and May was the 10th wettest May in history.

At one point in May, Denver had five times more rain than Seattle. From May 10-13, Denver picked up 4.57 inches of rainfall. In Seattle, the 6-day total was only 0.12 inches.

December 2023 has been one of the driest on record for snowfall.

However, thanks to a lack of snow in December, Denver missed making the top 20th wettest years in history by a slim margin.

Denver International Airport, where precipitation is officially measured for the Mile High City, only got around 1.4 inches of snow in December making the list of the "least snowiest" Decembers.

According to Pinpoint Weather Meteorologist Travis Michel, Denver received 18.04 inches of precipitation in all of 2023. That puts the year at the 12th wettest year in Denver history, according to the National Weather Service.
2023 Overlay & Patching – Justifications of Non-Renewal & 2024 Bid Selection

Contractor: Martin Marietta Materials (MM)

MM Project Estimator: Jesse Geary

MM Project Manager: Allen Barrientos (PM)

TOEP Project Manager: Trevor Wittwer (TOEP PM)

- MM failed to return the required documents within the 10-day period outlined in the Notice of Award (Issued 4/28 and due 5/8). Some documents were submitted as late as 3 weeks after the deadline (received 6/2). Contract documents state to move on to next bidder if not submitted within 10 days.
- Utility adjustment subcontractor started working in the wrong area and removed asphalt pavement within a portion of Pine Knoll Drive that was removed from the contract. MM never informed the subcontractor of the scope change. The areas were never patched back with hot mix asphalt.
- The paving foreman was unresponsive at times, and directly ignored questions from TOEP PM. This forced TOEP PM to communicate with the 2nd in command the entire project duration.
- MM PM and paving crew did not look at the W Elkhorn plans carefully and had no intention of paving 2 separate lifts of 1.5” thickness. Fortunately, TOEP PM asked the paving foreman to confirm they were paving 2 lifts prior to starting paving. After a brief discussion with the MM PM, he directed the paving crew to pave 2 lifts – which was outlined in the project documents. MM PM indicated he was not aware 2 lifts were required.
- MM PM appeared to have poor communication with their subcontractors. The milling subcontractor showed up at the wrong location due to not being informed by MM PM and caused a 4-hour delay when asphalt trucks were showing up at the correct location first thing in the morning. Fortunately, it was a warm day and all trucks met asphalt temperature specs by the time they started paving.
- During paving, TOEP PM had to direct paving crew to rake out tapers & drops, add shovels of asphalt to areas that appeared low or needed a tie-in outside of the main travel lane. This type of work is expected of paving crews without any direction from inspectors. Without constant TOEP PM supervision and direction, these issues would create numerous problems such as: inadequate drainage, ponding, erosion, bumps or poor rideability for vehicles.
- Paving crew did not address paving deficiencies such as cracking or over-compaction until asked to correct by TOEP PM
- Phone or email response was extremely slow. TOEP PM asked for updates on inquiries numerous times on a weekly basis. MM had to be reminded of punch list items multiple times with no confirmation of completion. Signed CO didn’t come back until October, after all work was completed.
- MM performed punch list work at the wrong location after being given an address and description of the problem. They did not contact TOEP PM for a field meeting or verification. TOEP PM caught the error after field inspection.
- MM failed to complete some punch list items after being reminded and asked numerous times. They never completed patching back utility adjustments that were mistakenly done in the wrong location. They never completed cement waste removal or shoulder compaction on Pine Knoll Drive.
- Overall organization and efficiency were very poor. TOEP PM spent extra time managing this project and felt that 100% supervision was necessary since confidence in MM’s paving crew was low. TOEP Public Works also paid a consultant to perform extra hours of inspection services.
Memo

To: Honorable Mayor Hall  
   Board of Trustees
Through: Town Administrator Machalek
From: Trevor Wittwer, EIT, Civil Engineer  
      Greg Muhonen, PE, Public Works Director
Date: May 14, 2024
RE: Resolution 47-24 Contract with Dietzler Construction Corporation for Graves Avenue Safe Routes to School Improvements Project

(Mark all that apply)

- PUBLIC HEARING
- ORDINANCE
- LAND USE
- CONTRACT/AGREEMENT
- RESOLUTION
- OTHER

QUASI-JUDICIAL YES NO

Objective:
Public Works staff seek Town Board approval of Resolution 47-24 for the construction contract with Dietzler Construction Corporation (Dietzler) for the Graves Avenue Safe Routes to School Improvements Project (Graves SRTS).

Present Situation:
Graves Avenue does not currently have sidewalks or trails along its entirety to connect Colorado Highway 7 (CO 7) to Community Drive. Federal funding was awarded for this project back in 2019 through the SRTS Program. Graves Avenue is a central location to provide a safe route for pedestrians to travel from the busy CO 7 corridor to public amenities such as the Estes Park schools and the Estes Valley Community Center.

After three weeks of advertising, two bids were received and opened on March 21, 2024.

The following table contains the project budget and bid summary.

<table>
<thead>
<tr>
<th>COMPANY</th>
<th>CITY</th>
<th>TOTAL FEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineer’s Estimate</td>
<td>Estes Park, CO</td>
<td>$932,980.75</td>
</tr>
<tr>
<td>Dietzler Construction Corporation</td>
<td>Berthoud, CO</td>
<td>$1,187,050.48</td>
</tr>
<tr>
<td>Mountain Constructors Inc.</td>
<td>Platteville, CO</td>
<td>$1,371,075.00</td>
</tr>
</tbody>
</table>

Public Works Engineering staff have confirmed the contractor’s production capabilities and their experience performing projects of similar cost and complexity in Colorado.
**Proposal:**
Public Works staff propose approval of the construction agreement with Dietzler Construction Corporation for the Graves Avenue SRTS Improvements Project.

**Advantages:**
- Provides a safe and accessible route for pedestrians to walk to the school and community center from CO 7.

**Disadvantages:**
- Disruption of vehicular and pedestrian traffic in the proposed work area during construction may occur; however, this work can be completed prior to the fall start date of the 2024-2025 school year.

**Action Recommended:**
Public Works staff recommend approving the attached construction contract with Dietzler Construction Corporation in the amount of $1,187,050.48.

**Finance/Resource Impact:**
The Town previously budgeted $1,189,473 for design and construction. Approximately $270,000 has been spent on design and easement acquisition, leaving a remaining balance of $919,473. An additional $319,000 from the 1A sales tax renewal for trails expansion has been budgeted to cover the increased costs. This project is funded through Trails Expansion 240-3400-434.35-60 and CRF 204-5400-544.35-60 at a combined total of $1,238,473.

**Level of Public Interest**
Interest in this project is modest in the community, but minimal interest has been received regarding this proposed work from the school district and adjacent property owners.

**Sample Motion:**
I move for approval/denial of Resolution 47-24.

**Attachments:**
1. Resolution 47-24
2. Graves SRTS Contract – Dietzler Construction Corporation
RESOLUTION 47-24
APPROVING A CONTRACT WITH DIETZLER CONSTRUCTION CORPORATION
FOR GRAVES AVENUE SAFE ROUTES TO SCHOOL IMPROVEMENTS

WHEREAS, the Town Board wishes to enter a construction contract referenced in
the title of this resolution for construction of sidewalks along Graves Avenue.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF
THE TOWN OF ESTES PARK, COLORADO:

The Board approves, and authorizes the Mayor to sign, the construction contract
referenced in the title of this resolution in substantially the form now before the Board.
The maximum expenditure amount is $1,187,050.48 for this construction project.

DATED this ______ day of ________________, 2024.

TOWN OF ESTES PARK

______________________________
Mayor

ATTEST:

______________________________
Town Clerk

APPROVED AS TO FORM:

______________________________
Town Attorney
CONSTRUCTION CONTRACT

GRAVES AVENUE SAFE ROUTES TO SCHOOL IMPROVEMENTS

THIS CONTRACT is made at the Town of Estes Park, Colorado, by and between the Town of Estes Park, Colorado (Town), a municipal corporation, and Dietzler Construction Corporation (Contractor), a Wyoming corporation, whose address is 100 Gateway Circle, Berthoud, CO 80513.

In consideration of these mutual covenants and conditions, the Town and Contractor agree as follows:

SCOPE OF WORK. The Contractor shall execute the entire Work described in the Contract Documents.

CONTRACT DOCUMENTS. The Contract incorporates the following Contract Documents. In resolving inconsistencies among two or more of the Contract Documents, precedence will be given in the same order as enumerated.

LIST OF CONTRACT DOCUMENTS.

The Contract Documents, except for Modifications and Change Orders issued after execution of this Agreement, are:

1. Change Orders;
2. Construction Contract;
3. The following addenda, if any:
   i. Number  Date         Page(s)
       2    3/19/2024  1
       1    3/18/2024  102
4. The following Special Conditions of the Contract:
   i. Document                Title                        Page(s)
      Bid Documents           Project Special Provisions     43
      Bid Documents           Standard Special Provisions       160
5. General Conditions;
6. The following Drawings:
   i. Title                                      Date
      Graves Avenue SRTS Improvements Phase 1 Plans 3/25/2024
      Graves Avenue SRTS Improvements Phase 2 Plans 3/25/2024
7. Notice to Proceed;

Agreement for Construction Contract--Page 2 of 5
8. Notice of Award;
9. Invitation to Bid
10. Bid Bond;
11. Bid Proposal;
12. Instructions to Bidders;
13. Performance Bond and Payment Bond;
14. Insurance Certificates;
15. Construction Progress Schedule; and
16. Any other documents listed as Contract Documents in the General Conditions.

**CONTRACT PRICE.** The Town shall pay the Contractor for performing the Work and the completion of the Project according to the Contract, subject to change orders as approved in writing by the Town, under the guidelines in the General Conditions. The Town will pay the base sum of $1,187,050.48 DOLLARS (Contract Price), to the Contractor, subject to full and satisfactory performance of the terms and conditions of the Contract. The Town has appropriated sufficient money for this work.

**COMPLETION OF WORK.** The Contractor must begin work covered by the Contract within ten (10) working days of receiving the Notice to Proceed, and must complete work:

[Select one]

- within _____ calendar days from and including the date of Notice to Proceed, according to the General Conditions.

- by August 16, 2024.

- as described in the Special Conditions.

**LIQUIDATED DAMAGES.** If the Contractor fails to substantially complete the Work within the time period described above, or within such other construction time if modified by a change order, the Town may permit the Contractor to proceed, and in such case, may deduct the sum of $2,500.00 for each calendar day that the Work shall remain uncompleted from monies due or that may become due the Contractor. This sum is not a penalty but is the cost of field and office engineering, inspecting, interest on financing and liquidated damages.

The parties agree that, under all of the circumstances, the daily basis and the amount set for liquidated damages is a reasonable and equitable estimate of all the Town's actual damages for delay. The Town expends additional personnel effort in administering the Contract or portions of it that are not completed on time, and such efforts and the costs thereof are impossible to accurately compute. In addition, some, if not all, citizens of Estes Park incur personal inconvenience and lose confidence in their government as a result of public projects or parts of them not being completed on time, and the impact and damages, certainly serious in monetary as well as other terms are impossible to measure.

*Agreement for Construction Contract--Page 2 of 5*
SERVICE OF NOTICES. Notices to the Town are given if sent by registered or certified mail, postage prepaid, to the following address:

TOWN OF ESTES PARK
Public Works Department
PO Box 1200
Estes Park, CO 80517

INSURANCE PROVISIONS. The Contractor must not begin any work until the Contractor obtains, at the Contractor’s own expense, all required insurance as specified in the General Conditions. Such insurance must have the approval of the Town of Estes Park as to limits, form and amount.

RESPONSIBILITY FOR DAMAGE CLAIMS. The Contractor shall indemnify, save harmless, and defend the Town, its officers and employees, from and in all suits, actions or claims of any character brought because of: any injuries or damage received or sustained by any person, persons or property because of operations for the Town under the Contract; the Contractor’s failure to comply with the provisions of the Contract; the Contractor’s neglect of materials while constructing the Work; because of any act or omission, neglect or misconduct of the Contractor; because of any claims or amounts recovered from any infringements of patent, trademark, or copyright, unless the design, device, materials or process involved are specifically required by Contract; from any claims or amount arising or recovered under the "Workers’ Compensation Act," by reason of the Contractor’s failure to comply with the act; pollution or environmental liability; or any failure of the Contractor to comply with any other law, ordinance, order or decree. The Town may retain so much of the money due the Contractor under the Contract, as the Town considers necessary for such purpose, for the Town’s use. If no money is due, the Contractor’s Surety may be held until such suits, actions, claims for injuries or damages have been settled. Money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that the Contractor and the Town are adequately protected by public liability and property damage insurance.

The Contractor also agrees to pay the Town all expenses incurred to enforce this "Responsibility for Damage Claim" agreement and if the Contractor’s insurer fails to provide or pay for the defense of the Town of Estes Park, its officers and employees, as additional insureds, the Contractor agrees to pay for the cost of that defense.

Nothing in the INSURANCE PROVISIONS of the General Conditions shall limit the Contractor's responsibility for payment of claims, liabilities, damages, fines, penalties, and costs resulting from its performance or nonperformance under the Contract.

STATUS OF CONTRACTOR. The Contractor is performing all work under the Contract as an independent contractor and not as an agent or employee of the Town. No employee or official of the Town will supervise the Contractor nor will the Contractor exercise supervision over any employee or official of the Town. The Contractor shall not represent that it is an employee or agent of the Town in any capacity. The Contractor and its employees are not entitled to Workers' Compensation benefits from the Town and are obligated to pay federal and state income tax on money earned pursuant to the Contract. This is not an exclusive contract.
THIRD-PARTY BENEFICIARIES. None of the terms or conditions in the Contract shall give or allow any claim, benefit, or right of action by any third person not a party to the Contract. Any person except the Town or the Contractor receiving services or benefits under the Contract shall be only an incidental beneficiary.

INTEGRATION. The Contract is an integration of the entire understanding of the parties with respect to the matters set forth in it, and supersedes prior negotiations, written or oral representations and agreements.

DEFINITIONS. The Definitions in the General Conditions apply to the entire Contract unless modified within a Contract Document.

EXECUTED this _____ day of ___________, 2024.

(Signature pages to follow.)
TOWN OF ESTES PARK

By: ___________________________  ___________________________
    Title: ___________________________

_________________________  ___________________________
State of ______________________
    ) ss
County of ______________________

The foregoing instrument was acknowledged before me by ____________________, as _______
_________________________ of the Town of Estes Park, a Colorado municipal corporation, on behalf
of the corporation, this ___ day of ______________________, 2024.

Witness my hand and official Seal.

My Commission expires ____________________.

_________________________
Notary Public

APPROVED AS TO FORM:

_________________________
Town Attorney
CONTRACTOR

By:  
Title:  

Date:  

State of (BALDWIN)  
ss:
County of (WELD)  

The foregoing instrument was acknowledged before me by Russell G. Thompson II,  
(Name of party signing)  
as CFO of Dietzler Construction Corp  
(Title of party signing)  
(Name of corporation)  
a Wyoming corporation, on behalf of the corporation, this  
(State of incorporation)  
17th day of April, 2024.  

Witness my hand and official Seal.  

My Commission expires 10/27/2027.  

Rodger Short  
Notary Public  

Rodger Short  
Notary Public  
STATE OF COLORADO  
NOTARY ID 20194030343  
MY COMMISSION EXPIRES OCTOBER 27, 2027  

Agreement for Construction Contract--Page 2 of 5
Memo

To: Honorable Mayor Hall
    Board of Trustees

Through: Town Administrator Machalek

From: Jackie Williamson, Town Clerk

Date: May 14, 2024

RE: Interview Committee for the Estes Park Planning Commission

(Mark all that apply)
☐ PUBLIC HEARING  ☐ ORDINANCE  ☐ LAND USE
☐ CONTRACT/AGREEMENT  ☐ RESOLUTION  ☒ OTHER Committee

QUASI-JUDICIAL ☐ YES  ☒ NO

Objective:
To appoint Town Board Members to the interview committee for vacancies on the Estes Park Planning Commission.

Present Situation:
The Estes Park Planning Commission consists of five-members and the Commission currently has two vacancies. The Town Clerk’s Office has advertised the openings and has received three applications as of the date of this memo.

Proposal:
Policy 101 Section 6 states all applicants for Town Committees/Boards are to be interviewed by the Town Board, or its designee. Any designee will be appointed by the Town Board. Therefore, two members of the Board would interview all interested applicants for the commission positions.

Advantages:
To move the process forward and allow interviews to be conducted of interested applicants.

Disadvantages:
None.

Action Recommended:
To appoint two Town Board members to the interview committee.

Finance/Resource Impact:
None.
Level of Public Interest
Low.

Sample Motion:
I move to approve/deny the appointment of Trustees ___________ and ___________ to the Estes Park Planning Commission interview committee.

Attachments:
None.