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, December 12, 2023

ACCESSING MEETING TRANSLATIONS
(Accediendo a las Traducciones de la Reunión)

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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.

AGENDA
5:30 p.m.

REQUEST TO ENTER EXECUTIVE SESSION:
For a conference with an attorney for the Board for the purpose of receiving legal advice on specific legal questions – Section 24-6-402(4){(b), C.R.S. – Petitions for Initiated Ordinances Regarding Development Applications and Noise.

REGULAR BUSINESS
7:00 p.m.

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.

NOTE: The Town Board reserves the right to consider other appropriate items not available at the time the agenda was prepared.
CONSENT AGENDA:

1. **Bills.**


3. Transportation Advisory Board Minutes dated October 18, 2023 (acknowledgment only).


7. Resolution 108-23 Service Contract for High-Voltage Power Line Tree Trimming Services with Adam's Tree Service, First Year (2024) $376,396.80, Budgeted.

8. Request to Continue Resolution 99-23 Setting the Mill Levy for the 2024 Budget Year to January 9, 2024.

REPORTS AND DISCUSSION ITEMS: (Outside Entities).

1. **ESTES PARK HEALTH UPDATE ON HOME HEALTH, HOSPICE, AND NON-MEDICAL HOME CARE,** Estes Park Health Chairman Batey and CEO Carda.

ACTION ITEMS:

1. **ORDINANCE 13-23 AMENDING ESTES PARK MUNICIPAL CODE SECTION 2.20.010 COMPENSATION OF MAYOR, MAYOR PRO TEM, AND TRUSTEES.**
   Town Clerk Williamson.
   To consider amending the compensation provided to newly elected officials in 2024 and codifying the process used to determine future increases.

2. **RESOLUTION 109-23 SUPPLEMENTAL BUDGET APPROPRIATIONS #6 TO THE 2023 BUDGET.**
   Director Creamean.
   To amend the 2023 budget for additional appropriations for increased purchased power costs, replacement of two bucket trucks, an increase in estimated medical claims, and other year-end adjustments.

3. **ORDINANCE 14-23 AMENDING CHAPTER 10.06 OF THE ESTES PARK MUNICIPAL CODE ON PAID PARKING.**
   Supervisor Klein.
   To change the date by which the Manager shall propose parking rates for the following paid parking season from December 15th to March 15th of each subsequent year.

4. **RESOLUTION 110-23 6E FUNDING EXPENDITURE FOR A CHILDCARE FUNDING AGREEMENT WITH THE ESTES VALLEY RECREATION AND PARK DISTRICT.**
   Manager Bangs.
   Consider the expenditure of 6E funds to the Estes Valley Recreation & Park District to support after school care.

5. **ORDINANCE 15-23 AMENDING ESTES PARK MUNICIPAL CODE SECTION 2.04 REGARDING RESTRICTIONS ON CURRENT AND FORMER MEMBERS OF THE BOARD OF TRUSTEES BEING EMPLOYED BY THE TOWN.**
   Town Administrator Machalek.
   To consider an amendment to prohibit members of the Town Board from being employed with the Town for one year from the end of their term on the Board.

Agenda continues on page 3.
REQUEST TO ENTER EXECUTIVE SESSION:
To discuss purchase, acquisition, lease, transfer or sale of any real, personal, or other property of interest – Section 24-6-402(4)(a), C.R.S., and for a conference with an attorney for the Board for the purposes of receiving legal advice on specific legal questions - Section 24-6-402(4)(b), C.R.S, and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators - Section 24-6-402(4)(e), C.R.S. – Potential real property purchase of 1230 Big Thompson Avenue for relocation of the Police Department.

ADJOURN.

Town Board Meeting for December 26, 2023 Has Been Cancelled.

NOTE: The Town Board reserves the right to consider other appropriate items not available at the time the agenda was prepared.
Town of Estes Park, Larimer County, Colorado, November 28, 2023

Minutes of a Regular meeting of the Board of Trustees of the Town of Estes Park, Larimer County, Colorado. Meeting held in Town Hall in said Town of Estes Park on the 28th day of November, 2023.

Present: Wendy Koenig, Mayor
Marie Cenac, Mayor Pro Tem
Trustees Frank Lancaster
Barbara MacAlpine and
Patrick Martchink

Also Present: Travis Machalek, Town Administrator
Jason Damweber, Deputy Town Administrator
Dan Kramer, Town Attorney
Bunny Victoria Beers, Deputy Town Clerk

Absent: Trustees Kirby Hazelton and Cindy Younglund

Mayor Koenig called the meeting to order at 7:00 p.m. and all desiring to do so, recited the Pledge of Allegiance.

UNITED STATES PERMANENT RESIDENT STATUS RECOGNITION.
The Mayor recognized Antonio Franco for obtaining permanent resident status in the United States and congratulated him on the hard work and dedication necessary to attain this achievement.

AGENDA APPROVAL.
It was moved and seconded (Martchink/Cenac) to approve the Agenda, and it passed unanimously.

PUBLIC COMMENTS.
John Guffey/Town citizen voiced his interest to participate in the community and stated the opportunity for RMNP to present their work was a critical function of the Town. He stated the Park School District Strategic Plan should include an aim to raise children to understand and fully experience humanity with nature. He read a section of the Book of Awakening related to giving thanks and the relationship between humans and mother nature.

Kristine Poppitz/County resident stated petitions for a citizen initiated ordinance related to development applications were approved as to form and were being circulated at the Post Office.

TRUSTEE COMMENTS.
Trustee comments were heard and have been summarized: The Housing Authority Board meet to discuss acquisition opportunities. American Rescue Plan Act (ARPA) funds from Larimer County have been secured for the Fish Hatchery Project. Visit Estes Park (VEP) scheduled Frozen Dead Guy Days for March 15-17, 2024, and as part of the Catch the Glow season Frosty Beer Fest would be held December 9, 2023. International City/County Managers Association held the Colorado Counties Conference, where housing was a primary topic of discussion, including property tax concerns. The League of Women Voters held a sustainability meeting to receive an overview from VEP and Mobility Manager Solesbee on sustainability efforts. A Trustee Talk session was held and topics included construction progress updates and timetables, the 2024 budget and open discussion on local issues. The Town would hold a public meeting to review layout concepts for each street in the Reclamation Neighborhood. Mayor Koenig stated the Larimer County Behavior Health meeting would take place at the new facility in Fort Collins. The Mayor wished the public happy holidays and reminded the public the December 26, 2023 meeting would be cancelled.

TOWN ADMINISTRATOR REPORT.
Town Administrator Machalek stated gratitude for the Water Division’s efforts during a Thanksgiving day holiday leak incident on Panorama Circle.

CONSENT AGENDA:

1. Bills.
3. Estes Park Planning Commission Minutes dated October 17, 2023 (acknowledgment only).

Discussion ensued regarding the Consent Agenda Item #4. Trustee MacAlpine requested clarification on the application process and why the application identified the art as not an original piece. Supervisor Berg stated this application included the first manufactured donation since the adoption of Policy 880 Public Art which defines public art as an original creation. It was recommended staff review the policy for updates to remove the stipulation for original pieces.

It was moved and seconded (Lancaster/MacAlpine) to approve the Consent Agenda, and it passed unanimously.

REPORTS AND DISCUSSION ITEMS: (Outside Entities).

1. ENVIRONMENTAL ASSESSMENT FOR RMNP’S DAY USE VISITOR ACCESS PLAN. Mayor Koenig welcomed Superintendent Gary Ingram who requested Board and community feedback on the Day Use Visitor Access Plan and Environmental Assessment. Management Specialist and Public Affairs Officer Kyle Patterson reviewed the National Park Service Mission, Organic Act and RMNP history. The purpose and need for the Plan highlights included: To protect and enhance the Park’s fundamental resources and values and achieve and maintain desired conditions, and to address rapid growth. The primary issues the Plan would address included: Natural and cultural resources, visitor experience, staff and visitor safety, and facilities and operations. Management Specialist John Hannon provided an overview of alternatives to meet the purpose and need of the plan including existing strategies, options for no action and reverting back to pre-2020 pilot management which would not meet the purpose and needs of the plan. He reviewed common strategies and highlights to Alternatives B, C, and D. He stated Bear Lake timed entry was identified in all alternatives being considered for 2024. Specialist Hannon reviewed the desired conditions zones which was primarily comprised of 95% designated as Wilderness. He reviewed alternatives and actions which were considered but dismissed, including stand-alone intelligent transportation system, expanded infrastructure, multi-day reservations, and daily reservations to the Bear Lake Road Corridor. National Visitor Use Management Team (NVUMT) and National Parks Service Advisor to the Interagency Council Rachel Collins provided an overview of the environmental analysis, how alternatives vary and affect user use, access and experience and the affected environmental consequences. She reviewed the current phase of the program stating the comment period would be open through December 14, 2023 and encouraged the public to provide comments for consideration. Board questions have been summarized: The process for final adoption of the plan and by which government agencies; how concessionaires fit into the permit system and future permit considerations; changes to the commuter permit; whether other National Parks provide considerations to surrounding residents; and an explanation of the NVUMT was requested and how they participate in the plan development. Discussion ensued regarding preferential treatment to honor locals which was not being implemented in other National Park’s. The Park stated defining a local can be difficult and added we all benefit from RMNP and would continue to find the best solution for all. Gratitude was heard for the continued partnership between the Town and RMNP.
ACTION ITEMS:

1. **ORDINANCE 12-23 TEMPORARY 6-MONTH MORATORIUM ON NEW BED AND BREAKFAST INN BUSINESS LICENSES.** Mayor Koenig opened the public hearing. At the November 14, 2023 meeting staff presented updated regulations and an ordinance for bed and breakfast licenses. The Board tabled the item to allow more time to review options to update the definition and regulations in the Estes Park Municipal Code. In addition, the Board requested an extension of a previous 6-month moratorium approved on May 23, 2023 expiring on November 23, 2023. The Mayor closed the public hearing and it was moved and seconded (Martchink/Lancaster) to approve Ordinance 12-23, and it passed unanimously.

2. **POLICY 603 – UTILITY FEE AMORTIZATION.** Director Creamean presented Policy 603 – Utility Fee Amortization to support the essential community needs with an option to amortize water system development and water rights fees over time. The policy would support attainable and workforce housing, assisted living, public-sector projects and health care services. The proposed policy would limit eligible entities, developments and projects, and limit minimum project/fee amount to be amortized. Staff recommended approval of Policy 603 and requested Board consideration. Trustee MacAlpine requested clarification on the reasons the policy was brought forward for consideration. Town Administrator Machalek stated the policy would help keep costs down for important community projects and would be low-risk. It was moved and seconded (Cenac/MacAlpine) to approve Policy 603 – Utility Fee Amortization with the inclusion of a reference to Policy Governance, update the effective date and minor formatting corrections, and it passed unanimously.

REPORTS AND DISCUSSION ITEMS:

1. **PROPERTY TAX UPDATE.** Director Creamean presented property tax data to the Board related to Senate Bill 23B-1 and the timeline for mill levy approval. Senate Bill 23B-1 was approved during special session, exempts $55,000 from taxation and lowers the residential assessment rate from 6.765% to 6.7%, and changes the property tax calendars. He stated SB 23B-1 was similar to Proposition HH which voters did not pass and would provide no changes to commercial assessments. He reviewed the estimated impact of SB 23B-1 on the Town’s tax revenue and scenarios for additional tax relief. Town Administrator Machalek stated any Town changes to property tax would be applied to both residential and commercial properties. Director Creamean stated House Bill 23B-1003 was also approved during the special session to form a taskforce at the state level to identify permanent and sustainable changes to property taxation statewide. Board questions and comments have been summarized: Clarification on the estimated amount for property revenues in 2024; clarification on the new property tax timeline and Town requirements to set the mill levy; and other special districts in Estes Park were encouraged to consider review of their mill levy. Board consensus was heard to utilize 2022 assessment numbers plus new construction with enough margin for modifications if necessary.

2. **BOARD COMPENSATION FOR 2024.** At the October 24, 2023 study session, staff presented an option to codify Town Board compensation adjustments utilizing the Consumer Price Index (CPI) for the previous two years using October figures. The Board directed staff to research compensation figures for market communities. Using the Colorado Municipal League compensation report staff identified the Town appears in alignment with other market communities of similar size and among other larger communities along the front range including Erie, Lafayette, Loveland, and Superior. Staff recommended bringing forward a proposed ordinance at the December 12, 2023 meeting to consider codifying the adjustment to Board compensation using CPI. The salary adjustment would take effect for the Board members elected at the April 2, 2024 regular municipal election. Trustee Martchink recommended CPI for the Trustees, and increasing the compensation for Mayor to $25,000 due to the level of commitment required by the position. Mayor Koenig highlighted the value of benefits provided to elected officials and
stated potential impacts for social security recipients if the compensation was increased as suggested. Board discussion ensued regarding compensation adjustments for employee pay families and setting compensation at a level which encourages individuals to run for office. Board consensus was to bring forward an ordinance to modify current Board salaries by CPI for 2024, to adjustment future compensation using CPI, and to review compensation data prior to the implementation of CPI adjustments prior to each election.

Whereupon Mayor Koenig adjourned the meeting at 9:05 p.m.

______________________________
Wendy Koenig, Mayor

Bunny Victoria Beers, Deputy Town Clerk
Minutes of a Study Session meeting of the TOWN BOARD of the Town of Estes Park, Larimer County, Colorado. Meeting held at Town Hall in the Board Room in said Town of Estes Park on the 28th day of November, 2023.

Board: Mayor Koenig, Trustees Cenac, Hazelton, Lancaster, MacAlpine, Martchink, and Younglund

Attending: Mayor Koenig, Trustees Lancaster, MacAlpine, and Martchink

Also Attending: Town Administrator Machalek, Deputy Town Administrator Damweber, Town Attorney Kramer, and Town Clerk Williamson

Absent: Mayor Pro Tem Cenac, Trustees Hazelton and Younglund

Mayor Koenig called the meeting to order at 5:00 p.m.

GROWING WATER SMART OVERVIEW.
Deputy Town Administrator Damweber stated the Growing Water Smart program provides Colorado communities a range of communication, public engagement, planning, and policy implementation tools to understand their watershed health and work towards achieving community resiliency goals. He stated a number of employees attended a workshop to learn more about the program and begin to develop preliminary goals for the Town. Manager Wesley stated the Water division would develop an updated water master plan, address water loss through water looping projects, replacement of old pipes to decrease catastrophic breaks and leaks, and utilize software to understand where water goes. Engineer Waters reviewed Public Works efforts to address stormwater needs to ensure the health and resiliency of the watershed. The Town has developed a stormwater master plan and begun to develop a funding plan. The next step would be to develop a plan to address drainage issues within the community. Community Development would rewrite the development code with a focus on new requirements for applicants to design standards that incorporate water efficient construction, review landscaping and associated maintenance requirements, and update the plant list with a focus on drought-resistant, native, and "firewise" or wildfire-resistant species. Trustee Martchink stated graywater recycling and appliances have become more popular, and he would like a discussion of the item during the development code rewrite for new development or retrofitting a home.

WATER DIVISION 101 AND WATER MASTER PLAN.
Director Bergsten stated the goal of the presentation was to provide the Board with an overview of the Water division to outline current operations and issues of the division in advance of the upcoming update to the water master plan. The division includes administration, water quality lab, water plant operation, distribution, and capital projects that provide water to customers inside and outside of town limits, with 5,600 service connections, 120+ miles of water mains, 792 fire hydrants, 9 storage tanks, with 3.395 million gallons of treated water serving 7 pressure zones, and 12,000 water quality tests per year. Manager Callahan reviewed water quality and laboratory services that sample and test raw and treated water to support the water treatment, distribution, and sampling for other local water systems. The Town’s raw water source comes from snow melt that has a low alkalinity, high color during spring runoff impacts filter operations, very cold water slows formation of flocs and impacts disinfection, high total organic carbon (TOCs) forms disinfection by-products, taste and odor from organics and algae, and the use of chemicals to manage the TCOs that causes wear on the membrane system. Manager Wesley reviewed the water treatment plants including Mary’s Lake
which operates spring through summer and Glacier Creek plant which operates summer through early spring. She outlined the challenges of each plant: 1) Mary’s Lake does not have redundancy at full capacity, dependent on the Adam’s Tunnel for raw water, and the quality of the raw water; and 2) Glacier Creek plant has met the useful life of the structure and the equipment, limited utilities and poor communications, challenging access, and seasonal water quality. Supervisor Lang reviewed water distribution and storage that serves residential, commercial, construction, fire protection, bulk water, storage for peak demand and fire flow, serves 5 private systems, with 5,000 utility locates performed annually, and the need to move water to reduce water age and improving water quality. The distribution system contains older galvanized or cast-iron smaller diameter pipes which are not buried deep enough to prevent freezing, and the system contains higher than typical pressures. Water distribution continues to address dead ends, low winter demand resulting in increased water age, and federal and state regulations to inventory service lines to identify lead lines within the system. The 2024 Master Plan would review the population and demand projections, reassess key water assets, optimize the water system performance, define existing system capital improvements, define capital improvement plan (CIP) to meet level-of-service for future conditions, identify funding opportunities to support the CIP, and support the greater economy through augmentation, water testing and development review.

2023 PAID PARKING PROGRAM YEAR-END REPORT.
Supervisor Klein presented an overview of the current parking program during 2023 which consisted of 150 days from May 26 – October 22 mirroring the RMNP timed entry season. The 2023 operational improvements primarily focused on increased communication to assist residents and guests due to heavy construction in the downtown corridor and road closures. Other changes for 2023 included a transition to pay stations to push/pull credit card readers in high-traffic areas to reduce the processing time; increased the non-enforcement parking field team presence; issuance of warnings in lieu of citations on October weekdays when parking was less full; and updated pedestrian-level payment signage to direct customers to connect to local wi-fi for an efficient mobile payment experience. Overall average occupancy, including the parking structure and events complex parking lot, was up 2% compared to 2022 and flat compared to 2021. The average occupancy for paid parking was 79%, free parking 62%, and 23% for the parking structure in 2023. The local parking permit increased from 60 minutes to 120 minutes with no significant increase in utilization. Community and customer input throughout the parking season included parking revenue task force, presentations to partner agencies, translation of parking information into Spanish, Park-n-Walk challenge, outreach to lodging partners, a new Library partnership, and an annual permit survey. The program continues to develop with customer service interactions trending positive/neutral; the available parking continues to be adequate during the weekdays and weekends are consistently full; the program broke down in early fall on specific Bond Park events in late August, September, and October; and ridership on the shuttle system downtown dramatically increased. With the level of construction disruption to continue in the downtown corridor in 2024, staff recommends no significant change or expansion to the 2024 paid parking program.

TRUSTEE & ADMINISTRATOR COMMENTS & QUESTIONS
None.

FUTURE STUDY SESSION AGENDA ITEMS.
Seasonal RV housing on commercial sites pilot program was added to the approved unscheduled list. Trustee MacAlpine stated the Estes Park Planning Commission requested a joint study session to discuss the development code updates.

There being no further business, Mayor Koenig adjourned the meeting at 6:31 p.m.

Jackie Williamson, 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 18th day of October, 2023.

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; Members Ferko, Gamble, Igel, and Slack; Director Muhonen; Manager Solesbee; Supervisor Klein; Recording Secretary McDonald; Jennifer Waters, Public Works Engineer; Paul Hornbeck, Community Development; Gina Fox, Colorado Department of Transportation (CDOT); Anthony Pratt, Kimley-Horn & Associates; Colleen DePasquale, Estes Chamber of Commerce

Absent: Vice-Chair Ekeren, Member Bernal, Member Finley, Member Hanick

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

PUBLIC COMMENT
Chair Morris summarized the emailed public comment that was included in the packet, which requests improvements at the CO 7 and Lexington Lane intersection.

Member Igel reported on public comments provided to him by his business customers and fellow downtown business owners. Comments included that UPS services downtown are being compromised due to poor planning and communication; that Estes Park has changed so much in 40 years that it is no longer “nice” and feels more “like a city” now, especially due to paid parking; and that Cleave Street development is not happening according to what business owners were told by the Town. Manager Solesbee advised that dialogue is currently happening with certain business owners regarding UPS delivery challenges.

TRUSTEE LIAISON UPDATE
Trustee Martchink reported that an overview of the 2024 National Community Survey would be presented at the October 24 Town Board meeting. TAB members were encouraged to attend.

APPROVAL OF MINUTES DATED SEPTEMBER 20, 2023
It was moved and seconded (Slack/Gamble) to approve the September 20, 2023, minutes with minor amendments, and it passed. Member Ferko abstained due to absence from the September 20 meeting.

NAAPME OPPORTUNITY FOR MORAINE AVENUE TRAIL; US 34 & US 36 OVERLAY PAVING
Gina Fox (CDOT R4 North Program) walked through her first presentation, “CDOT’s Proposed and Upcoming Projects for US 34 and US 36.” Final Office Review (FOR) plans for overlay are due October 31, with advertising to begin November 30 and the overlay planned for June 1-September 1, 2024, during the warmer months. The scope of the resurfacing project includes curb ramp repairs; ADA repairs; overall bicycle and pedestrian safety considerations; and retaining wall construction along the Big Thompson River west of Fun City, which is planned for February through May 15, 2024. The overlay has a 20-year life expectancy.

Presenter Fox then explained the Nonattainment Area Air Pollution Mitigation Enterprise (NAAPME) funds opportunity for the Moraine Avenue trail. She applied for $12m but has not received an official follow-up. Member Ferko, a NAAPME Board Member, advised that Estes Park is not in a nonattainment area and may not be eligible for NAAPME.
funding. Resident engineers for local agencies can apply for Congestion Mitigation and Air Quality (CMAQ) funds.

Discussion points for both presentations included the need for communication regarding the overlay project’s impact on traffic control for Rocky Mountain National Park (RMNP) and status of the floodplain submittal; the general inconvenience of CDOT adding to the major construction projects already underway in the downtown artery, especially without addressing other improvements that could encourage non-car transit; the preference for night work in June and July to expedite the project; the deterioration of the US 34 bike path; and how the TAB can promote Estes Park’s eligibility for Moraine Avenue trail improvement funding.

CONSULTANT UPDATE ON MULTIMODAL TRANSPORTATION PLAN & TRANSIT DEVELOPMENT PLAN
Manager Solesbee introduced consultant Anthony Pratt (Kimley-Horn and Associates) and provided some context for this agenda item. The Multimodal Transportation Plan (MTP) and Transit Development Plan (TDP) are separate plans on parallel development and contracted through Kimley-Horn and Nelson\Nygaard Consulting Associates; overall project planning should take 12 months and result in considerations for the 2025 Town budget. With a 20-year outlook, the MTP is intended to build off transportation mode strategies detailed in the Estes Forward comprehensive plan; the TDP is a five-year plan to examine transit ridership, routes and service types, and technology methods. The Steering Committee is in place, and the TAB is needed to provide input early in the community outreach phase. Community engagement opportunities will take place now through spring, with the draft plan expected in mid-summer 2024.

Presenter Pratt explained how the overall purpose of the MTP and TDP is captured in the simplified project title of Estes Park 2045 Transportation Plan (EPTP). The term “multimodal” in the title was indefinitely set aside in favor of using “for all modes, ages, and abilities” in the tagline. An overview of the new project webpage highlighted the multilingual features in development, and the issue mapping survey tool was demonstrated; TAB members were given a promotional EPTP postcard with the survey QR-code and asked to beta test the draft website and mapping tool before it goes completely public. Survey results will be printed and posted online in English and Spanish.

Discussion points included suggestions for additional marker/comment types on the mapping survey (“accessibility” and “big ideas”); adding the survey URL to the postcard; considering the use of circles or wheels on the project webpage to reflect the plan’s connectivity nature; how survey comments pertaining to county ownership would be communicated to Larimer County; whether TAB members were opposed to the decision to drop “multimodal” from the plan title; and project outreach events currently being planned. Manager Solesbee invited members to email her if they learn of any community events that would be appropriate opportunities for public engagement on the EPTP.

TAB MEETING TIME DISCUSSION
It was requested that this item be moved up from the official agenda time.

Chair Morris summarized the September 20 discussion of the TAB meeting time, explaining that establishing a morning time frame had been agreed upon because it might better accommodate the schedules of business owners.

Discussion points included the difficulty for many members and the general public in attending the current midday meeting time; the basic pros and cons of an evening or weekend meeting time; whether more attention could be drawn to the public comment form on the website (Recording Secretary McDonald will add the form to the actual TAB webpage); and why hybrid meetings (live with virtual option) are not offered. Director Muhonen advised that the Town Board sets the meeting format protocol for Town boards and committees, but that it may be possible for Town executive leadership to reopen the discussion.

It was agreed that TAB members would be surveyed via email for their meeting time preference.
PAID PARKING PROGRAM DISCUSSION
Supervisor Klein reported that the paid parking season closes on October 22, with signs scheduled for removal on October 23. The parking structure has been full every weekend in September and October, with “game-day” traffic demanding police and traffic control staff. Complete utilization data will be processed and presented to the TAB on November 15.

Manager Solesbee explained that staff is seeking Town Board approval to amend the reporting time frame for decisions to be made about the paid parking season. Now that the Town’s fall events are essentially extending the peak season through late October, it is no longer realistic to adequately analyze the paid parking season data, engage the stakeholders, and propose meaningful changes for the following paid parking season by December 31. Therefore, a March 1 reporting time for decisions will be proposed. It was agreed that extending the decision-making period was beneficial because addressing issues with the “one size fits all” approach for a parking season can be ineffective policy when only “problem segments” occurring within a particular season need to be addressed.

MOBILITY SERVICES
Due to time considerations, Manager Solesbee forfeited this agenda item but reported that she just finished writing the request for proposals (RFP) for the Big Horn parking structure design.

ENGINEERING & ADMINISTRATIVE UPDATES
Director Muhonen reported the Downtown Estes Loop (DEL) traffic pattern change. The night work permit for Flatiron Constructors, Inc. (FCI) has been extended through Memorial Day 2024. The Post Office retains 10 spaces on the lot’s west side for postal carriers, but office customers must park in the Riverside lot. Public Works is in dialogue with the postmaster regarding the offer to remove snow and create other accommodations for patrons to navigate to the entrance. Repaving work on East Riverside Drive and East Elkhorn Avenue should be complete before the downtown Halloween event.

Traffic flow is smooth at the new US 36/Community Drive Roundabout (CDRBT). The guard rail was incorrectly installed and will be fixed. Some signs will be relocated for better visibility, and the street light poles are expected in late December. Landscaping work will be completed by Memorial Day 2024. The new ranch water station opened near the ball fields on Community Drive.

The Estes Park Sanitation District (EPSD) completed its infrastructure work for the Cleave Street Improvements (CSI) and will add all-weather material on the trenches. The Town’s Power & Communications Department has delayed their relocation project until early December, and Engineer Bailey is confirming the time frame for underground utilities relocation.

The US 34 Coalition met October 5 to hear about the US 34 Transportation Management Organization (TMO) development progress. The TMO will be composed of private and public members focused on the future of transportation options between Kersey and Estes Park; Manager Solesbee will serve on the TMO Selection Committee. With CDOT grant funding now in place, the RFP can be issued soon and the consultant selected by January.

Discussion topics for all projects included the lack of adequate parking spaces for Post Office customers, particularly for the Christmas season; the efficacy of FCI hearing public comments about Post Office parking issues at the October 3 DEL Public Meeting; the expectation of strong business participation for the October 31 Halloween event; and whether increased signage or a flashing light at the new roundabout could encourage some drivers to slow down. It was agreed that traffic behavior at the roundabout would be better monitored after the permanent street lights are installed.
OTHER BUSINESS
There was brief discussion about how to secure the funding needed for the Moraine Avenue trail improvements since NAAPME may not be possible.

There being no further business, Chair Morris adjourned the meeting at 2:17 p.m.

/s/Lani McDonald, Recording Secretary
Board of Trustees Public Comment

Name: joan hooper
Stance on Item: Neutral
Agenda Item Title: TAB Minutes dated October 18, 2023.

Public Comment:

Re: Moraine Ave Trail funding opportunity, deterioration of US34 bike path, and repaving/improvements along the Big Thompson River west of Fun City, which is planned for February through May 15, 2024. It is imperative that the town take this opportunity to improve bicycle and pedestrian safety along this route as part of the project. Adding a sidewalk and bike lane through here is possible, highly desirable and the cost would be much lower if it were incorporated into the repaving and improvements that are scheduled for next spring.

File Upload

Please note, all information provided in this form is considered public record and will be included as permanent record for the item which it references.
Memo

To: Honorable Mayor Koenig
    Board of Trustees

Through: Town Administrator Machalek

From: Jason Damweber, Deputy Town Administrator/Acting Community Development Director

Date: December 12, 2023

RE: Resolution 105-23 Professional Services Contract Extension with Ayres Associates for Planning Consulting Services

(Mark all that apply)

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

QUASI-JUDICIAL ☐ YES ☒ NO

Objective:
Review and approve a Professional Services Contract extension with Ayres Associates Inc. for planning consulting services on behalf of the Town. The contract, which would be the third and final extension permitted per the original extension agreement, would be effective for all of CY 2024 and has a not-to-exceed cost of $100,000.

Present Situation:
Community Development staff have administered professional-services contracts for on-demand planning consulting services for at least the past ten years. “On-demand” in this context refers to the contractual ability for our staff to request the consultants perform specific planning services, billable to the Town at hourly rates set in the contract(s). A typical on-demand task would be reviewing and providing analysis and a staff report on a specific development project - usually these are projects that do not require extensive in-person services, such as presenting to Planning Commission. Other assignments involve longer-range planning projects; for example, our consultants have completed an examination of the economic ramifications of increased downtown building height and an analysis and proposal of development review fees.

Ayres Associates, via their Fort Collins office, has fulfilled this role for Planning division since the beginning of 2018. Ayres Associates were retained following a competitive request-for-qualifications (RFQ) process. Staff have been very satisfied with their
performance during this time, and we have renewed their contract each calendar year. If the existing contract is extended, it would be the third and final extension permitted.

Proposal:
The current proposal is to approve (renew) the contract with Ayres Associates for CY 2024. The term is for one year: January 1, 2024 through Dec. 31, 2024. The not-to-exceed amount is $100,000 for the year, with actual payments based on monthly invoicing at hourly rates, per Attachment 4 (Estes Park Ayres Compensation 2024.) These provisions are the same or similar to those in past years.

Advantages:
- Allows additional flexibility in staffing for development review and long-range planning
- Continues a longstanding professional collaboration between the Town and a competent consulting firm

Disadvantages:
- None identified at this time.

Action Recommended:
Staff recommends approval of the contract as drafted.

Finance/Resource Impact:
Not to exceed $100,000 during FY 2024.

Level of Public Interest
Low.

Sample Motions:
I move to approve/deny Resolution 105-23.

Attachments:
1. Resolution 105-23
2. Contract Extension No. 3
3. Exhibit A - Ayres Associates Compensation Schedule 2024
4. Contract Extension No. 2
5. 2021 Contract for Professional Services Between the Town of Estes Park and Ayres Associates Inc.
RESOLUTION 105-23

APPROVING A PROFESSIONAL SERVICES CONTRACT EXTENSION WITH AYRES ASSOCIATES FOR PLANNING CONSULTING SERVICES

WHEREAS, the Town Board desires to restate and extend the professional services contract referenced in the title of this resolution for the purpose of continuity of planning consulting 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 professional services contract extension referenced in the title of this resolution in substantially the form now before the Board.

DATED this ______ day of ______________, 2023.

TOWN OF ESTES PARK

______________________________
Mayor

ATTEST:

______________________________
Town Clerk

APPROVED AS TO FORM:

______________________________
Town Attorney
PROFESSIONAL SERVICES CONTRACT
EXTENSION NO. 3

Contract for Professional Services between the Town of Estes Park and Ayres Associates Inc.

The parties, the Town of Estes Park, Colorado (Town), a municipal corporation, and Ayres Associates Inc. (Contractor), whose address is 3665 JFK Parkway, Building 2, Suite 100, Fort Collins, Colorado, 80525-3152, make this Contract Extension this ______ day of ____________, 2023, at the Town of Estes Park, Colorado, considering the following facts and circumstances:

1 RECITALS:

1.1 Town and Contractor entered into a Professional Services Contract on January 1, 2021 for on-call planning consulting services (Contract).

1.2 Section 25 of the Contract originally provided that the term would continue through December 31, 2021, and provided for up to three (3) renewals for a period of one year each, upon mutual agreement of the parties.

1.3 The Contract has been extended two times.

1.4 Town and Contractor desire to extend the Contract for an additional year.

2 EXTENSION: The term of the Contract is hereby extended for one additional year. Exhibit A of the Contract is hereby replaced with the Exhibit A attached hereto ("C.-Compensation-2024"). Contractor shall not incur expenses to the Town exceeding $100,000 in 2024 unless specifically approved in writing by the Town following approval by the Town Board of Trustees.

3 PROVISIONS CONTINUE IN EFFECT: All 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 ____________________

) ss:

COUNTY OF ____________________

The foregoing instrument was acknowledged before me this ______ day of ________________, 2023, 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 ____________________

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 _________________, 2023.

Witness my hand and official Seal.

My Commission expires _________________.

______________________________
Notary Public

APPROVED AS TO FORM:

______________________________
Town Attorney
Ayres Associates is comfortable working as on-call staff as demonstrated by other similar arrangements we currently have in place. To help facilitate cost-efficient delivery of services, we’ve assigned three primary planners to assist in work for Estes Park. Additionally, should the need arise for engineering services, we can also provide more technical assistance at a moment’s notice.

**Staff Fee Schedule:**

- Senior Urban Planner – $160-$210/hour
- Planner – $95-$135/hour
- Landscape Architect/Engineer – $115-$195/hour
- Administrative – $90/hour

**Expenses:**

We understand that team members may be called upon to present at study sessions, meetings, and hearings before the Planning Commission, Board of Trustees, and Board of Commissioners. Our team will be billing out of our Fort Collins office. Mileage will be charged at the current federal rate and lodging/incidentals only with prior approval from the client for extended meetings or events stretching late into the night.
PROFESSIONAL SERVICES CONTRACT
EXTENSION NO. 2

Contract for Professional Services between the Town of Estes Park and Ayres Associates Inc.

The parties, the Town of Estes Park, Colorado (Town), a municipal corporation, and Ayres Associates Inc. (Contractor), whose address is 3665 JFK Parkway, Building 2, Suite 100, Fort Collins, Colorado, 80525-3152, make this Contract Extension this 1st day of January, 2023, at the Town of Estes Park, Colorado, considering the following facts and circumstances:

1 RECITALS:

1.1 Town and Contractor entered into a Professional Services Contract on January 1st, 2021 for on-call planning consulting services (Contract).

1.2 Section 25 of the Contract originally provided that the term would continue through December 31, 2021, and provided for up to three (3) renewals for a period of one year each, upon mutual agreement of the parties.

1.3 The Contract has been extended one time.

1.4 Town and Contractor desire to extend the Contract for an additional year.

2 EXTENSION: The term of the Contract is hereby extended for one additional year. Exhibit A of the Contract is hereby replaced with the Exhibit A attached hereto ("C.-Compensation-2023"). Town and Contractor agree the Services under the Contract shall include the task described in the Fee Study Appendix attached as Exhibit B hereto. Contractor shall not incur expenses to the Town exceeding $100,000 in 2023 unless specifically approved in writing by the Town following approval by the Town Board of Trustees.

3 PROVISIONS CONTINUE IN EFFECT: All 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: Vice President

STATE OF Colorado ) ss:

COUNTY OF Larimer )

The foregoing instrument was acknowledged before me this 10th day of February 2023, by Matthew Ashley, as Vice President of Ayres Associates Inc., 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 04/26/2024.

SARAH SMITH
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164016821
MY COMMISSION EXPIRES APRIL 26, 2024

Notary Public
TOWN OF ESTES PARK

By: Travis Machalek

Title: Town Administrator

State of Colorado ) ss:
County of Larimer )

The foregoing instrument was acknowledged before me by Travis Machalek, as Town Administrator of the Town of Estes Park, a Colorado municipal corporation, on behalf of the corporation, this 23rd day of February, 2023.

Witness my hand and official Seal.

My Commission expires 10/17/2025.

KIMBERLY DISNEY
NOTARY PUBLIC
State of Colorado
Notary ID # 2017404332
My Commission Expires 10/17/2025

APPROVED AS TO FORM:

Town Attorney
TOWN OF ESTES PARK

TOWN OF ESTES PARK, COLORADO
PROFESSIONAL SERVICES CONTRACT

Contract for Professional Services between the Town of Estes Park and Ayres Associates Inc.

The parties, the Town of Estes Park, Colorado (Town), a municipal corporation, and Ayres Associates Inc (Consultant), a licensed Colorado corporation, whose address is 3665 JFK Pkwy., Bldg. 2, Ste. 100, Fort Collins, CO 80525-3152, make this Contract this 1st day of January, 2021, at the Town of Estes Park, Colorado, considering the following facts and circumstances:

1 RECITALS:

1.1 Town desires to use the services of Consultant outlined in Consultant's Proposal; and;

1.2 Consultant has agreed to provide the Services outlined in its Proposal, on the terms and conditions stated in this Contract.

2 CONTRACT: This Agreement is a Contract, representing the entire and integrated agreement between the parties and supersedes any prior negotiations, written or oral representations and agreements. The Agreement incorporates the following Contract Documents. In resolving inconsistencies between two or more of the Contract Documents, they shall take precedence in the order enumerated, with the first listed Contract Document having highest precedence.

The Contract Documents, except for amendments executed after execution of this Contract, are:

2.1 Change Orders;

2.2 Notice to Proceed;

2.3 This Contract;

2.4 The following Addenda, if any:

<table>
<thead>
<tr>
<th>Number</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not applicable</td>
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2.5 The following Special Conditions of the Contract, if any:

<table>
<thead>
<tr>
<th>Document</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhibit A</td>
<td>“C-Compensation- 2021”</td>
<td>1</td>
</tr>
</tbody>
</table>

2.6 Notice of Award

2.7 Request for Qualifications, containing three (3) pages, dated February 13, 2018

2.9 Insurance Certificates

3 SCOPE OF SERVICES: Consultant shall provide and furnish at its own cost and expense all materials, machinery, equipment, tools, superintendence, labor, insurance and other accessories and services necessary to provide its Services in strict accordance with the conditions and prices stated in the Contract Documents.

3.1 The Consultant shall perform tasks as mutually agreed upon within the scope of services set forth in the Consultant’s Proposal (“Response to Request for Qualifications for Planning Services”), incorporated herein by reference (“Services”). The Town reserves the right to remove any of the Services upon written notice to Contractor. In the event of any conflict between this Contract and the Consultant’s Proposal, the provisions of this Contract shall prevail.

3.2 No material change to the Services, including any additional compensation, shall be effective or paid unless authorized by written amendment to this Contract executed by the Town. If Consultant proceeds without such written authorization, then Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

4 BEGINNING WORK AND COMPLETION SCHEDULE: The Consultant shall begin services under this Contract upon receiving Town’s notice to proceed. Consultant shall timely perform its Services, according to the Performance Schedule attached to and incorporated into this Contract or as otherwise directed by Town.

5 PRICE: The Town will pay Consultant for the performance of this Contract. This is a time and materials contract with an established maximum payment not to exceed $115,000. Hourly rates and incidental expenses are to be based on the Fee Schedule for Services attached to this Agreement in Exhibit A (“C-Compensation - 2021”). This Contract does not create a multiple fiscal year direct or indirect debt or other financial obligation. Each request for service shall incur a concurrent debt for that request only. All financial obligations of the Town under this Contract are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations.

6 TIME OF PAYMENTS TO CONSULTANT: The Consultant shall bill its charges to the Town periodically, but no more frequently than once a month. Each bill shall contain a statement of the time the primary employees spent on the Project since the previous bill, a brief description of the Services provided by each such employee, and an itemization of direct expenses. The Town will pay each such bill which it finds to be in accordance with this Contract within forty-five days of its receipt. If Town questions any part of a bill, finds any part of a bill does not conform to this Contract, or claims the right to withhold payment
of any part of a bill, it will promptly notify Consultant of the question, nonconformity or reasons for withholding.

7 QUALIFICATIONS ON OBLIGATIONS TO PAY: No partial payment shall be final acceptance or approval of that part of the Services paid for, or shall relieve Consultant of any of its obligations under this Contract. Notwithstanding any other terms of this Contract, Town may withhold any payment (whether a progress payment or final payment) to Consultant under the following conditions:

7.1 Consultant fails to promptly pay all bills for labor, material, or services of consultants furnished or performed by others to perform Services.

7.2 Consultant is in default of any of its obligations under this Contract or any of the Contract Documents.

7.3 Any part of such payment is attributable to Services not conforming to this Contract. (Town will pay for any part attributable to conforming Services).

7.4 Town, in its good faith judgment, determines that the compensation remaining unpaid will not be sufficient to complete the Services according to this Contract.

8 CONSULTANT'S DUTIES:

8.1 Town enters into this Contract relying on Consultant’s special and unique abilities to perform the Services. Consultant accepts the relationship of trust and confidence established between it and the Town by this Contract. Consultant will use its best efforts, skill, judgment, and abilities. Consultant will further the interests of Town according to Town’s requirements and procedures, according to high professional standards.

8.2 Consultant has and will undertake no obligations, commitments, or impediments of any kind that will limit or prevent its performance of the Services, loyally, according to the Town's best interests. In case of any conflict between interests of Town and any other entity, Consultant shall fully and immediately disclose the issue to Town and, without Town's express approval, shall take no action contrary to Town's interests.

8.3 Consultant’s Services under this Contract shall be of at least the standard and quality prevailing among recognized professionals of expert knowledge and skill engaged in the Consultant's same profession under the same or similar circumstances.

8.4 Consultant's work, including drawings and other tangible work products provided to Town, will be accurate and free from any material errors, and will conform to the requirements of this Contract. Town approval of defective drawings or other work shall not diminish or release Consultant's duties, since Town ultimately relies upon Consultant's skill and knowledge.

8.5 The Contract Documents determine whether the Consultant's Scope of Services includes detailed independent verification of data prepared or supplied by Town.
Consultant will, nevertheless, call to Town's attention anything in any drawings, plans, sketches, instructions, information, requirements, procedures, or other data supplied to Consultant (by the Town or any other party) that Consultant knows, or reasonably should know, is unsuitable, improper, or inaccurate for Consultant's purposes.

8.6 Consultant shall attend such meetings on the work stated in this Contract, as Town requires. Town will give reasonable notice of any such meetings, so Consultant may attend. Town will pay for any meeting time exceeding Consultant’s total estimate of included hours, according to Consultant’s fee schedule attached to Consultant’s proposal.

8.7 As applicable state and federal laws may require, Consultant will assign only persons duly licensed and registered to do work under this Contract.

8.8 Consultant shall furnish efficient business administration and superintendence and perform the Services in the most efficient and economical manner consistent with the best interests of Town.

8.9 Consultant shall keep its books and records for Services and any reimbursable expenses according to recognized accounting principles and practices, consistently applied. Consultant shall make them available for the Town’s inspection at all reasonable times. Consultant shall keep such books and records for at least three (3) years after completion of the Services.

9 **TOWN'S DUTIES:**

9.1 Town will provide full information to the Consultant on the Town's requirements in a timely manner.

9.2 Town will assist the Consultant by providing such pertinent information available to Town, including maps, studies, reports, tests, surveys and other data, as Consultant specifically requests.

9.3 Town will examine all tests, reports, drawings, specifications, maps, plans and other documents presented by the Consultant to Town for decisions. Town will obtain the advice of other consultants, as the Town thinks appropriate. Town will give decisions to the Consultant in writing within a reasonable time.

9.4 Town will appoint a person to act as Town's representative on this Agreement. This person will have authority to issue instruction, receive information, interpret and define the Town's policies and decisions on the Consultant’s Services.

9.5 Town will give prompt written notice to the Consultant when the Town notices any development that affects the scope or timing of the Services.

10 **USE OF FINAL PRODUCT:** Consultant may have limited involvement after the completion of this Agreement and lacks control of the future use of Consultant's work. Except for
deficiencies in Consultant’s performance under this Agreement, future use and interpretation of Consultant’s work is at the risk of Town or other users.

10.1 The Consultant will keep record copies of all work product items delivered to the Town.

11 OWNERSHIP OF DOCUMENTS AND OTHER MATERIALS: All drawings, specifications, computations, sketches, test data, survey results, renderings, models, and other materials peculiar to the Services of Consultant or Consultant’s subconsultants under this Contract are property of Town, for its exclusive use and re-use at any time without further compensation and without any restrictions. Consultant shall treat all such material and information as confidential, and Consultant shall neither use any such material or information or copies on other work nor disclose such material or information to any other party without Town's prior written approval. Upon completion of Services, or at such other time as the Town requires, Consultant shall deliver to the Town a complete, reproducible set of all such materials. For copyright ownership under the Federal Copyright Act, Consultant conveys to Town and waives all rights, title and interest to all such materials in written, electronic or other form, prepared under this Contract. Town shall have worldwide reprint and reproduction rights in all forms and in all media, free of any claims by the Consultant or its subconsultants and subcontractors. The Town’s rights, granted above, in drawing details, designs and specifications that are Consultant’s standard documents for similar projects, and in Consultant’s databases, computer software and other intellectual property developed, used or modified in performing Services under this Contract are not exclusive, but joint rights, freely exercisable by either the Town or the Consultant.

All design documents, including drawings, specifications, and computer software prepared by Consultant according to this Contract comprise Consultant's design for a specific Project. Neither party intends or represents them as suitable for reuse, by Town or others, as designs for extension of that same Project or for any other project. Any such reuse without prior written verification or adaptation by Consultant for the specific purpose intended will be at user's sole risk and without liability or legal exposure to Consultant. Except as required for performance under this Contract, Consultant's verification or adaptation of design documents will entitle Consultant to additional compensation at such rates as the Consultant may agree.

12 CHANGE ORDERS: Town reserves the right to order work changes in the nature of additions, deletions, or modifications, without invalidating this agreement, and agrees to make corresponding adjustments in the contract price and time for completion. All changes will be authorized by a written change order signed by Town. Work shall be changed, and the contract price and completion time shall be modified only as set out in the written change order. Town shall issue no Change Order or other form of order or directive requiring additional compensable work that will cause the Price to exceed the amount approved.

13 SERVICE OF NOTICES: The parties may give each other required notices in person or by first class mail or by email to their authorized representatives (or their successors) at the addresses listed below:
14 **COMPLIANCE WITH LAW:** Consultant will perform this Contract in strict compliance with applicable federal, state, and municipal laws, rules, statutes, charter provisions, ordinances, and regulations (including sections of the Occupational Safety and Health Administration [OSHA] regulations, latest revised edition, providing for job safety and health protection for workers) and all orders and decrees of bodies or tribunals applicable to work under this Contract. Consultant shall protect and indemnify Town against any claim or liability arising from or based on the violations of any such law, ordinance, regulation, order, or decrees by itself or by its subcontractors, agents, or employees. Town assumes no duty to insure that Consultant follows the safety regulations issued by OSHA.

15 **PERMITS AND LICENSES:** The Consultant shall secure all permits and licenses, pay all charges, files, and taxes and give all notices necessary and incidental to the lawful prosecution of its Services. Anyone conducting business in the Town of Estes Park is required a business license which can be obtained from the Town Clerk’s Office.

16 **PATENTED DEVICES, MATERIALS AND PROCESSES:** The Consultant shall hold and save harmless the Town from all claims for infringement, by reason of fee use of any patented design, device, material, process, or trademark or copyright and shall indemnify the Town for any costs, expenses, and damages, including court costs and attorney fees, incurred by reason of actual or alleged infringement during the prosecution or after completion of Services.

17 **INSURANCE:** Consultant shall, at its own costs, secure and continuously maintain through the term of this Contract the minimum insurance coverages listed below, with forms and insurers acceptable to Town. In addition, Consultant shall maintain such coverages for the insurance listed in Paragraphs 17.1, 17.3 and 17.4 for two additional years. For any claim-made policy, Consultant shall include the necessary retroactive dates and extended reporting periods to maintain continuous coverage.

17.1 Professional Liability for at least $1,000,000.

17.2 Workers' Compensation according to the Workers' Compensation Act of the State of Colorado and Employer's Liability with limits of at least $500,000. Contractor shall require any subcontractor hired by the Contractor to carry Workers' Compensation and Employer's Liability coverage.

17.3 General liability, including contractual liability, of at least $1,000,000 per each occurrence plus an additional amount adequate to pay related attorney's fees and defense cost. Coverage shall include bodily injury, property damage, personal injury, and contractual liability.
17.4 Comprehensive Automobile Liability with minimum limits for bodily injury and property damage coverage of at least $1,000,000 per each occurrence plus an additional amount adequate to pay related attorneys' fees and defense costs, for each of Consultant's owned, hired or non-owned vehicles assigned to or used in performance of this Contract.

17.5 Valuable Papers insurance in an amount adequate to assure the restoration of any plans, drawings, field notes, or other similar data related to the services covered by this Contract in case of their loss or destruction.

17.6 The required general liability and comprehensive automobile liability policies shall contain endorsements to include Town and its officers and employees as additional insureds. The required professional liability and workers' compensation policies or coverages shall not contain endorsements including the Town, its officers or employees as additional insureds. Every policy required above shall be primary insurance. Any insurance or self-insurance benefits carried by Town, its officers, or its employees, shall be in excess and not contributory to that provided by Consultant.

17.7 Consultant shall, upon request, provide Town a certified copy of each required policy.

17.8 As evidence of the insurance coverages required by this Contract, before beginning work under this Contract, Consultant shall furnish certificates of insurance certifying that at least the minimum coverages required here are in effect and specifying the liability coverages (except for professional liability) are written on an occurrence form to:

Town of Estes Park
170 MacGregor Avenue
PO Box 1200
Estes Park, CO 80517
Attention: Community Development Director

With the exception of professional liability and workers' compensation, policy or policies providing insurance as required will defend and include the Town, its Board, officers, agents and employees as additional insureds on a primary basis for work performed under or incidental to this Contract. Required insurance policies shall be with companies qualified to do business in Colorado with a general policyholder's financial rating acceptable to the Town. The policies shall not be cancelable or subject to reduction in coverage limits or other modification except after thirty days prior written notice to the Town. General liability and automobile policies shall be for the mutual and joint benefit and protection of the Consultant and the Town. These policies shall provide that the Town, although named as an additional insured, shall nevertheless be entitled to recover under said policies for any loss occasioned to it, its officers, employees, and agents by reason of acts or omissions of the Consultant, its officers, employees, agents, sub-consultants, or business invitees. They shall be written as primary policies not contributing to and not in excess of coverage the Town may carry.
17.9 If Consultant is self-insured under the laws of the State of Colorado, Consultant shall provide appropriate declarations and evidence of coverage.

17.10 Consultant shall not cancel, change, or fail to renew required insurance coverages. Consultant shall notify Town's designated person responsible for risk management of any reduction or exhaustion of aggregate limits, which Town may deem to be a breach of this Contract.

17.11 The Town relies on, and does not waive or intend to waive, by any provision of this Contract, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S., as from time to time amended, or otherwise available to the parties, their officers, or their employees.

17.12 If any insurance required here is to be issued or renewed on a claims-made form as opposed to the occurrence form, the retroactive date for coverage will be no later than the commencement date of the project and will state that in the event of cancellation or nonrenewal, the discovery period for insurance claims (tail coverage) will be at least 72 months.

17.13 Consultant shall not cancel, non-renew or cause insurance to be materially changed or replaced by another policy without prior approval by Town.

18 INDEMNIFICATION:

18.1 Consultant and its agents, principals, officers, partners, employees, and subcontractors ("Indemnitors") shall and do agree to indemnify, protect, and hold harmless the Town, its officers, employees, and agents ("Indemnitees") from all claims, damages, losses, liens, causes of actions, suits, judgments, and expenses (including attorneys’ fees), of any nature, kind, or description ("Liabilities") by any third party arising out of, caused by, or resulting from any Services under this Contract if such Liabilities are: (1) attributable to bodily injury, personal injury, sickness, disease, or death of any person, or to the injury or destruction of any tangible property (including resulting loss of use or consequential damages) and (2) caused, in whole or in part, by any error, omission or negligent act of the Consultant, anyone directly or indirectly employed by it, or anyone for whose acts Consultant may be liable.

18.2 If more than one Indemnitor is liable for any error, omission or negligent act covered by this Agreement, each such Indemnitor shall be jointly and severally liable to the Indemnitees for indemnification and the Indemnitors may settle ultimate responsibility among themselves for the loss and expense of any such indemnification by separate proceedings and without jeopardy to any Indemnitee. This Agreement shall not eliminate or reduce any other right to indemnification or other remedy the Town, or any of the Indemnitees may have by law.
18.3 As part of this indemnity obligation, the Consultant shall compensate the Town for any time the Town Attorney's Office and other counsel to the Town reasonably spend on such claims or actions at the rates generally prevailing among private practitioners in the Town of Estes Park for similar services. This obligation to indemnify the Town shall survive the termination or expiration of this Agreement.

19 **INDEPENDENT CONTRACTOR:** Consultant shall perform all Services under this Agreement as an independent contractor, and not as an agent or employee of Town. No employee or official of Town shall supervise Consultant. Consultant shall exercise no supervision over any employee or official of Town. Consultant shall not represent that it is an employee or agent of the Town in any capacity. **Consultant’s officers, employees and agents are not entitled to Workers’ Compensation benefits and Consultant is obligated to pay federal and state income tax on money earned under this Agreement.** Except as this Agreement expressly states, Consultant shall, at its sole expense, supply all buildings, equipment and materials, machinery, tools, superintendence, personnel, insurance and other accessories and Services necessary. This Agreement is not exclusive; subject the terms of this Agreement, Town and Consultant may each contract with other parties.

20 **PROVISIONS CONSTRUED AS TO FAIR MEANING:** Any tribunal enforcing this Agreement shall construe its terms as to their fair meaning, and not for or against any party based upon any attribution to either party.

21 **HEADINGS FOR CONVENIENCE:** All headings, captions and titles are for convenience and reference only and of no meaning in the interpretation or effect of this Contract.

22 **NO THIRD-PARTY BENEFICIARIES:** The parties intend no third-party beneficiaries under this Contract. Any person besides Town or Consultant receiving services or benefits under this Agreement is an incidental beneficiary only.

23 **TOWN’S RIGHT TO BAR PERSONNEL FROM WORK SITE:** For conduct the Town (in its sole discretion) decides may violate applicable laws, ordinances rules or regulations, or may expose Town to liability or loss, Town may bar any person (including Consultant's and subconsultants’ and subcontractors’ employees) from the Town's work sites. Such a bar shall not require any employee's discharge from employment, but shall merely prohibit the employee's presence at Town's work sites. Such a bar shall not warrant an increase in contract time or Price.

24 **WAIVER:** No waiver of any breach or default under this Agreement shall waive any other or later breach or default.

25 **TERM:** This Contract shall commence on January 1, 2021 and shall continue through December 31, 2021 with the option of three (3) additional renewals, on an annual basis, upon agreement of both parties.

26 **TERMINATION:**

26.1 In addition to any other available remedies, either party may terminate this Contract if the other party fails to cure a specified default within seven (7) days of receiving
written notice of the default. The notice shall specify each such material breach, in reasonable detail.

26.2 Town may, at any time, terminate performance of the work, in whole or in part, for its own convenience. The Town may effect such termination by giving Consultant written Notice of Termination specifying the extent and effective date of termination. In case of termination, for convenience, Town shall pay Consultant for work satisfactorily completed, to the date of termination. The Town shall determine the portion of work completed.

26.3 If either party so terminates, the Consultant shall promptly deliver to the Town all drawings, computer programs, computer input and output, analysis, plans, photographic images, tests, maps, surveys and writer’s materials of any kind generated in the performance of its Services under this Contract up to and including the date of termination.

27 **SUSPENSION:** Without terminating or breaching this Contract, the Town may, at its pleasure, suspend fee services of the Consultant hereunder. Town may effect suspension by giving the Consultant written notice one (1) day in advance of the suspension date. Upon receipt of such notices the Consultant shall cease their work as efficiently as possible, to keep total charges to a minimum. The Town must specifically authorize any work performed during suspension. Since suspension and subsequent reactivation may inconvenience the Consultant, Town will endeavor to provide advance notice and minimize its use. After a suspension has been in effect for thirty days, the Consultant may terminate this Contract at will.

28 **ASSIGNMENT AND DELEGATION:** Except as stated, neither party may assign its rights or delegate its duties under this Contract without the express written approval of the other.

29 **SUBCONTRACTING:** Except subconsultant clearly identified and accepted in the Contractor’s Proposal, Consultant may employ subconsultants to perform the Services only with Town’s express prior written approval. Consultant is solely responsible for any compensation, insurance, and all clerical detail involved in employment of subconsultants.

30 **GOVERNING LAW AND VENUE:** The laws of the State of Colorado shall govern enforcement and interpretation of this Contract. Venue and jurisdiction for any court action filed regarding this agreement shall be only in Larimer County, Colorado.

31 **AUTHORITY:** This instrument forms a contract only when executed in writing by duly authorized representatives of Town and Consultant. By their signatures on this document, the signatories represent that they have actual authority to enter this Contract for the respective parties.

32 **INTEGRATION:** There are no other agreements on the same subject than expressly stated or incorporated in this Contract.

33 **UNLAWFUL EMPLOYEES, CONTRACTORS AND SUBCONTRACTORS:** Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor shall not knowingly contract with a subcontractor that (a) knowingly
employs or contracts with an illegal alien to perform work under this Contract or (b) fails to certify to the Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Contract.

34 **VERIFICATION REGARDING ILLEGAL ALIENS:** Contractor has confirmed the employment eligibility of all employees newly hired for employment to perform work under this Contract through participation in either the E-verify program administered jointly by the United States Department of Homeland Security and the Social Security Administration or the employment verification program of the Colorado Department of Labor & Employment.

35 **LIMITATION REGARDING E-VERIFY PROGRAM:** Contractor shall not use either E-verify or Colorado Department of Labor & Employment program procedures to undertake pre-employment screening of job applicants while performing this Contract.

36 **DUTY TO TERMINATE A SUBCONTRACT: EXCEPTIONS:** If Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Contractor shall, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien:

(a) notify the subcontractor and the Town within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(b) terminate the subcontract with the subcontractor if, within three days of receiving notice that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien, the subcontractor does not stop employing or contracting with the illegal alien.

37 **DUTY TO COMPLY WITH STATE INVESTIGATION:** Contractor shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation pursuant to C.R.S. 8-17.5-102 (5).

38 **DAMAGES FOR BREACH OF CONTRACT:** In addition to any other legal or equitable remedy the Town may be entitled to for a breach of this Contract, if the Town terminates this Contract, in whole or in part, due to Contractor's breach of any provision of this Contract, Contractor shall be liable for actual and consequential damages to the Town.

(Signature pages to follow.)
CONSORTIUM

[Signature] Scott C. Wilson
Title: Vice President – Development Services

January 26th, 2021
Date

STATE OF Colorado )
COUNTY OF Larimer ) ss

The foregoing instrument was acknowledged before me by Scott Wilson,
(Name of party signing)

as Vice President of Ayres Associates Inc
(Title of party signing) (Name of corporation)

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

27th day of January, 2021.

Witness my hand and official Seal.

My Commission expires 04/26/2021.

[Signature] Sarah Smith
Notary Public

SARAH SMITH
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164015921
MY COMMISSION EXPIRES APRIL 28, 2024
TOWN OF ESTES PARK:

By: Wendy Koenig
Title: Mayor

February 8, 2021
Date

STATE OF (COLORADO )
COUNTY OF (LARIMER)

The foregoing instrument was acknowledged before me by Wendy Koenig, as ____________, of the Town of Estes Park, a Colorado municipal corporation, on behalf of the corporation, this ____________ day of ____________, 2021.

Witness my hand and official Seal.

My Commission expires ____________.

BUNNY VICTORIA BEERS
Notary Public
State of Colorado
Notary ID # 20164028823
My Commission Expires 07-29-2024

Notary Public

APPROVED AS TO FORM:

Town Attorney
To: Honorable Mayor Koenig
   Board of Trustees

Through: Town Administrator Machalek

From: Jason Damweber, Deputy Town Administrator/Interim Community Development Director

Date: December 12, 2023


(Mark all that apply)

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

QUASI-JUDICIAL ☐ YES  ☒ NO

Objective:
Review and approve a contract amendment renewing the Town’s existing Professional Services Contract with SAFEbuilt Colorado, LLC for building safety services on behalf of the Town. The amendment would exercise a renewal clause in the current Contract to extend the Contract through CY 2024. Except for the renewed timeframe, the only other noteworthy update to the existing Contract is a CPI increase for the hourly charges.

Present Situation:
Since early 2019, the Town and SAFEbuilt have had a contractual agreement for staffing the Building Safety division in the Community Development Department and performing operational services and responsibilities in the division on behalf of the Town and community. This contract and the services performed pursuant to it have proven more than satisfactory over three years. Both Town staff and SAFEbuilt personnel are pleased with the contract and believe renewing it without material change is in all parties’ best interest.

Section 25 of the existing Contract reads as follows:
25. TERM: This Contract shall commence on January 1, 2020 and shall continue through December 31, 2020 with the option of four (4) additional renewals, on an annual basis, upon agreement of both parties.
Proposal:
The contract section above provides the authority for SAFEbuilt and the Town to renew the Contract for CY 2024. To ensure that all contract elements are including in a single, updated document, the Town and SAFEbuilt propose that an amendment to the Contract be approved that would exercise the fourth of the four renewal options in Sec. 25. Approving this amendment will add it to the current Contract and leave all remaining provisions in effect.

The renewal amendment is Amendment Five to the Contract (Attachment 2.)

A copy of the full existing contract, including Amendment Four, is included (Attachment 3.)

Advantages:
- Continues a positive model for providing building-safety services to the Town and community at a reasonable financial rate.
- Allows a currently mutually beneficial contractual relationship to continue.

Disadvantages:
- There is always an argument for providing Town services through a Town staffing and resource model.

Action Recommended:
Staff recommends approval of the contract amendment as drafted.

Finance/Resource Impact:
Approximately budget neutral, based on estimated costs and revenue. Estimated building-permit revenue in 2024 is approximately $637,000.

Level of Public Interest
Medium-to-high among contractors and builders; low among general public.

Sample Motions:
1. I move to approve/deny Resolution 106-23.

Attachments:
1. Resolution 106-23
2. Amendment Five / Professional Services Agreement between Town of Estes Park, Colorado and SAFEbuilt Colorado, LLC
3. Town of Estes Park, Colorado Professional Services Agreement with SAFEbuilt Colorado, LLC (Original Contract)
4. Town of Estes Park, Colorado Professional Services Agreement with SAFEbuilt Colorado, LLC (Amendment Four)
RESOLUTION 106-23

APPROVING AMENDMENT FIVE TO THE PROFESSIONAL SERVICES AGREEMENT WITH SAFEBUILT COLORADO LLC FOR BUILDING SAFETY SERVICES

WHEREAS, the Town Board desires to enter into an amendment to renew the professional services agreement referenced in the title of this resolution for the purpose of providing building safety services; and

WHEREAS, this agreement provided for four one-year renewals of the contract, of which this is the fourth; and

WHEREAS, the original agreement was approved by Town Board at its January 14, 2020 Town Board meeting, with an effective date of January 1, 2020; and

WHEREAS, on July 14, 2020 the Town Board approved Amendment One to the agreement, adding a permit technician to the staffing arrangement and modifying the fee schedule for Town-owned projects; and

WHEREAS, the first renewal of the agreement (Amendment Two) was approved by Town Board at its January 12, 2021 meeting; and

WHEREAS, the second renewal (Amendment Three) was approved by the Town Board at its December 14, 2021 meeting; and

WHEREAS, the third renewal (Amendment Four) was approved by the Town Board at its December 13, 2022 meeting.

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, Amendment Five to the SAFEBuilt Colorado LLC professional services agreement, as referenced in the title of this resolution, in substantially the form now before the Board.

DATED this 12TH day of DECEMBER, 2023.

TOWN OF ESTES PARK

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney
AMENDMENT FIVE
PROFESSIONAL SERVICES AGREEMENT
BETWEEN TOWN OF ESTES PARK, COLORADO
AND SAFEbuilt COLORADO, LLC

This Amendment is entered into to amend the Professional Services Agreement previously entered into on January 01, 2020, by and between Town of Estes Park, Colorado, (Town) and SAFEbuilt Colorado, LLC, a wholly owned subsidiary of SAFEbuilt, LLC, (Consultant). Town and Consultant shall be jointly referred to as the “Parties.”

Amendment Effective Date: Effective the 1st (first) day of the month following full execution by both Parties.

RECITALS AND REPRESENTATIONS

Town and Consultant entered into a Professional Services Agreement (Agreement), by which both Parties established the terms and conditions for service delivery for the period of January 01, 2020 through December 31, 2020 with the option of four (4) additional renewals, on an annual basis, upon agreement of both Parties; and

On July 15, 2020, Town and Consultant instituted Amendment One to the Agreement to add Permit Technician services; and

On January 19, 2021, Parties instituted Amendment Two to the Agreement to exercise the first of four (4) renewal options and extend the term of the Agreement through December 31, 2021; and

On December 14 2021, Parties instituted Amendment Three to the Agreement to exercise the second of four (4) renewal options and extend the term of the Agreement through December 31, 2022; and

On December 13, 2022, Parties instituted Amendment Four to the Agreement to exercise the third of four (4) renewal options and extend the term of the Agreement through December 31, 2023; and

Parties hereto now desire to amend the Agreement as set forth herein; and

NOW, THEREFORE

Agreement is hereby amended as set forth below:

A. Town and Consultant desire to exercise the fourth or four (4) renewal options provided for in Section 25. The terms of Agreement shall be extended for an additional twelve (12) month period of January 01, 2024 through December 31, 2024.

B. Agreement, Exhibit A, Section 6. Fee Schedule shall be replaced with and read in its entirety as follows:

6. Fee Schedule:

   ✓ Municipality will promptly notify Consultant of any revisions or amendments to Municipal Fee Schedule
   ✓ Municipality will periodically review its Municipal Fee Schedule and valuation tables and consider adjustment to reflect increases in the cost incurred by Consultant in providing Services
   ✓ Beginning January 01, 2021 and annually thereafter, the hourly rates listed shall be increased based upon the annual increase in the Department of Labor, Bureau of Labor Statistics or successor thereof, Consumer Price Index (United States City Average, All Items (CPI-U), Not Seasonally adjusted, All Urban Consumers, referred to herein as the “CPI”) from the previous calendar year, such increase, however, not to exceed 4% per annum. The increase will become effective upon publication of the applicable CPI data. If the index decreases, the rates listed shall remain unchanged.
   ✓ Consultant fees for Services provided pursuant to this Agreement will be as follows:
Service Fee Schedule:

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspection Service (permits issued prior to service start date)</td>
<td>$75.00 per inspection</td>
</tr>
<tr>
<td>Inspection Service (permits issued after service start date)</td>
<td>100% of Municipal Permit Fee as established by ordinance or resolution</td>
</tr>
<tr>
<td>Plan Review Services - excludes engineer review fees</td>
<td>100% of Municipal Plan Check Fee as established by ordinance or resolution</td>
</tr>
<tr>
<td>Structural Engineering Plan Review</td>
<td>$156.00 per hour – one (1) hour minimum</td>
</tr>
<tr>
<td>Building Official Services</td>
<td>Included in percentage of fees above</td>
</tr>
<tr>
<td>Permit Technician Service</td>
<td>Included in percentage of fees above</td>
</tr>
<tr>
<td>After Hours/Emergency Inspection Services</td>
<td>$100.00 per hour – two (2) hour minimum</td>
</tr>
<tr>
<td>Non-Permitted Activity (by request only)</td>
<td>$78.00 per hour – one (1) hour minimum</td>
</tr>
<tr>
<td>Investigative Services (by request only)</td>
<td>$78.00 per hour – one (1) hour minimum</td>
</tr>
<tr>
<td>Town Owned Projects</td>
<td>50% of applicable Municipal fees as established by ordinance or resolution</td>
</tr>
</tbody>
</table>

Note: Three percent (3%) of Consultant fees for Estes Park Community Outreach Program

All other provisions of the original Agreement shall remain in effect, to the extent not modified by Amendment.

IN WITNESS HEREOF, the undersigned have caused this Amendment to be executed in their respective names on the dates hereinafter enumerated.

Gary Amato, CAO
SAFEbuilt Colorado, LLC

November 27, 2023
Date

TOWN OF ESTES PARK:

Mayor
Date

ATTEST:

Town Clerk
Date

APPROVED AS TO FORM

Town Attorney
TOWN OF ESTES PARK, COLORADO
PROFESSIONAL SERVICES AGREEMENT
Building Department Service Including Code Compliant Plan Review and Inspection

The parties, the Town of Estes Park, Colorado (Town), a municipal corporation, and SAFEbuilt Colorado, LLC, a Colorado corporation, whose address is 3755 Precision Drive, Suite 140, Loveland, Colorado 80538, make this Agreement this 1st day of January, 2020, at the Town of Estes Park, Colorado, considering the following facts and circumstances:

1 RECITALS:

1.1 Town desires to use the services of Consultant outlined in Consultant's Proposal; and

1.2 Consultant has agreed to provide the Services outlined in its Proposal, on the terms and conditions stated in this Agreement.

2 CONTRACT: This Agreement is a Contract, representing the entire and integrated agreement between the parties and supersedes any prior negotiations, written or oral representations and agreements. The Agreement incorporates the following Contract Documents. In resolving inconsistencies between two or more of the Contract Documents, they shall take precedence in the order enumerated, with the first listed Contract Document having highest precedence.

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

2.1 This Agreement;

2.2 Consultant's Proposal, containing three (3) pages and titled Exhibit A, SAFEbuilt Scope of Services and Cost Proposal;

2.3 Performance, containing one (1) page and titled Exhibit B, SAFEbuilt Performance;

2.4 Community Core Solutions Software, containing one (1) page and titled Exhibit C, Community Core Solutions Terms and Conditions; and

2.4 Insurance Certificates.

3 SCOPE OF SERVICES: Consultant shall provide and furnish at its own cost and expense all materials, machinery, equipment, tools, superintendence, labor, insurance and other accessories and services necessary to provide its Services in strict accordance with the conditions and prices stated in the Contract Documents.

4 BEGINNING WORK AND COMPLETION SCHEDULE: The Consultant shall begin services under this Contract upon receiving Town's notice to proceed. Consultant shall timely perform its Services, according to the Performance Schedule attached to and incorporated into this Contract or as otherwise directed by Town.

5 PRICE: The Town will pay Consultant for the performance of this Agreement, for Services performed as stipulated in Exhibit A, Consultant's Proposal. This Agreement does not create
TOWN OF ESTES PARK, COLORADO
PROFESSIONAL SERVICES AGREEMENT

a multiple fiscal year direct or indirect debt or other financial obligation. Each request for
good shall incur a concurrent debt for that request only. All financial obligations of the
each under this Agreement are contingent upon appropriation, budgeting, and availability of
specify funds to discharge such obligations.

6 TIME OF PAYMENTS TO CONSULTANT: Consultant shall bill its charges to Town
periodically, but no more frequently than once a month. Each bill shall contain a statement of
the time the primary employees spent on the project since the previous bill, a brief description
of the Services provided by each such employee, and an itemization of direct expenses. Town
will pay each such bill which it finds to be in accordance with this Agreement within forty-
five (45) days of its receipt. If Town questions any part of a bill, finds any part of a bill does
not conform to this Agreement, or claims the right to withhold payment of any part of a bill,
it will promptly notify Consultant of the question, nonconformity or reasons for withholding.

7 QUALIFICATIONS ON OBLIGATIONS TO PAY: No partial payment shall be final
acceptance or approval of that part of the Services paid for, or shall relieve Consultant of any
of its obligations under this Agreement. Notwithstanding any other terms of this Agreement,
Town may withhold any payment (whether a progress payment or final payment) to
Consultant under the following conditions:

7.1 Consultant fails to promptly pay all bills for labor, material, or services of consultants
furnished or performed by others to perform Services.

7.2 Consultant is in default of any of its obligations under this Agreement or any of the
Contract Documents.

7.3 Any part of such payment is attributable to Services not conforming to this Agreement.
(Town will pay for any part attributable to conforming Services).

7.4 Town, in its good faith judgment, determines that the compensation remaining unpaid
will not be sufficient to complete the Services according to this Agreement.

8 CONSULTANT’S DUTIES:

8.1 Town enters into this Agreement relying on Consultant’s special and unique abilities
to perform the Services. Consultant accepts the relationship of trust and confidence
established between it and the Town by this Agreement. Consultant will use its best
efforts, skill, judgment, and abilities. Consultant will further the interests of Town
according to Town’s requirements and procedures, according to high professional
standards.

8.2 Consultant has and will undertake no obligations, commitments, or impediments of any
kind that will limit or prevent its performance of the Services, loyally, according to the
Town’s best interests. In case of any conflict between interests of Town and any other
entity, Consultant shall fully and immediately disclose the issue to Town and, without
Town’s express approval, shall take no action contrary to Town’s interests.
TOWN OF ESTES PARK, COLORADO
PROFESSIONAL SERVICES AGREEMENT

8.3 Consultant’s Services under this Agreement shall be of at least the standard and quality prevailing among recognized professionals of expert knowledge and skill engaged in the Consultant’s same profession under the same or similar circumstances.

8.4 Consultant's work, including drawings and other tangible work products provided to Town, will be accurate and free from any material errors, and will conform to the requirements of this Agreement. Town approval of defective drawings or other work shall not diminish or release Consultant's duties, since Town ultimately relies upon Consultant's skill and knowledge.

8.5 The Contract Documents determine whether the Consultant's Scope of Services includes detailed independent verification of data prepared or supplied by Town. Consultant will, nevertheless, call to Town's attention anything in any drawings, plans, sketches, instructions, information, requirements, procedures, or other data supplied to Consultant (by the Town or any other party) that Consultant knows, or reasonably should know, is unsuitable, improper, or inaccurate for Consultant's purposes.

8.6 Consultant shall attend such meetings on the work stated in this Agreement, as Town requires. Town will give reasonable notice of any such meetings, so Consultant may attend. Town will pay for any meeting time exceeding Consultant’s total estimate of included hours, according to Consultant’s fee schedule attached to Consultant’s proposal.

8.7 As applicable state and federal laws may require, Consultant will assign only persons duly licensed and registered to do work under this Agreement.

8.8 Consultant shall furnish efficient business administration and superintendence and perform the Services in the most efficient and economical manner consistent with the best interests of Town.

8.9 Consultant shall keep its books and records for Services and any reimbursable expenses according to recognized accounting principles and practices, consistently applied. Consultant shall make them available for the Town's inspection at all reasonable times. Consultant shall keep such books and records for at least three (3) years after completion of the Services.

9 TOWN'S DUTIES:

9.1 Town will provide full information to Consultant on Town's requirements in a timely manner.

9.2 Town will assist Consultant by providing such pertinent information available to Town, including maps, studies, reports, tests, surveys and other data, as Consultant specifically requests.

9.3 Town will examine all tests, reports, drawings, specifications, maps, plans and other documents presented by Consultant to Town for decisions. Town will obtain the advice
TOWN OF ESTES PARK, COLORADO
PROFESSIONAL SERVICES AGREEMENT

of other consultants, as the Town thinks appropriate. Town will give decisions to the Consultant in writing within a reasonable time.

9.4 Town will appoint a person to act as Town's representative on this Agreement. This person will have authority to issue instruction, receive information, interpret and define Town's policies and decisions on Consultant's Services.

9.5 Town will give prompt written notice to the Consultant when the Town notices any development that affects the scope or timing of the Services.

10 USE OF FINAL PRODUCT: Consultant may have limited involvement after the completion of this Agreement and lacks control of the future use of Consultant's work. Except for deficiencies in Consultant's performance under this Agreement, future use and interpretation of Consultant's work is at the risk of Town or other users.

10.1 Consultant will keep record copies of all work product items delivered to Town.

11 OWNERSHIP OF DOCUMENTS AND OTHER MATERIALS: All drawings, specifications, computations, sketches, test data, survey results, renderings, models, and other materials peculiar to the Services of Consultant or Consultant's consultants under this Agreement are property of Town, for its exclusive use and re-use at any time without further compensation and without any restrictions. Consultant shall treat all such material and information as confidential, and Consultant shall neither use any such material or information or copies on other work nor disclose such material or information to any other party without Town's prior written approval. Upon completion of Services, or at such other time as the Town requires, Consultant shall deliver to the Town a complete, reproducible set of all such materials. For copyright ownership under the Federal Copyright Act, Consultant conveys to Town and waives all rights, title and interest to all such materials in written, electronic or other form, prepared under this Agreement. Town shall have worldwide reprint and reproduction rights in all forms and in all media, free of any claims by the Consultant or its consultants and subcontractors. The Town's rights, granted above, in drawing details, designs and specifications that are Consultant's standard documents for similar projects, and in Consultant's databases, computer software and other intellectual property developed, used or modified in performing Services under this Agreement are not exclusive, but joint rights, freely exercisable by either the Town or the Consultant.

All design documents, including drawings, specifications, and computer software prepared by Consultant according to this Agreement comprise Consultant's design for a specific project. Neither party intends or represents them as suitable for reuse, by Town or others, as designs for extension of that same project or for any other project. Any such reuse without prior written verification or adaptation by Consultant for the specific purpose intended will be at user's sole risk and without liability or legal exposure to Consultant. Except as required for performance under this Agreement, Consultant's verification or adaptation of design documents will entitle Consultant to additional compensation at such rates as Consultant may agree.

12 CHANGE ORDERS: Town reserves the right to order work changes in the nature of additions, deletions, or modifications, without invalidating this Agreement, and agrees to make corresponding adjustments in the contract price and time for completion. All changes
TOWN OF ESTES PARK, COLORADO
PROFESSIONAL SERVICES AGREEMENT

will be authorized by a written change order signed by Town. Work shall be changed, and the contract price and completion time shall be modified only as set out in the written change order. Town shall issue no Change Order or other form of order or directive requiring additional compensable work that will cause the Price to exceed the amount approved.

13 SERVICE OF NOTICES: The parties may give each other required notices in person or by first class mail to their authorized representatives (or their successors) at the addresses listed below:

TOWN OF ESTES PARK:
Randy Hunt, Community Development Director
Town of Estes Park
PO Box 1200
Estes Park, CO 80517

CONSULTANT:
Joe DeRosa, Interim CRO
SAFEbuilt, LLC
3755 Precision Drive, Suite 140
Loveland, Colorado 80538

14 COMPLIANCE WITH LAW: Consultant will perform this Agreement in strict compliance with applicable federal, state, and municipal laws, rules, statutes, charter provisions, ordinances, and regulations (including sections of the Occupational Safety and Health Administration (OSHA) regulations, latest revised edition, providing for job safety and health protection for workers) and all orders and decrees of bodies or tribunals applicable to work under this Agreement. Consultant shall protect and indemnify Town against any claim or liability arising from or based on the violations of any such law, ordinance, regulation, order, or decree by itself or by its subcontractors, agents, or employees. Town assumes no duty to ensure that Consultant follows the safety regulations issued by OSHA.

15 PERMITS AND LICENSES: Consultant shall secure all permits and licenses, pay all charges, files, and taxes and give all notices necessary and incidental to the lawful prosecution of its Services.

16 PATENTED DEVICES, MATERIALS AND PROCESSES: Consultant shall hold and save harmless Town from all claims for infringement, by reason of use of any patented design, device, material, process, or trademark or copyright and shall indemnify Town for any costs, expenses, and damages, including court costs and attorney fees, incurred by reason of actual or alleged infringement during the prosecution or after completion of Services.

17 INSURANCE: Consultant shall, at its own costs, secure and continuously maintain through the term of this Agreement the minimum insurance coverages listed below, with forms and insurers acceptable to Town. In addition, Consultant shall maintain such coverages for the insurance listed in Paragraphs 17.1, 17.3 and 17.4 for two additional years. For any claims-made policy, Consultant shall include the necessary retroactive dates and extended reporting periods to maintain continuous coverage.

17.1 Professional liability/errors and omissions for at least $1,000,000.

17.2 Workers' compensation according to the Workers' Compensation Act of the State of Colorado and Employer's liability with limits of at least $500,000.
TOWN OF ESTES PARK, COLORADO
PROFESSIONAL SERVICES AGREEMENT

17.3 General liability, including contractual liability, of at least $1,000,000 per each occurrence plus an additional amount adequate to pay related attorneys' fees and defense costs. Coverage shall include bodily injury, property damage, personal injury, and contractual liability.

17.4 Comprehensive automobile liability with minimum limits for bodily injury and property damage coverage of at least $1,000,000 per each occurrence plus an additional amount adequate to pay related attorneys' fees and defense costs, for each of Consultant's owned, hired or non-owned vehicles assigned to or used in performance of this Agreement.

17.5 Valuable papers insurance in an amount adequate to assure the restoration of any plans, drawings, field notes, or other similar data related to the services covered by this Agreement in case of their loss or destruction.

17.6 The required general liability and comprehensive automobile liability policies shall contain endorsements to include Town and its officers and employees as additional insureds. The required professional liability and workers' compensation policies or coverages shall not contain endorsements including Town, its officers or employees as additional insureds. Every policy required above shall be primary insurance. Any insurance or self-insurance benefits carried by Town, its officers, or its employees, shall be excess and not contributory to that provided by Consultant.

17.7 Consultant shall, upon request, provide Town a certified copy of each required policy.

17.8 As evidence of the insurance coverages required by this Agreement, before beginning work under this Agreement, Consultant shall furnish certificates of insurance certifying that at least the minimum coverages required here are in effect and specifying the liability coverages (except for professional liability) are written on an occurrence form to:

Town of Estes Park
P.O. Box 1200
Estes Park, CO 80517
Attention: Community Development Director

With the exception of professional liability and workers' compensation, policy or policies providing insurance as required will defend and include the Town, its Board, officers, agents and employees as additional insureds on a primary basis for work performed under or incidental to this Contract. Required insurance policies shall be with companies qualified to do business in Colorado with a general policyholder's financial rating acceptable to the Town. The policies shall not be cancelable or subject to reduction in coverage limits or other modification except after thirty (30) days prior written notice to the Town. Comprehensive general and automobile policies shall be for the mutual and joint benefit and protection of the Consultant and the Town. These policies shall provide that the Town, although named as an additional insured, shall nevertheless be entitled to recover under said policies for any loss occasioned to it, its officers, employees, and agents by reason of acts or omissions of the Consultant, its
TOWN OF ESTES PARK, COLORADO
PROFESSIONAL SERVICES AGREEMENT

officers, employees, agents, sub-consultants, or business invitees. They shall be written as primary policies not contributing to and not in excess of coverage the Town may carry.

17.9 If Consultant is self-insured under the laws of the State of Colorado, Consultant shall provide appropriate declarations and evidence of coverage.

17.10 Consultant shall not cancel, change, or fail to renew required insurance coverages. Consultant shall notify Town's risk manager of any reduction or exhaustion of aggregate limits, which Town may deem to be a breach of this Agreement.

17.11 Town relies on, and does not waive or intend to waive, by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S., as from time to time amended, or otherwise available to the parties, their officers, or their employees.

17.12 If any insurance required here is to be issued or renewed on a claims-made form as opposed to an occurrence form, the retroactive date for coverage will be no later than the commencement date of the project and will state that in the event of cancellation or nonrenewal, the discovery period for insurance claims (tail coverage) will be at least 72 months.

17.13 Consultant shall not cancel, non-renew or cause insurance to be materially changed or replaced by another policy without prior approval by Town.

18 INDEMNIFICATION:

18.1 Consultant and its agents, principals, officers, partners, employees, and subcontractors ("Indemnitors") shall and do agree to indemnify, protect, and hold harmless Town, its officers, employees, and agents ("Indemnitees") from all claims, damages, losses, liens, causes of actions, suits, judgments, and expenses (including attorneys’ fees), of any nature, kind, or description ("Liabilities") by any third party arising out of, caused by, or resulting from any Services under this Agreement if such Liabilities are: (1) attributable to bodily injury, personal injury, sickness, disease, or death of any person, or to the injury or destruction of any tangible property (including resulting loss of use or consequential damages) and (2) caused, in whole or in part, by any error, omission or negligent act of Consultant, anyone directly or indirectly employed by it, or anyone for whose acts Consultant may be liable.

18.2 If more than one Indemnitor is liable for any error, omission or negligent act covered by this Agreement, each such Indemnitor shall be jointly and severally liable to the Indemnitees for indemnification and the Indemnitors may settle ultimate responsibility among themselves for the loss and expense of any such indemnification by separate proceedings and without jeopardy to any Indemnitee. This Agreement shall not eliminate or reduce any other right to indemnification or other remedy the Town, or any of the Indemnitees, may have by law.
18.3 As part of this indemnity obligation, Consultant shall compensate Town for any time the Town Attorney's Office and other counsel to Town reasonably spend on such claims or actions at the rates generally prevailing among private practitioners in the Town of Estes Park for similar services. This obligation to indemnify Town shall survive the termination or expiration of this Agreement.

19 INDEPENDENT CONTRACTOR: Consultant shall perform all Services under this Agreement as an independent contractor, and not as an agent or employee of Town. No employee or official of Town shall supervise Consultant. Consultant shall exercise no supervision over any employee or official of Town. Consultant shall not represent that it is an employee or agent of Town in any capacity. Consultant's officers, employees and agents are not entitled to Workers' Compensation benefits and is obligated to pay federal and state Income tax on money earned under this Agreement. Except as this Agreement expressly states, Consultant shall, at its sole expense, supply all buildings, equipment and materials, machinery, tools, superintendence, personnel, insurance and other accessories and Services necessary. This Agreement is not exclusive; subject the terms of this Agreement, Town and Consultant may each contract with other parties.

20 PROVISIONS CONSTRUED AS TO FAIR MEANING: Any tribunal enforcing this Agreement shall construe its terms as to their fair meaning, and not for or against any party based upon any attribution to either party.

21 HEADINGS FOR CONVENIENCE: All headings, captions and titles are for convenience and reference only and of no meaning in the interpretation or effect of this Agreement.

22 NO THIRD-PARTY BENEFICIARIES: The parties intend no third-party beneficiaries under this Agreement. Any person besides Town or Consultant receiving services or benefits under this Agreement is an incidental beneficiary only.

23 TOWN'S RIGHT TO BAR PERSONNEL FROM WORK SITE: For conduct the Town (in its sole discretion) decides may violate applicable laws, ordinances rules or regulations, or may expose Town to liability or loss, Town may bar any person (including Consultant's and Subcontractor's employees) from Town's work sites. Such a bar shall not require any employee's discharge from employment, but shall merely prohibit the employee's presence at Town's work sites. Such a bar shall not warrant an increase in contract time or Price.

24 WAIVER: No waiver of any breach or default under this Agreement shall waive any other or later breach or default.

25 TERM: This Contract shall commence on January 1, 2020 and shall continue through December 31, 2020 with the option of four (4) additional renewals, on an annual basis, upon agreement of both parties.

26 TERMINATION:

26.1 In addition to any other available remedies, either party may terminate this Agreement if the other party fails to cure a specified default within seven (7) days of receiving
written notice of the default. The notice shall specify each such material breach, in reasonable detail.

26.2 Town may, at any time, terminate performance of the work, in whole or in part, for its own convenience. Town may effect such termination by giving Consultant written Notice of Termination specifying the extent and effective date of termination. In case of termination, for convenience, Town shall pay Consultant for work satisfactorily completed, to the date of termination. Town shall determine the portion of work completed.

26.3 If either party so terminates, Consultant shall promptly deliver to Town all drawings, computer programs, computer input and output, analysis, plans, photographic images, tests, maps, surveys and writer’s materials of any kind generated in the performance of its Services under this Agreement up to and including the date of termination.

27 SUSPENSION: Without terminating or breaching this Agreement, Town may, at its pleasure, suspend fee services of Consultant hereunder. Town may effect suspension by giving Consultant written notice one (1) day in advance of the suspension date. Upon receipt of such notices, Consultant shall cease their work as efficiently as possible, to keep total charges to a minimum. Town must specifically authorize any work performed during suspension. Since suspension and subsequent reactivation may inconvenience Consultant, Town will endeavor to provide advance notice and minimize its use. After a suspension has been in effect for thirty (30) days, Consultant may terminate this Agreement at will.

28 ASSIGNMENT AND DELEGATION: Except as stated, neither party may assign its rights or delegate its duties under this Agreement without the express written approval of the other.

29 SUBCONTRACTING: Except subcontractors clearly identified and accepted in the Contractor's Proposal, Consultant may employ subcontractors to perform the Services only with Town’s express prior written approval. Consultant is solely responsible for any compensation, insurance, and all clerical detail involved in employment of subcontractors.

30 GOVERNING LAW AND VENUE: The laws of the State of Colorado shall govern enforcement and interpretation of this Agreement. Venue and jurisdiction for any court action filed regarding this Agreement shall be only in Larimer County, Colorado.

31 AUTHORITY: This instrument forms a contract only when executed in writing by duly authorized representatives of Town and Consultant. By their signatures on this document, the signatories represent that they have actual authority to enter this Agreement for the respective parties.

32 INTEGRATION: There are no other agreements on the same subject than expressly stated or incorporated in this Agreement.

33 UNLAWFUL EMPLOYEES, CONTRACTORS AND SUBCONTRACTORS: Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor shall not knowingly contract with a subcontractor that (a) knowingly employs or contracts with an illegal alien to perform work under this Contract or (b) fails to
TOWN OF ESTES PARK, COLORADO
PROFESSIONAL SERVICES AGREEMENT

certify to the Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Contract.

34 VERIFICATION REGARDING ILLEGAL ALIENS: Contractor has confirmed the employment eligibility of all employees newly hired for employment to perform work under this Contract through participation in either the E-verify program administered jointly by the United States Department of Homeland Security and the Social Security Administration or the employment verification program of the Colorado Department of Labor & Employment.

35 LIMITATION REGARDING E-VERIFY PROGRAM: Contractor shall not use either E-verify or Colorado Department of Labor & Employment program procedures to undertake pre-employment screening of job applicants while performing this Contract.

36 DUTY TO TERMINATE A SUBCONTRACT; EXCEPTIONS: If Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Contractor shall, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien:

(a) notify the subcontractor and the Town within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(b) terminate the subcontract with the subcontractor if, within three days of receiving notice that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien, the subcontractor does not stop employing or contracting with the illegal alien.

37 DUTY TO COMPLY WITH STATE INVESTIGATION: Contractor shall comply with any reasonable request of the Colorado Department of Labor & Employment made in the course of an investigation pursuant to C.R.S. 8-17.5-102 (5).

38 DAMAGES FOR BREACH OF CONTRACT: In addition to any other legal or equitable remedy Town may be entitled to for a breach of this Contract, if Town terminates this Contract, in whole or in part, due to Contractor's breach of any provision of this Contract, Contractor shall be liable for actual and consequential damages to Town.
TOWN OF ESTES PARK, COLORADO
PROFESSIONAL SERVICES AGREEMENT

CONSULTANT:

BY: THOMAS P. WILKAS, CHIEF FINANCIAL OFFICER

ACKNOWLEDGMENT

STATE OF Colorado ss
COUNTY OF Larimer

The foregoing instrument was acknowledged before me this 29 day of January, 2019 by Thomas P. Wilkas, Chief Financial Officer, Consultant.

Witness my hand and official seal.

My Commission Expires 4.27.23

AMANDA GILLIAM
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20154018445
MY COMMISSION EXPIRES APRIL 27, 2023

Notary Public
TOWN OF ESTES PARK, COLORADO
PROFESSIONAL SERVICES AGREEMENT

TOWN OF ESTES PARK:

Mayor

Town Clerk

APPROVED AS TO FORM:

Town Attorney
AMENDMENT FOUR
PROFESSIONAL SERVICES AGREEMENT
BETWEEN TOWN OF ESTES PARK, COLORADO
AND SAFEbuilt COLORADO, LLC

This Amendment is entered into to amend the Professional Services Agreement previously entered into on January 01, 2020, by and between Town of Estes Park, Colorado (Town) and SAFEbuilt Colorado, LLC, a wholly owned subsidiary of SAFEbuilt, LLC, (Consultant). Town and the Consultant shall be jointly referred to as the “Parties”.

Amendment Effective Date: This Amendment shall be effective on January 1, 2023.

RECITALS AND REPRESENTATIONS

Town and Consultant entered into a Professional Services Agreement (Agreement), by which both Parties established the terms and conditions for service delivery for the period of January 01, 2020 through December 31, 2020 with the option of four (4) additional renewals, on an annual basis, upon agreement of both Parties; and

On July 15, 2020, Town and Consultant instituted Amendment One to the Agreement to add Permit Technician services; and

On January 19, 2021, Parties instituted Amendment Two to the Agreement to exercise the first of four (4) renewal options and extend the term of the Agreement through December 31, 2021; and

On December 14 2021, Parties instituted Amendment Three to the Agreement to exercise the second of four (4) renewal options and extend the term of the Agreement through December 31, 2022; and

Parties hereto now desire to amend the Agreement as set forth herein; and

NOW, THEREFORE

Agreement is hereby amended as set forth below:

1. Town and Consultant desire to exercise the third of four (4) renewal options provided for in Section 25. The term of Agreement shall be extended for an additional twelve (12) month period of January 01, 2023 through December 31, 2023.

All other provisions of the original Agreement shall remain in effect, to the extent not modified by Amendment.

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed in their respective names on the dates hereinafter enumerated.

Gary Amato, CAO
SAFEbuilt Colorado, LLC

November 28, 2022
Date

TOWN OF ESTES PARK:

Mayor

12/13/2022
Date

ATTEST:

Town Clerk

12/13/2022
Date

APPROVED AS TO FORM:

Town Attorney

AGREEMENT AMENDMENT
Memo

To: Honorable Mayor Koenig
    Board of Trustees

Through: Town Administrator Machalek

From: Jackie Williamson, Town Clerk

Date: December 12, 2023

RE: Resolution 107-23 Officially Scheduling the Regular Municipal Election – April 2, 2024

(Mark all that apply)

☐ PUBLIC HEARING ☐ ORDINANCE ☐ LAND USE
☐ CONTRACT/AGREEMENT ☑ RESOLUTION ☐ OTHER___________

QUASI-JUDICIAL ☐ YES ☑ NO

Objective:
To officially set the next regular Municipal Election on April 2, 2024 per State Statute, determine election method (poll vs. mail ballot) and identify the Town Clerk as the Designated Election Official.

Present Situation:
The Municipal Election Code provides that all regular elections in statutory towns shall be held on the first Tuesday of April in each even-numbered year. As a statutory town, Estes Park must comply with the statues outlined in Title 31 Article 10.

In the past few elections, the Town has held mail ballot elections due the number of permanent mail ballot voters and the higher turnout experienced (20-30% for poll vs 50-60% for mail).

Proposal:
The Resolution would set the election for April 2, 2024 as a mail ballot election and designate the Town Clerk as the Designated Election Official for the Town of Estes Park, thereby giving authority to complete all aspects of the Municipal Election, including the appointment of election judges. Electronic equipment would be rented from ES&S to count the ballots. ES&S would also be used to set up the ballot layout for the printer.

Advantages:
Provides the Town Clerk the authority to perform all aspects of the election.

Disadvantages:
None.
Action Recommended:
Approval of Resolution 107-23 setting the regular Municipal Election for April 2, 2024.

Finance/Resource Impact:
The cost is estimated at $35,000 in fixed costs budgeted for the election in the Town Clerk fund. This does not include staff time.

Level of Public Interest
Low.

Sample Motion:
I move for the approval/denial of Resolution 107-23.

Attachments:
1. Resolution 107-23
RESOLUTION 107-23

A RESOLUTION DIRECTING THE TOWN CLERK TO CONDUCT THE REGULAR MUNICIPAL ELECTION, SCHEDULED FOR APRIL 2, 2024, AS A MAIL BALLOT ELECTION AND AUTHORIZING THE TOWN CLERK TO APPOINT ELECTION JUDGES

WHEREAS, by the ordinances of the Town of Estes Park and the statutes of the State of Colorado, the 2nd day of April, 2024 is fixed as the time for a regular municipal election to elect the Mayor and four (4) Trustees; and

WHEREAS, it is the duty of the Board of Trustees to provide for the holding of such an election; and

WHEREAS, it is the decision of the Town Board by the adoption of this Resolution to hold the regular municipal election of April 2, 2024 by mail ballot pursuant to the provisions of sections 31-10-907 through 31-10-913, C.R.S.; and

WHEREAS, section 31-10-401, C.R.S., allows the Board of Trustees to delegate to the Town Clerk, by resolution, the authority and responsibility to appoint the judges of election.

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

1. Pursuant to the provisions of sections 31-10-907 through 31-10-913, C.R.S. the regular municipal election of April 2, 2024 shall be a mail ballot election.

2. The Town Clerk is hereby appointed as the designated election official for the Town of Estes Park for the conduct of this mail ballot election.

3. There shall be one (1) precinct for this mail ballot election. The mail ballot location for said precinct shall be the Estes Park Town Hall, 170 MacGregor Avenue, Estes Park, Colorado 80517.

4. Pursuant to section 31-10-201(1)(b), C.R.S., to be eligible to vote in this regular mail ballot election a person must be at least eighteen (18) years of age, a resident of the town, and a resident of the State of Colorado for twenty-two (22) days immediately preceding the election.

5. An electronic voting system shall be used in the election and the Town Clerk is hereby authorized and directed to perform all acts and functions necessary for the use of such electronic voting system as required by the laws of the State of Colorado pertaining thereto.

6. Pursuant to section 31-10-401, C.R.S., the Town Clerk is hereby delegated the authority and responsibility to appoint judges of the election at least fifteen (15) days before the election day.

7. The judges of election shall receive for their services $15 per hour.

8. The Town Clerk shall establish the form of the regular mail election ballot.

9. The Town Clerk shall, at the expense of the Town, arrange for such materials and supplies for such election as may be necessary.

DATED this ______ day of __________________, 2023.

TOWN OF ESTES PARK

Mayor

ATTEST:

__________________________

Town Clerk

APPROVED AS TO FORM:

__________________________

Town Attorney
6. Pursuant to section 31-10-401, C.R.S., the Town Clerk is hereby delegated the authority and responsibility to appoint judges of the election at least fifteen (15) days before the election day.

7. The judges of election shall receive for their services $15 per hour.

8. The Town Clerk shall establish the form of the regular mail election ballot.

9. The Town Clerk shall, at the expense of the Town, arrange for such materials and supplies for such election as may be necessary.

DATED this _____ day of ________________, 2023.

TOWN OF ESTES PARK

________________________________________
Mayor

ATTEST:

________________________________________
Town Clerk

APPROVED AS TO FORM:

________________________________________
Town Attorney
Memo

To: Honorable Mayor Koenig
    Board of Trustees
Through: Town Administrator Machalek
From: Joe Lockhart, Line Superintendent; Tyler Boles, Line Supervisor
Date: December 12, 2023
RE: Resolution 108-23 Service Contract For High-Voltage Power Line Tree Trimming Services with Adam's Tree Service, $376,396.80, Budgeted

(Mark all that apply)

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

QUASI-JUDICIAL ☐ YES  ☑ NO

Objective:
To ensure the safety and reliability of our electric service infrastructure, Power and Communications requests approval to award the 2024-2028 Service Contract for high-voltage power line tree trimming to Adam’s Tree Service.

Present Situation:
Our current tree trimming contract expires at the end of 2023. Staff received two responses to our Invitation for Bid (IFB). Adam’s Tree Service submitted the lowest rates and continues to meet our needs as defined in the scope of work.

Adam’s Tree Service
2024: $361,920.00
2025: $367,348.80
2026: $372,840.00
2027: $378,456.00
2028: $384,134.40

Proposal:
We propose to accept the bid from Adam’s Tree Service for the 2024-2028 Service Contract for high-voltage power line tree trimming. The Town is very familiar with the quality of Adam’s Tree Service’s work, having worked with them for the past five years. Their work performance and cooperation have been consistently high quality and reliable. As an established local business, they have significant local ties and support. Their pricing is reasonable and consistent with our last contract. We are proposing to approve the proposed annual amount bid plus an additional four percent for contingencies.
Advantages:
• Regular tree trimming around overhead high-voltage power lines enhances service reliability, minimizes outages, and reduces fire hazards.
• Adam’s Tree Service, a local business with a good reputation and a current Town business license, reduces reactive calls from curious customers thanks to their familiarity with our communities and experience communicating with our customers.

Disadvantages:
• While acknowledging the sacred and vital role of trees in our habitat and environment, it is imperative to consider that tree trimming emerges as the most cost-effective near-term solution for our community. Given the high cost of living in our area, raising electricity rates to pursue alternative solutions would impose an additional financial burden on residents who are already grappling to pay their electric bill to keep their homes heated and medical devices running.

Action Recommended:
Staff recommends approval of the resolution approving the tree trimming service agreement.

Finance/Resource Impact:
502-6301-540.25-32 – Power & Communications Distribution/Overhead Maintenance/Tree Trimming Budget $376,396.80, included in the proposed 2024 budget

Level of Public Interest
High, Safety and reliability of service has always been of high interest of the public.

Sample Motion:
I move for the approval/denial of Resolution 108-23.

Attachments:
1. Resolution 108-23
2. Service Contract
RESOLUTION 108-23

APPROVING A SERVICE CONTRACT FOR HIGH-VOLTAGE POWER LINE TREE TRIMMING SERVICES WITH ADAM’S TREE SERVICE

WHEREAS, the Utilities Department issued an invitation for bids for high-voltage power line tree trimming services for a five-year period to have one full-time, year-round three-person crew to trim trees and foliage from and around high voltage (7,200/1,370 volts) power lines on both single phase and three phase primary lines between Estes Park, Allenspark, Glen Haven and other areas as assigned within our service area; and

WHEREAS, the cost is included in the approved 2024 budget as an annually reoccurring expense.

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 with Adam’s Tree Service in substantially the form now before the Board.

DATED this _____ day of ______________, 2023.

TOWN OF ESTES PARK

________________________________________
Mayor

ATTEST:

________________________________________
Town Clerk

APPROVED AS TO FORM:

________________________________________
Town Attorney
TOWN OF ESTES PARK, COLORADO SERVICES CONTRACT
High Voltage Power Line Tree Trimming 2024 thru 2028

The parties, the Town of Estes Park, Colorado (Town), a municipal corporation, and Adam’s Tree Service (Contractor), a Colorado corporation, whose address is 3813 Dollar Lake Dr., Estes Park, CO 80517, make this Contract this ________ day of __________________, 2023, at the Town of Estes Park, Colorado, considering the following facts and circumstances:

1 RECITALS:

1.1 Town desires to use the services of Contractor outlined in Contractor’s Proposal; and;

1.2 Contractor has agreed to provide the Services outlined in its Proposal, on the terms and conditions stated in this Contract.

2 CONTRACT: This Agreement is a Contract, representing the entire and integrated agreement between the parties and supersedes any prior negotiations, written or oral representations and agreements. The Agreement incorporates the following Contract Documents. In resolving inconsistencies between two or more of the Contract Documents, they shall take precedence in the order enumerated, with the first listed Contract Document having highest precedence.

The Contract Documents, except for amendments executed after execution of this Contract, are:

2.1 Change Orders;

2.2 Notice to Proceed;

2.3 This Contract;

2.4 The following Special Conditions of the Contract, if any:

i. Vegetation Management Procedures, dated October 25, 2018, containing 17 pages;

2.5 Notice of Award;

2.6 Exhibit A, Invitation for Bid, published September 6, 2023, containing 7 pages (except that due to a change in state law, section 22 is hereby deleted), with the following attachments:

i. Attachment 1, Project Specifications, containing 9 pages, published September 6, 2023;

2.7 Contractor’s Proposal, containing 9 pages, dated September 20, 2023; and
2.8 Insurance Certificates.

3 SCOPE OF SERVICES: Contractor shall provide and furnish at its own cost and expense all materials, machinery, equipment, tools, superintendence, labor, insurance and other accessories and services necessary to provide its Services in strict accordance with the conditions and prices stated in the Contract Documents.

4 BEGINNING WORK AND COMPLETION SCHEDULE: The Contractor shall begin services under this Contract upon receiving Town’s notice to proceed. Contractor shall timely perform its Services, according to the Performance Schedule in the Contractor’s Proposal or as otherwise directed by Town.

5 PRICE: The Town will pay Contractor for the performance of this Contract hourly as described in the Contractor’s Proposal, but not to exceed $376,396.80 for work performed in 2024 and, contingent on renewal as described in Section 21, not to exceed the following amounts for each of the remaining years: $382,042.75 for 2025; $387,753.60 for 2026; $393,594.24 for 2027; and $399,499.78 for 2028. This Contract does not create a multiple fiscal year direct or indirect debt or other financial obligation. Each request for service shall incur a concurrent debt for that request only. All financial obligations of the Town under this Contract are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations.

6 TIME OF PAYMENTS TO CONTRACTOR: The Contractor shall bill its charges to the Town periodically, but no more frequently than twice a month. Each bill shall contain a statement of the time the primary employees spent on the Services since the previous bill, a brief description of the Services provided by each such employee, and an itemization of direct expenses. The Town will pay each such bill which it finds to be in accordance with this Contract within forty-five days of its receipt. If Town questions any part of a bill, finds any part of a bill does not conform to this Contract, or claims the right to withhold payment of any part of a bill, it will promptly notify Contractor of the question, nonconformity or reasons for withholding.

7 QUALIFICATIONS ON OBLIGATIONS TO PAY: No partial payment shall be final acceptance or approval of that part of the Services paid for, or shall relieve Contractor of any of its obligations under this Contract. Notwithstanding any other terms of this Contract, Town may withhold any payment (whether a progress payment or final payment) to Contractor under the following conditions:

7.1 Contractor fails to promptly pay all bills for labor, material, or services of consultants furnished or performed by others to perform Services.

7.2 Contractor is in default of any of its obligations under this Contract or any of the Contract Documents.

7.3 Any part of such payment is attributable to Services not conforming to this Contract. (Town will pay for any part attributable to conforming Services).
7.4 Town, in its good faith judgment, determines that the compensation remaining unpaid will not be sufficient to complete the Services according to this Contract.

8 CHANGE ORDERS: Town reserves the right to order work changes in the nature of additions, deletions, or modifications, without invalidating this agreement, and agrees to make corresponding adjustments in the contract price and time for completion. All changes will be authorized by a written change order signed by Town. Work shall be changed, and the contract price and completion time shall be modified only as set out in the written change order.

9 SERVICE OF NOTICES: The parties may give each other required notices in person or by first class mail or by email to their authorized representatives (or their successors) at the addresses listed below:

TOWN OF ESTES PARK: CONTRACTOR:
Tyler Boles, Line Supervisor Brian Schulthies, Adam’s Tree Service
Town of Estes Park, Utilities, PO Box 1200 Owner/Operator, 3813 Dollar Lake Drive,
Estes Park CO Estes Park, CO 80517

10 COMPLIANCE WITH LAW: Contractor will perform this Contract in strict compliance with applicable federal, state, and municipal laws, rules, statutes, charter provisions, ordinances, and regulations (including sections of the Occupational Safety and Health Administration [OSHA] regulations, latest revised edition, providing for job safety and health protection for workers) and all orders and decrees of bodies or tribunals applicable to work under this Contract. Contractor shall protect and indemnify Town against any claim or liability arising from or based on the violations of any such law, ordinance, regulation, order, or decrees by itself or by its subcontractors, agents, or employees. Town assumes no duty to ensure that Contractor follows the safety regulations issued by OSHA.

11 PERMITS AND LICENSES: The Contractor shall secure all permits and licenses, pay all charges, files, and taxes and give all notices necessary and incidental to the lawful prosecution of its Services. Anyone conducting business in the Town of Estes Park is required to have a business license which can be obtained from the Town Clerk’s Office.

12 PATENTED DEVICES, MATERIALS AND PROCESSES: The Contractor shall hold and save harmless the Town from all claims for infringement, by reason of fee use of any patented design, device, material, process, or trademark or copyright and shall indemnify the Town for any costs, expenses, and damages, including court costs and attorney fees, incurred by reason of actual or alleged infringement during the prosecution or after completion of Services.

13 INSURANCE: Contractor shall, at its own costs, secure and continuously maintain through the term of this Contract the minimum insurance coverages listed below, with forms and insurers acceptable to Town. In addition, Contractor shall maintain such coverages for the insurance listed in Paragraphs 13.2 and 13.3 for two additional years. For any claims-made
policy, Contractor shall include the necessary retroactive dates and extended reporting periods to maintain continuous coverage.

13.1 Workers’ Compensation according to the Workers’ Compensation Act of the State of Colorado and Employer's Liability with limits of at least $500,000. Contractor shall require any subcontractor hired by the Contractor to carry Workers’ Compensation and Employer’s Liability coverage.

13.2 General liability, with minimum limits for bodily injury and property damage coverage of at least $1,000,000 per each person and $2,000,000 per each accident, plus an additional amount adequate to pay related attorneys' fees and defense costs. Coverage shall include bodily injury, property damage, personal injury, public liability, and contractual liability.

13.3 Comprehensive Automobile Liability with minimum limits for bodily injury and property damage coverage of at least $1,000,000 per each occurrence plus an additional amount adequate to pay related attorneys’ fees and defense costs, for each of Contractor’s owned, hired or non-owned vehicles assigned to or used in performance of this Contract.

13.4 The required general liability and comprehensive automobile liability policies shall contain endorsements to include Town and its officers and employees as additional insureds. The required professional liability and workers’ compensation policies or coverages shall not contain endorsements including the Town, its officers or employees as additional insureds. Every policy required above shall be primary insurance. Any insurance or self-insurance benefits carried by Town, its officers, or its employees, shall be in excess and not contributory to that provided by Contractor.

13.5 Contractor shall, upon request, provide Town a certified copy of each required policy.

13.6 As evidence of the insurance coverages required by this Contract, before beginning work under this Contract, Contractor shall furnish certificates of insurance certifying that at least the minimum coverages required here are in effect and specifying the liability coverages (except for professional liability) are written on an occurrence form to:

   Town of Estes Park
   170 MacGregor Avenue
   PO Box 1200
   Estes Park, CO 80517
   Attention: Line Supervisor

With the exception of professional liability and workers’ compensation, policy or policies providing insurance as required will defend and include the Town, its Board, officers, agents and employees as additional insureds on a primary basis for work performed under or incidental to this Contract. Required insurance policies shall be with companies qualified to do business in Colorado with a general policyholder’s
financial rating acceptable to the Town. The policies shall not be cancelable or subject
to reduction in coverage limits or other modification except after thirty days prior
written notice to the Town. General liability and automobile policies shall be for the
mutual and joint benefit and protection of the Contractor and the Town. These policies
shall provide that the Town, although named as an additional insured, shall
nevertheless be entitled to recover under said policies for any loss occasioned to it, its
officers, employees, and agents by reason of acts or omissions of the Contractor, its
officers, employees, agents, subcontractors, or business invitees. They shall be written
as primary policies not contributing to and not in excess of coverage the Town may
carry.

13.7 If Contractor is self-insured under the laws of the State of Colorado, Contractor shall
provide appropriate declarations and evidence of coverage.

13.8 Contractor shall not cancel, change, or fail to renew required insurance coverages.
Contractor shall notify Town's designated person responsible for risk management of
any reduction or exhaustion of aggregate limits, which Town may deem to be a
breach of this Contract.

13.9 The Town relies on, and does not waive or intend to waive, by any provision of this
Contract, the monetary limitations or any other rights, immunities, and protections
provided by the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S.,
as from time to time amended, or otherwise available to the parties, their officers, or
their employees.

13.10 If any insurance required here is to be issued or renewed on a claims-made form as
opposed to the occurrence form, the retroactive date for coverage will be no later than
the commencement date of the Services and will state that in the event of cancellation
or nonrenewal, the discovery period for insurance claims (tail coverage) will be at
least 72 months.

13.11 Contractor shall not cancel, non-renew or cause insurance to be materially changed or
replaced by another policy without prior approval by Town.

14 INDEMNIFICATION:

14.1 Contractor and its agents, principals, officers, partners, employees, and subcontractors
("Indemnitors") shall and do agree to indemnify, protect, and hold harmless the
Town, its officers, employees, and agents ("Indemnities") from all claims, damages,
losses, liens, causes of actions, suits, judgments, and expenses (including attorneys’
fees), of any nature, kind, or description ("Liabilities") by any third party arising out
of, caused by, or resulting from any Services under this Contract if such Liabilities
are: (1) attributable to bodily injury, personal injury, sickness, disease, or death of any
person, or to the injury or destruction of any tangible property (including resulting
loss of use or consequential damages) and (2) caused, in whole or in part, by any
error, omission or negligent act of the Contractor, anyone directly or indirectly
employed by it, or anyone for whose acts Contractor may be liable.
14.2 If more than one Indemnitor is liable for any error, omission or negligent act covered by this Agreement, each such Indemnitor shall be jointly and severally liable to the Indemnitees for indemnification and the Indemnitors may settle ultimate responsibility among themselves for the loss and expense of any such indemnification by separate proceedings and without jeopardy to any Indemnitee. This Agreement shall not eliminate or reduce any other right to indemnification or other remedy the Town, or any of the Indemnitees may have by law.

14.3 As part of this indemnity obligation, the Contractor shall compensate the Town for any time the Town Attorney's Office and other counsel to the Town reasonably spend on such claims or actions at the rates generally prevailing among private practitioners in the Town of Estes Park for similar services. This obligation to indemnify the Town shall survive the termination or expiration of this Agreement.

15 INDEPENDENT CONTRACTOR: Contractor shall perform all Services under this Agreement as an independent contractor, and not as an agent or employee of Town. No employee or official of Town shall supervise Contractor. Contractor shall exercise no supervision over any employee or official of Town. Contractor shall not represent that it is an employee or agent of the Town in any capacity. Contractor’s officers, employees and agents are not entitled to Workers' Compensation benefits from the Town, and Contractor is obligated to pay federal and state income tax on money earned under this Agreement. Except as this Agreement expressly states, Contractor shall, at its sole expense, supply all buildings, equipment and materials, machinery, tools, superintendence, personnel, insurance and other accessories and Services necessary. This Agreement is not exclusive; subject the terms of this Agreement, Town and Contractor may each contract with other parties.

16 PROVISIONS CONSTRUED AS TO FAIR MEANING: Any tribunal enforcing this Agreement shall construe its terms as to their fair meaning, and not for or against any party based upon any attribution to either party.

17 HEADINGS FOR CONVENIENCE: All headings, captions and titles are for convenience and reference only and of no meaning in the interpretation or effect of this Contract.

18 NO THIRD-PARTY BENEFICIARIES: The parties intend no third-party beneficiaries under this Contract. Any person besides Town or Contractor receiving services or benefits under this Agreement is an incidental beneficiary only.

19 TOWN’S RIGHT TO BAR PERSONNEL FROM WORK SITE: For conduct the Town (in its sole discretion) decides may violate applicable laws, ordinances rules or regulations, or may expose Town to liability or loss, Town may bar any person (including Contractor’s and subcontractors’ employees) from the Town's work sites. Such a bar shall not require any employee's discharge from employment, but shall merely prohibit the employee's presence at Town’s work sites. Such a bar shall not warrant an increase in contract time or Price.
20 **WAIVER:** No waiver of any breach or default under this Agreement shall waive any other or later breach or default.

21 **TERM:** This Contract shall commence on January 1, 2024, and shall continue through December 31, 2024 with the option of four additional renewals, on an annual basis, upon agreement of both parties.

22 **TERMINATION:**

22.1 In addition to any other available remedies, either party may terminate this Contract if the other party fails to cure a specified default within seven (7) days of receiving written notice of the default. The notice shall specify each such material breach, in reasonable detail.

22.2 Town may, at any time, terminate performance of the work, in whole or in part, for its own convenience. The Town may effect such termination by giving Contractor written Notice of Termination specifying the extent and effective date of termination. In case of termination, for convenience, Town shall pay Contractor for work satisfactorily completed, to the date of termination. The Town shall determine the portion of work completed.

22.3 If either party so terminates, the Contractor shall promptly deliver to the Town all drawings, computer programs, computer input and output, analysis, plans, photographic images, tests, maps, surveys and writer’s materials of any kind generated in the performance of its Services under this Contract up to and including the date of termination.

23 **SUSPENSION:** Without terminating or breaching this Contract, the Town may, at its pleasure, suspend fee services of the Contractor hereunder. Town may effect suspension by giving the Contractor written notice one (1) day in advance of the suspension date. Upon receipt of such notices the Contractor shall cease their work as efficiently as possible, to keep total charges to a minimum. The Town must specifically authorize any work performed during suspension. Since suspension and subsequent reactivation may inconvenience the Contractor, Town will endeavor to provide advance notice and minimize its use. After a suspension has been in effect for thirty days, the Contractor may terminate this Contract at will.

24 **ASSIGNMENT AND DELEGATION:** Except as stated, neither party may assign its rights or delegate its duties under this Contract without the express written approval of the other.

25 **SUBCONTRACTING:** Except subcontractor clearly identified and accepted in the Contractor’s Proposal, Contractor may employ subcontractors to perform the Services only with Town's express prior written approval. Contractor is solely responsible for any compensation, insurance, and all clerical detail involved in employment of subcontractors.

26 **GOVERNING LAW AND VENUE:** The laws of the State of Colorado shall govern enforcement and interpretation of this Contract. Venue and jurisdiction for any court action filed regarding this agreement shall be only in Larimer County, Colorado.
27 **AUTHORITY:** 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.

28 **INTEGRATION:** There are no other agreements on the same subject than expressly stated or incorporated in this Contract.

29 **DAMAGES FOR BREACH OF CONTRACT:** In addition to any other legal or equitable remedy the Town may be entitled to for a breach of this Contract, if the Town terminates this Contract, in whole or in part, due to Contractor’s breach of any provision of this Contract, Contractor shall be liable for actual and consequential damages to the Town.

Signature pages follow.
CONTRACTOR

By: _______________________________  ____________________________

Title: _______________________________

State of ___________________________

County of ___________________________

The foregoing instrument was acknowledged before me this ______ day of
______________________, 2023, 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: _______________________________ 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 __________________________, 2023.

Witness my hand and official Seal.

My Commission expires __________________________.

________________________________________
Notary Public

APPROVED AS TO FORM:

[Signature]

Town Attorney
TOWN BOARD MEETING
December 12, 2023

Consent Agenda Item #8 Request to Continue Resolution 99-23 Setting the Mill Levy for the 2024 Budget Year to January 9, 2024.

No packet material was provided for this item.
Report & Discussion Item #1 – Estes Park Health Update on Home Health, Hospice, and Non-Medical Home Care.

No packet material was provided for this item.
PROCEDURE FOR PUBLIC HEARING

Applicable items include: Rate Hearings, Code Adoption, Budget Adoption

1. MAYOR.

The next order of business will be the public hearing on ACTION ITEM 1. Ordinance 13-23 Amending Estes Park Municipal Code Section 2.20.010 Compensation of Mayor, Mayor Pro Tem, and Trustees.

☐ At this hearing, the Board of Trustees shall consider the information presented during the public hearing, from the Town staff, public comment, and written comments received on the item.

☐ Any member of the Board may ask questions at any stage of the public hearing which may be responded to at that time.

☐ Mayor declares the Public Hearing open.

2. STAFF REPORT.

☐ Review the staff report.

3. PUBLIC COMMENT.

☐ Any person will be given an opportunity to address the Board concerning the item. All individuals must state their name and address for the record. Comments from the public are requested to be limited to three minutes per person.

4. MAYOR.

☐ Ask the Town Clerk whether any communications have been received in regard to the item which are not in the Board packet.

☐ Ask the Board of Trustees if there are any further questions concerning the item.

☐ Indicate that all reports, statements, exhibits, and written communications presented will be accepted as part of the record.

☐ Declare the public hearing closed.

☐ Request Board consider a motion.

7. SUGGESTED MOTION.

☐ Suggested motion(s) are set forth in the staff report.
8. **DISCUSSION ON THE MOTION.**
Discussion by the Board on the motion.

9. **VOTE ON THE MOTION.**
Vote on the motion or consideration of another action.

*NOTE:* Ordinances are read into record at the discretion of the Mayor as it is not required to do so by State Statute.
Memo

To: Honorable Mayor Koenig
   Board of Trustees

Through: Town Administrator Machalek

From: Jackie Williamson, Town Clerk

Date: December 12, 2023

RE: Ordinance 13-23 Amending Estes Park Municipal Code Section 2.20.010 Compensation of Mayor, Mayor Pro Tem and Trustees.

 PUBLIC HEARING ☒ ORDINANCE ☐ LAND USE
 CONTRACT/AGREEMENT ☐ RESOLUTION ☐ OTHER
 QUASI-JUDICIAL ☐ YES ☒ NO

Objective:
Review the Town Board compensation and determine if Board compensation should be adjusted prior to the upcoming Municipal election on April 2, 2024, and consider codifying Town Board compensation adjustments utilizing the Consumer Price Index (CPI) for future adjustments prior to regular Municipal elections on even years.

Present Situation:
Prior to the past few elections, an extensive review of Board compensation has been completed as requested by the Town Board since 2012. The last review was completed in November 2021 and the Board approved an increase in Board salaries for members newly elected in 2022: Mayor - $13,500, Mayor Pro Tem - 12,000, and $10,000 for Trustees. The Board members elected in April 2022 received the new salaries.

During past discussions, the Board has commented on the need to review additional data such as the market adjustments for the management pay family, annual merit increases, and benefit increases over the last several years to determine if the current salaries are keeping pace with the increased cost of living and benefits over the four-year term of a Board member. The Board discussed options at study sessions held on October 24, 2023 and November 28, 2023 and provided staff with direction. The Board was further presented with the compensation data collected through CML for other Boards and Councils from market communities. This information demonstrated the Town is in alignment with other market communities of similar size and even in alignment with larger communities along the front range such as Erie, Lafayette, Loveland, and Superior.
Proposal: The proposed ordinance would adjust compensation for those elected in 2024 as follows: Mayor - $15,000, Mayor Pro Tem: $12,800, and Trustees $11,100. The compensation was adjusted using CPI from October 2021 – October 2023. The ordinance would further adjust compensation in future election cycles using CPI.

Advantages: 
• Board compensation would remain in line with market communities and provide funding for family premiums for benefits.

Disadvantages: 
• None.

Action Recommended: 
Staff has prepared an Ordinance outlining the proposed increases and the future adjustments to Board compensation which would occur prior to each regular Municipal election.

Finance/Resource Impact: 
Any increase in compensation may require adjustment to the Legislative budget.

Level of Public Interest: 
Low.

Sample Motion 
I move to approve/deny Ordinance 13-23

Attachment: 
1. Ordinance 13-23
ORDINANCE NO. 13-23

AN ORDINANCE AMENDING MUNICIPAL CODE SECTION 2.20.010 ON THE COMPENSATION OF THE MAYOR, MAYOR PRO TEM, AND TRUSTEES

WHEREAS, pursuant to the provisions of section 31-4-301(4), C.R.S., the Mayor and Trustees shall receive such compensation as fixed by ordinance; and

WHEREAS, Section 2.20.010 of the Municipal Code provides for compensation of the Mayor, the Mayor Pro Tem, and each Trustee; and

WHEREAS, the Board of Trustees has determined that it is necessary to amend section 2.20.010 of the Municipal Code to increase the compensation for the Mayor, the Mayor Pro Tem, and each Trustee.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO AS FOLLOWS:

Section 1: Section 2.20.010 of the Municipal Code shall be amended, by adding italicized material and deleting stricken material, to read as follows:

2.20.010 - Compensation of Mayor, Mayor Pro Tem and Trustees.

(1) In recognition of services rendered as Mayor, Mayor Pro Tem or member of the Board of Trustees, the elected officials of the Town shall receive compensation as set forth in this Section. During the budget process for each even-numbered year, the Board of Trustees shall consider adjustment of the amount of compensation set forth in this Section. As part of this review, the Board of Trustees shall review compensation for elected officials provided by comparable Colorado municipalities using appropriate sources, including but not limited to the Colorado Municipal League. Any adjustment of compensation shall be by ordinance.

(a) The Mayor shall receive as compensation for his or her services the sum of thirteen thousand five hundred dollars ($13,500.00) per year during each year of his or her term, payable in equal monthly payments.

(b) The Mayor Pro Tem shall receive as compensation for his or her services the sum of eleven thousand five hundred dollars ($11,500.00) per year during each year of his or her term, payable in equal monthly payments.

(c) Each Town Trustee shall receive as compensation for his or her services the sum of ten thousand dollars ($10,000.00) per year during each year of his or her term, payable in equal monthly payments.

Such sums shall apply to new terms of office beginning upon or after the effective date of the most recently adopted version of this section. For terms beginning prior, compensation shall be as established by the ordinance in effect at the commencement of the term.

(2) Biennial updates. The amounts in subsection (1) above shall be increased on the date of the regular municipal election in April 2026 and on the date of the regular municipal election every two years thereafter by the rate of inflation as calculated by the Town Clerk, based on the All Items Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average (“Index”), as published by the United States Bureau of Labor Statistics or successor federal...
agency. The Town Clerk shall use the Index for October 2023 as a baseline and update the fee biennially based on the Index as reported for October every two years, rounding to the nearest one hundred dollars. The Town Clerk shall report to the Board of Trustees on the planned increase prior to the January immediately preceding each increase, and the report shall include a review of compensation for elected officials provided by comparable Colorado municipalities using appropriate sources, including but not limited to the Colorado Municipal League. The Board of Trustees may alter the planned increases by ordinance before they take effect; otherwise they will take effect as planned. The planned increases shall apply only to new terms of office beginning upon or after their effective dates.

Section 2: This Ordinance shall take effect and be enforced thirty (30) days after its adoption and publication.

PASSED AND ADOPTED by the Board of Trustees of the Town of Estes Park, Colorado this ___ day of ________________, 2023.

TOWN OF ESTES PARK, COLORADO

By: ________________________________
   Mayor

ATTEST:

______________________________
Town Clerk

I hereby certify that the above Ordinance was introduced at a regular meeting of the Board of Trustees on the ___ day of __________, 2023 and published by title in a newspaper of general circulation in the Town of Estes Park, Colorado, on the ___ day of __________, 2023, all as required by the Statutes of the State of Colorado.

______________________________
Town Clerk

APPROVED AS TO FORM:

______________________________
Town Attorney
Memo

To: Honorable Mayor Koenig
   Board of Trustees

Through: Town Administrator Machalek

From: Jeremy Creamean, Finance Director
      Duane Hudson, ERP Manager

Date: December 12, 2023

RE: Resolution 109-23, Supplemental Budget Appropriations #6 to the 2023 Budget

(Mark all that apply)

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

QUASI-JUDICIAL ☐ YES  ☒ NO

Objective:
To appropriate for an increase in purchased power costs, replacement of two bucket trucks, an increase in estimated medical claims, and other final year-end adjustments.

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. Such adjustments can also include reductions as projects are reprioritized and operational needs change. Periodically, the budget needs to be amended to address these needs and changes.

Proposal:
The following explains the most significant proposed changes by Fund. Additional items may be described in the “Schedule of Budgeted Appropriation Changes” which is included at the beginning of Attachment B.

Community Reinvestment Fund: Increase of $52,000
The increase of $52,000 is entirely due to anticipated increased costs for the street sweeper currently in the budget. The amended budgeted cost for the sweeper is $365,376. The street sweeper will be acquired through use of lease purchase financing so the lease purchase proceeds (revenues) and the expenditure appropriations are both increased by this same amount.

Community Recreation Center Fund: Increase of $100,000
The transfer to the Estes Valley Recreation and Parks District for the community center is increased by $100,000, offset by an increase in sales tax revenues. This increase is
to cover year end transfers in case sales tax revenues for the last few months of the year come in stronger than anticipated.

Power and Communications Fund:  Increase $1,950,000  
Purchased power cost appropriations are increased by $1,100,000 due to volumetric and pricing changes for purchased power. Repairs and maintenance have been increased $50,000 to cover a routine maintenance contract that had been inadvertently left out of the original budget. The final change for the Power and Communications Fund is to appropriate $800,000 to purchase two bucket trucks. It was discovered that delivery of new bucket trucks is almost two years in the future so staff needed to get the order placed to get the truck delivered when needed.

Water Fund:  Increase of $12,000  
The towable air compressor ended up costing about $12,000 more than originally budgeted.

Medical Insurance Fund:  Increase of $600,000  
This is an increase in the estimated medical claims for 2023, including the “Incurred But Not Reported” claims (IBNR claims) expected to be received in Jan or Feb of 2024. IBNR is the term of art that refers to medical claims incurred in one period but the claims were not reported to the insurance processor until after the period end (not reported). A claims liability is accrued at the end of each year for the estimated IBNR claims.

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

**Disadvantages:**  
None identified.

**Action Recommended:**  
Staff recommends approval of the 2023 supplemental budget appropriation #6 resolution as mentioned above.

**Finance/Resource Impact:**  
The General Fund reserve after these amendments is projected at 34.3% of 2023 operating expenditures.

**Level of Public Interest**  
Public interest is expected to be low for these minor changes.

**Sample Motion:**  
I move for the approval/denial of Resolution 109-23.

**Attachments:**  
Attachment 1: Resolution 109-23 Supplemental Budget Appropriations # 6 to the 2023 Budget.  
**Attachment 2 LINK:** Recaps of Proposed Budget Adjustments and Supporting Documents
RESOLUTION 109-23
SUPPLEMENTAL BUDGET APPROPRIATIONS # 6 TO THE 2023 BUDGET

WHEREAS, the Board of Trustees of the Town of Estes Park adopted the 2023 annual budget in accordance with the Local Government Budget Law on November 8th, 2022; 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 2023 be increased by $2,714,000 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>31,854,694</td>
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<td>31,854,694</td>
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<tr>
<td>204</td>
<td>Community Reinvestment Fund</td>
<td>12,869,125</td>
<td>52,000</td>
<td>12,921,125</td>
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<tr>
<td>211</td>
<td>Conservation Trust Fund</td>
<td>83,000</td>
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<td>83,000</td>
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<tr>
<td>220</td>
<td>Larimer County Open Space Fund</td>
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<td>236</td>
<td>Emergency Response System Fund</td>
<td>65,245</td>
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<tr>
<td>238</td>
<td>Community Center Fund</td>
<td>1,181,301</td>
<td>100,000</td>
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<td>Trails Fund</td>
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<td>256</td>
<td>Parking Services Fund</td>
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<tr>
<td>260</td>
<td>Street Fund</td>
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<td>6,913,725</td>
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<tr>
<td>270</td>
<td>Workforce Housing / Childcare Lodging Tax</td>
<td>5,375,000</td>
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<td>5,375,000</td>
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<tr>
<td>502</td>
<td>Power and Communications Fund</td>
<td>31,428,981</td>
<td>1,950,000</td>
<td>33,378,981</td>
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<tr>
<td>503</td>
<td>Water Fund</td>
<td>28,772,811</td>
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<td>505</td>
<td>Workforce Housing Fund</td>
<td>500,000</td>
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<td>500,000</td>
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<tr>
<td>606</td>
<td>Medical Insurance Fund</td>
<td>3,573,042</td>
<td>600,000</td>
<td>4,173,042</td>
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<tr>
<td>612</td>
<td>Fleet Maintenance Fund</td>
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<tr>
<td>625</td>
<td>Information Technology Fund</td>
<td>1,283,323</td>
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<td>635</td>
<td>Vehicle Replacement Fund</td>
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<td>645</td>
<td>Risk Management Fund</td>
<td>426,450</td>
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<td>Total All Funds</td>
<td>137,471,933</td>
<td>2,714,000</td>
<td>140,185,933</td>
</tr>
</tbody>
</table>

DATED this ______ day of ______________, 2023.

TOWN OF ESTES PARK

ATTEST:

Mayor

Town Clerk

APPROVED AS TO FORM:

Town Attorney
PROCEDURE FOR PUBLIC HEARING

Applicable items include: Rate Hearings, Code Adoption, Budget Adoption

1. MAYOR.

The next order of business will be the public hearing on ACTION ITEM 3. Ordinance 14-23 Amending Chapter 10.06 of the Estes Park Municipal Code on Paid Parking.

☐ At this hearing, the Board of Trustees shall consider the information presented during the public hearing, from the Town staff, public comment, and written comments received on the item.

☐ Any member of the Board may ask questions at any stage of the public hearing which may be responded to at that time.

☐ Mayor declares the Public Hearing open.

2. STAFF REPORT.

☐ Review the staff report.

3. PUBLIC COMMENT.

☐ Any person will be given an opportunity to address the Board concerning the item. All individuals must state their name and address for the record. Comments from the public are requested to be limited to three minutes per person.

4. MAYOR.

☐ Ask the Town Clerk whether any communications have been received in regard to the item which are not in the Board packet.

☐ Ask the Board of Trustees if there are any further questions concerning the item.

☐ Indicate that all reports, statements, exhibits, and written communications presented will be accepted as part of the record.

☐ Declare the public hearing closed.

☐ Request Board consider a motion.

7. SUGGESTED MOTION.

☐ Suggested motion(s) are set forth in the staff report.
8. **DISCUSSION ON THE MOTION.**
   Discussion by the Board on the motion.

9. **VOTE ON THE MOTION.**
   Vote on the motion or consideration of another action.

*NOTE:* Ordinances are read into record at the discretion of the Mayor as it is not required to do so by State Statute.
Memo

To: Honorable Mayor Wendy Koenig
   Board of Trustees

Through: Town Administrator Machalek

From: Dana Klein, CPP, CCTM, Parking & Transit Supervisor
       Greg Muhonen, PE, Public Works Director

Date: December 12, 2023

RE: Ordinance 14-23 Amending Chapter 10.06 of the Estes Park Municipal Code on Paid Parking

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

QUASI-JUDICIAL  ☐ YES  ☒ NO

Objective:
Ordinance 14-23 amends Chapter 10.06 of the Estes Park Municipal Code (EPMC), Section 10.06.010(b), pertaining to Annual Rate Intent timing. The purpose of this amendment is to change the date by which the Manager shall propose parking rates for the following paid parking season from December 15 to March 15.

Present Situation:
When the paid parking program was implemented in 2021, the busiest summer month for the program was July, and by early September (around Labor Day) parking activity had started to wane. This allowed staff enough time to analyze the season’s data in late September and conduct a series of year-end program presentations in October and November to both the Transportation Advisory Board (TAB) and the Town Board. By December, staff were ready to present the proposed rate intent for the following paid parking season before December 15, as indicated in the existing EPMC language.

Over the past two years, the length of the summer guest season has expanded into the fall with strong parking activity continuing into late October. In late 2022, staff recommended adding another week to the 2023 paid parking program to better align with the expanding guest season and to mirror Rocky Mountain National Park’s timed entry permit program, both of which concluded this year on Sunday, October 22. Given this shift in schedule, staff does not have sufficient time to adequately review the paid parking program’s operational efficacy, analyze the season’s robust data set, visit with the TAB, and then formulate the following year’s recommendations all by the date of December 15.
Proposal:
PW staff recommend amending Title 10 of the Estes Park Municipal Code (EPMC), Section 10.06.010(b) Rate Intent as follows: “The Manager shall propose parking rates for the following season to the Town Board by March 15 of each year” rather than the current date of December 15. Staff believe that this adjustment will allow adequate time for program analysis and stakeholder conversation and still allow time to effectively prepare for the upcoming paid parking season.

The attached ordinance modifies Title 10 of the EPMC pertaining to Vehicles & Traffic.

Advantages:
- The proposed amendment continues the PW staff’s commitment to continuously and actively requesting community input about the seasonal paid parking program and responding in a timely, incremental, and prudent way.

Disadvantages:
- The shortened time between the rate proposal and the beginning of the following year’s paid parking season provides less time for operational changes; however, with the program heading into its fourth year in 2024, staff are now well-versed on making annual adjustments in a timely manner.

Action Recommended:

Finance/Resource Impact:
There is no finance/resource impact for this item.

Level of Public Interest
Staff expects a low to moderate level of public interest on this proposed change. This recommendation was shared with the TAB at their regular November meeting and a letter in support of this change has been provided.

Sample Motion:
I move for the approval/denial of Ordinance 14-23.

Attachments:
1. Ordinance 14-23
2. Letter of Support – Transportation Advisory Board
ORDINANCE NO. 14-23

AN ORDINANCE AMENDING CHAPTER 10.06 OF THE ESTES PARK MUNICIPAL CODE ON PAID PARKING

WHEREAS, the Board of Trustees of the Town of Estes Park, Colorado, has determined that it is in the best interest of the Town to amend a section of the Municipal Code of the Town of Estes Park, Colorado.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO AS FOLLOWS:

Section 1: Ellipses in this ordinance indicate material not reproduced as the Board intends to leave that material in effect as it now reads.

Section 2: Section 10.06.010 of the Estes Park Municipal Code is hereby amended, by adding underlined material and deleting stricken material, to read as follows:

10.06.010 - Paid parking authorization and rates.

... 

(b) Rate Intent: The Manager shall propose parking rates for the upcoming season to the Town Board by March 15 of each year. . . .

Section 3: This Ordinance shall take effect and be enforced thirty (30) days after its adoption and publication.

PASSED AND ADOPTED by the Board of Trustees of the Town of Estes Park, Colorado this ____ day of ______________, 2023.

TOWN OF ESTES PARK, COLORADO

By: ________________________________

Mayor

ATTEST:

______________________________

Town Clerk
I hereby certify that the above Ordinance was introduced at a regular meeting of the Board of Trustees on the _____ day of __________, 2023 and published by title in a newspaper of general circulation in the Town of Estes Park, Colorado, on the ___ day of __________, 2023, all as required by the Statutes of the State of Colorado.

________________________________________
Town Clerk

APPROVED AS TO FORM:

________________________________________
Town Attorney
Dear Honorable Mayor Koenig and Trustees,

The Transportation Advisory Board (TAB) has actively participated in the development and implementation of the Downtown Parking Management Plan. Throughout the implementation process, adaptations and adjustments are required to effectively respond to dynamic needs or conditions. Therefore, the TAB supports the Public Works staff recommendation to amend Title 10 of the Estes Park Municipal Code (EPMC), Section 10.06.010(b), which acknowledges the expanding dates for the seasonal paid parking program and the corresponding need for more time to process data effectively.

The TAB shares a vision for Downtown Estes Park that is focused on people and creating positive experiences during their visit: a vision that values pedestrians, bicycles, and shuttles, and is not defined by vehicles, traffic, and congestion. Implementing paid parking modifies driver behavior; makes it easier to find parking; reduces congestion and pollution; and, finally, allows a revenue source for parking inventory such as the new Big Horn parking structure. An amended EPMC will contribute to the success of achieving this shared vision.

The TAB thanks The Honorable Mayor Wendy Koenig and Town Trustees for allowing the opportunity to provide our recommendation. It is our intention to provide a collaborative decision after the robust review of an issue.

Sincerely,

Belle Morris
Chair, Town of Estes Park Transportation Advisory Board
Memo

To: Honorable Mayor Koenig
   Board of Trustees
Through: Town Administrator Machalek
From: Carlie Bangs, Housing & Childcare Manager
Date: December 12, 2023
RE: Resolution 110-23 6E Funding Expenditure for a Childcare Funding Agreement with the Estes Valley Recreation and Park District

(Mark all that apply)

☑ PUBLIC HEARING ☐ ORDINANCE ☐ LAND USE
☒ CONTRACT/AGREEMENT ☒ RESOLUTION ☐ OTHER___________

QUASI-JUDICIAL ☐ YES ☒ NO

Objective:
Staff is seeking approval to utilize 6E funds from the “Out-of-School” subcategory to grant $17,000 to the Estes Valley Recreation and Park District.

Present Situation:
Out-of-school programming was prioritized as a subcategory of using 6E revenues in the 2023 Funding Plan. This funding plan outlined the use of 6E funds to support out-of-school programming defined as after and/or before school care, out-of-school days (like Teacher Professional Development days), and summertime programs.

Funds in this subcategory are provided as subsidies through an application process by individuals or entities that provide out-of-school care based on the number of filled slots. Providers are required to explain in their application how the funds will be used.

Proposal:
Funding for out-of-school programming is essential to supporting our workforce in the Estes Valley. Programs such as Lil’ Bobcats Playtime Child Watch program provide care after school for children four to six years-old, which is an underserved age group for after school programming.

The Estes Valley Recreation and Park District has requested a $17,000 grant to subsidize this program. EVRPD requests $12,000 to cover staff wages ($20/hour) and $5,000 for equipment and supplies in order to expand their programming to seven days a week. Currently, the programming is only offered two days a week.
Advantages:
• Distribution of 6E funds to support out-of-school programming efforts as directed by the voters when passing the 6E Ballot Initiative.

Disadvantages: None.

Action Recommended:
Approval of the 6E Expenditure to the Estes Valley Recreation and Parks District.

Finance/Resource Impact:
$17,000 expended from the Childcare Lodging Tax Fund, account 101-1900-419.37-97

Level of Public Interest
None.

Sample Motion:
I move for the approval/denial of Resolution 110-23.

Attachments:
1. Resolution 110-23
2. Funding Agreement
3. LINK EVRPD Application and Financial Statement
RESOLUTION 110-23

A RESOLUTION APPROVING A CHILDCARE FUNDING AGREEMENT WITH THE
ESTES VALLEY RECREATION AND PARK DISTRICT

WHEREAS, the Town Board wishes to enter a funding agreement referenced in
the title of this resolution for the purpose of providing financial support to the Estes Valley
Recreation and Park District and to address childcare workforce challenges described in
the 2023 Funding Plan for lodging tax revenues.

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 funding agreement
referenced in the title of this resolution in substantially the form now before the Board.

DATED this ______ day of _____________________, 2023.

TOWN OF ESTES PARK

___________________________________________
Mayor

ATTEST:

___________________________________________
Town Clerk

APPROVED AS TO FORM:

___________________________________________
Town Attorney
CHILDCARE FUNDING AGREEMENT
Between the Town of Estes Park and the Estes Valley Recreation and Park District

The Town of Estes Park, Colorado (Town), a Colorado municipal corporation, and the Estes Valley Recreation and Park District (EVRPD), a body corporate and politic, hereby agree to the following on this _______ day of ______________, 2023, for good and valuable consideration the receipt of which is hereby acknowledged:

1. The Town will grant $17,000 to the EVRPD to provide financial support and to address workforce challenges as described in the 2023 Funding Plan.

2. Funds received as this one-time subsidy must be used to contribute to the mission of the Estes Valley Recreation and Park District mission to enrich lives with quality recreation, by providing after school programming for children in the Estes Valley.

3. Of the $17,000 funds received by the EVRPD, $12,000 must be used to support wages of staff providing oversight to the Lil’ Bobcats Playtime Child Watch program, while the other $5,000 may be used on supplies and equipment as described in EVRPD’s application for this subsidy (“Program”).

4. The hourly wage for all Recipient’s teaching positions must be a minimum of $20/hour, not including benefits or bonuses.

5. The hourly wage for all Recipient’s support staff, including aides and paraprofessionals, must be a minimum of $16/hour, not including benefits or bonuses.

6. At least one parent or guardian of each of the children served by the the Program must work full-time (at least 30 hours per week) within the boundaries of the Estes Park R-3 School District.

7. The EVRPD agrees to use these funds only for the purposes described above. The EVRPD shall keep full records of the use of these funds and compliance with the above requirements and shall deliver them to the Town promptly upon request. EVRPD acknowledges that, in addition to all other remedies the Town may pursue for EVRPD’s breach of this agreement, EVRPD may become ineligible for future funds from the Town.

8. The EVRPD shall provide a final report of expenditures to the Town by December 31, 2024.
9. The EVRPD must spend all funds provided under this Agreement within twelve (12) months of its effective date or must return the funds to the Town.

10. The EVRPD must provide childcare service and staffing levels, as described in its application for this subsidy, for a minimum of 24 months from the effective date of this Agreement or the funds must be returned to the Town.

11. The EVRPD warrants that all of the information included in its application for this subsidy, its attachments, its supplemental documents, and all other information communicated to the Town to solicit its approval of this grant is true and correct.

12. This Agreement does not preclude the EVRPD from being eligible for additional funding from the Town for the purposes of childcare. Such funding may be provided on an application basis or through a direct subsidy program.

13. The Town finds that the use of these funds is for the public purpose of protecting the economic and social vitality of the Town by supporting employment for residents of the Town by expanding childcare options for working parents and guardians, thereby allowing employees to continue to live and work locally, and ultimately to continue to contribute to the Town’s tax base. The Town finds that this Agreement’s public purposes are both significant and substantial, and justify the expenditure of the public funds. The Town finds that the support of childcare operations both inside and in the immediate vicinity of the Town and the boundaries of the Estes Park Local Marketing District contributes to the public purposes described above, that the economy and society of the entire Estes Valley is inextricably interconnected, and that supporting the families of the Estes Valley is integral to supporting the economic and social vitality of the Town. The Town also finds that the Town will receive adequate consideration for its financial contribution to the Program in the form of the significant and substantial public benefits described above. Finally, the Town finds that the activities funded by this Agreement constitute development and operation of a program to support affordable workforce childcare services.

14. This Agreement does not establish a partnership or joint venture between the Town and the EVRPD. The EVRPD shall perform all activities under this agreement as an independent entity, and not as an agent or employee of Town. No employee or official of Town shall supervise the EVRPD or its agents or employees. The EVRPD shall exercise no supervision over any employee or official of Town. The EVRPD and its agents and employees shall not represent that they are an employee or agent of the Town in any capacity. The EVRPD’s officers, employees and agents are not entitled to Workers' Compensation benefits from the Town, and the EVRPD and its officers, employees and agents are obligated to pay any applicable federal and state income tax on money paid under this Agreement. Except as this Agreement expressly states, the EVRPD shall, at its sole expense, supply all buildings, equipment and materials, machinery, tools, superintendence, personnel, insurance and other accessories and services necessary. This Agreement is not exclusive; subject the terms of this Agreement, Town and the EVRPD may each contract with other parties.
15. To the extent permitted by law, the EVRPD and its agents, principals, officers, partners, employees, and subcontractors shall and do agree to indemnify, protect, and hold harmless the Town, its officers, employees, and agents from all claims, damages, losses, liens, causes of actions, suits, judgments, and expenses (including attorneys’ fees and the value of the time of in-house counsel), of any nature, kind, or description by any third party arising out of, caused by, or resulting from any activities under this Agreement.

16. The EVRPD will perform activities under this Agreement in strict compliance with applicable federal, state, and municipal laws, rules, statutes, charter provisions, ordinances, and regulations (including sections of the Occupational Safety and Health Administration [OSHA] regulations, latest revised edition, providing for job safety and health protection for workers) and all orders and decrees of bodies or tribunals applicable to work under this Agreement. The EVRPD shall protect and indemnify Town against any claim or liability arising from or based on the violations of any such law, ordinance, regulation, order, or decrees by itself or by its subcontractors, agents, or employees. Town assumes no duty to ensure that the EVRPD follows the safety regulations issued by OSHA. The EVRPD shall secure all permits and licenses, pay all charges, files, and taxes and give all notices necessary and incidental to the lawful prosecution of its activities under this Agreement.

17. The EVRPD shall maintain such insurance as necessary to cover such liability as may arise from its activities under this Agreement, and shall provide evidence of such coverage to the Town upon request.

18. This instrument forms a contract only when executed in writing by duly authorized representatives of Town and the EVRPD. By their signatures on this document, the signatories represent that they have actual authority to enter this Agreement for the respective parties.

19. There are no other agreements on the same subject than expressly stated or incorporated in this Agreement.

20. The laws of the State of Colorado shall govern enforcement and interpretation of this Agreement. Venue and jurisdiction for any court action filed regarding this Agreement shall be only in Larimer County, Colorado.

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

22. Only the Town and the EVRPD, as parties to this Agreement, shall have the right to bring an action to enforce the respective rights and obligations under this Agreement. No other third party shall have the right or standing to enforce the terms of this Agreement, directly or by derivative action on behalf of either Party.
23. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that both the Town and the EVRPD have contributed substantially and materially to the preparation of this Agreement.

24. The Parties warrant that they have taken all actions necessary or required by their own procedures, bylaws, or applicable law, to authorize their respective signatories to sign this Agreement for them and to bind them to its terms.

(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 ________________, 2023.

Witness my hand and official Seal.

My Commission expires ____________________.

________________________________________________________________________

Notary Public

APPROVED AS TO FORM:

[Signature]

Town Attorney
Estes Valley Recreation and Park District

By: ________________________________ Date: ________________

Title: ________________________________

State of ___________________________)

) ss

County of ____________________________

The foregoing instrument was acknowledged before me this ____ day of ________________, 2023, by ________________________________, as _______ of __________________________. (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
Board of Trustees Public Comment

Name: joan hooper

Stance on Item: For

Agenda Item Title: Resolution 110-23.

Public Comment:

Affordable after-school child-care is game-changer for working parents. This proposal is precisely the intent of 6E funding. Parks & Rec is equipped to provide this service, and the Rec Center adjacent to the grade school has space that could be dedicated to this use.
Objective

Approval to utilize 6E funds from the “out-of-school” subcategory to grant $17,000 to the Estes Park Recreation and Parks District.
Present Situation

- Lil’ Bobcats Playtime Child Watch program serves potty-trained 4-6 year-olds. Programming is offered at the Cubz Den room at the Community Center.
- Free for local youth.
- Staffing includes one teacher and one aide.
- Serves 12 youth per session.
  - Six 6-week sessions throughout 2024.
Policy 225: Childcare Funding Guidelines

- Estes Valley Recreation and Park District does not offer licensed childcare opportunities, rather they have applied for funds as an out-of-school program (similar to Boys and Girls Club)
- This program is a one-year pilot program to test the expansion of an existing program

Award recipients must provide childcare services for a minimum of 24 months following the project completion date or receipt of the last payment of funds from the Town; otherwise the receiving entity or person will be required to return the funds to the Town.
**Finance Impact**

$17,000 expenditure from the Childcare Lodging Tax that currently has $175,000 available in the “Out-of-School” subcategory.

**Proposal**

Town staff proposes that the Town Board approve the expenditure of 6E funds to the Estes Valley Recreation and Park District.
Lil’ Bobcats Playtime!
PROCEDURE FOR PUBLIC HEARING

Applicable items include: Rate Hearings, Code Adoption, Budget Adoption

1. MAYOR.

   The next order of business will be the public hearing on ACTION ITEM 5. Ordinance 15-23 Amending Estes Park Municipal Code Section 2.04 Regarding Restrictions on Current and Former Members of the Board of Trustees being Employed by the Town.

   Square: At this hearing, the Board of Trustees shall consider the information presented during the public hearing, from the Town staff, public comment, and written comments received on the item.

   Square: Any member of the Board may ask questions at any stage of the public hearing which may be responded to at that time.

   Square: Mayor declares the Public Hearing open.

2. STAFF REPORT.

   Square: Review the staff report.

3. PUBLIC COMMENT.

   Square: Any person will be given an opportunity to address the Board concerning the item. All individuals must state their name and address for the record. Comments from the public are requested to be limited to three minutes per person.

4. MAYOR.

   Square: Ask the Town Clerk whether any communications have been received in regard to the item which are not in the Board packet.

   Square: Ask the Board of Trustees if there are any further questions concerning the item.

   Square: Indicate that all reports, statements, exhibits, and written communications presented will be accepted as part of the record.

   Square: Declare the public hearing closed.

   Square: Request Board consider a motion.

7. SUGGESTED MOTION.

   Square: Suggested motion(s) are set forth in the staff report.
8. **DISCUSSION ON THE MOTION.**
Discussion by the Board on the motion.

9. **VOTE ON THE MOTION.**
Vote on the motion or consideration of another action.

*NOTE:* Ordinances are read into record at the discretion of the Mayor as it is not required to do so by State Statute.
Memo

To: Honorable Mayor Koenig
    Board of Trustees
From: Town Administrator Machalek
Date: December 12, 2023
RE: Ordinance 15-23 Amending Estes Park Municipal Code Section 2.04 Regarding Restrictions on Current and Former Members of the Board of Trustees Being Employed by the Town

(Mark all that apply)
- PUBLIC HEARING
- ORDINANCE
- LAND USE
- CONTRACT/AGREEMENT
- RESOLUTION
- OTHER: ___________
- QUASI-JUDICIAL
- YES
- NO

Objective:
Consider an amendment to the Estes Park Municipal Code to prohibit members of the Town Board from being employed with the Town for one year from the end of their term on the Board.

Present Situation:
Staff reviewed the codes and charters of our market communities to determine whether or not these communities had a cooling-off period for former governing board members. Staff attempted to make direct contact with market communities in cases where no code or charter provision creating a cooling-off period was found.

Staff collected data from 30 of our 31 market communities. Of those communities, 33% (10) had a cooling-off period for any employee position, 57% (17) had no cooling-off period, and 10% (3) had a cooling-off period only for the City/Town Manager position.

Of the communities that had a cooling-off period of any kind (12), two had a six-month period, five had a one-year period, four had a two-year period, and one prohibited employment for any office which was created, or for which salary was increased, during the time the governing board member was serving.

Proposal:
The attached proposed ordinance would amend the Municipal Code to prohibit any former member of the Town Board, including the Mayor, from holding any compensated appointed office of employment with the Town until one (1) year after the expiration of the term for which the members was elected to the Town Board.
Advantages:
- Addresses concerns about a member of the Town Board advocating for a position, then applying for said position.
- Prevents a Board member from applying for a position for which they approved the budget.

Disadvantages:
- The proposed ordinance would make it marginally harder for the Town to recruit employees. Staff is unaware of any current Town employee who would not have been eligible for employment based on the proposed restrictions, so the impact is anticipated to be minimal and worth the benefit gained.

Action Recommended:
Staff recommends approval of the attached resolution.

Finance/Resource Impact:
N/A

Level of Public Interest
Medium

Sample Motion:
I move for the approval/denial of Ordinance 15-23.

Attachments:
1. Ordinance 15-23
2. Summary of Cooling-Off Period Research
ORDINANCE NO. 15-23

AN ORDINANCE AMENDING CHAPTER 2.04 OF THE ESTES PARK MUNICIPAL CODE REGARDING RESTRICTIONS ON CURRENT AND FORMER MEMBERS OF THE BOARD OF TRUSTEES BEING EMPLOYED BY THE TOWN

WHEREAS, the Board of Trustees of the Town of Estes Park, Colorado has determined that it is in the best interest of the Town to amend certain sections of the Municipal Code of the Town of Estes Park, Colorado.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO AS FOLLOWS:

Section 1: Chapter 2.04 of the Estes Park Municipal Code is hereby amended by adding section 2.04.070, to read as follows:

2.04.070. - Employment by the Town of Current and Former Town Board Members

No member of the Board of Trustees, including the Mayor, shall be a salaried employee of the Town during their term of office other than by compensation as a member of the Board. Upon the conclusion of their service on the Board, no departing member of the Board, including the Mayor, shall hold any compensated, appointed office of employment with the Town until at least one year has lapsed.

Section 2: This Ordinance shall take effect and be enforced thirty (30) days after its adoption and publication.

PASSED AND ADOPTED by the Board of Trustees of the Town of Estes Park, Colorado this ___ day of ________________, 2023.

TOWN OF ESTES PARK, COLORADO

By: ________________________________
Mayor

ATTEST:

______________________________
Town Clerk

I hereby certify that the above Ordinance was introduced at a regular meeting of the Board of Trustees on the _____ day of __________, 2023 and published by title in a newspaper of general circulation in the Town of Estes Park, Colorado, on the ___ day of __________, 20XX, all as required by the Statutes of the State of Colorado.

______________________________
Town Clerk

APPROVED AS TO FORM:

______________________________
Town Attorney
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<th>&quot;Cooling-Off&quot; Period?</th>
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<th>If Y, where</th>
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