



551 Hot Springs Boulevard
Post Office Box 1859
Pagosa Springs, CO 81147
Phone: 970.264.4151
Fax: 970.264.4634

**TOWN COUNCIL MEETING AGENDA
TUESDAY, JUNE 7, 2016
Town Hall Council Chambers
551 Hot Springs Blvd
5:00 p.m.**

- I. **CALL MEETING TO ORDER**
- II. **PUBLIC COMMENT** – *Please sign in to make public comment*
- III. **CONSENT AGENDA**
 - 1. **Approval of the May 19, 2016 Meeting Minutes**
 - 2. **Liquor License**
 - a. **Liquor License Renewal – Plaza Liquors at 511 San Juan Street Suite A**
 - b. **Liquor License Renewal – Giant #068 at 2537 Eagle Drive**
 - c. **Liquor License Renewal – Pagosa Bar at 460 Pagosa Street**
 - d. **Liquor Store Tasting Permit – Plaza Liquor at 511 San Juan Street Suite A**
 - 3. **Student Representative Letter of Appreciation – Addie thompson**
- IV. **NEW BUSINESS**
 - 1. **Folk West Agreement for Use of Reservoir Hill**
 - 2. **Hot Springs Pedestrian Bridge Engineers Report and Purchase Order**
 - 3. **CDC 1st Quarter Update and Invoice**
 - 4. **Chamber of Commerce Lease Agreement**
- V. **OLD BUSINESS**
 - 1. **Ordinance 845, Second Reading, Granting Franchise Agreement to Kathryn Young dba At Your Disposal**
 - 2. **5th Street Bridge Economic Impact and Traffic Analysis Studies**
- VI. **PUBLIC COMMENT** – *Please sign in to make public comment*
- VII. **COUNCIL IDEAS AND COMMENTS**
- VIII. **NEXT TOWN COUNCIL MEETING JUNE 23, 2016 AT 5:00 PM**
- IX. **ADJOURNMENT**

**Don Volger
Mayor**



AGENDA DOCUMENTATION

CONSENT AGENDA:III.2

PAGOSA SPRINGS TOWN COUNCIL

JUNE 7, 2016

FROM: **BILL ROCKENSOCK, POLICE CHIEF**

PROJECT: LIQUOR LICENSE RENEWALS

ACTION: DISCUSSION AND POSSIBLE DECISION

PURPOSE/BACKGROUND

Businesses granted liquor licenses by the State of Colorado and the Town of Pagosa Springs are required to renew their liquor license annually. The Town Council, as the Local Licensing Authority, has requested that the Police Department provide them with information on police contacts with these businesses in consideration of their renewal application.

Annually, the Police Department works with the Colorado Liquor Enforcement Division to conduct compliance checks on businesses within the Town of Pagosa Springs holding liquor licenses throughout the year, Officers do perform random checks/walk thru of businesses selling liquor in the town limits.

The vendors listed below have requested a renewal of their liquor license. Based upon a local records check, the Police Department has found the following:

Plaza Liquors – Since June 1, 2015, there were no documented liquor violations at Plaza Liquors, located at 511 San Juan Street.

Giant #068 – Since June 1, 2015, there were no documented liquor violations at The Giant #068, located at 2537 Eagle Drive.

The Pagosa Bar – Since June 1, 2015, there were no documented liquor violations at The Pagosa Bar, located at 460 Pagosa Street.

Liquor Tasting Permit at Plaza Liquors – Since June 1, 2015, there were no documented liquor violations during liquor tastings at Plaza Liquors, located at 511 San Juan Street.

ATTACHMENT(S)

None

RECOMMENDATION

It is the recommendation of the Police Chief that the Town Council:

- **Consider the above information when determining approval of liquor license renewals**



AGENDA DOCUMENTATION

NEW BUSINESS: IV.1

PAGOSA SPRINGS TOWN COUNCIL

JUNE 7, 2016

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: AMENDED LEASE AGREEMENT – FOLKWEST

ACTION: UPDATE AND POSSIBLE ACTION

PURPOSE / BACKGROUND

In 2012, the Town of Pagosa Springs and FolkWest executed an agreement for the use of Reservoir Hill. As the Council is aware, FolkWest holds music camps and festivals up on Reservoir Hill twice a year. The first festival is held near Memorial Day and the second is around Labor Day. The 2012 agreement specified obligations for both the Town and FolkWest and was for a period of 5 years, ending in 2016.

With the agreement end looming, the management for FolkWest approached Town staff to amend the agreement for an additional 3 years and to update the format and contents of the agreement. Staff has worked with the FolkWest management to revise the agreement and an amended agreement is being brought forth before the Council for consideration.

The most pertinent amendments to the agreement are as follows:

Term

The new term is proposed to be for an additional four (4) years (2017 – 2020).

Rent

The former Admission Fee was equal to \$1.00 per day, per ticket sold for the Music Festivals. In order to assist FolkWest in competing for grants, we are now characterizing the fee as an "Impact Fee." For the future periods, the fee will be \$1.25 per day, per ticket.

RV Spaces

Under the former agreement, FolkWest had the ability to rent out the 12 spaces in Mary Fisher Park. In the past, the Town was not collecting a fee for those spaces. In the new agreement, the Town receives a \$5 per spot Impact Fee.

Off Site Parking

The former agreement allowed for "some" parking spaces at Town Hall and the Community Center for use by FolkWest staff. The new agreement specifies that a total of 10 spaces are eligible for use by FolkWest.

The Town's obligations essentially remain the same as in the 2012 agreement.

ATTACHMENTS

- Amended Agreement (Exhibit A)

FISCAL IMPACT

The main fiscal impact to the Town is in the "Impact Fee." In 2015, the Town received \$8,104. By increasing the fee to \$1.25 per ticket, we can expect to receive about \$10,130 per year, assuming attendance is similar. All funds received by the fee are held in a trust account for Reservoir Hill and are used to perform maintenance and capital improvements.

With the new RV space fee, the Town will realize an additional \$120 per year assuming all spaces sell. As of this writing, the current balance of the trust account is \$24,378. In 2016, electrical work, gravel, and stump grinding will be paid from this account.

2016 TOWN COUNCIL GOALS & OBJECTIVES

This action is specifically consistent with the Council's adopted 2016 Goals #3 of "Promote a vital local economy by supporting economic development and tourism" and Objective 3.4 of "Energize Tourism and Visitor Economic Development."

RECOMMENDATIONS

Possible actions by the Town Council include:

1. **Move to APPROVE the amended Agreement with the FolkWest.**
2. **Move to NOT APPROVE the amended Agreement with FolkWest.**
3. **Direct staff otherwise.**

AMENDED AND RESTATED AGREEMENT FOR USE OF RESERVOIR HILL

THIS AMENDED AND RESTATED AGREEMENT FOR USE OF RESERVOIR HILL (“Agreement”) is entered into as of the most recent date listed below by and between the TOWN OF PAGOSA SPRINGS, COLORADO, a home-rule municipality of the State of Colorado (the “Town”) and FOLKWEST, INC., a Colorado nonprofit corporation (“FolkWest”). The Town and FolkWest are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

A. The Town is the owner of that certain real property known as Reservoir Hill Park located in the Town of Pagosa Springs, Colorado (“Reservoir Hill”); and

B. FolkWest desires to use Reservoir Hill for production of two annual, three-day, live music events known as Pagosa Folk 'n Bluegrass and the Four Corners Folk Festival (individually, a “Music Festival” and collectively, the “Music Festivals”); and

C. The Parties have previously entered into, and continue to be bound by, a Contract governing use of Reservoir Hill by FolkWest for the Music Festivals from 2012 through 2016 (the “Original Contract”); and

D. The Parties now desire to amend, modify and restate the terms of the Original Contract and, as of the date this Agreement is executed by both Parties, to terminate the Original Contract.

AGREEMENT

In consideration of the foregoing Recitals, which are a substantive part of this Agreement, and the covenants, conditions and agreements contained herein, the Parties agree as follows:

1. **Use of Reservoir Hill.** FolkWest, its agents, contractors, and employees shall have exclusive use of Reservoir Hill for the Music Festivals at such time that paid admission is required. As part of its exclusive use, FolkWest is permitted to occupy Reservoir Hill the Tuesdays and Wednesdays after the festivals for breakdown and clean up purposes. However, beginning the Thursday after the festival end, if FolkWest is not completely off Reservoir Hill, FolkWest agrees to pay the daily rate for use of Reservoir Hill in place at the time until they are off Reservoir Hill. In addition, FolkWest is entitled to use of the Hill for 9 days prior to the start of the Festivals. The dates of each Music Festival for the future 3 year period (2018 to 2020) are as follows:

Pagosa Bluegrass Camps:

- June 6 – 8, 2017

- June 5-7, 2018
- June 4-6, 2019
- June 2-4, 2020

Pagosa Folk 'n Bluegrass:

- June 9-11, 2017
- June 8-10, 2018
- June 7-9, 2019
- June 5-7, 2020

Four Corners Folk Festival:

- Aug. 31 – Sept 3, 2017
- August 30-Sept. 2, 2018
- August 29-Sept. 1, 2019
- Sept. 3-6, 2020

2. **Term and Termination.** This Agreement shall become effective upon mutual execution of the Parties and shall automatically terminate three (3) years thereafter, or earlier upon written notice by either Party delivered one year in advance.

3. **Impact Fee.** The “Impact Fee” for use of Reservoir Hill shall be equal to \$1.25 per day, per ticket sold for the Music Festivals. FolkWest shall remit the Rental Fee to the Town no later than seven (7) days after the last day of each Music Festival. The fees collected will be held in a dedicated account with the use of the funds intended to be used for improvements to Reservoir Hill. However, the Town Council reserves the right to use the funds for use throughout the entire parks system at its sole discretion.

4. **Maximum Attendance.** The number of people in attendance at a Music Festival shall not exceed 4,500 per day.

5. **Parking.**

(a) **Reservoir Hill.** During the Music Festivals, passenger cars, trucks, SUVs, motor homes 24' or less, camping trailers 24' or less, pop-up tent trailers, cab-over campers, and motorcycles may be parked in the area designated by the Town on Reservoir Hill. Other types of vehicles are prohibited from parking on Reservoir Hill. No more than 500 vehicles may be parked on Reservoir Hill at any given time, including FolkWest's employees and volunteers. No vehicles shall be parked in the meadow on Reservoir Hill. FolkWest shall distribute parking passes for vehicles allowed to park on Reservoir Hill.

(b) **Off-Site.** The Town shall provide 10 off-site parking spaces at both the Ross Aragón Community Center and the Town Hall for use during the Music Festivals. FolkWest shall distribute parking passes for vehicles allowed to park at the Ross Aragón Community Center or the Town Hall.

6. **Camping and Campfires.**

(a) Except as provided in subparagraph (b) below, overnight camping is only permitted in areas normally open to camping in the Town. Without limiting the generality of the foregoing, camping is prohibited in the meadow and parking areas on Reservoir Hill and in all parking lots adjacent to Town parks.

(b) FolkWest is permitted to sell up to 12 RV camping spots and 11 tent camping spots in both parking lots located at Mary Fisher Park (collectively, the "Campgrounds"). FolkWest shall collect and remit to the Town the lodging tax on each space sold. In addition, the Town shall be entitled to a \$5 per spot Impact Fee for each RV space. Leashed dogs are permitted at the Campgrounds, subject to the Town's animal control regulations. Propane regulated devices, such as gas cook stoves and grills, are permitted at the Campgrounds. As provided below, campfires are prohibited at the Campgrounds. The Campgrounds must be vacated no later than noon on the first Monday after a Music Festival. FolkWest shall remove the porta-san facilities and complete all take-down and clean-up of the Campgrounds by the first Tuesday after a Music Festival. For the duration of any Music Festival during which any such RV camping spots have been sold, FolkWest shall provide the following:

(i) A minimum of two (2) porta-san facilities at the Campgrounds, with cleaning service as needed;

(ii) A minimum of one (1) person to patrol the Campgrounds at all times. Such person shall immediately report any violations of this Agreement to the Parks & Recreation Director and any violations of Town laws or ordinances to the Town's police department; and

(iii) Adequate signage notifying people that a permit is required for entry to the Campgrounds.

(c) Where permitted, open flames shall only be propane fireplaces, grills, and stoves. All fires are subject to State and County fire bans. Campfires are prohibited at the Campgrounds. Wood collecting, digging, rock rings, and fires directly on the ground are prohibited.

7. **Noise.** FolkWest shall abide by the designated noise curfew.

8. **Dogs.** Dogs are prohibited at the Music Festivals except for service animals as defined by the Americans with Disabilities Act

9. **Festival Services Provided by the Town.** The Town agrees to provide the services described in **Exhibit A** (the “Festival Services”), attached hereto and incorporated herein. The Town shall provide FolkWest with contact information for a Town representative who can respond to questions and needs related to the Festival Services.

10. **Folkwest’s Additional Obligations.** In addition to its other obligations described in this Agreement, FolkWest shall, at its sole cost and expense:

(a) Conduct a walkthrough with a representative of the Town before and after each Music Festival at a mutually agreeable time.

(b) Set up and take down all materials and equipment required for production of the Music Festivals, and clean-up and remove all garbage and debris, during the time period described in Paragraph 1. Reservoir Hill shall be returned to the same condition as it was prior to commencement of each Music Festival.

(c) Contract with vendors to sell food and beer at the Music Festivals. Folkwest shall obtain a State and local liquor license for the sale of beer and wine.

(d) Inform the Town of the estimated number of vehicles and attendees (paid and free admission) expected at each Music Festival, and the event budget for the same, no later than five (5) business days prior to the Music Festival. Within thirty (30) business days following each Music Festival, Folkwest shall provide the Town with a reconciliation statement showing the actual number of vehicles and attendees. Within sixty (60) calendar days following each Music Festival, Folkwest shall provide a profit and loss statement to the Town.

(e) Obtain all required permits and licenses by the Town, including but not limited to business licenses, sign permits, and vendors licenses and fees.

(f) Provide an adequate number of porta-san facilities with cleaning service twice daily on Saturdays and Sundays and once daily on Fridays during the Music Festivals.

(g) Provide garbage disposal areas for the public and for vendors.

(h) Provide adequate dust control on the roads used to transport the public up and down Reservoir Hill to attend the Music Festivals in excess of the 8 hours of dust suppression provided by the Town as detailed in Exhibit A.

(i) Provide adequate safety and security personnel for the Music Festivals.

(j) Reimburse the Town for the cost of electricity used during the Music Festivals within thirty (30) days of being invoiced by the Town.

11. **Town's Additional Obligations.** In addition to its other obligations described in this Agreement, the Town shall, at its sole cost and expense:

(a) Conduct a walkthrough with a representative of FolkWest before and after each Music Festival at a mutually agreeable time.

(b) Provide electricity to the Music Festivals and invoice FolkWest for the cost of the same based on meter readings immediately before and after each Music Festival.

12. **Insurance.** FolkWest represents, warrants, and agrees that it has and shall maintain State minimum workers' compensation insurance coverage for its employees, if any. FolkWest shall also maintain broad form general liability, property damage, and automotive liability insurance in the minimum amount of \$1,000,000 for bodily injury, death, or damage to property of any person and \$2,000,000 for bodily injury, death, or damage to property of more than one person. All insurance policies (except workers' compensation) shall include the Town and its elected officials and employees as additional insureds. FolkWest shall provide the Town with documentation evidencing such coverages.

13. **Indemnification.** FolkWest shall indemnify, protect, defend and hold harmless the Town, and its officers, directors, trustees, agents, employees and independent contractors from any and all liability, loss, damage, suit, judgment or expense (including, without limitation, actual attorneys' fees) in any way arising out of or resulting from the use and occupancy of the Town's premises (including, without limitation, Reservoir Hill and the access roads thereto) by FolkWest, its agents, contractors, employees, volunteers, and guests, including without limitation the cost to replace any property of the Town which may be damaged or stolen. FolkWest shall be liable for any and all damages to Reservoir Hill caused by any attendee of the Music

Festivals. These damages must be repaired or replaced promptly to the satisfaction of the Town and paid for by FolkWest. The Town is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, defenses 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 Town or its officers or employees.

14. **Assignment.** This Agreement may be assigned only upon the express written consent of the Parties.

15. **Notice.** Notice must be given by registered mail regarding any action that may affect this Agreement. The names, addresses and contact information for the Parties are as follows:

Town of Pagosa Springs
Attn: Town Manager
P.O. Box 1859
Pagosa Springs, CO 81147

Folkwest
Attn: Crista Munro
P.O. Box 41768
Eugene, OR 97404

16. **Severability.** If any provision of this Agreement shall be deemed unlawful, void or for any reason unenforceable, then that provision shall be severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions.

17. **Acceptance Not Waiver.** Breach or waiver of any of the provisions of this Agreement shall not be construed to be a waiver of any subsequent breach of the same or other provision of this Agreement. Non-enforcement of any section of this Agreement does not constitute consent or waiver and each Party reserves the right to enforce any provision of this Agreement at its sole discretion.

18. **Default.** Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either Party should fail or refuse to perform according to the terms of this Agreement, such Party may be declared in default.

19. **Remedies.** In the event a Party declares a default by the other Party, such defaulting Party shall be allowed a period of ten (10) days within which to cure said default. In the event the default remains uncorrected, the Party declaring default may elect to (a) terminate the Agreement and seek damages; (b) treat the Agreement as continuing and require specific performance; or (c) avail itself of any other remedy at law or equity. If the non-defaulting Party commences legal or equitable actions against the defaulting Party, the defaulting Party shall be liable to the non-defaulting Party for the non-defaulting Party's reasonable attorney fees and costs incurred because of the default.

Under no circumstances shall either Party be liable to the other Party for special, punitive, indirect or consequential damages arising out of or in connection with this Agreement, including without limitation lost profits, loss of use, or loss of opportunity.

20. **Binding Effect.** This writing constitutes the entire agreement between the Parties and shall be binding upon the Parties, their officers, employees, agents and assigns and shall inure to the benefit of the respective survivors, heirs, personal representatives, successors and assigns of the Parties.

21. **Law; Venue.** The laws of the State of Colorado shall govern the construction, interpretation, execution and enforcement of this Agreement. Venue for any dispute between the Parties arising out of or relating to this Agreement shall be in the State of Colorado District Court for Archuleta County.

22. **Annual Appropriation.** The Town's obligations hereunder are subject to the annual appropriation of funds necessary for the performance thereof, which appropriations shall be made in the sole discretion of the Town Council.

23. **Time Is Of the Essence.** All times stated in this Agreement are of the essence.

24. **Counterparts, Electronic Signatures and Electronic Records.** This Agreement may be executed in two counterparts, each of which shall be an original, but all of which, together, shall constitute one and the same instrument. The Parties consent to the use of electronic signatures and agree that the transaction may be conducted electronically pursuant to the Uniform Electronic Transactions Act, § 24-71.3-101, *et seq.*, C.R.S. The Agreement and any other documents requiring a signature may be signed electronically by either Party. The Parties agree not to deny the legal effect or enforceability of the Agreement, solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature on the grounds that it is an electronic record or an electronic signature or that it is not in its original form or is not an original.

25. **No Third Party Beneficiaries.** The Parties to this Agreement do not intend to benefit any person not a party to this Agreement. No person or entity, other than the Parties to this Agreement, shall have any right, legal or equitable, to enforce any provision of this Agreement.

[Signature Page Follows]

TOWN OF PAGOSA SPRINGS,
COLORADO, a home-rule municipality of the
State of Colorado

By: _____
Don Volger, Mayor

Date: _____

ATTEST:

April Hessman, Town Clerk

Date: _____

FOLKWEST, INC., a Colorado nonprofit
corporation

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

FESTIVAL SERVICES

- Dust suppression on the access road to Reservoir Hill – up to 8 hours of work per Music Festival
- Mowing grass meadows for camping when the fire risk is high – up to 16 hours of work per Music Festival
- Backhoe work for ruts in the Campgrounds – up to 10 hours of work per Music Festival
- Grading the access road to Reservoir Hill – up to 4 hours of work per Music Festival



AGENDA DOCUMENTATION

NEW BUSINESS:IV.2

PAGOSA SPRINGS TOWN COUNCIL
JUNE 7, 2016

SCOTT LEWANDOWSKI, PROJECTS MANAGER

PROJECT: HOT SPRINGS PEDESTRIAN BRIDGE ENGINEER'S REPORT AND PURCHASE ORDER

ACTION: DISCUSSION AND POSSIBLE DECISION

PURPOSE/BACKGROUND

Council provided direction at the May 3rd Council meeting to have the Hot Springs pedestrian bridge re-examined by the structural engineer. Staff recently accompanied Jim Van Liere to do a visual inspection of the bridge to aide in the formulation of his report, which is attached for Council's consideration. Upon inspection, it was determined by Mr. Van Liere there was "no discernible and/or significant changes in the condition of the bridge were observed." Further in the report states that "...it appears that the bridge may be used this summer under anticipated, normal use." However, "the use of the bridge after September 30, 2016 is not recommended."

Based on the findings and recommendations of the report, staff recommends that the Council move forward with the replacement of the Hot Springs pedestrian bridge by authorizing the purchase order and to allow the Town Manager to execute the purchase documents. This recommendation will effectively start the bridge replacement process, which is slated for September 2016 (after Labor Day).

ATTACHMENT(S)

- Engineer's Report
- Big R Bridge purchase order

FISCAL IMPACT

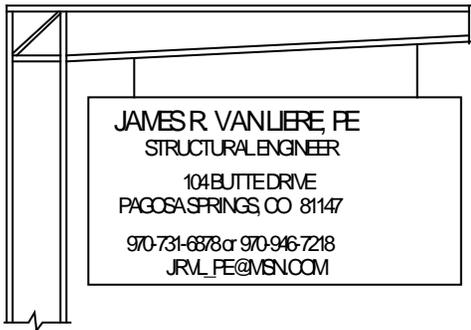
The new bridge will cost \$97,625. The 2016 budget has \$195,500 for the bridge replacement. In addition, we have received a bid of \$30,000 for the old bridge, thereby reducing the net cost to approximately \$67,625.

RECOMMENDATION

Possible actions by Council include:

1. Authorize the Hot Springs pedestrian bridge replacement and allow the Town Manager to execute the purchase documents.
2. Not authorize the Hot Springs pedestrian bridge replacement.
3. Direct Staff.

May 16, 2016
JRVL Proj. No. 2187.2



Mr. Greg Schulte
Town Manager
Town of Pagosa Springs, Colorado
551 Hot Springs Boulevard
Pagosa Springs, CO 81147

Re: Hot springs Bridge – Current Condition Observations & Structural Assessment

Dear Mr. Schulte:

As requested, on Friday, May 13, 2016, in your company and that of Dylan Pruett, Darren Lewis, Scott Lewandowski and others, the current structural condition of the bridge was observed. As of this date, no discernible and/or significant changes in the condition of the bridge were observed. However, this not to say that the bridge is perfectly safe with respect to the loads for which it was theoretically designed.

The worst load that would most likely be applied during the tourist season this summer is several persons lined up on the downstream side of the bridge for a group photograph. The bridge was checked for 50 persons at an average weight of 150 pounds under this load condition and it was determined that none of the members of the bridge were not overstressed. However, it must be emphasized that although a computer analysis indicated that there were no overstressed members under this load condition and that no definitive changes in the condition of the bridge were observed, it is still possible that an unforeseen, large load could be applied to the bridge. If by chance, a member was on the “verge” of failure, a partial or complete failure of the bridge could occur. However, in view of the economic and convenience factors associated with the bridge, and discounting the possibility of an unforeseen, large load occurring, it appears that the bridge may be used this summer under anticipated, normal use. Use of the bridge past September 30, 2016, is not recommended.

Lastly, reliance on this letter-report warrants that the “opinion or opinions” contained herein have been presented in conformance to standard engineering practice, care, skill, experience and judgment normally provided by a reasonably prudent professional engineer in the performance of same or similar services. No other warranty, either expressed or implied, is included or intended in the work contained herein. Any use of, or reliance upon, the work, data or information contained herein binds the user to the conditions described above and relieves the author of this letter-report of any responsibility.

Yours truly,

James R. Van Liere, PE, SE
Consulting Structural Engineer



AGENDA DOCUMENTATION

NEW BUSINESS: IV.3

PAGOSA SPRINGS TOWN COUNCIL
JUNE 7, 2016

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: PAGOSA SPRINGS COMMUNITY DEVELOPMENT CORPORATION (CDC) UPDATE AND 1ST QUARTER INVOICE
ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

In 2015 the Town Council approved the sponsorship of the CDC in an amount not to exceed \$20,000. It was requested that the CDC come to the Council on a quarterly basis for progress reports and invoicing. The Town Council continued the support of the CDC in the 2016 budget under Economic Development Organization for an amount not to exceed \$20,000. The invoices presented to the Town Council include all expenses for the quarter and the split with the County for support.

The invoice for the 1st Quarter in the amount of \$3,396.29 is attached.

ATTACHMENTS:

- 1st Quarter Invoice

FISCAL IMPACT

In anticipation of this request, the Town Council approved budgeting \$20,000 in 2016 for participation in the CDC. The funding line item is: 10-77-525. Since this is the first invoice, the current balance is \$20,000 and after payment of the invoice of \$3,396.29, there will be a balance of \$16,603.71 left.

RECOMMENDATION:

Possible motions for the Town Council to consider are:

1. Move to ACCEPT the CDC 1st Quarter report and to APPROVE the 1st Quarter invoice in the amount of \$3,396.29.
2. Move to DENY the CDC 1st Quarter invoice of \$3,396.29.
3. Direct staff otherwise.

Pagosa Springs Community Development Corporation

PO Box 1183

Pagosa Springs, CO 81147

Invoice

Date	Invoice #
5/4/2016	1017

Bill To:
Town of Pagosa Springs Attention: Greg Schulte PO Box 1859 Pagosa Springs, CO 81147

Due and payable upon receipt

DESCRIPTION	QUANTITY	Unit Price	AMOUNT
Pagosa Chamber - Contract Fee for January 2016 & Reimbursements	1		\$ 2,556.91
Pagosa Sun - Advertisement for Loan	1		\$ 231.00
Region 9 - 2nd Home Study and EZ Contributions	1		\$ 537.50
Jason Cox - Reimbursement for Domain Name	1		\$ 121.14
The Springs Resort - Room Rental for Housing Forum	1		\$ 250.00
Club 20 - Membership	1		\$ 300.00
Pagosa Chamber - Contract Fee for February 2016 & Reimbursements	1		\$ 2,796.03
		<i>Total expenses</i>	\$ 6,792.58
		Town Total	\$3,396.29 *

*Total billed from PSCDC for First Quarter is \$ 6,792.58.

The total billed to the Town of Pagosa Springs for First Quarter is half of the \$6,792.58.

If you would like detailed receipts for the above, please let us know.



AGENDA DOCUMENTATION

CONSENT AGENDA: IV.4

PAGOSA SPRINGS TOWN COUNCIL

JUNE 7, 2016

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: AMENDED LEASE AGREEMENT – CHAMBER OF COMMERCE

ACTION: UPDATE AND POSSIBLE ACTION

PURPOSE / BACKGROUND

With the transition of the Visitor Center to the Town of Pagosa Springs (Town) for operation and administration, the Town and the Pagosa Springs Chamber of Commerce (Chamber) executed a lease agreement (Lease) in July 2014 for the Chamber to lease specified portions of the premises at the Visitor Center for office and meeting space. The original term of the Lease was for an initial period of six months until the end of December 2014. The Lease also provided for two additional six month periods that would end in December 2015. At the time, the Lease was structured in this manner so the Chamber may contemplate other space elsewhere. Since December 2015, the Chamber has been operating on a month to month basis.

With the change of officers and the Executive Director at the Chamber, it has been determined the Chamber would like to remain at the Visitor Center for the near term. As such, staff has worked together to amend the existing Lease and incorporate new terms based upon lessons learned over the past 2 years.

The pertinent amendments to the Lease are as follows:

Term

The new term is proposed to be for one (1) year retroactively to January 1, 2016 with a provision to extend the lease for an additional one (1) year term ending on December 31, 2017.

Rent

The rent will be \$971.18 which represents 672 sq. ft. of office space and ½ of 345 sq. ft. of conference room space at the rate of \$1.15 / sq. ft. The former rent was \$1,169.55 for 1,107 sq. ft. which included the entire conference room space. However, experience has shown that the Town uses the conference room as frequently as the Chamber. So the recommendation is the Chamber pays for only half of the conference room space (1/2 of 345 sq. ft.). As a reminder, in 2015 the Council approved a Chamber request to reduce the rent by half (from \$1,169.55 to \$584.78) for calendar year 2016. That reduction expires at the end of 2016 and is not included in the amended Lease.

Utilities/Phone

The current Lease provides for the Chamber paying for 50% of natural gas, electric, and internet and 5/5 of the phone charges. This arrangement continues into the amended Lease.

Signage

The Chamber is permitted to place a sign on the exterior of the building on the side facing Hot Springs Blvd at their cost for creation, placement, and removal. The sign must be consistent with Town Sign Code standards.

The Chamber of Commerce Board of Directors approved this amended Lease at their May 2016 meeting.

ATTACHMENTS

- Amended Lease Agreement (Exhibit A)

FISCAL IMPACT

The main fiscal impact to the Town is in the rent. The current lease provides for \$1,169.55 per month, or \$14,034.60 annually. With the new rent, it is \$971.18 per month or \$11,654.16 annually – a reduction of \$2,380.44. However, in fairness, the Town does use the conference room on a consistent basis and it is only fair to pay for that use. Furthermore, the Town is only collecting \$7,017.30 due to the agreed upon rent reduction for 2016.

2016 TOWN COUNCIL GOALS & OBJECTIVES

While not specifically addressed in the Council's adopted 2016 Goals & Objectives, it may be inferred this initiative is consistent with Goal #4 of "Improve communication, encourage public engagement, and pursue cooperative relationships."

RECOMMENDATIONS

Possible actions by the Town Council include:

1. **Move to APPROVE the amended Lease Agreement with the Pagosa Springs Chamber of Commerce.**
2. **Move to NOT APPROVE the amended Lease Agreement with the Pagosa Springs Chamber of Commerce.**
3. **Direct staff otherwise.**

LEASE AGREEMENT

EXTENSION NO. 1

THIS LEASE AGREEMENT EXTENSION NO. 1 ("Lease") is made and entered into this 19th day of May, 2016, by and between the Town of Pagosa Springs ("Landlord"), and the Pagosa Springs Chamber of Commerce ("Tenant"). Landlord and Tenant are singularly referred to as "Party" and collectively referred to as the "Parties."

The Landlord has leased from Tenant, with the option to purchase, certain real property currently occupied by Tenant, and the Parties wish to enter into this Lease Extension to allow for Tenant's continued occupancy of the property. For and in consideration of the mutual covenants hereinafter contained, and each act performed hereunder by either of the Parties, Landlord and Tenant agree as follows

1. Premises. Landlord leases to Tenant and Tenant leases from Landlord office and meeting space in the building located at 105 Hot Springs Boulevard, Pagosa Springs, Colorado, 81147. The space consisting of approximately 672 square feet of office space and 172.5 square feet of conference room space for a total of 844.5 square feet (the "Premises").

2. Term. The term of this Lease shall be one year, commencing retroactively at 12:01 a.m. on the first day of January 2016 ("Initial Term"). The Lease may be renewed for one (1) additional year term ("Renewal Term") upon submitting a request to the Town thirty (30) days prior to the expiration of the Initial Term and upon approval of Town Council, which approval will not be unreasonably withheld.

3. Rent. As rent, Tenant will pay the sum of \$1.15 per square foot (\$971.18) per month payable in advance on the first day of each and every month.

4. Use. Tenant intends to use and occupy the Premises for its business operations.

5. Tenant Maintenance. Tenant agrees that it will keep the Premises in good order and condition and will, at the expiration or other termination of the Lease, surrender and deliver up the same in like condition as the same now is or shall be at the commencement of the Initial Term hereof subject to ordinary wear and tear and damage by the elements, fire, and other unavoidable casualty.

6. Landlord Maintenance. Landlord agrees that it is responsible for all repairs and maintenance of the Premises and the property on which the building is located including without limitation, the structure, exterior, roof, HVAC systems, plumbing, electrical, landscaping, snow removal, lighting and parking area.

7. Use of Common Areas. Tenant and customers and agents of Tenant shall be entitled to the nonexclusive use in common with others of any driveways, sidewalks, footways and parking areas. No parking areas are assigned. Tenant agrees to coordinate with Landlord the parking of Tenant staff and guests to minimize parking congestion during peak times.

8. Subletting. Tenant is not permitted to sublet the Premises or any part thereof.

9. Landlord Access. Tenant further agrees that it will be sharing the occupation of the Premises with Landlord and that Landlord, its officials, agents or employees are permitted to enter the Premises without additional notice to Tenant.

10. Prohibited Uses. Tenant will not use or permit the demised Premises, any part thereof, or Landlord's property in the vicinity of Premises to be used for any disorderly, unlawful, or extra hazardous purpose or for any purpose other than hereinbefore specified and will not manufacture any commodity therein. This provision shall require Tenant to control and be responsible for the conduct of Tenant's customers, patrons, or clients while said persons are in or about the Premises.

11. Damage to Premises. All injury to the Premises or the building of which they are a part caused by Tenant its agents, servants, employees, and visitors shall be repaired by Tenant at its sole expense. In the event that Tenant shall fail to do so, Landlord shall have the right to make such necessary repairs, alterations, and replacements (structural, nonstructural, or otherwise), and any charge or cost so incurred by Landlord shall be paid by Tenant within twenty (20) days thereafter. This provision shall be construed as an additional remedy granted to Landlord and not in limitation of any other rights and remedies that Landlord has or may have in said circumstances.

12. No Partnership. Landlord assumes no liability or responsibility whatsoever with respect to the conduct and operation of the business to be conducted in the Premises. Landlord shall not be liable for any accident to or injury to any person or persons or property in or about the Premises that are caused by the conduct and operation of said business or by virtue of equipment or property of Tenant in said Premises.

13. Utility and Other Charges.

(a) Tenant covenants and agrees to pay within ten (10) days of being billed by the Landlord: (a) fifty percent (50%) of all charges for electric, natural gas and internet utilities; and (b) five-sixths ($5/6^{\text{th}}$) of all telephone utility charges.

(b) All other utilities and maintenance costs shall be the responsibility of the Landlord including, but not limited to, property taxes, property insurance, trash collection, and water and sewer charges.

(c) Should Tenant desire cleaning services for the Premises it shall give written notice to Landlord specifying the frequency, and shall reimburse the Landlord at a rate of twenty-five dollars (\$25) per hour. Cleaning services which shall be provided by the Landlord or its cleaning contractor, in a similar fashion provided to the remainder of the property.

14. Default. It is agreed that if Tenant shall fail to pay the rent or any utility or other charge at the time the same shall become due and payable or if Tenant shall violate or fail or neglect to keep and perform any of the covenants, conditions, and agreements herein contained on the part of Tenant to be kept and performed or if the demised Premises shall become vacant or deserted, then, and in each and every such event from thenceforth and at all times thereafter, at the option of Landlord, Tenant's right of possession shall thereupon cease and terminate, and Landlord shall be entitled to the possession of the Premises and to re-enter the same without demand of rent or demand of possession of said Premises and may forthwith proceed to recover possession of the Premises by process of law.

15. No Trial by Jury. Landlord and Tenant waive any right either may have to trial by jury in any action arising under this Lease or pertaining to the Premises.

16. Insurance.

(a) Tenant shall maintain with respect to the leased Premises general liability insurance with minimum limit of \$350,000 per person per occurrence and \$990,000 per occurrence in the aggregate or in such other amounts as provided under the Colorado Governmental Immunity Act, 24-10-101 *et seq.* Tenant shall name Landlord as an additional named insured. Tenant shall deliver a certificate of such insurance to Landlord upon the commencement of the Initial Term of this Lease and continuing evidence of such coverage as so requested by Landlord. Such insurance policy shall provide that it cannot be cancelled without at least thirty (30) days' prior notice to Landlord. Landlord may but is not obligated to pay any premium not timely paid by Tenant or perform or cause to be performed any acts that are required by the company issuing the insurance policy. Any payment made by Landlord and the cost of performing or causing to be performed any acts that are required by the insurance carrier shall become immediately due and owing from Tenant to Landlord as additional rent and shall be collectible as such.

(b) Landlord shall maintain property insurance in amounts sufficient to protect its interests with such amounts to be determined in its sole discretion. Property insurance maintained by Landlord will not cover Tenant's personal property and any such losses incurred by Tenant are its sole responsibility.

17. Casualty. If the Premises shall be so damaged by fire or other casualty as to be untenable, then, unless said repair begins within twenty (20) days thereafter,

either Party hereto, upon written notice to the other Party given at any time following the expiration of twenty (20) days after said fire or other major casualty, may terminate this Lease.

18. Successors and Assigns. It is agreed that all rights, remedies, and liabilities herein given to or imposed on either of the Parties hereto shall extend to their respective successors, and assigns.

19. Mechanic's Liens. Tenant will not permit any mechanic's lien or liens to be placed on the Premises or any improvement thereof and agrees, if any such lien be filed on account of the acts of Tenant, promptly to pay the same. In the event Tenant fails to pay any such lien, it may be paid by Landlord and charged to Tenant as additional rent hereunder.

20. Holdover Tenancy. If Tenant shall continue to remain in the Premises after the expiration of the Initial Term or Renewal Term of this Lease, Tenant shall, by virtue of this Lease, become a tenant by the month at the same rental rate as the last monthly rental installment having been paid or payable by Tenant prior to the expiration of this Lease.

21. Termination.

(a) By Tenant. Tenant, in its sole discretion, may terminate this Lease at the end of any month upon thirty (30) days prior written notice to Landlord without any additional fees or rents payable to Landlord beyond the date of termination. Tenant shall be responsible for all rent and other charges through the date of termination.

(b) By Landlord. If a month-to-month tenancy results from Tenant's holding over, as described in Paragraph 20, Landlord may terminate this lease upon providing Tenant with one (1) month's prior written notice of the same.

22. Entire Agreement. This Lease contains the entire and only agreement between the Parties, and no oral statements or representations or prior written matter not contained or referred to in this instrument shall have any force or effect. This Lease shall not be modified in any way except by a writing subscribed by both Parties hereto. The failure of Landlord or Tenant to insist on strict performance by the other of any of the covenants or conditions of this Lease in any one or more instances shall not be construed as a waiver of relinquishment for the future of any such covenants or conditions, but the same shall be and remain in full force and effect. No waiver of any provision of this Lease shall be deemed to have been made unless in writing and signed by the Party to be charged therewith.

23. Law. This Lease and all amendments thereof shall be governed and construed in accordance with the laws of the State of Colorado.

24. Notices. All notices required or desired to be given hereunder by either Party to the other shall be given by certified or registered mail. Notices to the respective Parties shall be addressed as follows:

To Landlord:
Town of Pagosa Springs
Attention: Town Manager
PO Box 1859
551 Hot Springs Blvd.
Pagosa Springs, CO 81147

With Copy To:
Collins Cockrel & Cole
Attn: Robert G. Cole
390 Union Boulevard, Suite 400
Denver, CO 80228

To Tenant:
Pagosa Springs Chamber of Commerce
Attention: President
P.O. Box 787
Pagosa Springs, CO 81147

Either Party may, by like written notice, designate a new address to which said notices shall be directed.

25. Headings. All headings preceding the text of the paragraphs of this Lease are inserted solely for convenience of reference, and none of them shall constitute a part of this Lease or affect its meaning, construction, or effect.

26. Interpretation. Interpretation based on drafting the terms of the Lease shall not be interpreted in favor of or against either Party based on who drafted the document.

27. Indemnification. To the fullest extent permitted by law, Tenant shall indemnify and hold harmless Landlord, its officials, contractors and employees and any of them from and against all claims, losses, liabilities, damages and costs (including all attorney fees) which are incurred as a result of Tenant's use of the Premises whether any such loss or liability was caused by the negligence of Tenant, its agents, employees, customers or members. Landlord shall not be liable for any damage or injury to Tenant or any other person or to any property located or occurring on the Premises, or any part thereof, or in common areas thereof, unless such damage is the proximate result of the unlawful act of Landlord, its agents or its employees and Landlord is not otherwise immune from liability under the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S.

28. Annual Appropriation. Pursuant to Article X, Section 20 of the Colorado Constitution, Landlord's obligations hereunder are subject to the annual appropriation of funds necessary for the performance thereof, which appropriations will be made in the sole discretion of the Town Council of the Town of Pagosa Springs. In the event that sufficient funds for the obligations contemplated in this Lease are not made, such event shall trigger termination.

29. Counterparts. This Lease may be executed in any number of counterparts, each of which shall be an original, and all of such counterparts when together shall constitute but one and the same instrument.

30. Subject to Lease Purchase Agreement. Notwithstanding any other provision to the contrary herein, this Lease is subject to the terms of, including termination and expiration of, the Lease Purchase Agreement between the Tenant as Lessor and the Landlord as Lessee, associated with the property of which the Premises is a portion.

31. Signage. Tenant shall have Landlord's permission to install a sign on the east side of the building announcing the Tenant's place of business. The size and placement of the sign shall comply with all provisions of the Town of Pagosa Springs Sign Code regulations. Further, all costs associated with creation, placement, and removal of the sign at such time Tenant vacates the premises, are the sole responsibility of the Tenant.



AGENDA DOCUMENTATION

OLD BUSINESS: V.1

PAGOSA SPRINGS TOWN COUNCIL

JUNE 7, 2016

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: ORDINANCE 845 (SECOND READING), KATHY YOUNG DBA AT YOUR DISPOSAL FRANCHISE AGREEMENT

ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE / BACKGROUND

In November of 1999, the Town Council passed Ordinance 536 granting a franchise agreement to Kathy Young to furnish collection and disposal of refuse with the Town of Pagosa Springs under a non-exclusive franchise agreement. This franchise agreement with Kathy Young has automatically renewed for successive five year periods in 2004, 2009, and 2014. The original Ordinance section 3.g refers to assistance during clean up and section 3.h refers to a dumpster at the Town shop on an annual basis.

Since the approval of Ordinance 536 in 1999, franchise agreements with other refuse companies have been updated and altered according to Home Rule Charter requirements and needs of the Town. The 2010 franchise agreement with Waste Management requires Waste Management to provide the Town with three 30-yard dumpsters during clean up week as well as two 6-yard dumpsters at the Town shop with weekly service. During negotiations with Kathy Young in 2009, it was agreed that Kathy Young, dba At Your Disposal, would provide three 30-yard dumpsters with two pulls each during clean-up week, and provide one 3-yard dumpster at Town Hall with weekly service and one 4-yard dumpster at the Community Center with service two times per week.

Although not formally adopted by ordinance, Kathy Young, dba At Your Disposal, has honored the agreement made with Town staff in 2009. Ordinance 845 formalizes the agreement made in 2009 and provides for a five year franchise agreement with one automatic five year renewal as provided in section 10.8.a of the Town Home Rule Charter.

Town Council approved the first reading of Ordinance 845 at the May 19, 2016 meeting.

ATTACHMENTS

- Proposed Ordinance 845

FISCAL IMPACT

In lieu of monetary franchise fee, the proposed franchise renewal agreement will continue a practice of waste/refuse pickup at the Town Hall and Community Center thereby saving the Town money.

RECOMMENDATIONS

Possible actions by the Town Council include:

1. **Move to approve the Second Reading of Ordinance 845 granting a franchise to Kathryn Young, dba At Your Disposal, to operate a refuse collection service in the Town of Pagosa Springs**
2. **Move to NOT approve the Second Reading of Ordinance 845**
3. **Direct staff.**

TOWN OF PAGOSA SPRINGS, COLORADO

**ORDINANCE NO. 845
(Series 2016)**

AN ORDINANCE GRANTING A FRANCHISE TO KATHRYN YOUNG DBA AT YOUR DISPOSAL TO OPERATE A REFUSE COLLECTION SERVICE IN THE TOWN OF PAGOSA SPRINGS, COLORADO, AND TO USE THE STREETS AND ALLEYS OF THE TOWN FOR SUCH PURPOSE AND SETTING FORTH CONDITIONS ACCOMPANYING THE GRANTING OF THIS FRANCHISE.

WHEREAS, the Town of Pagosa Springs (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003 (“Charter”); and

WHEREAS, pursuant to Article 10 of the Charter the Town Council has the power to grant franchises for the right to use or occupy streets, alleys and property of the Town; and

WHEREAS, the Town wishes to authorize the services of a qualified private refuse company and to have some control over the operation of such refuse company; and

WHEREAS, Kathryn Young dba At Your Disposal (“At Your Disposal”) wishes to collect and dispose of refuse within the Town under a non-exclusive franchise agreement with the Town; and

WHEREAS, At Your Disposal has provided refuse collection and disposal service to residential and commercial customers in Pagosa Springs and surrounding area for the past sixteen years; and

WHEREAS, the Town Council hereby finds and determines that continuing the services of At Your Disposal for refuse collection and disposal is appropriate and necessary to the function and operation of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

Section 1. Term.

Subject to terminations herein provided, the term of this non-exclusive Franchise Agreement and Ordinance shall be for five (5) years with services of At Your Disposal to commence upon the effective date of this Ordinance and to terminate five (5) years from that date unless sooner terminated. This Franchise Agreement and Ordinance shall be automatically renewed for one (1)

additional five (5) year term unless notice of non-renewal is provided by either party in writing at least thirty (30) days prior to the expiration of the initial five year term.

Section 2. Independent Contractor.

At Your Disposal shall carry out all the terms of this Franchise Agreement and Ordinance as an independent contractor, and not as an agent, servant, employee, or partner of the Town.

Section 3. Service.

At Your Disposal shall:

- (a) Provide regularly scheduled refuse collection service to residential areas not less than once per week.
- (b) Provide scheduled refuse collection service to commercial and industrial areas, and establish frequency of collection and container capacity with the customers as are necessary to adequately service the customer.
- (c) Not litter any street or premises in the process of providing refuse collection service and shall promptly remove and clean up any spillage.
- (d) Subject to reasonable modifications which the Town may require, commence residential refuse collection service no earlier than 6:00 a.m. and terminate such service no later than 8:00 p.m.
- (e) Without delay, after removing refuse from any container, cause such container to be replaced at its designated position with lid or cover on and in place.
- (f) Require its employees and personnel to avoid crossing private or public planted and landscaped area and to avoid climbing or jumping over hedges, fences or shrubbery.
- (g) Upon three weeks' notice, annually provide the Town for a minimum of one week with three, 30-yard capacity, roll-off dumpsters with two pulls on each dumpster, if required, for a total of six (6) dumpsters at no cost to the Town. Any landfill disposal fee shall be paid by the Town.
- (h) Provide to the Town on a continual basis one 3-yard dumpster with weekly collection at the Town Hall and one 4-yard dumpster with collection two times per week at the Community Center at no cost to the Town.

Section 4. Collection Equipment.

- (a) At Your Disposal shall use only industry standard, serviceable collection equipment that meets all federal, state, and local requirements and is modern, sanitary, and motor-propelled, for collection from commercial and residential units, and shall provide to all residential units at least one 96-gallon wheeled plastic cart with attached lid for curbside collection from each residential unit.
- (b) All trucks or other equipment used in collecting refuse shall be maintained in proper working condition and thoroughly cleaned at least once a week and deodorized or disinfected when necessary to maintain such equipment in a sanitary and non-offensive condition. No refuse material shall be allowed to remain in a truck or other collection equipment while parked overnight.

- (c) All trucks and collection equipment shall be clearly identified with the At Your Disposal name or comparable corporate entity and telephone number affixed thereto. Collection trucks shall be painted uniform colors. All vehicles shall be equipped with a fire extinguisher, first-aid kit, broom, shovel, and spill clean-up kit.
- (d) At Your Disposal shall provide adequate vehicles and back-up equipment to complete routes and service customers on schedule.

Section 5. Maintenance of Containers.

At Your Disposal shall:

- (a) Perform all maintenance, repairs and replacement of refuse bins and containers, and all residential carts and commercial dumpsters as necessary to maintain them in proper operating order.
- (b) Be entitled to seek restitution from the responsible third parties for all maintenance, repair and replacement occasioned by the negligent or intentional acts of such third parties.

Section 6. Personnel.

At Your Disposal shall:

- (a) Employ and retain supervisors and employees who are experienced and qualified to assure performance of this Franchise Agreement and Ordinance.
- (b) Provide adequate operating and safety training for all its employees and personnel.
- (c) Require route employees to wear a clean uniform bearing At Your Disposal's name and the employee's name.
- (d) Encourage that at least one employee on each collection crew be trained in first-aid.
- (e) Assure that each employee who drives or operates vehicles or equipment is properly trained in the operation thereof and that each such employee shall be in possession of any appropriate vehicle or equipment license required for the operation thereof.
- (f) Subject all At Your Disposal employees to random drug and alcohol screening pursuant to At Your Disposal's policies. All At Your Disposal employees, regardless of position, are required to take a drug test prior to employment.
- (g) Exonerate, indemnify and hold harmless, the Town from and against, and assume all responsibility for payment of wages or salary and all federal, state and local taxes or contributions imposed or required under unemployment insurance, social security, income tax, worker's compensation and any other applicable wage, hour, and personnel laws, and compliance with the same, with respect to At Your Disposal's employees.
- (h) Not discriminate against any customer, employee, or applicant for employment because of race, creed, color, sex, national origin, age or handicap.
- (i) Illegal Aliens. At Your Disposal certifies that At Your Disposal shall comply with the provisions of Section 8-17.5-101 *et seq.*, C.R.S. At Your Disposal shall not knowingly employ or contract with an illegal alien to perform work contemplated by this Franchise Agreement and Ordinance or enter into an agreement with a subcontractor that knowingly employs or contracts with an illegal alien. At Your Disposal represents, warrants, and agrees that it has confirmed the employment eligibility of all employees who are newly hired for

employment to perform work contemplated by this Franchise Agreement and Ordinance through participation in either the E-Verify Program or the Department Program described in Section 8-17.5-101 *et seq.*, C.R.S. At Your Disposal shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed. If At Your Disposal obtains actual knowledge that a subcontractor performing work contemplated by this Franchise Agreement and Ordinance knowingly employs or contracts with an illegal alien, At Your Disposal shall: (i) notify the subcontractor and the Town within three days that At Your Disposal has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and (ii) terminate the subcontract with the subcontractor if within three days of receiving such notice, the subcontractor does not stop employing or contracting with the illegal alien, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. At Your Disposal shall comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment. If At Your Disposal fails to comply with any requirement of Section 8-17.5-102(2), C.R.S., the Town may terminate this Franchise Agreement and Ordinance for breach and At Your Disposal shall be liable for actual and consequential damages to the Town. If At Your Disposal participates in the Department Program, At Your Disposal shall provide the affirmation required under Section 8-17.5-102(5)(c)(II), C.R.S., to the Town.

Section 7. Complaint Procedure.

(a) At Your Disposal shall provide a fully staffed customer service center (“Call Center”) with customer service representatives who can process and resolve customers’ complaints, requests and concerns, answer billing questions, start new service or cancel service, and process applications for residential, commercial and special services.

(b) At Your Disposal shall employ a sufficient number of personnel to answer all inquiries and complaints from the public concerning service of At Your Disposal. Call Center hours of operation shall be Monday-Friday 8:00 a.m. to 5:00 p.m. At Your Disposal shall equip the Call Center with a telephone system, which shall include an automatic telephone answering device or answering service for processing inquiries and complaints from the public during non-business hours. At Your Disposal shall also keep a telephone listing in the Pagosa Springs telephone directory.

(c) All complaints shall be promptly investigated as soon as possible and resolved as quickly as feasible and practicable. At Your Disposal shall have available at all times competent personnel who shall have authority to represent At Your Disposal and its relations with the Town and the public.

Section 8. Permits and Licenses.

At Your Disposal has and shall maintain at its own expense all permits and licenses required by law or ordinance to effect the performance of this Franchise Agreement and Ordinance.

Section 9. Disposal of Refuse.

At Your Disposal shall deliver all refuse collected by it to an approved sanitary landfill and properly dispose of it in accordance with the regulations of the Colorado Department of Health.

Section 10. Compliance with Law.

In its performance of the terms and conditions of this Franchise Agreement and Ordinance, At Your Disposal shall comply with all Town, County, State and Federal laws, ordinances and regulations now in effect or which may be hereafter enacted to regulate all activities which are the subject of this Franchise Agreement and Ordinance. At Your Disposal shall keep informed of all existing and future local, state and federal laws and Municipal ordinances and regulations which in any manner affect those engaged or employed in the work or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction of the same. At Your Disposal shall cause all their agents and employees to observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees and shall protect and indemnify the Town and all its officers and agents and servants against any claim or liability arising from or based upon the violation of any such law, ordinance, order and decree whether by itself or its employees.

Section 11. Indemnification; Minimum Insurance Requirements.

At Your Disposal assumes all risk of loss or injury to property or persons arising from any negligent acts or omissions while performing its operations under this Franchise Agreement and Ordinance and agrees to indemnify and hold harmless the Town from all claims, demands, suits, judgments, costs or expenses arising from any such loss or injury. It is expressly understood that the foregoing provisions shall not in any way limit the liability of At Your Disposal. At Your Disposal agrees to carry insurance in the minimum amounts as follows:

(a) At Your Disposal's Comprehensive All-Risk Insurance, and Liability Insurance policies, shall name the Town as an additional insured;

(b) At Your Disposal's Comprehensive, General and Automobile Liability Insurance shall be maintained with the following coverage: General Liability of \$5,000,000 and General Aggregate of \$6,000,000; Automobile Liability - Combined Single Limit of \$1,000,000; Excess/ Umbrella Liability of \$15,000,000; and Workers Compensation Liability of \$3,000,000, or such greater amounts as may be set forth as the limits of the Town's liability under the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S. ("CGIA").

(c) Prior to the commencement of any work hereunder, At Your Disposal shall furnish to the Town Certificates of Insurance as evidence that such insurance is in full force and effect and shall, before employing any subcontractor who may be approved under this contract, require said subcontractor to furnish such Certificates of Insurance; and

(d) The policies referred to in paragraph 11(b) shall be issued by companies authorized to conduct business in the State of Colorado and shall name the Town as an additional insured and

shall insure the Town on the same general terms and to the same general effect as the foregoing agreement of Contactor to indemnify and hold harmless the Town. The policy must contain a provision requiring the insurer to notify the Town at least thirty (30) days prior to cancellation of the policy;

(e) At Your Disposal hereby authorizes its insurers during the term of this Agreement to provide to the Town confirmation of At Your Disposal's insurance coverage and copies of insurance policies.

Section 12. Lawsuits.

At Your Disposal shall pay any judgment which may be obtained against the Town, either alone or jointly with At Your Disposal or injury or damage to person or property by reason of the performance or non-performance by At Your Disposal of the terms of this Franchise Agreement and Ordinance or in connection with the infringement by At Your Disposal of any patents, provided that if the Town alone is sued for such injury or damage, immediate notice in writing shall be given to At Your Disposal to appear and defend such action. At Your Disposal's obligation under this Section shall be limited to exclude the portion, if any, of such judgment which results from or arises from negligent acts or omissions, or willful misconduct of Town. Nothing herein shall constitute a waiver by the Town of the requirements, protections or limitations of the CGIA.

Section 13. Commercial and Residential Rates.

At Your Disposal shall establish and maintain a fair and equitable schedule of costs and charges to customers.

Section 14. Delinquent Accounts.

At Your Disposal may discontinue services to delinquent accounts as required by prudent business practices, after providing notice to the responsible party and an opportunity to appear and be heard as to why the account is delinquent.

Section 15. Assignment.

The rights authorized by this Franchise Agreement and Ordinance are not assignable either voluntarily or by operation of law without the consent of the Town. In the event At Your Disposal becomes insolvent or files for bankruptcy, then the rights authorized hereby shall be immediately canceled.

Section 16. Subcontractors.

At Your Disposal shall not subcontract work or business contracted under this Franchise Agreement and Ordinance without the prior written consent of the Town.

Section 17. Default and Termination.

In the event At Your Disposal fails to perform any of the provisions hereof, the Town Manager (or his designee) shall give At Your Disposal written notice specifying the provisions hereof that have been breached or defaulted, and shall so notify the Town Council. At Your Disposal shall have thirty (30) days from receipt of such notice from the Town in which to correct any such breach or default. In the event At Your Disposal does not make such correction within said thirty (30) days period as hereinabove provided, then the Town Council may order the termination of the Franchise Agreement and Ordinance after public hearing upon the matter of At Your Disposal's default before the Town Council following not less than ten (10) days notice of such hearing to At Your Disposal.

Section 18. Reservation.

This Franchise Agreement and Ordinance is subject to the provisions of the Constitution and laws of the State of Colorado and all ordinances enacted by the Town Council.

Section 19. Illegal Provisions.

If any provision of the Franchise Agreement and Ordinance shall be declared illegal, void, or unenforceable, the other provisions shall not be affected and shall remain in full force and effect.

Section 20. Notice.

A letter addressed and sent by certified United States First Class Mail to either party at its business address shall be sufficient notice whenever required for any purpose in this Franchise Agreement and Ordinance.

The address of the Town for the purpose of this Franchise Agreement and Ordinance is: Town of Pagosa Springs, Post Office Box 1859, Pagosa Springs, Colorado, 81147.

The address of At Your Disposal for the purpose of this Franchise Agreement and Ordinance is: At Your Disposal, Post Office Box 5907, Pagosa Springs, Colorado 81147.

Section 21. Law to Govern: Venue.

This Franchise Agreement and Ordinance shall be governed by the laws of the State of Colorado, both as to interpretation and performance, and any judicial action to interpret or enforce it shall be brought in the Archuleta County, Colorado, District Court.

Section 22. Modification.

This Franchise Agreement and Ordinance constitutes the entire agreement and understanding between the parties hereto, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.

Section 23. Right to Require Performance.

The failure of the Town at any time to require performance by At Your Disposal of any provisions hereto shall in no way affect the right of the Town thereafter to enforce the same. Nor shall waiver by the Town of any breach or any provisions hereof be taken or held to be a waiver of any succeeding breach of such provisions hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

Section 24. Force Majeure.

At Your Disposal's performance may be temporarily suspended in the event of Force Majeure. For purposes hereof, "Force Majeure" shall mean acts of God, including landslides, lightning, forest fires, storms, floods, freezing and earthquakes, civil disturbances, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, public riots, breakage, explosions, accident to machinery, equipment or materials, unavailability of required materials or disposal site, governmental restraint or other causes, whether of the kind enumerated or otherwise, which are not reasonably within the control of the party affected by the Force Majeure event. At Your Disposal shall not be deemed to be in default and shall not be liable for failure to perform under this Agreement if At Your Disposal's performance is prevented or delayed by Force Majeure. Notwithstanding anything to the contrary herein, the parties agree that the settlement of strikes, lockouts or other industrial disturbances, and litigation, including appeals, shall be entirely within the discretion of At Your Disposal, and At Your Disposal may make settlement thereof at such time and on any such terms and conditions as it may deem to be advisable, and no delay in making such settlement shall deprive At Your Disposal of the benefit of this Section.

Section 25. Other Contractors.

This franchise granted to At Your Disposal is a non-exclusive franchise to allow collection of refuse from the streets in the Town and permission is hereby granted to franchise to allow containers to be placed upon portions of the streets of Pagosa Springs for the purpose of facilitating refuse collection, the same to be removed by the customers as soon as the collection is completed. The Town reserves the right to grant other franchise agreements, but no such franchise agreement shall be granted to any other person, company or corporation unless the above minimum requirements have been met and after a vote of the Town Council. Before any other franchise agreement for refuse collection might be granted by the Town Council, proper application for the granting of such franchise shall be made to the Town Council.

Section 26. Attorneys Fees.

At Your Disposal agrees to pay within thirty (30) days of billings, all legal fees and costs associated with the preparation of this Franchise Ordinance.

INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE ____ DAY OF _____, 2016.

TOWN OF PAGOSA SPRINGS, COLORADO

By: _____
Don Volger, Mayor

ATTEST:

April Hessman, Town Clerk

FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE ____ DAY OF _____, 2016.

TOWN OF PAGOSA SPRINGS, COLORADO

By: _____
Don Volger, Mayor

Attest:

April Hessman, Town Clerk

CERTIFICATE OF PUBLICATION

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 845 (Series 2016) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the ____ day of _____, 2016, and was published by title only, including violations of this ordinance and a statement that the full text of the Ordinance, including any amendments, is available for public inspection at the office of the Town Clerk at Town Hall, on the Town's official website, on _____, 2016, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this ____ day of _____, 2016.

April Hessman, Town Clerk

(S E A L)

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 845 (Series 2016) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the ____ day of _____, 2016, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on the ____ day of _____, 2016.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this ____ day of _____, 2016.

April Hessman, Town Clerk

(S E A L)

ACCEPTANCE OF TERMS OF ORDINANCE

COMES, NOW, Kathryn Young dba At Your Disposal, and hereby agrees to carry out the terms of the above and foregoing Franchise Agreement and Ordinance granting a franchise to Kathryn Young dba At Your Disposal and allowing it to collect refuse in the Town of Pagosa Springs, Colorado, and agrees to abide by all terms of said Franchise Agreement and Ordinance.

KATHRYN YOUNG.

Date 5/5, 2016

By: Kathryn Young

Name: Kathryn Young

Title: Owner At Your Disposal

STATE OF Colorado

COUNTY OF Archuleta

The foregoing Acceptance of Terms of Ordinance was acknowledged before me this 5 day of May 2016, by Kathryn Young as Owner of Kathryn Young dba At Your Disposal.

Witness my hand and official seal.

[Signature]
Notary Public



My commission expires: 4/30/19



AGENDA DOCUMENTATION

OLD BUSINESS: V.2

PAGOSA SPRINGS TOWN COUNCIL
JUNE 7, 2016

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: 5TH STREET BRIDGE ECONOMIC IMPACT AND TRAFFIC ANALYSIS STUDIES

ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE / BACKGROUND

Staff has been working on the 5th Street Bridge and Connection Road project for several months now and has been working with the Partnership during that time. The Partnership approached the Town in 2015 to ascertain if the Town would be building the bridge and connection road. Negotiations ensued about under what conditions or if the Town should build the bridge and connection road. On March 17th, a public meeting was held with the Town Council to take feedback from the public and to elicit comment from the Council as well.

The commentary on the bridge and connection road was wide ranging, but a common theme from the public and Council was there was not enough information available as to the need and viability of the investment in a bridge and connection road. Direction was given to staff at the April 6th, 2016 Council meeting solicit Requests for Proposals (RFP) for traffic and economic impact studies. The motion passed by Council was:

“Council Member Egan moved to direct staff to pursue economic impact and traffic analysis studies and allocating an amount not to exceed \$40,000 to be shared equally between the developer and the Town, Council Member Schanzenbaker seconded, motion passes with one nay.”

The Partnership subsequently agreed to financially participate in the 2 studies, but in an amount not to exceed \$20,000.

Two RFPs were released and 3 proposals were received each for the traffic study and the economic impact studies. The proposers and costs are summarized as follows:

Traffic

- Fehr & Peers: \$37,954
- Bohannon Huston: 43,100
- LSC Consultants: \$24,253

Economic Impact

- Michael Baker International: \$29,870
- RPI Consulting: \$24,000
- EPS, Inc.: \$24,890

After review of the proposals and in consultation with the Partnership, we’ve selected LSC and EPS for the studies.

ATTACHMENTS

- None

FISCAL IMPACT

The cost for both LSC and EPS is \$49,143, which is \$9,143 more than the authorized amount from Council. If split between the Town and the Partnership, the difference would be \$4,571 each. The additional funding would be appropriated from the Capital Budget.

2016 TOWN COUNCIL GOALS & OBJECTIVES

Included in the Town Council's adopted 2016 Goals & Objectives are Goals #2 and 3. Goal #2 is to "Recognize and value downtown as the community's heart." Furthermore, there is the specific action of "Construct the 5th Street Vehicular Bridge" within Objective 2.2 of "Expand and Rehabilitate the Downtown Streets and Sidewalks." In addition, Goal #3 is to "Promote a vital local economy by supporting economic development and tourism."

RECOMMENDATIONS

Possible actions by the Town Council include:

1. **"Move to approve the Town's financial participation in the 2 studies for an additional \$9,143."**
2. **"Move to approve the Town's financial participation in the 2 studies for an additional \$4,571."**
3. **"Move to NOT further participate financially in the 2 studies above \$20,000."**
4. **Direct staff.**



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Phone: 970.264.4151
Fax: 970.264.4634

**PAGOSA SPRINGS SANITATION
GENERAL IMPROVEMENT DISTRICT
MEETING AGENDA
TUESDAY, JUNE 7, 2016
Town Hall Council Chambers
551 Hot Springs Blvd
5:00 p.m.**

- I. **CALL MEETING TO ORDER**
- II. **PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**
- III. **PUBLIC COMMENT** – *Please sign in to make public comment*
- IV. **CONSENT AGENDA**
 - 1. **Approval of May 19 and 26, 2016 Meeting Minutes**
- V. **OLD BUSINESS**
 - 1. **TOWN/PAWSD Pipeline Update**
- VI. **NEXT BOARD MEETING JUNE 23, 2016 AT 5:00PM**
- VII. **ADJOURNMENT**



AGENDA DOCUMENTATION

OLD BUSINESS:V.1

PAGOSA SPRINGS SANITATION BOARD OF DIRECTORS
JUNE 7, 2016

FROM: GENE TAUTGES, SANITATION SUPERVISOR

PROJECT: PAWSD/PIPELINE UPDATE REPORT

ACTION: DISCUSSION

After successful completion of the 7 day functionality test, wastewater was introduced into the force main at PS #1 around 11 AM on Monday May 23rd. Since that time a number of additional programming changes have been made allowing the system to work more efficiently. The pumps stations operated through the Memorial Day holiday with no issues.

I have installed paddle locks on all outside accessible disconnect switches and generator diesel fuel tanks to prevent vandalism from occurring at both locations. In addition to me keeping a close eye on the operation of the pump stations through the SCADA control system, this week the contractor will start to focus on decommissioning of the lagoons. They will produce a plan for the LPR and myself to review and approve before actually starting any work. This portion of the project is anticipated to take several months depending on the subcontractor's operational plan and the PAWSD's ability to accept very old sludge. I will be keeping a close eye on this process to ensure no discharges from the lagoons occur and therefore no violations to our discharge permit. Outstanding expenditures that still remain to my knowledge include the landscaping at PS #2 and the purchase and set up of two pieces of software that allow the system to notify more than one person of an emergency.

The contractor is also currently working on numerous punch list items from preparing to paint the metal piping, to finishing the access roads to both pump stations. In anticipation of taking some time off in the next several months, I am in the process of writing a Standard Operational Procedure manual for the project to assist others in operation of the facilities in my absence.

Respectfully submitted,
Gene Tautges
Sanitation Supervisor