



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

**TOWN COUNCIL MEETING AGENDA  
THURSDAY, JUNE 19, 2014  
Town Hall Council Chambers  
12:00 P.M.**

- I. CALL MEETING TO ORDER**
- II. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**
- III. APPROVAL of MEETING MINUTES FROM JUNE 3, 9 & 11, 2014**
- IV. PUBLIC COMMENT – *Please sign in to make public comment***
- V. LIQUOR LICENSE**
  - 1. Liquor License Renewal – The Junction Restaurant at 401 E Pagosa Street**
  - 2. Liquor License Renewal – Farrago Market Café LLC dba Farrago Market Café & Back Room Wine Bar at 175 Pagosa Street**
- VI. NEW BUSINESS**
  - 1. Issuing Proclamations**
  - 2. Ordinance 812, First Reading, Lease/Purchase Agreement for Chamber Building**
  - 3. Skate Park Phase 2 Funding Request**
  - 4. Town Manager Hiring Procedure**
  - 5. CML Bootcamp July 1<sup>st</sup>**
- VII. OLD BUSINESS**
  - 1. Ordinance 809, Second Reading, Franchise Agreement for Elite Recycling and Disposal, LLC**
  - 2. Sales Tax Disbursement IGA**
  - 3. Sales Tax Brief**
- VIII. DEPARTMENT HEAD REPORTS**
  - 1. Community Center Report**
  - 2. Town Tourism Committee Report**
  - 3. Planning Department Report**
  - 4. Town Manager Report**
- IX. APPROVAL OF MAY FINANCIAL STATEMENT AND ACCOMPANYING PAYMENTS**
- X. PUBLIC COMMENT – *Please sign in to make public comment***
- XI. NEXT TOWN COUNCIL MEETING JULY 1, 2014 AT 5:00PM**
- XII. ADJOURNMENT**

**Don Volger  
Mayor**

Public comment and agenda comment item sign-up sheets are available at meeting  
Copies of proposed Ordinances and Resolutions are available to the public from the Town Clerk



# AGENDA DOCUMENTATION

## LIQUOR LICENSE: V

PAGOSA SPRINGS TOWN COUNCIL  
JUNE 19, 2014

FROM: **BILL ROCKENSOCK, POLICE CHIEF**

---

**PROJECT: LIQUOR LICENSE RENEWALS**  
**ACTION: DISCUSSION AND POSSIBLE ACTION**

---

### 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. A liquor compliance check was conducted by the Police Department on May 12, 2011 with 15 establishments holding liquor licenses within the Town limits. 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:

**The Junction Restaurant** - Since June 1, 2013, there were no documented police contacts at the Junction Restaurant located at 401 E Pagosa Street.

**Farrago Market Café dba Farrago Market Café & Back Room Wine Bar** - Since June 1, 2013, there were no documented police contacts at Farrago Market Cafe located at 175 Pagosa St.

### 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: VI.2

PAGOSA SPRINGS TOWN COUNCIL, JUNE 19, 2014

FROM: JAMES DICKHOFF, TOWN PLANNING DIRECTOR

---

**PROJECT: FIRST READING OF ORDINANCE 812, AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS, AUTHORIZING THE EXECUTION AND DELIVERY BY THE TOWN OF PAGOSA SPRINGS OF A LEASE PURCHASE AGREEMENT BETWEEN THE TOWN, AS LESSEE, AND THE PAGOSA SPRINGS CHAMBER OF COMMERCE, AS LESSOR, FOR THE PURPOSES OF FINANCING THE ACQUISITION OF THE VISITOR'S CENTER PROPERTY; AUTHORIZING OFFICIALS OF THE TOWN TO TAKE ALL ACTIONS NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HERBY AND PROVIDING FOR RELATED MATTERS.**

**ACTION: DISCUSSION AND POSSIBLE ACTION**

---

### PURPOSE/BACKGROUND

On June 9<sup>th</sup>, Town staff forwarded a "Non-Binding Intent for Lease to Purchase" the Chamber of Commerce property at 105 Hot Springs Blvd. Staff received a letter from the Chamber Board accepting the terms delivered on Tuesday, June 10, 2014.

At the June 9, 2014 Town Council special meeting, staff presented the above information, at such time the Town Council directed Staff to proceed with drafting a "Lease to Purchase" Agreement for the Chamber of Commerce Building. Staff then proceeded with ordering and receiving a Title Policy for the property, and ordering a valuation determination regarding the approximately market value of the property.

The Town Building Official will conduct a comprehensive Building Inspection, the results of which will be presented at the June 19, 2014 TC meeting.

Staff recommends the TC allow a 6 month lease back (month to month) option to the Chamber for the office space and meeting room with a percentage portion of utilities. This will provide the Chamber with enough time to ensure their successful transmission. The lease back agreement will be presented to Town Council for approval on July 1, 2014. Since the proposed lease back period is under two years, approval can occur in the form of a motion and majority vote, instead of a resolution or ordinance.

### ANALYSIS

The Town's attorney drafted a "Lease Purchase Agreement", attached, to ensure the Town complied with Colorado TABOR Law requirements. Some highlights of the agreement included:

- ~ Allows the Town to conduct remodeling and improvements of the building and property.
- ~ There is NO early payoff penalty.
- ~ The \$90,000 down payment serves as the first 6 month lease rent payment.
- ~ Semi-annual rent payments are due January 1<sup>st</sup> and July 1<sup>st</sup> of each years.
- ~ Approximate semi-annual payments are \$
- ~ The Chamber can only terminate the agreement if the Town defaults on the agreement payment terms.
- ~ Town will provide maintenance of the property and structure.
- ~ Town will pay property taxes.
- ~ Town will pay property and flood insurance premiums.
- ~ Utilities will be in the Town's name.

The Chamber is currently analyzing the furniture and fixtures for determining ownership of specific items. The Chamber has indicated they will not remove any furniture and fixtures from the building until they identify a new location for their operations. Both the Chamber and the Visitors center have plans for upgrading all fixtures and furnishings in their respective new locations.

Town Staff will maintain the property. The Town's Parks staff will maintain the grounds, Streets Department will maintain the parking lot and Facilities Maintenance Department will maintain the building. Based on industry standards for asset management costs, the general rule of thumb is up to 10% of the initial investment is required each year for general maintenance.

**ATTACHMENT(S):**

~ Ordinance No. 812, An ordinance of the Town of Pagosa Springs, Authorizing the execution and delivery by the Town of Pagosa Springs of a Lease Purchase Agreement between the Town, as Lessee, and the Pagosa Springs Chamber of Commerce, as Lessor, for the purposes of financing the acquisition of the Visitor's Center Property; Authorizing officials of the Town to take all actions necessary to carry out the transactions contemplated hereby and providing for related matters.

~ "DRAFT" Lease Purchase Agreement.

**FISCAL IMPACT**

The Town will provide a \$90,000 payment at the time of executing the Lease Purchase Agreement, which will also be consider the first semi-annual rent payment. After such time, Semi-Annual rent payments of \$ are due January 1<sup>st</sup> and July 1<sup>st</sup> of each year through 2029.

Town Council has already approved \$30,000 for renovations for the previous selected 1500 square foot unit in the former city Market Center. Additional analysis is needed regarding costs associated with future remodeling of the Chamber Building.

- Property insurance premiums: Approximately \$2,556.00/year
- Flood insurance premiums: Approximately \$900.00/year
- Property taxes: Approximately \$4,404.00/year
- Utilities: Approximately \$5,292.00/year
- 1-800 line: Approximately \$1,200.00/year
- Town Staff provided general maintenance: \$30,000.00/year

New Visitors Center Building Sign: Approximately \$7,000.00

The lease back to the Chamber for up to 6 months will generate approximately \$1,490.00 per month as well as 30% of utilities (approximately \$132.00.)

**RECOMMENDATION**

It is recommended the Town Council:

**Approve the First Reading of Ordinance 812, An ordinance of the Town of Pagosa Springs, Authorizing the execution and delivery by the Town of Pagosa Springs of a Lease Purchase Agreement between the Town, as Lessee, and the Pagosa Springs Chamber of Commerce, as Lessor, for the purposes of financing the acquisition of the Visitor's Center Property; Authorizing officials of the Town to take all actions necessary to carry out the transactions contemplated hereby and providing for related matters. FURTHER providing direction to staff to bring a budget amendment to Town Council for the \$90,000 down payment expense prior by the end of the 2014 fiscal year, AND, Approve in concept, a lease back option for the Chamber of Commerce to occupy a portion of the building for a period of up to 6 months after the execution of the Lease Purchase Agreement.**

**TOWN OF PAGOSA SPRINGS, COLORADO**

**ORDINANCE NO. 812  
(SERIES 2014)**

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY BY THE TOWN OF PAGOSA SPRINGS OF A LEASE PURCHASE AGREEMENT BETWEEN THE TOWN, AS LESSEE, AND THE PAGOSA SPRINGS CHAMBER OF COMMERCE AS LESSOR FOR THE PURPOSES OF FINANCING THE ACQUISITION OF THE VISITOR'S CENTER PROPERTY; AUTHORIZING OFFICIALS OF THE TOWN TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY AND PROVIDING FOR RELATED MATTERS

WHEREAS, the Town of Pagosa Springs (the "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 (the "Charter"); and

WHEREAS, pursuant to Section 1.4 of the Charter, the Town has all the power of local self-government and home rule and all power possible for a municipality to have under the Constitution and laws of the State of Colorado; and

WHEREAS, pursuant to Section 10.6 of the Charter, the Town has full authority, power and control over all Town owned property, including but not limited to, all power and authority to sell and lease such property; and

WHEREAS, in order to provide for the capital asset needs of the Town, the Town Council of the Town (the "Council") has previously determined and hereby determines that it is necessary and in the best interests of the Town and its citizens that the Town undertake lease purchase financing of sites, buildings, equipment and other property for use by the Town for governmental or proprietary purposes; and

WHEREAS, the Pagosa Springs Chamber of Commerce is the fee simple owner of the land and improvements constituting the Pagosa Springs Visitor's Center located at 105 Hot Springs Boulevard, Pagosa Springs, Colorado (the "Property"); and

WHEREAS, the Chamber obtained the Property pursuant to a vacation of right-of-way by the Council and has operated the Visitor's Center in the building on the Property with financial support from the Town and County; and

WHEREAS, the Town desires to lease to purchase the Property to continue the operations of the Visitor's Center and for other municipal purposes for a price of three hundred thousand dollars (\$300,000.00) ("Acquisition Price"); and

WHEREAS, the Chamber desires to lease to sell the Property to the Town for the Acquisition Price with an upfront payment of ninety thousand dollars (\$90,000.00) plus annual rent payments ("Rent") and in accordance with the terms of a Lease Purchase Agreement (the "Lease"); and

WHEREAS, for the purpose of obtaining ownership and possession of the Property, the Council has determined to enter into the Lease with the Chamber.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO AS FOLLOWS:

**Section 1. Ratification of Actions.** All action heretofore taken, not inconsistent with the provisions of this ordinance (the "Ordinance"), by the Council or the officers of the Town, directed toward the implementation of the Lease and acquisition of the Property, including without limitation the preparation of the forms of Lease and related documents, are hereby ratified, approved and confirmed.

**Section 2. Findings; Authorizations.** The Council hereby finds and determines, pursuant to the Town's home rule powers and all applicable laws of the State of Colorado, that the acquisition of the Property is necessary, convenient, and in furtherance of the governmental purposes of the Town and in the best interests of the Town and its inhabitants; and the Council hereby authorizes the Town to enter into the Lease. The Town hereby elects to apply all of the provisions of the Supplemental Public Securities Act, Part 2 of Article 57, Title 11, C.R.S. (the "Supplemental Securities Act"), to the extent applicable and not inconsistent herewith, to the Lease.

**Section 3. Approval and Execution of Documents; Authorized Officers; Variations in Documents.** The Lease, in substantially the form filed in the office of the Town Clerk prior to the final adoption of this Ordinance, is in all respects approved, authorized and confirmed, and the Mayor of the Town or any member of the Council are hereby authorized and directed to execute and deliver, and the Town Clerk of the Town or any Deputy or Assistant Town Clerk are hereby authorized and directed to affix the seal of the Town to, and attest, the Lease, in substantially the form so filed with the Town Clerk, with such changes as are not inconsistent with the intent of this Ordinance and are approved by the Town Attorney and any necessary escrow or financing agreements. The Council hereby designates the Town Manager and the Town Clerk/Finance Director (and any persons authorized by law to act on their behalf in their absence) to act as "Authorized Officers" under the Lease. Prior to the execution of the Lease or any other instrument contemplated by this Ordinance, the final Rent (as defined in the Lease) due under the Lease shall be approved by a resolution of the Council (a "Supplemental Resolution").

**Section 4. Additional Documents and Making an Appropriation.** The Town Clerk is hereby authorized and directed to attest all signatures and acts of any official of the Town in connection with the matters authorized by this Ordinance. The Mayor and the Authorized Officers are hereby authorized to execute and deliver for and on behalf of the Town any and all additional certificates, documents and other papers and to perform all other acts that they may deem necessary or appropriate in order to implement and carry out the transactions and other matters authorized by this Ordinance. The appropriate officers of the Town are also authorized to execute on behalf of the Town agreements and checks concerning the payment of ninety thousand dollars (\$90,000.00) to the Chamber in connection with the transactions contemplated by this Ordinance and the acquisition of the Property.

**Section 5. Lease Terms.** The Lease shall provide for the payment of Rent consisting of an interest component and a principal component, and the schedule of Rent incorporated in the Lease shall be approved by Supplemental Resolution, subject to the following limitations:

(a) the aggregate amount of the principal component of Rent shall be determined by Supplemental Resolution and shall not exceed \$210,000, which amount may be financed in one or more transactions;

(b) the interest component of Base Rentals shall accrue at a rate or rates not to exceed 3.5%;

(c) the Lease, including all renewal terms thereof, shall terminate not later than December 31, 2029, and may also be made subject to prepayment and termination in whole or in part without prepayment premium;

(d) the Town shall have the option to purchase the Property and terminate the Lease in the manner provided in the Lease; and

(e) the annual Rent due under the Lease shall not exceed \$18,147.00 in any year.

**Section 6. No General Obligation or Other Indebtedness.** The obligation of the Town to make rental payments under the Lease is subject to annual appropriation by the Council and constitutes an undertaking of the Town to make current expenditures. No provision of this Ordinance, the Lease shall be construed, individually or collectively with other provisions, as constituting or giving rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any home rule, constitutional or statutory debt limitation nor a mandatory charge or requirement against the Town in any ensuing fiscal year beyond the current fiscal year. The Town shall have no obligation to make any payment except in connection with the payment of the Rent and certain other payments under the Lease, which payments shall be subject to termination and nonrenewal by the Town in accordance with the provisions of the Lease.

**Section 7. Additional Findings; Expression of Need; Reasonable Rentals.** The Town hereby declares its current need for the Property. It is hereby declared to be the present intention and expectation of the Council that the Lease will be renewed annually until it is terminated and all of the Chamber's interest in the Property is acquired by the Town pursuant to the Lease; but this declaration shall not be construed as contractually obligating or otherwise binding the Town.

The Council hereby determines and declares that the Rent due under the Lease, so long as they are within the limits provided in this Ordinance, will represent the fair value of the use of the Property, and that the Purchase Option Price (as defined in the Lease) will represent, as of any date upon which the Town may exercise its option to purchase the Investor's interest in such Property, the fair purchase price thereof. The Council further hereby determines and declares that the Rent due under the Lease and authorized hereby will not exceed a reasonable amount so as to place the Town under an economic or practical compulsion to renew the Lease or to exercise its option to purchase the Investor's interest in the Leased Property pursuant to the Lease. In making such determinations, the Council has given consideration to the cost of acquiring the Property, the uses and purposes for which the Property is employed by the Town, the use of the Property pursuant to the terms and provisions of the Lease, the Town's option to purchase the Chamber's interest in the Property, the Town's right to cause the termination of the Lease by declining to appropriate funds, and the expected eventual vesting in or to the Town of both title to and possession of the Property, free and clear of the Lease. The Council hereby determines and declares that, after execution and

delivery of the Lease, the maximum duration of the Lease, or the portion thereof allocable to any item of Property separately identified in the Lease, will not exceed the weighted average useful life of the Property.

**Section 8. Severability.** If any section, paragraph, clause or provision of this Ordinance or the Lease (other than provisions as to the payment of Rent by the Town during the term of the Lease, provisions for the quiet enjoyment of the Property by the Town during the term of the Lease, and provisions for the conveyance or release of the Lessor's interest in the Property to the Town under the conditions provided in the Lease) shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**Section 9. Repealer of Measures.** All acts, orders, resolutions, ordinances or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof heretofore repealed.

**Section 10. Qualified Tax-Exempt Obligation.** The Town Council hereby designates the Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

**Section 11. Public Inspection.** The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.

**Section 12. Public Hearing.** A public hearing on this Ordinance shall be held on the 1st day of July, 2014, at 7:00 p.m. at the Town Hall.

**Section 13. Effective Date.** This Ordinance shall become effective and be in force immediately upon final passage at second reading.

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 19TH DAY OF JUNE, 2014.

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 1st DAY OF JULY, 2014.

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. 812 (Series 2014) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the \_\_\_ day of \_\_\_\_\_, 2014, and was published by title only, along with a statement identifying any fines or penalties for violation of the Ordinance, and that the full text of the Ordinance, including any amendments, is available at the office of the Town Clerk, on the Town's official website, on \_\_\_\_\_, 2014, 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 \_\_\_\_\_, 2014.

\_\_\_\_\_  
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. 812 (Series 2014) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the \_\_\_ day of \_\_\_\_\_, 2014, 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 \_\_\_\_\_, 2014.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this \_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
April Hessman, Town Clerk

(S E A L)

## **LEASE PURCHASE AGREEMENT**

**THIS LEASE PURCHASE AGREEMENT** dated as of \_\_\_\_ \_\_, 2014 (this "Lease"), between **PAGOSA SPRINGS CHAMBER OF COMMERCE**, a Colorado non-profit corporation, together with its successors and assigns, as lessor ("Lessor" or "Chamber"), and the **TOWN OF PAGOSA SPRINGS, COLORADO** (the "Lessee" or "Town"), a home rule municipality and political subdivision of the State of Colorado (the "State") organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003 (the "Charter"), as lessee;

### **WITNESSETH:**

WHEREAS, pursuant to Section 1.4 of the Charter, the Town has all the power of local self-government and home rule and all power possible for a municipality to have under the Constitution and laws of the State of Colorado; and

WHEREAS, pursuant to Section 10.6 of the Charter, the Town has full authority, power and control over all Town owned property, including but not limited to, all power and authority to purchase and/or lease such property; and

WHEREAS, in order to provide for the capital asset needs of the Town, the Town Council of the Town (the "Council") has previously determined and hereby determines that it is necessary and in the best interests of the Town and its citizens that the Town undertake lease purchase financing of sites, buildings, equipment and other property for use by the Town for governmental or proprietary purposes; and

WHEREAS, the Chamber is the fee simple owner of the land and improvements constituting the Pagosa Springs Visitor's Center located at 105 Hot Springs Boulevard, Pagosa Springs, Colorado as more particularly described in Exhibit A (the "Property"); and

WHEREAS, the Chamber obtained the Property pursuant to a vacation of right-of-way by the Council and has operated the Visitor's Center in the building on the Property with financial support from the Town and County; and

WHEREAS, the Town desires to lease to purchase the Property to continue those operations and for other municipal purposes; and

WHEREAS, the Chamber desires to lease to sell the Property to the Town for an upfront lump sum payment of ninety thousand dollars (\$90,000.00) plus annual rent payments ("Rent") and in accordance with the terms of this Lease; and

WHEREAS, the obligation of the Town to pay Rent (as hereinafter defined) hereunder shall be from year to year only; shall constitute currently budgeted expenditures of the Town; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the Town within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness, nor a mandatory payment obligation of

the Town in any ensuing fiscal year beyond any fiscal year during which this Lease shall be in effect; and

WHEREAS, the financing of the lease to purchase the Property, and the execution, performance and delivery of this Lease, have been authorized, approved and directed by the Council by an ordinance finally passed and adopted by the Council;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.01. Terms Defined in Preamble and Recitals.** The following terms shall have the meanings set forth in the preamble and recitals hereto:

Charter	Lessor
Council	Property
Lease	Town
State	
Visitor's Center	

**Section 1.02. Additional Definitions.** The following additional terms shall have the meanings specified below:

*"Additional Rentals"* means the cost of all taxes, if any, utility charges, maintenance, upkeep, repair, improvement and replacement in respect of the Property.

*"Authorized Officer of the Town"* means the Town Manager and any person authorized by resolution or ordinance of the Council to perform any act or execute any document.

*"Rent"* means the payments payable by the Town during the Lease Term pursuant to Section 6.02 of this Lease and as set forth in Exhibit B, as it may be amended hereunder from time to time, which constitute the payments payable by the Town for and in consideration of the right to use the Property during the Lease Term. In the event that Exhibit B sets forth separate schedules of Rent payable with respect to one or more separate portions of the Property, such payments will be combined for purposes of Section 6.02, but may be treated as separate schedules for other purposes of this Lease.

*"Rent Payment Dates"* means semiannual payments due on January 1 and July 1 of each Fiscal Year during the Lease Term.

*"Business Day"* means any day other than a Saturday, a Sunday or a day on which banks in Pagosa Springs, Colorado are authorized by law to remain closed.

*"County"* means Archuleta County, Colorado.

*“Event of Default”* means one or more events of default as defined in Section 13.01 of this Lease.

*“Event of Nonappropriation”* means a termination of this Lease by the Town, determined by the Town’s failure for any reason, to duly enact by the last day of each Fiscal Year an appropriation resolution for the ensuing Fiscal Year which includes reference amounts authorized and directed to be used to pay all Rent. The term also includes the giving of notice under Section 4.01 of this Lease of the Town’s intention to terminate and the occurrence of an event described in Section 6.06 of this Lease relating to the failure by the Town to appropriate amounts due as Additional Rentals at least equal to the amounts reasonably estimated to become due.

*“Fiscal Year”* means the fiscal or budget year of the Town.

*“Force Majeure”* means, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies or officials or any civil or military authority; insurrection; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accidents to machinery, transmission pipes or canals; or any other cause or event not within the control of the Town.

*“Interest Component of Rent Rate”* means the per annum rate or rates of interest used to calculate the interest component of Rent. The Interest Component of Rent Rate shall be 3.50%.

*“Lease Remedy”* or *“Lease Remedies”* means any or all remedial steps provided in Section 13.02 of this Lease whenever an Event of Default hereunder has happened and is continuing.

*“Lease Term”* means the time during which the Town is the lessee of the Property under this Lease, including the Original Term and all Renewal Terms as provided in and subject to Article IV and Sections 6.01, 6.02 and 6.06 of this Lease; certain provisions of this Lease survive the termination of the Lease Term, as provided in Section 4.02 of this Lease.

*“Net Proceeds”* when used with respect to any proceeds of insurance, including self-insurance, required by this Lease, or proceeds from any condemnation award, or any proceeds resulting from default or breaches of warranty under any contract relating to the Property or proceeds from any Lease Remedy, means the amount remaining after deducting from such proceeds (a) all expenses (including, without limitation, attorneys’ fees and costs) incurred in the collection of such proceeds or award; and (b) all other fees, expenses and payments due to the Lessor

*“Permitted Encumbrances”* means, as of any particular time: (a) liens for taxes and assessments not then delinquent, or liens which may remain unpaid pending contest pursuant to the provisions of Article VII and Article VIII of this Lease; (b) this Lease ; (c) utility, access and other easements and rights of way, restrictions and exceptions which an Authorized Officer of the Town certifies will not interfere with or impair the Property, including rights or privileges in the nature of easements as provided in Section 8.07 of this Lease; (d) any financing statements filed to perfect security interests pursuant to this Lease; (e) easements, covenants, restrictions, liens and

encumbrances (if any) of record to which title to the Property was subject as of the date first written above.

“*Purchase Option Price*” means the amount payable, at the option of the Town, for the purpose of terminating this Lease with respect to the Property and transferring ownership of the Property pursuant to Articles IV and XI of this Lease. The Purchase Option Price shall consist of the Remaining Lease Balance shown in Exhibit B hereto as of the last Rent Payment Date preceding the termination of this Lease, plus the Interest Component of Rent Rate (3.5%) accrued through the date of such termination.

“*Remaining Lease Balance*” means, as of any particular date, the Remaining Lease Balance stated for such date in Exhibit B.

“*Renewal Term*” means any optional renewal of the Lease Term for the next Fiscal Year by the Town, as provided in Article IV of this Lease.

“*Revenues*” means (a) all monies currently budgeted and appropriated by the Town for the purpose of paying amounts pursuant to this Lease including, but not limited to, all Rent and Purchase Option Prices, but not including Additional Rentals; and (b) all other revenues of the Town payable pursuant to this Lease, excluding Additional Rentals.

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

**Section 2.01. Representations, Covenants and Warranties of the Town.** The Town represents, covenants and warrants as follows:

(a) The Town is a political subdivision of the State, duly organized and existing under the laws of the State and the Charter. The Town is authorized to enter into the transactions contemplated by this Lease and to carry out its obligations under this Lease. The Town has duly authorized and approved the execution and delivery of this Lease.

(b) The lease of the Property from the Lessor pursuant to this Lease serves a public purpose and is in the best interests of the Town, its residents and taxpayers.

**Section 2.02. Representations, Covenants and Warranties of the Lessor.** The Lessor represents, covenants and warrants as follows:

(a) The Lessor has all requisite power to execute, deliver, enter into and perform the transactions contemplated by this Lease and to carry out its obligations under this Lease, and has duly executed and delivered this Lease and all other documents related to this Lease.

(b) Except as expressly provided in this Lease, the Lessor will not pledge or assign its right, title and interest in and to any of its rights under this Lease or assign, pledge, mortgage, encumber or grant a security interest in its right, title and interest in, to or under

this Lease or the Property. The Lessor represents that neither the Lease nor any interest therein will be transferred or resold.

(c) Neither the execution and delivery of this Lease nor the fulfillment of or compliance with the terms and conditions hereof and thereof, nor the consummation of the transactions contemplated hereby and thereby, conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the Lessor is now a party or by which the Lessor is bound, or constitutes a default under any of the foregoing.

(d) There is no litigation or proceeding pending or threatened against the Lessor or any other person affecting the right of the Lessor to execute this Lease and to perform its obligations hereunder and thereunder.

(e) The Lessor acknowledges that the obligations of the Town under this Lease shall not constitute or give rise to a general obligation or multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the Town within the meaning of any constitutional, charter or statutory provision or limitation nor a mandatory charge or requirement against the Town in any ensuing Fiscal Year beyond any Fiscal Year during which this Lease shall be in effect. The Lessor further acknowledges that the Town may elect not to renew this Lease by failure to budget and appropriate funds sufficient to meet its next Fiscal Year's Rent, and that the acts of budgeting and appropriating funds are legislative acts and, as such, are solely within the discretion of the Council.

(f) To the best knowledge of the Lessor, after due inquiry, (i) no dangerous, toxic or hazardous pollutants, contaminants, chemicals, waste, materials or substances, as defined in or governed by the provisions of any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating thereto (collectively, "Environmental Regulations"), and also including urea-formaldehyde, polychlorinated biphenyls, asbestos, asbestos containing materials, nuclear fuel or waste, radioactive materials, explosives, carcinogens and petroleum products, or any other waste, material, substance, pollutant or contaminant which would subject the owner of the Property to any damages, penalties or liabilities under any applicable Environmental Regulation (collectively, "Hazardous Substances") are now or have been stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited or disposed of in, upon, under, over or from the Property in violation of any Environmental Regulation; (ii) no threat exists of a discharge, release or emission of a Hazardous Substance upon or from the Property into the environment; (iii) the Property has not been used as or for a mine, landfill, a dump or other disposal facility, industrial or manufacturing facility, or a gasoline service station; (iv) no underground storage tank is located at the Property or has previously been located therein but has been removed therefrom; (v) no violation of any Environmental Regulation now exists relating to the Property, no notice of any such violation or any alleged violation thereof has been issued or given by any governmental entity or agency, and there is not now any investigation or report involving the Property by any governmental entity or agency which in any way relates to Hazardous Substances; (vi) no person, party or private or governmental agency or entity has given any notice of or asserted any claim, cause of action, penalty, cost or demand for payment or compensation, whether

or not involving any injury or threatened injury to human health, the environment or natural resources, resulting or allegedly resulting from any activity or event described in (i) above; (vii) there are not now any actions, suits, proceedings or damage settlements relating in any way to Hazardous Substances, in, upon, under, over or from the Property; (viii) the Property is not listed in the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or any other list of Hazardous Substance sites maintained by any federal, state or local governmental agency; and (ix) the Property is not subject to any lien or claim for lien or threat of a lien in favor of any governmental entity or agency as a result of any release or threatened release of any Hazardous Substance.

### **ARTICLE III**

#### **LEASE OF PROPERTY**

The Lessor demises and leases the Property, including any interest of the Lessor in the Property, to the Town, and the Town leases the Property, including any interest in the Property, from the Lessor, in accordance with the provisions of this Lease, subject only to Permitted Encumbrances, to have and to hold for the Lease Term.

### **ARTICLE IV**

#### **LEASE TERM**

**Section 4.01. Duration of Lease Term; Town's Annual Right to Renew Lease.** The Lease Term shall commence as of the date first written above and continue through the last day of the current Fiscal Year of the Town. Subject to the provisions of Section 4.02 hereof, the Lease Term may be renewed at the end of the Original Term and at the end of each renewal term thereafter for a term of twelve months coinciding with the next succeeding Fiscal Year of the Town. The Town shall have the right to annually renew the Lease Term unless (a) the Town gives written notice to the Lessor not less than 30 days prior to the end of the Original Term or the then current Renewal Term of the Town's intention not to renew this Lease at the end of the Original Term or the then current Renewal Term, or (b) an Event of Nonappropriation shall have occurred with respect to a Renewal Term occurring after the Original Term or any then current Renewal Term. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except for the amount of Rent to be paid during such Renewal Term.

**Section 4.02. Termination of Lease Term.** The Lease Term shall terminate upon the earliest of any of the following events:

- (a) the last day of any Fiscal Year during which there has occurred an Event of Nonappropriation pursuant to Section 4.01 and Article VI of this Lease (provided that the Lease Term will be deemed to have been renewed and, therefore, not terminated if the Event of Nonappropriation is cured as provided in Section 6.06 hereof); or

(b) the conveyance of the Property to the Town upon payment of the Purchase Option Price or all Rent and Additional Rentals as provided in Section 11.02 of this Lease; or

(c) an Event of Default and termination of this Lease under Article XIII of this Lease.

An election not to renew the Lease Term shall terminate all unaccrued obligations of the Town under this Lease, and shall terminate the Town's rights of possession under this Lease at the end of the last day of the Fiscal Year for which this Lease shall be in effect (except to the extent of the holdover provisions of Section 13.02(d) hereof, and except for any conveyance pursuant to Article XI of this Lease). Except for an event described in subparagraph (b) above, upon termination of this Lease, the Town agrees to peaceful delivery of the Property to the Lessor.

## ARTICLE V

### ENJOYMENT OF PROPERTY

The Lessor hereby covenants that the Town shall during the Lease Term peaceably and quietly have, hold and enjoy the Property without suit, trouble or hindrance from the Lessor, except as expressly required or permitted by this Lease. The Lessor shall, at the request of the Town and at the cost of the Town, join and cooperate fully in any legal action in which the Town asserts its right to such possession and enjoyment, or which involves the imposition of any taxes or other governmental charges on or in connection with the Property. In addition, the Town may at its own expense join in any legal action affecting its possession and enjoyment of the Property and shall be joined in any action affecting its liabilities hereunder.

## ARTICLE VI

### PAYMENTS BY THE TOWN

**Section 6.01. Payments to Be Paid From Currently Budgeted Expenditures of the Town.** The Town and the Lessor acknowledge and agree that the Rent hereunder during the Original Term and all of the Renewal Terms, if any, shall be paid from then currently budgeted Revenues of the Town, using any legally available funds of the Town. The Town's obligations to pay Rent under this Lease during the Original Term and all of the Renewal Terms, if any, shall be subject to the Town's annual right to renew this Lease (as further provided in Article IV and Sections 6.02 and 6.06 hereof), and shall not constitute a mandatory charge, requirement or liability in any ensuing Fiscal Year beyond the then current Fiscal Year. No provision of this Lease shall be construed or interpreted as a delegation of governmental powers or as creating indebtedness or a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the Town within the meaning of any constitutional or statutory debt limitation, including without limitation, Article XI, Sections 1, 2 and 6, and Article X, Section 20, of the Colorado Constitution. This Lease shall not directly or indirectly obligate the Town to make any payments of Rent or Additional Rentals beyond the Revenues for the then current Fiscal Year. The Town shall be under no obligation whatsoever to exercise its option to purchase the Property. No provision of this Lease shall be construed to pledge or to create a lien on any class or source

of Town moneys, nor shall any provision of this Lease restrict the future issuance of any bonds or obligations of the Town payable from any class or source of moneys of the Town.

**Section 6.02. Rent and Additional Rentals.**

(a) The Town shall pay all Rent directly to the Lessor during the Original Term and all Renewal Terms, on the Rent Payment Dates and in the "Total Rent" amounts set forth in Exhibit B, attached hereto and made a part hereof, as it may be amended from time to time hereunder by written agreement signed by the Lessor and the Town Manager of the Town.

(b) The Town may, at any time during the Lease Term, pay the then applicable Purchase Option Price related to the Property for the purpose of terminating this Lease and purchasing the Property shown on Exhibit A, as further provided in Article XI of this Lease. The Town shall give the Lessor notice of its intention to exercise its option not less than 15 days in advance of the date of exercise and shall deposit with the Lessor on or prior to a Rent Payment Date an amount equal to the Purchase Option Price.

(c) The Town may pay and apply any amount above the Rent toward the reduction of the Remaining Lease Balance and direct the Lessor to amend the Schedule attached hereto as Exhibit B in accordance with paragraph (a) of this Section to reflect such reduced Remaining Lease Balance, but only upon a finding by the Town that (i) the Rent due under such amended schedule represents the fair value of the use of the Property, (ii) the Purchase Option Price will represent, as of any date that the Town may exercise its option to purchase the Lessor's interest in the Property, the fair purchase price thereof, and (iii) the Rent due under such amended schedule does not exceed a reasonable amount so as to place the Town under an economic or practical compulsion to renew this Lease or to exercise its option to purchase the Lessor's interest in the Property. Payments made pursuant to this Section 6.02(c) shall not be subject to a prepayment premium.

The Town shall pay Additional Rentals during the Original Term and all Renewal Terms, if any, as herein provided. All Additional Rentals shall be paid by the Town on a timely basis directly to the person or entity to which such Additional Rentals are owed.

**Section 6.03. Interest Component.** A portion of each payment of Rent is paid as, and represents payment of, interest, and Exhibit B hereto, as may be amended from time to time hereunder by written agreement signed by the Lessor and the Town Manager of the Town, sets forth the interest component of each payment of Rent.

**Section 6.04. Manner of Payment.** The Rent and, if paid, the Purchase Option Price, shall be paid by the Town by certified funds or other method of payment acceptable to the Lessor in lawful money of the United States of America to the Lessor at its . The obligation of the Town to pay the Rent and Additional Rentals, during the Original Term and each Renewal Term, shall be absolute and unconditional, payable from all legally available sources, and payment of the Rent and Additional Rentals shall not be abated through accident or unforeseen circumstances, or for any other reason, including without limitation, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Property, commercial

frustration of purpose, or failure of the Lessor to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Lease, it being the intention of the parties that the payments required by this Lease will be paid in full when due without any delay or diminution whatsoever, subject only to the special and limited nature of the Town's obligation to make payments hereunder as set forth in Section 6.01 above, and further subject to the Town's rights under Section 8.04 hereof. Notwithstanding any dispute between the Town and Lessor, the Town shall, during the Original Term and all Renewal Terms, make all payments of Rent and Additional Rentals when due and shall not withhold any Rent or Additional Rentals pending final resolution of such dispute (except to the extent permitted by Sections 7.02 and 8.04 hereof with respect to certain Additional Rentals), nor shall the Town assert any right of set-off or counterclaim against its obligation to make such payments required hereunder. No action or inaction on the part of the Lessor shall affect the Town's obligation to pay all Rent and Additional Rentals (except to the extent provided by Sections 7.02 and 8.04 hereof with respect to certain Additional Rentals), during the Lease Term.

**Section 6.05. Expression of Town's Need for the Property.** As of the date of this Lease, the Town declares its current need for the Property, that the leasing of the Property is beneficial to the Town, and that the Property is necessary and essential to the Town's purpose and operations. It is hereby declared to be the present intention and expectation of the Council that this Lease will be renewed annually until the Property is acquired by the Town pursuant to this Lease; but this declaration shall not be construed as contractually obligating or otherwise binding the Town or any Council following the end of the Original Term.

**Section 6.06. Nonappropriation.** In the event that the Council shall not specifically budget and appropriate, on or before the last day of each Fiscal Year, moneys to pay all Rent and the reasonably estimated Additional Rentals coming due for the next ensuing Fiscal Year as provided in Section 4.01 hereof and this Article, an Event of Nonappropriation shall be deemed to have occurred, subject, however, to each of the following provisions:

(a) The Lessor shall declare an Event of Nonappropriation on any earlier date on which the Lessor receives specific written notice from the Town that this Lease will be terminated.

(b) Absent such notice from the Town, the Lessor shall give written notice to the Town of any Event of Nonappropriation, on or before the fifth day of the next following Fiscal Year; but any failure of the Lessor to give such written notice shall not prevent the Lessor from declaring an Event of Nonappropriation or from taking any remedial action which would otherwise be available to the Lessor.

(c) The Lessor shall waive any Event of Nonappropriation which is cured by the Town within a reasonable time.

(d) The Lessor shall waive any Event of Nonappropriation which is cured by the Town, within ten days of the giving of notice by the Lessor as provided in (b) above, by inclusion in a duly enacted appropriation resolution, (i) by specific line item, amounts authorized and directed to be used to pay all Rent and (ii) sufficient amounts to pay reasonably estimated Additional Rentals coming due for such Fiscal Year.

In the event that during any Fiscal Year, any Additional Rentals shall become due which were not included in a duly enacted appropriation resolution then, in the event that moneys are not specifically budgeted and appropriated to pay such Additional Rentals within 45 days subsequent to the date upon which such Additional Rentals are due, an Event of Default under Section 13.01(c) shall be deemed to have occurred, upon notice by the Lessor to the Town to such effect (subject to waiver by the Lessor as hereinbefore provided).

Notwithstanding any provision to the contrary herein, if an Event of Nonappropriation occurs, the Town's rights of possession of the Property under this Lease shall terminate at the end of the last day of the Fiscal Year for which this Lease shall be in effect, and the Town shall not be obligated to make payment of the Rent, Additional Rentals or any other payments provided for herein which accrue after the end of the last day of the Fiscal Year for which this Lease shall be in effect; provided, however, that, subject to the limitations of Sections 6.01 and 13.03 hereof, the Town shall continue to be liable for Rent and Additional Rentals allocable to any period during which the Town shall continue to occupy, use or retain possession of the Property, beginning with the first day of the Fiscal Year in respect of which the Event of Nonappropriation occurs. The Town shall in all events vacate or surrender possession of the Property by the tenth Business Day of the Fiscal Year in respect of which the Event of Nonappropriation has occurred.

After the tenth Business Day of the Fiscal Year in respect of which an Event of Nonappropriation has occurred, the Lessor may proceed to exercise all or any Lease Remedies. All property, funds and rights acquired by the Lessor upon the termination of this Lease by reason of an Event of Nonappropriation as provided herein, less any moneys due and owing to the Lessor, shall be held by the Lessor.

## ARTICLE VII

### TITLE TO THE PROPERTY; LIMITATIONS ON ENCUMBRANCES

**Section 7.01. Title to the Property.** Title to the Property shall remain in the Lessor subject to this Lease.

Except as expressly set forth in this Lease, the Town shall have no right or interest in the Property or any additions and modifications thereto or replacements thereof.

**Section 7.02. No Encumbrance, Mortgage or Pledge of Property.** Except as may be permitted by this Lease, the Town shall not permit any mechanic's or other lien to remain against the Property; provided that, if the Town shall first notify the Lessor of the intention of the Town to do so, the Town may in good faith contest any mechanic's or other lien filed or established against the Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom. The Lessor will cooperate fully with the Town in any such contest, upon the request and at the expense of the Town. Lessor shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Property. The Town and the Lessor shall promptly, at their own respective expense, take such action as may be necessary to

duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above which each shall respectively have created, incurred, or suffered to exist.

## ARTICLE VIII

### MAINTENANCE; TAXES; INSURANCE AND OTHER CHARGES

**Section 8.01. Maintenance of the Property by the Town.** The Town agrees that at all times during the Lease Term the Town will maintain, preserve and keep all portions of the Property or cause the Property to be maintained, preserved and kept, in good repair, working order and condition, and that the Town will from time to time make or cause to be made all necessary and proper repairs, except as otherwise provided in Sections 9.02 and 10.03 of this Lease. The Lessor shall not have any responsibility for such maintenance or repairs or for the making of any additions, modifications or replacements to the Property.

**Section 8.02. Modification of the Property, Installation of Furnishings and Machinery of the Town.** The Town shall have the privilege of making substitutions, additions, modifications and improvements to any portion of the Property, at its own cost and expense without prior notification to and approval by the Lessor; and the same shall become part of the Property, subject to this Lease and shall be included under the terms of this Lease; provided, however, that such substitutions, additions, modifications and improvements shall not in any way damage the Property or cause the Property to be used for purposes other than lawful governmental or proprietary functions of the Town (except to the extent of subleasing permitted under Section 12.01 hereof).

The Town may also, from time to time in its sole discretion and at its own expense, install machinery, equipment, and other tangible personal property in or on any Property. All such machinery, equipment, and other tangible personal property shall remain the sole property of the Town in which the Lessor shall have not any interest.

**Section 8.03. Taxes, Other Governmental Charges and Utility Charges.** In the event that the Property or any portion thereof shall, for any reason, be deemed subject to taxation, assessments or charges lawfully made by any governmental body, the Town shall pay the amount of all such taxes, assessments and governmental charges when due. The amount then paid shall reduce the amount of Rent owed by the Town in the Original Year or any then current Fiscal Year. The Town shall not allow any liens for taxes, assessments or governmental charges to exist with respect to the Property or any portion thereof (including, without limitation, any taxes levied upon the Property or any portion thereof which, if not paid, will become a charge on the rentals and receipts from the Property or any portion thereof, or any interest therein, including the interest of the Lessor), or the rentals and revenues derived therefrom or hereunder. The Town shall also pay as Additional Rentals, as the same respectively become due, all utility and other charges incurred in the maintenance and upkeep of the Property.

**Section 8.04. Provisions Regarding Liability, Property and Worker's Compensation Insurance.** Upon the delivery and acceptance of the Property as provided in this Lease, the Town shall, at its own expense, cause casualty and property insurance to be carried and maintained with respect to the Property in an amount equal to the lesser of the next

succeeding Purchase Option Price or the maximum insurable value of the Property. The Town may, in its discretion, insure the Property under blanket insurance policies which insure not only the Property, but other property as well, as long as such blanket insurance policies otherwise comply with the requirements hereof.

**Section 8.05. Granting of Easements.** As long as no Event of Nonappropriation or Event of Default shall have happened and be continuing, the Lessor shall at any time or times, but only upon the request of the Town, grant easements, licenses, rights-of-way and other rights or privileges in the nature of easements with respect to any property or rights included in this Lease, free from this Lease and any security interest or other encumbrance created hereunder or thereunder, and the Lessor shall release existing easements, licenses, rights-of-way, and other rights and privileges with respect to such property or rights, with or without consideration, and shall execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other grant or privilege upon receipt of: (a) a copy of the instrument of grant or release; and (b) a written application signed by an Authorized Officer of the Town requesting such instrument and stating that such grant or release will not impair the economic value or effective use or interfere with the operation of the Property.

## ARTICLE IX

### DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

**Section 9.01. Damage, Destruction and Condemnation.** If, during the Lease Term (a) the Property or any portion thereof shall be destroyed (in whole or in part), or damaged by fire or other casualty; or (b) title to, or the temporary or permanent use of, the Property or any portion thereof or the estate of the Town or the Lessor in the Property or any portion thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority; or (c) the title to or the use of all or any portion of the Property shall be lost by reason of a defect in title thereto; then the Lease shall terminate.

**Section 9.02. Obligation of the Town to Repair and Replace the Property.** The Town and, to the extent such Net Proceeds are within their control, the Lessor, shall cause the Net Proceeds of any insurance policies, performance bonds or condemnation awards to be deposited in a separate trust fund held by the Lessor. Unless the Town shall certify in writing to the Lessor that all of the Net Proceeds are to be used for the prompt repair, restoration, modification, improvement or replacement of the Property by the Town, such Net Proceeds shall be applied to the prompt payment of all Rent and Additional Rentals. Subject to the receipt of the certificate required by the preceding sentence, all Net Proceeds so deposited shall be applied to the prompt repair, restoration, modification, improvement or replacement of the Property by the Town upon receipt of requisitions acceptable to the Lessor signed by an Authorized Officer of the Town stating with respect to each payment to be made; (a) the requisition number; (b) the name and address of the person, firm or corporation to whom payment is due; (c) the amount to be paid; and (d) that each obligation mentioned therein has been properly incurred, is a proper charge against the separate trust fund and has not been the basis of any previous withdrawal and

specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation.

**Section 9.03. Insufficiency of Net Proceeds.** If the Net Proceeds (plus any amounts withheld from such Net Proceeds by reason of any deductible clause) shall be insufficient to pay in full the cost of any repair, restoration, modification, improvement or replacement of the Property required under Section 9.02 of this Lease, the Town may elect to:

(a) complete the work or replace such Property (or portion thereof) with similar property of a value equal to or in excess of such Property or portion thereof and pay as Additional Rentals, to the extent amounts for Additional Rentals which have been specifically appropriated by the Town are available for payment of such cost, any cost in excess of the amount of the Net Proceeds, and the Town agrees that, if by reason of any such insufficiency of the Net Proceeds, the Town shall make any payments pursuant to the provisions of this Section 9.03(a), the Town shall not be entitled to any reimbursement therefor from the Lessor, nor shall the Town be entitled to any diminution of the Rent and Additional Rentals payable under Section 6.02 of this Lease; or

(b) apply the Net Proceeds to the payment of the Purchase Option Price in accordance with Article XI of this Lease. In the event of an insufficiency of the Net Proceeds for such purpose, the Town shall, subject to the limitations of Section 6.01 hereof, pay such amounts as may be necessary to equal that portion of the Purchase Option Price which is attributed to the Property for which the Net Proceeds have been received (as certified to the Lessor by the Town); and in the event the Net Proceeds shall exceed such portion of the Purchase Option Price, such excess shall be retained by the Town; or

(c) if the Town does not timely budget and appropriate sufficient funds to proceed under either (a) or (b) above, an Event of Nonappropriation will be deemed to have occurred and, subject to the Town's right to cure, the Lessor may pursue remedies available to it following an Event of Nonappropriation.

The above referenced election shall be made by the Town within 90 days of the occurrence of an event specified in Section 9.01 of this Lease.

If the Town elects to replace the Property with similar property pursuant to subparagraph (a) above, the Town shall give notice thereof to Lessor prior to such substitution.

**Section 9.04. Cooperation of the Parties.** The Town and Lessor shall cooperate in filing any proof of loss with respect to any insurance policy or performance bond covering the events described in Section 9.01 of this Lease and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Property or any portion thereof and in the enforcement of all warranties relating to the Property. In no event shall the Lessor voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim, performance or payment bond claim, prospective or pending condemnation proceeding, or any portion thereof without the written consent of the Town.

## ARTICLE X

### DISCLAIMER OF WARRANTIES; OTHER COVENANTS

**Section 10.01. Town Responsible for Construction and Maintenance.** The Town hereby acknowledges and declares that the Town is solely responsible for the use, construction, improvement, equipping, maintenance and operation of the Property. For the purpose of enabling the Town to discharge such responsibility, the Lessor constitutes and appoints the Town as its attorney in fact for the purpose of constructing, improving, equipping, maintaining and operating the Property, and asserting and enforcing, at the sole cost and expense of the Town, all constructor's or manufacturer's warranties and guaranties, express or implied, with respect to the Property, as well as any claims or rights the Lessor may have in respect of the Property against any manufacturer, supplier, contractor or other person.

**Section 10.02. Further Assurances and Corrective Instruments.** The Lessor and the Town agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Property hereby leased or intended so to be, or for otherwise carrying out the intention hereof.

**Section 10.03. Compliance With Requirements.** During the Lease Term, the Town and the Lessor shall observe and comply promptly to the extent possible with all current and future orders of all courts having jurisdiction over the Property or any portion thereof, provided that either the Town or the Lessor, with notice to the other, may contest or appeal such orders so long as they are in compliance with such orders during the contest or appeal period, and all current and future requirements of all insurance companies writing policies covering the Property or any portion thereof.

**Section 10.04. Immunity and Indemnification.**

To the extent permitted by law, the Town shall indemnify the Lessor and its employees or agents against all claims arising from: (a) the conduct, management, operation or use of, or from any work or thing done on, the Property during the Lease Term; (b) any condition of the Property; and (c) any act of negligence of the Town or of any of its agents, contractors or employees or any violation of law by the Town or breach of any covenant or warranty by the Town hereunder. Notwithstanding any other provision herein to the contrary, the Town does not waive its protections afforded under the Colorado Governmental Immunity Act.

**Section 10.05. Access To Property.** The Town agrees that the Lessor and its authorized representatives shall have the right at all reasonable times to examine and inspect the Property. The Town further agrees that the Lessor and any such representative shall have such rights of access to the Property as may be reasonably necessary to cause the proper maintenance of the Property in the event of failure by the Town to perform its obligations under this Lease.

**Section 10.06. Environmental Covenant.** The Town shall not store, locate, generate, produce, process, treat, transport, incorporate, discharge, emit, release, deposit or dispose of any Hazardous Substance in, upon, under, over or from the Property in violation of any

Environmental Regulation, shall not permit any Hazardous Substance to be stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited, disposed of or to escape therein, thereupon, thereunder, thereover or therefrom in violation of any Environmental Regulation, shall cause all Hazardous Substances to be properly removed therefrom and properly disposed of in accordance with all applicable Environmental Regulations, shall not install or permit to be installed any underground storage tank therein or thereunder in violation of any Environmental Regulation and shall comply with all other Environmental Regulations which are applicable to the Property.

Subject to the limitations of Section 6.01 hereof and to the extent permitted by law, in the event any Hazardous Substance is found upon, under, over or from the Property in violation of any Environmental Regulation or if any lien or claim for lien in favor of any governmental entity or agency as a result of any release of any Hazardous Substance is threatened, the Town, at its sole cost and expense, shall, within ten days of such finding, deliver written notice thereof to the Lessor and shall promptly remove such Hazardous Substances and prevent the imposition of any liens against the Property for the cleanup of any Hazardous Materials. Such removal shall be conducted and completed in compliance with all applicable federal, state and local laws, regulations, rules, ordinances and policies in accordance with the orders and directives of all federal, state and local governmental authorities.

Subject to the limitations of Section 6.01 hereof and to the extent permitted by law, the Town further agrees to reimburse the Lessor for any and all claims, demands, judgments, penalties, liabilities, costs, damages and expenses, including court costs and attorneys' fees directly or indirectly incurred by the Lessor in any action against or involving the Lessor, resulting from any breach of the foregoing covenants or the representations and warranties in Section 2.01(e) hereof, or from the discovery of any Hazardous Substance, in, upon, under or over, or emanating from, the Property.

The representations and warranties in Section 2.01(e) hereof and the covenants of this Section 10.06 shall be deemed to be for the benefit of the Lessor and any successors and assigns of the Lessor permitted hereunder.

## ARTICLE XI

### PURCHASE AND CONVEYANCE OF THE PROPERTY

**Section 11.01. Purchase Option.** The Town shall have the option to purchase the interest of the Lessor in the Property and terminate this Lease, but only if it is not then in default under this Lease. The Town may exercise its option on any date by complying with one of the conditions set forth in Section 11.02. The Town shall give the Lessor notice of its intention to exercise its option not less than 15 days in advance of the date of exercise. If the Town shall have given notice to the Lessor of its intention to purchase the Property, but shall not have deposited the amounts with the Lessor on the date specified in such notice, the Town shall continue to pay Rent as if no such notice had been given.

**Section 11.02. Conveyance of the Property.** The Lessor shall transfer and convey its interest in the Property to the Town in the manner provided for in Section 11.03 of this Lease; provided, however, that prior to such transfer and conveyance, either:

- (a) the Town shall have paid the then applicable Purchase Option Price; or
- (b) no Event of Default shall have occurred and be continuing, and the Town shall have paid all Rent set forth in Exhibit B hereto and all then current Additional Rentals required to be paid hereunder, in which case the Lessor shall transfer and convey the Property to the Town.

The Town is hereby granted the option to terminate this Lease and to purchase the interest of the Lessor in the Property upon payment by the Town of the then applicable Purchase Option Price. It is the intent of this Section to provide for and allow the release of the Property shown on Exhibit A subject to this Lease if the Town has fulfilled all payment obligations with respect hereto and is not then in default hereunder.

**Section 11.03. Escrowed Release and Deed.** In order to facilitate the enforcement by the Town of the obligation of the Lessor to convey its interest in the Property to the Town under the circumstances provided in Section 11.01 of this Lease, the Lessor shall deposit in escrow with the Escrow Agent, concurrently with the execution of this Lease, a Release and Termination of Lease Purchase Agreement (the "Release") in substantially the form attached as Exhibit C hereto and a Special Warranty Deed ("Conveyance Deed") in substantially the form attached as Exhibit D hereto. The Escrow Agent shall, upon the happening of an event described in Section 11.02 of this Lease, date and release the Release and the Conveyance Deed to the Town for recording. Upon recording by the Town, such Release and Conveyance Deed shall be binding on the Lessor, its successors, assigns, and transferees with respect to its interest in the Property. The Escrow Agent shall be under no obligation to release the Release and the Conveyance Deed prior to the time identified in this Section.

## ARTICLE XII

### ASSIGNMENT AND SUBLEASING BY TOWN

**Section 12.01. Escrowed Release and Deed.** This Lease may not be assigned by the Town for any reason other than to a successor by operation of law. However, the Property may be subleased to any other person or entity, as a whole or in part, by the Town, but without the necessity of obtaining the consent of the Lessor, subject, however, to each of the following conditions:

- (a) this Lease, and the obligations of the Town hereunder, shall, at all times during the Lease Term remain obligations of the Town subject to Section 6.01 of this Lease, and the Town shall maintain its obligations to the Lessor, notwithstanding any sublease; and
- (b) no sublease by the Town shall violate the Constitution or laws of the State.

## ARTICLE XIII

### EVENTS OF DEFAULT AND REMEDIES

**Section 13.01. Events of Default Defined.** Any one of the following shall be an “Event of Default” under this Lease:

(a) failure by the Town to pay any Rent or Additional Rentals during the Lease Term within five days after the same become due;

(b) failure by the Town to vacate or surrender possession of the Property by the tenth Business Day of the Fiscal Year in respect of which an Event of Nonappropriation has occurred;

(c) failure by the Town to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder or under any certificates executed and delivered by the Town in connection with the execution and delivery of this Lease, other than as referred to in (a) or (b), for a period of 60 days after written notice, specifying such failure and requesting that it be remedied shall be given to the Town by the Lessor, unless the Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in the notice cannot be corrected within the applicable period, the Lessor shall not withhold its consent to an extension of such time if corrective action is instituted by the Town within the applicable period and diligently pursued until the default is corrected. Such consent by the Lessor shall not be unreasonably withheld; or

(d) the Town (i) files a petition or application seeking reorganization, arrangement under federal bankruptcy law, or other debtor relief under the laws of the State or (ii) is the subject of such a petition or application which is not contested by the Town, or otherwise dismissed or discharged, within 30 days.

The foregoing provisions of this Section 13.01 are subject to the following limitations: (a) the Town shall be obligated to pay the Rent and Additional Rentals only during the Original Term or current Renewal Term, except as otherwise expressly provided in this Lease; and (b) if, by reason of Force Majeure, the Town shall be unable in whole or in part to carry out any agreement on its part herein contained, other than the obligations on the part of the Town contained in Article VI of this Lease, the Town shall not be deemed in default during the continuance of such inability. The Town agrees, however, to remedy, as promptly as legally and reasonably possible, the cause or causes preventing the Town from carrying out its agreement; provided that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Town.

**Section 13.02. Remedies on Default.** Whenever any Event of Default referred to in Section 13.01 of this Lease shall have happened and be continuing, the Lessor shall notify the Escrow Agent and, without any further demand or notice, take one or any combination of the following remedial steps:

(a) The Lessor may terminate the Lease Term and give notice to the Town to vacate and surrender possession of the Property within ten Business Days of such notice.

(b) The Lessor may proceed to foreclose through the courts on or otherwise sell, trade-in, repossess or liquidate the Town's leasehold interest in the Property, or any part thereof in any lawful manner; provided, however, that the Lessor may not recover from the Town any deficiency which may exist following the liquidation of the Town's leasehold interest in the Property in excess of Rent and Additional Rentals for the then current Fiscal Year and in excess of amounts payable under subparagraph (d) of this Section 13.02.

(c) The Lessor may lease or sublease the Property or any portion thereof or sell any interest the Lessor has in the Property.

(d) The Lessor may recover from the Town the portion of Rent and Additional Rentals which would otherwise have been payable hereunder, during any period in which the Town continues to occupy, use or possess the Property.

**Section 13.03. Limitations on Remedies.** A judgment requiring a payment of money may be entered against the Town by reason of an Event of Default only as to the Town's liabilities described in paragraph (d) of Section 13.02 of this Lease. A judgment requiring a payment of money may be entered against the Town by reason of an Event of Nonappropriation only to the extent that the Town fails to vacate and surrender possession of the Property as required by Section 6.06 of this Lease, and only as to the liabilities described in paragraph (d) of Section 13.02 of this Lease.

**Section 13.04. No Remedy Exclusive.** Subject to Section 13.03 hereof, no remedy herein conferred upon or reserved to the Lessor is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lessor to exercise any remedy reserved in this Article XIII, it shall not be necessary to give any notice, other than such notice as may be required in this Article XIV.

**Section 13.05. Waivers.** The Lessor may waive any Event of Default under this Lease and its consequences. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**Section 13.06. Agreement to Pay Attorneys' Fees and Expenses.** To the extent permitted by law and subject to the provisions of Section 6.01 hereof, in the event that either party hereto shall default under any of the provisions hereof and the nondefaulting party shall employ attorneys or incur other expenses for the collection of Rent and Additional Rentals, or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall on demand therefor pay to the nondefaulting party the fees of such attorneys and such other expenses so incurred by the

nondefaulting party, to the extent that such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction.

## ARTICLE XIV

### MISCELLANEOUS

**Section 14.01. Sovereign Powers of Town.** Nothing in this Lease shall be construed as diminishing, delegating, or otherwise restricting any of the sovereign powers of the Town. Nothing in this Lease shall be construed to require the Town to occupy and operate the Property other than as lessee, or to require the Town to exercise its right to purchase the Property as provided in Article XI hereof.

**Section 14.02. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified or registered mail, postage prepaid, addressed as follows: if to the Town of Pagosa Springs, Colorado, P.O. Box 1859, Pagosa Springs, Colorado 81147, Attention: Town Manager, with a copy to the Town Attorney; if to the Lessor, Pagosa Springs Chamber of Commerce, Attention: President, P.O. Box 787 Pagosa Springs, CO 81147. The Town and the Lessor may, by written notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 14.03. Binding Effect.** This Lease shall inure to the benefit of and shall be binding upon the Lessor and the Town and their respective successors and assigns, subject, however, to the limitations contained in Article XII and Section 14.05 of this Lease.

**Section 14.04. Amendments, Changes and Modifications.** Except as otherwise provided in this Lease, this Lease may not be effectively amended, changed, modified or altered without the written consent of the parties hereto.

**Section 14.05. No Assignment by Lessor.** The Lessor agrees that it shall not assign or transfer this Lease or any interest herein.

**Section 14.06. Net Lease.** This Lease shall be deemed and construed to be a "triple net lease," and the Town shall, subject to Section 6.01 hereof, pay absolutely net during the Lease Term, the Rent, Additional Rentals and all other payments required hereunder, free of any deductions, and without abatement, deduction or setoff (other than credits against Rent expressly provided for in this Lease).

**Section 14.07. Payments Due on Holidays.** If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Lease, shall be a day other than a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Lease.

**Section 14.08. Severability.** In the event that any provision of this Lease, other than the requirement of the Town to pay Rent in accordance with Section 6.01 and the requirement of the Lessor to provide quiet enjoyment of the Property and to convey the Property to the Town under

the conditions set forth in Article XI of this Lease, and the requirement that the obligation of the Town to pay Rent, Additional Rentals and other amounts under this Lease are subject to the limitations of Section 6.01 hereof, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 14.09. Execution in Counterparts.** This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 14.10. Applicable Law/Venue.** This Lease shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any dispute concerning this Lease shall be in the District Court for Archuleta County.

**Section 14.11. Captions.** The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

[Signature Page to Lease Purchase Agreement follows]

WITNESS the due execution hereof as of the day and the year first mentioned above.

PAGOSA SPRINGS CHAMBER OF  
COMMERCE, as Lessor

By \_\_\_\_\_

[SEAL]

TOWN OF PAGOSA SPRINGS, COLORADO,  
as Lessee

Attest:

By \_\_\_\_\_  
April Hessman, Town Clerk

By \_\_\_\_\_  
Don Volger, Mayor

DRAFT

[Signature Page to Lease Purchase Agreement]

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF ARCHULETA        )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_, as \_\_\_\_\_ the Pagosa Springs Chamber of Commerce, a Colorado non-profit corporation.

Witness my hand and official seal.

[SEAL]

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

DRAFT

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF ARCHULETA        )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by Don Volger, as Mayor of the Town of Pagosa Springs, Colorado, and by April Hessman, as Town Clerk of said Town.

Witness my hand and official seal.

[SEAL]

\_\_\_\_\_  
Notary Public for the State of Colorado

My Commission Expires:

\_\_\_\_\_

DRAFT

## EXHIBIT A

### DESCRIPTION OF PROPERTY

105 Hot Springs Boulevard, Pagosa Springs, Colorado and further described as that portion of San Juan Street in the Town of Pagosa Springs, Archuleta County, Colorado, lying West of Hot Springs Boulevard (formerly known as Light Plant Road) and extending to the center line of the San Juan River, as vacated by the Board of Trustees of the Town of Pagosa Springs, Colorado by Ordinance No. 421 recorded January 5, 1990 as Reception No. 168303 in Book 278 at Page 114.

DRAFT

**EXHIBIT B**  
**RENT SCHEDULE**

<b>Date</b>	<b>Principal Component</b>	<b>Interest Component <sup>1</sup></b>	<b>Total Rent</b>	<b>Remaining Lease Balance</b>
7/1/14	0	0	\$90,000.00 down payment	\$210,000.00
1/1/2015	5,398.46	3,675.00	9,073.46	204,601.54
7/1/2015	5,492.93	3,580.53	9,073.46	199,108.61
1/1/2016	5,589.06	3,484.40	9,073.46	193,519.55
7/1/2016	5,686.87	3,386.59	9,073.46	187,832.68
1/1/2017	5,786.39	3,287.07	9,073.46	182,046.29
7/1/2017	5,887.65	3,185.81	9,073.46	176,158.64
1/1/2018	5,990.68	3,082.78	9,073.46	170,167.96
7/1/2018	6,095.52	2,977.94	9,073.46	164,072.44
1/1/2019	6,202.19	2,871.27	9,073.46	157,870.25
7/1/2019	6,310.73	2,762.73	9,073.46	151,559.52
1/1/2020	6,421.17	2,652.29	9,073.46	145,138.35
7/1/2020	6,533.54	2,539.92	9,073.46	138,604.81
1/1/2021	6,647.88	2,425.58	9,073.46	131,956.93
7/1/2021	6,764.21	2,309.25	9,073.46	125,192.72
1/1/2022	6,882.59	2,190.87	9,073.46	118,310.13
7/1/2022	7,003.03	2,070.43	9,073.46	111,307.10
1/1/2023	7,125.59	1,947.87	9,073.46	104,181.51
7/1/2023	7,250.28	1,823.18	9,073.46	96,931.23
1/1/2024	7,377.16	1,696.30	9,073.46	89,554.07
7/1/2024	7,506.26	1,567.20	9,073.46	82,047.81
1/1/2025	7,637.62	1,435.84	9,073.46	74,410.19
7/1/2025	7,771.28	1,302.18	9,073.46	66,638.91
1/1/2026	7,907.28	1,166.18	9,073.46	58,731.63
7/1/2026	8,045.66	1,027.80	9,073.46	50,685.97
1/1/2027	8,186.46	887.00	9,073.46	42,499.51
7/1/2027	8,329.72	743.74	9,073.46	34,169.79
1/1/2028	8,475.49	597.97	9,073.46	25,694.30
7/1/2028	8,623.81	449.65	9,073.46	17,070.49
1/1/2029	8,774.73	298.73	9,073.46	8,295.76
7/1/2029	8,295.76	145.18	9,073.46	0
<sup>1</sup> Interest Component of Rent Rate = 3.50%.				

**EXHIBIT C**

**FORM OF RELEASE**

[to be held in escrow]

After Recording, Return To:  
Collins Cockrel & Cole, P.C.  
Attn: Robert G. Cole, Esq.  
390 Union Boulevard, Suite 400  
Denver, Colorado 80228-1556

**RELEASE AND TERMINATION OF LEASE PURCHASE AGREEMENT**

WHEREAS, the Town of Pagosa Springs, Colorado and Pagosa Springs Chamber of Commerce, entered into that certain Lease Purchase Agreement dated as of \_\_\_\_\_ and recorded on \_\_\_\_\_ at Reception No. \_\_\_\_\_ in the public records of Archuleta County, Colorado (the "Lease Purchase Agreement"); and

WHEREAS, all amounts due under the Lease Purchase Agreement have been paid in full.

NOW, THEREFORE, the the Lease Purchase Agreement are hereby terminated and any security interest of Pagosa Springs Chamber of Commerce, its successors, assigns, and transferees in the property described in the Lease Purchase Agreement is hereby released.

[Signature Page Follows]

IN WITNESS WHEREOF, this Release and Termination of Lease Purchase Agreement has been executed on the date written below.

Pagosa Springs Chamber of Commerce,  
a Colorado non-profit corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF COLORADO )

) ss.

COUNTY OF ARCHULETA )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2014.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

Notary Public

**EXHIBIT D**

**FORM OF SPECIAL WARRANTY DEED**

[to be held in escrow]

~ DRAFT ~





# AGENDA DOCUMENTATION

## NEW BUSINESS: VI.3

PAGOSA SPRINGS TOWN COUNCIL  
JUNE 19, 2014

---

FROM: TOM CAROSELLO, PARKS AND RECREATION DIRECTOR

---

PROJECT: PHASE II SKATE PARK FUNDING CONSIDERATION  
ACTION: PUBLIC HEARING, DISCUSSION AND POSSIBLE ACTION

---

### PURPOSE/BACKGROUND

The Skaters' Coalition for Concrete has secured private donations totaling \$20,000 for the potential second phase of the skate park. The coalition would like Council to consider funding a portion of the estimated total (\$142,027.30) for construction of the second phase and, if Council is willing, to seek a town-sponsored GOCO grant.

The coalition is requesting that the Town cover approximately \$32,000 of the project cost, initially. However, it is worth noting that if the project costs were to exceed the construction estimate, the Town (as grant sponsor) would assume that liability.

### ATTACHMENT(S):

Proposed skate park scope and cost estimate for Phase II from Pillar Design Studios, anticipated funding source breakdown, and relevant Council and/or Parks and Recreation Commission minutes from Dec. 17, 2010, Jan. 4, 2011 and June 11, 2014.

### FISCAL IMPACT

The funds needed to pursue this project have not been allocated by the Town, so the funds would have to be appropriated from capital reserves and/or the unallocated portion of the Conservation Trust Fund line item, which is expected to carry a balance through the end of the year.

### APPLICABILITY TO COMPREHENSIVE PLAN AND GOALS

This project adheres to the Chapter 12 of the Comprehensive Plan, specifically Goal P-1, which states: "Pagosa Springs will improve and maintain its existing parks and, as future growth occurs, improve and maintain the current level of service for parks to provide a full range of high-quality park and recreation facilities."

**Yamaguchi Bowl  
Pagosa Springs, CO**

**Probable Construction Costs**

<b>PAY ITEM</b>	<b>DESCRIPTION</b>	<b>QUANTITY</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>TOTAL AMOUNT</b>
<b>02050 – Demolition</b>					
1	Clearing & Grubbing	130	cy	\$ 32.00	\$ 4,160.00
<b>02200 – Earthwork</b>					
2	Import Fill - off-site delivery, includes hauling	650	cy	\$ 27.00	\$ 17,550.00
<b>02710 – Storm Drainage</b>					
3	Floor Drain - 6" [15.24cm] round with 8" [20.32cm] round strainer	1	ea	\$ 550.00	\$ 550.00
4	Drain Line - 6" [15.24cm] S.D.R. 35	105	lf	\$ 50.00	\$ 5,250.00
5	Clean Out - 6" [15.24cm] S.D.R. 35	1	ea	\$ 250.00	\$ 250.00
6	Sewer Connection	1	ea	\$ 3,500.00	\$ 3,500.00
7	Discharge Headwall - concrete 6" [15.24cm] x 2'-6" [0.76m]	1	ea	\$ 1,200.00	\$ 1,200.00
<b>03300 – Precast Concrete</b>					
8	Pool Coping [Federal Stone AQ or DQ Block]	70	lf	\$ 90.00	\$ 6,300.00
9	6" [15.24cm] Tile Band	70	lf	\$ 30.00	\$ 2,100.00
<b>03310 – Cast-In-Place Concrete</b>					
10	Top Deck - 4" [10.16cm] rebar reinforced concrete over a.b.	1,166	sf	\$ 6.50	\$ 7,579.00
11	Flatbottom - 6" [15.24cm] rebar reinforced concrete over a.b.	367	sf	\$ 11.00	\$ 4,037.00
12	Turndown Wall - rebar reinforced concrete, varying heights	43	lf	\$ 100.00	\$ 4,300.00
<b>03370 – Shotcrete</b>					
13	Bowls - 6" [15.24cm] rebar reinforced shotcrete over a.b.	2,634	sf	\$ 24.00	\$ 63,216.00
<b>05510 – Steel Coping</b>					
14	2" [6.03cm] Round Pipe	78	lf	\$ 45.00	\$ 3,510.00
<b>General</b>					
15	Mobilization -15% of estimate	1	ls	\$ 18,525.30	\$ 18,525.30
<b>TOTAL ESTIMATE (This estimate does not include prevailing wage rates or any contingencies.)</b>					<b>\$ 142,027.30</b>

**NOTES:**

1. This Statement of Probable Construction Costs is for reference only.
2. It is recognized that neither consultant nor client has control over construction costs and therefore, Pillar Design Studios, L.L.C. cannot guarantee accuracy of this Statement of Probable Construction Costs.
3. Bidding parties are required to execute their own quantity calculations and develop their bids accordingly.

Possible In-Kind Services

# Archuleta County Parks, Recreation, Openspace, & Trails Taskforce

## FINANCIAL INFORMATION

### Attachment 3: Sources of Income Table

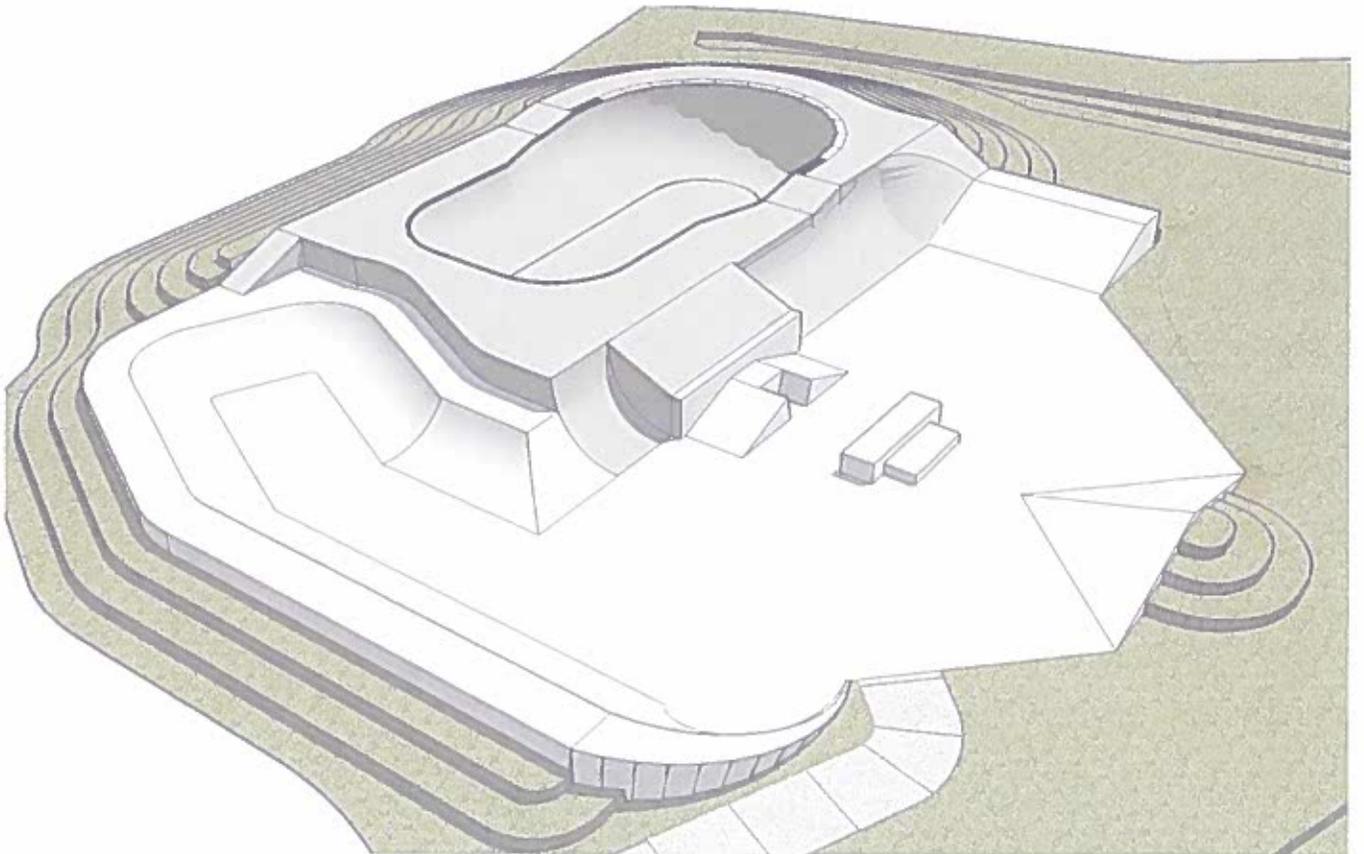
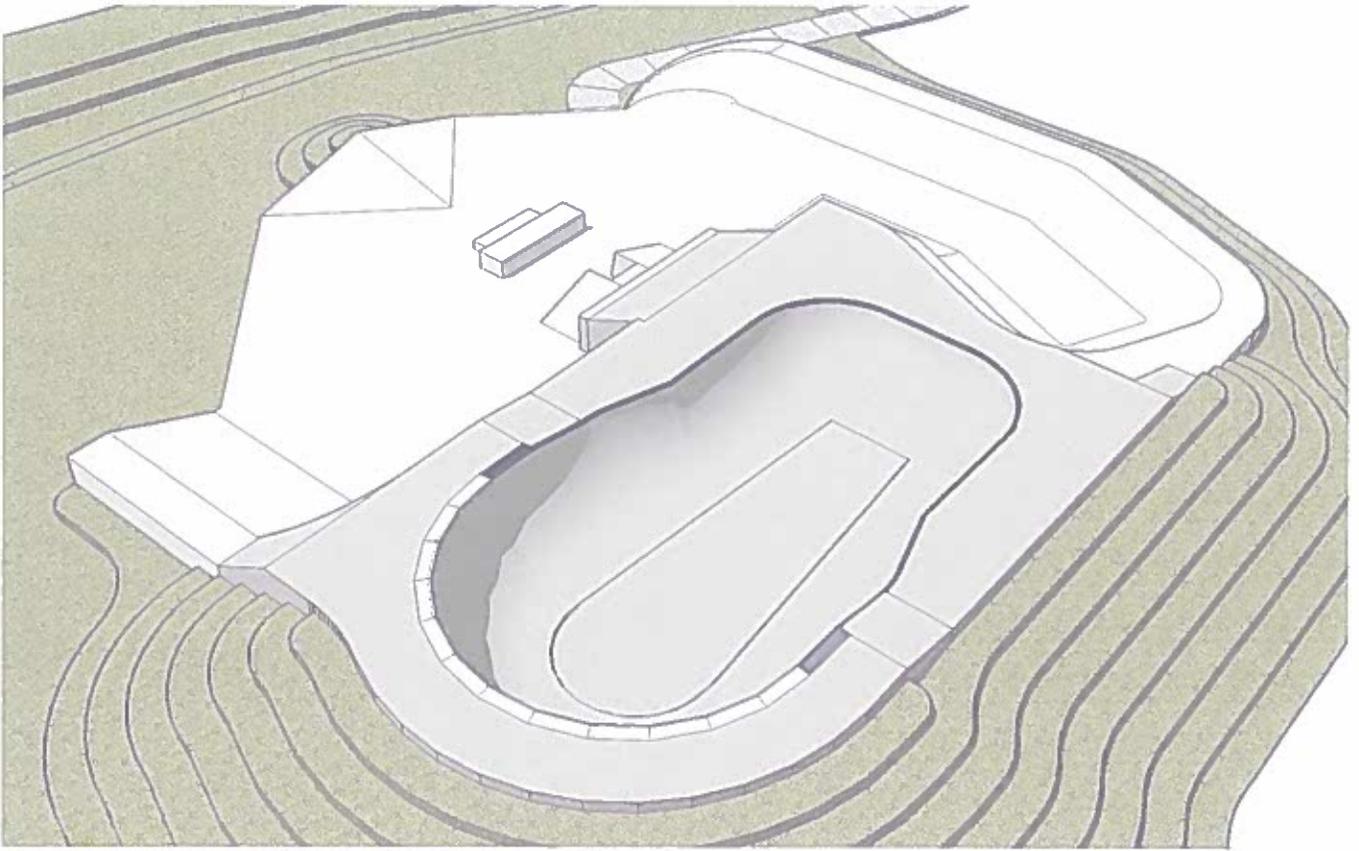
#### Sources of Income Table

Complete the table below for the project,  
Categories may be modified.

<u>Amount</u>	<u>Funding Source</u>	<u>Percentage of total</u>
<u>\$18000</u>	IA Funds	12.7__%
<u>\$ 85216</u>	Government grants (federal, state, county) GOCO	60__%
<u>\$ _____</u>	Government contracts	____%
<u>\$ _____</u>	Foundations	____%
<u>\$20000</u>	Business- Springs Resort	14__%
<u>\$1500</u>	Events (include event sponsorships)	[__%]
<u>\$ _____</u>	Individual contributions	____%
<u>\$ _____</u>	Fees/earned income	____%
<u>\$ _____</u>	Workplace giving campaigns	____%
<u>\$ _____</u>	In-kind contributions (optional)	____%
<u>\$17311</u>	Other- Town of Pagosa Springs	12.3__%
<u>\$142,027</u>	Project total	<u>100</u> %

TOTAL MUST EQUAL 100%.





**Town of Pagosa Springs Parks and Recreation Commission  
Minutes for Friday, December 17, 2010**

The special meeting of the Town of Pagosa Springs Parks and Recreation Commission was called to order by Commissioner Perea at 5:30 p.m. The following were present:

*Commission Members:* Maddie Beserra, Jon King, Scott Miller, and John Perea. Commissioner Melissa Shelton was absent.

*Members of the Public:* Shari Pierce, Karin Kohake, Joanne Irons.

*Staff Members:* Tom Carosello, Jim Miller, and David Mitchem.

*There were no announcements.*

**New Business**

The topic of discussion for this special meeting of the Parks and Recreation Commission centered on new developments regarding the efforts to construct a skate park at Yamaguchi Park, with Commissioner King presenting one proposal and Trustee Pierce offering another.

Mr. King began by stating that he had called the special meeting upon learning from Trustee Pierce of her pending proposal to request additional funding from Council in order to expedite the construction of a downsized, less expensive plaza-style skate park. In addition, Mr. King expressed frustration with the budgetary decision to pursue bathrooms for Yamaguchi Park during the spring GOCO grant cycle instead of a skate park, and presented a new skate park construction option with two phases. The first phase was estimated at 5,900 feet and approximately 246,000, and the second phase was estimated at 2,555 square feet and approximately \$112,000.

Mr. King estimated that pending cash and in-kind totals for the first phase of the park amounted to approximately \$270,000, but that more work had to be done in order to firm up those commitments. Mr. King then stated that he was asking for support from the other commissioners to keep the skate park “on the table” for the spring GOCO grant cycle, due to the fact that so much time and effort had been put into the design. Commissioner Beserra echoed these sentiments.

In response to a question from Commissioner Beserra, Trustee Pierce indicated that the decision to pursue a grant for bathrooms during the spring GOCO cycle was made after the bids for what had been the current plans for the skate park all came in more than \$85,000 in excess of the funding sources available. Trustee Pierce also explained that the decision was made due to Mr. King’s apparent unwillingness to strike a compromise regarding the cost and size of the skate park design, a sentiment reiterated by Mr. Mitchem and Mr. Carosello.

Trustee Pierce then explained her proposal to use the dedicated cash from Archuleta County (\$50,000) and a potential \$30,000 pledge from Council to construct a less-expensive, plaza skate park during the spring and summer of 2011. After showing several examples of this style of park, Trustee Pierce asked for feedback from the commissioners.

In response, Mr. King stated he felt that younger skaters would certainly skate a plaza-style park, but that his proposed plan was crafted with the entire realm of skaters in mind and again questioned the decision to start “from scratch” with a workable plan already available.

At the suggestion of Mrs. Beserra, a lengthy discussion regarding a compromise to “phase” the project ensued, with the notion that a plaza-style park could be the first phase, and that a “bowl” phase could be the second.

In the end, however, the majority in attendance decided against the term “phased” because it suggests a pledge to commit more funds, time and effort to the park than might be available in the future.

Afterward, Joanne Irons, Pagosa Youth Center coordinator, informed the group that while most of the skaters who frequent her center were disappointed to learn of the decision to budget bathrooms ahead of the skate park, they were nevertheless excited to learn of a plan that could put concrete on the ground as early as May. In short, Mrs. Irons explained that the skaters she talks to “will take anything; they just want to skate and they want out of South Park.”

Karin Kohake, county special projects director, then told the group that the \$50,000 pledge in 1A PROST funding from the county was good for at least next year, regardless of design, and that she was available to assist in any way possible with pursuit of the skate park.

Backed by Mrs. Beserra, Mr. King then reiterated his request to the commissioners that a suggestion to Council in the form of a motion be made to keep the skate park as priority No. 1 for the spring GOCO cycle, but no motion was made.

A discussion of practical community need followed, with Parks Superintendent Jim Miller noting that due to the unforeseen installation of a toddlers’ playground at Yamaguchi Park, coupled with a growing number of park users, bathrooms are the more immediate need, in his opinion.

Town Manager David Mitchem then proposed another option, explaining that the skate park could be pursued during the fall GOCO grant cycle, noting that this option would delay the potential construction of the park until 2012.

Mrs. Irons and Trustee Pierce commended this option, but indicated they would prefer to expedite the process. Scott Miller then opined that he feels a plaza-style park “would be better than nothing,” and Jon Perea, board chair, agreed.

After further discussion, Mrs. Beserra asked Trustee Pierce if she thought Council would be willing to consider funding for a plaza-style park and a “pledge” to set aside adjacent ground for the future addition of a bowl or other elements. Trustee Pierce responded that while she could not promise anything, she would support that notion as long as the term “phased” was avoided.

*Based on this discussion, at 6:58 p.m. Commissioner Miller moved to suggest to Council that \$30,000 be committed by the Town to fund a plaza-style park, that the \$50,000 in 1A PROST funding from the county also be formally pursued, and that Council allocate enough ground to allow for the possible addition of other skating elements if the skaters’ coalition desired to pursue such expansion. The motion received a second from Commissioner Beserra, and the motion carried with commissioners Miller, Beserra and Perea voting in favor; commissioner King cast a dissenting vote.*

**At 7:06 p.m. a motion was received from Commissioner Miller that the meeting be adjourned. It received a second from Commissioner Beserra and passed unanimously. The next regularly-scheduled meeting of the Town of Pagosa Springs Parks and Recreation Commission will be held at Town Hall on Wednesday, January 12, 2010, at 5:30p.m.**

---

John Perea, Chair



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

**TOWN COUNCIL MEETING MINUTES  
TUESDAY, JANUARY 4, 2011  
Town Hall Council Chambers  
5:00 P.M.**

- I. **CALL MEETING TO ORDER** – Mayor Aragon, Council Member Holt, Council Member Jackson, Council Member Lattin, Council Member Pierce, Council Member Volger
- II. **APPROVAL of MEETING MINUTES FROM DECEMBER 7<sup>th</sup>, 10<sup>th</sup> & 16<sup>th</sup>, 2010** – The minutes were approved as read.
- III. **LIQUOR LICENSES**
  1. **Liquor License Renewal** – Mark Leavitt dba Aspen Moose, 2800 Cornerstone Drive
  2. **Liquor License Renewal** – Ho's Shanghai Corp dba Shanghai Restaurant, 100 Country Center Drive – Council Member Pierce moved to approve the liquor license renewal for Aspen Moose and Shanghai Restaurant, Council Member Jackson seconded, unanimously approved.
  3. **Special Events Liquor Permit** – Seeds of Learning Fundraiser March 5, 2011 at the Ross Aragon Community Center
  4. **Special Events Liquor Permit** – Pagosa Springs Community Facilities Coalition Concert February 4, 2011 at the Ross Aragon Community Center
  5. **Special Events Liquor Permit** – Pagosa Springs Community Facilities Coalition Festival of Trees December 2, 2011 at the Ross Aragon Community Center – Council Member Volger moved to approve the special events liquor permits for Seeds of Learning fundraiser, the Pagosa Springs Community Facilities Coalition Concert February 4<sup>th</sup> and the Festival of Trees December 2<sup>nd</sup>, Council Member Jackson seconded, unanimously approved.
- IV. **DELEGATIONS**
- V. **NEW BUSINESS**
  1. **Ordinance No. 760, (first reading) Schedule Time, Date and Place of Regular Town Council Meetings** - Section 3.1 of the town charter requires the Town council to hold regular meetings at least once a month and that the schedule for those meetings are made by ordinance, setting a time, date and place for the regular meetings. This ordinance sets regular meeting for the first Tuesday at 5pm and third Thursday at 12noon of each month at the Town Hall at 551 Hot Springs Blvd. It also sets the location of Town Hall where the agenda will be posted. Council Member Jackson moved to approve the first reading of Ordinance No. 760, Identifying Town Council Regular Meeting Dates, Locations, Times and Agenda Posting Requirements, Council Member Holt seconded, unanimously approved.
  2. **Pagosa Springs Music Boosters – Dale Morris** – Mrs. Morris gave the Council a brief update of events the Music Boosters are planning for the 2011 year. She asked the Council to fund the Music Boosters with 40% - (\$5,120) of total budget for the 2011 year. Council Member Pierce commended the wonderful work done by this club. Council Member Pierce moved to deny the funding request, Council Member Jackson seconded, unanimously approved.
  3. **Sawmill Place Preliminary Plan Extension Request** - The applicant, Schlaefli Family Trust of Sawmill Place, has requested a one year extension for the Preliminary PUD Plan

previously approved by Town Council on November 5, 2008 and extended for one year on January 21, 2010. The LUDC section 2.4.3.C.b(i) requires Town Council approval to extend approval of the Preliminary PUD Plan. At the recent Planning Commission Meeting on December 14, 2010, the commissioners unanimously "Recommend that Town Council approve a one-year extension for the Sawmill Place Preliminary Plan and further extension requests would be contingent on the status of a New Access Permit issued from CDOT". Council Member Jackson and Volger questioned the CDOT contingency, Mr. Dickhoff explained this issue had been addressed. Council Member Volger moved to approve a one-year extension for the Sawmill Place Preliminary Plan and further extension requests contingent on the status of a new Access Permit issued from CDOT, Council Member Holt seconded, motion carried with one nay (Council Member Jackson).

## VI. OLD BUSINESS

1. **Ordinance No. 757 (second reading) Amending LUDC Section 2.5.2.B.1 Regarding Planning Commissioner Eligibility Requirements** - At the December 18, 2010 TC meeting, Town Council approved the first reading of Ordinance no. 757, an amendment to LUDC section 2.5.2.B.1 regarding Planning Commissioners eligibility to serve, to include the Chair or Co-Chair of the Archuleta County Planning Commission. The Town Planning Commission continues to see little interest from eligible applicants to serve on the Planning Commission. At the September 14, 2010 PC meeting, the Planning Commission unanimously approved a direction for staff to propose to TC, another amendment to LUDC section 2.5.2.B.1 that would allow an Archuleta County resident business owner owning any property in town to be eligible to serve. Additionally, in an effort to bring consistency within our community and continue the current working relationship between the Town and County Planning Commissions, staff has been directed to include the Archuleta County Planning Commission Chair or Co-Chair as an eligible Town Planning Commissioner. Proposed new language for LUDC section 2.5.2.B.1; *"The Planning Commission shall consist of five (5) regular members and two (2) alternate members, who shall be appointed by the Town Council by resolution. All members shall be either (a) a Town Resident; or (b) an owner of a business located within the Town which business or owner also owns real property within the Town, and which owner is a resident of Archuleta County (c) the Chair or Co-Chair of the Archuleta County Planning Commission. An owner of a business includes a sole proprietor and the majority owner of a business entity such as a corporation, a limited liability company or a partnership. Non-Town residents shall be limited to two members at any one time"*. Council Member Holt moved to approve the second reading of Ordinance No. 757, an ordinance of the Town of Pagosa Springs amending Section 2.5.2.B.1 of the Land Use and Development Code, Council Member Pierce seconded, unanimously approved.
2. **Ordinance No. 759 (second reading) Amending LUDC Fire Code** – Town Council approved first reading of Ordinance No. 759 on December 18, 2010. The amendment to the Fire Code assigns all of the duties and responsibilities for the enforcement and interpretation of the Fire Code for construction document plan reviews and new construction inspections to the Town of Pagosa Springs Building Official. Ordinance No. 759 places the implementation, administration and enforcement of the provisions of this code related to new structures, any alterations, additions, changes in use or changes in structures required by this code, and the administrative provisions of Chapter 1 for such purposes, under the auspices of the Town Chief Building Official. The document was crafted to give the administrative authority of the Fire Code for building maintenance, operational permits and annual fire safety inspections to the Pagosa Fire Protection District so that they may continue to provide the oversight of these important functions to insure that existing buildings are maintained in a safe manner and certain potentially hazardous operations are performed safely. Council Member Volger moved to approve the second reading of Ordinance No. 759, an Ordinance of The Town of Pagosa Springs amending portions of Chapter 21 of the Pagosa Springs Municipal Code, Land Use and Development Code, regarding the INTERNATIONAL FIRE CODE, 2006 Edition including appendices, Council Member Jackson seconded, unanimously approved.
3. **Yamaguchi Skate Park** - Based on the results from the latest Parks and Recreation Commission meeting, it appears there is a strong possibility that a smaller, less-expensive skate park may be in the works for construction this spring. Pending Council approval of the latest proposal from Trustee Pierce and the accompanying recommendation from the PRC,

current cash and in-kind commitments may be put to use immediately to expedite construction of a plaza-style park, a plan that would not require the pursuit of a GOCO grant. Town Manager gave brief on the skate park. Council Member Pierce brought the skaters coalition together to build a skate park that would require further financial commitment of \$30,000 from the Town. Council Member Pierce felt a great park could be built for approximately \$80,000 and that the park could also be used as a dual purpose for other functions. The group has community support and the County Commissioners have agreed to fund the other \$50,000. Council Member Pierce asked the council for the additional \$30,000. Council Member Holt asked for public comment. Council Member Holt would like to set the record straight by stating that the Town should not have to fill the financial void and is not the Town's responsibility to see that the kids have a skate park, but they are doing their best to get it accomplished. Mrs. Joann Irons said the skaters were appreciative for the Town's support and they would take whatever the Town could give them. Mr. Mike Musgrove said that something is better than nothing, but the kids would like a nice park and he would like to see what the Town plans to build. Council Member Pierce said the difference between the new plan and the last plan is that before there was no budget, the new plan includes a budget. Council Member Volger moved to approve construction of the Skate Park and appropriate \$30,000 and hopes that it is appreciated, Council Member Jackson seconded, unanimously approved. The Council expressed their thanks to Council Member Pierce for her work on this project.

## VII. DEPARTMENT HEAD REPORTS

- 1. Parks and Recreation Department Report** - This year's youth basketball season for 7 and 8-year-olds ended Dec. 16. Registration for the youth basketball program for ages 9-12 ended Dec. 15, and the season for these age brackets will commence Jan. 10 and run through the first week of March. Thus far, there are 122 participants registered for the 9-12 season; last year's program included 119 participants. The parks crew has been working to keep the skate pond open for the season, although recent warm temperatures and rain have made pond maintenance difficult. In addition, Jim Miller has been coordinating the effort to construct two new river features between the Hot Springs Boulevard Bridge and new pedestrian bridge, and the major elements required for these features have been completed. The parks crew will again be coordinating a Christmas tree recycling program this year on South 5<sup>th</sup> Street. Staff met with representatives of Lane & Company again on Dec. 17 to discuss the size, interior and exterior, and heating options of the Yamaguchi Park restrooms. The intent is to make use of the park's southern exposure and heat the restrooms efficiently with solar energy, with electric baseboard heat as a backup. The first draft of a design option to be available for your review at the January mid-month Council meeting. If the design is acceptable to Council, staff will begin the grant proposal for GOCO, due March 4, 2011.
- 2. Community Center Report** – "A Classic Christmas" event was held on December 17<sup>th</sup> with twelve local musical artists participating in the event and over 160 audience members for an evening of song, music, treats and beverage. Painting and touchup within the center have been completed and the floors kept polished thanks to maintenance John Hebert.
- 3. Planning Department Report** – At their December 14, 2010 planning commission meeting the commission approved a lot size variance and the recommendation of the TC to approve the CDOT Hwy 160 ACP and Saw Mill extension. The next step for the Hwy 160 access plan includes the approval by CDOT's, Town and County attorney.
- 4. Town Tourism Committee Report** - Lodgers tax collections for November 2010 were up 7.6% over November 2009, or a difference of \$1,502.35. The first 11 months of 2010 shows an 8.46% increase over the same period in 2009, or \$26,798.02. November 2010 saw a 39.47% increase in fulfillment requests versus November 2009; 2010 requests are 40.57% above 2009 with Texas, Colorado and California rounding out the top three request states. Visitor Center traffic was up by 63 people in November, as compared to 2009. The Town Tourism Committee plans to host the first Pagosa Springs Area Tourism Conference in February, an educational event aimed towards helping local businesses and event organizers learn more about our local tourism audience. The Town Tourism Committee is working on adding locations for nomination to the soon to be published National Geographic Geotourism Map.

Town of Pagosa Springs Parks and Recreation Commission

**Minutes from Wednesday, June 11, 2014**

The chair, Mike Musgrove, called the meeting of the Town of Pagosa Springs Parks and Recreation Commission to order at 5:35p.m. The following were present:

*Commission Members:* Maddie Beserra, Mat deGraaf, Sally High, Scott Miller, Mike Musgrove, John Perea, Ed Simpson, and John Steinert. Mike Le Roux was absent.

*Staff:* Tom Carosello and Jim Miller.

*Members of the Public:* Chris Rapp and Gwen Taylor.

*Announcements:* Commr. High announced that she would be attending the Rural Philanthropy Days Event and would have to leave the meeting early.

Commr. Musgrove offered two corrections to the minutes of the April 16, 2014 meeting. He stated that he had attended a meeting of the Pagosa Area Trails Council, not Trails 2000 as stated in the minutes, and that the all-board and commission work session referred to was in fact an orientation with the new Town Council.

**Department Head Reports**

Tom Carosello reported that youth baseball numbers are up from last year, while adult softball has one less team than 2013. Jim Miller said, "Nothing is happening in the Parks except everything," then went on to state that the Folk and Bluegrass Festival had gone well the previous weekend and that all attendees and organizers he'd spoken with were very happy with the improvements to the venue on Reservoir Hill. Then he asked for an opinion from the Commission regarding a proposal he'd received from Mike Fleury, a hot air balloon operator from Tucson, who wished to launch commercial flights from Town Park. Mr. Miller said that Mr. Fleury would provide the necessary insurance and observe restrictions imposed by special events. It was also stated that Jennifer Burke, of Windwranglers Balloon Tours, had suspended her operations, so there would be no conflict with Mr. Fleury. The Commissioners unanimously agreed to honor Mr. Fleury's request. Then Mr. Miller requested assistance from Commr. Musgrove with siting the new trail signs on Reservoir Hill so they could be placed by a Youth Corps crew arriving in Pagosa the following week. Mr. Musgrove stated that he would be glad to help.

**New business**

Gwen Taylor, a representative of the County's PROST task force, answered questions about the possible development of a ballot initiative to form a Recreation District in Archuleta County. She described the funding mechanism such a district would employ and its administrative structure. Commr. High stated that such a district could be a viable way to consolidate overlapping priorities and responsibilities. Some discussion among the Commissioners resulted in a consensus of support for further research into the initiative. Then Tom Carosello spoke briefly about a proposal he's received from Norm Vance to place a statue and interpretive signage in the Mary Fisher Park to honor Dr. Mary Winter Fisher. The Commission learned that there were no dedicated funds in the 2014 budget for such an amenity, and suggested that the Historic Preservation Board might be the appropriate entity to carry such a proposal to the Town Council.

**Old Business**

Commr. Musgrove then presented a budget and plans for phase two of the Yamaguchi Skatepark. After some discussion, he received unanimous support from the Parks and Recreation Commission. He said that the next step was to present his proposal and documentation to the Town Council.

**Other Business**

Commr. Miller initiated a discussion of the challenges faced by boards and commissions who regularly discuss business via email, so that such discussions do not violate the State of Colorado's Sunshine Law. The Commissioners agreed that a degree of caution was necessary.

At 7:30p.m. a motion was received from Commissioner deGraaf that the meeting be adjourned. It received a second from Commissioner Steinert and passed with unanimous consent. The next regularly-scheduled meeting of the Town of Pagosa Springs Parks and Recreation Commission will be at 5:30p.m. on July 16th, 2014 at the Pagosa Springs Town Hall.

---

Mike Musgrove, Chair

# MUNICIPAL LEADERSHIP BOOT CAMP: LEADERSHIP CAPACITY BUILDING FOR ELECTED OFFICIALS

TUESDAY, JULY 1, 2014 • 9 A.M.–NOON  
DURANGO RECREATION CENTER, WINDOM ROOM



---

## ALL MUNICIPAL ELECTED OFFICIALS ARE WELCOME

Calling all elected officials ... this workshop is for you! Whether you were just elected or are experienced, you will find value in this half-day workshop. In addition to the great knowledge and information you will gather, you will have the opportunity to connect with other elected officials from neighboring municipalities. Plus, lunch will be provided by the City of Durango!

## AGENDA

### 9:00 Welcome / overview of agencies

Leaders from the Colorado Municipal League, Southwest Colorado Council of Governments, and Department of Local Affairs will provide the latest information from their agencies, including resources that are available to cities and towns.

*Panelists: Sam Mamet, CML executive director; Miriam Gillow-Wiles, SWCCOG executive director; Ken Charles, DOLA regional manager*

### 10:00 Council / staff relationships

This session, moderated by CML Executive Director Sam Mamet, will feature an informative discussion between elected officials and managers on the roles and responsibilities of the council/board and those of staff. Panelists will share their experiences, lessons learned, and recommendations for forming and maintaining effective relationships.

*Panelists: Chris LaMay, Bayfield town manager; Dr. Rick Smith, Bayfield mayor; Andrea Phillips, Mancos town administrator; Todd Kearns, Mancos mayor pro tem*

### 11:00 Open forum / final notes

The opportunity for attendees to pose questions to peers and share any thoughts they have.

### 11:30 Lunch (provided by the City of Durango)

## REGISTRATION OR QUESTIONS

It is free, but registration is open to municipal officials only. For questions or to register, contact CML Membership Services Manager Lisa White at [lwhite@cml.org](mailto:lwhite@cml.org) or 303-831-6411 / 866-578-0936. Register by **Wednesday, June 25**.

Three MUNiversity credits  
are available for this training.





# AGENDA DOCUMENTATION

## OLD BUSINESS: VII.1

PAGOSA SPRINGS TOWN COUNCIL

JUNE 19, 2014

FROM: JAMES DICKHOFF, PLANNING DEPARTMENT

**PROJECT: SECOND READING OF ORDINANCE 809, AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS GRANTING A FRANCHISE TO ELITE RECYCLING AND DISPOSAL LLC TO OPERATE A RECYCLING AND REFUSE COLLECTION SERVICE IN THE TOWN AND TO USE THE STREETS AND ALLEYS OF THE TOWN FOR SUCH PURPOSE AND SETTING FORTH CONDITIONS ACCOMPANYING THE GRANTING OF THIS FRANCHISE.**

**ACTION: DISCUSSION AND POSSIBLE ACTION**

**PURPOSE/BACKGROUND**

This is the second reading of Ordinance 809. The first reading was approved at the June 2<sup>nd</sup> meeting with some minor changes. The attached Ordinance has the changes highlighted for your convenience.

On March 17, 2014 a Business License Application was received from "Elite Recycling and Disposal LLC", proposing to start a new rubbish and recycling collection service within town limits. The Town has three other rubbish collection businesses (currently not providing recycling collection), "Waste Management", "G&I" and "At Your Disposal", all operating on Town Streets and Alleys, under an approved Franchise Agreement, requiring approval of two readings of an ordinance.

The terms of each Franchise agreement are very similar and each agreement has specific terms for providing the Town with Dumpsters and the weekly collection of such dumpsters and providing roll-off containers for clean up week. Below are the specific provisions for each current and the proposed franchise agreement:

Services required to be provided to the Town in each Franchise Agreement			
Company	Annually	Weekly	Additionally
Waste Management:	For at least 1 week per year provide, <u>with one weeks notice:</u> 3ea x 30yd roll-off containers with three pulls each (equivalent of 9ea-30yd roll-offs) Town Pays Landfill disposal fees.	Provide 2ea x 6yd dumpsters at Town Shop, No charge to Town.	N/A
At Your Disposal:	For at least 1 week per year provide, <u>with one weeks notice:</u> 5 x 20yd roll-off containers. 1ea - 96 gallon wheeled plastic cart at Town Hall. Town Pays Landfill disposal fees.	Provide 1ea-3yd dumpster at Town Shop, No charge to Town.	N/A
G&I:	For at least 1 week per year provide, <u>with one weeks notice:</u> 5 x 20yd roll-off containers. Town Pays Landfill disposal fees.	Provide 1ea-3yd dumpster at Town Shop, No charge to Town.	1ea- 96 gallon wheeled plastic cart at Town Hall with weekly pick up – no charge to Town
Elite Recycling (Proposed):	<u>Upon 1 weeks notice:</u> Provide 20 wheeled Plastic recycling carts with daily collection for special events for a total of not more than	12 each - 64 gallon wheeled poly single stream recycling carts with weekly pick up at 12 Town Park and building locations.	N/A

	the equivalent of 6 ea-3 day special events (total of 18 days). Town Pays any associated disposal fees.	Carts shall be Bear resistant with pad locks and shall have round hole in lid for depositing recyclables only. No charge to Town.	
--	---	--	--

The proposed Elite Recycling Carts, instead of the rubbish dumpster requirements, are fairly equal in the sense that Elite will be picking up 12 containers all at different locations, providing a recycling service to the town, and providing recycling bins for Town Special events.

The topic of Bear resistant containers has come up during years when bears have been actively tearing through trash cans and leaving the remains of the buffet behind. All of the franchise agreements have language that requires the business owner to comply with all Town regulations, thus Town Council could consider a future bear resistant container regulation, that all Rubbish hauling service company's would have to comply with if applicable. Amendments to the individual franchise agreements may be needed regarding providing residential 96 gallon carts, as bear proof carts are typically smaller. Actively enforcing the nuisance ordinance is another option to deal with property owners not taking the responsibility to securing the cart until pick up day and/or not cleaning up after a bear or other wildlife spreads out the rubbish.

**ATTACHMENT(S):**

~ Updated Ordinance 809

**FISCAL IMPACT**

There is no direct fiscal impact associated with approving Ordinance 809. The applicant will be assessed the fees for legal counsel preparing the ordinance and recording the ordinance with the County Clerk. Franchise Ordinance review and preparation from Bob Coles office is estimated at \$1,100.

**RECOMMENDATION**

The Planning Director recommends that the Town Council consider the first reading of Ordinance 809. The Planning Directors recommendation is in bold below. Additional possible considerations are also included.

- 1) **APPROVE the Second Reading of Ordinance 809, An ordinance of the Town of Pagosa Springs, Granting a Franchise to "ELITE Recycling and Disposal LLC" to Operate a Recycling and Refuse Collection Service in the Town and to Use the Streets and Alleys of the Town for such purpose and setting forth conditions accompanying the Granting of this Franchise.**
- 2) APPROVE the Second Reading of Ordinance 809, An ordinance of the Town of Pagosa Springs, Granting a Franchise to "ELITE Recycling and Disposal LLC" to Operate a Recycling and Refuse Collection Service in the Town and to Use the Streets and Alleys of the Town for such purpose and setting forth conditions accompanying the Granting of this Franchise, with the following revisions (to be determined at the TC meeting).....
- 3) DENY the Second Reading of Ordinance 809, An ordinance of the Town of Pagosa Springs, Granting a Franchise to "ELITE Recycling and Disposal LLC" to Operate a Recycling and Refuse Collection Service in the Town and to Use the Streets and Alleys of the Town for such purpose and setting forth conditions accompanying the Granting of this Franchise.

**TOWN OF PAGOSA SPRINGS, COLORADO**

**ORDINANCE NO. 809  
(SERIES 2014)**

**AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS GRANTING A  
FRANCHISE TO ELITE RECYCLING AND DISPOSAL LLC TO  
OPERATE A RECYCLING AND 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; 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 recycling and refuse collection company and to have some control over the operation of such company; and

WHEREAS, Elite Recycling and Disposal LLC (“Elite”), a Colorado limited liability company, wishes to provide recycling and refuse (recycling and refuse hereinafter referred to jointly as “trash”) collection services within the Town under a non-exclusive franchise agreement with the Town; and

WHEREAS, the Town Council hereby finds and determines that obtaining the services of Elite for trash 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 Elite to commence thirty (30) days after 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.** Elite 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.** Elite shall:

A. Provide regularly scheduled trash collection service to residential areas not less than once per week.

B. Provide scheduled trash 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 trash collection service and shall promptly remove and clean up any spillage.

D. Subject to reasonable modifications which the Town may require, commence residential trash 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 trash 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 one week's notice, annually, provide the Town with up to an additional 20 each - 64 gallon, poly wheeled comingling recycling carts labeled with user friendly recycling directions with a round hole in the lid for depositing recyclables and a pad lock latch for the lid, for a total of not more than the equivalent of six (6)- three (3) day special events per year (18 days per year). Provide the Town with an additional collection of the 4yd dumpster as described in section 4.H, after three day weekend events on request.

H. Provide the Town up to 12 each - 64 gallon, poly wheeled comingling recycling carts labeled with user friendly recycling directions with a round hole in the lid for depositing recyclables and a pad lock latch for the lid. Provide on a continual basis with weekly collection a 4 yard dumpster for recyclables, to be located at the Town Shop.

**Section 4. Collection Equipment.** Elite shall:

A. 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 95 gallon wheeled plastic cart for rubbish or one 64 gallon wheeled plastic cart for recycling and one 64 gallon wheeled plastic cart for rubbish, all with attached lids for curbside collection from each residential unit.

B. All trucks or other equipment used in collecting trash 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 trash 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 Elite name 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. Elite shall provide adequate vehicles and back-up equipment to complete routes and service customers on schedule.

**Section 5. Maintenance of Containers. Elite shall:**

A. Elite will perform all maintenance, repairs and replacement of trash bins and containers, and all residential carts and commercial dumpsters as necessary to maintain them in proper operating order.

B. Elite shall 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. Elite 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 Elite'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 Elite employees to random drug and alcohol screening pursuant to Elite's policies. All Elite 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 Elite'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.** Elite certifies that Elite shall comply with the provisions of 8-17.5-101 et seq., C.R.S. Elite 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. Elite 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 8-17.5-101 et seq., C.R.S. Elite 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 Elite obtains actual knowledge that a subcontractor performing work contemplated by this Franchise Agreement and Ordinance knowingly employs or contracts with an illegal alien, Elite shall: (i) notify the subcontractor and the Town within three days that Elite 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. Elite shall comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment. If Elite fails to comply with any requirement of 8-17.5-102(2), C.R.S., the Town may terminate this Franchise Agreement and Ordinance for breach and Elite shall be liable for actual and consequential damages to the Town. If Elite participates in the Department Program, Elite shall provide the affirmation required under 8-17.5-102(5)(c)(II), C.R.S., to the Town.

#### **Section 7. Complaint Procedure.**

A. Elite 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. Elite shall employ a sufficient number of personnel to answer all inquiries and complaints from the public concerning service of Elite. Call Center hours of operation shall be Monday-Friday 8:00 a.m. to 5:00 p.m., and Saturday from 8:00 a.m. to noon. Elite 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. Elite 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. Elite shall have available at all times competent personnel who shall have authority to represent Elite and its relations with the Town and the public.

**Section 8. Permits and Licenses.** Elite 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.** Elite shall deliver all refuse collected by it to an approved sanitary landfill or and shall properly dispose of it in accordance with the regulations of the Colorado Department of Health.

**Section 10. Disposal of Recycling.** Elite shall deliver all recycling materials collected by it to an approved recycling facility and shall properly dispose of it in accordance with the regulations of the Colorado Department of Health.

**Section 11. Compliance with Law.** In its performance of the terms and conditions of this Franchise Agreement and Ordinance, Elite 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. Elite 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. Elite 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 12. Indemnification; Minimum Insurance Requirements.**

A. Elite 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 Elite. Elite agrees to carry insurance in the minimum amounts as follows:

1. Elite's Comprehensive All-Risk Insurance, and Liability Insurance policies, shall name the Town as an additional insured;

2. Elites Comprehensive, General and Automobile Liability Insurance shall be maintained with the following current Governmental Immunity limits and coverage: General and Automotive Liability, and Property damage coverage's shall be a minimum of \$350,000.00 per person per occurrence and \$990,000.00 aggregate coverage. Workers compensation liability insurance shall meet minimum statutorily required amounts, or such greater amounts as may be set forth as the limits of the Town's liability under the Colorado Governmental Immunity Act, 24-10-101, et seq., C.R.S. ("CGIA").

B. Prior to the commencement of any work hereunder, Elite 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

C. The policies referred to in this Section 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;

D. Elite hereby authorizes its insurers during the term of this Agreement to provide to the Town confirmation of Elite's insurance coverage and copies of insurance policies.

**Section 13. Lawsuits.** Elite shall pay any judgment which may be obtained against the Town, either alone or jointly with Elite for injury or damage to person or property by reason of the performance or non-performance by Elite of the terms of this Franchise Agreement and Ordinance or in connection with the infringement by Elite of any patents, provided that if the Town alone is sued for such injury or damage, immediate notice in writing shall be given to Elite to appear and defend such action. Elite's obligation under this 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 14. Commercial and Residential Rates.** Elite shall establish and maintain a fair and equitable schedule of costs and charges to customers.

**Section 15. Delinquent Accounts.** Elite 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 16. 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 Elite becomes insolvent or files for bankruptcy, then the rights authorized hereby shall be immediately canceled.

**Section 17. Subcontractors.** Elite shall not subcontract work or business contracted under this Franchise Agreement and Ordinance without the prior written consent of the Town.

**Section 18. Default and Termination.** In the event Elite fails to perform any of the provisions hereof, the Town Manager shall give Elite written notice specifying the provisions hereof that have been breached or defaulted, and shall so notify the Town Board. Elite shall have thirty (30) days from receipt of such notice from the Town Manager in which to correct any such breach or default. In the event Elite does not make such correction within said thirty (30) days period as hereinabove provided, then the Town Board may order the termination of the Franchise Agreement and Ordinance after public hearing upon the matter of Elite's default before the Town Board following not less than ten (10) days notice of such hearing to Elite.

**Section 19. 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 20. 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 21. 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 Elite for the purpose of this Franchise Agreement and Ordinance is: Elite Recycling and Disposal, LCC, Po Box 5737, Pagosa Springs, Colorado, 81147.

**Section 22. 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 23. 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 24. Right to Require Performance.** The failure of the Town at any time to require performance by Elite 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 25. Force Majeure.** Elite'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. Elite shall not be deemed to be in default and shall not be liable for failure to perform under this Agreement if Elite'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 Elite, and Elite 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 Elite of the benefit of this Section.

**Section 26. Other Contractors.** This franchise granted to Elite is a non-exclusive franchise to allow collection of trash 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 trash 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 after a vote of the Town Council. Before any other franchise agreement for trash collection might be granted by the Town Council, proper application for the granting of such franchise shall be made to the Town Council.

**Section 27. Attorney's Fees.** Elite agrees to pay within thirty (30) days of billings, all legal fees and costs associated with the preparation of this Franchise Ordinance.

**Section 28. Public Inspection.** The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.

**Section 29. Severability.** If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

**Section 30. Public hearing.** A public hearing on this Ordinance shall be held on the day of \_\_\_\_\_, 2014, at \_\_:00 p.m. at the Pagosa Springs Town Hall, 551 Hot Springs Boulevard, Pagosa Springs, Colorado.

**Section 31. Effective date.** This Ordinance shall become effective and be in force immediately upon final passage at second reading.

INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO 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        , 2014.

TOWN OF PAGOSA SPRINGS, COLORADO

By: \_\_\_\_\_  
Don Volger, Mayor

Attest:

\_\_\_\_\_  
April Hessman, Town Clerk

FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO 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        , 2014.

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. 809 (Series 2014) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the \_\_\_ day of \_\_\_\_\_, 2014, and was published by title only, along with a statement identifying any fines or penalties for violation of the Ordinance, and that the full text of the Ordinance, including any amendments, is available at the office of the Town Clerk, on the Town's official website, on \_\_\_\_\_, 2014, 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 \_\_\_\_\_, 2014.

\_\_\_\_\_  
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. 809 (Series 2014) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the \_\_\_ day of \_\_\_\_\_, 2014, 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 \_\_\_\_\_, 2014.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this \_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
April Hessman, Town Clerk

(S E A L)

**ACCEPTANCE OF TERMS OF ORDINANCE**

COMES, NOW, Elite Recycling and Disposal LLC ("Elite"), and hereby agrees to carry out the terms of the above and foregoing Franchise Agreement and Ordinance granting a franchise to Elite and allowing it to provide recycling and refuse collection services in the Town of Pagosa Springs, Colorado, and agrees to abide by all terms of said Franchise Agreement and Ordinance.

**ELITE RECYCLING AND DISPOSAL LLC.**

Date \_\_\_\_\_, 2014

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

The foregoing Acceptance of Terms of Ordinance was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2014, by \_\_\_\_\_ as \_\_\_\_\_ of Elite Recycling and Disposal LLC.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_



# AGENDA DOCUMENTATION

## OLD BUSINESS: VII.2

PAGOSA SPRINGS TOWN COUNCIL

JUNE 19, 2014

FROM: GREG SCHULTE, INTERIM TOWN MANAGER

---

**PROJECT: INTERGOVERNMENTAL AGREEMENT WITH ARCHULETA COUNTY CONCERNING THE  
DISTRIBUTION OF SALES TAX**

**ACTION: DISCUSSION AND POSSIBLE ACTION**

---

### PURPOSE/BACKGROUND

As Council is aware, the Town has been notified by the Archuleta County Treasurer that the Treasurer intends to retain three percent (3%) of all sales tax revenues committed to the Town. Based on the Town's average sales tax revenue over the past three years, the County Treasurer intends to retain over \$96,000 per year. While the legal merits of such an action can be debated, Town and County staff have proposed a solution to resolve the matter.

The Town and County are proposing to direct the Colorado Department of Revenue to send the 50% of sales tax approved by the voters for the Town of Pagosa Springs directly to the Town, rather than routing the funds through the County Treasurer's office. This direction will be accomplished through a Town-County Intergovernmental Agreement. Payments made directly to the Town will resolve the matter and lay to rest a potential conflict with the County Treasurer over deducting an administrative fee.

Town and County staff have reviewed the attached Intergovernmental Agreement and recommend the document for approval. The Colorado Department of Revenue has agreed to remit sales tax revenue directly to the Town.

### ATTACHMENT(S):

Intergovernmental Agreement

### APPLICABILITY TO TOWN OF PAGOSA SPRINGS HOME RULE CHARTER

Section 3.9 of the Home Rule Charter specifies the Town Council's authority and responsibility to anticipate revenues [Section 3.9(A)2] and adopt a balanced annual budget [Section 3.9(B)].

### FISCAL IMPACT

If approved, the Intergovernmental Agreement could save the Town as much as \$96,000.

### RECOMMENDATION

It is the recommendation of the town manager that the Town Council, by motion,

**Approve the Intergovernmental Agreement with Archuleta County Concerning the  
Distribution Of Sales Tax.**

**Or**

**Disapprove the Intergovernmental Agreement and provide staff further instructions.**

**INTERGOVERNMENTAL AGREEMENT  
CONCERNING THE DISTRIBUTION OF SALES TAX**

**THIS INTERGOVERNMENTAL AGREEMENT CONCERNING THE DISTRIBUTION OF SALES TAX (“Agreement”)** is entered into as of the date written below, by and between the Town of Pagosa Springs, Colorado (hereafter, “Town”) and Archuleta County (hereafter, “County”). County and Town are collectively referred to herein as the “parties” and individually as a “party.”

**WHEREAS**, the County and the Town have the authority to act cooperatively and also have the authority and capacity to enter into this Agreement pursuant to C.R.S. §29-1-201, *et. seq.* Further, the Town, pursuant to its Home Rule Charter of 2003, as amended on April 3, 2012 and April 23, 2013, §12.14, permits execution of intergovernmental agreements with political subdivisions such as the County; and

**WHEREAS**, pursuant to certain ballot issues more specifically identified below, Archuleta County voters have imposed one or more sales tax measures within Archuleta County; and

**WHEREAS**, historically the Colorado Department of Revenue (the “DOR”) has collected all sales tax levied in Archuleta County, Colorado and disbursed the monies to the County who, consistent with the various agreements between County and Town, has then disbursed a portion of the sales tax revenue to the Town, although prior to approximately 2009 the DOR disbursed a portion of the Archuleta County sales tax directly to the Town; and

**WHEREAS**, the County currently disburses 50% of its 4% sales tax to the Town; and

**WHEREAS**, the parties hereto wish to eliminate the step of having the County receive the monies from the DOR and then disbursing a portion thereof to Town; and

**WHEREAS**, the parties desire to have the DOR collect the revenues from all sales tax in effect within the County as of January 1, 2014 and directly submit one-half of such revenues to the Town and one-half to the County.

**NOW THEREFORE**, in consideration of the joint and mutual promises contained herein and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto state and agree as follows:

1. **IDENTIFICATION OF SALES TAX:** The current sales tax rate in Archuleta County is 4% and is based on the following (hereafter individually and collectively referred to as the “Ballot Issues”):

<u>Election Date:</u>	<u>Tax Rate:</u>
Pre 1958	1% sales tax in place and was split 50/50 between Town and County.
1983	Additional 1% was passed and split 50/50 between Town and County. (Total sales tax now 2%)
1988	Additional 2% was passed, 1% for County Jail and 1% for Town Capital Improvements, 7 year sunset. (Total sales tax now 4%).
1994	1988 ballot issue extended for additional 7 years or January 1, 2008. County's portion now to Road Capital Improvement Fund. (Total sales tax remains 4%).
2001	1988 ballot issue which was extended in 1994 is extended for an additional 7 years or December 31, 2009. (Total sales tax remains 4%).
2008	1988 ballot issue which had been extended in 1994 and 2001 is extended indefinitely; still 1% for County Road Capital Improvement Fund and 50% to Town for Capital Improvements. (Total sales tax remains 4%).

2. **IDENTIFICATION OF AGREEMENTS:** There currently exist the following agreements between the parties hereto regarding sales tax (hereafter individually and collectively referred to as the "Prior Agreements"):

<u>Agreement Date:</u>	<u>Division of Tax:</u>
9/7/2004	Only addresses sharing confidential information
4/5/2006	50% of taxes to be shared and confidential information
1/22/2008	Only addresses sharing confidential information
6/2/2009	Only addresses sharing confidential information

3. **TERM, TERMINATION AND PRIORITY:** This Agreement shall be effective upon execution and shall continue through December 31, 2024. If the parties fail to amend, renew or otherwise extend this Agreement prior to its termination, then the Agreement shall continue to be in full force and effect on an annual basis thereafter. Either party may terminate this Agreement effective December 31<sup>st</sup> of the calendar year in which notice of termination is provided, by giving at least ninety (90) days' prior written notice to the other party and providing a copy of such notice to the DOR. Either party may terminate this

Agreement upon termination of the County's 4% sales tax by providing thirty (30) days' written notice to the other party and a copy of such notice to the DOR. In the event that there is an inconsistency between this Agreement and any one or more of the Ballot Issues or Prior Agreements, then this Agreement shall control as to the method and manner of distribution.

4. **DISTRIBUTION OF FUNDS BY DEPARTMENT OF REVENUE:** Commencing with the first distribution by the Colorado Department of Revenue of Sales Tax proceeds after June 19, 2014 and continuing with every distribution thereafter, the DOR will distribute one hundred percent (100%) of all sales tax revenues collected within Archuleta County for any and all sales tax in effect as of January 1, 2014, including but not limited to all sales tax revenues collected within the Town of Pagosa Springs, in equal shares to the Town and the County. In the event that any distribution is not equally divisible by two (2) the DOR may, in its discretion, distribute one cent (.01¢) more to either Town or County.
5. **SALES TAX REPORTING BY DEPARTMENT OF REVENUE:** The DOR has been and will continue to provide all sales tax reporting information to:

Archuleta County Finance Department  
P.O. Box 1507  
449 San Juan Blvd  
Pagosa Springs, Colorado 81147

6. **SHARING OF INFORMATION:** County will continue to pass through to Town the reports provided by the Colorado Department of Revenue relating to Sales Tax receipts in the same manner and frequency as provided to County, and to make every effort to provide that information no later than seven (7) days after receipt by the County.
7. **MODIFICATION:** This Agreement may be modified or amended by a written agreement duly executed by the parties hereto.
8. **APPLICABLE LAW:** This Agreement shall be governed by the laws of the State of Colorado, and any questions arising under this Agreement shall be construed or determined according to such law. Any action brought under this Agreement shall be in the District Court for Archuleta County, Colorado.
9. **COMMUNICATIONS:** All notices hereunder and communications with respect to this Agreement shall be effective upon the mailing thereof to the persons named below:

If to Town:  
Town Administrator  
Town of Pagosa Springs  
P.O. Box 1859  
Pagosa Springs, Colorado 81147

If to County:  
County Administrator  
Archuleta County  
P.O. Box 1507  
449 San Juan  
Pagosa Springs, Colorado 81147

10. **INTERPRETATION:** This Agreement shall not be construed against any one party based upon who drafted the Agreement.

Entered into this \_\_\_\_ day of June, 2014.

**BOARD OF COUNTY COMMISSIONERS  
ARCHULETA COUNTY, COLORADO**

By: \_\_\_\_\_  
Clifford Lucero, Chairman

ATTEST:

\_\_\_\_\_  
June Madrid, Clerk of the Board

**TOWN OF PAGOSA SPRINGS,  
COLORADO**

By: \_\_\_\_\_  
Don Volger, Mayor

ATTEST:

\_\_\_\_\_  
Clerk to the Town Council



# AGENDA DOCUMENTATION

## OLD BUSINESS: VII.3

PAGOSA SPRINGS TOWN COUNCIL  
JUNE 19, 2014

FROM: GREG SCHULTE, INTERIM TOWN MANAGER

**PROJECT: JUNE SALES TAX REVENUE ANALYSIS**  
**ACTION: DISCUSSION AND POSSIBLE ACTION**

### CURRENT SALES TAX & LODGERS TAX REVENUE

In June, the Town of Pagosa Springs' sales tax revenue increased by **7.55% or +\$15,239** compared to June, 2013 (base on April 2014 retail sales).

As of June 11<sup>th</sup>, the Town of Pagosa Springs' April 2014 lodgers tax revenue was **\$23,811**, compared to **\$17,607** in April of 2013, an increase of **35.24% or \$6,204**.

### HISTORIC SALES TAX & LODGERS TAX REVENUE

In 2013, revenue is up **4.5% or \$143,796** (if all sales tax revenue is included). If the unique income (audit) is excluded, sales tax revenues increased by **5.38% or \$170,537**. In calendar year 2012, sales tax revenue increased by **2.58% or \$80,387** (includes all revenue in 2011 and 2012); and without any Transportation and Warehousing income [**\$108,209** in 2011 and **\$26,741** in 2012], sales tax revenue is up **5.38% (\$161,855)**. In calendar year 2011, sales tax revenue was up **5.30% (\$156,776)**. In calendar year 2010 sales tax revenue was down **3.56% (\$109,201)**, compared to 2009. In calendar year 2009 sales tax revenue was down **7.47% (\$247,730)**, compared to 2008.

In calendar year 2013, lodgers tax revenue has increased **6.89% or \$28,626**. In 2012, lodgers tax revenue increased by **4.07% or \$7,308**. Note: There was a decrease in February and March lodgers tax revenue as a result of one of the motels being in foreclosure and changing ownership. In 2011, lodgers tax revenue increased **6.13% (\$23,538)** compared to 2010. In 2010, lodgers tax revenue increased **8.97% (\$31,587)** compared to 2009. In 2009 lodgers tax revenue was up **9.20% (\$29,684)**, compared to 2008.

### ANALYSIS

Resolution 2014-01 mandates 2014 expenditure reductions if sales tax revenues decline from the average revenue of the past two years. The application of the Resolution requires a monthly analysis that averages several months/years of revenue, to smooth out the impact of significant swings in sales tax collections:

Application of Resolution 2014-01:

	2012	2013	Avg.	2014	% Change
April	201,635	230,419	216,027	214,361	- 0.77%
May	242,905	266,110	254,508	293,377	+ 15.27%
June	213,498	201,856	207,677	217,095	+ 4.53%

The average sales tax collections over the past two months is positive [ $+ 15.27 + 4.53)/2 = +9.90$ ]. The average sales tax collections over the past three months is positive [ $-0.77 + 15.27 + 4.53)/3 = +6.34$ ]. Application of paragraphs 5 and 5(b) of the Council's policy calls for **no** reduction of budgeted expenditures.

Note: For every seven percent (7%) reduction in expenditures, \$236,193 must be trimmed from the budget (\$118,097 from the General Fund and \$118,097 from the Capital Improvement Fund).

**ATTACHMENT(S)**

Sales Tax Receipt Summary

**RECOMMENDATION**

Informational, no action required.

**TOWN OF PAGOSA SPRINGS, COLORADO**

**Sales Tax Receipts**

Fiscal Years 2012, 2013 and 2014

Sales Month	Report Month	Receipt Month	Total Collected	Total Cumulative	YTD	Same Mo Prior Yr	ToPS Receipts	County Receipts	Cumulative
11/2011	12/2011	1/2012	483,887.24	483,887.24	9.58%	9.58%	241,943.62	241,943.62	241,943.62
12/2011	1/2012	2/2012	687,968.72	1,171,855.96	9.26%	9.03%	343,984.36	343,984.36	585,927.98
1/2012	2/2012	3/2012	440,120.52	1,611,976.48	8.53%	6.64%	220,060.26	220,060.26	805,988.24
2/2012	3/2012	4/2012	403,270.77	2,015,247.25	6.83%	0.53%	201,635.39	201,635.38	1,007,623.62
3/2012	4/2012	5/2012	485,809.92	2,501,057.17	6.53%	5.33%	242,904.96	242,904.96	1,250,528.58
4/2012	5/2012	6/2012	426,995.00	2,928,052.17	7.75%	15.47%	213,497.50	213,497.50	1,464,026.08
5/2012	6/2012	7/2012	474,203.72	3,402,255.89	4.39%	-12.47%	237,101.86	237,101.86	1,701,127.94
6/2012	7/2012	8/2012	637,361.43	4,039,617.32	3.57%	-0.62%	318,680.72	318,680.71	2,019,808.65
7/2012	8/2012	9/2012	631,648.44	4,671,265.76	2.76%	-2.14%	315,824.22	315,824.22	2,335,632.87
8/2012	9/2012	10/2012	631,317.77	5,302,583.53	3.72%	11.48%	315,658.89	315,658.88	2,651,291.75
9/2012	10/2012	11/2012	596,850.62	5,899,434.15	2.79%	-4.84%	298,425.31	298,425.31	2,949,717.06
10/2012	11/2012	12/2012	495,701.10	6,395,135.25	2.58%	0.18%	247,850.55	247,850.55	3,197,567.61

Sales Month	Report Month	Receipt Month	Total Collected	Total Cumulative	YTD	Same Mo Prior Yr	ToPS Receipts	County Receipts	Cumulative
11/2012	12/2012	1/2013	462,885.70	462,885.70	-4.34%	-4.34%	231,442.85	231,442.85	231,442.85
12/2012	1/2013	2/2013	655,334.44	1,118,220.14	-4.58%	-4.74%	327,667.22	327,667.22	559,110.07
1/2013	2/2013	3/2013	477,510.13	1,595,730.27	-1.01%	8.50%	238,755.07	238,755.06	797,865.13
2/2013	3/2013	4/2013	460,838.34	2,056,568.61	2.05%	14.28%	230,419.17	230,419.17	1,028,284.30
3/2013	4/2013	5/2013	532,220.84	2,588,789.45	3.51%	9.55%	266,110.42	266,110.42	1,294,394.72
4/2013	5/2013	6/2013	403,711.52	2,992,500.97	2.20%	-5.45%	201,855.76	201,855.76	1,496,250.48
5/2013	6/2013	7/2013	504,611.42	3,497,112.39	2.79%	6.41%	252,305.71	252,305.71	1,748,556.19
6/2013	7/2013	8/2013	637,423.86	4,134,536.25	2.35%	0.01%	318,711.93	318,711.93	2,067,268.12
7/2013	8/2013	9/2013	654,372.04	4,788,908.29	2.52%	3.60%	327,186.02	327,186.02	2,394,454.14
8/2013	9/2013	10/2013	659,573.67	5,448,481.96	2.75%	4.48%	329,786.84	329,786.83	2,724,240.97
9/2013	10/2013	11/2013	618,690.07	6,067,172.03	2.84%	3.66%	309,345.04	309,345.03	3,033,586.00
10/2013	11/2013	12/2013	615,555.36	6,682,727.39	4.50%	24.18%	307,777.68	307,777.68	3,341,363.68

Sales Month	Report Month	Receipt Month	Total Collected	Total Cumulative	YTD	Same Mo Prior Yr	ToPS Receipts	County Receipts	Cumulative
11/2013	12/2013	1/2014	499,450.20	499,450.20	7.90%	7.90%	249,725.10	249,725.10	249,725.10
12/2013	1/2014	2/2014	624,799.54	1,124,249.74	0.54%	-4.66%	312,399.77	312,399.77	562,124.87
1/2014	2/2014	3/2014	495,989.99	1,620,239.73	1.54%	3.87%	247,995.00	247,994.99	810,119.86
2/2014	3/2014	4/2014	428,721.37	2,048,961.10	-0.37%	-6.97%	214,360.69	214,360.68	1,024,480.54
3/2014	4/2014	5/2014	586,754.22	2,635,715.32	1.81%	10.25%	293,377.11	293,377.11	1,317,857.65
4/2014	5/2014	6/2014	434,189.34	3,069,904.66	2.59%	7.55%	217,094.67	217,094.67	1,534,952.32



# AGENDA DOCUMENTATION

## DEPARTMENT HEAD REPORT: VIII.1

PAGOSA SPRINGS TOWN COUNCIL  
JUNE 19, 2014

**FROM: SHANE LUCERO**  
**COMMUNITY CENTER**

---

**PROJECT: COMMUNITY CENTER UPDATES**  
**ACTION: UPDATE AND DISCUSSION**

---

### UPCOMING EVENTS

Friday July 25, 2014, The Hazel Miller Band Summer Jam Concert will be hosted at our center. This is the 3<sup>rd</sup> time we have hosted HMB and are excited to see our new marketing strategy implemented.

### CENTER UPDATES

Shane Lucero was hired as the Facility Director and started on June 2<sup>nd</sup>. Traci and Laurie have been busy training, making introductions to program facilitators, key volunteers, and showing him the ropes. It has been a fast few weeks with Rural Philanthropy Days happening on the beginning of his second week. A training schedule has been created so that he will learn all aspects of RACC.

One Friday June 6<sup>th</sup>, Shane attended the Pagosa Springs Community Facilities Coalition. He met the majority of the coalition members and discussed what expectations the coalition has of him and what expectations he has of the coalition. A committee was formed to review RACC policies, especially regarding internal control such as policies regarding use of the facility and also a cash handling policy.

June 9-13<sup>th</sup>- Rural Philanthropy Days used the Community Center Multi-Purpose Room starting on Monday June 9<sup>th</sup> for the initial prepping of the welcome bags and also a central holding place for food and alcohol, that will be supplied for and during the Rural Philanthropy Days event. The Community Center hosted one day of breakout sessions that utilized the MPR and all other conference rooms.

Girls Circle, a structured support group for girls from 9-18 years, integrates relational theory, resiliency practices, and skills training in a specific format designed to increase positive connection, personal and collective strengths, and competence in girls. It aims to counteract social and interpersonal forces that impede girls' growth and development by promoting an emotionally safe setting and structure within which girls can develop caring relationships and use authentic voices. This program will also focus on fitness and health, and incorporate volleyball with the curriculum. This is an 8 week program and it began on June 17 for girls grades 6-12. There have been 10-15 girls in attendance.



# AGENDA DOCUMENTATION

## DEPARTMENT HEAD REPORT: VIII.2

PAGOSA SPRINGS TOWN COUNCIL  
JUNE 19TH, 2014

**JENNIFER GREEN**  
**DIRECTOR, TOWN TOURISM COMMITTEE**

**PROJECT: TOWN TOURISM COMMITTEE**  
**ACTION: DISCUSSION AND POSSIBLE ACTION**

### TTC MEETING ACTIVITY

The Town Tourism Committee held its June meeting on Tuesday, June 10th at 4pm at the Community Center. The next TTC meeting will be held on Tuesday, July 8th at 4pm at the Community Center. Draft minutes from the June 2014 meeting are attached for review. In addition, the Town Tourism Committee has a marketing subcommittee meeting scheduled on Wednesday, June 18th at 3:30pm at Quality Resort (uptown) and a Signage subcommittee meeting scheduled on Tuesday, June 24th at 9:30am at the Community Center.

### TTC FINANCIAL REPORT

April 2014 lodging tax collections reflected a 35.24% increase over 2013, or an increase of \$6,204.75. Year to date, tax collections are up 20.13% over the same period in 2013, or \$23,356.43. Below shows the history of tax collections since 2007:

Town of Pagosa Springs Monthly Lodgers Tax Collections								
	2007	2008	2009	2010	2011	2012	2013	2014
January	\$ 22,904.43	\$ 23,544.00	\$ 24,228.00	\$ 27,295.00	\$ 26,943.65	\$ 28,916.00	\$32,499.75	<b>\$35,149.65</b>
February	\$ 20,543.13	\$ 17,002.00	\$ 19,360.78	\$ 21,960.24	\$ 21,824.65	\$ 26,003.00	\$25,510.87	<b>\$31,149.00</b>
March	\$ 33,516.00	\$ 31,216.00	\$ 29,925.00	\$ 34,928.74	\$ 37,350.40	\$ 43,034.00	\$40,383.00	<b>\$49,092.65</b>
April	\$ 15,879.04	\$ 12,500.00	\$ 15,186.00	\$ 15,765.00	\$ 16,830.71	\$ 16,911.65	\$17,607.00	<b>\$23,811.75</b>
May	\$ 20,590.00	\$ 19,276.00	\$ 21,949.00	\$ 21,049.00	\$ 21,758.00	\$ 24,283.00	<b>\$26,942.73</b>	
June	\$ 31,803.61	\$ 29,041.00	\$ 32,622.11	\$ 37,539.26	\$ 36,091.00	\$ 40,508.45	<b>\$44,148.14</b>	
July	\$ 43,728.00	\$ 44,693.00	\$ 50,124.71	\$ 51,931.50	<b>\$ 57,316.65</b>	\$ 52,571.99	\$56,190.71	
August	\$ 35,610.05	\$ 38,092.00	\$ 42,307.85	\$ 41,714.00	\$ 44,944.49	\$ 49,948.65	<b>\$52,182.92</b>	
September	\$ 36,500.00	\$ 32,363.75	\$ 35,610.05	\$ 41,333.05	<b>\$ 44,019.85</b>	\$ 42,499.79	\$42,515.00	
October	\$ 25,264.55	\$ 22,041.46	\$ 25,764.55	\$ 28,857.93	\$ 30,661.54	\$ 27,482.50	<b>\$35,267.65</b>	
November	\$ 14,866.00	\$ 16,232.00	\$ 19,815.65	\$ 21,348.00	<b>\$ 27,542.05</b>	\$ 23,180.44	\$27,311.00	
December	\$ 31,652.00	\$ 31,934.69	\$ 35,456.65	\$ 40,197.65	\$ 41,931.00	\$ 40,345.00	<b>\$43,835.00</b>	
<b>Total</b>	<b>\$ 332,856.81</b>	<b>\$ 317,935.90</b>	<b>\$ 352,350.35</b>	<b>\$ 383,919.37</b>	<b>\$ 407,213.99</b>	<b>\$ 415,684.47</b>	<b>\$444,393.77</b>	

## VISITOR CENTER UPDATE

### Visitor Center Hours:

- Monday - Friday: 8am - 5pm
- Saturday: 9am - 3pm
- Sunday: 11 - 3pm

### Volunteers:

- 15 active volunteers, with at least 40 hours of volunteer time scheduled each week
- 2 active outdoor ambassadors, with 4-6 hours of volunteer time each week
- 1st Monthly "Thank You" Social to be held Tuesday, June 18th at 5:30pm at visitor center. The 1st month will be a pizza party.
- Part time position to be hired by end of month - with part time person, there will be one staff person at visitor center every hour center is open, plus volunteers for 40 of the 55 hours

### Updates:

- Phone lines should be switched by end of month, so that Visitor Center receives visitor-related calls
- Touch screen monitor extremely well-received by volunteers and visitors
- Volunteer Information / Training Guide updated
- Created dropbox account for visitor center - added photo collections of various hikes / scenic drives to help visitors better understand potential views, what to expect, etc.

### Current Focus:

- Volunteer recruitment and appreciation
- Inventory - stocking brochures, regional guides, develop spreadsheet to track
- Update existing / create new brochures - Hiking & Driving, Things to Do in Pagosa (if you only have a few hours)
- Develop scavenger hunt

## LEAD COLLECTION (VISITOR GUIDE REQUESTS)

History of Leads / Visitor Guide Requests by month:

	Jan	Feb	Mar	April	May	June	July	Aug	Sep	Oct	Nov	Dec	Total
2010	1984	2413	3171	2601	3330	3221	2533	3110	1959	1436	1622	1279	28,659
2011	1443	2255	1657	4255	3684	2092	1945	1789	1518	995	1160	921	23,714
2012	2111	2704	2690	1730	2010	4445	3998	2624	3157	1435	1575	1392	29,871
2013	5322	3281	2658	4357	3626	3537	4372	3040	2791	995	1158	1356	36,491
2014	2074	2672	3857	2,909	2,358								13,870

\*\* In 2012 and 2013, the TTC participated in Madden Media newspaper insert program; this was discontinued in 2014 due to poor conversion. Leads are generated through opt-in program and not necessarily specific to Pagosa Springs - over 4,700 leads were received through Madden between April 2013 and August 2013. New lead sources have been added in 2014.

## SOCIAL MEDIA UPDATE

- Facebook - [www.facebook.com/visitpagosasprings](http://www.facebook.com/visitpagosasprings) Facebook: 9,066 fans - our engagement rate remains strong, despite changes in their algorithms; paid advertisements should boost engagement even higher
- Instagram - [www.instagram.com/visitpagosa](http://www.instagram.com/visitpagosa): 796 followers
- Twitter - [www.twitter.com/visitpagosa](http://www.twitter.com/visitpagosa) - 579 followers

## MARKETING UPDATES

- New campaigns with Texas Monthly Online, 5280, AAA Colorado have launched; a custom Colorado newsletter launches at the end of June, reaching over 600,000 Colorado enthusiasts
- B-roll video (high-definition 1080p) being captured by TTC Director; TTC Board is attempting this "free" option to fill short-term needs and will consider budget allocation towards developing video library and edited videos in 2015 budget.

# Minutes

## Pagosa Springs Town Tourism Committee

Tuesday, June 10th, 2014

Ross Aragon Community Center

4 pm

Meeting called by: Bob Kudelski

Attendees: Voting Members; Bob Kudelski, Chirag Patel, Jim Smith, Carla Shaw, Nick Tallent, Steve McKain, Matt Sprowls

Absences: Stephen Durham, Larry Fisher, Matthew Boyle

Non Voting Attendees; Jennifer Green, Liz Alley, David Mitchem

Please review: May Meeting Minutes

Please bring: Agenda, Committee reports

1. Call to Order
  - a. Meeting called to order at 4:02pm
2. Determination Of Quorum (6)
3. Approval of Minutes – May
  - a. Carla Shaw motioned to approve May meeting minutes, Steve McKain seconded, all approved.
4. Chair Report – Bob Kudelski
  - a. Open at large seats (1)
    - i. One application received from Criselda Jay Montoya, Marketing Manager at Wyndham; letters of interest will be accepted through June 20th; TTC will hold special meeting on June 24th to interview all applicants; recommendation will be provided to Town Council during their July 1st meeting for review
5. Treasurers Report - Carla Shaw
  - a. Monthly Town Lodging Receipts report – Update

- i. April 2014 was up 35.24% over April 2013, or \$6,204.75, with a few small payments outstanding
- ii. Year to date, tax collections are up 20.13% over 2013, or an increase of \$23,356.43

b. Current finances

- i. All bills are being paid; cash flow is strong due to 2014 increases

6. Subcommittee Reports

a. Budget – Carla Shaw

- i. No update

b. Fulfillment – Jim Smith

- i. Jim Smith and Jennie Green met with Sun staff to review contract with Sun for visitor guides and TTC's development of digital magazine
  - 1. Sun was receptive towards TTC developing digital magazine (no advertising, driven through [www.visitpagosasprings.com](http://www.visitpagosasprings.com) CMS) to bridge trip planning timeframes and availability of printed guides
- ii. TTC Director reached out to Region 9 about tax credit for visitor guide donation
- iii. Large discrepancy between number of guides delivered to Cassio Group and mailed out to potential visitors versus number of guides the Sun has tracked as being provided to TTC; TTC Director reviewing all information to determine large difference in

c. Marketing – Chirag Patel

- i. Marketing subcommittee scheduled on Wednesday, June 18th at 3:30pm
  - 1. Group will review 2015 preliminary planning, digital magazines, additional opportunities for 2014, etc

d. Events & Events Infrastructure –Larry Fisher

- i. No update

e. Catch & Release Subcommittee - New! Larry Fisher / Jim Smith co-chairs

- i. Met with Parks & Wildlife to discuss catch and release for downtown stretch of San Juan River (2 mile section)
  - 1. Overall, positive meeting
  - 2. Public meeting scheduled June 25th at 6pm in South Conference Room at Community Center to gauge public input
- ii. Certain steps Parks & Wildlife need to address before this is considered - research conducted on fishing use, current catch & release habits; public input, etc

- iii. Parks & Wildlife would be okay with Town designating Catch and Release (with signage, no enforcement) without their official designation; it would be on voluntary basis

f. Special Projects – Jim Smith

- i. No update

f. Wayfinding and Signage - Steve McKain

- i. Jennie Green and Steve McKain drove around and reviewed existing signage on June 9th
- ii. Subcommittee meeting scheduled on Tuesday, June 24th at 9:30am at the Community Center

g. Visitor Center subcommittee – Carla Shaw

- i. Thank You Social / Pizza Party for volunteers - Tuesday, June 17th 2014 at 5:30pm, visitor center
- ii. 15 active volunteers, with 40+ hours of volunteer time provided each week at visitor center
- iii. Part time position is being hired in next few weeks; with PT position, staff will be available 7 days / week, with volunteers providing 70% of visitor interaction and staff eventually able to handle additional tourism-related tasks, to assist TTC Director in workload

7. TTC Director Report – Jennie Green

- a. Tourism review presentation to Town Council was extremely well received
- b. TTC Director sought volunteers to assist in moving guides from Sun Warehouse to Cassio's for ongoing fulfillment. The shipment was split due to expected transition at visitor center; the Cassio's will now be handling fulfillment through the end of 2014.
- c. TTC Director will focus on capturing b-roll video over next few weeks - recently upgraded memory card for personal Nikon D3200 camera; if video captured is not "good enough", TTC can allocate budget in 2015 towards a video library

8. Old Business

- a. None

9. New Business

- a. Public Comment
- b. Any other new business to come before the Committee

10. Adjournment

- a. CK Patel motioned to adjourn, Bob Kudelski seconded, all approved



# AGENDA DOCUMENTATION

## DEPARTMENT HEAD REPORT: VIII.3

PAGOSA SPRINGS TOWN COUNCIL, JUNE 19, 2014

FROM: JAMES DICKHOFF, TOWN PLANNING DIRECTOR

---

**PROJECT: PLANNING DEPARTMENT REPORT**  
**ACTION: UPDATE AND DISCUSSION**

---

### HISTORIC PRESERVATION BOARD (HPB) UPDATE

At the June 11, 2014 HPB meeting,

- 1) The HPB decided to discuss a potential Mary Fisher Recognition project for Mary Fisher Park. The HPB will work on some details to present to Town Council on July 17, 2014.
- 2) The HPB also discussed the San Juan Historical Museum, former Town Water Treatment Plant, and the disrepair and safety concerns with the reservoir walls and the old stone bridge north of the building. The HPB will be looking into costs estimates for proposing pursuing grants for the needed repairs.

The Next HPB meeting is on July 9, 2014 at 5:15pm in Town Hall.

### PLANNING COMMISSION (PC) UPDATE

The May 20<sup>th</sup> and June 10<sup>th</sup> meetings were cancelled.

The Next Planning Commission meeting is on July 8, 2014 at 5:30pm.

### 6<sup>TH</sup> STREET RIVER WALK EXTENSION PROJECT

The construction project has been substantially completed. The Lockes ditch has been opened and the wetland ponds have filled. Staff is working on submitting reimbursement documentation to "State Trails" for our \$120,000 grant award reimbursement. Benches have been ordered for the four bump outs. The HPB and Parks and Recreation Board will be working on four to eight interpretive signs, for placing 1-2 signs at each bench bump out. These signs will be placed in 2015.

### 6<sup>TH</sup> STREET PEDESTRIAN BRIDGE GRANT

Staff has initiated the bridge order. The bridge design, although similar in exterior look, is currently designed more like a bridge trestle, due to the critical design criteria building in the floodway and flood way, and the preference to have visibility of the river while on the bridge. Staff will share the general design at the Town Council meeting. Davis Engineering anticipates the final the bridge design to be complete by the end of June, 2014. A bid for construction will be advertised in early July with construction anticipated August – October 2014.

### 8<sup>TH</sup> - 10<sup>TH</sup> STREET SIDEWALK AND TRAIL PROJECT

The South 8th Street sidewalk extension project has been completed except for the remaining dry creek feature and live landscaping, which will be completed in mid-June.

The Trail project between 8th Street and 10th Street is expected to have final plans ready for advertisement for construction bids by the end of June and easement acquisitions by the end of July. Construction advertisement is expected in July 2014 with construction to begin in August 2014, with the 10th Street sidewalk being completed first to ensure elementary school traffic will not be affected after school begins the 2014-2015 season.

### WEST PHASE TOWN TO PAGOSA LAKES TRAIL PROJECTS

The West Phase trail segment is between Village Drive and Aspen Village Drive:

- ~ ROW plans have been submitted to CDOT for approval so that Federal Uni-Form Act easement acquisitions can begin. Property owners have expressed interest in donating the required easements.
- ~ Preliminary Plans are anticipated to be submitted to CDOT by the end of July 2014.
- ~ Once Preliminary plans are approved, Final planning will proceed with anticipated CDOT review by the end of August 2014.
- ~ Potential advertisement date for construction bids could be in September 2014 with construction starting in in Late September 2014. It is a possibility this project will be deferred for construction in early 2015.

### **MAJESTIC DRIVE CMAQ PAVING PROJECT**

1200 lineal feet of Majestic drive between growing spaces and Square Top Circle will be paved with CMAQ funds this summer. Portions of the project required by CMAQ to be Town funded include re-constructing two portions of the current roadway that veers into private property (mostly the drainage swale along the east side of the roadway) and reconstruct within the platted ROW. This project has been staged for 5 years has just received CDOT final plan approval. Construction completion by the end of 2014 is expected. Advertisement for construction bids is anticipated by the end of June 2014. The project is anticipated to cost \$370,000.00 with a total of \$255,000.00 being eligible CMAQ funding reimbursement. Staff has been successful working with CDOT staff to increase the total eligible CMAQ reimbursements for the project by almost \$100,000.00. **Additionally**, for Town Councils information, the Town is one of three eligible town's for CMAQ dust mitigation funds. The other communities have already paved all their roads, thus, the Town would be first in line for additional CMAQ funding for paving roads within the States defined dust mitigation boundaries. The only Town roads remaining in this boundary include: The north leg of the Mesa Drive connection to Snowball Road, Crestview Drive and the east portion of Majestic Drive (although, the current road alignment is not within the ROW, which would be the town's responsibility. CMAQ paving are only eligible for paving, not road re-alignments).

### **PAGOSA SPRINGS GOLF COURSE**

Insight Golf is representing the bank that currently owns the Golf Course. The Course is currently for sale, however, Jon Knudsen of Insight Golf has stated that the bank is considering shutting down the course if they do not receive a reasonable offer in the coming months. The asking price is \$1,900,000.00 cash. Staff asks direction from Town Council regarding any interest in pursuing the property as a Municipal Golf Course. Staff has the "Real Estate Prospectus" if Town Council would like to review. Their appears to be a potential for the bank to carry the note if a reasonable offer is received. The Planning Director has requested the Parks and Recreation Board briefly discuss the matter for further consideration.

### **CDOT McCABE CREEK BRIDGE PROJECT UPDATE**

Recent design changes on the McCabe Creek Bridge indicate a reduction of the original sidewalk width from 8 feet wide to 5'-6" wide. The Town's sidewalk width minimum requirement is 6 feet wide. Staff is working with CDOT to determine the reason for the reduced width and for at least compliance with the Town sidewalk standards.

### **CDOT TRANSPORTATION PLANNING REGION COMMITTEE**

The Town's current representatives are Ross Aragon and David Mitchem. It is recommended that new representatives from the Town be selected to serve on this committee. Department of Local Affairs (DOLA) currently facilitates and staff's this committee, however, the South West Council of Governments (SWCOG) will be taking over the facilitation of these meetings beginning in July. The Regional Transportation Planning Commission is responsible for reviewing the progress and product of the Colorado Department of Transportation or their designee related to transportation planning and analysis activities to incorporate the needs and recommendations of the Southwest Transportation Planning Region, suggesting updates and amendments as necessary to the State Transportation Plan pursuant to all applicable federal, tribal, and state laws and rules or regulations including public participation provisions, selecting a representative to the Transportation Advisory Committee, and participating in the State Transportation Improvement Program development process. The Regional Transportation Planning Commission may, through contracts or Memoranda of Agreement, receive and expend state, tribal or federal funds designated for regional transportation planning.



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

**PAGOSA SPRINGS SANITATION  
GENERAL IMPROVEMENT DISTRICT  
MEETING AGENDA  
THURSDAY, JUNE 19, 2014  
Town Hall Council Chambers  
12:00 P.M.**

- I. CALL MEETING TO ORDER**
- II. APPROVAL of MEETING MINUTES FROM JUNE 3, 2014**
- III. OLD BUSINESS**
  - 1. PAWSD/Pipeline Update**
  - 2. Phase 1 Sewer Forcemain Realignment Change Order**
- IV. DEPARTMENT HEAD REPORT**
  - 1. District Report**
- V. APPROVAL OF MAY FINANCIAL STATEMENT AND ACCOMPANYING PAYMENTS**
- VI. NEXT BOARD MEETING JULY 1, 2014 AT 5:00PM**
- VII. ADJOURNMENT**



# AGENDA DOCUMENTATION

## OLD BUSINESS: III.1

PAGOSA SPRINGS SANITATION BOARD OF DIRECTORS  
JUNE 19, 2014

FROM: GENE TAUTGES, SANITATION SUPERVISOR

---

PROJECT: TOWN/PAWSD PIPELINE UPDATE

ACTION: DISCUSSION & POSSIBLE ACTION

---

### Town/PAWSD Pipeline Update

As of June 11<sup>th</sup>, all seven easements required by the Intergovernmental Agreement (IGA) between the PSSGID and PAWSD have been received and are in the process of being recorded. We have requested copies of all sewer related easements on Segment B of the project from PAWSD.

Bimonthly construction meetings are being attended and issues resolved as required. On Wednesday 6/11/14 staff met with representatives of LPEA, Hammerlund Construction, and PAWSD and confirmed the route that the three phase power will take to get electricity to pump station #1. Option #1 at 1015 feet in length was chosen for a cost of \$54,903. We expect to have the staking done in the next few weeks, but are considering waiting to dig the trench until Hammerlund Construction completes the gravity sewer line extension from the manhole on 5<sup>th</sup> street down to the pump station so as not to be in each other's way.

Staff is working on responses to the Division of Local Affairs regarding our \$1,250,000 grant for the project and an extension to the agreement. There are concerns about the length of time the project has taken and requests for clarification.

There was some confusion at the last meeting regarding how many change orders for the re-engineering of the pipeline due once again to easements. As you recall, Mr. Weiler only requested one, which leaves one more to review. Since the remaining change order is in Segment A and the PSSGID's area of responsibility, I suspect no standing committee involvement is required. Internally, staff has discussed the fact that the change order request in the amount of \$18,957.00 is excessive. This amounts to approximately \$10.50 per foot to redesign with few appurtenances involved and less interferences from fencing etc.

Staff wants to be diligent in the expenditure of our funding to make sure all costs are justified. In the event that negotiations can take place with Bartlett & West to reduce the re-design costs for the Quintana area, and these negotiations are fruitful before the board meeting, **we may request the board by motion approve the change order.**

Work has begun on pump station #1 on the south end of the lagoon property past the end of south 5<sup>th</sup> street. I would be happy to give you a tour of the project if you would like and when your busy schedules permit.



# AGENDA DOCUMENTATION

## OLD BUSINESS: III.2

PAGOSA SPRINGS SANITATION BOARD OF DIRECTORS

JUNE 19, 2014

**FROM: GENE TAUTGES, SANITATION SUPERVISOR**

---

**PROJECT: TOWN/PAWSD PIPELINE UPDATE**  
**ACTION: DISCUSSION AND POSSIBLE ACTION**

---

### **Phase 1 Sewer Forcemain Realignment Change Order**

Due to the challenges regarding the acquisition of an easement essentially from Trujillo Road easterly down to the PSSGID lagoon property, it is required that a redesign of the pipeline alignment be completed.

The engineer of record on the project, Bartlett & West has been verbally requested by the PSSGID to modify and change the previously prepared, submitted and accepted force main alignment in one place for Force Main 1 which is being called the Quintana realignment.

The alignment change is to reroute the force main from its current alignment along the south property line of the Martinez, Lynn Family Trust and Graham properties, south approximately 40 feet onto the Quintana property directly south of these properties. This Quintana realignment will require approximately 1,800 feet of redesign from Station 18+00 to 36+00 which will modify two plan and profile drawings. Both the plan view and profile in this area will need to be modified to reflect the requested alignment change along with all the stationing between the affected existing stationing, coordinates for all the force main appurtenances (fittings, low point drains, air release valves, etc.) as well as all the call out notes.

Staff has met with the engineer and voiced our concerns about the original cost to redesign this small section is \$18,957.00 and has negotiated the cost to \$ \_\_\_\_\_. It is unknown at this time what the construction change order cost might be to effect this realignment.

It is the staff recommendation for the Board to approve by motion:

**Approve the Phase 1 Sewer Forcemain Realignment Change Order to the Engineering firm of Bartlett &**

**West in the amount of \$ \_\_\_\_\_.**



# AGENDA DOCUMENTATION

## DEPARTMENT HEAD REPORT:IV.1

PAGOSA SPRINGS SANITATION BOARD OF DIRECTORS  
JUNE 19, 2014

FROM: GENE TAUTGES, SANITATION SUPERVISOR

PROJECT: DEPARTMENT HEAD REPORT FOR MAY 2014  
ACTION: DISCUSSION

### **Administrative**

Extensive work with staff regarding the pipeline project, (See separate update report). I am updating the Water Pollution Control Revolving Fund Wastewater Eligibility Survey for 2015. This simply puts the PSSGID on the funding map for low interest loans in the future to assist in the funding of our capital improvement projects. Although completion of the survey is no guarantee of funding, not completing it is a guarantee that no funding will be made available. Continuing work with the developer of Cobblestone Town Homes near Apache Street.

### **Wastewater Treatment Plant**

The average daily effluent flow rate for May was .189 million gallons per day which represents 41% of our capacity. The organic capacity is at 17%. Unfortunately, May was a bad month with 6 violations reported on our monthly discharge monitoring report. May has always typically been a difficult month to meet compliance but this year was more so than most. I continue to make the facility do its absolute best given its limitations and have sent an explanation letter to the state health department advising of the forward progress being made on the pipeline project



### **Collection System**

The Chamber of Commerce lift station specifications have been received, reviewed, modified, and sent back to the manufacturer. A firm price for direct purchase of the new pump station is expected in a couple of weeks. An RFP for a contractor to do the installation will be developed in the next couple of months with an anticipated install date of October. On Wednesday 6/11/14, staff and our cleaning and televising contractor removed one of the largest tree root clogs ever seen in the four corners. An over 200 pound clump of roots had sought moisture over the years in a manhole and couldn't be removed in the traditional way with the vacuum truck. So we got the reciprocating saw out and removed the monster. (See photo)

### **Geothermal**

The fittings and valves have been installed at the middle school property which will now allow us to isolate them from the geothermal system when they have leaks. I am in the process of specifying and pricing fittings to replace the leak in the geothermal building under the slab over to the alley. I am also working on the Water Pollution Control Revolving Fund Wastewater Eligibility Survey for 2015 for the town's geothermal heating facility. This building and system is over 30 years old and if funding could be found to bring it up to date, a much more efficient facility and service to the geothermal customers would result.