



TOWN OF ESTES PARK

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.

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.

BOARD OF TRUSTEES - TOWN OF ESTES PARK

Tuesday, May 9, 2023

7:00 p.m.

ADVANCED PUBLIC COMMENT

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

PLEDGE OF ALLEGIANCE.

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

AGENDA APPROVAL.

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

TOWN BOARD COMMENTS / LIAISON REPORTS.

TOWN ADMINISTRATOR REPORT.

CONSENT AGENDA:

1. [Bills.](#)
2. Town Board Minutes dated April 25, 2023 and Town Board Study Session Minutes dated April 25, 2023.
3. Transportation Advisory Board Minutes dated March 15, 2023 (acknowledgment only).
4. Resolution 46-23 Intergovernmental Agreement for Fiscal Year 2023 Federal Transit Administration 5311 Rural Area Formula Funds to Support Estes Transit with the Colorado Department of Transportation - CDOT PO 491003170.
5. Resolution 47-23 Contract for the 2023 Overlay & Patching Program with Martin Marietta Materials, Inc. for \$727,741.40 – Budgeted.
6. Resolution 48-23 Contract for 2023 Waste and Recycling Collection Services with Atlas Unlimited LLC dba Superior Trash Company for \$159,659.20 – Budgeted.

* ~~7. Resolution 49-23 2023 Contract for Operation of Estes Transit with RATP Dev USA, Inc., \$589,655.45 – Budgeted.~~

LIQUOR ITEMS:

1. **RESOLUTION 50-23 CHANGE OF LOCATION FOR A TAVERN LIQUOR LICENSE HELD BY MONTEGO BAY ENTERPRISES INC. DBA THE WAPITI COLORADO PUB FROM 247 W. ELKHORN AVENUE TO 1350 FALL RIVER ROAD, ESTES PARK, COLORADO.** Town Clerk Williamson.

To consider a change in location of a tavern liquor license application and to consider the needs and desires of the neighborhood.

2. **RESOLUTION 51-23 NEW HOTEL AND RESTAURANT LIQUOR LICENSE APPLICATION FOR MONTEGO BAY ENTERPRISES INC. DBA THE DOWNTOWN EATERY, 247 W. ELKHORN AVENUE, ESTES PARK, COLORADO.** Town Clerk Williamson.

To consider a new liquor license application and to consider the needs and desires of the neighborhood.

3. **RESOLUTION 52-23 NEW HOTEL AND RESTAURANT LIQUOR LICENSE APPLICATION FOR OLE INTERNATIONAL KITCHEN LLC DBA OLE INTERNATIONAL KITCHEN, 145 E. ELKHORN AVENUE, UNIT 300-304, ESTES PARK, COLORADO.** Town Clerk Williamson.

To consider a new liquor license application and to consider the needs and desires of the neighborhood.

ACTION ITEMS:

1. **APPOINT A TRUSTEE TO THE TOWN BOARD TO FILL THE VACANCY TILL THE NEXT ELECTION ON APRIL 2, 2024.** Town Clerk Williamson.

Town Board to discuss and take action following interview held at the Study Session.

2. **ORDINANCE 05-23 AMENDING TITLE 10 OF THE ESTES PARK MUNICIPAL CODE INCLUDING THE RESIDENT EXEMPTION FOR PAID PARKING.** Manager Solesbee.

Extending the free, daily time limit from 60 minutes (1 hour) to 120 minutes (2 hours) for residents parking downtown during the paid parking season.

ADJOURN.

Town of Estes Park, Larimer County, Colorado, April 25, 2023

Minutes of a Regular meeting of the Board of Trustees of the Town of Estes Park, Larimer County, Colorado. Meeting held in the Town Hall in said Town of Estes Park on the 25th day of April, 2023.

Present: Wendy Koenig, Mayor
Trustees Marie Cenac
Kirby Hazelton
Barbara MacAlpine
Patrick Martchink
Cindy Younglund
Vacancy

Also Present: Travis Machalek, Town Administrator
Jason Damweber, Deputy Town Administrator
Dan Kramer, Town Attorney
Kimberly Disney, Recording Secretary

Absent: None

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

GRADUATION CEREMONY: 2023 COMMUNITY INFORMATION ACADEMY (CIA) PARTICIPANTS. Mayor Koenig, Town Administrator Machalek, and Public Information Officer Miller presented participation certificates to the graduates of the 2023 CIA.

AGENDA APPROVAL.

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

PUBLIC COMMENTS.

Steve Kruger/Town citizen thanked event attendees recognizing Restoration Ranch of Colorado and Valor Vacations, which would provide vacations to first responders and their families. He stated meetings have been scheduled with multiple lodging establishments to start the reservation process.

Bruce Darby/Town citizen introduced himself to the Board as an applicant for the vacant Trustee position on the Town Board.

Kristine Poppitz/County citizen provided an update on the petition being circulated by Preserve Estes Park.

TRUSTEE COMMENTS.

Trustee comments were heard and have been summarized: Congratulations to the CIA Graduates. The need to create standards for the onboarding of volunteers to Town boards and committees. Several Trustees attended the event for Restoration Ranch of Colorado and Valor Vacations and spoke in favor of the efforts to support first responders. The Rooftop Rodeo Parade would be held July 6, 2023 with the theme of "A Cowboys Salute to the Armed Forces" and volunteers are needed for the rodeo. The Estes Park Economic Development Corporation Executive Committee met and discussed transitioning to a seven-member Board from five-members and staffing changes. The Police Auxiliary met and discussed volunteer hours and were trained on addressing elk calving. The Estes Park Planning Commission met and discussed the missing middle concept in housing and elected officials for the year.

TOWN ADMINISTRATOR REPORT.

None.

CONSENT AGENDA:

1. Bills.
2. Town Board Minutes dated April 11, 2023, Town Board Study Session Minutes dated April 11, 2023, and Town Board Strategic Planning Study Session Minutes dated April 5, 2023.
3. Family Advisory Board Minutes dated March 2, 2023 and Special Family Advisory Board Minutes dated February 24, 2023 (acknowledgment only).
4. Estes Park Board of Adjustment Minutes dated January 3, 2023 (acknowledgment only).
5. Estes Park Planning Commission Minutes dated January 17, 2023, and Estes Park Planning Commission Study Session Minutes dated January 17, February 21, and March 21, 2023 (acknowledgment only).
6. 2023 Art in Public Places (AIPP) Yarn Bombing Application.
7. Resolution 42-23 Setting a Public Hearing for a Change of Location for a Tavern Liquor License held by Montego Bay Enterprises Inc. dba The Wapiti Colorado Pub from 247 W. Elkhorn Avenue to 1350 Fall River Road, Estes Park, CO 80517 for May 9, 2023.
8. Resolution 43-23 Setting the Public Hearing for a New Hotel and Restaurant Liquor License Application for Montego Bay Enterprises Inc. dba The Downtown Eatery, 247 W. Elkhorn Avenue, Estes Park, Colorado, for May 9, 2023.
9. Resolution 44-23 Setting the Public Hearing for a New Hotel and Restaurant Liquor License Application for Ole International Kitchen LLC dba Ole International Kitchen, 145 E. Elkhorn Avenue, Units 300-304, Estes Park, Colorado, for May 9, 2023.
10. Correcting the Appointment of Richard Dowling to the Estes Park Board of Appeals for a term expiring May 1, 2025.

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

REPORTS AND DISCUSSION ITEMS: (Outside Entities).

1. **NEW INITIATIVES FOR FUTURE SUCCESS: ESTES PARK MUSEUM FRIENDS & FOUNDATION.** Estes Park Museum Friends & Foundation, Inc. President Eric Adams provided an overview of the foundation and highlighted the Town Board Strategic Plan objectives for the Estes Park Museum, grant applications submitted by the Foundation, financial and volunteer support, improvements to the artifact annex, resignations and transitioning to the current Board, and future goals of the Foundation in support of the Estes Park Museum.

ACTION ITEMS:

1. **RESOLUTION 45-23 OPPOSING COLORADO SENATE BILL 23-213.**
Town Attorney Kramer presented Resolution 45-23 to oppose Colorado Senate Bill 23-213 which would dramatically change the relationship between the State and local governments on matters of land use and zoning. He highlighted impacts on Estes Park, previous discussions with the Town Board, and the large number of proposed amendments to the bill specifically regarding accessory dwelling units. Despite the proposed amendments, Staff recommended approval of Resolution 45-23. The Board discussed staff's perception of the bill being approved by the state and it was **moved and seconded** (Younglund/MacAlpine) **to approve Resolution 45-23**, and it passed unanimously.
2. **SETTING THE PUBLIC HEARING FOR ORDINANCE 04-23 AMENDING CHAPTER 14.12 OF THE ESTES PARK MUNICIPAL CODE TO ADOPT THE 2021 EDITIONS OF INTERNATIONAL CODES, INCLUDING THE INTERNATIONAL BUILDING, RESIDENTIAL, EXISTING BUILDING, FUEL**

GAS, MECHANICAL, PLUMBING, PROPERTY MAINTENANCE, ENERGY CONSERVATION, AND SWIMMING POOL AND SPA CODES, WITH AMENDMENTS. Director Gardner presented Ordinance 04-23 to amend the Estes Park Municipal Code and adopt the 2021 editions of the International Building Codes including proposed secondary codes. She provided background on the process of adopting building codes, timelines, the optional appendices to the 2021 International Energy Conservation Code (IECC), the draft International Residential Code (IRC) requirements to sprinkle all residential homes, and she provided four options of adoption of the Colorado Model Electric Ready and Solar Ready Code (CMER & SRC) codes including appendices. Christine Brinker/Southwest Energy Efficiency Project (SWEEP) Senior Buildings Policy Manager provided more details on the differences of the IECC appendices specifically in comparison to the CMER & SRC. She highlighted the review process, requirements of the appendices included in the CMER & SRC and electric vehicle plug requirements. The Board discussed the staff recommendation to adopt the 2021 IECC plus the CMER & SRC, construction costs impacted by the Solar Ready Code, differences between the appendices, the impact of the IRC sprinkler requirement on accessory dwelling units, cost estimates of building components, costs of retrofitting energy systems, causes of activating sprinkler systems in residential homes, and the process of a special district adopting building codes.

It was **moved and seconded** (Martchink/Hazelton) **to set the public hearing for Ordinance 04-23 for May 23, 2023**, and it passed unanimously. The Board directed staff to bring forward Ordinance 04-23 with the removal of Appendices RB, CB, and additional edits to the International Energy Conservation Code as they relate to RB and CB; and maintain inclusion of the CMER & SRC, and the IRC sprinkler requirement with the option to remove following discussion of the Board on May 23, 2023. The SWEEP recommendations for the CMER & SRC could be considered at a later date.

REPORTS AND DISCUSSION ITEMS:

1. ESTES PARK BOARD OF TRUSTEES VACANCY LETTERS OF INTEREST.

Town Clerk Williamson presented the next steps to fill the vacant Trustee position on the Board. She highlighted the statutory requirements to fill the position, and as previously determined by the Board, the Town requested and received nine letters of interest to fill the vacancy by appointment. All nine individuals meet the requirements to serve on the Board and the Board could choose to hold public interviews or hold a vote to appoint an individual. The Board discussed holding public interviews at a special meeting, providing questions for public review, option of a virtual meeting, and whether public comment would be taken during the interview process. It was determined interviews would be held during the May 9, 2023 Study Session with recommended questions prepared by staff with Board direction.

2. ESTES TRANSIT BRANDING PROCESS & RECOMMENDATIONS.

Manager Solesbee and Ryan Burke/Slate Communications provided an update on the Estes Transit Branding Project. They highlighted the goals of the project, the project process, stakeholders, key takeaways, target markets, the proposed transit system name, and design concepts for vehicle wraps. The Board discussed accessibility for colorblind patrons, the animals used for the routes, research for the project, and options of en route ride availability.

Whereupon Mayor Koenig adjourned the meeting at 9:15 p.m.

Wendy Koenig, Mayor

Kimberly Disney, Recording Secretary

RECORD OF PROCEEDINGS

Town of Estes Park, Larimer County, Colorado April 25, 2023

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 25th day of April, 2023.

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

Attending: Mayor Koenig, Trustees Cenac, Hazelton, MacAlpine, Martchink, and Younglund

Also Attending: Town Administrator Machalek, Town Attorney Kramer, Deputy Town Administrator Damweber, Deputy Town Clerk Beers and Estes Park Housing Authority Executive Director Moulton

Estes Park Housing Authority Board members Blackhurst, Daley, Frank, Miller, Smith, and Strieb

Absent: Estes Park Housing Authority Board Member Pinkham

Mayor Koenig called the meeting to order at 4:50 p.m. and introductions were made for the Town Board and Estes Park Housing Authority Board.

ESTES PARK HOUSING AUTHORITY (EPHA) ROLES, RESPONSIBILITIES AND DECISION-MAKING AUTHORITY WITH RESPECT TO 6E FUNDS.

With the passage of Ballot Issue 6E approximately \$6 million a year would be available to addressing workforce housing and childcare issues in the Estes Valley. Through adoption of the Annual Workforce Housing and Childcare Funding Plan, the Town would enter into agreements with partners, to administer programs. The plan identifies EPHA as a key partner to addressing items related to workforce and attainable housing and has the staff expertise and programming to carry out strategies outlined in the plan. New funding would allow for added EPHA staff, expansion of existing and creation of new programs. Staff requested direction on the extent to which the Town would delegate responsibility to the EPHA to implement housing strategies outlines in the 2023 Housing Needs Assessment and Strategic Plan and the extent to which the Town would retain decision-making authority related to the expenditure of 6E funds and other funds reserved for workforce and attainable housing. Staff reviewed proposed EPHA roles and responsibilities as the lead agency for strategy and action items including: Property acquisition, asset planning, and renovations to existing supply, new supply, funding and policy, community engagement and client support and organizational capacity building. Options for decision-making authority included: Coordinated development of an annual funding plan outlining expectations and the purpose of funds to be approved by both the Town and Larimer County; the Town retains all decision-making authority and EPHA would request funds each year for individual programs or seek approval for specific expenses; the Town defines thresholds for decision-making authority for the EPHA, or the Town requires approval of individual programs, both existing and new which utilize 6E funds then permit EPHA to carry out the administration as agreed upon. EPHA would keep the Town apprised of program changes and development so they can make informed decisions each year on the annual funding plan. Staff highlighted property and land acquisition as an interest area related to decision points or thresholds. Director Moulton stated the EPHA has historically demonstrated success in addressing housing issues in the Estes Valley. The EPHA decision making framework should be nimble, to allow them to react quickly, match opportunity to need, be financially feasible and without barriers. EPHA Member Blackhurst spoke regarding funding mechanisms utilized by the EPHA, obstacles or missed opportunities due to lack of available funding,

Town Board Study Session – April 25, 2023 – Page 2

seasonal workforce housing constraints, and project priorities including maintenance updates to existing facilities.

Joint Board comments and questions have been summarized: Stated the importance of conducting regular studies to capture community needs and change in demand; questioned what increased capacity concerns the EPHA may have; would increased funding allow the EPHA the ability to address needs at a more expeditious pace; whether the Town would be reviewing budgets annually or would the EPHA have the ability to bond 6E funding without Town Board approval; the importance of transparency with the public on how funding would be utilized while coordinating efforts; how landownership would be handled for purchased properties and whether the lands could be leveraged to acquire other properties or development; the highest number of dollars which the EPHA has utilized towards acquisitions; whether 6E funds would be restricted by TABOR; and whether 6E funds could be utilized toward paying off debts acquired by EPHA. Concerns were stated on reviewing every individual use of the 6E funds and the importance of entrusting EPHA to act in their capacity to fulfill directives. Clarification was requested on how childcare needs fit into projects and its connection to the 6E funding allocations and the percentage of 6E funding anticipated for housing and respectively for childcare. Town Administrator Machalek stated staff would be conducting a new childcare needs assessment to identify the demand forecast. A brief discussion ensued regarding the timeline to develop an agreement for Town Board consideration. It was determined staff would develop a draft agreement for Town Board review at a future study session prior to consideration at a regular meeting.

TRUSTEE & ADMINISTRATOR COMMENTS & QUESTIONS

None.

FUTURE STUDY SESSION AGENDA ITEMS.

None.

There being no further business, Mayor Koenig adjourned the meeting at 6:29 p.m.

Bunny Victoria Beers, Deputy Town Clerk

Page Left Blank Intentionally

Town of Estes Park, Larimer County, Colorado, March 15, 2023

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 15th day of March, 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; Vice-Chair Ekeren; Members Bernal, Ferko Gamble, Hanick, and Slack; Director Muhonen; Trustee Martchink; Manager Solesbee; Recording Secretary McDonald

Absent: Member Igel

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

PUBLIC COMMENT

None.

TRUSTEE LIAISON UPDATE

Trustee Martchink advised that the Town Board of Trustees approved applications for Chair Morris, Member Finley, and Member Gamble to continue their service on the TAB. The appointments were approved on March 14, and the new three-year terms will expire on March 31, 2026.

APPROVAL OF MINUTES DATED FEBRUARY 15, 2023

It was **moved and seconded** (Slack/Finley) to approve the **February 15, 2023, minutes** with a minor amendment, and the motion passed unanimously.

MOBILITY SERVICES UPDATES

Manager Solesbee reported that public feedback on increasing the resident parking permit time limit was overwhelmingly supportive, with 160 responses received in one week. Changing this Local 60 permit definition would require amending the Estes Park Municipal Code at a public hearing; a TAB letter of support to extend the resident exemption for paid parking would be due March 30 for the April 11 Town Board meeting. Discussion points included the permit's utilization history; extending the exemption time by 30 minutes as opposed to 60; how the Estes Valley Library (EVL) program hours impact resident permit usage; best practices in place for other mountain towns serving the parking needs of residents; and encouraging residents to use the Parking Structure, Big Horn lot, or any other lots during periods of anticipated availability. It was **moved and**

seconded (Slack/Gamble) **to increase the resident exemption permit to 90 minutes**, and the motion passed unanimously. The TAB's letter of support should show all opinions on changing the permit definition.

With transit contractor pricing now set, the 2023 Town Transit Service will proceed with running two trolley routes from 7:30am to 9:30pm daily, allowing for stops approximately every 20 minutes, May 26-October 22. The Green Route will no longer service the Events Complex. Dispatch service will be shared with Rocky Mountain National Park (RMNP). Service for special events will continue, and holiday service will run November 17-January 1, 2024. Bustang to Estes weekend service, newly promoted as Elkstang, will begin Memorial Day weekend with a slight fee increase from 2022.

Other transit presentation points included the recently launched 2023 sponsorship program; Via Mobility Service's free, AAA-funded ride service between Estes Park and Loveland, offered by reservation on Tuesdays and Wednesdays, 10am-2:30pm, now through June 30; a planned presentation on transit branding by Slate Communications at the April TAB meeting; upcoming informational meetings with VanGo for Town Human Resources staff and local organizations; and grant funding received by the US 34 Transportation Management Organization (TMO) for start-up costs. Updates from the electric vehicle (EV) initiative included that the Zero-Emission Vehicle (ZEV) Fleet Transition Plan has been fully funded and budgeted for \$40k; an EV Ride & Drive event is scheduled for April 15, 10am-5pm, in the Town Hall parking lot; and an April 11 Town Board Study Session on EV Plan implementation, which will include coordination efforts between the Town's Power and Communications Division and Platte River Power Authority on charging infrastructure.

The Parking Division's summer preparations include encouraging early permit registrations; collaboration with the EVL, Estes Chamber of Commerce (ECC), the lodging community, and other businesses; the Parking Structure incentive program and promotional banner, the Trolley pin program, and other advertising initiatives; extended transit hours; and expansion of the field team, with an emphasis on parking education versus issuing citations. There was brief discussion about where best in the community to place informational flyers about transit and parking.

ENGINEERING & ADMINISTRATIVE UPDATES

Director Muhonen reported that the Graves Avenue Improvements-Safe Routes to School project is at 100% design, with Colorado Department of Transportation (CDOT) concurrence pending easement acquisitions; it was agreed that this long overdue project warrants completion as soon as possible.

The 2023 Street Improvement Program (STIP) chip and crack seal contract with Vance Brothers was renewed for another year. The overlay and patching contract goes to bid at the end of March.

The Cleave Street Improvement 90% design plans are being reviewed by the Town and Sanitation District; comments will be provided to Kimley-Horn. Easement acquisitions

begin soon. Discussion points included the undergrounding of overhead electric; asphalt and concrete placement; and possible themed art for transformer boxes near the Old Church Shops.

The Fall River Trail Extension (FRTE) project is still moving slowly for Xcel Energy due to underestimation of soil conditions and required excavation equipment for the gas line relocation. A March 8 agreement with Xcel's contractor should expedite this process and allow Dietzler's work to progress. Staff continue to build the Transportation Alternatives Program (TAP) grant application for the FRTE's final segment; a TAB letter of support for this grant was requested by March 21.

The pre-construction meeting for Prospector Apartments was held; mobilization should start March 16.

The Reclamation Neighborhood is under Colorado Department of Public Health and Environment (CDPHE) order for safety improvements. Relocation of sanitary lines is planned for this Capital Improvement Project. There was brief discussion about other crosswalk safety issues in the area.

Presentations about the Downtown Estes Loop (DEL) and overall downtown construction projects were requested by the Estes Board of Realtors, the ECC, and Rotary Club. Director Muhonen and Town Administrator Machalek are meeting these requests.

The US 36 and Community Drive Roundabout construction officially began with trail underpass work.

2023 OBJECTIVES & 2024 TOWN STRATEGIC PLANNING

Director Muhonen advised that the TAB's comments on the 2024 Town Strategic Plan (SP) would be due by March 24. The first planning meeting was held; staff is now prioritizing projects for formal inclusion in the SP, which establishes multi-year goals and one-year objectives. Discussion points included how to fund a parking structure on Big Horn Drive, and the benefit of a TAB letter of support; the difference between special revenue and enterprise funding for the Mobility Services Division; and how other communities utilize and benefit from solar panel use.

OTHER BUSINESS

There was brief discussion about Jake Brake use on US 34, and the possibility of the Police Department monitoring this; pothole problems on US 36; and the reminder to comply with Colorado Sunshine Law regarding outside discussion of any TAB-related business.

There being no further business, Chair Morris adjourned the meeting at 2:04 p.m.

/s/Lani McDonald, Recording Secretary

Page Left Blank Intentionally



Memo

To: Honorable Mayor Koenig
Board of Trustees

Through: Town Administrator Machalek

From: Vanessa Solesbee, CAPP, CCTM, Mobility Services Manager
Greg Muhonen, PE, Public Works Director

Date: May 9, 2023

RE: Resolution 46-23 Intergovernmental Agreement for Fiscal Year 2023
Federal Transit Administration 5311 Rural Area Formula Funds to Support
Estes Transit with the Colorado Department of Transportation – CDOT PO
491003170

(Mark all that apply)

PUBLIC HEARING ORDINANCE LAND USE
 CONTRACT/AGREEMENT RESOLUTION OTHER _____

QUASI-JUDICIAL YES NO

Objective:

Public Works (PW) staff seek Town Board approval of an intergovernmental agreement (IGA) with the Colorado Department of Transportation (CDOT) for Federal Transit Administration (FTA) 5311 Rural Area Formula Funds to support Estes Transit administration and operation.

Present Situation:

The FTA 5311 Program is for rural areas (population less than 50,000) that operate fixed-route or demand-response general public transit. PW staff was successful in securing \$35k in FTA 5311 funds in 2022 to support the administration and operation of Estes Transit. This award was supplemented by funds from the American Rescue Plan Act for a total fiscal year (FY) 2022 award of \$51,481 with no local match required.

In August 2022, PW staff applied for FY 2023 funding through the 5311 program, and the Town Board provided a letter in support of the Town’s application. In December 2022, the Town was notified that Estes Transit would receive \$70k in FY 2023 FTA 5311 funding through two separate awards: FY 2023 “Baseline” (this agreement) and FY 2023 “Expansion” (coming soon). The Baseline award represents what Estes Transit would have received based on CDOT’s formula-based allocation alone, while the Expansion award represents an additional allocation stemming from PW staff advocacy of CDOT on behalf of Estes Transit.

Proposal:

PW staff recommend approval of the IGA with CDOT as presented.

Advantages:

- Supplement the Town's General Fund allocation for administration and operation of Estes Transit in 2023.
- Continue providing an ongoing, annual source of funding that, while not guaranteed, is considered stable due to the program's longevity (10 years).
- Supports the Town Board's Strategic Plan Key Outcome Area, Transportation, along with several multi-year goals.

Disadvantages:

- Applying for and receiving grant funding is accompanied by additional administrative burdens; however, Town staff have recent experience managing a federal grant of this type.

Action Recommended:

Town Board approval of Resolution 46-23.

Finance/Resource Impact:

Current Impact: The baseline award is \$35,000. A 20% local match is required for FY 2023 FTA 5311 Rural Area Formula Funds. The match, \$8,750, is budgeted in 101-5600-456-22-60.

Future Ongoing or One-Time Impacts: None anticipated at this time.

Level of Public Interest

Public interest in this item is likely to be low.

Sample Motion:

I move for the **approval/denial** of Resolution 46-23.

Attachments:

1. Resolution 46-23 CDOT IGA FY 2023 FTA 5311 Baseline
2. CDOT Subaward Agreement (provided to show agreement content; CDOT has issued a Docusign form for approval signature)

RESOLUTION 46-23

APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE COLORADO DEPARTMENT OF TRANSPORTATION FOR FEDERAL TRANSIT ADMINISTRATION 5311 RURAL AREA FORMULA FUNDS TO SUPPORT ESTES TRANSIT

WHEREAS, the Town Board desires to enter the intergovernmental agreement referenced in the title of this resolution for the purpose of accepting Fiscal Year 2023 Federal Transit Administration (FTA) 5311 Rural Area Program Funds to support the administration and operation of Estes Transit; and

WHEREAS, the Town Board commits to maintaining the existence of public transportation services in 2023 in support of the goals outlined on page 20 of the subaward agreement.

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

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

DATED this _____ day of _____, 2023.

TOWN OF ESTES PARK

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:



Town Attorney

STATE OF COLORADO SUBAWARD AGREEMENT COVER PAGE

State Agency Department of Transportation	Agreement Number / PO Number 23-HTR-ZL-00121 / 491003170		
Subrecipient TOWN OF ESTES PARK	Agreement Performance Beginning Date The Effective Date		
	Initial Agreement Expiration Date June 30, 2024		
Subaward Agreement Amount Federal Funds Maximum Amount (80%) \$35,000.00 Local Funds Local Match Amount (20%) \$8,750.00 Agreement Total \$43,750.00	Fund Expenditure End Date June 30, 2024		
	Agreement Authority Authority to enter into this Agreement exists in CRS §§43-1-106, 43-1-110, 43-1-117.5, 43-1-701, 43-1-702 and 43-2-101(4)(c), appropriated and otherwise made available pursuant to the FAST ACT, MAP-21, SAFETEA_LU, 23 USC §104 and 23 USC §149.		
Agreement Purpose In accordance with 49 USC §5311, the purpose of this Agreement is to provide capital, planning, and operating assistance to states to support public transportation in rural areas with populations less than 50,000, where many residents often rely on public transit to reach their destinations. The work to be completed under this Agreement by the Subrecipient is more specifically described in Exhibit A.			
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Agreement: <ol style="list-style-type: none"> 1. Exhibit A – Statement of Work and Budget. 2. Exhibit B – Sample Option Letter. 3. Exhibit C – Federal Provisions. 4. Exhibit D – Required Federal Contract/Agreement Clauses. 5. Exhibit E – Verification of Payment. <p>In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:</p> <ol style="list-style-type: none"> 1. Exhibit C – Federal Provisions. 2. Exhibit D – Required Federal Contract/Agreement Clauses. 3. Colorado Special Provisions in §17 of the main body of this Agreement. 4. The provisions of the other sections of the main body of this Agreement. 5. Exhibit A – Statement of Work and Budget. 6. Executed Option Letters (if any). 			
Principal Representatives <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> For the State: Erin Kelican Division of Transit and Rail Colorado Dept. of Transportation 2829 W. Howard Place Denver, CO 80204 erin.kelican@state.co.us </td> <td style="width: 50%; vertical-align: top;"> For Subrecipient: Vanessa Solesbee TOWN OF ESTES PARK PO BOX 1200 ESTES PARK, CO 80517 vsolesbee@estes.org </td> </tr> </table>		For the State: Erin Kelican Division of Transit and Rail Colorado Dept. of Transportation 2829 W. Howard Place Denver, CO 80204 erin.kelican@state.co.us	For Subrecipient: Vanessa Solesbee TOWN OF ESTES PARK PO BOX 1200 ESTES PARK, CO 80517 vsolesbee@estes.org
For the State: Erin Kelican Division of Transit and Rail Colorado Dept. of Transportation 2829 W. Howard Place Denver, CO 80204 erin.kelican@state.co.us	For Subrecipient: Vanessa Solesbee TOWN OF ESTES PARK PO BOX 1200 ESTES PARK, CO 80517 vsolesbee@estes.org		

SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature.

<p style="text-align: center;">SUBRECIPIENT TOWN OF ESTES PARK</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
<p style="text-align: center;">2nd State or Subrecipient Signature if needed</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p style="text-align: center;">LEGAL REVIEW Philip J. Weiser, Attorney General</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">By: Assistant Attorney General</p> <p style="text-align: center;">Date: _____</p>
<p style="text-align: center;">In accordance with §24-30-202, C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">By: Department of Transportation</p> <p style="text-align: center;">Effective Date: _____</p>	

TABLE OF CONTENTS

1.	PARTIES.....	3
2.	TERM AND EFFECTIVE DATE	3
3.	DEFINITIONS	4
4.	STATEMENT OF WORK AND BUDGET	6
5.	PAYMENTS TO SUBRECIPIENT	6
6.	REPORTING - NOTIFICATION	8
7.	SUBRECIPIENT RECORDS	9
8.	CONFIDENTIAL INFORMATION - STATE RECORDS	9
9.	CONFLICTS OF INTEREST	10
10.	INSURANCE	11
11.	BREACH OF AGREEMENT	12
12.	REMEDIES	12
13.	DISPUTE RESOLUTION	14
14.	NOTICES and REPRESENTATIVES	14
15.	RIGHTS IN WORK PRODUCT AND OTHER INFORMATION	14
16.	GENERAL PROVISIONS	15
17.	COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)	17

1. PARTIES

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

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and the Grant Funds shall be expended by the Fund Expenditure End Date shown on the Cover Page for this Agreement. The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Subrecipient for any Work performed or expense incurred before the Effective Date, except as described in §5.D, or after the Fund Expenditure End Date.

B. Initial Term

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

C. Extension Terms - State’s Option

The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, of one year or less at the same rates and under the same terms specified in this Agreement (each such period an “Extension Term”). In order to exercise this option, the State shall provide written notice to Subrecipient in a form substantially equivalent to the Sample Option Letter attached to this Agreement.

D. End of Term Extension

If this Agreement approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Subrecipient in a form substantially equivalent to the Sample Option Letter attached to this Agreement, may unilaterally extend such Initial Term or Extension Term for a period not to exceed two months (an “End of Term Extension”), regardless of whether additional Extension Terms are available or not. The provisions of this Agreement in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement Agreement or modification extending the total term of this Agreement.

E. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, the State, in its discretion, may terminate this Agreement in whole or in part. A determination that this Agreement should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Agreement by the State for Breach of Agreement by Subrecipient, which shall be governed by **§12.A.i**.

i. Method and Content

The State shall notify Subrecipient of such termination in accordance with **§14**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Subrecipient shall be subject to the rights and obligations set forth in **§12.A.i.a**.

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Subrecipient an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Subrecipient for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Subrecipient which are directly attributable to the uncompleted portion of Subrecipient's obligations, provided that the sum of any and all reimbursement shall not exceed the Subaward Maximum Amount payable to Subrecipient hereunder.

F. Subrecipient's Termination Under Federal Requirements

Subrecipient may request termination of this Agreement by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Agreement is terminated in this manner, then Subrecipient shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **"Agreement"** means this subaward agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. **"Award"** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- C. **"Breach of Agreement"** means the failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Subrecipient, or the appointment of a receiver or similar officer for Subrecipient or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Subrecipient is debarred or suspended under §24-109-105, C.R.S., at any time during the term of this Agreement, then such debarment or suspension shall constitute a breach.
- D. **"Budget"** means the budget for the Work described in Exhibit A.
- E. **"Business Day"** means any day other than Saturday, Sunday, or a legal holiday as listed in §24-11-101(1), C.R.S.
- F. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.
- G. **"Deliverable"** means the outcome to be achieved or output to be provided, in the form of a tangible or intangible Good or Service that is produced as a result of Subrecipient's Work that is intended to be delivered by Subrecipient.

- H. “**Effective Date**” means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Agreement.
- I. “**End of Term Extension**” means the time period defined in §2.D.
- J. “**Exhibits**” means the exhibits and attachments included with this Agreement as shown on the Cover Page for this Agreement.
- K. “**Extension Term**” means the time period defined in §2.C.
- L. “**Federal Award**” means an award of Federal financial assistance or a cost-reimbursement contract, under the Federal Acquisition Regulations or by a formula or block grant, by a Federal Awarding Agency to the Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a Subrecipient or payments to an individual that is a beneficiary of a Federal program.
- M. “**Federal Awarding Agency**” means a Federal agency providing a Federal Award to a Recipient. Federal Transit Administration (FTA) is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- N. “**FTA**” means Federal Transit Administration.
- O. “**Goods**” means any movable material acquired, produced, or delivered by Subrecipient as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Subrecipient in connection with the Services.
- P. “**Grant Funds**” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- Q. “**Incident**” means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, *et. seq.*, C.R.S. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- R. “**Initial Term**” means the time period defined in §2.B.
- S. “**Master Agreement**” means the FTA Master Agreement document incorporated by reference and made part of FTA’s standard terms and conditions governing the administration of a project supported with federal assistance awarded by FTA.
- T. “**Matching Funds**” (Local Funds, or Local Match) means the funds provided by Subrecipient as a match required to receive the Grant Funds and includes in-kind contribution.
- U. “**Party**” means the State or Subrecipient, and “Parties” means both the State and Subrecipient.
- V. “**PII**” means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101, C.R.S.
- W. “**Recipient**” means the State agency shown on the Signature and Cover Pages of this Agreement, for the purposes of this Federal Award.
- X. “**Services**” means the services to be performed by Subrecipient as set forth in this Agreement and shall include any services to be rendered by Subrecipient in connection with the Goods.
- Y. “**State Confidential Information**” means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include but is not limited to PII and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Subrecipient which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Subrecipient without restrictions at the time of its disclosure to Subrecipient; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Subrecipient to the State; (iv) is disclosed to Subrecipient, without confidentiality obligations, by a third party

who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

- Z. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- AA. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- BB. **“State Records”** means any and all State data, information, and records regardless of physical form.
- CC. **“Subaward Maximum Amount”** means an amount equal to the total of Grant Funds for this Agreement.
- DD. **“Subcontractor”** means any third party engaged by Subrecipient to aid in performance of the Work. “Subcontractor” also includes sub-recipients of Grant Funds.
- EE. **“Subrecipient”** means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency. For the purposes of this Agreement, Contractor is a Subrecipient.
- FF. **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, commonly known as the “Super Circular, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- GG. **“Work”** means the Goods delivered and Services performed pursuant to this Agreement.
- HH. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, information, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined elsewhere in this Agreement or in an Exhibit shall be construed and interpreted as defined in that section.

4. STATEMENT OF WORK AND BUDGET

Subrecipient shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate Subrecipient for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

5. PAYMENTS TO SUBRECIPIENT

A. Subaward Maximum Amount

Payments to Subrecipient are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Subrecipient any amount under this Agreement that exceeds the Subaward Maximum Amount shown on the Cover Page of this Agreement as “Federal Funds Maximum Amount”.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Subrecipient in the amounts and in accordance with the schedule and other conditions set forth in Exhibit A.
- b. Subrecipient shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State’s receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Subrecipient and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Subrecipient shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or Deliverables provided under this Agreement.

ii. Interest

Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Subrecipient shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of days' interest to be paid and the interest rate.

iii. Payment Disputes

If Subrecipient disputes any calculation, determination or amount of any payment, Subrecipient shall notify the State in writing of its dispute within 30 days following the earlier to occur of Subrecipient's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Subrecipient and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Subrecipient beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State's obligation to pay Subrecipient shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in §2.E.

v. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Matching Funds

Subrecipient shall provide Matching Funds as provided in Exhibit A. Subrecipient shall have raised the full amount of Matching Funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Subrecipient's obligation to pay all or any part of any Matching Funds, whether direct or contingent, only extends to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Subrecipient and paid into Subrecipient's treasury or bank account. Subrecipient represents to the State that the amount designated "Subrecipient's Matching Funds" in Exhibit A has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Subrecipient does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Subrecipient. Subrecipient shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Subrecipient's laws or policies.

D. Reimbursement of Subrecipient Costs

- i. The State shall reimburse Subrecipient for the federal share of properly documented allowable costs related to the Work after review and approval thereof, subject to the provisions of §5, this Agreement, and Exhibit A. However, any costs incurred by Subrecipient prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. The State shall pay Subrecipient for costs or expenses incurred or performance by the Subrecipient prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules, and regulations applicable to the Work provide for such retroactive payments to the

Subrecipient. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement.

- ii. The State shall reimburse Subrecipient's allowable costs, not exceeding the Subaward Maximum Amount shown on the Cover Page of this Agreement and on Exhibit A for all allowable costs described in this Agreement and shown in Exhibit A, except that Subrecipient may adjust the amounts between each line item of Exhibit A without formal modification to this Agreement as long as the Subrecipient provides notice to the State of the change, the change does not modify the Subaward Maximum Amount or the Subaward Maximum Amount for any federal fiscal year or State Fiscal Year, and the change does not modify any requirements of the Work.
- iii. The State shall only reimburse allowable costs described in this Agreement and shown in the Budget if those costs are:
 - a. Reasonable and necessary to accomplish the Work and for the Goods and Services provided; and
 - b. Equal to the actual net cost to Subrecipient (i.e. the price paid minus any items of value received by Subrecipient that reduce the cost actually incurred).
- iv. Subrecipient's costs for Work performed after the Fund Expenditure End Date shown on the Cover Page for this Agreement, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. Subrecipient shall initiate any payment request by submitting invoices to the State in the form and manner set forth and approved by the State.

E. Close-Out

Subrecipient shall close out this Award within 45 days after the Fund Expenditure End Date shown on the Cover Page for this Agreement. To complete close-out, Subrecipient shall submit to the State all Deliverables (including documentation) as defined in this Agreement and Subrecipient's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If the Federal Awarding Agency has not closed this Federal Award within one year and 90 days after the Fund Expenditure End Date shown on the Cover Page for this Agreement due to Subrecipient's failure to submit required documentation, then Subrecipient may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

6. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to any other Exhibit, for any Agreement having a term longer than three months, Subrecipient shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than five Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

If Subrecipient is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Subrecipient's ability to perform its obligations under this Agreement, Subrecipient shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's Principal Representative identified on the Cover Page for this Agreement.

C. Performance and Final Status

Subrecipient shall submit all financial, performance and other reports to the State no later than 45 calendar days after the end of the Initial Term if no Extension Terms are exercised, or the final Extension Term exercised by the State, containing an evaluation and review of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Subrecipient shall disclose, in a timely manner, in writing to the State and the Federal Awarding Agency, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The State or the Federal Awarding Agency may impose any penalties for noncompliance

allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

7. SUBRECIPIENT RECORDS

A. Maintenance

Subrecipient shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work and the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder (collectively, the "Subrecipient Records"). Subrecipient shall maintain such records for a period of three years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively (the "Record Retention Period"). If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Subrecipient in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property.

B. Inspection

Subrecipient shall permit the State, the federal government, and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and transcribe Subrecipient Records during the Record Retention Period. Subrecipient shall make Subrecipient Records available during normal business hours at Subrecipient's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State, the federal government, and any other duly authorized agent of a governmental agency, in its discretion, may monitor Subrecipient's performance of its obligations under this Agreement using procedures as determined by the State or that governmental entity. Subrecipient shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Subrecipient and this Agreement. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Subrecipient's performance in a manner that does not unduly interfere with Subrecipient's performance of the Work.

D. Final Audit Report

Subrecipient shall promptly submit to the State a copy of any final audit report of an audit performed on Subrecipient's records that relates to or affects this Agreement or the Work, whether the audit is conducted by Subrecipient or a third party. Additionally, if Subrecipient is required to perform a single audit under 2 CFR 200.501, *et. seq.*, then Subrecipient shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

8. CONFIDENTIAL INFORMATION - STATE RECORDS

A. Confidentiality

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

B. Other Entity Access and Nondisclosure Agreements

Subrecipient may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement.

Subrecipient shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Subrecipient shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

C. Use, Security, and Retention

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

D. Incident Notice and Remediation

If Subrecipient becomes aware of any Incident, Subrecipient shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Subrecipient can establish that Subrecipient and its agents, employees, and Subcontractors are not the cause or source of the Incident, Subrecipient shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Subrecipient shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan, in its sole discretion and Subrecipient shall make all modifications as directed by the State. If Subrecipient cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Subrecipient shall reimburse the State for the reasonable costs thereof. The State may, in its sole discretion and at Subrecipient's sole expense, require Subrecipient to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Subrecipient shall provide the State with the results of such audit and evidence of Subrecipient's planned remediation in response to any negative findings.

E. Data Protection and Handling

Subrecipient shall ensure that all State Records and Work Product in the possession of Subrecipient or any Subcontractors are protected and handled in accordance with the requirements of this Agreement, including the requirements of any Exhibits hereto, at all times. As used in this section, the protections afforded Work Product only apply to Work Product that requires confidential treatment.

F. Safeguarding PII

If Subrecipient or any of its Subcontractors will or may receive PII under this Agreement, Subrecipient shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Subrecipient shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S., and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

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

B. Apparent Conflicts of Interest

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

C. Disclosure to the State

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

- D. Subrecipient acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Subrecipient further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S., with regard to this Agreement. For the avoidance of doubt, an actual or apparent conflict of interest shall exist if Subrecipient employs or contracts with any State employee, any former State employee within six months following such employee's termination of employment with the State, or any immediate family member of such current or former State employee. Subrecipient shall provide a disclosure statement as described in §9.C. no later than ten days following entry into a contractual or employment relationship as described in this section. Failure to timely submit a disclosure statement shall constitute a Breach of Agreement. Subrecipient may also be subject to such penalties as are allowed by law.**

10. INSURANCE

Subrecipient shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the State.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Subrecipient or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. Automobile Liability

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

D. Additional Insured

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

E. Primacy of Coverage

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

F. Cancellation

All insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Subrecipient and

Subrecipient shall forward such notice to the State in accordance with **§14** within seven days of Subrecipient's receipt of such notice.

G. Subrogation Waiver

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

H. Public Entities

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

I. Certificates

For each insurance plan provided by Subrecipient under this Agreement, Subrecipient shall provide to the State certificates evidencing Subrecipient's insurance coverage required in this Agreement prior to the Effective Date. Subrecipient shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement prior to the Effective Date, except that, if Subrecipient's subcontract is not in effect as of the Effective Date, Subrecipient shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven Business Days following Subrecipient's execution of the subcontract. No later than 15 days before the expiration date of Subrecipient's or any Subcontractor's coverage, Subrecipient shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Subrecipient shall, within seven Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

11. BREACH OF AGREEMENT

In the event of a Breach of Agreement, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Agreement, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in **§12** for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in this Agreement in order to protect the public interest of the State; or if Subrecipient is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Agreement in whole or in part or institute any other remedy in this Agreement as of the date that the debarment or suspension takes effect.

12. REMEDIES

A. State's Remedies

If Subrecipient is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in **§11**, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach of Agreement

In the event of Subrecipient's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Additionally, if Subrecipient fails to comply with any terms of the Federal Award, then the State may, in its discretion or at the direction of a Federal Awarding Agency, terminate this entire Agreement or any part of this Agreement. Subrecipient shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Subrecipient shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Subrecipient shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Subrecipient shall assign to the State all of Subrecipient's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Subrecipient shall take timely, reasonable and necessary action to protect and preserve property in the possession of Subrecipient but in which the State has an interest. At the State's request, Subrecipient shall return materials owned by the State in Subrecipient's possession at the time of any termination. Subrecipient shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Subrecipient for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Subrecipient was not in breach or that Subrecipient's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under §2.E.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Subrecipient shall remain liable to the State for any damages sustained by the State in connection with any breach by Subrecipient, and the State may withhold payment to Subrecipient for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Subrecipient is determined. The State may withhold any amount that may be due Subrecipient as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Subrecipient's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Subrecipient to an adjustment in price or cost or an adjustment in the performance schedule. Subrecipient shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Subrecipient after the suspension of performance.

b. Withhold Payment

Withhold payment to Subrecipient until Subrecipient corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Subrecipient's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal of any of Subrecipient's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Subrecipient shall, as approved by the State (i) secure that right to use such Work for the State and Subrecipient;

(ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. Subrecipient's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Subrecipient, following the notice and cure period in §11 and the dispute resolution process in §13 shall have all remedies available at law and equity.

13. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Subrecipient for resolution.

B. Resolution of Controversies

If the initial resolution described in §13.A fails to resolve the dispute within 10 Business Days, Subrecipient shall submit any alleged breach of this Agreement by the State to the Procurement Official of the State Agency named on the Cover Page of this Agreement as described in §24-101-301(30), C.R.S., for resolution following the same resolution of controversies process as described in §§24-106-109, and 24-109-101.1 through 24-109-505, C.R.S., (collectively, the "Resolution Statutes"), except that if Subrecipient wishes to challenge any decision rendered by the Procurement Official, Subrecipient's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, in the same manner as described in the Resolution Statutes before Subrecipient pursues any further action. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations regardless of whether the Colorado Procurement Code applies to this Agreement.

14. NOTICES and REPRESENTATIVES

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

15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Subrecipient agrees to provide to the State a royalty-free, non-exclusive and irrevocable license to reproduce publish or otherwise use and to authorize others to use the Work Product described herein, for the Federal Awarding Agency's and State's purposes. All Work Product shall be delivered to the State by Subrecipient upon completion or termination hereof.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, all State Records, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and information provided by or on behalf of the State to Subrecipient are the exclusive property of the State (collectively, "State Materials"). Subrecipient shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Subrecipient's obligations in this Agreement without the prior written consent of the State. Upon termination

of this Agreement for any reason, Subrecipient shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Subrecipient

Subrecipient retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Subrecipient including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Subrecipient under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Subrecipient Property"). Subrecipient Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

16. GENERAL PROVISIONS

A. Assignment

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

B. Subcontracts

Subrecipient shall not enter into any subaward or subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Subrecipient shall submit to the State a copy of each such subaward or subcontract upon request by the State. All subawards and subcontracts entered into by Subrecipient in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement. If the entity with whom Subrecipient enters into a subcontract or subaward would also be considered a Subrecipient, then the subcontract or subaward entered into by Subrecipient shall also contain provisions permitting both Subrecipient and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

C. Binding Effect

Except as otherwise provided in §16.A, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

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

E. Captions and References

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

F. Counterparts

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

G. Entire Understanding

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

H. Digital Signatures

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

I. Modification

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

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

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

K. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Subrecipient's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

L. Severability

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

M. Survival of Certain Agreement Terms

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

N. Taxes

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

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in **§16.A**, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement, and do not create any rights for such third parties.

P. Waiver

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

Q. CORA Disclosure

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

R. Standard and Manner of Performance

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

S. Licenses, Permits, and Other Authorizations

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

Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

- ii. Subrecipient, if a foreign corporation or other foreign entity transacting business in the State of Colorado, shall obtain prior to the Effective Date and maintain at all times during the term of this Agreement, at its sole expense, a certificate of authority to transact business in the State of Colorado and designate a registered agent in Colorado to accept service of process.

T. **Federal Provisions**

Subrecipient shall comply with all applicable requirements of Exhibits C and D at all times during the term of this Agreement.

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

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

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

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

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

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

C. **GOVERNMENTAL IMMUNITY.**

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

D. **INDEPENDENT CONTRACTOR.**

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

E. **COMPLIANCE WITH LAW.**

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

F. **CHOICE OF LAW, JURISDICTION, AND VENUE.**

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

G. PROHIBITED TERMS.

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

H. SOFTWARE PIRACY PROHIBITION.

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

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

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

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Subrecipient in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Subrecipient by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Subrecipient, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, *et seq.*, C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Subrecipient certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Subrecipient shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a Subcontractor that fails to certify to Subrecipient that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Subrecipient (i) shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment ("Department Program") to undertake pre-employment screening of job applicants while this Agreement is being performed, (ii) shall notify the Subcontractor and the contracting State agency or institution of higher education within three days if Subrecipient has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Agreement, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Subrecipient participates in the Department program, Subrecipient shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Subrecipient has examined the legal work status of such employee, and shall comply with all of the other requirements of the

Department program. If Subrecipient fails to comply with any requirement of this provision or §§8-17.5-101, *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Agreement for breach and, if so terminated, Subrecipient shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, *et seq.*, C.R.S.

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

EXHIBIT A, STATEMENT OF WORK AND BUDGET

Project Description*	2023 FTA 5311_Admin Baseline _Estes Park						
Federal Awarding Agency	Federal Transit Administration (FTA)						
Federal Regional Contact	Cindy Terwilliger						
Federal Award Date	To Be Determined						
Project End Date	June 30, 2024						
FAIN	To Be Determined	CFDA#	20.509				
CFDA Title	Formula Grants for Rural Areas Program						
Subrecipient	Estes Park, Town of	DUNS #	KNMKSM6JNW5				
Contact Name	Vanessa Solesbee	Vendor #	2000306				
Address	PO Box 1200 Estes Park, Colorado 80517-1200	Phone #	(970) 577-3957				
Email	vsolesbee@estes.org	Indirect Rate	N/A				
Total Project Budget						\$43,750.00	
Budget	WBS**	ALI	Federal Funds	Local Funds	Total		
Administrative	22-11-5042.ESTE.620	11.79.00	80%	\$35,000.00	20%	\$8,750.00	\$43,750.00
Total Project Amount Encumbered via this Subaward Agreement						\$43,750.00	

*This is not a research and development grant.

**The WBS numbers may be replaced without changing the amount of the subaward at CDOT's discretion.

***FAIN and Date of Federal Award is not available at time execution of contract. This information will reside in DTRs official Transit/Rail Grants system and will be available upon request.

A. Project Description

Town of Estes Park shall maintain the existence of public transportation services through the following goals:

1. Enhance access to health care, education, employment, public services, recreation, social transactions, and other basic needs;
2. Assist in the maintenance, development, improvement and use of public transportation in their Transportation Planning Region (TPR);
3. Encourage and facilitate the most efficient use of all transportation funds used to provide passenger transportation in their TPR through the coordination of programs and services; and
4. Encourage mobility management, employment-related transportation alternatives, joint development practices, and transit-oriented development.

This funding is provided to support the services described above for January 1, 2023 – June 30, 2024.

B. Performance Standards

1. Project Milestones

Milestone Description	Original Estimated Completion Date
Submit Reimbursement Request in COTRAMS	Monthly
Submit Progress Reports to GU Manager	Quarterly
Submit Final Reimbursement Request in COTRAMS	9/1/2024
IMPORTANT NOTE: All milestones in this Statement of Work (except for the final reimbursement request) must be completed no later than the expiration date of this Subaward Agreement: June 30, 2024 .	

2. Performance will be reviewed throughout the duration of this Subaward Agreement. Town of Estes Park shall report to the CDOT Project Manager whenever one or more of the following occurs:
 - a. Budget or schedule changes;
 - b. Scheduled milestone or completion dates are not met;
 - c. Identification of problem areas and how the problems will be resolved; and/or
 - d. Expected impacts and the efforts to recover from delays.
3. Town of Estes Park will report on performance using the Program Measure Report in COTRAMS:
 - a. Performance measures established for the FTA Section 5311 Program (*Funds Expended, Fare Revenues, Sources of Expended Funds, Service Data, and Volunteer Resources*) will be tracked and reported on by Town of Estes Park.
4. Performance will be reviewed based on:
 - a. Completion of quarterly 5311 Program Measure Reports in COTRAMS, and
 - b. Completion of the annual National Transit Database (NTD) Report.
5. 5311 Program Measure Reports will be submitted in COTRAMS by Town of Estes Park on or before the following due dates:
 - a. Quarter 1 due April 28th;
 - b. Quarter 2 due July 28th;
 - c. Quarter 3 due October 28th; and
 - d. Annual Report, including Quarter 4, due January 28th.
6. Town of Estes Park will assist CDOT with Disadvantaged Business Enterprise (DBE) reporting to FTA by using the biannual FTA DBE Report in COTRAMS to report:
 - a. Contracts awarded, payments made, and contracts completed between Town of Estes Park and prime contractors; and
 - b. Contracts awarded, payments made, and contracts completed between Town of Estes Park's prime contractors and their subcontractors.

C. Project Budget

1. The Total Project Budget is \$43,750.00. CDOT will pay no more than 80% of the eligible, actual administrative costs, up to the maximum amount of \$35,000.00. CDOT will retain any remaining balance of the federal share of FTA-5311 Funds. Town of Estes Park shall be solely responsible for all costs incurred in the project in excess of the amount paid by CDOT from Federal Funds for the federal share of eligible, actual costs. For CDOT accounting purposes, the Federal Funds of \$35,000.00 (80%) for administrative costs and matching Local Funds of \$8,750.00 (20%) for administrative costs will be encumbered for this Subaward Agreement.
2. No refund or reduction of the amount of Town of Estes Park's share to be provided will be allowed unless there is at the same time a refund or reduction of the federal share of a proportionate amount.

3. Town of Estes Park may use eligible federal funds for the Local Funds share, but those funds cannot be from other Federal Department of Transportation (DOT) programs. Town of Estes Park's share, together with the Federal Funds share, must be enough to ensure payment of Total Project Budget.
4. Per the terms of this Subaward Agreement, CDOT shall have no obligation to provide state funds for use on this project. CDOT will administer Federal Funds for this Project under the terms of this Subaward Agreement, provided that the federal share of FTA funds to be administered by CDOT are made available and remain available. Town of Estes Park shall initiate and prosecute to completion all actions necessary to enable Town of Estes Park to provide its share of the Total Project Budget at or prior to the time that such funds are needed to meet the Total Project Budget.

D. Allowable Costs

1. Town of Estes Park shall agree to adhere to the provisions for allowable and unallowable costs cited in the following regulations: 2 CFR 200.420 through 200.475; FTA C 5010.1E Chapter VI: Financial Management; Master Agreement, Section 6 "Non-Federal Share;" and 2 CFR 200.102. Other applicable requirements for cost allowability not cited previously, shall also be considered.
2. Town of Estes Park's operating expenses are those costs directly related to system operations. Town of Estes Park at a minimum, should consider the following items as operating expenses: fuel, oil, drivers and dispatcher salaries and fringe benefits, and licenses.
3. If Town of Estes Park elects to take administrative assistance, eligible costs may include but are not limited to: general administrative expenses (e.g., salaries of the project director, secretary, and bookkeeper); marketing expenses; insurance premiums or payments to a self-insurance reserve; office supplies; facilities and equipment rental; standard overhead rates; and the costs of administering drug and alcohol testing. Additionally, administrative costs for promoting and coordinating ridesharing are eligible as project administration if the activity is part of a coordinated public transportation program.

E. Reimbursement Eligibility

1. Town of Estes Park must submit invoice(s) monthly via COTRAMS. Reimbursement will apply only to eligible expenses that are incurred within the period of performance (January 1, 2023 – June 30, 2024) of this Subaward Agreement.
2. Reimbursement requests must be within the limits of Section D., Allowable Costs, of this Subaward Agreement. Town of Estes Park will be reimbursed based on the ratio of Federal Funds share and Local Funds share set forth in the Project Budget above.
3. Town of Estes Park must submit the final invoice within sixty (60) calendar days of June 30, 2024, and submit a Grant Closeout and Liquidation (GCL) Form in COTRAMS within fifteen (15) days of issuance of the final reimbursement payment.

F. Training

In an effort to enhance transit safety, Town of Estes Park and any subrecipients and subcontractors shall make a good faith effort to ensure that appropriate training of agency and contracted personnel is occurring and that personnel are up to date in appropriate certifications. In particular, Town of Estes Park shall ensure that driving personnel are provided professional training in defensive driving and training on the handling of mobility devices and transporting older adults and people with disabilities.

G. Restrictions on Lobbying

Town of Estes Park is certifying that it complies with 2 CFR 200.450 by entering into this Subaward Agreement.

H. Special Conditions

1. Town of Estes Park will comply with all requirements imposed by CDOT on Town of Estes Park so that the federal award is used in accordance with federal statutes, regulations, and the terms and conditions of the federal award.
2. Town of Estes Park must permit CDOT and their auditors to have access to Town of Estes Park's records and financial statements as necessary, with reasonable advance notice.
3. Record retention shall adhere to the requirements outlined in 2 CFR 200.334 and FTA C 5010.1E.
4. Town of Estes Park cannot request reimbursement for costs on this project from more than one Federal Awarding Agency or other federal awards (i.e., no duplicate billing).
5. Town of Estes Park must obtain prior CDOT approval, in writing, if FTA funds are intended to be used for payment of a lease or for third-party contracts.
6. If receiving FTA 5311 funding, Town of Estes Park shall advertise its fixed route and/or rural based service as available to the general public and service will not be explicitly limited by trip purpose or client type.
7. If receiving FTA 5311 funding, Town of Estes Park shall maintain and report annually all information required by NTD and any other financial, fleet, or service data.
8. If receiving FTA 5311 or 5339 funding, Town of Estes Park will ensure subcontractors and subrecipients comply with FTA Drug and Alcohol Regulations.
9. Town of Estes Park will comply with the Federal Transit Administration (FTA) Drug and Alcohol Regulations, to include on time submission to FTA's Drug and Alcohol Management Information System (DAMIS).
10. Town of Estes Park shall ensure that it does not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, national origin, sex, age or disability in accordance with Title VI of the Civil Rights Act of 1964.
11. Town of Estes Park shall seek to ensure non-discrimination in its programs and activities by developing and maintaining a Title VI Program in accordance with the "Requirements for FTA Subrecipients" in CDOT's Title VI Program Plan and Federal Transit Administration Circular 4702.1B, "Title VI Requirements and Guidelines for FTA Recipients." The Party shall also facilitate FTA's compliance with Executive Order 12898 and DOT Order 5610.2(a) by incorporating the principles of environmental justice in planning, project development and public outreach in accordance with FTA Circular 4703.1 "Environmental Justice Policy Guidance for Federal Transit Administration Recipients."
12. Town of Estes Park will provide transportation services to persons with disabilities in accordance with the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq.
13. Town of Estes Park shall develop and maintain an ADA Program in accordance with 28 CFR Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services, FTA Circular 4710.1, and any additional requirements established by CDOT for FTA Subrecipients.
14. Town of Estes Park shall ensure that it will comply with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FTA guidance, and any other federal, state, and/or local laws, rules and/or regulations. In any contract utilizing federal funds, land, or other federal aid, Town of Estes Park shall require its subrecipients and/or contractors to provide a statement of written assurance that they will comply with Section 504 and not discriminate on the basis of disability.

15. Town of Estes Park shall agree to produce and maintain documentation that supports compliance with the Americans with Disabilities Act to CDOT upon request.
16. Town of Estes Park shall update its Agency Profile in COTRAMS with any alterations to existing construction or any new construction in accordance with FTA Circular 4710.1.
17. If applicable, Town of Estes Park will adopt a Transit Asset Management Plan that complies with regulations implementing 49 U.S.C. § 5326(d).
18. Town of Estes Park shall include nondiscrimination language and the Disadvantaged Business Enterprise (DBE) assurance in all contracts and solicitations in accordance with DBE regulations, 49 CFR part 26 and CDOT's DBE program.
19. Meal delivery must not conflict with providing public transportation service or reduce service to public transportation passengers.

EXHIBIT B, SAMPLE OPTION LETTER

State Agency Department of Transportation	Option Letter Number Insert the Option Number (e.g. "1" for the first option)
Subrecipient Insert Subrecipient's Full Legal Name, including "Inc.", "LLC", etc...	Original Agreement Number Insert CMS number or Other Contract Number of the Original Contract
Subaward Agreement Amount Federal Funds Maximum Amount (%) \$0.00 Local Funds Local Match Amount (%) \$0.00 Agreement Total \$0.00	Option Agreement Number Insert CMS number or Other Contract Number of this Option <hr/> Agreement Performance Beginning Date The later of the Effective Date or Month, Day, Year <hr/> Current Agreement Expiration Date Month, Day, Year

1. **OPTIONS:**
 - A. Option to extend for an Extension Term or End of Term Extension.
2. **REQUIRED PROVISIONS:**
 - A. **For use with Option 1(A):** In accordance with Section(s) 2.B/2.C of the Original Agreement referenced above, the State hereby exercises its option for an additional term/end of term extension, beginning Insert start date and ending on the current agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.
 - B. **For use with Options 1(A):** The Subaward Agreement Amount table on the Agreement's Cover Page is hereby deleted and replaced with the Current Subaward Agreement Amount table shown above.
3. **OPTION EFFECTIVE DATE:**
 - A. The effective date of this Option Letter is upon approval of the State Controller or _____, whichever is later.

<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p>In accordance with §24-30-202, C.R.S., this Option Letter is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: _____</p> <p style="text-align: center;">Department of Transportation</p> <p>Option Letter Effective Date: _____</p>
---	---

EXHIBIT C, FEDERAL PROVISIONS

1. APPLICABILITY OF PROVISIONS

- 1.1. The Contract to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Contract, or any attachments or exhibits incorporated into and made a part of the Contract, the provisions of these Federal Provisions shall control.

2. DEFINITIONS

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
- 2.1.1. “Award” means an award of Federal financial assistance, and the Contract setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
- 2.1.1.1. Awards may be in the form of:
- 2.1.1.1.1. Grants;
- 2.1.1.1.2. Contracts;
- 2.1.1.1.3. Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 2.1.1.1.4. Loans;
- 2.1.1.1.5. Loan Guarantees;
- 2.1.1.1.6. Subsidies;
- 2.1.1.1.7. Insurance;
- 2.1.1.1.8. Food commodities;
- 2.1.1.1.9. Direct appropriations;
- 2.1.1.1.10. Assessed and voluntary contributions; and
- 2.1.2.1.11. Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.
- 2.1.1.1.12. Any other items specified by OMB in policy memoranda available at the OMB website or other source posted by the OMB.
- 2.1.1.2. Award *does not* include:
- 2.1.1.2.1. Technical assistance, which provides services in lieu of money;
- 2.1.1.2.2. A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 2.1.1.2.3. Any award classified for security purposes; or
- 2.1.1.2.4. Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).
- 2.1.2. “Contract” means the Agreement or Subaward Agreement to which these Federal Provisions are attached and includes all Award types in §2.1.1.1 of this Exhibit.
- 2.1.3. “Contractor” means the party or parties to a Contract or Subaward Agreement funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes Subrecipients and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.
- 2.1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.
- 2.1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpart C;

- 2.1.5.1. A governmental organization, which is a State, local government, or Indian Tribe;
- 2.1.5.2. A foreign public entity;
- 2.1.5.3. A domestic or foreign non-profit organization;
- 2.1.5.4. A domestic or foreign for-profit organization; and
- 2.1.5.5. A Federal agency, but only a Subrecipient under an Award or Sub award to a non-Federal entity.
- 2.1.6. “Executive” means an officer, managing partner or any other employee in a management position.
- 2.1.7. “Federal Award Identification Number (FAIN)” means an Award number assigned by a Federal agency to a Prime Recipient.
- 2.1.8. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR §200.37
- 2.1.9. “FFATA” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 2.1.10. “Federal Provisions” means these Federal Provisions subject to the Transparency Act and Uniform Guidance, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.
- 2.1.11. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.12. “Prime Recipient” means a Colorado State agency or institution of higher education that receives an Award.
- 2.1.13. “Subaward” means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR §200.38. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.14. “Subrecipient” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subrecipient. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.15. “Subrecipient Parent DUNS Number” means the sub recipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the sub recipient’s System for Award Management (SAM) profile, if applicable.
- 2.1.16. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 2.1.17. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
 - 2.1.17.1. Salary and bonus;
 - 2.1.17.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 2.1.17.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.17.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.17.5. Above-market earnings on deferred compensation which is not tax-qualified;

- 2.1.17.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.18. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 2.1.19. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
- 2.1.20. “Vendor” means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

3. COMPLIANCE

- 3.1. Contractor shall comply with all applicable provisions of the Transparency Act, all applicable provisions of the Uniform Guidance, and the regulations issued pursuant thereto, including but not limited to these Federal Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS

- 4.1. SAM. Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 4.2. DUNS. Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor’s information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor’s information.

5. TOTAL COMPENSATION

- 5.1. Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
- 5.1.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
- 5.1.2. In the preceding fiscal year, Contractor received:
- 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Sub awards subject to the Transparency Act; and
- 5.1.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Sub awards subject to the Transparency Act; and
- 5.1.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING

- 6.1. Contractor shall report data elements to SAM and to the Prime Recipient as required in this Exhibit if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in this Exhibit

are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR REPORTING

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS

- 8.1. If Contractor is a Subrecipient, Contractor shall report as set forth below.
- 8.1.1. **To SAM.** A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Sub award was made:
- 8.1.1.1. Subrecipient DUNS Number;
- 8.1.1.2. Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;
- 8.1.1.3. Subrecipient Parent DUNS Number;
- 8.1.1.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
- 8.1.1.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
- 8.1.1.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.
- 8.1.2. **To Prime Recipient.** A Subrecipient shall report to its Prime Recipient, upon the effective date of the Agreement, the following data elements:
- 8.1.2.1. Subrecipient's DUNS Number as registered in SAM.
- 8.1.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

9. PROCUREMENT STANDARDS

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.
- 9.2. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS

- 10.1. A Subrecipient shall permit Recipient and auditors to have access to Sub recipient's records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).

11. SINGLE AUDIT REQUIREMENTS

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
- 11.1.1. **Election.** A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 11.1.2. **Exemption.** If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. **Subrecipient Compliance Responsibility.** A Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.

12. CONTRACT PROVISIONS FOR SUBRECIPIENT CONTRACTS

- 12.1. If Contractor is a Subrecipient, then it shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Agreement.
- 12.1.1. **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.
- 12.1.1.1. During the performance of this contract, the contractor agrees as follows:
- 12.1.1.1.1. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants

for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- 12.1.1.1.2. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- 12.1.1.1.3. Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 12.1.1.1.4. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 12.1.1.1.5. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 12.1.1.1.6. In the event of Contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 12.1.1.1.7. Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”
- 12.1.2. **Davis-Bacon Act.** Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- 12.1.3. **Rights to Inventions Made Under a Contract or Contract.** If the Federal Award meets the definition of “funding Contract” under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding Contract,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Contracts,” and any implementing regulations issued by the awarding agency.
- 12.1.4. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contracts and subawards of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. **Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier-to-tier up to the non-Federal award.

13. CERTIFICATIONS

- 13.1. Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed, or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS

- 14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 14.2. A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.
- 14.3. There are no Transparency Act reporting requirements for Vendors.

15. EVENT OF DEFAULT

- 15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

EXHIBIT D, REQUIRED FEDERAL CONTRACT/AGREEMENT CLAUSES

Section 3(i) – No Federal government obligations to third-parties by use of a disclaimer

No Federal/State Government Commitment or Liability to Third Parties. Except as the Federal Government or CDOT expressly consents in writing, the Subrecipient agrees that:

- (1) The Federal Government or CDOT does not and shall not have any commitment or liability related to the Underlying Agreement, to any Third party Participant at any tier, or to any other person or entity that is not a party (FTA, CDOT or the Subrecipient) to the underlying Agreement, and
- (2) Notwithstanding that the Federal Government or CDOT may have concurred in or approved any Solicitation or Third party Agreement at any tier that may affect the underlying Agreement, the Federal Government and CDOT does not and shall not have any commitment or liability to any Third Party Participant or other entity or person that is not a party (FTA, CDOT, or the Subrecipient) to the underlying Agreement.

Section 4(f) – Program fraud and false or fraudulent statements and related acts

False or Fraudulent Statements or Claims.

- (1) Civil Fraud. The Subrecipient acknowledges and agrees that:
 - (a) Federal laws, regulations, and requirements apply to itself and its Agreement, including the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 CFR part 31.
 - (b) By executing the Agreement, the Subrecipient certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Subrecipient provides to the Federal Government and CDOT.
 - (c) The Federal Government and CDOT may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Subrecipient presents, submits, or makes available any false, fictitious, or fraudulent information.
- (2) Criminal Fraud. The Subrecipient acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Subrecipient provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

Section 9. Record Retention and Access to Sites of Performance.

- (a) Types of Records. The Subrecipient agrees that it will retain, and will require its Third party Participants to retain, complete and readily accessible records related in whole or in part to the underlying Agreement, including, but not limited to, data, documents, reports, statistics, subagreements, leases, third party contracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
- (b). Retention Period. The Subrecipient agrees to comply with the record retention requirements in the applicable U.S. OT Common Rule. Records pertaining to its Award, the accompanying underlying Agreement, and any Amendments thereto must be retained from the day the underlying Agreement was signed by the authorized FTA (or State) official through the course of the Award, the accompanying Agreement, and any Amendments thereto until three years after the Subrecipient has submitted its last or final expenditure report, and other pending matters are closed.
- (c) Access to Recipient and Third party Participant Records. The Subrecipient agrees and assures that each Subrecipient, if any, will agree to:
 - (1) Provide, and require its Third Party Participants at each tier to provide, sufficient access to inspect and audit records and information related to its Award, the accompanying Agreement, and any Amendments thereto to the U.S. Secretary of Transportation or the Secretary’s duly authorized representatives, to the Comptroller General of the United States, and the Comptroller General’s duly authorized representatives, and to the Subrecipient and each of its Subrecipients,
 - (2) Permit those individuals listed above to inspect all work and materials related to its Award, and to audit any information related to its Award under the control of the Subrecipient or Third party Participant within books, records, accounts, or other locations, and
 - (3) Otherwise comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the applicable U.S. DOT Common Rules.
- (d) Access to the Sites of Performance. The Subrecipient agrees to permit, and to require its Third party Participants to permit, FTA and CDOT to have access to the sites of performance of its Award, the accompanying Agreement, and any Amendments thereto, and to make site visits as needed in compliance with State and the U.S. DOT Common Rules.
- (e) Closeout. Closeout of the Award does not alter the record retention or access requirements of this section of the Master Agreement.

3(G) – Federal Changes

Application of Federal, State, and Local Laws, Regulations, Requirements, and Guidance.

The Subrecipient agrees to comply with all applicable federal requirements and federal guidance. All standards or limits are minimum requirements when those standards or limits are included in the Recipient's Agreement or this Master Agreement. At the time the FTA Authorized Official (or CDOT) awards federal assistance to the Subrecipient in support of the Agreement, the federal requirements and guidance that apply then may be modified from time to time and will apply to the Subrecipient or the accompanying Agreement, except as FTA determines otherwise in writing.

12 – Civil Rights

(c) Nondiscrimination – Title VI of the Civil Rights Act. The Subrecipient agrees to, and assures that each Third party Participant, will:

- (1) Prohibit discrimination on the basis of race, color, or national origin,
- (2) Comply with:
 - (i) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq.;
 - (ii) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR part 21; and
 - (iii) Federal transit law, specifically 49 U.S.C. § 5332; and
- (3) Follow:
 - (i) The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance;
 - (ii) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 CFR § 50.3; and
 - (iii) All other applicable federal guidance that may be issued.

(d) Equal Employment Opportunity.

- (1) Federal Requirements and Guidance. The Subrecipient agrees to, and assures that each Third Party Participant will prohibit discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin, and:
 - (i) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.;
 - (ii) Comply with Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.;
 - (iii) Facilitate compliance with Executive Order No. 11246, “Equal Employment Opportunity” September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs;
 - (iv) Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of the Master Agreement;
 - (v) FTA Circular 4704.1 “Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients;” and
 - (vi) Follow other federal guidance pertaining to EEO laws, regulations, and requirements.
- (2). Specifics. The Subrecipient agrees to, and assures that each Third Party Participant will:
 - (i) Affirmative Action. Take affirmative action that includes, but is not limited to:
 - (A) Recruitment advertising, recruitment, and employment;
 - (B) Rates of pay and other forms of compensation;
 - (C) Selection for training, including apprenticeship, and upgrading; and
 - (D) Transfers, demotions, layoffs, and terminations; but
 - (ii) Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of “Employer,” and
- (3) Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), with:
 - (i) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 CFR chapter 60; and
 - (ii) Executive Order No. 11246, “Equal Employment Opportunity in Federal Employment,” September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

(h) Nondiscrimination on the Basis of Disability. The Subrecipient agrees to comply with the following federal prohibitions against discrimination on the basis of disability:

- (1) Federal laws, including:

- (i) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally assisted Programs, Projects, or activities;
 - (ii) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:
 - (A) For FTA Recipients generally, Titles I, II, and III of the ADA apply; but
 - (B) For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of “employer;”
 - (iii) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities;
 - (iv) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
 - (v) Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.
- (2) Federal regulations and guidance, including:
- (i) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR part 37;
 - (ii) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 CFR part 27;
 - (iii) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR part 1192 and 49 CFR part 38;
 - (iv) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 CFR part 39;
 - (v) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 CFR part 35;
 - (vi) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 CFR part 36;
 - (vii) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR part 1630;
 - (viii) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 CFR part 64, Subpart F;
 - (ix) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR part 1194;
 - (x) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 CFR part 609;
 - (x) FTA Circular 4710.1, “Americans with Disabilities Act: Guidance;” and
 - (xi) Other applicable federal civil rights and nondiscrimination regulations and guidance.

Incorporation of FTA Terms – 16.a.

(a) Federal Laws, Regulations, Requirements, and Guidance. The Subrecipient agrees:

- (1) To comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its third party procurements;
- (2) To comply with the applicable U.S. DOT Common Rules; and
- (3) To follow the most recent edition and any revisions of FTA Circular 4220.1, “Third Party Contracting Guidance,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

Energy Conservation – 26.j

- (a) Energy Conservation. The Subrecipient agrees to, and assures that its Subrecipients, will comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, “Requirements for Energy Assessments,” 49 CFR part 622, subpart C.

Applicable to Awards exceeding \$10,000

Section 11. Right of the Federal Government to Terminate.

- (a) Justification. After providing written notice to the Subrecipient, the Subrecipient agrees that the Federal Government may suspend, suspend then terminate, or terminate all or any part of the federal assistance for the Award if:
- (1) The Subrecipient has failed to make reasonable progress implementing the Award;
 - (2) The Federal Government determines that continuing to provide federal assistance to support the Award does not adequately serve the purposes of the law authorizing the Award; or
 - (3) The Subrecipient has violated the terms of the Agreement, especially if that violation would endanger substantial performance of the Agreement.
- (b) Financial Implications. In general, termination of federal assistance for the Award will not invalidate obligations properly incurred before the termination date to the extent that the obligations cannot be canceled. The Federal Government may recover the federal assistance it has provided for the Award, including the federal assistance for obligations properly incurred before the termination date, if it determines that the Subrecipient has misused its federal assistance by failing to make adequate progress, failing to make appropriate use of the Project property, or failing to comply with the Agreement, and require the Subrecipient to refund the entire amount or a lesser amount, as the Federal Government may determine including obligations properly incurred before the termination date.
- (c) Expiration of the Period of Performance. Except for a Full Funding Grant Agreement, expiration of any period of performance established for the Award does not, by itself, constitute an expiration or termination of the Award; FTA may extend the period of performance to assure that each Formula Project or related activities and each Project or related activities funded with “no year” funds can receive FTA assistance to the extent FTA deems appropriate.

Applicable to Awards exceeding \$25,000

From Section 4. Ethics.

- (a) Debarment and Suspension. The Subrecipient agrees to the following:
- (1) It will comply with the following requirements of 2 CFR part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 CFR part 1200.
 - (2) It will not enter into any “covered transaction” (as that phrase is defined at 2 CFR §§ 180.220 and 1200.220) with any Third Party Participant that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions, except as authorized by-
 - (i) U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR part 1200;
 - (ii) U.S. OMB regulatory guidance, “Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” 2 CFR part 180; and
 - (iii) Other applicable federal laws, regulations, or requirements regarding participation with debarred or suspended Subrecipients or Third Party Participants.
 - (3) It will review the U.S. GSA “System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” if required by U.S. DOT regulations, 2 CFR part 1200.
 - (4) It will that its Third Party Agreements contain provisions necessary to flow down these suspension and debarment provisions to all lower tier covered transactions.
 - (5) If the Subrecipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Subrecipient will provide immediate written notice to the:
 - (i) FTA Regional Counsel for the Region in which the Subrecipient is located or implements the underlying Agreement,
 - (ii) FTA Headquarters Manager that administers the Grant or Cooperative Agreement, or
 - (iii) FTA Chief Counsel.

Applicable to Awards exceeding the simplified acquisition threshold (\$100,000-see Note)

Note: Applicable when tangible property or construction will be acquired

Section 15. Preference for United States Products and Services.

Except as the Federal Government determines otherwise in writing, the Subrecipient agrees to comply with FTA’s U.S. domestic preference requirements and follow federal guidance, including:

Buy America. The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, “Buy America Requirements,” 49 CFR part 661, to the extent consistent with 49 U.S.C. § 5323(j).

Section 39. Disputes, Breaches, Defaults, and Litigation.

- (a) FTA Interest. FTA has a vested interest in the settlement of any violation of federal law, regulation, or disagreement involving the Award, the accompanying underlying Agreement, and any Amendments thereto

including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.

- (b) Notification to FTA; *Flow Down Requirement*. If a current or prospective legal matter that may affect the Federal Government emerges, the Subrecipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Subrecipient is located. The Subrecipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.
- (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
 - (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
 - (3) *Additional Notice to U.S. DOT Inspector General*. The Subrecipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Subrecipient is located, if the Subrecipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Subrecipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Subrecipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Subrecipient. In this paragraph, “promptly” means to refer information without delay and without change. This notification provision applies to all divisions of the Subrecipient, including divisions tasked with law enforcement or investigatory functions.
- (c) Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Agreement. Notwithstanding the preceding sentence, the Subrecipient may return all liquidated damages it receives to its Award Budget for its Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Subrecipient receives FTA’s prior written concurrence.
- (d) Enforcement. The Subrecipient must pursue its legal rights and remedies available under any third party agreement, or any federal, state, or local law or regulation.

Applicable to Awards exceeding \$100,000 by Statute

From Section 4. Ethics.

- a. Lobbying Restrictions. The Subrecipient agrees that neither it nor any Third Party Participant will use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the underlying Agreement, including any extension or modification, according to the following:
- (1) Laws, Regulations, Requirements, and Guidance. This includes:
 - (i) The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended;
 - (ii) U.S. DOT regulations, “New Restrictions on Lobbying,” 49 CFR part 20, to the extent consistent with 31 U.S.C. § 1352, as amended; and
 - (iii) Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature; and
 - (2) Exception. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Subrecipient’s or Subrecipient’s proper official channels.

Section 26. Environmental Protections – Clean Air and Clean Water

- (d) Other Environmental Federal Laws. The Subrecipient agrees to comply or facilitate compliance, and assures that its Third Party Participants will comply or facilitate compliance, with all applicable federal laws,

regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to "Protection of Wetlands," and Executive Order No. 11988, as amended, "Floodplain Management."

Applicable with the Transfer of Property or Persons

Section 15. Preference for United States Products and Services.

Except as the Federal Government determines otherwise in writing, the Subrecipient agrees to comply with FTA's U.S. domestic preference requirements and follow federal guidance, including:

- (a) Buy America. The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, "Buy America Requirements," 49 CFR part 661, to the extent consistent with 49 U.S.C. § 5323(j);
- (c) Cargo Preference. Preference – Use of United States-Flag Vessels. The shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 CFR part 381; and
- (d) Fly America. The air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 CFR §§ 301-10.131 – 301-10.143.

Applicable to Construction Activities

Section 24. Employee Protections.

- a. Awards Involving Construction. The Subrecipient agrees to comply and assures that each Third Party Participant will comply with all federal laws, regulations, and requirements providing protections for construction employees involved in each Project or related activities with federal assistance provided through the underlying Agreement, including the:
 - (1) Prevailing Wage Requirements of:
 - (i) Federal transit laws, specifically 49 U.S.C. § 5333(a), (FTA's "Davis-Bacon Related Act");
 - (ii) The Davis-Bacon Act, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147; and
 - (iii) U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.
 - (2) Wage and Hour Requirements of:
 - (i) Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq.; and
 - (ii) U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.
 - (3) "Anti-Kickback" Prohibitions of:
 - (i) Section 1 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874;
 - (ii) Section 2 of the Copeland "Anti-Kickback" Act, as amended, 40 U.S.C. § 3145; and
 - (iii) U.S. DOL regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States," 29 CFR part 3.
 - (4) Construction Site Safety of:
 - (i) Section 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3704, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq.; and
 - (ii) U.S. DOL regulations, "Recording and Reporting Occupational Injuries and Illnesses," 29 CFR part 1904; "Occupational Safety and Health Standards," 29 CFR part 1910; and "Safety and Health Regulations for Construction," 29 CFR part 1926.

From Section 16

- (n) Bonding. The Subrecipient agrees to comply with the following bonding requirements and restrictions as provided in federal regulations and guidance:

- (1) Construction. As provided in federal regulations and modified by FTA guidance, for each Project or related activities implementing the Agreement that involve construction, it will provide bid guarantee bonds, contract performance bonds, and payment bonds.
- (2) Activities Not Involving Construction. For each Project or related activities implementing the Agreement not involving construction, the Subrecipient will not impose excessive bonding and will follow FTA guidance.

From Section 23

- (b) Seismic Safety. The Subrecipient agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. § 7701 et seq., and U.S. DOT regulations, “Seismic Safety,” 49 CFR part 41, specifically, 49 CFR § 41.117.

Section 12 Civil Rights D(3)

Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), with:

- (i.) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 CFR chapter 60, and
- (ii) Executive Order No. 11246, “Equal Employment Opportunity in Federal Employment,” September 24, 1965, 42 U.S.C. § 2000e note (30 Fed. Reg. 12319, 12935), as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

Applicable to Nonconstruction Activities

From Section 24. Employee Protections

- (b) Awards Not Involving Construction. The Subrecipient agrees to comply and assures that each Third Party Participant will comply with all federal laws, regulations, and requirements providing wage and hour protections for nonconstruction employees, including Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 CFR part 5.

Applicable to Transit Operations

- a. Public Transportation Employee Protective Arrangements. As a condition of award of federal assistance appropriated or made available for FTA programs involving public transportation operations, the Subrecipient agrees to comply and assures that each Third Party Participant will comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):
 - (1) U.S. DOL Certification. When its Awarded, the accompanying Agreement, or any Amendments thereto involve public transportation operations and are supported with federal assistance appropriated or made available for 49 U.S.C. §§ 5307 – 5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, 5338(b), or 5339, or former 49 U.S.C. §§ 5308, 5309, 5312, or other provisions of law as required by the Federal Government, U.S. DOL must provide a certification of employee protective arrangements before FTA may provide federal assistance for that Award. The Subrecipient agrees that the certification issued by U.S. DOL is a condition of the underlying Agreement and that the Subrecipient must comply with its terms and conditions.
 - (2) Special Warranty. When its Agreement involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The Subrecipient agrees that its U.S. DOL Special Warranty is a condition of the underlying Agreement and the Subrecipient must comply with its terms and conditions.
 - (3) Special Arrangements for Agreements for Federal Assistance Authorized under 49 U.S.C. § 5310. The Subrecipient agrees, and assures that any Third Party Participant providing public transportation operations will agree, that although pursuant to 49 U.S.C. § 5310, and former 49 U.S.C. §§ 5310 or 5317, FTA has determined that it was not “necessary or appropriate” to apply the conditions of 49 U.S.C. § 5333(b) to any Subagreement participating in the program to provide public transportation for seniors (elderly individuals) and individuals with disabilities, FTA reserves the right to make case-by- case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate.

Section 28. Charter Service.

- (a) Prohibitions. The Recipient agrees that neither it nor any Third Party Participant involved in the Award will engage in charter service, except as permitted under federal transit laws, specifically 49 U.S.C. § 5323(d), (g), and (r), FTA regulations, “Charter Service,” 49 CFR part 604, any other Federal Charter Service regulations, federal requirements, or federal guidance.
- (b) Exceptions. Apart from exceptions to the Charter Service restrictions in FTA’s Charter Service regulations, FTA has established the following additional exceptions to those restrictions:
 - (1) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with federal assistance appropriated or made available for 49 U.S.C. § 5307 to support a Job Access and Reverse Commute (JARC)-type Project or related activities that would have been eligible for assistance under repealed 49 U.S.C. § 5316 in effect in Fiscal Year 2012 or a previous fiscal year, provided that the Subrecipient uses that federal assistance for FTA program purposes only, and
 - (2) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with the federal assistance appropriated or made available for 49 U.S.C. § 5310 to support a New Freedom-type Project or related activities that would have been eligible for federal assistance under repealed 49 U.S.C. § 5317 in effect in Fiscal Year 2012 or a previous fiscal year, provided the Subrecipient uses that federal assistance for program purposes only.
- (c) Violations. If it or any Third Party Participant engages in a pattern of violations of FTA’s Charter Service regulations, FTA may require corrective measures and remedies, including withholding an amount of federal assistance as provided in FTA’s Charter Service regulations, 49 CFR part 604, appendix D, or barring it or the Third Party Participant from receiving federal assistance provided in 49 U.S.C. chapter 53, 23 U.S.C. § 133, or 23 U.S.C. § 142.

Section 29. School Bus Operations.

- (a) *Prohibitions.* The Subrecipient agrees that neither it nor any Third Party Participant that is participating in its Award will engage in school bus operations exclusively for the transportation of students or school personnel in competition with private school bus operators, except as permitted by federal transit laws, 49 U.S.C. § 5323(f) or (g), FTA regulations, “School Bus Operations,” 49 CFR part 605, and any other applicable federal “School Bus Operations” laws, regulations, federal requirements, or applicable federal guidance.
- (b) *Violations.* If a Subrecipient or any Third Party Participant has operated school bus service in violation of FTA’s School Bus laws, regulations, or requirements, FTA may require the Subrecipient or Third Party Participant to take such remedial measures as FTA considers appropriate, or bar the Subrecipient or Third Party Participant from receiving federal transit assistance.

From Section 35 Substance Abuse

c. Alcohol Misuse and Prohibited Drug Use.

- (1) Requirements. The Subrecipient agrees to comply and assures that its Third Party Participants will comply with:
 - (i) Federal transit laws, specifically 49 U.S.C. § 5331;
 - (ii) FTA regulations, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” 49 CFR part 655; and
 - (iii) Applicable provisions of U.S. DOT regulations, “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” 49 CFR part 40.
- (2) Remedies for Non-Compliance. The Subrecipient agrees that if FTA determines that the Subrecipient or a Third Party Participant receiving federal assistance under 49 U.S.C. chapter 53 is not in compliance with 49 CFR part 655, the Federal Transit Administrator may bar that Subrecipient or Third Party Participant from receiving all or a portion of the federal transit assistance for public transportation it would otherwise receive.

Applicable to Planning, Research, Development, and Documentation Projects

Section 17. Patent Rights.

- a. General. The Subrecipient agrees that:
 - (1) Depending on the nature of the Agreement, the Federal Government may acquire patent rights when the Subrecipient or Third Party Participant produces a patented or patentable invention, improvement, or discovery;
 - (2) The Federal Government’s rights arise when the patent or patentable information is conceived or reduced to practice with federal assistance provided through the underlying Agreement; or
 - (3) When a patent is issued or patented information becomes available as described in the preceding section 17(a)(2) of this Master Agreement, the Subrecipient will notify FTA immediately and provide a detailed report satisfactory to FTA.
- b. Federal Rights. The Subrecipient agrees that:

- (1) Its rights and responsibilities, and each Third Party Participant's rights and responsibilities, in that federally assisted invention, improvement, or discovery will be determined as provided in applicable federal laws, regulations, requirements, and guidance, including any waiver thereof, and
 - (2) Unless the Federal Government determines otherwise in writing, irrespective of its status or the status of any Third Party Participant as a large business, small business, state government, state instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, or individual, the Subrecipient will transmit the Federal Government's patent rights to FTA, as specified in 35 U.S.C. § 200 et seq., and U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR part 401.
- c. License Fees and Royalties. Consistent with the applicable U.S. DOT Common Rules, the Subrecipient agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Agreement are program income and must be used in compliance with applicable federal requirements.

Section 18. Rights in Data and Copyrights.

- (a) *Definition of "Subject Data."* As used in this section, "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Agreement. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the underlying Agreement.
- (b) *General Federal Restrictions.* The following restrictions apply to all subject data first produced in the performance of the Agreement:
 - (1) *Prohibitions.* The Subrecipient may not publish or reproduce any subject data, in whole, in part, or in any manner or form, or permit others to do so.
 - (2) *Exceptions.* The prohibitions do not apply to publications or reproductions for the Subrecipient's own internal use, an institution of higher learning, the portion of subject data that the Federal Government has previously released or approved for release to the public, or the portion of data that has the Federal Government's prior written consent for release.
- (c) *Federal Rights in Data and Copyrights.* The Subrecipient agrees that:
 - (1) *General.* It must provide a license to its "subject data" to the Federal Government that is royalty-free, non-exclusive, and irrevocable. The Federal Government's license must permit the Federal Government to reproduce, publish, or otherwise use the subject data or permit other entities or individuals to use the subject data provided those actions are taken for Federal Government purposes, and
 - (2) *U.S. DOT Public Access Plan – Copyright License.* The Subrecipient grants to U.S. DOT a worldwide, non-exclusive, non-transferable, paid-up, royalty-free copyright license, including all rights under copyright, to any and all Publications and Digital Data Sets as such terms are defined in the U.S. DOT Public Access plan, resulting from scientific research funded either fully or partially by this funding agreement. The Subrecipient herein acknowledges that the above copyright license grant is first in time to any and all other grants of a copyright license to such Publications and/or Digital Data Sets, and that U.S. DOT shall have priority over any other claim of exclusive copyright to the same.
- (d) *Special Federal Rights in Data for Research, Development, Demonstration, Deployment, Technical Assistance, and Special Studies Programs.* In general, FTA's purpose in providing federal assistance for a research, development, demonstration, deployment, technical assistance, or special studies program is to increase transportation knowledge, rather than limit the benefits of the Award to the Subrecipient and its Third Party Participants. Therefore, the Subrecipient agrees that:
 - (1) *Publicly Available Report.* When an Award providing federal assistance for any of the programs described above is completed, it must provide a report of the Agreement that FTA may publish or make available for publication on the Internet.
 - (2) *Other Reports.* It must provide other reports related to the Award that FTA may request.
 - (3) *Availability of Subject Data.* FTA may make available its copyright license to the subject data, and a copy of the subject data to any FTA Recipient or any Third Party Participant at any tier, except as the Federal Government determines otherwise in writing.
 - (4) *Identification of Information.* It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA.
 - (5) *Incomplete.* If the Award is not completed for any reason whatsoever, all data developed with federal assistance for the Award becomes "subject data" and must be delivered as the Federal Government may direct.

- (6) *Exception.* This section does not apply to an adaptation of any automatic data processing equipment or program that is both for the Subrecipient's use and acquired with FTA capital program assistance.
- (e) *License Fees and Royalties.* Consistent with the applicable U.S. DOT Common Rules, the Subrecipient agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Agreement are program income and must be used in compliance with federal applicable requirements.
- (f) *Hold Harmless.* Upon request by the Federal Government, the Subrecipient agrees that if it intentionally violates any proprietary rights, copyrights, or right of privacy, and if its violation under the preceding section occurs from any of the publication, translation, reproduction, delivery, use or disposition of subject data, then it will indemnify, save, and hold harmless against any liability, including costs and expenses of the Federal Government's officers, employees, and agents acting within the scope of their official duties. The Subrecipient will not be required to indemnify the Federal Government for any liability described in the preceding sentence, if the violation is caused by the wrongful acts of federal officers, employees or agents, or if indemnification is prohibited or limited by applicable state law.
- (g) *Restrictions on Access to Patent Rights.* Nothing in this section of this Master Agreement (FTA MA(23)) pertaining to rights in data either implies a license to the Federal Government under any patent, or may be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.
- (h) *Data Developed Without Federal Assistance or Support.* The Subrecipient agrees that in certain circumstances it may need to provide to FTA data developed without any federal assistance or support. Nevertheless, this section generally does not apply to data developed without federal assistance, even though that data may have been used in connection with the Award. The Subrecipient agrees that the Federal Government will not be able to protect data developed without federal assistance from unauthorized disclosure unless that data is clearly marked "Proprietary," or "Confidential."
- (i) *Requirements to Release Data.* The Subrecipient understands and agrees that the Federal Government may be required to release data and information the Subrecipient submits to the Federal Government as required under:
- (1) The Freedom of Information Act (FOIA), 5 U.S.C. § 552,
 - (2) The U.S. DOT Common Rules,
 - (3) U.S. DOT Public Access Plan, which provides that the Subrecipient agrees to satisfy the reporting and compliance requirements as set forth in the U.S. DOT Public Access plan, including, but not limited to, the submission and approval of a Data Management Plan, the use of Open Researcher and Contributor ID (ORCID) numbers, the creation and maintenance of a Research Project record in the Transportation Research Board's (TRB) Research in Progress (RiP) database, and the timely and complete submission of all required publications and associated digital data sets as such terms are defined in the DOT Public Access plan. Additional information about how to comply with the requirements can be found at: <http://ntl.bts.gov/publicaccess/howtocomply.html>, or
 - (4) Other federal laws, regulations, requirements, and guidance concerning access to records pertaining to the Award, the accompanying Agreement, and any Amendments thereto.

Miscellaneous Special Requirements

From Section 12. Civil Rights.

- (e) *Disadvantaged Business Enterprise.* To the extent authorized by applicable federal laws, regulations, or requirements, the Subrecipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Agreement as follows:
- (1) *Statutory and Regulatory Requirements.* The Subrecipient agrees to comply with:
 - (i) Section 11101(e) of IIIA;
 - (ii) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 CFR part 26; and
 - (iii) Federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement.
 - (2) *DBE Program Requirements.* A Subrecipient that receives planning, capital and/or operating assistance and that will award prime third party contracts exceeding \$250,000 the requirements of 49 CFR part 26.
 - (3) *Special Requirements for a Transit Vehicle Manufacturer (TVM).* The Subrecipient agrees that:
 - (i) *TVM Certification.* Each TVM, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 CFR part 26; and
 - (ii) *Reporting TVM Awards.* Within 30 days of any third party contract award for a vehicle purchase, the Subrecipient must submit to FTA the name of the TVM contractor and the total dollar value of the third party contract, and notify FTA that this information has been attached to FTA's electronic award

management system. The Subrecipient must also submit additional notifications if options are exercised in subsequent years to ensure that the TVM is still in good standing.

- (4) *Assurance*. As required by 49 CFR § 26.13(a):
- (i) *Recipient Assurance*. The Subrecipient agrees and assures that:
 - (A) It must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted contract, or in the administration of its DBE program or the requirements of 49 CFR part 26;
 - (B) It must take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts;
 - (C) Its DBE program, as required under 49 CFR part 26 and as approved by U.S. DOT, is incorporated by reference and made part of the Underlying Agreement; and
 - (D) Implementation of its DBE program approved by U.S. DOT is a legal obligation and failure to carry out its terms shall be treated as a violation of this Master Agreement.
 - (ii) *Subrecipient/Third Party Contractor/Third Party Subcontractor Assurance*. The Subrecipient agrees and assures that it will include the following assurance in each subagreement and third party contract it signs with a Subrecipient or Third Party Contractor and agrees to obtain the agreement of each of its Subrecipients, Third Party Contractors, and Third Party Subcontractors to include the following assurance in every subagreement and third party contract it signs:
 - (A) The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 CFR part 26;
 - (B) The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable;
 - (C) Failure by the Subrecipient and any of its Third Party Contractors or Third Party Subcontractors to carry out the requirements of subparagraph 12.e(4)(b) (of FTA MA(23)) is a material breach of their subagreement, third party contract, or third party subcontract, as applicable; and
 - (D) The following remedies, or such other remedy as the Subrecipient deems appropriate, include, but are not limited to, withholding monthly progress payments; assessing sanctions; liquidated damages; and/or disqualifying the Subrecipient, Third Party Contractor, or Third Party Subcontractor from future bidding as non-responsible.
- (5) *Remedies*. Upon notification to the Subrecipient of its failure to carry out its approved program, FTA or U.S. DOT may impose sanctions as provided for under 49 CFR part 26, and, in appropriate cases, refer the matter for enforcement under either or both 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.

From Section 12. Civil Rights.

- (h) *Nondiscrimination on the Basis of Disability*. The Subrecipient agrees to comply with the following federal prohibitions against discrimination on the basis of disability:
- (1) Federal laws, including:
 - (i) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally assisted Programs, Projects, or activities;
 - (ii) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:
 - (A) For FTA Recipients generally, Titles I, II, and III of the ADA apply,;but
 - (B) For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of “employer;”
 - (iii) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities;
 - (iv) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
 - (v) Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.
 - (2) Federal regulations and guidance, including:
 - (i) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR part 37;

- (ii) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 CFR part 27;
- (iii) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR part 1192 and 49 CFR part 38;
- (iv) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 CFR part 39;
- (v) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 CFR part 35;
- (vi) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 CFR part 36;
- (vii) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR part 1630;
- (viii) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 CFR part 64, Subpart F;
- (ix) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR part 1194;
- (x) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 CFR part 609,
- (xi) FTA Circular 4710.1, “Americans with Disabilities Act: Guidance;” and
- (xii) Other applicable federal civil rights and nondiscrimination regulations and guidance.

Section 16. Procurement.

- (a) *Federal Laws, Regulations, Requirements, and Guidance.* The Subrecipient agrees:
 - (1) To comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its third party procurements;
 - (2) To comply with the applicable U.S. DOT Common Rules; and
 - (3) To follow the most recent edition and any revisions of FTA Circular 4220.1, “Third Party Contracting Guidance,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

State Requirements

Section 37. Special Notification Requirements for States.

- (a) *Types of Information.* To the extent required under federal law, the State, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
 - (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
 - (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
 - (3) The amount of federal assistance FTA has provided for a State Program or Project.
- (b) *Documents.* The State agrees to provide the information required under this provision in the following documents:
 - (1) applications for federal assistance, (2) requests for proposals, or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

EXHIBIT E, VERIFICATION OF PAYMENT

This checklist is to assist the Subrecipient in preparation of its billing packets to State. This checklist is provided as guidance and is subject to change by State. State shall provide notice of any such changes to Subrecipient. All items may not apply to your particular entity. State's goal is to reimburse Subrecipients as quickly as possible and a well organized and complete billing packet helps to expedite payment.

Verification of Payment –

- ✓ General Ledger Report must have the following:
 - Identify check number or EFT number;
 - If no check number is available, submit Accounts Payable Distribution report with the General Ledger;
 - In-Kind (must be pre-approved by State) and/or cash match;
 - Date of the report;
 - Accounting period;
 - Current period transactions; and
 - Account coding for all incurred expenditures.
- ✓ If no General Ledger Report, all of the following are acceptable:
 - copies of checks;
 - check registers; and
 - paycheck stub showing payment number, the amount paid, the check number or electronic funds transfer (EFT), and the date paid.
- ✓ State needs to ensure that expenditures incurred by the local agencies have been paid by Party *before* State is invoiced by Party.
- ✓ Payment amounts should match the amount requested on the reimbursement. Additional explanation and documentation is required for any variances.

In-Kind or Cash Match – If an entity wishes to use these types of match, they must be approved by State prior to any Work taking place.

- ✓ If in-kind or cash match is being used for the Local Match, the in-kind or cash match portion of the project must be included in the project application and the statement of work attached to the Agreement or purchase order. FTA does not require pre-approval of in-kind or cash match, but State does.
- ✓ General ledger must also show the in-kind and/or cash match.

Indirect costs – If an entity wishes to use indirect costs, the rate must be approved by State prior to applying it to the reimbursements.

- ✓ If indirect costs are being requested, an approved indirect letter from State or your cognizant agency for indirect costs, as defined in 2 CCR §200. 19, must be provided. The letter must state what indirect costs are allowed, the approved rate and the time period for the approval. The indirect cost plan must be reconciled annually and an updated letter submitted each year thereafter.

Fringe Benefits- Considered part of the Indirect Cost Rate and must be reviewed and approved prior to including these costs in the reimbursements.

- ✓ Submit an approval letter from the cognizant agency for indirect costs, as defined in 2 CCR §200. 19, that verifies fringe benefit, or
- ✓ Submit the following fringe benefit rate proposal package to State Audit Division:
 - Copy of Financial Statement;
 - Personnel Cost Worksheet;
 - State of Employee Benefits; and
 - Cost Policy Statement.



Memo

To: Honorable Mayor Koenig
Board of Trustees

Through: Town Administrator Machalek

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

Date: May 9, 2023

RE: *Resolution 47-23 Contract for the 2023 Overlay & Patching Program with Martin Marietta Materials, Inc. for \$727,741.40 – Budgeted.*

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

Objective:

Public Works seeks approval from the Town Board for the 2023 Overlay & Patching Program construction agreement with Martin Marietta Materials, Inc. (Martin Marietta) for the repaving of multiple roads in the Town of Estes Park.

Present Situation:

On March 28, 2023, Public Works presented a plan to improve the condition of Town streets to an overall system-wide PCI of 70 by the year 2024. To effectively implement this plan, we need to hire a contractor to begin the 2023 Street Overlay & Patching Program.

On March 31, 2023, Public Works advertised an Invitation to Bid for the 2023 Overlay & Patching Program. The Program includes the Town’s annual Overlay and Patching program.

Six general contractors attended the mandatory pre-bid meeting on April 6, 2023. After three weeks of advertising, five bids were received on April 19, 2023. The following table contains the bids for each company, and the Engineer’s Estimate:

COMPANY	CITY	TOTAL FEE
Martin Marietta Materials, Inc.	Fort Collins, CO	\$727,741.40
Coulson Excavating Co., Inc.	Loveland, CO	\$743,431.50
All Pro Pavement	Loveland, CO	\$758,769.50
Brannan Sand & Gravel Co., LLC	Denver, CO	\$891,325.80
Simon Contractors	Fort Collins, CO	\$919,340.14
Engineer’s Estimate		\$954,343.00

The apparent low bidder was Martin Marietta. This contractor has extensive repaving experience and a reputation of performing quality work, including projects on the CDOT network.

Proposal:

Public Works proposes approving the construction agreement for the 2023 Overlay & Patching Program with Martin Marietta Materials, Inc. in the amount of \$727,741.40.

Advantages:

- Rehabilitation of multiple roads in Estes Park, including a portion of W Elkhorn Avenue
- Utilization of 1A sales tax funds to improve Estes Park streets, which moves the 2024 STIP Program forward

Disadvantages:

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

Action Recommended:

Staff recommends approving the attached construction agreement to Martin Marietta in the amount of \$727,741.40 and authorizing Public Works staff to spend up to a total amount of \$873,300.00 for additional street overlay work during construction.

Finance/Resource Impact:

This project will be funded from the Street Improvement Fund account number 260-2000-420.35-51.

Level of Public Interest

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

Sample Motion:

I move for **approval/denial** of Resolution 47-23.

Attachments:

1. Resolution 47-23
2. Construction Contract

RESOLUTION 47-23

**APPROVING A CONTRACT WITH MARTIN MARIETTA MATERIALS, INC. FOR 2023
OVERLAY & PATCHING PROGRAM**

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

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

The Board approves, and authorizes the Mayor to sign, the construction contract referenced in the title of this resolution in substantially the form now before the Board. The Board authorizes the Public Works Director to spend up to \$873,300.00 for this construction project in 2023.

DATED this _____ day of _____, 2023.

TOWN OF ESTES PARK

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:



Town Attorney



CONSTRUCTION CONTRACT

2023 OVERLAY & PATCHING PROGRAM

THIS CONTRACT is made at the Town of Estes Park, Colorado, by and between the Town of Estes Park, Colorado (Town), a municipal corporation, and Martin Marietta Materials, Inc. (Contractor), a corporation, whose address is 1800 N. Taft Hill Rd, Fort Collins, CO 80521.

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

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

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

LIST OF CONTRACT DOCUMENTS.

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

1. Change Orders;
2. Construction Contract;
3. The following addenda, if any:

i. Number	Date	Page(s)
<i>1</i>	<i>April 12, 2023</i>	<i>9;</i>
4. The following Special Conditions of the Contract:

i. Document	Page(s)
<i>Special Conditions</i>	<i>3;</i>
5. General Conditions;
6. The following Technical Specifications:

i. Document	Page(s)
<i>Specifications</i>	<i>12;</i>
7. The following Drawings:

i. Number	Title	Date
<i>Exhibit A</i>	<i>Overview</i>	<i>March 27, 2023</i>
<i>Exhibit B</i>	<i>Patching</i>	<i>March 27, 2023</i>
<i>Exhibit C</i>	<i>Overlay</i>	<i>April 12, 2023</i>
<i>Exhibit D</i>	<i>Striping & Markings</i>	<i>March 27, 2023</i>

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

CONTRACT PRICE. The Town shall pay the Contractor for performing the Work and the completion of the Project according to the Contract, subject to change orders as approved in writing by the Town, under the guidelines in the General Conditions. The Town will pay the base sum of \$727,741.40 DOLLARS (Contract Price), to the Contractor, subject to full and satisfactory performance of the terms and conditions of the Contract. The Town has appropriated sufficient money for this work.

COMPLETION OF WORK. The Contractor must complete the work:

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

X by August 31, 2023.

___ as described in the Special Conditions.

LIQUIDATED DAMAGES. If the Contractor fails to substantially complete the Work within the time period described above, or within such other construction time if modified by a change order, the Town may permit the Contractor to proceed, and in such case, may deduct the sum of \$300.00 for each calendar day that the Work shall remain uncompleted from monies due or that may become due the Contractor. This sum is not a penalty but is the cost of field and office engineering, inspecting, interest on financing and liquidated damages.

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

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

TOWN OF ESTES PARK
PUBLIC WORKS DEPARTMENT
P.O. Box 1200
170 MacGregor Ave
Estes Park, CO 80517

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

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

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

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

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

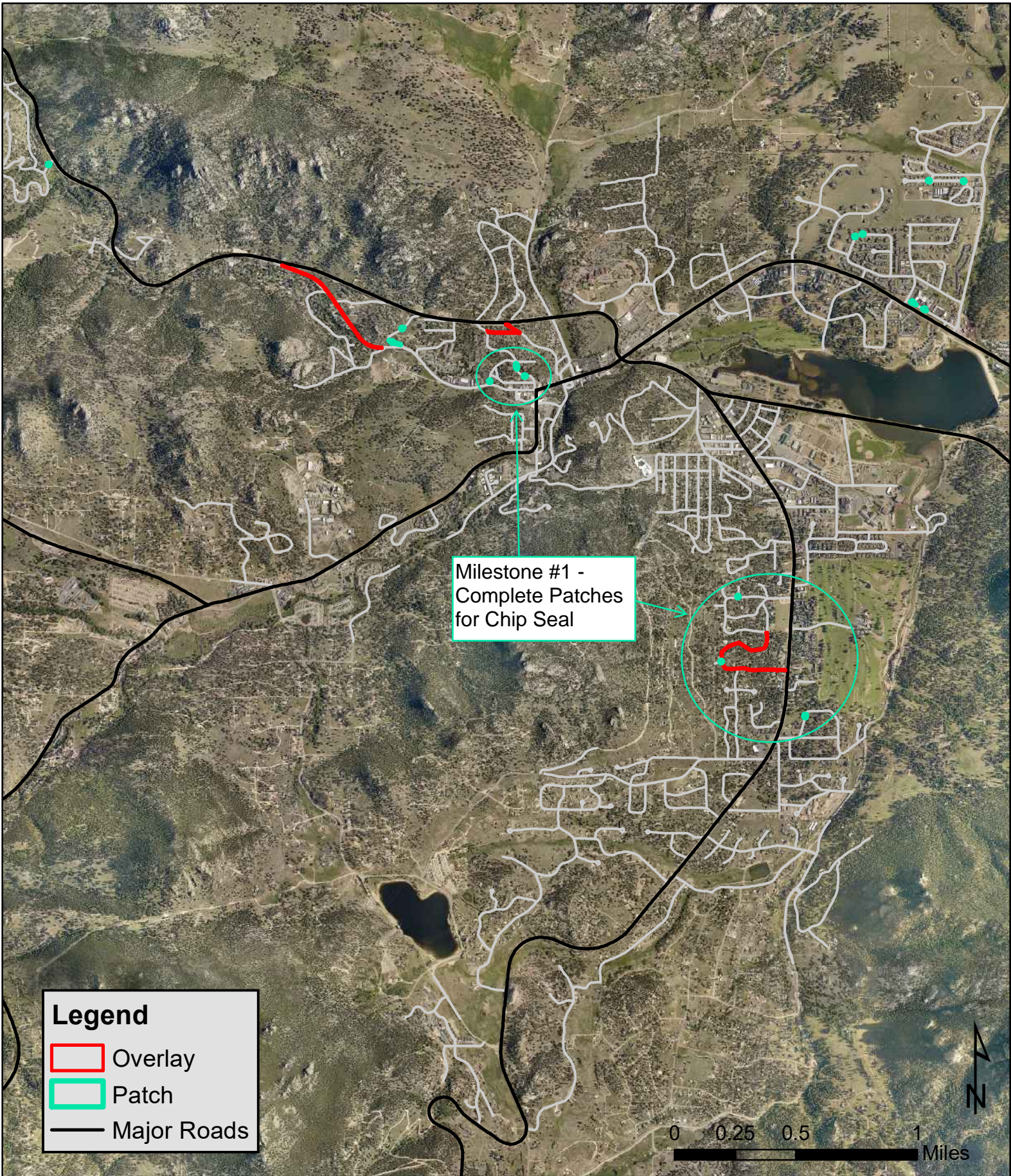
THIRD-PARTY BENEFICIARIES. None of the terms or conditions in the Contract shall give or allow any claim, benefit, or right of action by any third person not a party to the Contract. Any person except the Town or the Contractor receiving services or benefits under the Contract shall be only an incidental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

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

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

EXECUTED this ____ day of _____, 2023.

(Signature pages to follow.)



Legend

- Overlay
- Patch
- Major Roads

0 0.25 0.5 1 Miles

2023 Chip and Crack Seal Program
Exhibit A - Overview

Town of Estes Park
Public Works Department
 Prepared (3/27/2023)





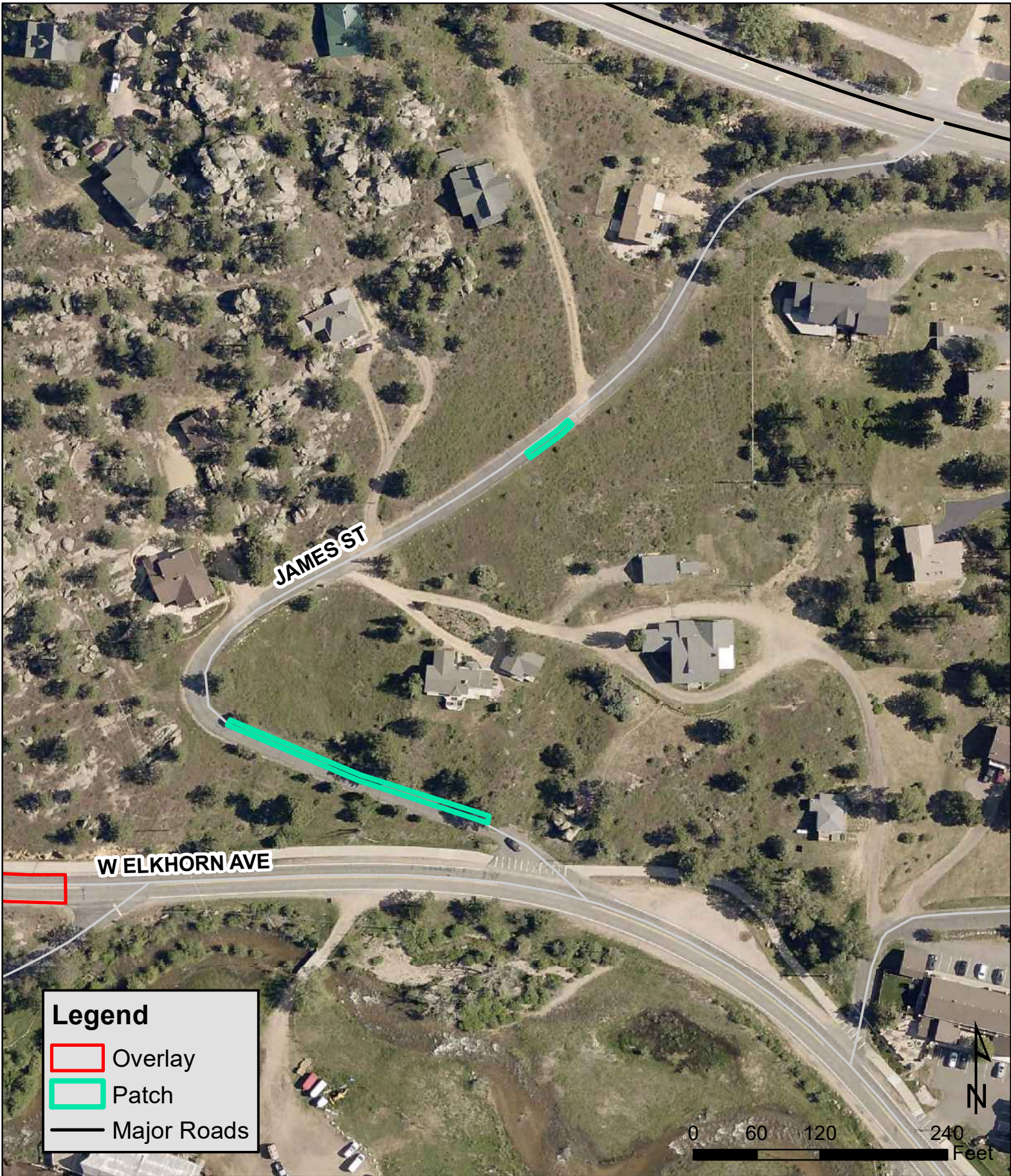
Legend

- Overlay
- Patch
- Major Roads

2023 Chip and Crack Seal Program
Exhibit B - Patching

*Town of Estes Park
 Public Works Department*
 Prepared (3/27/2023)





2023 Chip and Crack Seal Program

Exhibit B - Patching

*Town of Estes Park
Public Works Department*

Prepared (3/27/2023)

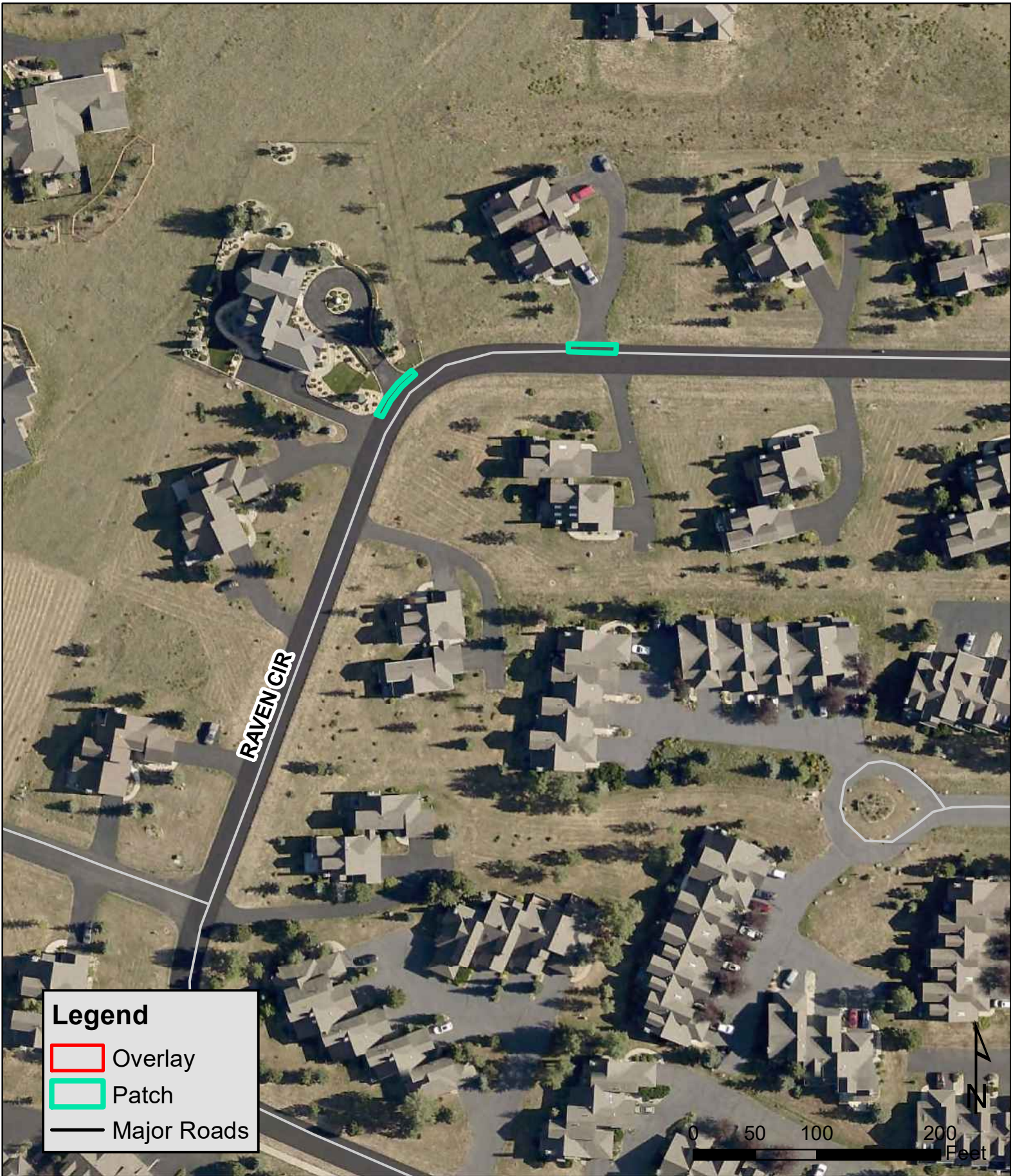




2023 Chip and Crack Seal Program
Exhibit B - Patching

Town of Estes Park
 Public Works Department
 Prepared (3/27/2023)





Legend

- Overlay
- Patch
- Major Roads



2023 Chip and Crack Seal Program

Exhibit B - Patching

*Town of Estes Park
Public Works Department*

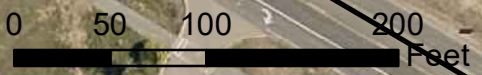
Prepared (3/27/2023)





Legend

- Overlay
- Patch
- Major Roads



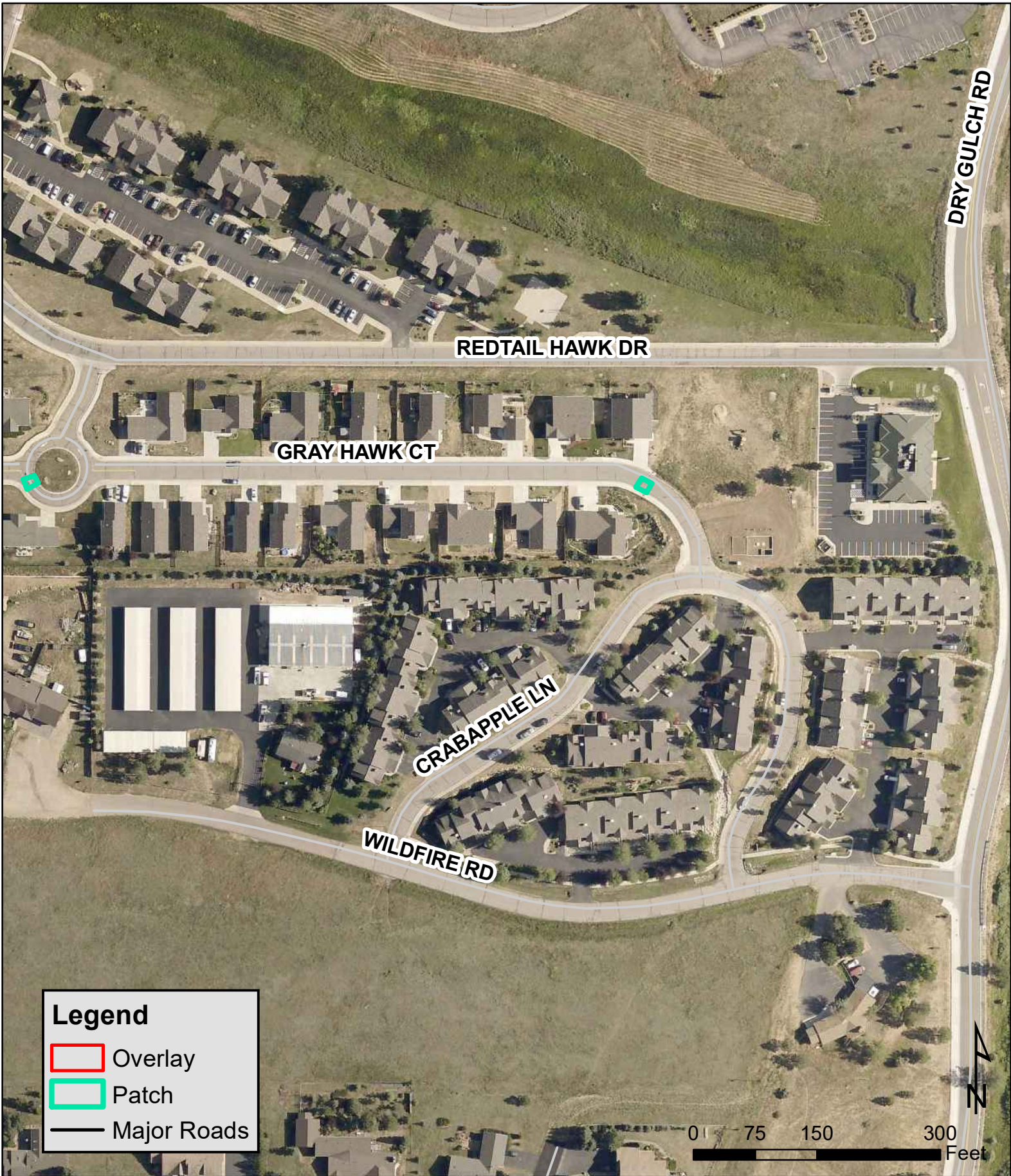
2023 Chip and Crack Seal Program

Exhibit B - Patching

*Town of Estes Park
Public Works Department*

Prepared (3/27/2023)

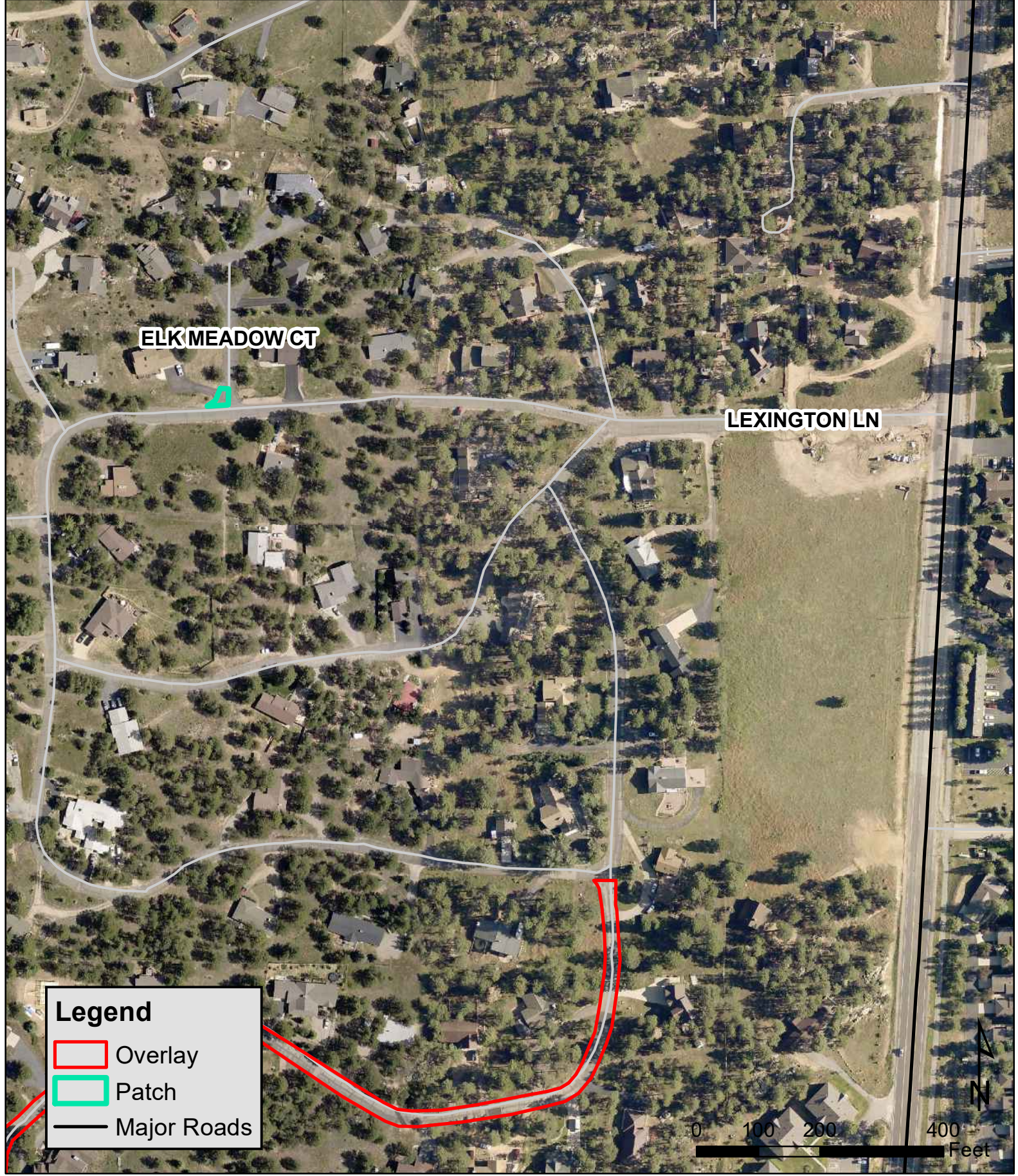




2023 Chip and Crack Seal Program
Exhibit B - Patching

Town of Estes Park
 Public Works Department
 Prepared (3/27/2023)

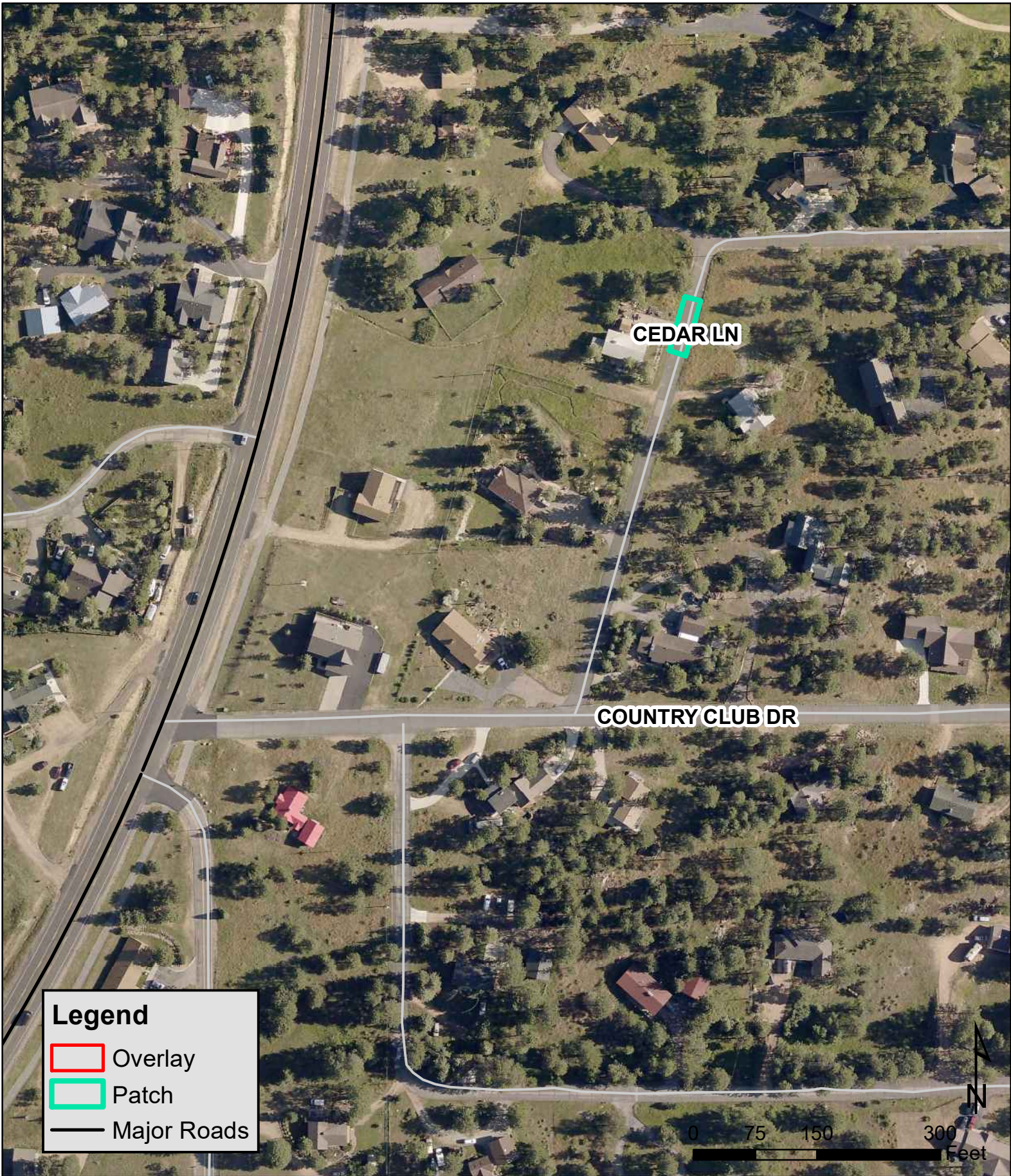




2023 Chip and Crack Seal Program
Exhibit B - Patching

Town of Estes Park
 Public Works Department
 Prepared (3/27/2023)





Legend

- Overlay
- Patch
- Major Roads

2023 Chip and Crack Seal Program

Exhibit B - Patching

*Town of Estes Park
Public Works Department*

Prepared (3/27/2023)





W Elkhorn Ave: 2" mill, 3" edge mill, 3" overlay (two 1.5" lifts), with patching as needed

W ELKHORN AVE

Potential staging area

FALL RIVER LN

Legend

- Overlay
- Patch
- Major Roads



2023 Chip and Crack Seal Program
Exhibit C - Overlay

Town of Estes Park
 Public Works Department
 Revised (4/12/2023)





W Elkhorn Ave: 2" mill, 3" edge mill, 3" overlay (2 lifts), with patching as needed

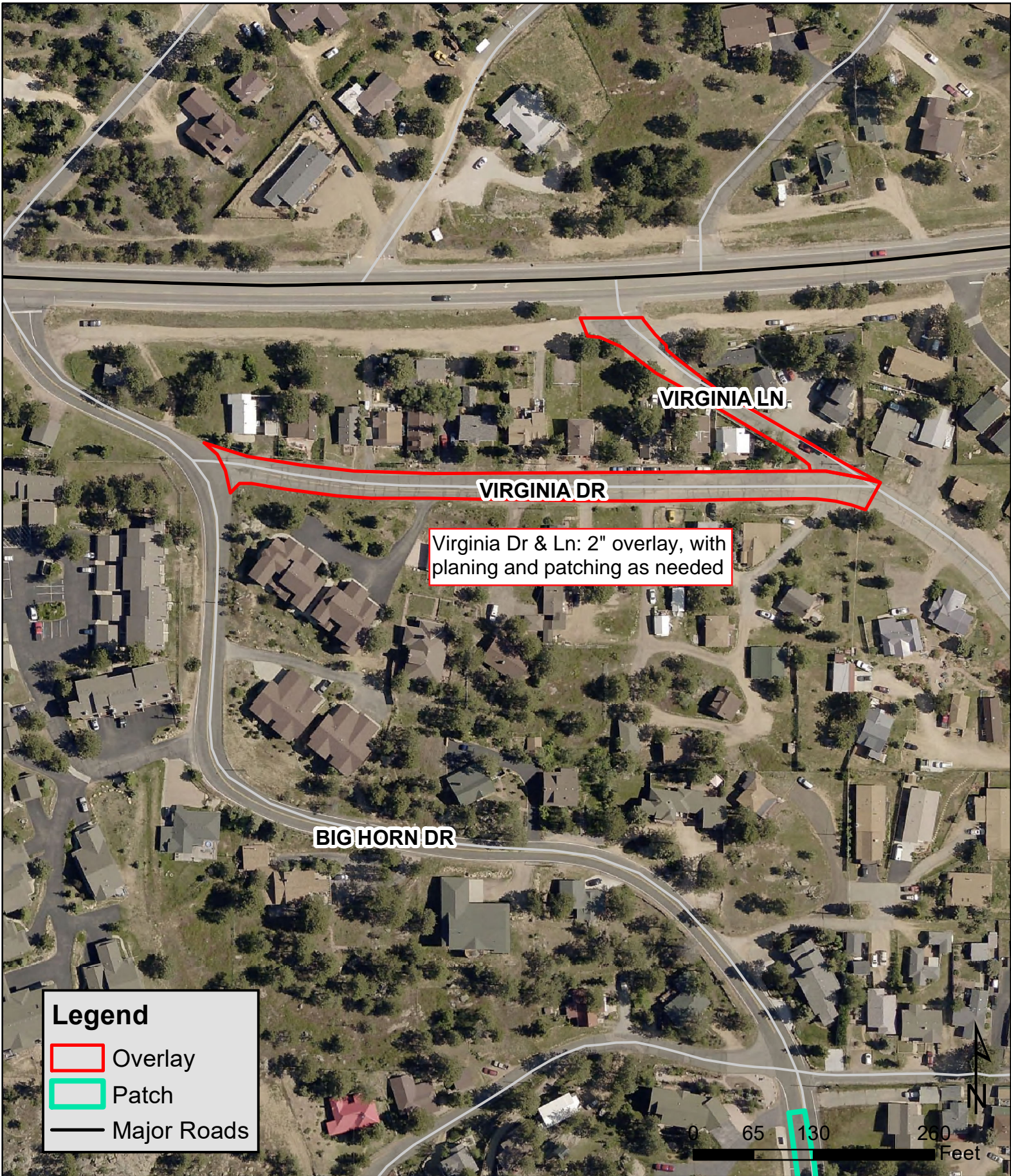
Legend

- Overlay
- Patch
- Major Roads

2023 Chip and Crack Seal Program
Exhibit C - Overlay

*Town of Estes Park
 Public Works Department*
 Revised (4/12/2023)





Legend

- Overlay
- Patch
- Major Roads

2023 Chip and Crack Seal Program
Exhibit C - Overlay

*Town of Estes Park
 Public Works Department*
 Revised (4/12/2023)





Pine Knoll Dr: 4" mill and overlay, with subgrade/
base stabilization treatment (fly ash / cement)

Legend

- Overlay
- Patch
- Major Roads



2023 Chip and Crack Seal Program
Exhibit C - Overlay

*Town of Estes Park
Public Works Department*
Revised (4/12/2023)



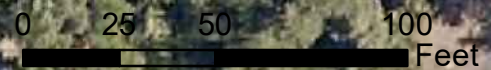


W ELKHORN AVE

Three (3) Crosswalk bars:
9' L x 1.5' W

Legend

- Overlay
- Patch
- Major Roads
- Yellow Dbl CL (4")
- White Parking (4")
- White Edge (6")
- Preformed Thermoplastic (Inlaid)



2023 Chip and Crack Seal Program
Exhibit D - Striping & Markings

*Town of Estes Park
Public Works Department*
Prepared (3/27/2023)





2023 Chip and Crack Seal Program
Exhibit D - Striping & Markings

Town of Estes Park
 Public Works Department
 Prepared (3/27/2023)





Legend

- Overlay
- Patch
- Major Roads
- Yellow Dbl CL (4")
- White Parking (4")
- White Edge (6")
- Preformed Thermoplastic (Inlaid)

2023 Chip and Crack Seal Program
Exhibit D - Striping & Markings

*Town of Estes Park
 Public Works Department*
 Prepared (3/27/2023)



One (1) Stopbar:
14' L x 1.5' W

VIRGINIA LN

VIRGINIA DR

Legend

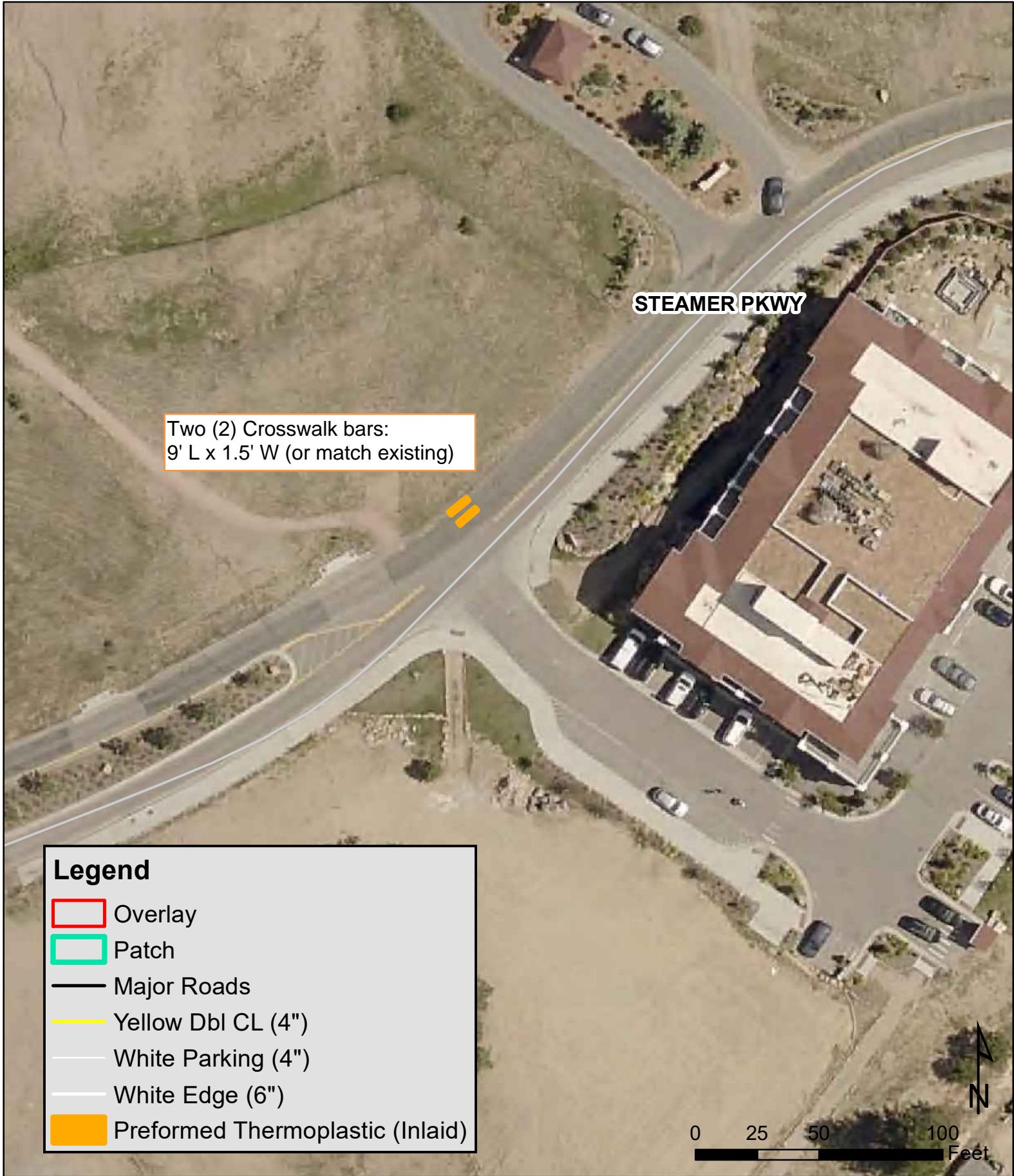
-  Overlay
-  Patch
-  Major Roads
-  Yellow Dbl CL (4")
-  White Parking (4")
-  White Edge (6")
-  Preformed Thermoplastic (Inlaid)



2023 Chip and Crack Seal Program
Exhibit D - Striping & Markings

Town of Estes Park
Public Works Department
Prepared (3/27/2023)





STEAMER PKWY

Two (2) Crosswalk bars:
9' L x 1.5' W (or match existing)

Legend

- Overlay
- Patch
- Major Roads
- Yellow Dbl CL (4")
- White Parking (4")
- White Edge (6")
- Preformed Thermoplastic (Inlaid)



2023 Chip and Crack Seal Program
Exhibit D - Striping & Markings

*Town of Estes Park
Public Works Department*
Prepared (3/27/2023)



COMMUNITY DR

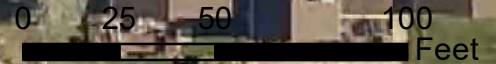
MATTHEW CIR

Four (4) Crosswalk bars:
8' L x 2' W (or match existing)

MATTHEW CIR

Legend

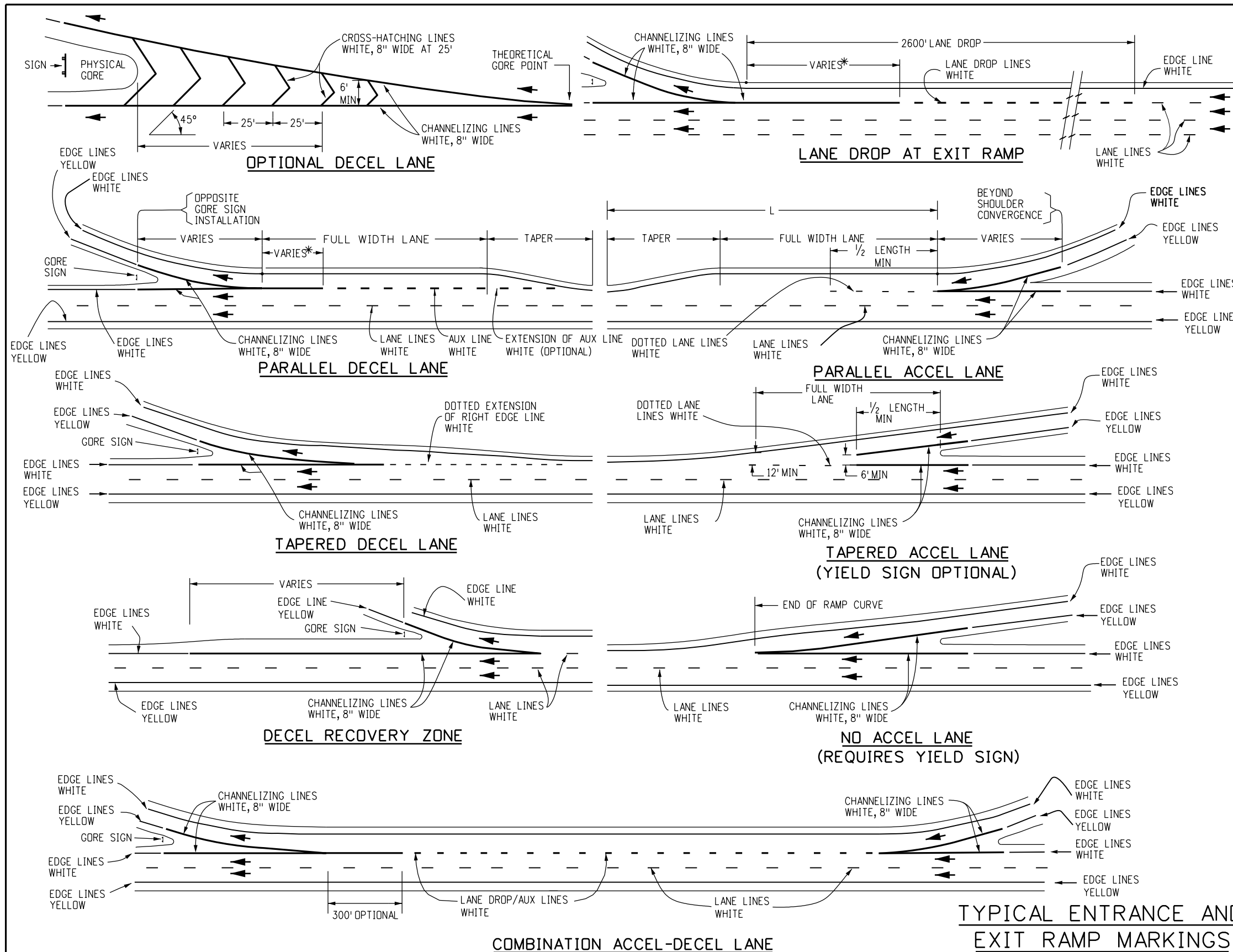
- Overlay
- Patch
- Major Roads
- Yellow Dbl CL (4")
- White Parking (4")
- White Edge (6")
- Preformed Thermoplastic (Inlaid)



2023 Chip and Crack Seal Program
Exhibit D - Striping & Markings

Town of Estes Park
Public Works Department
 Prepared (3/27/2023)





GENERAL NOTES

1. MINIMUM LONGITUDINAL PAVEMENT MARKING WIDTH

Facility Type	Speed	Edge Lines	Lane Lines	Center Lines ¹	Dotted Lane Lines	Lane Drop/Aux Lines
2-Lane Facilities	All	6"	n/a	4"	n/a	n/a
3-Lane Facilities	All	6"	6"	4"	6"	8"
Multi-Lane Facilities ≥ 50 MPH		6"	6"	4"	6"	8"
Multi-Lane Facilities ≤ 45 MPH		4"	4"	4"	4"	8"

¹Applies to facility types with double yellow lines, painted median, or undivided highway.

2. TEMPORARY PAVEMENT MARKING
4 INCHES WIDE MARKING CAN BE USED INSTEAD OF 6 INCHES WIDE MARKING FOR TEMPORARY MARKING UNLESS OTHERWISE DIRECTED BY THE REGION TRAFFIC ENGINEER.

3. CENTER LINES
a. BROKEN YELLOW, 4 INCHES WIDE-10 FEET SEGMENTS WITH 30 FEET GAPS.
b. SOLID YELLOW, 4 INCHES WIDE. THESE LINES SEPARATE ADJACENT-OPPOSITE DIRECTION TRAFFIC LANES. DOUBLE LINES SHALL BE SPACED 4 INCHES APART.

4. LANE LINES
a. BROKEN WHITE, 4 OR 6 INCHES WIDE-10 FEET SEGMENTS WITH 30 FEET GAPS. THESE LINES SEPARATE ADJACENT-SAME DIRECTION TRAFFIC LANES.
b. SOLID WHITE, 4 OR 6 INCHES WIDE. THESE LINES SEPARATE ADJACENT-SAME DIRECTION TRAFFIC LANES. A SOLID LINE MAY BE USED TO DISCOURAGE LANE CHANGING, WHILE TWO PARALLEL SOLID WHITE LINES ARE REQUIRED TO PROHIBIT LANE CHANGING.
5. EDGE LINES
a. SOLID WHITE OR YELLOW EDGE LINES SHALL BE 4 OR 6 INCHES WIDE. YELLOW EDGE LINES SHALL BE USED ONLY FOR LEFT EDGE, IN THE DIRECTION OF TRAVEL OF DIVIDED STREETS AND HIGHWAYS (SEPARATED BY OTHER THAN A PAINTED MEDIAN) AND ONE-WAY ROADWAYS (INCLUDING RAMPS).
b. EDGE LINES ARE NOT CONTINUED THROUGH INTERSECTIONS AND ARE NOT BROKEN FOR DRIVEWAYS. CARE MUST BE TAKEN TO AVOID EDGE LINE APPEARING AS LANE LINE ALONG ROADWAYS WITH WIDE SHOULDERS AND/OR CLOSELY SPACED DRIVEWAYS.

6. DOTTED EXTENSION LINES
BROKEN WHITE, WIDTH MATCHING THE LINE BEING EXTENDED-2 FEET SEGMENTS WITH 4 FEET GAPS. THESE LINES ARE USED TO DELINEATE THE EXTENSION OF A LINE THROUGH AN INTERSECTION OR INTERCHANGE AREA.
7. LANE DROP / AUX LINES
BROKEN WHITE, 8 INCHES WIDE-3 FEET SEGMENTS WITH 12 FEET GAPS. THESE LINES SHOULD BEGIN 2600 FEET IN ADVANCE OF THE THEORETICAL GOREPOINT TO DISTINGUISH THE LANE DROP FROM A CONTINUOUS LANE.
8. DOTTED LANE LINES
BROKEN WHITE, 4 OR 6 INCHES WIDE-3 FEET SEGMENTS WITH 12 FEET GAPS. LINE WIDTH SHALL MATCH THE ADJACENT LANE LINE. THE WIDTH SHOULD MATCH THAT OF THE LINE IT IS EXTENDING.
9. CHANNELIZING LINES
SOLID WHITE, 8 INCHES WIDE. THESE LINES ARE USED WITH ACCELERATION-DECELERATION LANES, PAVEMENT WIDTH TRANSITIONS, AND LEFT-RIGHT TURN SLOTS OR ISLANDS.
- * THE CHANNELIZING LINE MAY BE EXTENDED 300 FEET (TYPICAL) UPSTREAM FROM THE THEORETICAL GORE. FINAL LENGTH DEPENDS ON SITE CONDITIONS.

(CONTINUED ON SHEET NO. 2)

TYPICAL ENTRANCE AND EXIT RAMP MARKINGS

Computer File Information

Creation Date: 07/04/12
Created By: SCL
Last Modification Date: 07/22/22
Last Modified By: EButta
CAD Ver.: MicroStation V8 Scale: Not to Scale Units: English

Sheet Revisions

Date:	Comments
07/22/22	PARALLEL DECCEL LANE AND NOTES UPDATE
02/16/21	LINE TYPE UPDATE FOR PARALLEL DECCEL LANE ADDED NOTE TEMPORARY PAVEMENT MARKING
04/17/20	LINE WIDTH UPDATE

Colorado Department of Transportation

2829 W. Howard Pl.
Denver, CO 80204
Phone: 303-512-5102
FAX: 303-757-9219

Traffic & Safety Engineering EB

PAVEMENT MARKINGS

Issued By: Traffic & Safety Engineering Branch July 31, 2019

STANDARD PLAN NO.

S-627-1

Standard Sheet No. 1 of 9

Project Sheet Number:

Page Left Blank Intentionally



Memo

To: Honorable Mayor Koenig
Board of Trustees

Through: Town Administrator Machalek

From: Robert Schumaker, Facilities and Parks Manager
Greg Muhonen, PE, Public Works Director

Date: May 9, 2023

RE: *Resolution 48-23 Contract for 2023 Waste and Recycling Collection Services with Atlas Unlimited LLC dba Superior Trash Company for \$159,659.20 – Budgeted*

(Mark all that apply)

PUBLIC HEARING ORDINANCE LAND USE
 CONTRACT/AGREEMENT RESOLUTION OTHER _____

QUASI-JUDICIAL YES NO

Objective:

Public Works staff seek approval from the Town Board for the 2023 Waste and Recycling Collection Services Contract with Superior Trash Company.

Present Situation:

In February 2023 the Public Works Facilities staff posted a Request for Proposal (RFP) for 2023 Waste and Recycling Collection Services on BidNet and through our Town website. This was an attempt to put all the Town’s solid waste and recycling services under one competitively-bid contract. Previously, many of the Town departments managed their own separate, negotiated contracts for solid waste and recycling services.

The work is separated into two schedules that incorporate all of the Town’s dumpsters, trash containers and recycling containers. These schedules were further divided into Peak-Season (May-October) and Off-Peak Season (November-April) work. Additional expectations required by the Town include:

1. The contractor must provide educational opportunities to promote recycling efforts within the community.
2. The contractor must contribute at least five hours annually to the Community Clean-Up.
3. The Town will power wash (as needed) all trash and recycling containers.

4. Recycled materials will be single stream and not be disposed of as solid waste in the landfill. Contaminated recyclables will be diverted to the waste stream. All recycling will be collected by use of a separate vehicle that is not used for solid waste collection.

Public Works Facilities staff have confirmed the contractor’s capabilities and experience providing similar services and of similar cost and complexity in Estes Park and have chosen Superior Trash Company for the award of this 2023 service contract. Superior Trash Service will perform both Schedules 1 and 2 for the Town of Estes Park.

Hakuna was the lowest bid for Schedule 2 by a substantial margin. The company was contacted to confirm whether this was a clerical error or intentional bid pricing. The representative stated that Hakuna is a California-based service brokerage company that intended to hire local companies to fulfill the service on their behalf. She further stated that they bid low on Schedule 2 and higher on Schedule 1 to cover the loss on Schedule 2. Once she understood that the only two solid waste service providers in this area were also competitors in this bidding process, she withdrew her fee proposal.

The following table summarizes the bids received.

VENDOR NAME	Schedule 1	Schedule 2	TOTAL BID
	BID	BID	
SUPERIOR TRASH SERVICE	\$110,313.20	\$42,346.00	\$152,659.20
Hakuna	\$269,055.00	\$14,500.00	\$283,555.00
Waste Management	\$367,560.00	\$68,247.00	\$435,807.00
Average Bid	\$269,055.00	\$41,697.67	\$290,673.73

Proposal:

Public Works staff propose approval of the service contract with Superior Trash Company effective upon contract signature by the Mayor.

Advantages:

- All of the solid waste and recycling services will be under one contract and the Town will be able to track how much is being spent on these separate services.
- Competitive, vs negotiated, pricing saves taxpayer dollars.
- The recycled products will be collected on a different day than the solid waste, and different color bags will be used to differentiate between the waste and the and recyclables. This added effort to is expected to improve the quantity of recyclable products intercepted and diverted from the waste stream.

Disadvantages:

- Consolidation of these services into one contract will increase the administrative effort required from the Facilities staff to confirm correct processing of monthly invoices in the early months of this consolidated service delivery.

Action Recommended:

Public Works staff recommend approving the attached service contract with Superior Trash Service for 2023 Waste and Recycling Services.

Finance/Resource Impact:

The 2023 budgeted amount for solid waste and recycling for all Town buildings is \$217,212. The contract with Superior Trash Company to provide all Town solid waste and recycling disposal is \$152,659.20. The Town will save \$64,552.80 by contracting with Superior. Below is the detailed list of impacted budget lines for 2023.

Visitor Center	101-2600-426.28-06	\$2,932.00
Event Center	101-5500-455.28-06	\$ 22,680.00
Museum	101-5700-457.28-06	\$900.00
General Fund	101-1700-417.28-06	\$139,000.00
Streets Department	101-3100-431.28-09	\$5,000.00
Parks Department	101-5200-452.28-06	\$17,000.00
Fleet Department	612-4300-610.28-06	\$2,500.00
	Total	\$190,012.00
Enterprise Funds		
Light & Power	502-6501-560.28-06	\$20,000.00
Trail Blazer	502-6900-669.28-06	\$3,500.00
Water Department	503-6300-540.28-06	\$3700.00
	Total	\$27,200.00
	Grand Total	\$217,212.00

Level of Public Interest

The level of public interest is modest. The proposed operational changes are responsive to requests received from the League of Women Voters to improve efforts to more effectively separate solid waste from recyclables in the disposal stream.

Sample Motion:

I move for **approval/denial** of Resolution 48-23.

Attachments:

1. Resolution 48-23
2. Contract – Superior Trash Service

RESOLUTION 48-23

APPROVING A CONTRACT WITH ATLAS UNLIMITED LLC DBA SUPERIOR TRASH COMPANY FOR THE PROVISION OF MUNICIPAL WASTE AND RECYCLE MATERIALS COLLECTION SERVICES

WHEREAS, the Town Board wishes to enter a service contract, referenced in the title of this resolution, for the collection of municipal waste and recycle materials.

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 service contract referenced in the title of this resolution in substantially the form now before the Board. The maximum expenditure amount is \$152,659.20 for this service contract.

DATED this _____ day of _____, 2023.

TOWN OF ESTES PARK

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:



Town Attorney



TOWN OF ESTES PARK

TOWN OF ESTES PARK, COLORADO SERVICES CONTRACT
2023 Solid Waste and Recycle Agreement

The parties, the Town of Estes Park, Colorado (Town), a municipal corporation, and Atlas Unlimited LLC dba Superior Trash Company, a Colorado limited liability company, whose address is 970 Juniper Lane, Estes Park, Colorado, 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 Addenda, if any:

Table with 3 columns: Number, Date, Pages. Rows: 3 (03/10/23, 1), 2 (03/07/23, 2), 1 (03/03/23, 6)

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

Table with 3 columns: Document, Title, Pages

2.6 Notice of Award;

2.7 Request for Proposals, containing 12 pages, dated February 23, 2023;

- 2.8 Contractor's Proposal, containing 1 page, dated 03/06/23 and 2 pages dated 03/13/23 (entitled "Exhibit D Schedule 1" and "Updated Exhibit E Schedule 2 (Dumpsters)", respectively);
- 2.9 Insurance Certificates; and
- 2.10 Original proposal document from Atlas Unlimited with clerical errors. Initialed by Town and Atlas Unlimited representatives.
- 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 Contractor's Proposal, attached to and incorporated into this Contract or as otherwise directed by Town.
- 5 PRICE: The Town will pay Contractor for the performance of this Contract, not to exceed \$152,659.20, as the Price for the total Services performed as stipulated in Contractor's Proposal. 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 once 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:
 Robert Schumaker, Facilities and Parks
 Manager
 170 MacGregor Ave
 Estes Park, CO 80517

CONTRACTOR:
 Atlas Unlimited, LLC
 970 Juniper Lane
 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, 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.
 - 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: Facilities and Parks Manager

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 ("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 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 its effective date of May 1, 2023, and shall continue through December 31st, 2023 with five 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: [Signature]

4/25/2023
Date

Title: MEMBER

State of COLORADO)

) ss

County of JEFFERSON)

The foregoing instrument was acknowledged before me by LARRY E. ROMINE,
a member/partner/manager/limited partner/agent (select one) on behalf of ATLAS UNLIMITED,
LLC, a Colorado limited liability company, this 25 day of APRIL, 2023.

Witness my hand and official Seal.

My Commission expires 12-02-2026.

PATRICK W. JOHNSON
Notary Public
State of Colorado
Notary ID # 20004025193
My Commission Expires 12-02-2026

[Signature]
Notary Public

TOWN OF ESTES PARK:

By: _____ Date _____

Title: _____

State of _____)
County of _____) ss

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

UPDATED EXHIBIT E SCHEDULE 2 (Dumpsters) TOWN OF ESTES PARK 2023 WASTE AND RECYCLING COLLECTION SERVICES
 Name of Bidding Company SUPERIOR TRASH COMPANY LLC

SEASON	LOCATION	SIZE	CONTAINER	ESTIMATED QUANTITY OF		UNIT PRICE	ITEM COST		Initials	
				SERVICE TRIPS						
PEAK	Events Roll-off Dumpster (will-call)	15 CY		20		\$ 550.00	\$ 11,000.00			
PEAK	Events Roll-off Dumpster (will-call)	30 CY		7		\$ 750.00	\$ 5,250.00			
PEAK	Light and Power Yard Dumpster (will-call)	2 CY		13		\$ 44.00	\$ 572.00			
PEAK	Fleet Dumpster	2 CY		26		\$ 44.00	\$ 1,144.00			
PEAK	Streets Dumpster	2 CY		26		\$ 44.00	\$ 1,144.00			
PEAK	Parks Dumpster	2 CY		26		\$ 44.00	\$ 1,144.00			
PEAK	Visitor Center Dumpster	2 CY		26		\$ 44.00	\$ 1,144.00			
PEAK	Light and Power Shop Dumpster	2 CY		26		\$ 44.00	\$ 1,144.00			
PEAK	Water Dept Dumpster	2 CY		26		\$ 44.00	\$ 1,144.00			
PEAK	Trailblazer Dumpster	2 CY		24		\$ 44.00	\$ 1,056.00			
PEAK	Estes Park Museum Dumpster	2 CY		26		\$ 44.00	\$ 1,144.00			
PEAK	Town Hall Dumpster	2 CY		26		\$ 44.00	\$ 1,144.00			
							SUBTOTAL	\$ 27,030.00		
OFF PEAK	Events Roll-off Dumpster (will-call)	15 CY		7		\$ 550.00	\$ 3,850.00			
OFF PEAK	Events Roll-off Dumpster (will-call)	30 CY		2		\$ 750.00	\$ 1,500.00			
OFF PEAK	Light and Power Yard (will-call)	2 CY		6		\$ 44.00	\$ 264.00			
OFF PEAK	Fleet Dumpster	2 CY		13		\$ 44.00	\$ 572.00			
OFF PEAK	Streets Dumpster	2 CY		13		\$ 44.00	\$ 572.00			
OFF PEAK	Parks Dumpster	2 CY		13		\$ 44.00	\$ 572.00			
OFF PEAK	Visitor Center Dumpster	2 CY		13		\$ 44.00	\$ 572.00			
OFF PEAK	Light and Power Shop Dumpster	2 CY		13		\$ 44.00	\$ 572.00			
OFF PEAK	Water Dept Dumpster	2 CY		13		\$ 44.00	\$ 572.00			
OFF PEAK	Trailblazer Dumpster	2 CY		26		\$ 44.00	\$ 1,144.00			
OFF PEAK	Estes Park Museum Dumpster- will call	2 CY		1		\$ 44.00	\$ 44.00			
OFF PEAK	Town Hall Dumpster	2 CY		1		\$ 44.00	\$ 44.00			
							SUBTOTAL	\$ 10,234.00		
								Amended total		
								\$10,278.00		LR
PEAK	Excess Trash around dumpster			1		\$ 25.00	\$ 25.00			
							SUBTOTAL	\$ 25.00		
OFF PEAK	Excess Trash around dumpster			1		\$ 25.00	\$ 25.00			
							SUBTOTAL	\$ 25.00		
PEAK	Will-call Dumpster	2 cy		1		\$ 44.00	\$ 44.00			
PEAK	Will-call Roll-Off Dumpster	15 cy		1		\$ 550.00	\$ 550.00			
PEAK	Will-call Roll-Off Dumpster	30 cy		1		\$ 750.00	\$ 750.00			
PEAK	Will-Call Dumpster (Organic)	20CY		1		\$ 650.00	\$ 650.00			
PEAK	Will-Call Dumpster (Scrap Metal)	30 CY		1		\$ 500.00	\$ 500.00			
							SUBTOTAL	\$ 1,344.00	\$2,494.00	LR
OFF PEAK	Will-call Dumpster	2 cy		1		\$ 44.00	\$ 44.00			
OFF PEAK	Will-call Roll-Off Dumpster	15 cy		1		\$ 550.00	\$ 550.00			
OFF PEAK	Will-call Roll-Off Dumpster	30 cy		1		\$ 750.00	\$ 750.00			
OFF PEAK	Will-Call Dumpster (Organic)	20CY		1		\$ 650.00	\$ 650.00			
OFF PEAK	Will-Call Dumpster (Scrap Metal)	30 CY		1		\$ 500.00	\$ 500.00			
							SUBTOTAL	\$ 1,344.00	\$2,494.00	LR
TOTAL BID							\$ 40,002.00	\$42,346.00	LR	

*Note this Bid Schedule shall take precedence over the Summary of Approximate Quantities listed in the Construction Plans

Total Bid Written in Words
 FOURTY TWO THOUSAND THREE HUNDRED FOURTY SIX AND 00/100

Name of Bidding Company Addendum and Date Received
 SUPERIOR TRASH COMPANY

Street Address City State Zip Code
 970 JUNIPER LANE ESTES PARK COLORADO 80517

Authorized Signer and Title (Print) Authorized Signer (Signature) Date
 LARRY ROMINE/OWNER LARRY ROMINE 44991

Larry Romine



Memo

To: Honorable Mayor Koenig
Board of Trustees

Through: Town Administrator Machalek

From: Jackie Williamson, Town Clerk

Date: May 9, 2023

RE: Resolution 50-23 Change of Location of a Tavern Liquor License Held by Montego Bay Enterprises Inc. dba The Wapiti Colorado Pub from 247 W. Elkhorn Avenue to 1350 Fall River Road, Estes Park, Colorado.

(Mark all that apply)

PUBLIC HEARING ORDINANCE LAND USE
 CONTRACT/AGREEMENT RESOLUTION OTHER _____

QUASI-JUDICIAL YES NO

Objective:

Approval of a Change of Location for a Tavern liquor license currently located at 247 W. Elkhorn Avenue to 1350 Fall River Road, Estes Park, Colorado. Application filed by Montego Bay Enterprises Inc. dba The Wapiti Colorado Pub.

Present Situation:

An application for a Change in Location of a Tavern liquor license was received by the Town Clerk's office on April 6, 2023. All necessary paperwork and fees were submitted; please see the attached *Procedure for Hearing on Application – Change of Location of a Tavern Liquor License* for additional information. The applicant previously completed Training for Intervention Procedures (TIPS) with the establishment of the original liquor license.

A Hotel & Restaurant license currently exists at the location, Nicky's Steakhouse and Lounge. This license will be surrendered in conjunction with the Change of Location of the Wapiti Colorado Pub Tavern liquor license.

Proposal:

To present the application for the Town Board's review and consideration for the Change of Location of a Tavern liquor license.

Advantages:

Approval of the license provides the business owner with the opportunity to continue to operate a liquor-licensed establishment in the Town of Estes Park.

Disadvantages:

The owner is denied a business opportunity to serve alcohol to patrons.

Action Recommended:

Approval of the application for a Change in Location of the Tavern liquor license.

Finance/Resource Impact:

The fee paid to the Town of Estes Park for a Change in Location of the Hotel & Restaurant liquor license is \$750. The fee covers the administrative costs related to processing the application.

Level of Public Interest

Low.

Sample Motion:

I move to **approve/ deny** Resolution 50-23 for a Change of Location of an existing Tavern liquor license held by Montego Bay Enterprises Inc. dba The Wapiti Colorado Pub located at 247 W. Elkhorn Avenue to 1350 Fall River Road, Estes Park, Colorado

Attachments:

1. Procedure for Hearing
2. Resolution 50-23
3. Application
4. Diagram
5. Police Report

April 2023

**PROCEDURE FOR HEARING ON APPLICATION
CHANGE OF LOCATION OF A TAVERN LIQUOR LICENSE**

1. MAYOR.

The next order of business is convening the Liquor Licensing Authority for the Town of Estes Park to hold a public hearing on the application by **Montego Bay Enterprises Inc. dba The Wapiti Colorado Pub** for a **Change of Location of an existing Tavern Liquor License** located at 247 W. Elkhorn Avenue to 1350 Fall River Road, Estes Park, Colorado.

At this hearing, the Board of Trustees shall consider the facts and evidence determined as a result of its investigation, as well as any other facts, the reasonable requirements of the neighborhood for the type of license for which application has been made, the desires of the adult inhabitants, the number, type and availability of liquor outlets located in or near the neighborhood under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

OPEN PUBLIC HEARING

2. TOWN CLERK. Will present the application and confirm the following:

- The application was filed **April 6, 2023.**
- At a meeting of the Board of Trustees on April 25, 2023, the public hearing was set for **7:00 p.m. on Tuesday, May 9, 2023.**
- The neighborhood boundaries for the purpose of this application and hearing were established to be **3.55** miles.
- The Town has received all necessary fees and hearing costs.
- The applicant is filing as a **Corporation.**
- The property is zoned **A - Accommodations** which allows this type of business as a permitted use.

- The notice of hearing was published on April 28, 2023.
- The premises was posted on April 28, 2023.
- There is a police report with regard to the investigation of the applicant.
- Status of T.I.P.S. Training:
 _____ Unscheduled _____ Scheduled * _____ Completed
- There is a map indicating all liquor outlets presently in the Town of Estes Park available upon request.

3. APPLICANT.

- The applicants will be allowed to state their case and present any evidence they wish to support the application.

4. OPPONENTS.

- The opponents will be given an opportunity to state their case and present any evidence in opposition to the application.
- The applicant will be allowed a rebuttal limited to the evidence presented by the opponents. No new evidence may be submitted.

5. MAYOR.

- Ask the Town Clerk whether any communications have been received in regard to the application and, if so, to read all communication.
- Indicate that all evidence presented will be accepted as part of the record.
- Ask the Board of Trustees if there are any questions of any person speaking at any time during the course of this hearing.
- Declare the public hearing closed.

6. SUGGESTED MOTION:

I move that Resolution 50-23 be approved/denied for a Change of Location of an existing Tavern liquor license held by **Montego Bay Enterprises Inc. dba The Wapiti Colorado Pub** located at 247 W. Elkhorn Avenue to 1350 Fall River Road, Estes Park, Colorado.

RESOLUTION 50-23

APPROVING A CHANGE OF LOCATION OF A TAVERN LIQUOR LICENSE FROM MONTEGO BAY ENTERPRISES INC. DBA THE WAPITI COLORADO PUB FROM 247 W. ELKHORN AVENUE TO 1350 FALL RIVER ROAD, ESTES PARK, CO 80517

WHEREAS, the Town Board of Trustees acting in their capacity as the Liquor Licensing Authority for the Town of Estes Park held a public hearing on May 9, 2023 for a change of location of a Tavern Liquor License, filed by Montego Bay Enterprises Inc. dba The Wapiti Colorado Pub from 247 W. Elkhorn Avenue to 1350 Fall River Road, Estes Park, Colorado; and

WHEREAS, C.R.S. § 44-3-301(2)(a) requires the licensing authority shall consider the reasonable requirements of the neighborhood, the desires of the adult inhabitants, and all other reasonable restrictions that are or may be placed upon the neighborhood by the local licensing authority; and

WHEREAS, the Board of Trustees finds application meets the requirements outlined in the aforementioned section of the statutes and liquor regulations for the granting of the change of location of a liquor license.

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

The Board approves the application for a change of location of a Tavern Liquor License, filed by Montego Bay Enterprises Inc. dba The Wapiti Colorado Pub from 247 W. Elkhorn Avenue to 1350 Fall River Road, Estes Park, Colorado.

DATED this _____ day of _____, 2023.

TOWN OF ESTES PARK

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:



Town Attorney

DR 8442 (06/15/22)
COLORADO DEPARTMENT OF REVENUE
 Liquor Enforcement Division
 (303) 205-2300

Permit Application and Report of Changes

All Answers Must Be Printed in Black Ink or Typewritten

1. Applicant is a					License Number	
<input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Company					42-04487	
2. Name of Licensee			3. Trade Name of Establishment (DBA)			
Montego Bay Enterprises Inc.			The Wapiti Colorado Pub			
4. Address of Premises (specify exact location of premises)			5. Business Email Address			
247 W Elkhorn Ave			Wapiti.Pub@gmail.com			
City	County	State	ZIP	Business Phone Number		
Estes Park	Larimer	CO	80517	970-5865056		

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

Section A – Manager Reg/Change	Section C
<input type="checkbox"/> Manager's Registration (Hotel & Restr.) \$30.00 <input type="checkbox"/> Manager's Registration (Tavern) \$30.00 <input type="checkbox"/> Manager's Registration (Lodging & Entertainment) \$30.00 <input type="checkbox"/> Change of Manager (Other Licenses pursuant to section 44-3-301(8), C.R.S.) NO FEE	<input type="checkbox"/> Retail Warehouse Storage Permit (ea) \$100.00 <input type="checkbox"/> Wholesale Branch House Permit (ea)..... \$100.00 <input checked="" type="checkbox"/> Change Corp. or Trade Name Permit (ea)..... \$50.00 <input checked="" type="checkbox"/> Change Location Permit (ea)..... \$150.00 <input type="checkbox"/> Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change..... \$150.00 <input type="checkbox"/> Change, Alter or Modify Premises <div style="border: 1px solid black; padding: 2px; display: inline-block;">\$150.00 x</div> Total Fee:
<p><i>Please note that Manager's Registration for Hotel & Restaurant, Lodging & Entertainment, and Tavern licenses requires a local fee with submission to the local licensing authority as well. Please reach out to local licensing authorities directly regarding local processing and fees.</i></p>	
Section B – Duplicate License	<input type="checkbox"/> Addition of Optional Premises to Existing H/R <div style="border: 1px solid black; padding: 2px; display: inline-block;">\$100.00 x</div> Total Fee:
<input type="checkbox"/> Duplicate License \$50.00	<input type="checkbox"/> Addition of Related Facility to an Existing Resort or Campus Liquor Complex <div style="border: 1px solid black; padding: 2px; display: inline-block;">\$160.00 x</div> Total Fee:
	<input type="checkbox"/> Campus Liquor Complex DesignationNo Fee <input type="checkbox"/> Sidewalk Service Area \$75.00

Do Not Write in This Space – For Department of Revenue Use Only		
Date License Issued	License Account Number	Period
The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.		TOTAL AMOUNT DUE \$00

Instruction Sheet

For All Sections, Complete Questions 1-5 Located on Page 1

Section A

To Register or Change Managers, check the appropriate box in section A and complete question 9 on page 4. Proceed to the Oath of Applicant for signature. Submit to State Licensing Authority for approval.

Section B

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

Section C


Check the appropriate box in section C and proceed below.

- 1) **For a Retail Warehouse Storage Permit**, go to page 3 complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 2) **For a Wholesale Branch House Permit**, go to page 3 and complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 3) **To Change Trade Name or Corporation Name**, go to page 3 and complete question 6 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 4) **To modify Premise, or add Sidewalk Service Area**, go to page 4 and complete question 10. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 5) **For Optional Premises** go to page 4 and complete question 10. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County).
- 6) **To Change Location**, go to page 3 and complete question 7. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 7) **Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change**, go to page 4, and complete question 8. Use this section to make a current Noncontiguous Manufacturing Location into a Primary Manufacturing Location, or a Primary Manufacturing Location into a Noncontiguous Manufacturing Location. To be eligible for a Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change, you must be a Colorado state licensed manufacturer of vinous liquor pursuant to section 44-3-402 or 44-3-403, C.R.S.
- 8) **Campus Liquor Complex Designation**, go to page 5 and complete question 11. Submit the necessary information and proceed to page 5 for Oath of Applicant signature.
- 9) **To add another Related Facility** to an existing Resort or Campus Liquor Complex, go to page 5 and complete question 12.

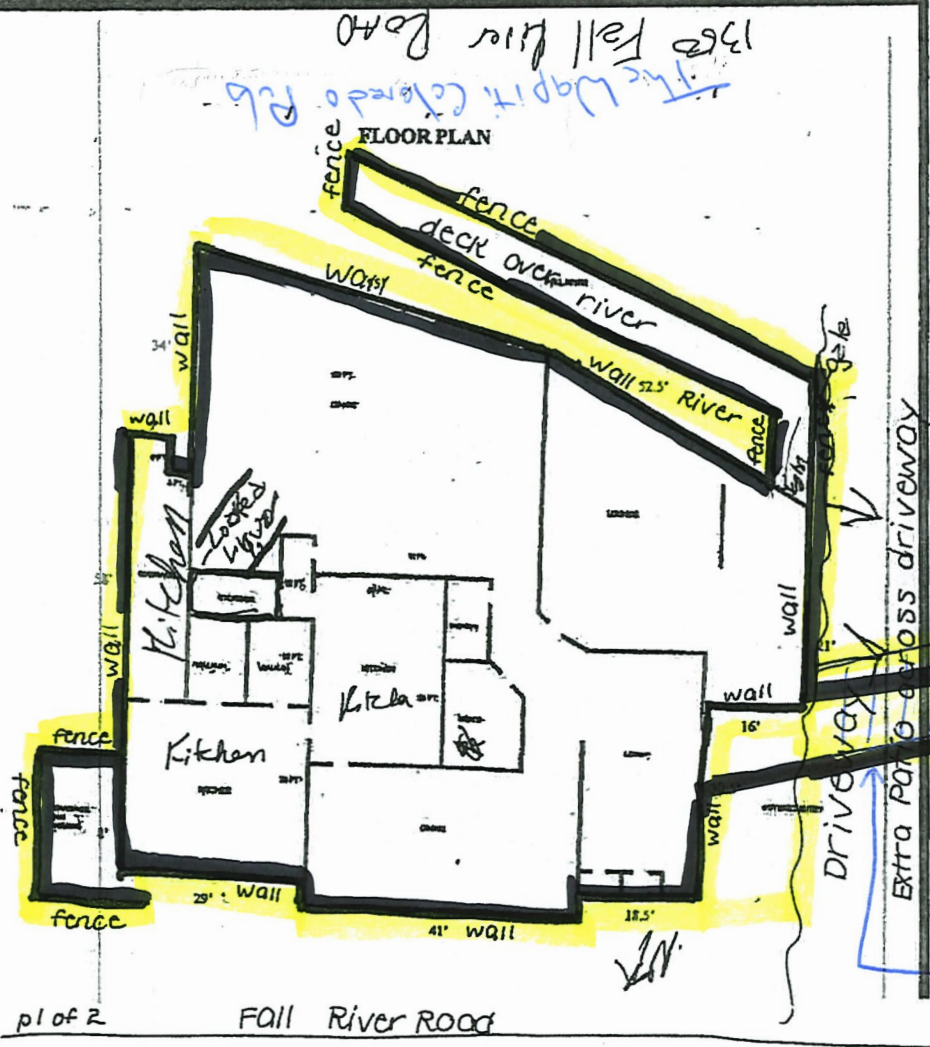
Storage Permit	<p>5. Retail Warehouse Storage Permit or a Wholesalers Branch House Permit</p> <p><input type="checkbox"/> Retail Warehouse Permit for:</p> <p style="margin-left: 20px;"><input type="checkbox"/> On-Premises Licensee (Taverns, Restaurants etc.)</p> <p style="margin-left: 20px;"><input type="checkbox"/> Off-Premises Licensee (Liquor stores)</p> <p><input type="checkbox"/> Wholesalers Branch House Permit</p> <p>Address of storage premise: _____</p> <p>City _____, County _____ ZIP _____</p> <p>Attach a deed/lease or rental agreement for the storage premises.</p> <p>Attach a detailed diagram of the storage premises.</p>				
Change Trade Name or Corporate Name	<p>6. Change of Trade Name or Corporation Name</p> <p><input checked="" type="checkbox"/> Change of Trade name/DBA only</p> <p><input type="checkbox"/> Corporate Name Change (Attach the following supporting documents)</p> <p style="margin-left: 20px;">1. Certificate of Amendment filed with the Secretary of State, or</p> <p style="margin-left: 20px;">2. Statement of Change filed with the Secretary of State, <u>and</u></p> <p style="margin-left: 20px;">3. Minutes of Corporate meeting, Limited Liability Members meeting, Partnership agreement.</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; padding: 2px;">Old Trade Name <u>The Wapiti Restaurant & Pub</u></td> <td style="width:50%; padding: 2px;">New Trade Name <u>The Wapiti Colorado Pub</u></td> </tr> <tr> <td style="width:50%; padding: 2px;">Old Corporate Name</td> <td style="width:50%; padding: 2px;">New Corporate Name</td> </tr> </table>	Old Trade Name <u>The Wapiti Restaurant & Pub</u>	New Trade Name <u>The Wapiti Colorado Pub</u>	Old Corporate Name	New Corporate Name
Old Trade Name <u>The Wapiti Restaurant & Pub</u>	New Trade Name <u>The Wapiti Colorado Pub</u>				
Old Corporate Name	New Corporate Name				
Change of Location	<p>7. Change of Location</p> <p>NOTE TO RETAIL LICENSEES: An application to change location has a local application fee of \$750 payable to your local licensing authority. You may only change location within the same jurisdiction as the original license that was issued. Pursuant to 44-3-311(1) C.R.S. Your application must be on file with the local authority thirty (30) days before a public hearing can be held.</p> <p>Date filed with Local Authority <u>4/6/2023</u> Date of Hearing <u>5/19/2023</u></p> <p>(a) Address of current premises <u>247 W Elkhorn Ave.</u></p> <p style="margin-left: 20px;">City <u>Estes Park</u> County <u>Larimer</u> ZIP <u>80517</u></p> <p>(b) Address of proposed New Premises (Attach copy of the deed or lease that establishes possession of the premises by the licensee)</p> <p style="margin-left: 20px;">Address <u>1350 Fall River Road</u></p> <p style="margin-left: 20px;">City <u>Estes Park</u> County <u>Larimer</u> ZIP <u>80517</u></p> <p>(c) New mailing address if applicable.</p> <p style="margin-left: 20px;">Address <u>Same PO Box 3547</u></p> <p style="margin-left: 20px;">City <u>Estes Park</u> County <u>Larimer</u> State <u>CO</u> ZIP <u>80517</u></p> <p>(d) Attach detailed diagram of the premises showing where the alcohol beverages will be stored, served, possessed or consumed. Include kitchen area(s) for hotel and restaurants.</p>				

Winery/Limited Winery/Noncontiguous or Primary Manufacturing Location Change	<p>8. Winery/Limited Winery Noncontiguous or Primary Manufacturing Location Change</p> <p>Select the option that applies to your situation:</p> <p><input type="checkbox"/> Make a current Primary Manufacturing Location (Location 1) into a Noncontiguous Location (Location 2); or</p> <p><input type="checkbox"/> Make a current Noncontiguous Manufacturing Location (Location 1) into a Primary Manufacturing Location (Location 2).</p> <p>(a) Address of Location 1: _____</p> <p>City _____ County _____ ZIP _____</p> <p>(b) Address of Location 2: _____</p> <p>City _____ County _____ ZIP _____</p>
Change of Manager	<p>9. Change of Manager or to Register the Manager of a Tavern, Hotel and Restaurant, Lodging & Entertainment liquor license or licenses pursuant to section 44-3-301(8), C.R.S.</p> <p>(a) Change of Manager</p> <p>Former manager's name _____</p> <p>New manager's name _____</p> <p>(b) Date of Employment _____</p> <p>Has manager ever managed a liquor licensed establishment?..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Does manager have a financial interest in any other liquor licensed establishment?..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, give name and location of establishment _____</p> <p>_____</p>
Modify Premises or Addition of Optional Premises, Related Facility, or Sidewalk Service Area	<p>10. Modification of Premises, Addition of an Optional Premises, Addition of Related Facility, or Addition of a Sidewalk Service Area</p> <p>NOTE: Licensees may not modify or add to their licensed premises until approved by state and local authorities.</p> <p>(a) Describe change proposed _____</p> <p>_____</p> <p>_____</p> <p>(b) If the modification is temporary, when will the proposed change:</p> <p>Start _____ (mo/day/year) End _____ (mo/day/year)</p> <p>NOTE: THE TOTAL STATE FEE FOR TEMPORARY MODIFICATION IS \$300.00</p> <p>(c) Will the proposed change result in the licensed premises now being located within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?</p> <p>(If yes, explain in detail and describe any exemptions that apply) <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(d) Is the proposed change in compliance with local building and zoning laws?..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(e) If this modification is for an additional Hotel and Restaurant Optional Premises has the local authority authorized by resolution or ordinance the issuance of optional premises?..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(f) Attach a diagram of the current licensed premises and a diagram of the proposed changes for the licensed premises.</p> <p>(g) Attach any existing lease that is revised due to the modification.</p> <p>(h) For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), 1 C.C.R. 203-2, include documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.</p>

Campus Liquor Complex Designation	<p>11. Campus Liquor Complex Designation</p> <p>An institution of higher education or a person who contracts with the institution to provide food services</p> <p>(a) I wish to designate my existing _____ Liquor License # _____ to a Campus Liquor Complex <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
Additional Related Facility	<p>12. Additional Related Facility</p> <p>To add a Related Facility to an existing Resort or Campus Liquor Complex, include the name of the Related Facility and include the address and an outlined drawing of the Related Facility Premises.</p> <p>(a) Address of Related Facility _____</p> <p>(b) Outlined diagram provided <input type="checkbox"/> Yes <input type="checkbox"/> No</p>

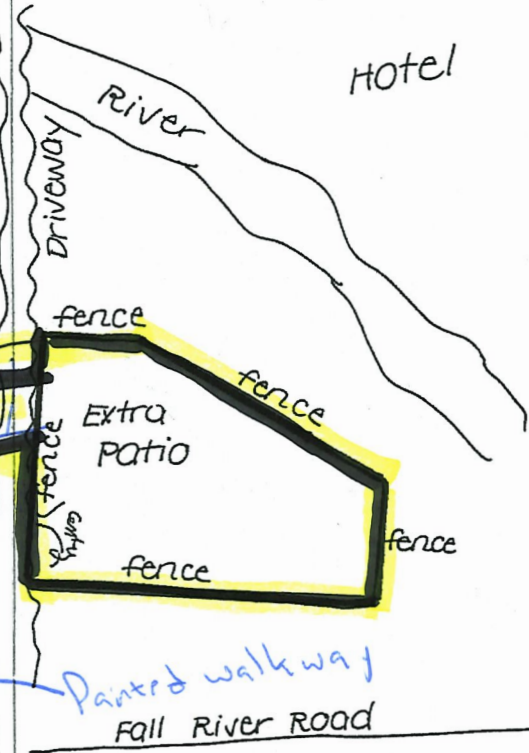
Oath of Applicant		
I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge		
Signature 	Print name and Title Tony Nelson President	Date 4-1-2023
Report and Approval of LOCAL Licensing Authority (CITY / COUNTY)		
The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 44, Articles 4 and 3, C.R.S., as amended. Therefore, This Application is Approved.		
Local Licensing Authority (City or County) TOWN OF ESTES PARK	Date filed with Local Authority 4/6/2023	
Signature	Title	Date
Report of STATE Licensing Authority		
The foregoing has been examined and complies with the filing requirements of Title 44, Article 3, C.R.S., as amended.		
Signature	Title	Date

Buyer initials _____ Seller initials *W/K*



p1 of 2 Fall River Road

The Wapiti Colorado Pk
1350 Fall River Road



p 2 of 2

W/K



TOWN OF ESTES PARK

April 14, 2023

Jackie Williamson, Town Clerk
Town of Estes Park
Estes Park, CO 80517

RE: The Downtown Eatery

Nelson, Tory J. 06/1873
Nelson, Berenice 06/16/74

Dear Ms. Williamson:

A check of the Estes Park Police Department local records on the above business and individuals was conducted. The system reports date back to possibly October of 2004 or more recently when our system upgraded in December 2020. Unfortunately, there is limited information in the update. There are reports of Theft, Burglary and Criminal Mischief naming Tory Nelson as a Victim in each of these cases at another business. There are no reports involving the address in the past year. There are no other reports involving the individuals listed.

Sincerely,

David Hayes
Chief of Police, Estes Park Police Department

170 MACGREGOR AVE. P.O. BOX 1287



ESTES PARK, CO 80517 www.estes.org

Police Department
David Hayes, Chief of Police

970-586-4000
www.estes.org/pd



Memo

To: Honorable Mayor Koenig
Board of Trustees
Town Administrator Machalek

From: Jackie Williamson, Town Clerk

Date: May 9, 2023

RE: *Resolution 51-23 New Hotel & Restaurant Liquor License Application for Montego Bay Enterprises Inc. dba The Downtown Eatery, 247 W. Elkhorn Avenue, Estes Park, Colorado*

(Mark all that apply)

PUBLIC HEARING ORDINANCE LAND USE
 CONTRACT/AGREEMENT RESOLUTION OTHER _____

QUASI-JUDICIAL YES NO

Objective:

Approval of a new Hotel & Restaurant liquor license located at 247 W. Elkhorn Avenue, Estes Park, Colorado. Application filed by Montego Bay Enterprises Inc. dba The Downtown Eatery.

Present Situation:

An application for a new concurrent Hotel & Restaurant liquor license was received by the Town Clerk’s office on April 6, 2023. All necessary paperwork and fees were submitted; please see the attached *Procedure for Hearing on Application – New Liquor License* for additional information. The applicant is aware of the Town Board’s Training for Intervention Procedures (TIPS) requirement and has completed the training previously. It is worth noting this location is currently operated by the applicant as The Wapiti Colorado Pub which is being relocated to 1350 Fall River Road, formerly Nicky’s Steakhouse.

The liquor license application has been sent to the Colorado Department of Revenue Liquor Enforcement Division (LED) for a concurrent review as requested by the applicant. This allows the LED to review the application simultaneously with the Town and expedites the issuance of the new liquor license and allows the applicant to operate both licenses they own as soon as possible.

Proposal:

Town Board review and consideration of the application for a new Hotel & Restaurant liquor license.

Advantages:

Approval of the license provides the business owner with the opportunity to operate a liquor-licensed establishment in the Town of Estes Park.

Disadvantages:

The owner is denied a business opportunity to operate a liquor license establishment.

Action Recommended:

Approval of the application for a new Hotel & Restaurant liquor license.

Finance/Resources Impact:

The fee paid to the Town of Estes Park for a new Hotel & Restaurant Liquor license is \$1,319. The fee covers the administrative costs related to processing the application, background checks, and business licensing. In addition, the annual renewal fee payable to the Town of Estes Park for a Hotel & Restaurant Liquor license is \$869.

Level of Public Interest:

Low

Sample Motion:

I move that Resolution 51-23 be approved/denied for a new Hotel & Restaurant liquor license for Montego Bay Enterprises Inc. dba The Downtown Eatery, 247 W. Elkhorn Avenue, Estes Park, Colorado.

Attachments:

1. Procedure for Hearing
2. Resolution 51-23
3. Application, Diagram, Individual History
4. Police Report

PROCEDURE FOR HEARING ON APPLICATION NEW LIQUOR LICENSE

1. MAYOR.

The next order of business is convening the Liquor Licensing Authority for the Town of Estes Park. The next order of business will be the public hearing on the application of **Montego Bay Enterprises Inc. dba The Downtown Eatery** for a new **Hotel & Restaurant Liquor License** located at 247 W. Elkhorn Avenue, Estes Park, Colorado.

At this hearing, the Board of Trustees shall consider the facts and evidence determined as a result of its investigation, as well as any other facts, the reasonable requirements of the neighborhood for the type of license for which application has been made, the desires of the adult inhabitants, the number, type and availability of liquor outlets located in or near the neighborhood under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

OPEN PUBLIC HEARING

2. TOWN CLERK. Will present the application and confirm the following:

- The application was filed **April 6, 2023.**
- At a meeting of the Board of Trustees on April 25, 2023, the public hearing was set for **7:00 p.m. on Tuesday, May 9, 2023.**
- The neighborhood boundaries for the purpose of this application and hearing were established to be **3.5** miles.
- The Town has received all necessary fees and hearing costs.
- The applicant is filing as a **Corporation.**
- The property is zoned **CD – Commercial Downtown** which allows this type of business as a permitted use.
- The notice of hearing was published on **April 28, 2023**.

- The premises was posted on April 28, 2023.
- There is a police report with regard to the investigation of the applicant.
- Status of T.I.P.S. Training:
 _____ Unscheduled _____ Scheduled * _____ Completed
- There is a map indicating all liquor outlets presently in the Town of Estes Park available upon request.

3. APPLICANT.

- The applicants will be allowed to state their case and present any evidence they wish to support the application.

4. OPPONENTS.

- The opponents will be given an opportunity to state their case and present any evidence in opposition to the application.
- The applicant will be allowed a rebuttal limited to the evidence presented by the opponents. No new evidence may be submitted.

5. MAYOR.

- Ask the Town Clerk whether any communications have been received in regard to the application and, if so, to read all communication.
- Indicate that all evidence presented will be accepted as part of the record.
- Ask the Board of Trustees if there are any questions of any person speaking at any time during the course of this hearing.
- Declare the public hearing closed.

6. SUGGESTED MOTION:

I move that Resolution 51-23 be approved/denied for a new Hotel & Restaurant liquor license for Montego Bay Enterprises Inc. dba The Downtown Eatery, 247 W. Elkhorn Avenue, Estes Park, Colorado.

RESOLUTION 51-23

**A RESOLUTION APPROVING A NEW HOTEL & RESTAURANT
LIQUOR LICENSE APPLICATION FOR
MONTEGO BAY ENTERPRISES INC. DBA THE DOWNTOWN EATERY, 247 W.
ELKHORN AVENUE, ESTES PARK, COLORADO**

WHEREAS, the Town Board of Trustees acting in their capacity as the Liquor Licensing Authority for the Town of Estes Park held a public hearing on May 9, 2023 for a New Hotel & Restaurant Liquor License, filed by Montego Bay Enterprises Inc., dba The Downtown Eatery; and

WHEREAS, C.R.S. § 44-3-301(2)(a) requires the licensing authority to consider the reasonable requirements of the neighborhood, the desires of the adult inhabitants, and all other reasonable restrictions that are or may be placed upon the neighborhood by the local licensing authority; and

WHEREAS, the Board of Trustees finds that the reasonable requirements of the neighborhood are not met by the present liquor outlets in the neighborhood and that the desires of the adult inhabitants are for the granting of this liquor license.

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

The new Hotel & Restaurant Liquor License, filed Montego Bay Enterprises Inc., dba The Downtown Eatery, Estes Park, Colorado is hereby approved.

DATED this _____ day of _____, 2023.

TOWN OF ESTES PARK

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:



Town Attorney

DR 8404 (07/01/22)
 COLORADO DEPARTMENT OF REVENUE
 Liquor Enforcement Division
 (303) 205-2300

Colorado Liquor Retail License Application

New License
 New-Concurrent
 Transfer of Ownership
 State Property Only
 Master file

- All answers must be printed in black ink or typewritten
- Applicant must check the appropriate box(es)
- Applicant should obtain a copy of the Colorado Liquor and Beer Code: SBG.Colorado.gov/Liquor

1. Applicant is applying as a/an
 Individual
 Limited Liability Company
 Association or Other
 Corporation
 Partnership (Includes Limited Liability and Husband and Wife Partnerships)

2. Applicant If an LLC, name of LLC; if partnership, at least 2 partner's names; if corporation, name of corporation FEIN Number
 Montego Bay Enterprises Inc. [REDACTED]

2a. Trade Name of Establishment (DBA) State Sales Tax Number Business Telephone
 The Downtown Eatery [REDACTED] 970-586-5056

3. Address of Premises (specify exact location of premises, include suite/unit numbers)
 247 W Elkhorn Ave.

City County State ZIP Code
 Estes Park Larimer CO 80517

4. Mailing Address (Number and Street) City or Town State ZIP Code
 PO Box 3547 Estes Park CO 80517

5. Email Address
 WapitiPub@gmail.com

6. If the premises currently has a liquor or beer license, you must answer the following questions

Present Trade Name of Establishment (DBA)	Present State License Number	Present Class of License	Present Expiration Date

Section A Nonrefundable Application Fees*

- Application Fee for New License.....\$1,100.00
- Application Fee for New License w/Concurrent Review\$1,200.00
- Application Fee for Transfer.....\$1,100.00

Section B Liquor License Fees*

- Add Optional Premises to H & R.....\$100.00 X _____ Total _____
- Add Related Facility to Resort Complex \$75.00 X _____ Total _____
- Add Sidewalk Service Area..... \$75.00
- Arts License (City).....\$308.75
- Arts License (County).....\$308.75
- Beer and Wine License (City).....\$351.25
- Beer and Wine License (County).....\$436.25
- Brew Pub License (City).....\$750.00
- Brew Pub License (County).....\$750.00
- Campus Liquor Complex (City).....\$500.00
- Campus Liquor Complex (County).....\$500.00
- Campus Liquor Complex (State).....\$500.00
- Club License (City).....\$308.75
- Club License (County).....\$308.75
- Distillery Pub License (City).....\$750.00
- Distillery Pub License (County).....\$750.00
- Hotel and Restaurant License (City).....\$500.00
- Hotel and Restaurant License (County).....\$500.00
- Hotel and Restaurant License w/one opt premises (City).....\$600.00
- Hotel and Restaurant License w/one opt premises (County).....\$600.00
- Liquor-Licensed Drugstore (City).....\$227.50

Section B (Cont.) Liquor License Fees*

- Liquor-Licensed Drugstore (County).....\$312.50
- Lodging & Entertainment - L&E (City).....\$500.00
- Lodging & Entertainment - L&E (County).....\$500.00
- Manager Registration - H & R.....\$30.00
- Manager Registration - Tavern.....\$30.00
- Manager Registration - Lodging & Entertainment.....\$30.00
- Manager Registration - Campus Liquor Complex.....\$30.00
- Optional Premises License (City).....\$500.00
- Optional Premises License (County).....\$500.00
- Racetrack License (City).....\$500.00
- Racetrack License (County).....\$500.00
- Resort Complex License (City).....\$500.00
- Resort Complex License (County).....\$500.00
- Related Facility - Campus Liquor Complex (City).....\$160.00
- Related Facility - Campus Liquor Complex (County).....\$160.00
- Related Facility - Campus Liquor Complex (State).....\$160.00
- Retail Gaming Tavern License (City).....\$500.00
- Retail Gaming Tavern License (County).....\$500.00
- Retail Liquor Store License-Additional (City).....\$227.50
- Retail Liquor Store License-Additional (County).....\$312.50
- Retail Liquor Store (City).....\$227.50
- Retail Liquor Store (County).....\$312.50
- Tavern License (City).....\$500.00
- Tavern License (County).....\$500.00
- Vintners Restaurant License (City).....\$750.00
- Vintners Restaurant License (County).....\$750.00

* Note that the Division will not accept cash

Questions? Visit: SBG.Colorado.gov/Liquor for more information

Do not write in this space - For Department of Revenue use only

Liability Information

License Account Number	Liability Date	License Issued Through (Expiration Date)	Total \$

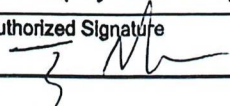
Application Documents Checklist and Worksheet

Instructions: This checklist should be utilized to assist applicants with filing all required documents for licensure. All documents must be properly signed and correspond with the name of the applicant exactly. All documents must be typed or legibly printed. Upon final State approval the license will be mailed to the local licensing authority. Application fees are nonrefundable. **Questions? Visit: SBG.Colorado.gov/Liquor for more information**

Items submitted, please check all appropriate boxes completed or documents submitted	
I.	Applicant Information <input type="checkbox"/> A. Applicant/Licensee Identified <input type="checkbox"/> B. State sales tax license number listed or applied for at time of application <input type="checkbox"/> C. License type or other transaction identified <input type="checkbox"/> D. Return originals to local authority (additional items may be required by the local licensing authority) <input type="checkbox"/> E. All sections of the application need to be completed <input type="checkbox"/> F. Master file applicants must include the Application for Master File form DR 8415 and applicable fees to this Retail License Application
II.	Diagram of the premises <input type="checkbox"/> A. No larger than 8 1/2" X 11" <input type="checkbox"/> B. Dimensions included (does not have to be to scale). Exterior areas should show type of control (fences, walls, entry/exit points, etc.) <input type="checkbox"/> C. Separate diagram for each floor (if multiple levels) <input type="checkbox"/> D. Kitchen - identified if Hotel and Restaurant <input type="checkbox"/> E. Bold/Outlined Licensed Premises
III.	Proof of property possession (One Year Needed) <input type="checkbox"/> A. Deed in name of the applicant (or) (matching question #2) date stamped / filed with County Clerk <input type="checkbox"/> B. Lease in the name of the applicant (or) (matching question #2) <input type="checkbox"/> C. Lease assignment in the name of the applicant with proper consent from the landlord and acceptance by the applicant <input type="checkbox"/> D. Other agreement if not deed or lease. (matching question #2)
IV.	Background information (DR 8404-I) and financial documents <input type="checkbox"/> A. Complete DR 8404-I for each principal (individuals with more than 10% ownership, officers, directors, partners, members) <input type="checkbox"/> B. Fingerprints taken and submitted to the appropriate Local Licensing Authority through an approved state vendor. Do not complete fingerprint cards prior to submitting your application. The Vendors are as follows: IdentoGO – https://uenroll.identogo.com/ Phone: 844-539-5539 (toll-free) Colorado Fingerprinting – http://www.coloradofingerprinting.com Appointment Scheduling Website: http://www.coloradofingerprinting.com/cabs/ Phone: 720-292-2722 Toll Free: 833-224-2227 Details about the vendors and fingerprinting in Colorado can be found on CBI's website here: https://cbi.colorado.gov/sections/biometric-identification-and-records-unit/employment-and-background-checks <input type="checkbox"/> C. Purchase agreement, stock transfer agreement, and/or authorization to transfer license <input type="checkbox"/> D. List of all notes and loans (Copies to also be attached)
V.	Sole proprietor/husband and wife partnership (if applicable) <input type="checkbox"/> A. Form DR 4679 <input type="checkbox"/> B. Copy of State issued Driver's License or Colorado Identification Card for each applicant
VI.	Corporate applicant information (if applicable) <input type="checkbox"/> A. Certificate of Incorporation <input type="checkbox"/> B. Certificate of Good Standing <input type="checkbox"/> C. Certificate of Authorization if foreign corporation (out of state applicants only)
VII.	Partnership applicant information (if applicable) <input type="checkbox"/> A. Partnership Agreement (general or limited). <input type="checkbox"/> B. Certificate of Good Standing
VIII.	Limited Liability Company applicant information (if applicable) <input type="checkbox"/> A. Copy of articles of organization <input type="checkbox"/> B. Certificate of Good Standing <input type="checkbox"/> C. Copy of Operating Agreement (if applicable) <input type="checkbox"/> D. Certificate of Authority if foreign LLC (out of state applicants only)
IX.	Manager registration for Hotel and Restaurant, Tavern, Lodging & Entertainment, and Campus Liquor Complex licenses when included with this application <input type="checkbox"/> A. \$30.00 fee <input type="checkbox"/> B. If owner is managing, no fee required

	Type of License	Account Number		
Name				
7. Is the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers under the age of twenty-one years? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
8. Has the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers ever (in Colorado or any other state): <ul style="list-style-type: none"> a. Been denied an alcohol beverage license? <input type="checkbox"/> <input checked="" type="checkbox"/> b. Had an alcohol beverage license suspended or revoked? <input type="checkbox"/> <input checked="" type="checkbox"/> c. Had interest in another entity that had an alcohol beverage license suspended or revoked? <input type="checkbox"/> <input checked="" type="checkbox"/> If you answered yes to 8a, b or c, explain in detail on a separate sheet.				
9. Has a liquor license application (same license class), that was located within 500 feet of the proposed premises, been denied within the preceding two years? If "yes", explain in detail. <input type="checkbox"/> <input checked="" type="checkbox"/>				
10. Are the premises to be licensed within 500 feet, of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary? <input type="checkbox"/> <input checked="" type="checkbox"/> Waiver by local ordinance? <input type="checkbox"/> <input type="checkbox"/> or Other: _____				
11. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of greater than (>) 10,000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS. <input type="checkbox"/> <input type="checkbox"/>				
12. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 3000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of less than (<) 10,000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS. <input type="checkbox"/> <input type="checkbox"/>				
13. a. For additional Retail Liquor Store only. Was your Retail Liquor Store License issued on or before January 1, 2016? <input type="checkbox"/> <input type="checkbox"/> b. Are you a Colorado resident? <input checked="" type="checkbox"/> <input type="checkbox"/>				
14. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership; members or manager if a Limited Liability Company; or officers, stockholders or directors if a corporation)? If yes, identify the name of the business and list any <u>current</u> financial interest in said business including any loans to or from a licensee. <input checked="" type="checkbox"/> <input type="checkbox"/>				
15. Does the applicant, as listed on line 2 of this application, have legal possession of the premises by ownership, lease or other arrangement? <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Ownership <input checked="" type="checkbox"/> Lease <input type="checkbox"/> Other (Explain in Detail) _____ a. If leased, list name of landlord and tenant, and date of expiration, exactly as they appear on the lease:				
Landlord	Tenant	Expires		
Durward Family Trust	Montego Bay Enterprises Inc.	2-28-2026		
b. Is a percentage of alcohol sales included as compensation to the landlord? If yes, complete question 16. <input type="checkbox"/> <input checked="" type="checkbox"/>				
c. Attach a diagram that designates the area to be licensed in black bold outline (including dimensions) which shows the bars, brewery, walls, partitions, entrances, exits and what each room shall be utilized for in this business. This diagram should be no larger than 8 1/2" X 11".				
16. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies) will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money from this business? Attach a separate sheet if necessary.				
Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage
Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage
Attach copies of all notes and security instruments and any written agreement or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.				
17. Optional Premises or Hotel and Restaurant Licenses with Optional Premises: <ul style="list-style-type: none"> Has a local ordinance or resolution authorizing optional premises been adopted? <input type="checkbox"/> <input type="checkbox"/> Number of additional Optional Premise areas requested. (See license fee chart) _____ 				
18. For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), include a diagram of the service area and documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.				

Name	Type of License	Account Number		
<p>19. Liquor Licensed Drugstore (LLDS) applicants, answer the following:</p> <p>a. Is there a pharmacy, licensed by the Colorado Board of Pharmacy, located within the applicant's LLDS premise? <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" a copy of license must be attached.</p>				
<p>20. Club Liquor License applicants answer the following: Attach a copy of applicable documentation</p> <p>a. Is the applicant organization operated solely for a national, social, fraternal, patriotic, political or athletic purpose and not for pecuniary gain? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>b. Is the applicant organization a regularly chartered branch, lodge or chapter of a national organization which is operated solely for the object of a patriotic or fraternal organization or society, but not for pecuniary gain? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>c. How long has the club been incorporated? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>d. Has applicant occupied an establishment for three years (three years required) that was operated solely for the reasons stated above? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>				
<p>21. Brew-Pub, Distillery Pub or Vintner's Restaurant applicants answer the following:</p> <p>a. Has the applicant received or applied for a Federal Permit? (Copy of permit or application must be attached) <input type="checkbox"/> Yes <input type="checkbox"/> No</p>				
<p>22. Campus Liquor Complex applicants answer the following:</p> <p>a. Is the applicant an institution of higher education? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>b. Is the applicant a person who contracts with the institution of higher education to provide food services? <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" please provide a copy of the contract with the institution of higher education to provide food services.</p>				
<p>23. For all on-premises applicants.</p> <p>a. For all Liquor Licensed Drugstores (LLDS) the Permitted Manager must also submit a Manager Permit Application - DR 8000 and fingerprints.</p>				
Last Name of Manager <i>Nelson</i>		First Name of Manager <i>Berenice</i>		
<p>24. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, provide name, type of license and account number. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>				
<p>25. Related Facility - Campus Liquor Complex applicants answer the following:</p> <p>a. Is the related facility located within the boundaries of the Campus Liquor Complex? If yes, please provide a map of the geographical location within the Campus Liquor Complex. If no, this license type is not available for issues outside the geographical location of the Campus Liquor Complex. <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>b. Designated Manager for Related Facility- Campus Liquor Complex</p>				
Last Name of Manager		First Name of Manager		
<p>26. Tax Information.</p> <p>a. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>b. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>				
<p>27. If applicant is a corporation, partnership, association or limited liability company, applicant must list all Officers, Directors, General Partners, and Managing Members. In addition, applicant must list any stockholders, partners, or members with ownership of 10% or more in the applicant. All persons listed below must also attach form DR 8404-I (Individual History Record), and make an appointment with an approved State Vendor through their website. See application checklist, Section IV, for details.</p>				
Name <i>Tory Nelson</i>	Home Address, City & State <i>3241 W. Elizabeth St. CO 80501</i>	DOB <i>[REDACTED]</i>	Position <i>President</i>	%Owned <i>50</i>
Name <i>Berenice Nelson</i>	Home Address, City & State <i>3241 W Elizabeth St. Ft. Collins CO</i>	DOB <i>[REDACTED]</i>	Position <i>Vice President</i>	%Owned <i>50</i>
Name	Home Address, City & State	DOB	Position	%Owned
Name	Home Address, City & State	DOB	Position	%Owned
Name	Home Address, City & State	DOB	Position	%Owned

Name	Type of License	Account Number
<p>** If applicant is owned 100% by a parent company, please list the designated principal officer on above. ** Corporations - the President, Vice-President, Secretary and Treasurer must be accounted for above (Include ownership percentage if applicable) ** If total ownership percentage disclosed here does not total 100%, applicant must check this box: <input checked="" type="checkbox"/> Applicant affirms that no individual other than these disclosed herein owns 10% or more of the applicant and does not have financial interest in a prohibited liquor license pursuant to Article 3 or 5, C.R.S.</p>		
<p>Oath Of Applicant</p> <p>I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.</p>		
Authorized Signature 	Printed Name and Title Tony Nelson President	Date 4-1-2023
<p>Report and Approval of Local Licensing Authority (City/County)</p>		
Date application filed with local authority 4/6/2023	Date of local authority hearing (for new license applicants; cannot be less than 30 days from date of application) 5/9/2023	
<p>The Local Licensing Authority Hereby Affirms that each person required to file DR 8404-I (Individual History Record) or a DR 8000 (Manager Permit) has been:</p> <p><input type="checkbox"/> Fingerprinted <input type="checkbox"/> Subject to background investigation, including NCIC/CCIC check for outstanding warrants</p> <p>That the local authority has conducted, or intends to conduct, an inspection of the proposed premises to ensure that the applicant is in compliance with and aware of, liquor code provisions affecting their class of license (Check One)</p> <p><input type="checkbox"/> Date of inspection or anticipated date _____ <input type="checkbox"/> Will conduct inspection upon approval of state licensing authority</p>		
<p><input type="checkbox"/> Is the Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1,500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of > 10,0000? Yes No <input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> Is the Liquor Licensed Drugstore(LLDS) or Retail Liquor Store (RLS) within 3,000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of < 10,0000? <input type="checkbox"/> <input type="checkbox"/></p> <p>NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.</p> <p><input type="checkbox"/> Does the Liquor-Licensed Drugstore (LLDS) have at least twenty percent (20%) of the applicant's gross annual income derived from the sale of food, during the prior twelve (12) month period? <input type="checkbox"/> <input type="checkbox"/></p>		
<p>The foregoing application has been examined; and the premises, business to be conducted, and character of the applicant are satisfactory. We do report that such license, if granted, will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants, and will comply with the provisions of Title 44, Article 4 or 3, C.R.S., and Liquor Rules. Therefore, this application is approved.</p>		
Local Licensing Authority for		Telephone Number
		<input type="checkbox"/> Town, City <input type="checkbox"/> County
Signature	Print	Title
		Date
Signature	Print	Title
		Date

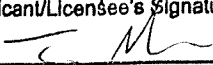
Tax Check Authorization, Waiver, and Request to Release Information

I, Tory Nelson am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of Montego Bay Enterprises Inc. (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101. et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and its duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

Name (Individual/Business) <u>Montego Bay Enterprises Inc.</u>		Social Security Number/Tax Identification Number [REDACTED]	
Address <u>247 W. Elkham Ave. Po Box 3547</u>			
City <u>Estes Park</u>		State <u>CO</u>	Zip <u>80517</u>
Home Phone Number		Business/Work Phone Number <u>970-586-5056</u>	
Printed name of person signing on behalf of the Applicant/Licensee <u>Tory Nelson</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) 			Date signed <u>4-1-2023</u>

Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).

Cleave Street (no entrance)

The Downtown Eatery
247 W. Elk Horn Ave



Elk Horn Ave

Fall River

Boardwalk

Travel

Office

2st Storage

Restrooms

Liquor Room

Bar

Bar

Kitchen

Walk in cooler

Dining ~40 seats

Waiting Patio

Building

Building

Patio

extending wall

↙

Individual History Record

To be completed by the following persons, as applicable: sole proprietors; general partners regardless of percentage ownership, and limited partners owning 10% or more of the partnership; all principal officers of a corporation, all directors of a corporation, and any stockholder of a corporation owning 10% or more of the outstanding stock; managing members or officers of a limited liability company, and members owning 10% or more of the company; and any intended registered manager of Hotel and Restaurant, Tavern and Lodging and Entertainment class of retail license

Notice: This individual history record requires information that is necessary for the licensing investigation or inquiry. All questions must be answered in their entirety or the license application may be delayed or denied. If a question is not applicable, please indicate so by "N/A". **Any deliberate misrepresentation or material omission may jeopardize the license application.** (Please attach a separate sheet if necessary to enable you to answer questions completely)

1. Name of Business <i>Montego Bay Enterprises Inc.</i>		Home Phone Number <i>NA</i>	Cellular Number 			
2. Your Full Name (last, first, middle) <i>Nelson, Tony, Jon</i>		3. List any other names you have used				
4. Mailing address (if different from residence)		Email Address <i>Tony.Nelson@gmail.com</i>				
5. List current residence address. Include any previous addresses within the last five years. (Attach separate sheet if necessary)						
Street and Number		City, State, Zip		From	To	
Current <i>3241 W. Elizabeth St.</i>		<i>Fort Collins, CO 80521</i>		<i>10/2016</i>	<i>Present</i>	
Previous <i>3791 Shadow Ridge Dr.</i>		<i>Fort Collins, CO 80526</i>		<i>12/2014</i>	<i>10/2016</i>	
6. List all employment within the last five years. Include any self-employment. (Attach separate sheet if necessary)						
Name of Employer or Business		Address (Street, Number, City, State, Zip)		Position Held	From	To
<i>Montego Bay Enterprises Inc.</i>		<i>247 W. Elkhorn Ave EP, CO 80517</i>		<i>President</i>	<i>3/2005</i>	<i>Present</i>
<i>Big Red Wapiti Inc.</i>		<i>701 Albhouse Dr Loveland, CO 80537</i>		<i>CEO</i>	<i>3/2011</i>	<i>Present</i>
<i>The Mayor LLC</i>		<i>632 S. Mason Ft. Collins, CO 80521</i>		<i>President</i>	<i>9/2020</i>	<i>Present</i>
7. List the name(s) of relatives working in or holding a financial interest in the Colorado alcohol beverage industry.						
Name of Relative		Relationship to You		Position Held	Name of Licensee	
<i>Bernice Nelson</i>		<i>Wife</i>		<i>N.A.</i>	<i>Montego Bay Ent. Inc. Mayor LLC</i>	
<i>Avery Buser</i>		<i>Son</i>		<i>N.A.</i>	<i>Mayor LLC</i>	
8. Have you ever applied for, held, or had an interest in a Colorado Liquor or Beer License, or loaned money, furniture, fixtures, equipment or inventory to any licensee? (If yes, answer in detail.)					<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<i>Montego Bay Enterprises Inc. - shareholder from 2005</i>						
<i>Big Red Wapiti Inc. - shareholder from 2011</i>						
<i>The Mayor LLC - shareholder from 2020</i>						
9. Have you ever received a violation notice, suspension, or revocation for a liquor law violation, or have you applied for or been denied a liquor or beer license anywhere in the United States? (If yes, explain in detail.)					<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

10. Have you ever been convicted of a crime or received a suspended sentence, deferred sentence, or forfeited bail for any offense in criminal or military court or do you have any charges pending? (If yes, explain in detail.) Yes No
11. Are you currently under probation (supervised or unsupervised), parole, or completing the requirements of a deferred sentence? (If yes, explain in detail.) Yes No
12. Have you ever had any professional license suspended, revoked, or denied? (If yes, explain in detail.) Yes No

Personal and Financial Information

Unless otherwise provided by law, the personal information required in question #13 will be treated as confidential. The personal information required in question #13 is solely for identification purposes.

13a. Date of Birth		b. Social Security Number		c. Place of Birth		d. U.S. Citizen <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
[REDACTED]		[REDACTED]		Kearney, NE			
e. If Naturalized, state where			f. When		g. Name of District Court		
h. Naturalization Certificate Number		i. Date of Certification		j. If an Alien, Give Alien's Registration Card Number		k. Permanent Residence Card Number	
l. Height	m. Weight	n. Hair Color	o. Eye Color	p. Gender	q. Do you have a current Driver's License/ID? If so, give number and state.		
6'0"	270	brown	hazel	Male	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No # [REDACTED] State CO		

14. Financial Information.
- a. Total purchase price or investment being made by the applying entity, corporation, partnership, limited liability company, other. \$ 3000
- b. List the total amount of the personal investment, made by the person listed on question #2, in this business including any notes, loans, cash, services or equipment, operating capital, stock purchases or fees paid. \$ _____
- * If corporate investment only please skip to and complete section (d)
 ** Section b should reflect the total of sections c and e

c. Provide details of the personal investment described in 14b. You must account for all of the sources of this investment. (Attach a separate sheet if needed)

Type: Cash, Services or Equipment	Account Type	Bank Name	Amount
NA			

d. Provide details of the corporate investment described in 14 (a). You must account for all of the sources of this investment. (Attach a separate sheet if needed)

Type: Cash, Services or Equipment	Loans	Account Type	Bank Name	Amount
Cash		checking	FNB	\$3000

e. Loan Information (Attach copies of all notes or loans)

Name of Lender	Address	Term	Security	Amount
NA				

Oath of Applicant

I declare under penalty of perjury that this application and all attachments are true, correct, and complete to the best of my knowledge.

Authorized Signature	Print Signature	Title	Date
[Signature]	Tony Nelson	President	3-23-23

Individual History Record

To be completed by the following persons, as applicable: sole proprietors; general partners regardless of percentage ownership, and limited partners owning 10% or more of the partnership; all principal officers of a corporation, all directors of a corporation, and any stockholder of a corporation owning 10% or more of the outstanding stock; managing members or officers of a limited liability company, and members owning 10% or more of the company; and any intended registered manager of Hotel and Restaurant, Tavern and Lodging and Entertainment class of retail license

Notice: This individual history record requires information that is necessary for the licensing investigation or inquiry. All questions must be answered in their entirety or the license application may be delayed or denied. If a question is not applicable, please indicate so by "N/A". **Any deliberate misrepresentation or material omission may jeopardize the license application.** (Please attach a separate sheet if necessary to enable you to answer questions completely)

1. Name of Business <i>Montego Bay Enterprises Inc.</i>	Home Phone Number <i>N/A</i>	Cellular Number <div style="background-color: black; width: 100px; height: 15px;"></div>
--	---------------------------------	---

2. Your Full Name (last, first, middle) <i>Nelson, Berenice</i>	3. List any other names you have used
--	---------------------------------------

4. Mailing address (if different from residence)	Email Address <i>berenice@gmail.com</i>
--	--

5. List current residence address. Include any previous addresses within the last five years. (Attach separate sheet if necessary)

Street and Number	City, State, Zip	From	To
Current <i>3241 W. Elizabeth St.</i>	<i>Fort Collins, CO 80517</i>	<i>10/2016</i>	<i>Present</i>
Previous <i>3791 Shadow Ridge</i>	<i>Fort Collins, CO 80525</i>	<i>12/2014</i>	<i>10/2016</i>

6. List all employment within the last five years. Include any self-employment. (Attach separate sheet if necessary)

Name of Employer or Business	Address (Street, Number, City, State, Zip)	Position Held	From	To
<i>Wapiti CO Pub</i>	<i>247. W. Elkhorn Ave</i>	<i>Vice-President</i>	<i>3/2005</i>	<i>Present</i>

7. List the name(s) of relatives working in or holding a financial interest in the Colorado alcohol beverage industry.

Name of Relative	Relationship to You	Position Held	Name of Licensee
<i>Tory Nelson</i>	<i>Husband</i>	<i>President</i>	<i>Montego Bay Enterprises Inc The Mayor LLC</i>
<i>Avery Busch</i>	<i>son</i>	<i>Vice-President</i>	<i>The Mayor LLC.</i>

8. Have you ever applied for, held, or had an interest in a Colorado Liquor or Beer License, or loaned money, furniture, fixtures, equipment or inventory to any licensee? (If yes, answer in detail.) Yes No

*Montego Bay Enterprises Inc. shareholder from 2005
 The Mayor LLC. shareholder from 2020*

9. Have you ever received a violation notice, suspension, or revocation for a liquor law violation, or have you applied for or been denied a liquor or beer license anywhere in the United States? (If yes, explain in detail.) Yes No

10. Have you ever been convicted of a crime or received a suspended sentence, deferred sentence, or forfeited bail for any offense in criminal or military court or do you have any charges pending? (If yes, explain in detail.) Yes No

11. Are you currently under probation (supervised or unsupervised), parole, or completing the requirements of a deferred sentence? (If yes, explain in detail.) Yes No

12. Have you ever had any professional license suspended, revoked, or denied? (If yes, explain in detail.) Yes No

Personal and Financial Information

Unless otherwise provided by law, the personal information required in question #13 will be treated as confidential. The personal information required in question #13 is solely for identification purposes.

13. a. Date of Birth [redacted] b. Social Security Number [redacted] c. Place of Birth Cuernavaca Mexico d. U.S. Citizen Yes No

e. If Naturalized, state where Colorado f. When 1999 g. Name of District Court Denver

h. Naturalization Certificate Number [redacted] i. Date of Certification 9-17-1999 j. If an Alien, Give Alien's Registration Card Number [redacted] k. Permanent Residence Card Number [redacted]

l. Height 5'6" m. Weight 160 n. Hair Color Brown o. Eye Color Brown p. Gender F q. Do you have a current driver's license? Yes No # [redacted] state CO

14. Financial Information.

a. Total purchase price or investment being made by the applying entity, corporation, partnership, limited liability company, other. \$ 3000

b. List the total amount of the personal investment, made by the person listed on question #2, in this business including any notes, loans, cash, services or equipment, operating capital, stock purchases or fees paid. \$ _____

* If corporate investment only please skip to and complete section (d)
 ** Section b should reflect the total of sections c and e

c. Provide details of the personal investment described in 14b. You must account for all of the sources of this investment. (Attach a separate sheet if needed)

Type: Cash, Services or Equipment	Account Type	Bank Name	Amount
<u>N/A</u>			

d. Provide details of the corporate investment described in 14 (a). You must account for all of the sources of this investment. (Attach a separate sheet if needed)

Type: Cash, Services or Equipment	Loans	Account Type	Bank Name	Amount
<u>Cash</u>		<u>checking</u>	<u>FNB</u>	<u>\$3000</u>

e. Loan Information (Attach copies of all notes or loans)

Name of Lender	Address	Term	Security	Amount
<u>N/A</u>				

Oath of Applicant

I declare under penalty of perjury that this application and all attachments are true, correct, and complete to the best of my knowledge.

Authorized Signature [Signature] Print Signature Berenice Nelson Title Vice-President Date 3-23-23



TOWN OF ESTES PARK

April 14, 2023

Jackie Williamson, Town Clerk
Town of Estes Park
Estes Park, CO 80517

RE: The Downtown Eatery

Nelson, Tory J.
Nelson, Berenice



Dear Ms. Williamson:

A check of the Estes Park Police Department local records on the above business and individuals was conducted. The system reports date back to possibly October of 2004 or more recently when our system upgraded in December 2020. Unfortunately, there is limited information in the update. There are reports of Theft, Burglary and Criminal Mischief naming Tory Nelson as a Victim in each of these cases at another business. There are no reports involving the address in the past year. There are no other reports involving the individuals listed.

Sincerely,

David Hayes
Chief of Police, Estes Park Police Department

170 MACGREGOR AVE. P.O. BOX 1287



ESTES PARK, CO 80517 www.estes.org

Police Department
David Hayes, Chief of Police

970-586-4000
www.estes.org/pd

Page Left Blank Intentionally



Memo

To: Honorable Mayor Koenig
Board of Trustees
Town Administrator Machalek

From: Jackie Williamson, Town Clerk

Date: May 9, 2023

RE: *Resolution 52-23 New Hotel & Restaurant Liquor License Application for Ole International Kitchen LLC dba Ole International Kitchen, 145 E. Elkhorn Avenue, Units 300-304, Estes Park, Colorado*

(Mark all that apply)

PUBLIC HEARING ORDINANCE LAND USE
 CONTRACT/AGREEMENT RESOLUTION OTHER _____

QUASI-JUDICIAL YES NO

Objective:

Approval of a new Hotel & Restaurant liquor license located at 145 E. Elkhorn Avenue, Units 300-304, Estes Park, Colorado. Application filed by Ole International Kitchen LLC dba Ole International Kitchen.

Present Situation:

An application for a new concurrent Hotel & Restaurant liquor license was received by the Town Clerk’s office on April 7, 2023. All necessary paperwork and fees were submitted; please see the attached *Procedure for Hearing on Application – New Liquor License* for additional information. The applicant is aware of the Town Board’s Training for Intervention Procedures (TIPS) requirement.

The liquor license application has been sent to the Colorado Department of Revenue Liquor Enforcement Division (LED) for a concurrent review as requested by the applicant. This allows the LED to review the application simultaneously with the Town and expedites the issuance of the new liquor license.

Proposal:

Town Board review and consideration of the application for a new Hotel & Restaurant liquor license.

Advantages:

Approval of the license provides the business owner with the opportunity to operate a liquor-licensed establishment in the Town of Estes Park.

Disadvantages:

The owner is denied a business opportunity to operate a liquor license establishment.

Action Recommended:

Approval of the application for a new Hotel & Restaurant liquor license.

Finance/Resources Impact:

The fee paid to the Town of Estes Park for a new Hotel & Restaurant Liquor license is \$1,319. The fee covers the administrative costs related to processing the application, background checks, and business licensing. In addition, the annual renewal fee payable to the Town of Estes Park for a Hotel & Restaurant Liquor license is \$869.

Level of Public Interest:

Low

Sample Motion:

I move that Resolution 52-23 be approved/denied.

Attachments:

1. Procedure for Hearing
2. Resolution 52-23
3. Application, Diagram, Individual History
4. Police Report

PROCEDURE FOR HEARING ON APPLICATION NEW LIQUOR LICENSE

1. MAYOR.

The next order of business is convening the Liquor Licensing Authority for the Town of Estes Park. The next order of business will be the public hearing on the application of **Ole International Kitchen LLC dba Ole International Kitchen** for a new **Hotel & Restaurant Liquor License** located at 145 E. Elkhorn Avenue, Units 300-304, Estes Park, Colorado.

At this hearing, the Board of Trustees shall consider the facts and evidence determined as a result of its investigation, as well as any other facts, the reasonable requirements of the neighborhood for the type of license for which application has been made, the desires of the adult inhabitants, the number, type and availability of liquor outlets located in or near the neighborhood under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

OPEN PUBLIC HEARING

2. TOWN CLERK. Will present the application and confirm the following:

- The application was filed **April 7, 2023.**
- At a meeting of the Board of Trustees on April 25, 2023, the public hearing was set for **7:00 p.m. on Tuesday, May 9, 2023.**
- The neighborhood boundaries for the purpose of this application and hearing were established to be **3.5** miles.
- The Town has received all necessary fees and hearing costs.
- The applicant is filing as a **Limited Liability Corporation.**
- The property is zoned **CD – Commercial Downtown** which allows this type of business as a permitted use.

RESOLUTION 52-23

A RESOLUTION APPROVING A NEW HOTEL & RESTAURANT LIQUOR LICENSE APPLICATION FOR OLE INTERNATIONAL KITCHEN LLC DBA OLE INTERNATIONAL KITCHEN, 145 E. ELKHORN AVENUE, UNIT 300-304, ESTES PARK, COLORADO

WHEREAS, the Town Board of Trustees acting in their capacity as the Liquor Licensing Authority for the Town of Estes Park held a public hearing on May 9, 2023 for a New Hotel & Restaurant Liquor License, filed by Ole International Kitchen LLC dba Ole International Kitchen; and

WHEREAS, C.R.S. § 44-3-301(2)(a) requires the licensing authority to consider the reasonable requirements of the neighborhood, the desires of the adult inhabitants, and all other reasonable restrictions that are or may be placed upon the neighborhood by the local licensing authority; and

WHEREAS, the Board of Trustees finds that the reasonable requirements of the neighborhood are not met by the present liquor outlets in the neighborhood and that the desires of the adult inhabitants are for the granting of this liquor license.

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

The new Hotel & Restaurant Liquor License, filed by Ole International Kitchen LLC dba Ole International Kitchen, Estes Park, Colorado is hereby approved.

DATED this _____ day of _____, 2023.

TOWN OF ESTES PARK

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:



Town Attorney

Application Documents Checklist and Worksheet

Instructions: This checklist should be utilized to assist applicants with filing all required documents for licensure. All documents must be properly signed and correspond with the name of the applicant exactly. All documents must be typed or legibly printed. Upon final State approval the license will be mailed to the local licensing authority. Application fees are nonrefundable. **Questions? Visit: [SBG.Colorado.gov/Liquor](https://sbg.colorado.gov/Liquor) for more information**

Items submitted, please check all appropriate boxes completed or documents submitted	
I.	Applicant information <input type="checkbox"/> A. Applicant/Licensee identified <input type="checkbox"/> B. State sales tax license number listed or applied for at time of application <input type="checkbox"/> C. License type or other transaction identified <input type="checkbox"/> D. Return originals to local authority (additional items may be required by the local licensing authority) <input type="checkbox"/> E. All sections of the application need to be completed <input type="checkbox"/> F. Master file applicants must include the Application for Master File form DR 8415 and applicable fees to this Retail License Application
II.	Diagram of the premises <input checked="" type="checkbox"/> A. No larger than 8 1/2" X 11" <input checked="" type="checkbox"/> B. Dimensions included (does not have to be to scale). Exterior areas should show type of control (fences, walls, entry/exit points, etc.) <input checked="" type="checkbox"/> C. Separate diagram for each floor (if multiple levels) <input checked="" type="checkbox"/> D. Kitchen - identified if Hotel and Restaurant <input checked="" type="checkbox"/> E. Bold/Outlined Licensed Premises
III.	Proof of property possession (One Year Needed) <input checked="" type="checkbox"/> A. Deed in name of the applicant (or) (matching question #2) date stamped / filed with County Clerk <input checked="" type="checkbox"/> B. Lease in the name of the applicant (or) (matching question #2) <input checked="" type="checkbox"/> C. Lease assignment in the name of the applicant with proper consent from the landlord and acceptance by the applicant <input checked="" type="checkbox"/> D. Other agreement if not deed or lease. (matching question #2)
IV.	Background information (DR 8404-I) and financial documents <input checked="" type="checkbox"/> A. Complete DR 8404-I for each principal (individuals with more than 10% ownership, officers, directors, partners, members) <input checked="" type="checkbox"/> B. Fingerprints taken and submitted to the appropriate Local Licensing Authority through an approved state vendor. Do not complete fingerprint cards prior to submitting your application. The Vendors are as follows: IdentoGO – https://uenroll.identogo.com/ Phone: 844-539-5539 (toll-free) Colorado Fingerprinting – http://www.coloradofingerprinting.com Appointment Scheduling Website: http://www.coloradofingerprinting.com/cabs/ Phone: 720-292-2722 Toll Free: 833-224-2227 Details about the vendors and fingerprinting in Colorado can be found on CBI's website here: https://cbi.colorado.gov/sections/biometric-identification-and-records-unit/employment-and-background-checks <input checked="" type="checkbox"/> C. Purchase agreement, stock transfer agreement, and/or authorization to transfer license <input checked="" type="checkbox"/> D. List of all notes and loans (Copies to also be attached)
V.	Sole proprietor/husband and wife partnership (if applicable) <input type="checkbox"/> A. Form DR 4679 <input type="checkbox"/> B. Copy of State issued Driver's License or Colorado Identification Card for each applicant
VI.	Corporate applicant information (if applicable) <input type="checkbox"/> A. Certificate of Incorporation <input type="checkbox"/> B. Certificate of Good Standing <input type="checkbox"/> C. Certificate of Authorization if foreign corporation (out of state applicants only)
VII.	Partnership applicant information (if applicable) <input type="checkbox"/> A. Partnership Agreement (general or limited). <input type="checkbox"/> B. Certificate of Good Standing
VIII.	Limited Liability Company applicant information (if applicable) <input checked="" type="checkbox"/> A. Copy of articles of organization <input checked="" type="checkbox"/> B. Certificate of Good Standing <input type="checkbox"/> C. Copy of Operating Agreement (if applicable) <input type="checkbox"/> D. Certificate of Authority if foreign LLC (out of state applicants only)
IX.	Manager registration for Hotel and Restaurant, Tavern, Lodging & Entertainment, and Campus Liquor Complex licenses when included with this application <input type="checkbox"/> A. \$30.00 fee <input type="checkbox"/> B. If owner is managing, no fee required

Name	Type of License	Account Number		
<p>7. Is the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers under the age of twenty-one years? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>				
<p>8. Has the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers ever (in Colorado or any other state):</p> <p>a. Been denied an alcohol beverage license? <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>b. Had an alcohol beverage license suspended or revoked? <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>c. Had interest in another entity that had an alcohol beverage license suspended or revoked? <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>If you answered yes to 8a, b or c, explain in detail on a separate sheet.</p>				
<p>9. Has a liquor license application (same license class), that was located within 500 feet of the proposed premises, been denied within the preceding two years? If "yes", explain in detail. <input type="checkbox"/> <input checked="" type="checkbox"/></p>				
<p>10. Are the premises to be licensed within 500 feet, of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary? <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p style="text-align:right">or</p> <p style="text-align:right">Waiver by local ordinance? <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p style="text-align:right">Other: _____</p>				
<p>11. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of greater than (>) 10,000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS. <input type="checkbox"/> <input type="checkbox"/> <i>NA</i></p>				
<p>12. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 3000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of less than (<) 10,000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS. <input type="checkbox"/> <input type="checkbox"/> <i>NA</i></p>				
<p>13. a. For additional Retail Liquor Store only. Was your Retail Liquor Store License issued on or before January 1, 2016? <input type="checkbox"/> <input type="checkbox"/></p> <p>b. Are you a Colorado resident? <input checked="" type="checkbox"/> <input type="checkbox"/></p>				
<p>14. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership; members or manager if a Limited Liability Company; or officers, stockholders or directors if a corporation)? If yes, identify the name of the business and list any <u>current</u> financial interest in said business including any loans to or from a licensee. <input type="checkbox"/> <input checked="" type="checkbox"/></p>				
<p>15. Does the applicant, as listed on line 2 of this application, have legal possession of the premises by ownership, lease or other arrangement? <input checked="" type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> Ownership <input checked="" type="checkbox"/> Lease <input type="checkbox"/> Other (Explain in Detail) <u>3-31-2028</u></p> <p>a. If leased, list name of landlord and tenant, and date of expiration, exactly as they appear on the lease:</p>				
Landlord	Tenant	Expires		
<i>Mad Moose Properties</i>	<i>Edson N. Ayala / 016 International K</i>	<i>03-31-2028</i>		
<p>b. Is a percentage of alcohol sales included as compensation to the landlord? If yes, complete question 16. <input type="checkbox"/> <input checked="" type="checkbox"/></p>				
<p>c. Attach a diagram that designates the area to be licensed in black bold outline (including dimensions) which shows the bars, brewery, walls, partitions, entrances, exits and what each room shall be utilized for in this business. This diagram should be no larger than 8 1/2" X 11".</p>				
<p>16. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies) will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money from this business? Attach a separate sheet if necessary.</p>				
Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage
<i>N/A</i>				
Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage
<p>Attach copies of all notes and security instruments and any written agreement or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.</p>				
<p>17. Optional Premises or Hotel and Restaurant Licenses with Optional Premises: Has a local ordinance or resolution authorizing optional premises been adopted? <i>NA</i> <input type="checkbox"/> <input type="checkbox"/></p> <p style="text-align:right">Number of additional Optional Premise areas requested. (See license fee chart) <input type="text"/></p>				
<p>18. For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), include a diagram of the service area and documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions. <i>NA</i></p>				

Name	Type of License	Account Number
------	-----------------	----------------

19. Liquor Licensed Drugstore (LLDS) applicants, answer the following:
 a. Is there a pharmacy, licensed by the Colorado Board of Pharmacy, located within the applicant's LLDS premise? Yes No
 If "yes" a copy of license must be attached. N/A

20. Club Liquor License applicants answer the following: **Attach a copy of applicable documentation** Yes No
 a. Is the applicant organization operated solely for a national, social, fraternal, patriotic, political or athletic purpose and not for pecuniary gain? Yes No
 b. Is the applicant organization a regularly chartered branch, lodge or chapter of a national organization which is operated solely for the object of a patriotic or fraternal organization or society, but not for pecuniary gain? Yes No
 c. How long has the club been incorporated? N/A
 d. Has applicant occupied an establishment for three years (three years required) that was operated solely for the reasons stated above? Yes No

21. Brew-Pub, Distillery Pub or Vintner's Restaurant applicants answer the following: N/A
 a. Has the applicant received or applied for a Federal Permit? (Copy of permit or application must be attached) Yes No

22. Campus Liquor Complex applicants answer the following: N/A
 a. Is the applicant an institution of higher education? Yes No
 b. Is the applicant a person who contracts with the institution of higher education to provide food services? Yes No
 If "yes" please provide a copy of the contract with the institution of higher education to provide food services.

23. For all on-premises applicants.
 a. For all Liquor Licensed Drugstores (LLDS) the Permitted Manager must also submit a Manager Permit Application - DR 8000 and fingerprints.

Last Name of Manager <i>Ayala</i>	First Name of Manager <i>Edson</i>
--------------------------------------	---------------------------------------

24. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, provide name, type of license and account number. Yes No

25. Related Facility - Campus Liquor Complex applicants answer the following: N/A
 a. Is the related facility located within the boundaries of the Campus Liquor Complex?
 If yes, please provide a map of the geographical location within the Campus Liquor Complex.
 If no, this license type is not available for issues outside the geographical location of the Campus Liquor Complex.
 b. Designated Manager for Related Facility- Campus Liquor Complex

Last Name of Manager	First Name of Manager
----------------------	-----------------------

26. Tax Information. Yes No
 a. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? Yes No
 b. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? Yes No

27. If applicant is a corporation, partnership, association or limited liability company, applicant must list all **Officers, Directors, General Partners, and Managing Members**. In addition, applicant must list any stockholders, partners, or members with **ownership of 10% or more in the applicant**. All persons listed below must also attach form DR 8404-I (Individual History Record), and make an appointment with an approved State Vendor through their website. See application checklist, Section IV, for details.

Name	Home Address, City & State	DOB	Position	%Owned
<i>Edson Ayala</i>	<i>450 Peak View Dr CO 80517</i>	<i>[REDACTED]</i>	<i>Manager</i>	<i>10%</i>
Name	Home Address, City & State	DOB	Position	%Owned
Name	Home Address, City & State	DOB	Position	%Owned
Name	Home Address, City & State	DOB	Position	%Owned
Name	Home Address, City & State	DOB	Position	%Owned

Name	Type of License	Account Number
------	-----------------	----------------

** If applicant is owned 100% by a parent company, please list the designated principal officer on above.
 ** Corporations - the President, Vice-President, Secretary and Treasurer must be accounted for above (Include ownership percentage if applicable)
 ** If total ownership percentage disclosed here does not total 100%, applicant must check this box:
 Applicant affirms that no individual other than these disclosed herein owns 10% or more of the applicant and does not have financial interest in a prohibited liquor license pursuant to Article 3 or 5, C.R.S.

Oath Of Applicant

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.

Authorized Signature <i>[Signature]</i>	Printed Name and Title Edson A Ayala	Date 4/7-2023
--	---	------------------

Report and Approval of Local Licensing Authority (City/County)

Date application filed with local authority 4/7/2023	Date of local authority hearing (for new license applicants; cannot be less than 30 days from date of application) 5/9/2023
---	--

The Local Licensing Authority Hereby Affirms that each person required to file DR 8404-I (Individual History Record) or a DR 8000 (Manager Permit) has been:

- Fingerprinted
- Subject to background investigation, including NCIC/CCIC check for outstanding warrants

That the local authority has conducted, or intends to conduct, an inspection of the proposed premises to ensure that the applicant is in compliance with and aware of, liquor code provisions affecting their class of license

(Check One)

- Date of inspection or anticipated date _____
- Will conduct inspection upon approval of state licensing authority

- Is the Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1,500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of > 10,0000? Yes No
 - Is the Liquor Licensed Drugstore(LLDS) or Retail Liquor Store (RLS) within 3,000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of < 10,0000?
- NOTE:** The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.
- Does the Liquor-Licensed Drugstore (LLDS) have at least twenty percent (20%) of the applicant's gross annual income derived from the sale of food, during the prior twelve (12) month period?

The foregoing application has been examined; and the premises, business to be conducted, and character of the applicant are satisfactory. We do report that such license, if granted, will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants, and will comply with the provisions of Title 44, Article 4 or 3, C.R.S., and Liquor Rules. **Therefore, this application is approved.**

Local Licensing Authority for	Telephone Number	<input type="checkbox"/> Town, City <input type="checkbox"/> County
-------------------------------	------------------	--

Signature	Print	Title	Date
Signature	Print	Title	Date

Tax Check Authorization, Waiver, and Request to Release Information

I, Edson N Ayala am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of _____ (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101. et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and is duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

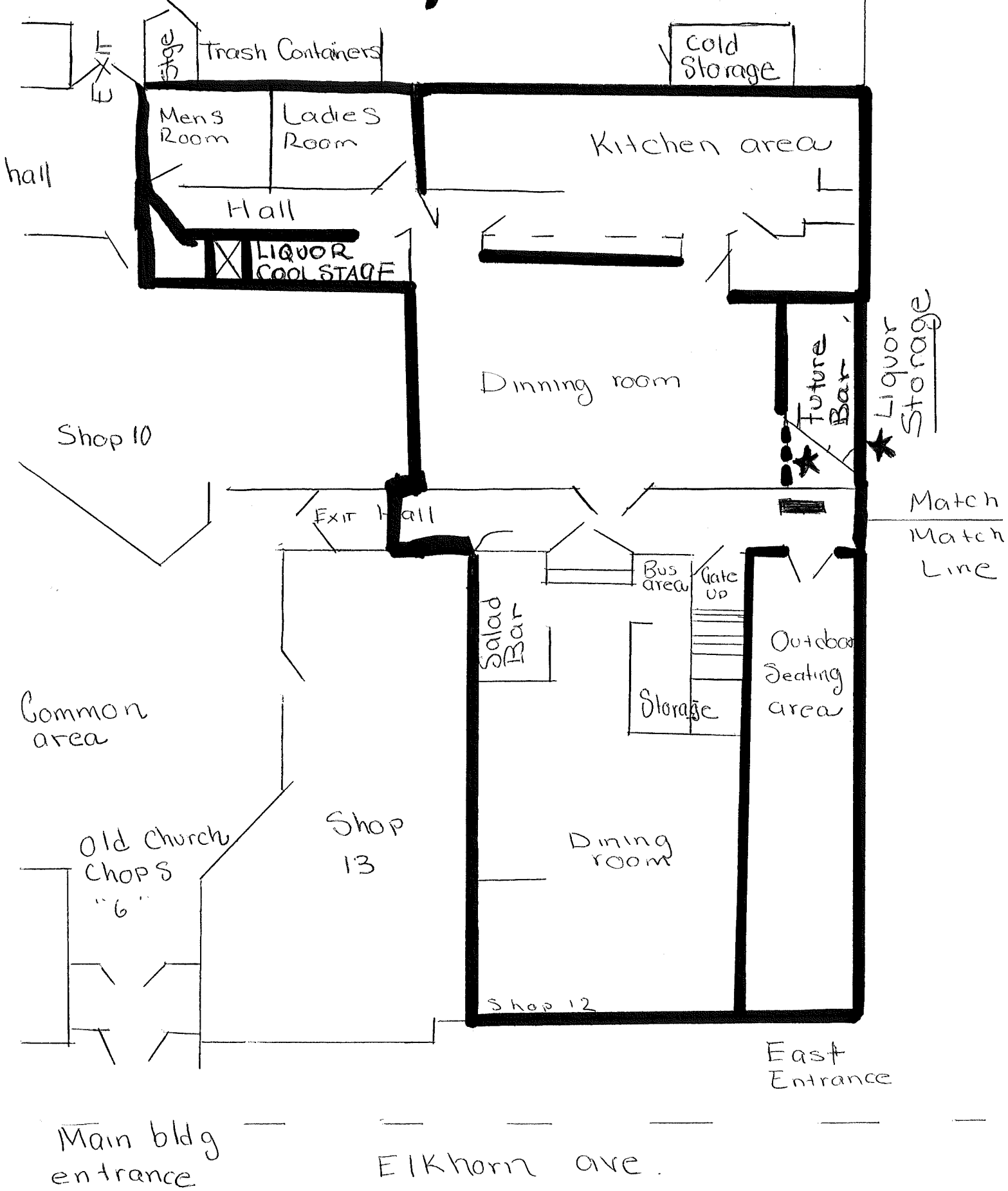
Name (Individual/Business) <u>Ole International Kitchen</u>		Social Security Number/Tax Identification Number 	
Address <u>145 ZIK horn ave 300-304</u>			
City <u>Estes Park</u>		State <u>CO</u>	Zip <u>80517</u>
Home Phone Number <u>970-599-4862</u>		Business/Work Phone Number	
Printed name of person signing on behalf of the Applicant/Licensee <u>Edson N Ayala</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) <u>ENA.</u>			Date signed <u>4/7/2023</u>

Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).

Ole International Kitchen

145 Eikhorn Ave, CO Property line 300-304



Individual History Record

To be completed by the following persons, as applicable: sole proprietors; general partners regardless of percentage ownership, and limited partners owning 10% or more of the partnership; all principal officers of a corporation, all directors of a corporation, and any stockholder of a corporation owning 10% or more of the outstanding stock; managing members or officers of a limited liability company, and members owning 10% or more of the company; and any intended registered manager of Hotel and Restaurant, Tavern and Lodging and Entertainment class of retail license

Notice: This individual history record requires information that is necessary for the licensing investigation or inquiry. All questions must be answered in their entirety or the license application may be delayed or denied. If a question is not applicable, please indicate so by "N/A". Any deliberate misrepresentation or material omission may jeopardize the license application. (Please attach a separate sheet if necessary to enable you to answer questions completely)

1. Name of Business Ole International Kitchen		Home Phone Number	Cellular Number 			
2. Your Full Name (last, first, middle) Edson N Ayala		3. List any other names you have used				
4. Mailing address (if different from residence) 950 Peak View Dr		Email Address ayalaedson239@gmail.com				
5. List current residence address. Include any previous addresses within the last five years. (Attach separate sheet if necessary)						
Street and Number		City, State, Zip		From	To	
Current 950 Peak view Dr		Estes Park, CO, 80517		2015	2023	
Previous 950 Peak view Dr		Estes Park, CO, 80517				
6. List all employment within the last five years. Include any self-employment. (Attach separate sheet if necessary)						
Name of Employer or Business		Address (Street, Number, City, State, Zip)		Position Held	From	To
Vailballg Resort		2185 Eagle Cliff Rd, Estes Park, CO		Tech, Repairs	7/20/20	3/20/23
Hotch Resort		1100 Big Thompson Ave, Estes Park, CO		Tech, Front Desk	2/7/18	6/21/20
Radio Shack		461 E Woodview Ave, Estes Park, CO		Sales Rep	3/2/17	5/20/18
7. List the name(s) of relatives working in or holding a financial interest in the Colorado alcohol beverage industry.						
Name of Relative		Relationship to You		Position Held	Name of Licensee	
N/A						
8. Have you ever applied for, held, or had an interest in a Colorado Liquor or Beer License, or loaned money, furniture, fixtures, equipment or inventory to any licensee? (If yes, answer in detail.)					<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
9. Have you ever received a violation notice, suspension, or revocation for a liquor law violation, or have you applied for or been denied a liquor or beer license anywhere in the United States? (If yes, explain in detail.)					<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

10. Have you ever been convicted of a crime or received a suspended sentence, deferred sentence, or forfeited bail for any offense in criminal or military court or do you have any charges pending? (If yes, explain in detail.) Yes No

11. Are you currently under probation (supervised or unsupervised), parole, or completing the requirements of a deferred sentence? (If yes, explain in detail.) Yes No

12. Have you ever had any professional license suspended, revoked, or denied? (If yes, explain in detail.) Yes No

Personal and Financial Information

Unless otherwise provided by law, the personal information required in question #13 will be treated as confidential. The personal information required in question #13 is solely for identification purposes.

13a. Date of Birth [redacted] b. Social Security Number [redacted] c. Place of Birth Mexico d. U.S. Citizen Yes No

e. If Naturalized, state where _____ f. When _____ g. Name of District Court _____

h. Naturalization Certificate Number _____ i. Date of Certification _____ j. If an Alien, Give Alien's Registration Card Number [redacted] k. Permanent Residence Card Number _____

l. Height 55" m. Weight 155 n. Hair Color Black o. Eye Color Black p. Gender Male q. Do you have a current Driver's License/ID? If so, give number and state. Yes No # [redacted] state Colorado

14. Financial Information.

a. Total purchase price or investment being made by the applying entity, corporation, partnership, limited liability company, other. \$ 0

b. List the total amount of the personal investment, made by the person listed on question #2, in this business including any notes, loans, cash, services or equipment, operating capital, stock purchases or fees paid. \$ 0,000.00

* If corporate investment only please skip to and complete section (d)
 ** Section b should reflect the total of sections c and e

c. Provide details of the personal investment described in 14b. You must account for all of the sources of this investment. (Attach a separate sheet if needed)

Type: Cash, Services or Equipment	Account Type	Bank Name	Amount
<u>Transfer</u>	<u>Saving</u>	<u>Mexbank</u>	<u>\$0,000.00</u>

d. Provide details of the corporate investment described in 14 (a). You must account for all of the sources of this investment. (Attach a separate sheet if needed)

Type: Cash, Services or Equipment	Loans	Account Type	Bank Name	Amount
			<u>NA</u>	

e. Loan Information (Attach copies of all notes or loans)

Name of Lender	Address	Term	Security	Amount
	<u>NA</u>			

Oath of Applicant

I declare under penalty of perjury that this application and all attachments are true, correct, and complete to the best of my knowledge.

Authorized Signature [Signature] Print Signature Edson A. Ayala Title OWNER Date 4/7/23



TOWN OF ESTES PARK

April 14, 2023

Jackie Williamson, Town Clerk
Town of Estes Park
Estes Park, CO 80517

RE: Ole International Kitchen

Ayala, Edison (Edson) [REDACTED]

Dear Ms. Williamson:

A check of the Estes Park Police Department local records on the above business and individual was conducted. The system reports date back to possibly October of 2004 or more recently when our system upgraded in December 2020. Unfortunately, there is limited information in the update. There are no reports involving the individual in the system. There are no reports involving the address in the past year.

Sincerely,

David Hayes
Chief of Police, Estes Park Police Department



PUBLIC COMMENT RECEIVED ON 5/9/2023

Board of Trustees Public Comment

Name: Dianna Wright

Stance on Item: For

Agenda Item Title: Resolution 52-23.

Public Comment:

Hello, I have owned the stuffed animal store called STUFFED, located at 145 E. Elkhorn Ave., for over four years, and am writing IN FAVOR of the liquor license request for Ole' International Kitchen, located on the third floor of our building. I cannot begin to tell you how hard these folks have been working and how many improvements they have already made to this restaurant space. Ole' will not only be a welcome addition to our building, but they will be a wonderful addition to the downtown business district. I support them and their restaurant, and am in favor of granting them a liquor license. Sincerely, Dianna Wright

File Upload

Files are limited to PDF or JPG.

25 MB limit. Video files cannot be saved to the final packet and must be transcribed before submitting.

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: Jackie Williamson, Town Clerk

Date: May 9, 2023

RE: Appoint a Trustee to the Town Board to Fill the Vacancy till the Next Election on April 2, 2024.

(Mark all that apply)

PUBLIC HEARING ORDINANCE LAND USE
 CONTRACT/AGREEMENT RESOLUTION OTHER _____

QUASI-JUDICIAL YES NO

Objective:

To appoint a new member to the Board of Trustees through the next election. The individual appointed would be required to run for the open seat during the regular Municipal Election on April 2, 2024 if they wish to continue serving the community as a trustee.

Present Situation:

The Town Board held public interviews for six individuals that submitted letters of interest and agreed to be interviewed at the study session on May 9, 2023.

Proposal:

At the regular meeting the Board will consider the letters of interest submitted by each candidate and their statements made during the interviews held early that evening. The Board will then vote to fill the vacant Trustee position. The new trustee will be sworn in at the May 23, 2023 meeting by Municipal Judge Thrower.

Advantages:

To fill the vacant trustee position and meet the requirements of the state statute.

Disadvantages:

None.

Action Recommended:

To approve an appointment to the Board of Trustees.

Finance/Resource Impact:

None.

Level of Public Interest

Low.

Sample Motion:

I move to approve the appointment of _____ to the Board of Trustee to fill the vacancy through the next regular Municipal Election on April 2, 2024.

Attachments:

None.



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 2. Ordinance 05-23 Amending Title 10 of the Estes Park Municipal Code Including the Resident Exemption for 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: Vanessa Solesbee, CAPP, CCTM, Mobility Services Manager
Greg Muhonen, PE, Public Works Director

Date: May 9, 2023

RE: *Ordinance 05-23 Amending Title 10 of the Estes Park Municipal Code Including the Resident Exemption for Paid Parking*

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

Objective:

Ordinance 05-23 amends Chapter 10.06 of the Estes Park Municipal Code (EPMC), Section 10.06.050, pertaining to paid parking. The purpose of this amendment is to extend the free, daily time limit for residents from 60 minutes (1 hour) to 120 minutes (2 hours).

Present Situation:

When the paid parking program began in 2021, a Local Permit was established to allow residents 30 minutes of free parking per day in any of the paid parking areas throughout the paid parking season. During the inaugural paid parking season, PW staff was advised that 30 minutes per day was insufficient. The permit was subsequently adjusted to allow for 60 minutes per day.

With the anticipated impact of several large construction efforts in and around downtown in 2023 and 2024, PW staff are working to identify short-term parking and transit program adjustments to improve the experience for both visitors and locals who are accessing downtown.

During the announcement of 2023 parking permits, PW staff requested feedback from community members about the current length of the Local Permit.

- 159 responses were received and are included here as Attachment 4 (2023 Local Permit Feedback).
- 153 respondents were in favor of the change, five (5) submitted questions and/or comments, and one (1) replied that one hour is sufficient.

- There are currently 3,346 active Local Permits, of which 3-4% were observed to be used daily in 2022. In other words, less than 133 vehicles with Local Permits were observed parking downtown throughout a typical day during the 2022 paid parking season.

In addition to seeking community input, PW staff had robust discussions about the proposed change with the Transportation Advisory Board (TAB) at their February, March, and April meetings. The TAB unanimously supports this change in their letter of support (Attachment 2). The Estes Valley Library also provided a letter in support of the proposed change (Attachment 3).

Proposal:

PW staff recommend amending Title 10 of the Estes Park Municipal Code (EPMC), Section 10.06.050, to extend the Resident 60-Minute Exemption to 2 hours (120 minutes). The attached ordinance modifies Title 10 of the EPMC pertaining to Vehicles & Traffic.

PW staff are bringing this proposal forward for the following reasons:

1. Two hours (120 minutes) is within the existing average turnover observed for public parking areas, which is 1.9 – 2.2 hours.
2. The next two years will provide a challenging environment for accessing downtown. Based on Local Permit utilization data collected in 2021 and 2022, PW staff do not believe that this change will negatively impact the paid parking program.
3. Extending the Local Permit will allow locals more time and flexibility to support downtown businesses and access community resources/venues.

PW staff will monitor the utilization of the Local Permit throughout the 2023 paid parking season and, if this change is approved, will report on any observed impact during the annual year-end paid parking program review.

Advantages:

- The proposed code 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 increased time limit could encourage more permit holders to park in the Town's busiest parking areas (the paid lots), potentially contributing to increased occupancy; however, PW staff feel that this proposed code amendment supports the Town's goal of managing public parking for all users—locals and visitors.

Action Recommended:

Adoption of Ordinance 05-23, Amending Chapter 10.06 of the Estes Park Municipal Code on Paid Parking.

Finance/Resource Impact:

No finance/resource impact is expected from this item.

Level of Public Interest

Staff expects a moderate to high level of public interest in any item related to parking.

Sample Motion:

I move that Ordinance 05-23 be approved/denied.

Attachments:

1. Ordinance 05-23
2. Letter of Support, Transportation Advisory Board
3. Letter of Support, Estes Valley Library
4. 2023 Local Permit Feedback

ORDINANCE NO. 05-23

AN ORDINANCE AMENDING TITLE 10 OF THE ESTES PARK MUNICIPAL CODE ON VEHICLES AND TRAFFIC, INCLUDING THE RESIDENT EXEMPTION FOR 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 portion 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: Sections 10.04.020, 10.06.010, and 10.06.050 of the Estes Park Municipal Code are hereby amended, by adding underlined material and deleting stricken material, to read as follows:

10.04.020 – Violation.

...

(c) The Town's ~~parking and transit manager~~ Public Works Director, or designee, is authorized to reduce the amount charged for parking violation fines to incentivize early payment of the fine amounts set forth by the municipal judge and described in Section 1.20.020.

...

10.06.010 - Paid parking authorization and rates.

(a) Authorization. The Town Board of Trustees may by resolution establish locations for which parking must be paid, the amounts and schedules required to be paid, applicable hours, and seasonal enforcement dates. All required fees shall be paid by any method approved by the Public Works Director, or designated manager for parking matters ~~parking and transit manager~~ ("Manager", for the purposes of this Chapter), and these may include, without limitation, paper bills, coins, credit cards, cellphone or internet payments, and validation. The Town Board may identify a number of stalls within a lot for paid parking, and delegate to the Manager the responsibility of designating the specific stalls.

...

10.06.050– Resident 120~~sixty~~-minute exemption.

Parking by residents for brief errands downtown is essential to the Town's livability and economy, such parking has only a de minimis impact on the Town, and charging fees for such parking would be counterproductive to the purposes of this Chapter. Accordingly, notwithstanding the other provisions of this Chapter, residents within the boundaries of the Estes Park R-3 School District are eligible to park in paid parking areas, free of charge, for up to 120 ~~sixty (60)~~ minutes of cumulative use daily. To activate this exemption, these eligible residents must register their vehicle license plate numbers with the Manager annually. The exemption will then remain in effect for the duration of the seasonal enforcement period established by resolution. This exemption is non-transferrable. However, the exemption shall be automatically suspended for any residents with an unpaid

parking citation aged sixty (60) days or more until the Manager confirms that all fines have been paid.

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

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

April 27, 2023

Dear Mayor Koenig and Trustees,

The Transportation Advisory Board (TAB) has actively participated in the development and implementation of the Downtown Parking Management Plan. In 2023 the local permit was discussed at three separate TAB meetings, which determined unanimous support for a 2-hour increase. We appreciate the opportunity to provide thoughtful and constructive feedback that can assist in making the seasonal paid parking program successful and able to continue thriving.

TAB members are residents of Estes Park and share in the concern about accessing the downtown during the busy summer and fall seasons. Frequenting businesses and restaurants involve a longer stay than one hour. We support extending the time to two hours because it aligns with the average turnover time for those paying for parking, while improving the downtown experience for residents.

The TAB shares a vision of downtown that is focused on people and creating positive experiences during their visit downtown; a vision that values pedestrians, bicycles, and shuttles, and that 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. Providing a two-hour local parking permit aligns with these continued goals while strengthening residents' access to downtown.

The TAB thanks the Honorable Mayor, Wendy Koenig, and Town Trustees for allowing the opportunity to provide our observations regarding the local permit hours in the 2023 Seasonal Paid Parking Program.

Sincerely,

A handwritten signature in black ink, appearing to be 'Belle Morris', written over the word 'Sincerely,'.

Belle Morris



March 27, 2023

Dear Mayor Koenig and Town of Estes Park Board of Trustees,

I understand that you will soon be considering a proposed increase from 60 minutes to 2-hours of free parking per day, to drivers holding a local parking permit. On behalf of the Estes Valley Library, please accept this **letter of support for the increase to two free hours daily**, to begin with the summer 2023 parking season.

In 2022, the Library conducted a Community Needs Assessment (CNA) to gauge the opinions, assumptions, needs, key issues, and assets of the Estes Valley. This information was critical to gather so that the library can increase value to those we serve.

Throughout the CNA, we heard loud and clear that our community members perceive issues with access to the library, especially during the summer months. In fact, during focus groups, our professional consultant struggled to steer conversation to topics other than parking problems. Patrons using their local permit noted that one hour of free parking was often insufficient for the needs of their public library visit.

We understand that a multi-pronged approach is necessary to improve downtown access for residents. The Library remains focused on creating solutions within our control, including offering summer programs at off-peak times and at offsite locations. Also, we are delighted to partner with Town staff, Manager Solesbee and Supervisor Klein, to develop a "Park Like a Local" campaign. This initiative will incentivize library patrons to opt in to a free local parking permit while signing up for or renewing their library card.

While maintaining strong benefits of the parking program for our municipal and business neighbors, the Library hopes to make downtown parking of greater benefit to community members who want to use their public library. Thank you for considering this proposed adjustment.

Most sincerely,

Claudine Perrault
Director & Village Librarian

Comment
I strongly encourage the town to implement the two hours of free parking for Estes Park residents. I have been reluctant to do much shopping downtown with a one hour time limit.
I would like to submit my voice in support of increasing downtown parking limits for locals to two hours during the summer months. Thank you for your consideration.
I would simply like to add that I think increasing the resident parking time to 2 hours will serve the community better as summer approaches. It seems prudent given a busier downtown and thriving tourism. Residents should have the priority when it comes to accessing their own community.
YES, YES, please increase our local downtown parking time to 2 hours. SOMEONE OUT THERE IS LISTENING. THANK YOU.
Please approve free parking to 2 hours for locals like us.
Yes please! Locals pay enough taxes that we should be allowed to park free for 2 hours especially at the library lot. It is incredibly difficult to get a parking space anywhere. Do something about tourists parking at Safeway for hours-we all see them park there and then walk to downtown. We built them a free parking garage that is in downtown so it would be nice if they would use it. Have a Blessed Day.
Yessss! Please! The one hour just isn't enough for residents. Makes going to town stressful!
It would be very helpful to have 2 hours to park during the busy season. Going to a local restaurant often requires more than an hour. We have avoided eating locally, or taking guests into town during the summer, due to the short window. Please extend the free local pass to 2 hours.
Thank you for asking if locals would appreciate an additional hour of parking time during the busy season. ABSOLUTELY!!!! Why would any local say no to that? We were grateful for the bump to 1 hour in 2022 but it allowed only fast-track errands. With an additional hour in 2023, employers can once again treat employees to birthday lunches downtown; locals can actually "shop" locally, lifting and supporting our own friends and neighbors; we can actually enjoy the Town. I hope the response you receive is a resounding YES.....please and THANK YOU!!!!
Extend local permit from 1 to 2 hours: In favor. When there are lots of people in town, getting to my destination, check out and get back to my vehicle has been over an hour a few times. Extending to 2 hours would be fantastic and allow me to complete multiple-shop purchases in one trip.
Please please please increase the time for locals from 60 minutes to 2 hours!!!
I have lived in Estes Park for 32 years. Please increase the local's free daily parking from the current 60 minutes to 2 hours as proposed. This additional hour is needed if we want to shop or eat downtown during the summer months, or attend events at Bond Park.
Personally, my wife and I would benefit from increasing the amount of free daily parking provided to Local Permit holders from 60 minutes to 2 hours. We like to do lunch and the Riverwalk This change would let us choose convenient parking for this activity. I'm for this change, as long as it doesn't seriously impact the goals of paid parking.
Please increase to 2 hrs parking for locals.
Two hours please

As a full time resident of Estes Park, I am dismayed that the limit on free parking is only 1 hour. My wife and I have stopped dining downtown during the "good weather" months and we have greatly limited our downtown shopping because of the 1 hour limit. I no longer get my haircut in Estes Park since the wait and the haircut itself normally take more than an hour. We already pay plenty of tax to the State of Colorado, Larimer County and the Town of Estes Park ... so it's an insult to us that we are required to pay another "tax" to park downtown beyond the 1 hour limit. We strongly support increasing the allowable free parking window for residents to 2 HOURS. Thanks for listening.

This is a comment from one valley resident with experience with the parking decal system for the past two years. In 2022 you increased the time for free parking to one hour. That was very helpful and allowed time for most errands to be completed. Increasing the time to two hours would allow for actual downtown dining and shopping and perhaps meeting attendance. Otherwise, the one-hour time frame was probably sufficient.

I just wanted to let you know that I do support the change for local parking downtown from 60 minutes to 2 hours.

I just wanted to let you know that I would vote for extending the 60 minute parking to two hours for locals

Wow! That would be great to expand locals' summer parking from one hour to two hours. I don't access our businesses much in the summer because I always have to rethink the parking. It'd be nice not to have to worry about it. I hope it happens.

I think increasing the local permit to 2 hours would be a really, really good idea. I also think it might be worth making sure that businesses have enough parking for their employees and even create reserved spots for them if they continue to have to pay for them. People who work the downtown area, thus creating a need for everyone else to pay for parking, should be guaranteed a parking spot. Many city parking garages have levels designated for employees.

I'm very much in favor of increasing the local's free parking permit/time to two hours. While I fully understand that tourism income is important to our town, so is the ability of local citizens to continue patronizing local business during the busy summer months. Increasing the free parking time would help significantly from that perspective, and likely keep me from going down to Loveland to shop in order to avoid the summer challenges of Estes Park. Thanks!

extending local parking to 2 hours...Yes – great idea!

I was delighted to read in the paper recently that you are considering increasing the "locals" parking time to two hours from one. This would be a HUGE help! We always try to combine our errands to cut down on gas etc, and two hours would make that goal much more achievable. Thank you!

We love the idea of increasing the time to park to two hours so we can actually go downtown and get some business taken care of without worry of parking. Thanks for considering this!

I support increasing the local's parking time limit to 2:00 hours

This would be a tremendous benefit to the local community. It is rare for locals to be able to participate in downtown activities or complete many errands within the current 60 minutes allotted. 2 hrs is sufficient time in the summer months to give locals more access to the downtown for themselves and their guests who visit periodically during the summer. Thanks for considering this and I hope you are able to make it happen.

Increasing the local permit time to two hours would be extremely helpful. That way, we can take guests for lunch and shopping. Thank you.

<p>How about extending the free local parking permits to Allenspark, Drake, Pinewood Springs, Glen Haven? And yes please, more free local parking!</p>
<p>es, please extend this free parking time to at least two hours</p>
<p>It would be much appreciated if you would extend the local permits to 2 hours. 2 hours allows enough time to eat at a restaurant, have coffee with a friend, or do some shopping. Most of the time I don't mind using the parking garage unless my destination is across town. Thank you for considering this.</p>
<p>As Estes Park residents, we believe a 2 hour time limit in place of the 60 minute current limit would greatly benefit many locals who frequent the library, restaurants, and businesses downtown and need more than an hour to enjoy each of those places.</p>
<p>Yes, please consider a two hour limit for local parking. One hour is far too limited a time frame to complete a task.</p>
<p>As a long term and year round EP resident I fully support a local time increase to 2 hours.</p>
<p>I would love to see the Local Permit parking be increased from 60 minutes to 2 hours of free parking. Thank you for that consideration!</p>
<p>Hi. I think the increasing the time limit to two hours is a good idea. While I often park in the garage it's not always convenient. Two hours provides enough time to get a meal in town or visit multiple shops without being rushed.</p>
<p>I would support the extension of the locals permit to 2 hours. Attendance at one hour events (e.g. Library) or eating downtown would be less rushed with that extension. Thank you for your consideration.</p>
<p>Yes, please increase time to 2 hours. That's likely to bring residents downtown to shop more after (again), and make it more likely we'll bring our houseguests, too. Besides, the Town does so little for residents.</p>
<p>We are in favor of this suggestion. One hour is too short for people with multiple errands, limited mobility, or who just want to have a meal.</p>
<p>I, [personal information was removed by PW staff], am completely in favor of increasing the allowed free parking from 60 minutes to 2 hours. We have curtailed our downtown dining since the parking meter system has been in effect (Poppy's, Mama Roses & Himalayan). Given waits to be seated and dining time once seated we could not rely on being done in time by the end of the meal, especially if dining with friends. Additionally, shopping downtown for clothes or goods was also a hassle with the time constraint. As locals we never go downtown on the weekends due to crowds, anyway, so I doubt this increase in time for locals would adversely affect available parking for weekenders and travelers.</p>

I'd be very grateful for an increase in locals permit time from an hour to two hours for three main reasons: 1. In high season, the library designated parking spaces are often full (and not necessarily with library patrons). I participated in several programs at the library this past year where some of us had set phone alarms, and had to abruptly walk out of the presentation in order to go move our cars. The municipal rules currently seem to be regarded as a mere suggestion by a goodly number of our town's visitors. What disturbs me even more is the ever growing volume of Estes Park visitors who also regard one way signs on streets and in parking lots as utterly irrelevant. This is now happening at the post office, where persons come in from the Pho restaurant side, see the cones or barriers blocking the path they had planned to get back to Elkhorn, and roar into the parking lot at a high rate of speed, against the one way traffic. I guess this is an issue for another department, but "roaring" into ANY Estes parking lot at ANY time of year is a bad, bad idea. 2. With the various downtown road construction projects underway, we have lost several parking spaces, and it will likely take more time to find one for the duration of the road construction. It would be nice to occasionally patronize a sit down restaurant without having to "eat and run" downtown. Thanks for all you do for our town. The persistent high volume of not often aware, alert, or respectful visitors has really dampened my enjoyment of coming to town in the busy season...much more than any aspect of the parking situation. Visitors often do not behave as guests visiting someone else's town, and frequently behave in bullying, threatening, or menacing ways with their vehicles. I have observed this to be especially prevalent with visitors bearing Texas license plates. I get so very tired of getting the finger for simply trying to go about my business in a respectful and polite way. I am neither a slow poke, nor am I the slightest bit inconsiderate of pedestrians or cyclists. Part of why I moved to Estes Park, was my several decades experience of how incredibly nice all my parents' friends and neighbors were, whenever I came to visit them from Boulder. We still have a lot of nice people in our town, but many visitors seem to feel that because they are spending money to stay in our area, they are fully entitled to do whatever they want to whomever they want, whenever they want. I, for one, am not looking forward to their summertime occupation.

I strongly support increasing the period of free parking for locals from 1 to 2 hours. 1 hour is not enough time to go to a restaurant.

YES PLEASE!!! 60 minutes just isn't enough time. 2 hours would be FABULOUS! Thanks so much!

I would love having the existing 60 free minutes for locals changed to 2 hours. If this occurred, I could visit businesses such as the Design Center and the downtown massage offices without fear of getting ticketed or towed. Plus, shopping would be so much more appealing since I would be able to go to more the. 1-2 shops. Basically, changing the time would enable locals to take advantage of the shops downtown. Right now, many of us don't go downtown because we can't do business in one hour other than the post office (as it takes a good 45 minutes there some days).

I whole heartedly support the proposed increased free daily parking from 60 minutes to 2 hours. It's difficult to accomplish anything downtown in less than 2 hours, especially in the summer. I actually wish it could be allotted in a weekly time frame, something like 10-15 hours/week in no specific time increments. For example, if I volunteer at a non-profit 2 afternoons/week I wouldn't have to worry about moving my vehicle every couple of hours. I understand this is probably difficult to monitor and too much to ask. Thank you for the free time permits for locals that you do offer! It is appreciated!

Yes, please change the local parking from 60 minutes to 2 hours. It is so difficult to do anything downtown in 60 minutes (even if you have a 60 minute meeting, it's impossible!). Thank you for the consideration.

YES PLEASE!!! Two hours for locals would be greatly appreciated. Thank you for considering.

I support increasing the Locals parking permit from 1 hour to 2 hours. It is not always possible to conduct one's life within one-hour limits. If enforcement continues to be robust in all areas, turnover should still be sufficient to allow access for everyone at least at some point in the day. Thank you for considering this improvement.

Thank you for considering the increase from 60 minutes to 2 hours for the Local Parking Pass. I think this would be a big boost in morale for our local community. I know that I often hear that most locals try to avoid downtown during our peak visitor season, and they opt for going down to the valley if possible. So in my opinion this increase could only be helpful.

Hello! Thanks for asking for input regarding extending free parking for "locals" to two hours. We are locals who not only use the post office, the parks, and the library--but who also shop and dine locally. Two hours would give us time to enjoy a restaurant and actually shop without missing out on all our little town has to offer. Again, thank you for the endless negotiating you do to make it possible for locals to come downtown in the summertime!

You finally figured out it takes more than an hour to park, walk to a restaurant, order food, eat, and return to your car! Thanks.

Yes, please do increase the amount of free daily parking for locals to 2 hours.

Love the idea of 2 hours free with a permit. 60 minutes worked most of the time but the additional minutes will be an added bonus to complete longer errands. Thanks for thinking of the local residents.

I support this initiative to raise the time to 2 hr for locals

We would appreciate the increase from one to two hours for locals with free permit.

We would really appreciate extra parking time. It is really hard to get anything accomplished within 60 min. Whether it is grabbing a bite to eat or shopping downtown. Especially during the busy season. Thank you for considering this.

We would like to have two hours of parking to be able to go to the library, especially if there is a one hour program, and browse the books and then go have a cup of coffee. This is hard to do in one hour but two hours would be plenty of time.

We think that it is an excellent idea to increase the free parking for local permits to 2 hours. With the increase in visitation, traffic congestion and especially with the construction of the infamous loop, it is very hard for local permit holders to find parking and secondly due to the volume of visitation, it sometimes is very difficult to accomplish what is needed to be done in only one hour. Thank you for thinking of the local citizens. It is greatly appreciated.

Please update the locals for 2 hours! depending on the time of day and number of daily visitors the lots get full and we may drive around for 15 minutes trying to get a space... Then any business that takes longer than a few minutes and we're over our limit. I really think that locals that live and work in town deserve to have all day free parking, for what we put up with in our little town!

Please confirm that my car is registered for a local parking permit, as I did receive a ticket last year even though I have a permit.
[personal information was removed by PW staff]

Locals need more than 60 minutes to shop. Please increase local permit holders from 60 minutes to 2 hours. Perhaps there should be some parking spaces reserved for local permit holders. Visitors should make better use of the parking structure and convenient shuttles.

It would be very welcome by us as local parking permit holders to increase our allowed time from 60 minutes to 2 hours. While we wouldn't use this all that often, there are times when doing everything in one hour just isn't enough time. What usually ends up happening is that we finish what we have to do but then forgo checking out something at another store or having a drink because we will go over our allotted 60 minutes.

I think the time for locals should be 2 hours.

Yes

Increasing the amount of free daily parking provided to Local Permit holders from 60 minutes to 2 hours is a great idea.

To Whom it May Concern: we are very interested in seeing the free downtown parking for locals in Estes Park increased from 1 to 2 hours. We were happy when the increase to 1 hour took place but often that is not enough time to take care of all of our business or shop. Any time less than 2 hours decreases the chance that we will use downtown businesses during the summer months.

Locals should be allowed at least a minimum of two hours parking for free.

This would be great... however I'm wondering how realistic this Re capacity of parking spots given that all the "free spaces" along the 2-3 blocks by the river are no longer there with the loop, therefore putting more pressure on paid lots.

The proposed extension to time allowed for local residents to park from one hour to two hours is desperately needed. As a local who frequents downtown shops and restaurants, I can say that since the parking time restriction was set at one hour, I no longer meet friends downtown to dine together. I am also hesitant to shop locally due to the time constraints for parking. Extending the allowed time for parking will help local business owners and encourage locals to shop local! Thank you for allowing local input into the decision making process for parking in our community.

I'd like to register my STRONG support for consideration of increasing the parking time limit for locals to 2 hours. This should especially apply to the parking lot at the library/town hall.

Yeah, we get 2 hour downtown access to the Town parking we pay for via taxes, fees, etc!!!! Hope these spots are not already full with out-of-state campers that I encountered in the Library parking lots and Visitors Center parking before 10 AM and throughout the day. Please address & cite vehicles camping in local areas at the Visitors Center and Library parking lots!!!! Do not have Enforcement award them with gas coupons or respond with they'll move on later!!!! This problem continues to grow due to social media letting folks know it's a get away for homeless, free camping, drug addicts, etc. in EP. Witnessed and had to deal with it for many years on a daily basis. Bustang has increased these challenges of additional services.

Yes please 2 hours for locals. Thank you.

two hours would allow locals to dine downtown. one hour is rarely enough

for it

Yes, please, increase local parking hours so that we may support our merchants

As a local year around resident of Estes Park since 2006, we would strongly recommend increasing the time allowed to park for free to a minimum of two hours and would hope you would concerned even three hours. We get many friends and family visiting and even staying with us every summer. We enjoy taking them downtown for lunch and shopping. The current one hour limit doesn't work even for lunch by the time you park get to one of our local restaurants and order. You don't have time to eat before you have to leave. Shopping is impossible to cover your favorite stores in one hour. The downtown stores are missing out on a lot of revenue from our locals because of the time limit on parking. We all end up going elsewhere.

I agree with the increase. It would help me go to several businesses at a more leisurely pace. Now, I power walk everywhere so I don't exceed the hour. I'm not frequently downtown during the summer, but it would be nice to not feel rushed. Maybe enjoy a bite to eat.

We are in favor of increasing the Local Permit parking from 60 minutes to 2 hours for 2023 paid parking season. Our reasons: 1. During the busy tourist season, it can be very difficult to complete downtown errands in just 60 minutes. It would be nice to once again do a little shopping in downtown Estes Park. 2. It is impossible to park, walk to a downtown restaurant, enjoy lunch with friends, and get back to your car in 60 minutes total. For locals who want to frequent their favorite eating places downtown, a 2 hour time limit would be much better. Thank you for considering this improvement for local residents and local taxpayers.

I would like to see locals allowed to use parking spaces for 2 hours instead of 1 hour.

For locals. Yes please.

I received an email from the town of Estes saying that, "the Town is considering increasing the amount of free daily parking provided to Local Permit holders from 60 minutes to 2 hours." This increase would be much appreciated by me, a local who lives in Carriage Hills. Thank you so much for considering this increase.

Definitely YES

I received an email requesting input on the proposal to change the daily parking for locals from 60 minutes to 2 hours. I am very much in favor of this change. It's pretty hard to get done everything that needs to be done downtown in one hour. Two hours would definitely enable me to accomplish what I need to do during my trips downtown during the summer months. Thank you for considering this change to the parking limits for locals!

Please increase locals parking to 2 hours

We are in favor of the local parking permit to be extended to at least 2 hours for us locals. My mom who is 96, goes to the library a lot and it is difficult for her to browse in the time allowed. Also, I hope that we as locals (42 yrs) don't have to reapply every year. Thank you for your consideration.

I like this change. We usually are able to get our errands done in 60 minutes, but 2 hours gives us a bit more flexibility. If it doesn't materially impact the expected change in parking revenue/parking lot turnover, I would encourage this change. It would go a ways towards reducing resident bitching (although in Estes Park, residents will just find something else to bitch about! Ha!) Thank you for your consideration!

You should definitely increase the free local parking permits to 2 hours! Parking downtown for a meal, plus walking to and from the restaurant and spending any time in a shop takes more than 1 hour. We deserve to use the downtown CONVENIENTLY in the summer months, not just when local businesses are desperate for our money in the winter! Parking legally while we are in town should NOT be a burden for taxpayers who live here.

I am writing to provide feedback on the proposed increase to local residents' daily parking time. I am strongly in favor of increasing this time limit to two hours because this would greatly increase the amount of time someone who lives and works in this town could spend downtown. For example, I attend as many of the local arts and crafts festivals taking place in Bond Park as I can. Limiting my ability to attend down to an hours worth of time means I am not able to patronize as many local vendors as I would like, and makes the experience less enjoyable overall. Two hours is a much more reasonable amount of time to enjoy the many opportunities taking place downtown over the summer.

This would help us be able to attend story time at the library and patronize downtown businesses on Saturday mornings. With my 4 kids there is no way I can move parking spots between a library spot and a paid spot to do this. Thank you for considering.

Hello! I am a local (going on 2 years now) and would greatly appreciate 2 free hours of parking downtown. When we do go downtown during the fee time, we go to shop and enjoy our town, just as the tourists do. If one stops to eat, one hour then is too short, especially during the lunch hour or early dinner. Two hours would be greatly appreciated, and thanks for considering this change in parking fees. Thanks for all you are doing to help make Estes Park a good place for us to live and play!

I am writing to express my opinion on parking fees charged to Estes Park residents. I fully support extending the free parking to 2 hours for EP residents with the local permit! Unfortunately, we have found that 60 minutes is not even enough time for my husband to get a haircut in town and as a result, we have taken all of our business down to Loveland.

2 hours free parking would be great. Sometimes I take me elderly mother downtown for a few errands and 1 hour is not quite enough time as she moved rather slowly. Thanks for the auto renewal process. That is awesome! Lastly, twice last summer my son got warnings for parking in the parking garage "overnight". However, he was working or socializing in the evening, coming home, and then at work early the next morning at Kind Coffee. We never received a fine, but I just want to point out the timing to you.

Please increase the local permit parking to two hours. Thank you

Thank you for asking for input. Yes it would be fabulous to have 2 hours to parkland shoo downtown.

I would like to give feedback on increasing the time on the locals parking permit. Please increase the time to two hours. One hour in the peak of the season is almost useless. Two hours will provide adequate time for local residents to complete necessary tasks in their community. Thank you for the opportunity to provide feedback.

I support and would benefit greatly to have local parking permits upgraded to 2 hours! This would be greatly appreciated as an Estes Park year round resident and community volunteer.

Please consider increasing the local parking permit hours!! Thank you

Yes please increase free parking for residents to 2 hours! I avoid downtown in general during the warmer months due to the difficulty of parking. 30 minutes isn't long enough to do much. I would be far more inclined to eat out and shop locally with extended free parking.

<p>Please increase free parking for local permit holders to 2 HOURS.</p>
<p>Please consider changing free resident parking from 1 hour to 2 hours. This will make it much easier when going out to dinner or shopping at a few stores. Thank you!</p>
<p>Increase local parking time to two hours</p>
<p>I heard you are thinking of raising the local time from 1 to 2 hours. I love that idea. I really try to park in the parking lot by the visitor center in the summer. But sometimes I need to park closer and that would be helpful. I want to make sure it doesn't affect shops and visitors finding parking (especially with construction) but if it doesn't, I like the idea of 2 hours.</p>
<p>I am a long time resident of Estes Park and would like to request the longer free parking time for locals.</p>
<p>Would very much like a time extension.</p>
<p>Extending the length of time residents get to park for free is a good idea. I am in favor of going from one hour to two hours.</p>
<p>Yes, please do increase the free daily car parking to 2 hours. It would make it so much easier to accomplish errands, eat meals etc.</p>
<p>I'm totally down for expanding the time for locals to two hours please and thank you.</p>
<p>I fully support increasing the free parking for permanent EP residents to 2 hours. My husband are full time local residents, and rarely go out to eat at restaurants, for breakfast or lunch, because of the limited 1 hour parking, we simply can't order, eat and enjoy the meal in an hour. This is especially hard when our family or friends come to visit. I endorse this change for permanent, full time, local residents.</p>
<p>I would greatly appreciate having the local permit time go from 1 hour to 2. In the summer, 1 hour isn't often enough time to patron places, particularly restaurants. I have limited my time downtown, but this would allow me more opportunity to go down there.</p>
<p>My thoughts are that we really do not go into downtown Estes very often and when we do 1 hour is enough time. If we are there for longer time periods we usually park in the parking structure on Hwy 36 and walk. No point in taking up parking that paying tourists would use.</p>
<p>Hello! As an Estes Park local, I'd like to add my request and support for the increase of free parking time for locals to two (2) hours. That would make it easier to have a more leisurely meal or time to wander at the various events held downtown during the very busy summer. Thank you for considering my input!</p>
<p>Hello town hall of Estes park! I was born and raised in the town of Estes park, I love my community and we all share the same love to our community and ALL of us want to make it better and better each and every way we can! I live in downtown area and it would be more them amazing to go from 60 min to, 2 full hours of free parking. Not just my self but our fellow local down town community would very much appreciate the extended time especially since there will be a Tremendous amount of construction work in the area.. I hope we can all come to an agreement. Ya'll have a wonderful day and thank you for all the hard work the team does everyday for our community!</p>
<p>I definitely think the parking limit time should be increased to 2 hours. An hour is sufficient for running a couple errands, but not enough for any social activities downtown in the summer. Most of the restaurants do not take reservations and by the time you get a table and order your food, your hour has expired. My husband and I are lucky enough that we can walk, but several of our friends that we go out with socially are not so fortunate. An extra hour would allow us to have time for dinner and conversation and still make it back to our cars before our parking time has expired.</p>

<p>As a local person, I really appreciate the one hour parking permit. It really helps running errands during the summer. The two-hour possibility would be nice for having dinner or other slightly longer activities like a meeting at the library with our HOA. Thanks for considering it, I think it's a good idea.</p>
<p>I think one hour is adequate. If people are dining out it will most likely be that they will be there shortly before 5 when permitting ends. If they're there for breakfast it will be before permits are required at 10 am. If they are "playing tourist" they can park at the parking garage.</p>
<p>I personally would appreciate changing for 2 hours. I try to keep my errands to less drips. If I have errands at both ends of town, by the time I get a couple stops done my time is up & would have to walk back to my car, drive to the other end of town then park again. Each parking area can be several minutes walking to get to most of the stores and the lights can take several minutes as well. The 60 minutes is barely enough time to get any errands done. With this I stay away from purchases anything in town to avoid the hassles of tracking my 60 minutes.</p>
<p>I am a full time resident of Estes Park and would appreciate time to have coffee, lunch or shop in my own downtown and a 2 hour parking time would be helpful. Please consider giving the locals this extended time.</p>
<p>If you want us to shop in town 2 hours would be helpful. Otherwise you are sending us out of town and down the mountain.</p>
<p>It would be beneficial for locals to have a 2 hour pass instead of just one hour. If you want to go to dinner it is difficult to get to a restaurant order, eat & get back to your vehicle in an hour. Thank you for your consideration.</p>
<p>YES!~ Sounds great! May not need that much time but will certainly encourage more local shopping and hanging out downtown!</p>
<p>A big YES to 2 hr parking for locals!</p>
<p>I would love it if permit holders/locals could get 2 hours free parking. It would make eating downtown at the local restaurants less stressful.</p>
<p>Many times my business takes more than an one hour!</p>
<p>I have a handicap placard, so it doesn't matter so much to me, but my husband Jim Kelley would certainly appreciate it.</p>
<p>Yes, please increase the local summer parking permit from 60 minutes to 2 hours. That would incentivize locals to contribute to the local economy! Thanks!</p>
<p>It would be wonderful to have two hour parking for locals in all lots especially the library lot since we go there for meetings and presentations. If not all lots for two hours do it with two lots perhaps the library and PO lots.</p>
<p>In response to the Town of Estes Park's email sent yesterday, March 7, that requested input from local permit holders regarding increasing the amount of free daily parking from 60 minutes to 2 hours, I give a resounding YES! Your initially increasing the time from 30 to 60 minutes was an improvement, but often, 60 minutes still isn't long enough to complete business and other tasks that require that we be downtown.</p>
<p>I am in agreement with the additional parking time. I talk to so many that will not drive into town during the summer as there is little free parking and the permit didn't give enough time to have a meal out. The longer time would be much better. I don't want to push but if you'd like to extend to 3 hours I think you would make a lot of people really happy.</p>
<p>Yes! I wholeheartedly support increasing the local parking permit to 2 hours. It'll make going out to lunch and running errands much easier.</p>
<p>90 minutes is really necessary to get any business done, and 2 hours would be appreciated for local parking.</p>

<p>Please extend parking for locals to two hours during the tourist season. It is difficult as a senior to park, get your errands done or have a meal downtown without going over the current one hour limit. Thank you for your consideration.</p>
<p>I support the proposal to increase locals' downtown parking time to 2 hours per day this summer. We support these businesses throughout the year and an extra hour during the busy summer months would be much appreciated! We support you. Please support us!</p>
<p>My husband and I live full time in Estes and are downtown a lot for business purposes. We wholeheartedly support the increase in time to 2 hours for local parking.</p>
<p>The current one hour is terrible for us. We can't even stay in town long enough to complete shopping.</p>
<p>This proposal would be a great help to locals who have lunches, meetings , etc. that last more than 60 min but less than 2 hrs.</p>
<p>To whom it may concern, as a resident in Estes Park I would very much appreciate being able to park for two hours versus one hour. You can't even eat a meal in one hour when it gets busy and you have to wait in line. Also, I think the businesses are missing out on the local revenue because locals don't want to come downtown, this would encourage them to do so!</p>
<p>Yes, parking should be increased to 2 hours. Maybe next year we can go for 4!</p>
<p>I am in favor of increasing the locals parking permit time to 2 hours. I might use it with more time. It is hardly worth the effort otherwise. By the time you park and walk to your destination (allow for time to walk back) you probably have about 40 minutes tops. Certainly not enough time to meet a friend for a meal; not enough time to look for something; only good if you know exactly what you want and where. When it was only 30 minutes, I never bothered to get one. It wasn't worth backing out of the garage for.</p>
<p>I am in favor of increasing the local parking permits so that locals can park free for 2 hours instead of one. This will encourage me to go downtown and shop much more than the one hour parking time limit does.</p>
<p>I am in favor of increasing the amount of free daily parking from 60 minutes to 2 hours.</p>
<p>I am in favor of increasing the amount of free daily parking from 60 minutes to 2 hours.</p>
<p>We think it's a great idea to increase the amount of free daily parking to local permit owners from 1 hour to 2 hours. That would definitely be helpful to us locals.</p>
<p>I am very much in favor of increasing the allowed Local Permit parking time from 60 minutes to 2 hours. One hour is insufficient for many of my downtown activity needs.</p>
<p>I am all for the extra time because by time you park and run your errands or go to the library your time is up before you can get back to your car. It would be great to have extra time.</p>
<p>An added hour would be great! Residents could actually visit, shop, leisurely lunch or dinner with local friends or out of town visitors. So we say "Yes, yes, yes!"</p>
<p>I fully support the increase for free parking for residents to 2 hours!</p>

I am a local Esta Valley Resident. I detest this Parking Permit system. Since it was implemented, I have stopped shopping in Town, I do not go to the library to take any classes, nor do any activities in Town at all during the Permit Season. A 30 minute parking timeframe was a joke. 60 minutes is an equal joke. Increasing the time frame for parking to 2 hours will help. Please DO implement the 2 hour time frame and increase the number of local permit spots available.

I think increasing the locals' parking permit in Estes Park to 2 hours is a good idea. It can be difficult in the summer to complete tasks with only one hour of parking allotted, due to the volume of people who come to town.

I am in favor of increasing the free parking time for locals. As an elderly person, it is so difficult to manage the parking situation in Estes and not having to add time would be a huge benefit.

I am writing today to encourage the town to increase the amount of free parking to us, the local Permit Holders, to 2 hours! I found last summer that one hour was not quite long enough to accommodate the activities that I often did downtown, such as walking my dog or meeting friends for coffee/lunch. So, having an additional hour would be very beneficial - even though I probably would not need the entire additional hour. Thanks for all your work and help with downtown parking!

I would definitely go downtown more if there was a 2 hour limit.

We are definitely in favor of this idea.

I wanted to write and give my support to increasing the free parking to 2 hours for locals with a permit. Normally I avoid downtown during the summer because of the hassle to find parking but it would be nice to be able to pull up and park to shop or grab a meal at one of the restaurants downtown and not have our daily routine so extremely different than what we experience in the winter as locals. The Stanley allows free parking to locals with the 517 card and it would be very nice to have free parking extended in downtown to 2 hours in the summer also for the locals that live here year round.

I am in favor of increasing the free parking time for locals from 60 minutes to two hours.

A two hour window would be extremely helpful. Sometimes one hour is just not enough to have dinner in a restaurant during the summer.

I am in favor of extending the parking time for locals to park free from 1 hour to 2 hours. I have my locals permit.

This increase of free parking time for locals would help bring the locals back to the downtown. Everyone I know says the avoid downtown due to the parking restrictions. You can't even do lunch in 60 minutes folks!

I am in favor of increasing the parking time limit for Estes Park residents, with stickers on their cars, to two hours. Thank you for your consideration in this matter.

I am a part time resident of Estes Park, and I heartily support the proposal to increase the free parking for locals from 1 to 2 hours.

Page Left Blank Intentionally