COUNCIL REGULAR MEETING BEGINS AT 5:05 PM (SEE AGENDA BELOW)
AVON LIQUOR LICENSING AUTHORITY MEETING BEGINS AT 5:00 PM (SEE SEPARATE AGENDA PAGE 3)

1. CALL TO ORDER AND ROLL CALL

2. APPROVAL OF AGENDA

3. MEETING PROCEDURES FOR THE MEETING OF JULY 10, 2018

   ACTION ITEMS
   • PRESENTATION OF ITEM
   • PUBLIC COMMENT *
   • COUNCIL DISCUSSION
   • MOTION
   • COUNCIL DISCUSSION
   • VOTE

   WORK SESSION AND PRESENTATIONS
   • PRESENTATION OF ITEM
   • COUNCIL DISCUSSION
   • PUBLIC COMMENT *
   • COUNCIL DIRECTION

4. PUBLIC COMMENT – COMMENTS ARE WELCOME ON ITEMS NOT LISTED ON THE FOLLOWING AGENDA
   * An initial three (3) minute limit allowed to each person wishing to speak. Speaker may request more time at the end of the three (3) minutes, which may be approved by a majority of the council.

5. ACTION ITEMS

   5.1. FIRST READING ORDINANCE 18-07, ADOPTING THE 2018 AVON WORKFORCE HOUSING PLAN (PLANNING DIRECTOR MATT PIELSTICKER) (30 MINUTES)
   5.2. FIRST READING OF ORDINANCE 18-09, AMENDING CHAPTER 2.30 TOWN CODE OF ETHICS OF THE AVON MUNICIPAL CODE (TOWN ATTORNEY ERIC HEIL) (15 MINUTES)
   5.3. FIRST READING ORDINANCE 18-10, ENACTING A NEW CHAPTER 6.08 – DECLAWING PROHIBITED TO TITLE 6 OF THE AVON MUNICIPAL CODE PROHIBITING THE DECLAWING OF CATS AND OTHER ANIMALS IN THE TOWN OF AVON (DEPUTY TOWN MANAGER PRESTON NEILL) (15 MINUTES)
   5.4. FIRST READING ORDINANCE 18-11, AMENDING CHAPTER 5.24 OF THE AVON MUNICIPAL CODE TO AMEND AMPLIFIED SOUND PERMIT CRITERIA (TOWN ATTORNEY ERIC HEIL) (10 MINUTES)
   5.5. FIRST READING ORDINANCE 18-12, FOR CAPITAL LEASE PURCHASE (ACTING TOWN MANAGER SCOTT WRIGHT) (10 MINUTES)
   5.6. PUBLIC HEARING RESOLUTION 18-10, GENERAL FUND BUDGET AMENDMENT (ACTING TOWN MANAGER SCOTT WRIGHT) (15 MINUTES)
   5.7. DIRECTION ON NOTICE OF AWARD FOR THE 2018 WHITewater PARK REPAIR PROJECT (TOWN ENGINEER JUSTIN HILDERETH) (20 MINUTES)
   5.8. CONSENT AGENDA (5 MINUTES)
5.8.1. Approval of Notice of Award to Solarsense of the Installation of Solar Photovoltaic Panels on the Avon Mobility Center (Town Engineer Justin Hildreth)

5.8.2. Approval of Power Purchase Agreement between Town of Avon, a Colorado Home Rule Municipality, and Holy Cross Energy for Photovoltaic Panels Located on the Mobility Center (Town Engineer Justin Hildreth)

5.8.3. Approval of Kevin Paul Legal Counsel Agreement (Town Attorney Eric Heil)

5.8.4. Approval of an Intergovernmental Agreement between Town of Avon and Eagle County for Remittance of Vehicle Fees (Town Attorney Eric Heil)

5.8.5. Approval of Colorado Health Foundation Full Funding Grant and Authorization for Town Manager or Town Attorney to Review and Execute Grant Agreement Documents (Recreation Director John Curutchet)

5.8.6. Approval of Minutes from May 29, 2018 Special Meeting (Town Clerk Debbie Hoppe)

5.8.7. Approval of Minutes from June 26, 2018 Council Meeting (Town Clerk Debbie Hoppe)

6. Work Session

6.1. Review of Town Manager recruitment schedule, Town Manager salary range, and desired Town Manager Characteristics (Human Resources Director Lance Richards) (45 minutes)

7. Written Reports

7.1. Gift Reporting – CoverRock Music Festival, Beaver Creek Rodeo Series and Vail Valley Brew Fest VIP Tickets (Deputy Town Manager Preston Neill)

8. Mayor & Council Comments & Meeting Updates (15 minutes)

9. Executive Session

9.1. For the Purpose of Personnel Matters under C.R.S. §24-6-402(2)(f) concerning the Acting Town Manager (20 minutes)

10. Adjournment

*Public Comments: Council agendas shall include a general item labeled “Public Comment” near the beginning of all Council meetings. Members of the public who wish to provide comments to Council greater than three minutes are encouraged to schedule time in advance on the agenda and to provide written comments and other appropriate materials to the Council in advance of the Council meeting. The Mayor shall permit public comments for any action item or work session item, and may permit public comment for any other agenda item, and may limit such public comment to three minutes per individual, which limitation may be waived or increased by a majority of the quorum present. Article VI. Public Comments, Avon Town Council Simplified Rules of Order, Adopted by Resolution No. 17-05.
TOWN OF AVON MEETINGS FOR TUESDAY, JULY 10, 2018
AVON LIQUOR AUTHORITY MEETING BEGINS AT 5:00 PM
AVON TOWN HALL, ONE LAKE STREET

1. CALL TO ORDER AND ROLL CALL
2. APPROVAL OF AGENDA
3. PUBLIC COMMENT – COMMENTS ARE WELCOME ON ITEMS NOT LISTED ON THE FOLLOWING AGENDA
4. PUBLIC HEARING SPECIAL EVENTS PERMIT
   4.1. APPLICANT NAME: EAGLE VALLEY HUMANE SOCIETY
        EVENT NAME: PITMASTER BBQ AND MUSIC FESTIVAL
        EVENT DATES: AUGUST 18 & 19, 2018; 12:30 PM UNTIL 9:30 PM
        LOCATION: NOTTINGHAM PARK
        EVENT MANAGER: CHAR GONSENICA
        PERMIT TYPE: MALT, VINOUS & SPIRITUOUS LIQUOR

5. APPROVAL OF THE MINUTES FROM JUNE 26, 2018 MEETING
6. ADJOURNMENT
LIQUOR LICENSING AUTHORITY REPORT

To: Avon Liquor Licensing Authority
From: Debbie Hoppe, Liquor Licensing Authority Secretary
Meeting Date: July 10, 2018
Agenda Topic: PUBLIC HEARING for Special Event Permit Application – Pitmaster BBQ and Music Fest

ACTION BEFORE THE LOCAL LIQUOR LICENSING AUTHORITY

A Special Event Permit Application for the upcoming Pitmaster BBQ and Music Fest is presented to the Avon Local Liquor Licensing Authority for its consideration. A public hearing is required before final action is taken.

Applicant Name: Eagle Valley Humane Society
Event Name: Pitmaster BBQ and Music Fest
Event Dates: August 18 & 19, 2018; 12:30 p.m. until 9:30 p.m.
Location: Nottingham Park
Event Manager: Char Gonsenica
Permit Type: Malt, Vinous & Spirituous Liquor

PROPOSED MOTION

"I move to approve the Special Event Permit application for Eagle Valley Humane Society Pitmaster BBQ and Music Fest on August 18 & 19, 2018." NOTE: a motion to deny a special event permit must state the grounds for denial in accordance with required statutory findings.

SUMMARY

The Applicant is applying for malt, vinous, spirituous liquor permit to serve/sell beverages at the Pitmaster BBQ and Music Fest on August 18 & 19, 2018. The Applicant has submitted the appropriate materials required by the State of Colorado Liquor Enforcement Division and all materials are in order. The Nottingham Park premise has been posted with notice of the public hearing for this application. The event manager will be present to answer questions about the application. The Applicant has submitted the appropriate local liquor license special event permit application fees.

The Applicant is a Charitable Organization in good standing with the Secretary of State, State of Colorado. The Applicant has provided adequate proof of commercial liability insurance that meets the Town’s requirements. These documents are on file in the Town Clerk’s office.

BACKGROUND

Special events permits are issued by the Local Licensing Authority to allow particular types of organizations, municipalities, and political candidates to sell, serve or distribute alcohol beverages in connection with public events. Avon has adopted the local option whereby applications are made directly to the Avon Local
Licensing Authority. Special event permits may only be issued for prescribed hours on a single day. A nonprofit entity and the Town of Avon may receive a maximum of 15 special event permits per calendar year. There is no required finding for the issuance of a special event permit. CRS §12-48-106 states the grounds for denial of a special event permit application as follows:

"The state or local authority may deny the issuance of a special event permit upon the grounds that the issuance would be injurious to the public welfare because of the nature of the special event, its location within the community, or the failure of the applicant in a past special event to conduct the event in compliance with applicable laws."

FINDINGS:
A background investigation has been completed by the Colorado Bureau of Investigation and the Avon Police Department, the reports indicate no problems and or areas of concern. These documents are on file in the Town Clerk’s office.

SPECIAL EVENTS PERMIT APPLICATIONS ATTACHMENTS:
The Applicant for the special event permit has submitted the following materials:
✓ Application for a Special Event Permit (State form DR 8439)
✓ Alcohol Management Plan
✓ Diagram where liquor will be served
**APPLICATION FOR A SPECIAL EVENTS PERMIT**

In order to qualify for a special events permit, you must be nonprofit and one of the following: (See back for details.)

- Social
- Athletic
- Fraternal
- Chartered Branch, Lodge or Chapter
- Patriotic
- Of a National Organization or Society
- Political
- Religious Institution
- Philanthropic Institution
- Political Candidate
- Municipality Owning Arts Facilities
- Malt, Vinous and Spirituous Liquor $25.00 per day
- Fermented Malt Beverage (3.2 Beer) $10.00 per day

**LIAB**

<table>
<thead>
<tr>
<th>TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:</th>
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<tr>
<td>2110 MALT, VINOUS AND SPIRITUOUS LIQUOR</td>
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<tr>
<td>2170 FERMENTED MALT BEVERAGE (3.2 Beer)</td>
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**1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE**

Eagle Valley Humane Society

**2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE**

PO Box 4105
Eagle, CO 81631

**3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT**

Nottingham Lake
Avon, CO 81620

**4. PRES./SECY OF ORG. OR POLITICAL CANDIDATE**

Gabe Shalley

**5. EVENT MANAGER**

Char Gonsenica

**6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR?**

- [ ] No
- [X] Yes

**7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE?**

- [X] Yes
- [ ] No

**8. DOES THE APPLICANT HAVE POSSESSION OR WRITTEN PERMISSION FOR THE USE OF THE PREMISES TO BE LICENSED?**

- [X] Yes
- [ ] No

**LIST BELOW THE EXACT DATE(S) FOR WHICH APPLICATION IS BEING MADE FOR PERMIT**

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<td>8/18/18</td>
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**OATH OF APPLICANT**

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

**SIGNATURE**

**TITLE**

**DATE**

**REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)**

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.

**THEREFORE, THIS APPLICATION IS APPROVED.**

**SIGNATURE**

**TITLE**

**DATE**

**DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY**

**LIABILITY INFORMATION**

<table>
<thead>
<tr>
<th>License Account Number</th>
<th>Liability Date</th>
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<th>TOTAL</th>
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<td>-750 (999)</td>
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(Instructions on Reverse Side)
Alcohol Management Plan

This event “Pitmaster BBQ and Music Fest” will be held at Nottingham Lake in Avon. The areas to be included are the Avon Performance Pavilion and the main upper athletic field of the park. This area will be fenced with 8 foot stadium barricade fencing and blue scrim fencing. Public entrance/exits will be at the North and South terminus of Lake Street, Northwest corner of the park, Lot 16 and between the Recreation Center and Library. Vendor entrance/exit will be at the southwest corner of the park near the log cabin. There will be three alcohol sales tents and ID check with wrist banding located in the front of each tent. Only individuals with wristbands will be served beverages and bands will be checked for each purchase.

At 9:30 pm alcohol sales will stop and the remaining alcohol will be loaded back into the secure truck.

Entrance/exit will have “No Alcohol Beyond This Point” signs posted. Also, our security team will be conducting bag/cooler checks at each entrance/exit.

Security and Volunteers

We will have 4 or more paid security individuals and they will man the following positions:

- **Entrance/Exits**: The two (2) main gates will have a minimum of one (1) security individuals.
- **Security/Emergency Kit**: One (1) security individual will remain at the security/emergency tent and there will be 4 volunteers serving as safety patrols on festival grounds that will be trained for safety measures.
- **Alcohol Sales Tents**: One (1) security individual will remain in the PITGarden area where the alcohol tents are stationed.
- **Alcohol & ID check tent**: We will have 15-20 volunteers, those volunteers serving alcohol will be TIPS trained and will only serve two beverages at a time to one individual.
1. **Call to Order and Roll Call**
   Chairwoman Fancher called the meeting to order at 5:43 p.m. A roll call was taken and Board members present were Megan Burch, Amy Phillips, Matt Gennett, Jake Wolf, Scott Prince and Sarah Smith Hymes. Also present were Acting Town Manager Scott Wright, Town Attorney Eric Heil, Police Chief Greg Daly, Planning Director Matt Pielsticker, Recreation Director John Curutchet, Deputy Town Manager Preston Neill and Secretary Debbie Hoppe.

2. **Approval of Agenda**
   There were not changes to the agenda.

3. **Public Comment – Comments are welcome on topics not on the agenda**
   No public comments were made.

4. **Public Hearing Special Events Permit**
   Start time: 01:42 Part One
   4.1. Applicant Name: Eagle Valley Humane Society
   Event Name: Dancing in the Park
   Event Dates: July 30, 2018 and August 8, 2018; 4:00 pm until 8:30 pm
   Location: Nottingham Park
   Event Manager: Char Gonsenica
   Permit Type: Malt, Vinous & Spirituous Liquor
   Chairwoman Fancher opened the public hearing and no comments were made. Louise Duncan was present to answer any questions.

   Board member Phillips moved to approve the special event permit application for the Eagle Valley Humane Society Dancing in the Park on July 30, 2018 and August 8, 2018. Board member Burch seconded the motion and it passed unanimously by Board members present.

   4.2. Applicant Name: Walking Mountains Science Center
   Event Name: Vail Valley Brew Fest at Avon
   Event Date: June 30, 2018; 12:00 pm until 4:00 pm
   Location: Walking Mountains Science Center
   Event Manager: Paul Abling
   Permit Type: Malt, Vinous & Spirituous Liquor
   Chairwoman Fancher opened the public hearing and no comments were made. Paul Abling was present to answer any questions.

   Board member Prince left the meeting at 5:48 p.m.

   Board member Phillips moved to approve the special event permit application for the Walking Mountains Science Center Vail Valley Brew Fest on June 30, 2018. Board member Wolf seconded the motion and it passed with a vote of 6. Board members Prince was absent.
4.3. Applicant Name: Vail Valley Soccer Club  
   Event Name: Lake Street Market/Avon LIVE!  
   Event Dates: July 11, 18 & 25, 2018 and August 1, 2018; 4:00 pm until 10:00 pm  
   Location: One Lake Street/Nottingham Park  
   Event Manager: Derek George  
   Permit Type: Malt, Vinous & Spirituous Liquor  

Chairwoman Fancher opened the public hearing and no comments were made. Derek George were present answer any questions.

Board member Phillips moved to approve the special event permit application for the Vail Valley Soccer Club Lake Street Market/Avon LIVE! on July 11, 18 & 25, 2018 and August 1, 2018. Board member Wolf seconded the motion and it passed with a vote of 6. Board member Prince was absent.

5. APPROVAL OF THE MINUTES FROM JUNE 12, 2018 MEETING  
   Start time: 01:52 Part One  
   Board member Wolf moved to approve the minutes from the June 12, 2018 Liquor Authority meeting. Board member Burch seconded the motion and it passed with a vote of 6. Board member Prince was absent.

6. ADJOURNMENT  
   There being no further business to come before the Board, Chairwoman Fancher moved to adjourn the liquor meeting. Board member Gennett seconded the motion and it passed unanimously by Board members present. Board member Prince was absent. The time was 5:54 p.m.

RESPECTFULLY SUBMITTED:

____________________________________
Debbie Hoppe, Secretary

APPROVED:

Jennie Fancher  
Sarah Smith Hymes  
Jake Wolf  
Megan Burch  
Matt Gennett  
Scott Prince  
Amy Phillips
TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Matt Pielsticker, AICP, Planning Director
Meeting Date: July 10, 2018
Topic: FIRST READING OF ORDINANCE 18-07, APPROVING THE 2018 AVON WORKFORCE HOUSING PLAN

ACTION BEFORE COUNCIL
Before Council is action on First Reading of Ordinance 18-07, drafted to approve the 2018 Avon Workforce Housing Plan (“the Plan”).

RECOMMENDED MOTION
“I move to approve first reading of Ordinance 18-07, thereby approving the 2018 Avon Workforce Housing Plan.”

PZC REVIEW
PZC held public hearings on June 5, 2018 and June 19, 2018 to consider the Plan before providing a formal recommendation to the Town Council. After deliberations they provided a recommendation for approval of the Plan. With their recommendation, PZC included the following comments/recommendations for Town Council consideration:

1. Given the short 3-year timeframe of the Plan, PZC recommends a narrow/lower AMI range target... concerned with trying to “be everything to everyone.”
2. Consider removing Right of First Refusal as a tool.
3. Consider adding rental assistance as a tool.
4. Add business outreach as an action step, and more language regarding business partners as part of the solution.
5. Concern for “missing middle” and inability to recruit and retain early to mid-career professional level staff.
6. What would be a continuous funding source? Consider adding.
7. Concern that this Plan doesn’t provide guidance for PZC as they review site specific applications.

BACKGROUND
Workforce housing has continually been emphasized as a priority by the Town Council. The importance of a proactive workforce housing program was reinforced in the 2017 Comprehensive Plan goals and policies, as well as the 2017-2019 Strategic Plan. On March 7, 2018 the Town Council conducted a workforce housing retreat, facilitated by Willa Williford and led by housing professionals from Eagle and Summit counties. The purpose of the retreat was to provide data regarding housing need, review Avon’s current workforce housing stock, learn about successful workforce housing projects in other jurisdictions, and for Council to develop actionable strategies for the Town.
Out of the retreat, a draft document was presented to the Town Council on May 8, 2018 for comments and to gain feedback and direction to finalize the draft. After additional modifications were made to the document it was presented to the PZC for a recommendation. The attached redline version of the Plan includes PZC’s recommended wording and final draft.

REVIEW CRITERIA
According to Section §7.16.030(e) of the Development Code, the criteria below are to be used when evaluating the Plan. The review criteria are included here for reference; approval of a Comprehensive Plan requires finding compliance. The draft Ordinance includes pertinent findings, including compliance with these criteria:

1. The surrounding area is compatible with the land use proposed in the plan amendment or the proposed land use provides an essential public benefit and other locations are not feasible or practical;
2. Transportation services and infrastructure have adequate current capacity, or planned capacity, to serve potential traffic demands of the land use proposed in the plan amendment;
3. Public services and facilities have adequate current capacity, or planned capacity, to serve the land use proposed in the plan amendment;
4. The proposed land use in the plan amendment will result in a better location or form of development for the Town, even if the current plan designation is still considered appropriate;
5. Strict adherence to the current plan would result in a situation neither intended nor in keeping with other key elements and policies of the plan;
6. The proposed plan amendment will promote the purposes stated in this Development Code; and,
7. The proposed plan amendment will promote the health, safety or welfare of the Avon Community and will be consistent with the general goals and policies of the Avon Comprehensive Plan.

AVAILABLE ACTIONS
1) Approve First Reading of Ordinance 18-07, and set forth the Public Hearing date for July 24, 2018.
2) Continue First Reading of Ordinance 18-07 with direction to return with additional information; continuance may not be later than sixty-five days from initial hearing with Council.

ATTACHMENT
Ordinance 18-07
AN ORDINANCE APPROVING THE 2018 AVON WORKFORCE HOUSING PLAN

RECITALS

WHEREAS, the Town of Avon ("Town") is a home rule municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law; and

WHEREAS, The Town of Avon ("Applicant") has initiated a Comprehensive Plan Application to address workforce housing; and

WHEREAS, the Town of Avon Planning and Zoning Commission conducted public hearings on June 5, 2018, and June 19, 2018, and prior to formulating a recommendation to the Town Council considered public comments, testimony, evidence and Town staff reports;

WHEREAS, the Town of Avon Planning and Zoning Commission took action to adopt Findings of Fact in accordance with AMC §7.16.030(c), and made a recommendation to the Avon Town Council to adopt the 2018 Avon Workforce Housing Plan; and

WHEREAS, in accordance with AMC §7.12.030, Town Council, and in addition to other authority granted by the Town Charter, its ordinances and State of Colorado law, the Town Council has application review and decision-making authority to approve, approve with conditions or deny the Application; and

WHEREAS, the Town Council of the Town of Avon, after publishing and posting notice in accordance with the requirements of AMC §7.16.020(d), Step 4: Notice, held public hearings on July 10, 2018 and July 24, 2018, and prior to taking final action considered all comments, testimony, evidence and Town Staff reports; and then took action by approving this Ordinance; and

WHEREAS, pursuant to AMC §7.16.030(c), Review Criteria the Town Council has considered the applicable review criteria for a Comprehensive Plan application, as more specifically described below; and

WHEREAS, in accordance with the review criteria outlined AMC §7.16.030(c), Review Criteria, the Town Council finds that the 2018 Avon Workforce Housing Plan is in compliance with the purposes of the Development Code by achieving a diverse range of attainable housing needs created by jobs in the Town; proving a range of housing types and price points to serve a complete range of life stages to provide a stable full time residential community balancing the visitor economy; complies with the goals and policies of the 2017 Avon Comprehensive Plan by strengthening the policy objectives related to achieving a diverse range of housing types to serve all segments of the population; and, the 2018 Avon Workforce Housing Plan will promote the health, safety, and welfare of the Avon Community by supporting working families and building a stable community with opportunities for families and young professionals.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. 2018 Avon Workforce Housing Plan. The attached ("Exhibit A to Ordinance 18-07") document is hereby approved and considered a “Comprehensive Plan,” as defined by AMC §7.08,
Definitions, and shall serve as a guiding document for housing and community development in the Town.

Section 3. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it has passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 4. Effective Date. This Ordinance shall take effect no sooner than thirty (30) days after final adoption in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 5. Safety Clause. The Town Council hereby finds, determines and declares this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety, and welfare of the public.

Section 6. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 7. Correction of Errors. Town Staff is authorized to insert proper dates, references to recording information and make similar changes, and to correct any typographical, grammatical, cross-reference, or other errors which may be discovered in any documents associated with this Ordinance and documents approved by this Ordinance provided that such corrections do not change the substantive terms and provisions of such documents.

Section 8. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

INTRODUCED, APPROVED, PASSED ON FIRST READING, ORDERED POSTED AND REFERRED TO PUBLIC HEARING and setting such public hearing for 5:00 on March 27, 2018 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado.
SIGNED:

Jennie Fancher, Mayor

Published by posting in at least three public places in Town and posting at the office of the Town Clerk at least seven days prior to final action by the Town Council.

ATTEST:                      APPROVED AS TO FORM:

Debbie Hoppe, Town Clerk    Eric Heil, Town Attorney

INTRODUCED, FINALLY APPROVED, AND PASSED ON SECOND READING, AND ORDERED PUBLISHED BY POSTING on July 24, 2018.

SIGNED:

Jennie Fancher, Mayor

Published by posting by title in at least three public places in Town and posting by title at the office of the Town Clerk.

ATTEST:

Debbie Hoppe, Town Clerk
Avon Workforce Housing Plan 2018-2021
Prepared by Willa Williford for the Town of Avon

“Avon’s vision is to provide a high quality of life, today and in the future, for a diverse population; and to promote their ability to live, work, visit and recreate in the community.”
- TOWN OF AVON COMPREHENSIVE PLAN, ADOPTED MAY 23, 2017

Introduction

The Town of Avon seeks to build upon a long history as a high amenity year-round resort community, strengthening its vibrant and inclusive community culture. The current Comprehensive Plan sets the vision for a diversity of exciting opportunities for residents, businesses, and visitors. The current housing market, which offers very few opportunities for year-round residents to put down roots in Avon, poses a challenge to this vision.

The potential community benefits of increasing workforce housing efforts to include:
- More housing choices;
- Increased economic stability and a more active year-round economy for local residents and businesses;
- Greater ability to retain individuals and families throughout life and career phases, strengthening sense of community, opportunity, and quality of life;
- Further the goals of the Climate Action Plan by reducing single occupant vehicle commuting; and
- Greater opportunities for arts and culture to thrive.

The Need

Since the end of the recession jobs and population have been growing much more rapidly than housing inventory, creating many challenges:

- Frustration for employees seeking housing;
- Employers facing unfilled positions, turnover, higher training costs, and lost productivity;
- Precipitous increases in home prices, well beyond the means of most local residents;
- Extremely low vacancy rates, resulting in limited choices and rising costs for renters; and
- Negative impacts on individuals and families, who are spending a disproportionate amount of their income on housing, commuting long distances, and living in locations or situations that are not sustainable for the long term.

Median price for all homes sold in 2017 was $438,000. Condos accounted for 71% of these sales, with a median price of $358,500. The median price for single family homes, duplexes and townhomes was $850,000. The home price affordable to a median income family is less than half that at about $316,000. Only four condominium units were on the market for $316,000 or lower in early 2018. The rental market is similarly challenging: vacancy rates have been approaching zero, and since 2007, average rental rates have risen 48% across the Eagle River Valley.
To meet the needs of local employees in the Eagle River Valley, over 4,000 additional homes will be required by 2020.\(^1\) In mid-valley, which includes Eagle Vail, Avon, and Edwards, 1,500 homes will be needed. Subsidies or public/private partnerships are anticipated to be required for the majority of these homes to be financially feasible and affordable to local employees.

Avon and the mid-valley are highly desired locations for local households. In a recent survey of Eagle River Valley households, 40% of renters and 39% of owners selected mid-valley as their first choice for where they want to live.\(^2\)

The challenges with regard to housing need are significant. With this Plan, the Town of Avon is setting goals, objectives, and action steps to respond. The Town’s resources include land, funding, staff time, and policy making. Recognizing that the Town of Avon alone cannot address the housing need, these resources will be used to leverage opportunities and create partnerships.

**Strengths and Assets**

Avon has numerous assets related to housing opportunities to build upon successes and lessons learned from previous housing initiatives:

- An inventory of 670 workforce housing units currently, about 90% of which are for rent;
- An Affordable Housing Fund balance of about $570,000. This fund is anticipated to increase soon, and these resources can be leveraged to create housing opportunities that meet the goals of this Plan;
- A partnership with The Valley Home Store for monitoring and compliance of deed restrictions on for-sale homes;
- Employee housing mitigation requirements for some new commercial development;
- Successful PUD negotiations to provide deed restricted housing resulting in 63 perpetually restricted units to date;
- History of regional collaboration with public sector, non-profit and private sector on housing issues;
- Significant inventory of attainable free market housing;
- Significant opportunities for development and redevelopment, with water rights, transit access and existing density on vacant and underutilized private parcels;
- Commercially zoned land that may also be appropriate for residential development; and
- Adopted Comprehensive Plan, which sets workforce housing as top policy priority.

**Goals and Objectives**

The Comprehensive Plan sets two housing goals (each with numerous supporting policies):

- Achieve a diverse range of housing densities, styles, and types, including rental and for sale, to serve all segments of the population.

---

\(^1\) *Eagle River Valley Housing Needs and Solutions 2018*, Rees and Williford

\(^2\) Ibid.
• Coordinate with neighboring communities to provide an attainable housing program that incorporates both rental and ownership opportunities, affordable for local working families.

Goals and Objectives of this Housing Plan are as follows:
• Focus on increasing deed restricted homeownership opportunities at $430,000 and below (equivalent to 140% Area Median Income for a household of three people).
• Grow the inventory of homeownership more quickly than rental housing, to create a more balanced portfolio, with a long-term goal of about 50% rental, 50% ownership.
• When considering new rental housing, prioritize price point, quality and amenities attractive to “step up” renters and seniors looking to downsize, focusing on the 60-140% AMI level.
• Stabilize or increase the percentage of year-round residents; currently 55% of all homes in Avon are occupied by year-round residents.
• Stabilize or increase the percentage of employees who live and work in Avon.
• Seek to add at least 50 deed restricted units to the inventory by 2021.
• As sites redevelop, strive for “no net loss” of units in the target AMI range, and when possible, an increase of housing serving the local workforce.
• Review and re-evaluate goals and objectives in late 2021 or early 2022.

Tools and Strategies

In order to achieve these goals and objectives, the following tools and strategies should be pursued. Tools and strategies are organized into three categories: Housing Development and Retention, Funding, and Housing Policy. A timeline for implementation is included in Appendix A.

Housing Development and Retention

A top priority is pursuing workforce housing development on Town owned land. Two parcels, identified in the Town of Avon Properties Plan, are appropriate to move forward with workforce housing development in the next three years. These sites are Wildwood and Swift Gulch.

This Plan is recommending that public outreach, feasibility analysis, and conceptual design for Wildwood move forward this year. Planning Preliminary analysis for Swift Gulch can begin when there is a clear path forward for finance, entitlements, and construction for Wildwood. Both sites are anticipated to be developed through public/private partnerships.

Two strategies have been identified to preserve market rate attainable housing that is currently at risk of being lost to locals through rapid price increases and/or redevelopment. The first strategy is to “buy-down” attainable market rate units and preserve their affordability with a permanent deed restriction. Nearby precedents for this approach include Vail InDEED and Eagle Valley Ranch. This is a homeownership strategy. The second strategy is to secure explore mechanisms such as mobile home preservation, acquisition, and right of first refusal to preserve on properties that currently house local employees. A right of first refusal creates the opportunity for the Town to purchase and preserve these assets, if the owner decides to sell and the Town decides the property is a priority and is able to secure finance...
timely. This is a mobile home and multi-family housing strategy. This program development is anticipated to begin in 2019.

**Investing in and maintaining the current inventory** of deed restricted housing is an important component of housing development and retention. Much of the affordable rental housing inventory has recently been renovated, however, the homeownership inventory is in need of capital planning and reinvestment. The Town of Avon has recently contracted with The Valley Home Store to assist with compliance monitoring and re-sale of deed restricted properties. The next phase of this effort will be to conduct a capital needs assessment of the homeownership assets and make a plan for funding and implementing capital improvements. This effort is anticipated to begin in 2020.

Cultivating additional **public private partnerships** and seeking to **purchase additional land** for workforce housing are additional strategies that will be ongoing.

**Funding**

Local funding is a key ingredient to building and maintaining workforce housing. Investing (or “leveraging”) local funds is essential to attracting the outside funding sources such as grants, loans, tax credits and private investments that, when combined, make housing development financially feasible. Currently, the Avon Housing Fund has a balance of about $570,000. It is anticipated that those funds will be invested in the efforts outlined in this Plan, and that additional funds will be needed moving forward. A two-step process is envisioned to **secure additional local funds for housing**. The first step will be to **review current revenue streams** and determine if additional funds can be directed to housing efforts through the annual budgeting process. This review will begin at the end of 2018. Depending on the outcome of the first step, the second step be to **seek opportunities for new funding sources**, which could include approaches such as increased linkage fees, regional collaboration, and/or a local ballot initiative. **Public private partnerships are also a funding strategy**, generating potential access to grants, below market loans, and resources such as the Low Income Housing Tax Credit.

**Housing Policy**

The Town of Avon seeks to use both incentives and regulations to create a policy environment that is favorable for workforce housing. The Town has a strong track record in including workforce housing in PUD approvals. The Town will continue to encourage, and, in some instances, require workforce housing in new planning approvals.

Initiatives to update and strengthen housing policies will include:

- Review existing code for opportunities to increase the year-round occupancy of the existing housing stock, including consideration of **short term rental, accessory dwelling unit, and lock-off incentives and regulations**.
- **Update mitigation/linkage policies** to be more proactive in addressing workforce housing needs. Current policies are limited to very narrowly defined locations and development requests, and the current mitigation rate is low compared with peer communities.
- Consider implementing an **inclusionary housing policy**. Inclusionary housing was considered in the 2010 code update, but was not adopted at that time. Inclusionary housing is a tool to create housing affordable to the local workforce. It is recommended to look at inclusionary housing and mitigation/linkage at the same time, to better
understand how the two tools complement each other, support policy goals, and maintain a level playing field for commercial and residential development.

- Conducting a comprehensive review of fees associated with new construction and the including entitlements and water/sewer taps. This review will look at both focus on Town of Avon and Eagle River Water and Sanitation District fee structures and how the Town might reimburse fees imposed by Eagle River Water and Sanitation District will be a collaborative process between the two agencies to recommend updates. A goal of the process will be to align fees with workforce housing policy goals, as well as formalize a fee waiver/reimbursement process for workforce housing that meets defined criteria.

The Town of Avon understands the regional nature of housing, transportation and employment in the Eagle River Valley. In pursuit of workforce housing, the Town will continue to participate in regional studies, seek opportunities to participate in regionally significant workforce housing developments beyond Town boundaries, and participate in employer forums, and be an advocate for other regional initiatives.

Leadership and Responsibilities

The work of furthering workforce housing in Avon is currently shared among several Town departments and outside partners. The Town Council sets goals, budget, workplan and adopts new regulations and approves or denies land use requests. Working on behalf of the Council, the Town Manager’s office is responsible for public/private partnerships, and long-range planning and strategy. The Planning Office/Community Development Department is responsible for existing and proposed inventory, PUD processes, permits and fees, and land use code related initiatives. Revenue sources, budgeting, financing and bonding are supported by the Town Finance Director. The Town contracts with The Valley Home Store for deed restriction monitoring, compliance, and sales of deed restricted properties. This structure is proposed to remain in place, with additional capacity contracted from time to time. These responsibilities are further defined in Appendix A.

Investment Criteria

As the Town of Avon seeks to deploy current and future Housing Fund balance to increase workforce housing opportunities, the Town will evaluate the opportunity based on the following criteria:

1. Does the proposed project meet the goals and objectives of the Comp Plan and this Housing Plan?
2. Does the investment fill a gap that would otherwise keep the proposed project from moving forward?
3. Does the project encourage resource conservation, energy efficiency and sustainable development? Does the location offer access to multi-model transportation options and other services?
4. Is there participation from other regional partners, public and/or private?
### APPENDIX A – Timeline and Responsibilities

<table>
<thead>
<tr>
<th>Housing Development and Retention</th>
<th>Lead</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>Longer Term</th>
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<tbody>
<tr>
<td><strong>Town Owned Property #1 - Wildwood</strong></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Conduct Feasibility</td>
<td>Avon - Planning</td>
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<tr>
<td>Seek Development Partner(s)</td>
<td>Avon - Planning</td>
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</tr>
<tr>
<td>Select partner</td>
<td>Avon - Council</td>
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<tr>
<td>Entitlement and finance</td>
<td>TBD</td>
<td></td>
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<tr>
<td>Construct</td>
<td>TBD</td>
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<tr>
<td>Evaluate purchase of additional land for housing</td>
<td>Avon - Manager</td>
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<tr>
<td>Cultivate Public Private Partnerships</td>
<td>Avon - Manager</td>
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<tr>
<td>Develop a housing preservation program</td>
<td>Avon - Planning/TVHS</td>
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<tr>
<td>Evaluate best practices from other communities</td>
<td>Avon - Planning/TVHS</td>
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<tr>
<td>Develop program guidelines for individual properties</td>
<td>Avon - Planning/TVHS</td>
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<tr>
<td>Explore mechanisms for mobile homes/multifamily properties</td>
<td>Avon - Manager</td>
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<tr>
<td><strong>Town Owned Property #2 - Swift Guild</strong></td>
<td></td>
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<tr>
<td>Confirm use for housing and conduct feasibility</td>
<td>Avon - Planning</td>
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<tr>
<td>Seek Development Partner(s)</td>
<td>Avon - Planning</td>
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<td>Select partner</td>
<td>Avon - Council</td>
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<tr>
<td>Entitlement and finance</td>
<td>TBD</td>
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<tr>
<td>Construct</td>
<td>TBD</td>
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<tr>
<td>Invest in and maintain existing inventory</td>
<td></td>
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<tr>
<td>Conduct capital assessment of DR ownership inventory</td>
<td>Avon - Planning/TVHS</td>
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<tr>
<td><strong>Funding</strong></td>
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<tr>
<td>Review Current Revenue Streams and evaluate fund contributions</td>
<td></td>
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<tr>
<td>Include annual allocation for housing in budget process</td>
<td>Avon - Finance</td>
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<tr>
<td>Approve fund transfers</td>
<td>Avon - Council</td>
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<tr>
<td>Seek opportunities for new funding sources</td>
<td>Avon - Manager</td>
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<tr>
<td><strong>Housing Policy</strong></td>
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<tr>
<td>Review Code Opportunities - Accessory Dwelling Units, Short Term Rentals and Lock-offs, Commercial to Residential opportunities</td>
<td>Avon - Planning</td>
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<tr>
<td>Assess current codes, best practices, opportunities to revise</td>
<td>Avon - PZC</td>
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<tr>
<td>Recommend code changes</td>
<td>Avon - PZC</td>
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<tr>
<td>Consider for Adoption</td>
<td>Avon - Council</td>
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<tr>
<td>Consider Mitigation/Linkage Updates and Inclusionary Housing</td>
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<tr>
<td>Hire consultant(s)</td>
<td>Avon - Planning</td>
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<tr>
<td>Review current and previous ordinances and calculations</td>
<td>Avon - Planning</td>
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<tr>
<td>Analyze opportunities</td>
<td>Avon - Planning</td>
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<tr>
<td>Consider turnaround</td>
<td>Avon - Planning</td>
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<tr>
<td>Conduct outreach</td>
<td>Avon - Planning</td>
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<tr>
<td>Review and recommend adoption</td>
<td>Avon - PZC</td>
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<tr>
<td>Consider for Adoption</td>
<td>Avon - Council</td>
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<tr>
<td><strong>Formalize Fee Waiver Program</strong></td>
<td></td>
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<tr>
<td>Review Town of Avon building and planning fees</td>
<td>Avon - Planning</td>
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</tr>
<tr>
<td>Review all Town of Avon fees related to construction of affordable units</td>
<td>Avon - Planning</td>
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<tr>
<td>Codify requirements for waivers/reimbursements</td>
<td>Avon - Council</td>
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<tr>
<td>Participate in regional studies, site analysis, and employer forums</td>
<td>Avon - Planning</td>
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</tr>
</tbody>
</table>

TVHS: The Valley Home Store
DR: Deed Restricted
## APPENDIX B – Definitions and Best Practices

<table>
<thead>
<tr>
<th>Topic</th>
<th>Definition</th>
<th>Best Practices</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inclusionary Housing</td>
<td>A percentage of residential units in new subdivisions/PUDs are workforce housing. Market homes support workforce units. Only effective if new subdivisions/PUDs are developed/redeveloped.</td>
<td>Carbondale, Eagle, Eagle County, San Miguel County</td>
</tr>
<tr>
<td>Linkage/Mitigation</td>
<td>Requiring new homes and/or commercial development to contribute to workforce housing relative to demand generated by the new construction. For residential, mitigation rate often increases with house size, and deed restricted units are typically exempt. Fees in lieu provides revenue stream that fluctuates with building activity. Documented relationship between fee and impact required.</td>
<td>Telluride, Aspen, Mt. Crested Butte</td>
</tr>
<tr>
<td>Fee Waivers</td>
<td>Water/sewer tap fees, building permit or other fees waived in part or whole to reduce cost to build affordable housing. General funds or other source need to cover cost of fees waived.</td>
<td>Breckenridge, Crested Butte</td>
</tr>
<tr>
<td>Dedicated Funding Source</td>
<td>Funding is a core component of building housing and running successful housing programs. Few programs begin with funding; rather finding funding is an incremental process that goes hand in hand with creating goals and objectives, developing policies, securing appropriate land for housing, and moving forward with public/private partnerships. Dedicated funding sources take many forms including grants, fee in lieu payments, taxes, voluntary assessments, proceeds from rents or sales.</td>
<td>Summit County, Steamboat Springs, Crested Butte, Aspen, Telluride</td>
</tr>
<tr>
<td>Public/Private Partnerships</td>
<td>Partnering with developers to build homes, typically on publicly-owned sites, or using other public resources such as property tax exemption. RFQ/RFP process effective for selecting development partners. Ownership of land can be retained with long-term land leases.</td>
<td>Eagle County, Vail, Breckenridge, Boulder</td>
</tr>
<tr>
<td>Land Banking</td>
<td>Acquiring land for eventual housing development when specific project is not known.</td>
<td>Summit County, Vail, Boulder County, Breckenridge, Telluride</td>
</tr>
<tr>
<td>Buy Down of Market Homes</td>
<td>Usually involves buying down units with public funds. Deed restrictions imposed for permanent affordability. Inability to obtain condo mortgages can result in units being rented. Public sector purchases can drive up prices for low-end market units.</td>
<td>Breckenridge, Telluride, Whitefish MT</td>
</tr>
<tr>
<td>No Net Loss Policy</td>
<td>Requiring replacement of housing occupied by the workforce when redevelopment occurs. Similarly-priced units should be replaced on site or another site, or a fee-in-lieu of replacement could be allowed.</td>
<td>Boulder, Basalt</td>
</tr>
</tbody>
</table>
APPENDIX C - Area Median Income for Eagle County 2018

Area Median Income for Eagle County, 2018

<table>
<thead>
<tr>
<th>Household Size</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>AMI Classifications</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Extremely Low (30% AMI)</td>
<td>$18,270</td>
<td>$20,880</td>
<td>$23,490</td>
<td>$26,070</td>
<td>$28,170</td>
<td>$30,270</td>
</tr>
<tr>
<td>Very Low (50% AMI)</td>
<td>$30,450</td>
<td>$34,800</td>
<td>$39,150</td>
<td>$43,450</td>
<td>$46,950</td>
<td>$50,450</td>
</tr>
<tr>
<td>60% AMI (LIHTC max)</td>
<td>$36,540</td>
<td>$41,760</td>
<td>$46,980</td>
<td>$52,140</td>
<td>$56,340</td>
<td>$60,540</td>
</tr>
<tr>
<td>Low (80% AMI)</td>
<td>$48,720</td>
<td>$55,680</td>
<td>$62,640</td>
<td>$69,520</td>
<td>$75,120</td>
<td>$80,720</td>
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<tr>
<td>Median (100% AMI)</td>
<td>$60,900</td>
<td>$69,600</td>
<td>$78,300</td>
<td>$86,900</td>
<td>$93,900</td>
<td>$100,900</td>
</tr>
<tr>
<td>Moderate/Middle (140% AMI)</td>
<td>$85,260</td>
<td>$97,440</td>
<td>$109,620</td>
<td>$121,660</td>
<td>$131,460</td>
<td>$141,260</td>
</tr>
<tr>
<td>Upper (200% AMI)</td>
<td>$121,800</td>
<td>$139,200</td>
<td>$156,600</td>
<td>$173,800</td>
<td>$187,800</td>
<td>$201,800</td>
</tr>
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</table>

Source: CHFA

Affordable Home Price Calculation by AMI, 2018

<table>
<thead>
<tr>
<th>AMI %</th>
<th>30%</th>
<th>60%</th>
<th>100%</th>
<th>140%</th>
<th>200%</th>
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</thead>
<tbody>
<tr>
<td>Household Income – 3 persons</td>
<td>$23,490</td>
<td>$46,980</td>
<td>$78,300</td>
<td>$109,620</td>
<td>$156,600</td>
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<tr>
<td>Affordable Purchase price</td>
<td></td>
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<td></td>
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<tr>
<td>Affordable monthly payment (30%)</td>
<td>$587</td>
<td>$1,175</td>
<td>$1,958</td>
<td>$2,741</td>
<td>$3,915</td>
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<tr>
<td>Principal &amp; interest (80% of pmt)</td>
<td>$470</td>
<td>$940</td>
<td>$1,566</td>
<td>$2,192</td>
<td>$3,132</td>
</tr>
<tr>
<td>HOA, taxes, insurance (20% of pmt)</td>
<td>$117</td>
<td>$235</td>
<td>$392</td>
<td>$548</td>
<td>$783</td>
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<tr>
<td>Mortgage Interest rate</td>
<td>5.00%</td>
<td>5.00%</td>
<td>5.00%</td>
<td>5.00%</td>
<td>5.00%</td>
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<tr>
<td>Max mortgage</td>
<td>$47,515</td>
<td>$175,030</td>
<td>$291,717</td>
<td>$408,404</td>
<td>$583,434</td>
</tr>
<tr>
<td>Max Affordable Price -5% down</td>
<td>$92,000</td>
<td>$184,000</td>
<td>$307,000</td>
<td>$430,000</td>
<td>$614,000</td>
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<tr>
<td>Affordable Rent</td>
<td>$587</td>
<td>$1,175</td>
<td>$1,958</td>
<td>$2,741</td>
<td>$3,915</td>
</tr>
</tbody>
</table>

Affordable purchase prices were calculated assuming that a household would have 5% for a down payment, and would qualify for a loan that 30% of their monthly income. HOA, property taxes and insurance of 20% were included. The max mortgage assumes an interest rate of 5.0%, which is about half point higher than prevailing rates for 30-year fixed rate mortgages. Interest rates are rising, however, and will have a profound impact on housing affordability. A one-point increase in the rate, as occurred in 2013, would drop the affordable purchase price for a median income household by $30,000 to $35,000.
MEMORANDUM

TO: Honorable Mayor Fancher and Town Council members
FROM: Eric J. Heil, Town Attorney
RE: Ordinance No. 18-09 Amending Section 2.30.120(b) – Public Contracts
DATE: July 6, 2018

SUMMARY: Ordinance No. 18-09 is presented to Council for consideration on first reading. Ordinance No. 18-09 amends Section 2.30.120(b) by adding a new sub-section to create an exemption so that members of advisory boards, committees and commissions are not prohibited from public contracts with the Town of Avon if the subject matter of such contracts is not related to the subject matter of the advisory position. This change will allow members of the business community to participate on advisory boards, committees and commissions.

PROPOSED MOTION: “I move to approve first reading of Ordinance No. 18-09 Amending Section 2.30.120 – Public Contracts of the Avon Municipal Code.”

OVERVIEW: Avon’s Town Code of Ethics is more stringent the State Standards of Conduct with regard to public contracts because it does not allow any “Town Officer” to enter into any contracts or receive any compensation, even if such contract or compensation is not related to the advisory role. This rule would disallow certain members of the Ad Hoc Special Events Committee from serving on this committee because such members contract with the Town to provide financial services and design services, which services are wholly unrelated to the subject matter of the Ad Hoc Special Events Committee. Council provided direction in June to amend the Town Code of Ethics so that members of advisory bodies are not disallowed from entering into public contracts with the Town which are unrelated to the subject matter of the advisory body.

Thank you, Eric

ATTACHMENT A: Reprint of Section 2.30.120 – Public Contracts

ATTACHMENT B: Ordinance No. 18-09
ATTACHMENT A: Section 2.30.120 – Public Contracts is reprinted below for convenience with the proposed added language underlined:

2.30.120 - Public contracts.

(a) The Town shall not enter into any contract with a Town Officer (including spouse or minor children of the Town Officer) to provide any compensation from the Town for the provision of goods or services and shall not approve any vendor permit or privilege to conduct commercial business on Town property during such officer's term, appointment or employment with the Town; provided that this restriction shall not apply to compensation provided to any Town Officer for performance of official duties for the Town. This section shall not operate to restrict the Town from entering into contracts or approving vendor permits and privileges to an organization which employs a Town Officer if such Town Officer is not an owner or controlling officer of such organization that receives such compensation, permits or privileges and such Town Officer declares a conflict of interest in accordance with Section 2.30.060(3) and does not participate in any Town decision related to such public contract. For the purposes of this section, ownership in an organization shall include any ownership interest that is greater than one percent (1%).

(b) The provisions of Subsection (a) above shall not apply to:

(1) Investments or deposits in financial institutions which are in the business of loaning or receiving money; or,

(2) With respect to which the Town Officer has voted therein in accordance with Section 2.30.100; or

(3) Contracts with, or compensation provided to, members of advisory commissions, committees and boards if the subject matter of such contract or compensation does not relate to the subject matter or advisory role of the commission, committee or board.

(c) It shall be a violation of this Chapter for any Town Officer to enter into a contract with the Town or receive compensation or receive vendor permits or privileges from the Town in violation of this section.

(d) Any contract approved by the Town or vendor permit or privilege granted by the Town in violation of this section shall be unenforceable against the Town.
TOWN OF AVON, COLORADO
ORDINANCE 18-09

AMENDING SECTION 2.30.120(b) – PUBLIC CONTRACTS
OF THE AVON MUNICIPAL CODE

WHEREAS, the Town of Avon, Colorado ("Town") is a home rule municipality existing pursuant to the laws of the Colorado Constitution, the Colorado Revised Statutes and the Town's Home Rule Charter; and

WHEREAS, the Town Council finds that stringent ethical standards are essential for the best function of the Avon Town government and are necessary to promote public confidence in the Avon Town government; and

WHEREAS, the Town Council finds that Section 2.30.120 Public Contracts is more stringent that the State Standards of Conduct and is not appropriate for advisory committees which benefit from broad inclusion for the Avon community;

WHEREAS, the Avon Town Council finds that amendments to Section 2.30.120 will promote the health, safety and general welfare of the Avon community; and

WHEREAS, approval of this Ordinance on First Reading is intended only to confirm that the Town Council desires to comply the requirements of the Avon Home Rule Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the application and that approval of this Ordinance on First Reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO the following:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. Amendment to Section 2.30.120(b) of the Avon Municipal Code. Section 2.30.120(b) of the Avon Municipal Code is hereby amended to enact a new sub-section (3) to read as follows:

“(3) Contracts with, or compensation provided to, members of advisory commissions, committees and boards if the subject matter of such contract or compensation does not relate to the subject matter or advisory role of the commission, committee or board.”

Section 3. Codification of Amendments. The codifier of the Town’s Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Avon Municipal Code. The Town Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not
substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 4. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 5. Effective Date. This Ordinance shall take effect thirty (30) days after the date of final passage in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 6. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 7. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 8. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

[Execution Page follows]
INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING on July 10, 2018 and setting such public hearing for July 24, 2018 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado.

BY:                        ATTEST:

Jennie Fancher, Mayor      Debbie Hoppe, Town Clerk

ADOPTED ON SECOND AND FINAL READING on July 24, 2018.

BY:                        ATTEST:

Jennie Fancher, Mayor      Debbie Hoppe, Town Clerk

APPROVED AS TO FORM:

Eric J. Heil, Town Attorney
TOWN COUNCIL REPORT

To:        Honorable Mayor Jennie Fancher and Avon Town Council
From:      Preston Neill, Deputy Town Manager
Meeting Date:  July 10, 2018
Topic:     FIRST READING ORDINANCE 18-10, ENACTING A NEW CHAPTER 6.08 – DECLAWING
PROHIBITED TO TITLE 6 OF THE AVON MUNICIPAL CODE PROHIBITING THE DECLAWING OF
CATS AND OTHER ANIMALS IN THE TOWN OF AVON

ACTION BEFORE COUNCIL:
Before Council is action on First Reading of Ordinance 18-10, enacting a new Chapter 6.08 – Declawing Prohibited to Title 6 of the Avon Municipal Code prohibiting the declawing of cats and other animals in the Town of Avon.

PROPOSED MOTION:
“I move to approve [with or without modifications] First Reading of Ordinance 18-10 amending the Avon Municipal Code to enact Chapter 6.08 – Declawing Prohibited.”

SUMMARY:
At the December 12, 2017, Town Council meeting, JP Kacy delivered a brief presentation during the public comment period regarding the declawing of cats. She asked for Council to consider enacting a ban on cat declawing, similar to the legislation the City of Denver passed in November 2017. Denver became the first U.S. city outside of California to prohibit the practice of removing cats’ claws.

At the June 26, 2018, Town Council meeting, Council directed staff to prepare an ordinance prohibiting the practice of cat declawing in Avon.

In preparation for Tuesday's meeting, staff has notified veterinarians with Town of Avon business licenses about the proposed ordinance.

PENALTY FOR VIOLATION:
The penalty for violation of Chapter 6.08 would be the General Penalty set forth in Chapter 1.08, which includes a fine of up to $2,650 and/or imprisonment not to exceed one year, which would be determined by the municipal judge.

FINANCIAL IMPLICATIONS:
There would be no fiscal impact associated with the adoption of Ordinance 18-10. If enacted, the Ordinance would be promoted and enforced by Town staff.

ATTACHMENT:
TOWN OF AVON, COLORADO
ORDINANCE 18-10

AMENDING THE AVON MUNICIPAL CODE TO ENACT CHAPTER 6.08 – DECLAWING PROHIBITED

WHEREAS, the Town of Avon, Colorado (the "Town") is a home rule municipality existing pursuant to the laws of the Colorado Constitution, the Colorado Revised Statutes and the Town's Home Rule Charter; and

WHEREAS, in 2017, the City of Denver, Colorado adopted a local ordinance that prohibited the practice commonly known as animal declawing within its incorporated limits; and

WHEREAS, there is evidence that links onychectomy (declawing) and flexor tendonectomy to a high risk of painful adverse and long-lasting effects on animals. Complications may include damage to nerves, lameness, and chronic pain and these procedures may prevent a cat or other animal from being able to extend its claws, leaving it unable to scratch, and rendering it at a disadvantage in defending itself; and

WHEREAS, there are a number of alternatives to declawing that involve no physical harm to the animal, including training the pet to use a scratch post, use of deterrent pheromone sprays, covering furniture, restricting the pet’s access to certain areas of the home, use of plastic nail covers, and more; and

WHEREAS, the Town Council finds that prohibiting these procedures will protect and promote the general health, safety and welfare of animals and humans alike.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO the following:

Section 1.  Recitals Incorporated.  The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2.  Adoption of Chapter 6.08 – Declawing Prohibited.  Title 6 of the Avon Municipal Code is hereby amended by the enactment of Chapter 6.08, to read as follows:

"Chapter 6.08 - Declawing Prohibited

(a) No person, license medical professional or otherwise, shall perform or cause to be performed an onychectomy (declawing) or flexor tendonectomy procedure by any means on any animal within the Town of Avon, except when necessary for a therapeutic purpose. "Therapeutic purpose" means the necessity to address the medical condition of the animal, such as an existing or recurring illness, infection, disease, injury or abnormal condition in the claw that compromises the animal's health. "Therapeutic purpose" does not include cosmetic or aesthetic reasons or reasons of convenience in keeping or handling the animal. In the event that an onychectomy or flexor tendonectomy procedure is

Ord 18-10
FIRST READING – July 10, 2018
Page 1 of 3
performed on any animal within the town in violation of this section, each of the following persons shall be guilty of a violation of this section: (1) the person or persons performing the procedure, (2) all persons assisting in the physical performance of the procedure, and (3) the animal guardian that ordered or requested the procedure.

(b) Any person violating any of the provisions of this Chapter, upon conviction thereof, shall be punished for such offense in accordance with the provisions of Chapter 1.08 – General Penalty of this Code.”

Section 3. Codification Amendments. The codifier of the Town’s Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Avon Municipal Code. The Town Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 4. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 5. Effective Date. This Ordinance shall take effect thirty (30) days after the date of final passage in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 6. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 7. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered,
or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 8. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING on July 10, 2018 and setting such public hearing for July 24, 2018 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado.

BY:                                ATTEST:

____________________________  ___________________________
Jennie Fancher, Mayor           Debbie Hoppe, Town Clerk

ADOPTED ON SECOND AND FINAL READING on July 24, 2018.

BY:                                ATTEST:

____________________________  ___________________________
Jennie Fancher, Mayor           Debbie Hoppe, Town Clerk

APPROVED AS TO FORM:

____________________________
Eric J. Heil, Town Attorney
MEMORANDUM

TO: Honorable Mayor Fancher and Town Council members
FROM: Eric J. Heil, Town Attorney
RE: Ordinance No. 18-11 Amplified Sound Permits
DATE: July 7, 2018

SUMMARY: Ordinance No. 18-11 is presented for Council for first reading. Ord. No. 18-11 would amend Chapter 5.24 Amplified Sound Systems to exempt Amplified Sound Permits for special events approved in Nottingham park. Staff has requested this amendment to reduce the administrative work and permitting requirements for special event producers. Currently, administrative approval without a public hearing is allowed for amplified sound permits from Sunday through Wednesday, from 9:00 a.m. to 8:00 p.m. and on Thursday through Saturday from 9:00 a.m. to 10:00 p.m.

PROPOSED MOTION: “I move to approve first reading of Ordinance No. 18-11 Amending Chapter 5.24 – Amplified Sound Systems.”

AMENDMENT TO 5.24.010 – Amplified Sound Permit Required: The proposed amendment is shown below in RED UNDERLINE.

5.24.010 - Amplified Sound Permit required.

(a) These regulations concerning amplified sound systems are adopted to prevent noise nuisance in the Town of Avon while allowing for amplified sound for public and private events, establish minimum standards for the permitting of amplified sound, and adopt procedures for public notification and input for certain categories of amplified sound. These regulations shall be interpreted and applied so as not to infringe upon the reasonable constitutional right of free speech and right of assembly.

(b) The following activities and uses of amplified sound shall not require an Amplified Sound Permit:

(i) Amplified sound related to any governmental emergency building, vehicle or response activity;

(ii) Use of amplified sound by an officer, employee or agent of any local, state or federal government;

(iii) In Nottingham Park, including the Avon Performance Pavilion, for the salute to the USA held on July 3 of each year; and,

(iv) Small low wattage personal sound amplification devices that do not disturb others;

(v) Amplified sound related to any special event in Nottingham Park, including the Avon Performance Pavilion, that is approved by the Avon Town Council, provided that the time for such amplified sound is indicated in the special event approval.

(c) Unless expressly exempt as set forth in subsection (b) above, an amplified sound permit shall be required and shall be obtained prior to the use and operation of amplified sound outdoors in the Town of Avon, including use and operation of a loudspeaker or sound-amplifying equipment in a fixed or movable position or mounted upon any sound truck or other mobile vehicle or equipment.

(d) It is unlawful for any person to use or operate amplified sound outdoors in the town without an amplified sound permit when an amplified sound permit is required.

Thank you, Eric

ATTACHMENT A: Ordinance 18-11
TOWN OF AVON, COLORADO
ORDINANCE 18-11

AMENDING CHAPTER 5.24 – AMPLIFIED SOUND SYSTEMS
OF THE AVON MUNICIPAL CODE

WHEREAS, the Town of Avon, Colorado (“Town”) is a home rule municipality existing pursuant to the laws of the Colorado Constitution, the Colorado Revised Statutes and the Town's Home Rule Charter; and

WHEREAS, the Town Council finds that stringent ethical standards are essential for the best function of the Avon Town government and are necessary to promote public confidence in the Avon Town government; and

WHEREAS, the Town Council finds that Section 2.30.120 Public Contracts is more stringent that the State Standards of Conduct and is not appropriate for advisory committees which benefit from broad inclusion for the Avon community;

WHEREAS, the Avon Town Council finds that amendments to Section 2.30.120 will promote the health, safety and general welfare of the Avon community; and

WHEREAS, approval of this Ordinance on First Reading is intended only to confirm that the Town Council desires to comply the requirements of the Avon Home Rule Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the application and that approval of this Ordinance on First Reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO the following:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. Amendment to Section 5.24.010(b) of the Avon Municipal Code. Section 5.24.010(b) of the Avon Municipal Code is hereby amended to enact a new sub-section (v) to read as follows:

“(v) Amplified sound related to any special event in Nottingham Park, including the Avon Performance Pavilion, approved by the Avon Town Council, provided that the time for such amplified sound is indicated in the special event approval.”

Section 3. Codification of Amendments. The codifier of the Town’s Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Avon Municipal Code. The Town Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not
substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

**Section 4. Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

**Section 5. Effective Date.** This Ordinance shall take effect thirty (30) days after the date of final passage in accordance with Section 6.4 of the Avon Home Rule Charter.

**Section 6. Safety Clause.** The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

**Section 7. No Existing Violation Affected.** Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

**Section 8. Publication.** The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

[Execution Page follows]
INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING on July 10, 2018 and setting such public hearing for July 24, 2018 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado.

BY: 

__________________________  ATTEST: 

Jennie Fancher, Mayor  

__________________________  Debbie Hoppe, Town Clerk

ADOPTED ON SECOND AND FINAL READING on July 24, 2018.

BY: 

__________________________  ATTEST: 

Jennie Fancher, Mayor  

__________________________  Debbie Hoppe, Town Clerk

APPROVED AS TO FORM: 

__________________________

Éric J. Heil, Town Attorney
TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Scott Wright, Interim Town Manager
Meeting Date: July 10, 2018
Re: Ordinance No. 18-12, Clayton Holdings LLC State & Municipal Lease/Purchase Agreement; Lease Number: 5000218-002

Action Before Council
This is first reading of an ordinance adopting a Clayton Holdings LLC State & Municipal Lease/Purchase Agreement; Lease Number: 5000218-002, for the financing of a 150.15kW solar panel array to be installed at the Avon Regional Transit Facility.

Proposed Motion
“Motion to approve Ordinance 18-12, an ordinance authorizing the execution and delivery of a state and municipal lease/purchase agreement dated August 24, 2018 between the Town of Avon and Clayton Holdings LLC to finance the purchase and installation of 150.15kW solar panel array pursuant to Exhibit A of such agreement.”

Summary
Capital lease purchases are a capital financing tool that lessen the burden of an initial purchase of capital equipment and spreads the cost out over the estimated useful life of the asset. In this particular financing arrangement, the Town of Avon contracts with Holy Cross Energy to sell the Town's energy production back to Holy Cross for 9.572 cents per kWh (Kilowatt Hour). This rate increases each year. The revenue stream generated by the sale is approximately $22,000 per year. This revenue stream extends for 25 years.

The amount of the lease is $258,258 to be amortized over a term of seven (7) years with annual payments of $41,754.80 at an interest rate of 3.39%. The attached cash flow analysis shows that the annual negative cash flow is approximately $20,000 per year for 7 years. The Town recovers its investment in 14 years, and produces a positive cash flow from then on to the 25th year of approximately $25,000 per year.

The Town received two quotes back that met our terms for the financing. Clayton Holding’s interest rate was the lowest received. As a side note, Clayton Holdings is an equity subsidiary of Commerce Bank. The Town has used Commerce Bank previously for capital lease/purchase financings, the most recent in 2017.
Attachments:
A - Clayton Holdings LLC Bank Proposal and Terms
B - Financial Analysis
C - Ordinance No. 18-12
D - Lease/Purchase Agreements and Documents
Attachment A

Scott C. Wright  
Assistant Town Manager/Finance Director  
Town of Avon  
1 Lake Street, P.O. Box 975  
Avon, CO 81620

06/14/2018

Dear Mr. Wright:

On behalf of Clayton Holdings, LLC, we would like to offer the following lease-purchase proposal for your consideration:

**Type of Financing:** A tax-exempt, State and Municipal Lease/ Purchase Agreement (the “Lease”).

**Lessor:** Clayton Holdings, LLC – An equity subsidiary of Commerce Bank.

**Lessee:** Town of Avon, CO

**Equipment:** New Solar Photovoltaic System

**Total Finance Amount:** $258,258.00

**Commencement Date:** 08/24/2018

**Base Term:** 7 years (84 months)

**Interest Rate:** 3.39% fixed, rate locked until 07/14/2018

**Payment Frequency:** Semiannual/Arrears  
*The first payment is due six months after closing.*

**Payment Amount:** Semiannual/Arrears - $20,877.40 (14 payments, first due six months after closing)

**Documentation:** Shall be provided by Lessor. Funding of the Lease is contingent, in part; upon receipt and review by Lessor of executed Lease documentation in form acceptable to Lessor and Lessee.

**Interest Rate Adjustment:** The above quoted interest rate is based on a spread over the Seven (7) year Interest Rate Swap (the “Index”). For Purposes of this proposal, the Seven (7) year interest rate swap as of 06/14/2018 is 2.97%.

In the event the transaction does not close by 07/14/2018, Lessor reserves the right, but has no obligation, to adjust the Interest Rate after 07/14/2018 based on changes in the Index between the Quote Date and the Commencement Date. The adjustment, if made, would preserve Lessor’s original lease investment assumption on a nominal pre-tax yield basis. The indexed or floating rate after 07/14/2018 would be calculated according to the following formula:

\[
\text{Then Current Seven (7) year Swap rate plus } \# 
\text{ bps x .79 = Transaction Rate}
\]
Example:
Seven (7) year Swap Rate as of 06/14/2018 = 2.97% + 132 bps = 4.29% x .79 = 3.39%

Interest will be computed on the basis of an Actual/360-day year and must be exempt from federal income taxation.

Early purchase Option: In the event Lessee desires to prepay this lease, they may do so in whole, but not in part at a premium of the then current outstanding principal balance, calculated as follows; 3% in year (1), 2% in year (2), and 1% in each year thereafter until maturity. Provided however, that the Lessee is using internally generated funds to prepay the lease, the prepayment penalty would be waived and there would be no prepayment penalty on the agreement.

General Terms: This financing structure, rate and payment are based on the Transaction being designated as Tax Exempt and Non-Bank Qualified under the IRC Section 103 and 265 b (3). The Lessee does intend to issue more than $10 million dollars in tax-exempt obligations in the current calendar year.

Titles/Liens: Lessor shall have a perfected security interest in the Equipment. *Lessor must be listed as an insured party on the Payment and Performance Bonds (required) under a “dual obligee” rider.*

Non-appropriation: The Lease shall provide for Lessee to terminate the agreement at the end of any fiscal period if insufficient funds are available to make the scheduled Rental Payments due in the following fiscal period.

Escrow: Upon closing, funds shall be disbursed into an escrow account to be maintained by Commerce Trust as escrow agent. Upon final delivery and acceptance of all of the equipment, and receipt of Lessee’s authorization to release funds, escrow agent shall disburse payment to the vendors. Terms, conditions, and procedures regarding escrow and escrow agreement are subject to mutual approval by Lessee and Lessor. It is intended that the interest earnings on un-disbursed funds shall accrue for the benefit of Lessee. An escrow account shall be established at Commerce Trust. There is a **$250.00 fee** for the escrow account. This fee is not applicable if an escrow account is not required. Commerce Trust does assess a cash management fee which is deducted from the Escrow Earnings.

Net Lease: The lease shall be a net lease in all respects, and Lessee shall be responsible for all fees, charges, assessments or other costs and expenses of every nature whatsoever arising from the lease of the Equipment.

Not a Commitment: The terms set forth herein reflect a proposed, preliminary structure and are subject to final credit approval by Clayton Holdings, LLC and the negotiation of mutually acceptable documentation. These terms are being provided to the Lessee with the understanding that neither the terms nor their substance shall constitute a definitive agreement or an exhaustive statement of all terms and conditions which may ultimately be included in a transaction among Lessee and Lessor. This is a proposal only and not a commitment to lend. Final approval and funding of the transaction is based on a formal credit review by Lessor, including final lease documentation acceptable to both Lessee and Lessor.

This proposal is not intended to, and does not create, in any way, a legally binding or any other type of commitment or obligation on the part of Clayton Holdings, LLC, or any of its/their subsidiaries, and/or any of its/their employees. Information regarding this proposal, including the financial statements of Lessee necessary to complete the credit process, may be provided to third party funding sources in either written or electronic format.
The representative shown below is “not” a Municipal advisor, financial advisor, agent or fiduciary to any person or entity. Clayton Holdings, LLC and its representatives are responding to an RFP issued by the Lessee. Lessee acknowledges that it is entitled to engage municipal advisory services should it elect to do so. Clayton Holdings, LLC is acting for its own loan account; this communication consists solely of general information under which Clayton Holdings, LLC may be willing to fund a loan. Thank you for the opportunity to offer this proposal. We appreciate your consideration and look forward to your favorable response. Should you have any questions, please do not hesitate to contact us.

Respectfully submitted,

Frank D. Hill
Officer of Clayton Holdings, LLC
Senior Vice President, Tax Exempt-Leasing & Finance
Phone: 785-587-1541
frank.hill@commercebank.com
Town of Avon CO

Compound Period:  Semiannual
Nominal Annual Rate:  3.390%

CASH FLOW DATA

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AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

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Grand Totals  292,283.60  34,025.60  258,258.00
Last interest amount increased by 0.04 due to rounding.
Financed Generation System - Avon RTF

System Size 150.15
Cost 258,258
Value of Rebates 0
Inflation rate 2%
Discount rate 4%
Energy escalation rate 2%
PV derate 0.050%

Financial Indicators

NPV $124,556
Payback Year 13.8

Energy Production (kWh) kWh
Years 229345 228198 227057 225922 224792 223668
Electricity Price $ 0.09572 0.09763 0.09959 0.10158 0.10361 0.10568
Electricity Income revenue $ 21,952.90 22,280.00 22,611.97 22,948.89 23,290.83 23,637.86
Total Avoided cost cumulative 21,952.90 44,232.91 66,844.88 89,793.77 113,084.60 136,722.47
O&M costs $ -500.00 -510.00 -520.20 -530.60 -541.22 -552.04
Inverter replacement $
Total Operating Costs $ -500.00 -510.00 -520.20 -530.60 -541.22 -552.04
Operating Cashflow $ 21,452.90 21,770.00 22,091.77 22,418.29 22,749.61 23,085.82
Amortization Schedule
Principal $ -33,279.53 -34,417.26 -35,593.90 -36,810.75 -38,069.22 -39,370.70
Interest $ -8,475.27 -7,337.54 -6,160.90 -4,944.05 -3,685.58 -2,384.10
Total Debt Service $ -41,754.80 -41,754.80 -41,754.80 -41,754.80 -41,754.80 -41,754.80
Annual Cashflow $ -20,301.90 -19,984.80 -19,663.03 -19,336.51 -19,005.19 -18,668.98

Notes:
1) Cashflow extends for 25 years based on the 25 year warrantied life of the solar panels
2) Holy Cross Gen tariff contract extends for 20 years. Financial model assumes no escalation on value of KWhs after year 20.
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TOWN OF AVON, COLORADO
ORDINANCE NO. 18-12
SERIES OF 2018

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT DATED AUGUST 24, 2018 BETWEEN THE TOWN OF AVON AND CLAYTON HOLDINGS LLC TO PURCHASE AND INSTALL A 150.15KW SOLAR ARRAY AT THE AVON REGIONAL TRANSIT FACILITY PURSUANT TO SCHEDULE A OF SUCH AGREEMENT

Whereas, Town of Avon (“Lessee”), a body politic and corporate duly organized and existing as a home rule authority municipal corporation and body politic organized under the laws of the State of Colorado, is authorized by the laws of the State of Colorado and by Section 14.9(a) of the Avon Home Rule Charter to purchase, acquire and lease personal property for the benefit of the Lessee and its inhabitants and to enter into leasehold agreements with respect thereto; and

Whereas, the Lessee desires to purchase and install a 150.15kW solar panel array (“Equipment”) constituting personal property necessary for the Lessee to perform essential governmental functions; and

Whereas, the Avon Town Council finds that Schedule C to the Clayton Holdings LLC State & Municipal Lease/Purchase Agreement (the “Agreement”) allows the Town to acquire the Equipment within a period not exceeding the useful life of the Equipment; and

Whereas, the Avon Town Council, as the governing body of the Lessee, deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Agreement for the purchase, acquisition and leasing of the Equipment therein described on the terms and conditions therein provided.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO the following:

Section 1. Approval of Documents. The Agreement and Exhibits as provided are hereby approved in substantially the form presented at this meeting, with such insertions, omissions and changes as shall be approved by the Mayor of the Town of Avon or other members of the governing body of the Town of Avon executing the same, the execution of such documents being conclusive evidence of such approval; and the Finance Director of the Town of Avon is hereby authorized and directed to execute, and the Town Clerk of the Town of Avon is hereby authorized and directed to attest and countersign the Agreement and any related Exhibits attached thereto and to the respective parties thereto, and the Town Clerk of the Town of Avon is hereby authorized to affix the seal of the Town of Avon, as Lessee, to such documents. Capitalized terms in this Ordinance shall have the same meaning as defined in the Agreement unless such terms are otherwise defined in this Ordinance.
Section 2. Other Actions Authorized. The officers and employees of the Lessee shall take all action necessary or reasonably required by the parties to carry out, give effect to and consummate the transactions contemplated thereby including execution and delivery of the following document and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Agreement, including the following documents:

(A) Property Description
(B) Delivery and Acceptance Certificate
(C) Rental Payments and Lease Term
(D) Opinion of Counsel
(E) Lessee Certification
(F) Essential Use/Source of Funds letter
(G) Proof of Insurance
(H) ACH Payment Authorization Form
(I) Disbursement Letter
(J) Form 8038-G
(K) Escrow Agreement and Exhibits

Section 3. No General Liability. Nothing contained in this Ordinance, Agreement nor any other instrument shall be construed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement contained in this Ordinance, the Agreement, or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, except to the extent that the Lease Payments payable under Exhibit C of the Agreement are special limited obligations of the Lessee as provided in such Exhibit.

Section 4. Appointment of Authorized Lessee Representatives. The Town Manager and Finance Director of the Lessee are each hereby designated to act as authorized representatives of the Lessee for purposes of Exhibit C until such time as the Town Council of the Town of Avon, as Lessee, shall designate any other or different authorized representative.

Section 5. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared
to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 6. Effective Date. This Ordinance shall take effect thirty days after final adoption in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 7. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare.

Section 8. Publication by Posting. The Town Clerk is ordered to publish this Ordinance by posting notice of adoption of this Ordinance on final reading by title in at least three public places within the Town and posting at the office of the Town Clerk, which notice shall contain a statement that a copy of the ordinance in full is available for public inspection in the office of the Town Clerk during normal business hours.

[SIGNATURE PAGE FOLLOWS]
INTRODUCED, APPROVED, PASSED ON FIRST READING, ORDERED POSTED AND REFERRED TO PUBLIC HEARING and setting such public hearing for 5:30 on July 24, 2018 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado, on October 10, 2017.

____________________________
Jennie Fancher, Mayor

Published by posting in at least three public places in Town and posting at the office of the Town Clerk at least seven days prior to final action by the Town Council.

ATTEST:                        APPROVED AS TO FORM:
____________________________  ____________________________
Debbie Hoppe, Town Clerk      Eric Heil, Town Attorney

INTRODUCED, FINALLY APPROVED, AND PASSED ON SECOND READING, AND ORDERED PUBLISHED BY POSTING on July 24, 2018.

____________________________
Jennie Fancher, Mayor

Published by posting by title in at least three public places in Town and posting by title at the office of the Town Clerk.

ATTEST:

____________________________
Debbie Hoppe, Town Clerk
This State and Municipal Lease/Purchase Agreement (the "Lease") is made and entered into on this, the 20th day of June 2018 by and between Clayton Holdings, LLC with offices at 8000 Forsyth Boulevard, Suite 510, St. Louis, Missouri 63105 (herein called the "Lessor"), and Town of Avon, Colorado (herein called the "Lessee"), wherein it is agreed as follows:

1. LEASE OF EQUIPMENT: Lessee hereby requests Lessor to acquire the equipment described in Schedule A attached hereto and made a part hereof. Subject to the terms and conditions hereof, Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor the equipment described in Schedule A, with all replacement parts, repairs, additions and accessories incorporated therein or affixed thereto (herein collectively called the "Equipment").

2. DELIVERY AND ACCEPTANCE: Lessee agrees to order the Equipment from the supplier of such Equipment, but will not be liable for specific performance of this Lease or for damages if for any reason the supplier delays or fails to fill the order. Lessee will cause the Equipment to be delivered at the location specified in Schedule A (the "Equipment Location"). Lessee will pay all transportation and other costs, if any, incurred in connection with the delivery and installation of the Equipment. Any delay in such delivery will not affect the validity of this Lease. Lessee will accept the Equipment as soon as it has been delivered and is operational, or as soon as any manufacturer or vendor preacceptance test period has expired. Lessee will have more than thirty (30) days from the date of delivery of the Equipment to accept such Equipment. In the event the Equipment is not accepted by Lessee within thirty (30) days from the date of its delivery, Lessor, at Lessor's sole option, will have the right to terminate this Lease. Lessee will evidence its acceptance of the Equipment by executing and delivering to Lessor a delivery and acceptance certificate in the form of Schedule B attached hereto and made a part hereof (the "Acceptance Certificate"). Lessee hereby authorizes the Lessor to add to this Lease and to any other description of the Equipment the serial number of each item of Equipment when available.

3. TERM: This Lease will become effective upon the execution hereof by Lessee and Lessor. The initial term of this Lease will commence on the earlier of the date Lessee executes the Acceptance Certificate or the date funds sufficient to purchase the Equipment are deposited with a bank or trust company in an escrow fund (the "Start Date") and will extend through the end of Lessee's fiscal year containing the Start Date. Unless earlier terminated as expressly provided for in this Lease, the term of this Lease will be automatically renewed on a year-to-year basis for the number of annual fiscal periods necessary to comprise the lease term as set forth in Schedule C attached hereto and made a part hereof (the "Lease Term").

4. RENT: Lessee agrees to pay Lessor or any Assignee (as defined in Section 22 below), the rental payments for the Equipment as set forth in Schedule C (the "Rental Payments"). A portion of each Rental Payment is paid as and represents the payment of interest as set forth in Schedule C. The Rental Payments will be payable without notice or demand, at the office of Lessor (or such other place as Lessor or any Assignee may designate in writing, from time to time) and will commence on the Start Date or as otherwise set forth in Schedule C, and the remaining Rental Payments will be payable on the same day of each consecutive month or quarter or semiannual or annual period thereafter (as designated in Schedule C) for the duration of the Lease Term. Any notice, invoicing, purchase orders, quotations or other forms or procedures requested by Lessee in connection with payment will be fully explained and provided to Lessor or any Assignee sufficiently in advance of the payment due date for the completion thereof by Lessor or any Assignee prior to such payment date, but none of the foregoing will be a condition to Lessee's obligation to make any such payment. If Lessee fails to pay any monthly rental payment or any other sums under the Lease within ten (10) days when the same becomes due, Lessee shall pay to Lessor (in addition to and not in lieu of other rights of Lessor) a late charge equal to the greater of five (5%) percent of such delinquent amount or Twenty-Five Dollars ($25.00), but in any event not more than the maximum permitted by law. Such late charge shall be payable by Lessee upon demand by Lessor and shall be deemed rent hereunder. Lessee acknowledges and agrees that the late charge (i) does not constitute interest, (ii) is an estimate of the costs Lessor will incur as a result of the late payment and (iii) is reasonable in amount. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments hereunder will constitute a current expense of Lessee and will not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee. EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 8 HEREOF, THE RENTAL PAYMENTS SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS AND WILL NOT BE SUBJECT TO ANY SETOFF, DEFENSE, COUNTERCLAIM, ABATEMENT OR RECOUPEMENT FOR ANY REASON WHATSOEVER.

Notwithstanding the foregoing, in the event that Lessee, by its use of the Equipment or by its actions or omissions or by any means whatsoever, causes any interest payments as set forth in Schedule C to be included in Lessor's gross income, Lessee agrees that the interest portion of the Rental Payments on Schedule C will be adjusted commencing with the first day of the next succeeding fiscal year of the Lessee, but only if this Lease is renewed for such fiscal year, and thereafter, so that Lessor, its Assignees and any participants with such, will be in the same after-tax position they would have been in had such payment been excluded from the gross income of Lessor, its Assignees and any participants with such under Section 103 of the Code.

5. AUTHORITY AND AUTHORIZATION: Lessee represents, warrants and covenants that (a) it will do or cause to be done all things necessary to preserve and keep in full force and effect (i) its existence, and (ii) subject to Section 8 hereof, the Lease; (b) it has complied with all bidding and budgeting requirements where necessary and by due notification has presented this Lease for approval and adoption as a valid obligation on its part and that all requirements have been met and procedures have been followed to ensure the enforceability of the Lease; (c) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal year period; (d) no event has occurred and no condition exists which, upon the execution of this Lease or with notice or the passage of time or both, would constitute a default under any debt,
6. LESSEE CERTIFICATION: Lessee warrants and covenants that (i) it is a state, or a political subdivision thereof, within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and the related regulations and rulings thereunder; (ii) subject to Section 8 hereof, Lessee's obligation under this Lease constitutes an enforceable obligation issued by or on behalf of a state, or political subdivision thereof, such that any interest income derived under this Lease and due Lessor or its Assignee, including, but not limited to, those amounts designated as interest in Schedule C, will not be includable in the gross income of Lessor, its Assignee or any participants with such for the purposes of federal income taxation; (iii) this Lease represents a valid deferred payment obligation of Lessee for the amount herein set forth; (iv) Lessee has the legal capacity to enter into this Lease and is not in contravention of any state, county, district, city or town statute, rule, regulation or other governmental provision; (v) during the Lease Term, the Equipment will not be in use in a trade or business of any other person or entity; (vi) Lessee will complete and file on a timely basis, Internal Revenue Service form 8038G or 8038GC, as appropriate, in the manner set forth in Section 149(e) of the Code; and (vii) Lessee will not take any action or permit the omission of any action reasonably within its control which action or omission will cause the interest portion of any Rental Payment hereunder to be includable in gross income for federal income taxation purposes.

7. APPROPRIATIONS AND ESSENTIAL USE: Lessee reasonably believes that sufficient funds can be obtained to make all Rental Payments during the Lease Term. The responsible financial officer of Lessee will do all things lawfully within his or her power to obtain funds from which the Rental Payments, including any Rental Payments required by Section 4 hereof, may be made, including making provisions for such payments, to the extent necessary, in each proposed annual budget submitted for approval in accordance with applicable procedures of Lessee. Notwithstanding the foregoing, the decision whether or not to budget or appropriate funds or to extend this Lease for any subsequent annual fiscal period is solely within the discretion of the then-current governing body of Lessee, it is Lessee's current intent to make the Rental Payments for the full Lease Term if funds are legally available therefore, and in that regard Lessee represents that (a) the use of the Equipment is essential to its proper, efficient, and economic functioning or to the services that it provides to its citizens; (b) Lessee has an immediate need for and expects to make immediate use of substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future; and (c) the Equipment will be used by the Lessee only for the purpose of performing one or more of its governmental or proprietary functions consistent with the permissible scope of its authority.

8. NONAPPROPRIATION OF FUNDS: In the event no funds or insufficient funds are appropriated and budgeted or otherwise made available for Rental Payments, including any Rental Payments required by Section 4 hereof, for any fiscal period in which the Rental Payments for the Equipment are due under this Lease, then, without penalty, liability or expense to Lessee, this Lease will thereafter terminate and be rendered null and void on the last day of the fiscal period for which appropriations were made, except as to (i) the portions of the Rental Payments herein agreed upon for which funds have been appropriated and budgeted or are otherwise available and (ii) Lessee's other obligations and liabilities under this Lease relating to, accruing or arising prior to such termination. Lessee will, not less than sixty (60) days prior to the end of such applicable fiscal period, in writing, notify Lessor and any Assignee of such occurrence, but failure to give such notice will not prevent such termination. In the event of such termination, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its Assignee on the day of such termination, packed for shipment in accordance with manufacturer's specifications and eligible for manufacturer's maintenance, and freight prepaid and insured to any location in the continental United States designated by Lessor, at Lessee's expense, Lessor or its Assignee may exercise all available legal and equitable rights and remedies in retaking possession of the Equipment.

9. EXCLUSION OF WARRANTIES; LIMITATIONS OF LIABILITY; DISCLAIMER OF CONSEQUENTIAL DAMAGES: LESSEE HAS SELECTED BOTH THE EQUIPMENT AND THE VENDOR(S) FROM WHOM LESSOR IS TO PURCHASE THE EQUIPMENT IN RELIANCE HEREOF. LESSEE ACKNOWLEDGES AND AGREES THAT THE EQUIPMENT IS OF A SIZE, DESIGN AND CAPACITY SELECTED BY LESSEE, THAT LESSOR IS NOT A MANUFACTURER, VENDOR, DISTRIBUTOR OR LICENSOR OF SUCH EQUIPMENT, AND THAT LESSOR LEASES THE EQUIPMENT AS IS AND HAS NOT MADE, AND DOES NOT HEREBY MAKE, ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, DESIGN, OPERATION, FITNESS FOR USE, OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT WHATSOEVER OR IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF LESSEE, OR ANY OTHER REPRESENTATION, WARRANTY OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO INCLUDING ANY WARRANTIES OF TITLE OR AGAINST INFRINGEMENT OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR PRACTICE, ALL OF WHICH ARE SPECIFICALLY DISCLAIMED BY LESSOR AND IN NO EVENT SHALL LESSOR BE OBLIGATED OR LIABLE FOR ACTUAL, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF OR TO LESSEE OR ANY OTHER PERSON OR ENTITY ARISING OUT OF OR IN CONNECTION WITH THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO THE SALE, LEASE, USE, PERFORMANCE OR MAINTENANCE OF THE EQUIPMENT, INCLUDING INTERRUPTION OF SERVICE, LOSS OF DATA, LOSS OF REVENUE OR PROFIT, LOSS OF TIME OR BUSINESS, OR ANY SIMILAR LOSS, EVEN IF ANY SUCH PERSON IS ADVISED IN ADVANCE OF THE POSSIBILITY OR CERTAINTY OF SUCH DAMAGES AND EVEN IF LESSEE ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS LEASE.

Lessee acknowledges that neither the original vendor nor licensor of the Equipment (including the salespersons of any of them) is an agent of Lessor, nor are they authorized to waive or alter any terms of this Lease. Lessee hereby waives any claim (including any claim based on strict or absolute liability in tort) it might have against Lessor or any assignee of the Lessor for any loss, damage or expense caused by or with respect to the Equipment. Lessor hereby assigns to Lessee during the Lease Term, to the extent permitted by law, all manufacturer's warranties, if any, that it may have with respect to the Equipment, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's expense. Lessor authorizes Lessee, to the extent permitted by law, to enforce in its own name any warranty, representation or other claim enforceable against the manufacturer. Lessor assumes no responsibility for shipment, delivery, installation or maintenance, and all claims of Lessee with respect thereto, whether for delay, damage or otherwise, will be made against the manufacturer. Lessor, at its option, may provide in its purchase order that the manufacturer agrees that any of such claims may be made by Lessee directly against the manufacturer. The obligation of Lessee to pay the Rental Payments as defined in Section 4 will not be abated, impaired or reduced by reason of any claims of Lessee with respect to the Equipment, including but not limited to its condition, quality, workmanship, delivery, shipment, installation, defects or otherwise.
10. TITLE, SECURITY INTEREST: Title to the Equipment is deemed to be in Lessee so long as no Event of Default pursuant to section 19 below has occurred and/or this Lease has not been terminated pursuant to the provisions of Section 8 above. Upon the earlier of (i) termination of this Lease in accordance with Section 8 above or (ii) the occurrence of an Event of Default by Lessee pursuant to Section 19 below, title will immediately revert to Lessor free of any right, title or interest of Lessee unless Lessor elects otherwise. In order to secure all of Lessee's obligations hereunder, Lessee hereby (a) to the extent permitted by law, grants to Lessor a first and prior security interest in any and all rights, titles and interest of Lessee in the Lease, the Equipment and in all additions, attachments, accessions, accessories, replacements, improvements and substitutions thereto, now or hereafter acquired, together with all rents, issues, income, profits and proceeds thereof, including insurance proceeds; (b) agrees that financing statements evidencing such security interest may be filed; and (c) agrees to execute and deliver all certificates of title and other instruments necessary or appropriate to evidence and perfect such security interest. Lessee further agrees that the Uniform Commercial Code will apply as between the parties hereto and Assignees of Lessor.

11. PERSONAL PROPERTY: The Equipment is, and will remain, personal property and will not be deemed to be affixed or attached to real property or any building thereon. If requested by Lessor, Lessee will, at Lessee's expense, furnish to Lessor landlord or mortgagee waiver with respect to the Equipment.

12. USE; REPAIRS: Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and will comply with all laws, ordinances, insurance policies and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of, its possession, use or maintenance. Lessee, at its sole costs and expense, will maintain the Equipment according to the manufacturer's recommended guidelines or the equivalent and meet any and all recertification requirements and will furnish proof of such maintenance, if requested by Lessor and will furnish all needed servicing and parts, which parts will become part of the Equipment. If the Equipment is such as is customarily covered by a maintenance agreement, Lessee will furnish Lessor with a maintenance agreement with a party satisfactory to Lessor.

13. ALTERATIONS: Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent, and any permitted alteration or attachment which cannot be readily removed without damaging the Equipment's originally intended function or value will become part of the Equipment.

14. LOCATION; INSPECTION: The Equipment will not be removed from, or if the Equipment consists of rolling stock, its permanent base will not be changed from the Equipment Location without Lessor's prior written consent, which consent will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operations.

15. LIENS AND TAXES: Lessee will keep the Equipment free and clear of all liens and encumbrances except those created under this Lease. Lessee will pay, when due, all charges and taxes (federal, state and local) which may now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment, excluding however, all taxes on or measured by Lessor's income. If Lessee fails to pay said charges and taxes when due, Lessor will have the right, but will not be obligated, to pay said charges and taxes. If Lessor pays any such charges or taxes for which Lessee is responsible or liable under this Lease, Lessee will, upon demand, reimburse Lessor therefor.

16. RISK OF LOSS; DAMAGE; DESTRUCTION: Lessee assumes all risk of loss of or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment will relieve Lessee of the obligation to make the Rental Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee will immediately place the same in good repair (the proceeds of any insurance recovery will be applied to the cost of such repair). If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair, Lessor, at the option of Lessor, will (a) replace the same with like equipment in good repair; or (b) on the next Rental Payment date pay to Lessor (i) all amounts owed by Lessee under this Lease, including the Rental Payment due on such date, and (ii) an amount not less than the balance of the Rental Payments then remaining unpaid hereunder. In the event that Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Rental Payment and the balance of the Rental Payments then remaining unpaid hereunder, as applicable, to be made by Lessee with respect to the Equipment which has suffered the event of loss.

17. INSURANCE: Lessee will, at its expense, maintain at all times during the Lease Term (a) fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insurers as will be satisfactory to Lessor. In no event will the insurance limits be less than the greater of (i) an amount equal to the balance of the Rental Payments then remaining for the Lease Term or (ii) any minimum required by any co-insurance provisions of such insurance, (b) liability insurance that protects Lessor from liability in all events in form and amount satisfactory to Lessor, and (c) workers' compensation coverage as required by the laws of the state in which Lessee is located. Each insurance policy required by clause (b) of the preceding sentence will name Lessee as an insured and Lessor or its assigns as an additional insured and loss payee, as appropriate, and each insurance policy required by the preceding sentence will contain a clause requiring the insurer to give Lessor or its Assignee at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of any such policies will be payable to Lessee and Lessor or its assigns, as their interest may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event of any loss, damage, injury or accident involving the Equipment, Lessor will promptly provide Lessor with written notice hereof and make available to Lessor all information and documentation relating thereto. Notwithstanding the foregoing, with Lessor's prior written consent, Lessee may self-insure against any and all risks for which insurance is required.

18. INDEMNIFICATION: To the extent permitted by law, and solely from legally available funds, Lessee agrees to indemnify Lessor against, and hold Lessor, its Assignees, or any participants with such, harmless from, any and all claims, actions, proceedings, expenses, damages, liabilities or losses (including, but not limited to, attorneys' fees and court costs) arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, possession, use, operation or return and the recovery of claims under insurance policies thereon.

19. EVENTS OF DEFAULT: The Term "Event of Default" as used in this Lease, means the occurrence of any one or more of the following events: (a) Lessee fails to make any Rental Payment (or any other payment) as it becomes due in accordance with the terms of this Lease, and any such failure continues for ten (10) days after the date thereof; (b) Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure is not cured within ten (10) days after written notice thereof by Lessor; (c) the discovery by Lessor that any statement, representation or warranty made by Lessee in this Lease or in any document delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (d) Lessee becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or
liq uidator of Lessee or of all or substantial part of its assets, a petition for relief is filed by Lessee under federal bankruptcy, insolvency or similar laws, or a petition in a proceeding under any bankruptcy, insolvency or similar laws, is filed against Lessee and is not dismissed within thirty (30) days thereafter; (e) Lessee suffers an adverse material change in its financial condition or operations from the date hereof and, as a result, Lessor deems itself insecure; or (f) Lessee is in default under any other agreement executed at any time with Lessor, its affiliates or Lessor's Assignee or under any other agreement or instrument by which it is bound.

20. REMEDIES: Upon the occurrence of an Event of Default, Lessor may, at its option, exercise any one or more of the following remedies: (a) by written notice to Lessee, declare an amount equal to all amounts then due under this Lease and all remaining Rental Payments which will become due during the then current fiscal year of Lessee to be immediately due and payable, whereupon the same will become immediately due and payable; (together with interest on such amount at the lesser of one and one-half (1 ½ %) percent per month or the maximum permitted by law from the date on which Lessor has declared this Lease to be in default; (b) by written notice to Lessee, request Lessee to (and Lessee agrees that it will), at Lessee’s expense, promptly return the Equipment to Lessor in the manner set forth in Section 8 hereof; or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same without liability to Lessor or its agents for such entry or for damage to property or otherwise; (c) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for (i) all Rental Payments and other payments due to the effective date of such selling, leasing or subleasing, and (ii) for the difference between the purchase price, rental and other amounts paid by the purchaser, lessee or sublessee pursuant to such sale, lease or sublease and the remaining amounts payable by the Lessee through the end of the then current fiscal year of Lessee hereunder; and (d) exercise any other right, remedy or privilege which may be available to it under applicable law, including the right to (i) proceed by appropriate court action to enforce the terms of this Lease, (ii) recover damages for the breach of this Lease, and (iii) rescind this Lease as to any or all of the Equipment.

In addition, Lessee will remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

21. EARLY PURCHASE OPTION: Lessee may, upon sixty (60) days prior written notice to Lessor, and provided Lessee has fully paid and performed all other obligations hereunder and provided no Event of Default has occurred and is continuing, pay to Lessor the applicable amount set forth on Schedule C attached hereto, whereupon title to the Equipment will become unconditionally vested in Lessee, and Lessor will transfer all and any of its right, title and interest in the Equipment to Lessee as is, where is, without warranty, express or implied, except that Lessor will warrant to Lessee that the Equipment is free and clear of any liens created by Lessor.

22. ASSIGNMENT: Except as expressly provided herein, Lessee will not (a) assign, transfer, pledge, hypothecate or grant any security interest in, or otherwise dispose of, this Lease or the Equipment or any interest in this Lease or the Equipment or (b) sublet or lend the Equipment or permit the Equipment to be used by anyone other than Lessee or Lessee’s employees unless Lessee obtains the prior written consent of Lessor and an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor that such action will not adversely affect the exclusion of the interest portions of the Rental Payments from gross income for federal income tax purposes.

Lessor, without the consent of Lessee, may assign all or any portion or portions of its right, title and interest in and to this Lease, the Equipment and any other documents executed with respect to this Lease, and/or grant or assign all or any portion or portions of its security interest in this Lease and the Equipment, in whole or in part to various assignees, their agents or trustees (each and any one hereinafter referred to as an “Assignee”). Any such assignment to an Assignee may provide that the Lessor or the Assignee will act as a collection and paying agent for owners of certificates of participation in this Lease, or may provide that a third-party trustee or agent will act as collection and paying agent for any Assignee, provided that any such trustee or agent will maintain registration books as a register of all persons who are owners of certificates of participation or other interest in Rental Payments and Lessee receives written notification of the name and address of the trustee or agent and a copy of the pooling and fractionalization agency or trustee agreement, if any. Any such Assignee will have all of the assigned rights of Lessor under this Lease. Subject to the foregoing, this Lease will inure to the benefit of and will be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto. Any assignment or reassignment of any of Lessor’s right, title or interest in this Lease or the Equipment will be effective upon receipt by Lessee of a duplicate original of the counterpart document by which the assignment or reassignment is made, disclosing the name and address of each such Assignee and, where applicable, to whom further payments hereunder should be made. During the Lease Term, Lessee covenants that it will keep a complete and accurate record of all assignments in form necessary to comply with Section 149(a) of the Code and the regulations, proposed or existing, from time to time promulgated thereunder. Lessee agrees to acknowledge in writing any assignments if so required.

Lessee agrees that, upon notice of assignment, if so instructed it will pay directly to the Assignee, or its Trustee or Agent without abatement, deduction or setoff all amounts which become due hereunder. Lessee further agrees that it will not assert against any Assignee, Trustee or Agent any defense, claim, counterclaim or setoff on account of any reason whatsoever with respect to any Rental Payments or other amounts due hereunder or with respect to any action brought to obtain possession of the Equipment pursuant to this Lease.

23. FINANCIAL STATEMENTS: Each year during the term of this Lease, Lessee hereby agrees to deliver to Lessor a copy of: (i) annual audited financial statements within one hundred twenty (120) days of Lessee’s fiscal year-end; and (ii) within a reasonable period of time, any other financial information Lessor requests from time to time.

24. NATURE OF AGREEMENT: Lessor and Lessee agree that upon the due and punctual payment and performance of the installments of Rental Payments and other amounts and obligations under this Lease, title to the Equipment will vest permanently in Lessee as provided in this Lease, free and clear of any interest, lien or security of Lessor therein.

25. AMENDMENTS: This Lease may be amended or any of its terms modified for the purpose of adding Equipment, with the written consent of the parties hereto. In such event, additions to or additional Schedules attached hereto will be executed by Lessee. All other amendments or modifications of the terms of this Lease (except for the addition or serial numbers for the Equipment as set forth in the Acceptance Certificate) must be accomplished by written consent of Lessee and Lessor, or its Assignee, if any; provided, however, that no amendment of this Lease will operate to reduce or delay any Rental Payments to be made hereunder without the consent of Lessor, or its Assignee, at the time of such amendment.
26. **NOTICES**: All notices to be given under this Lease must be made in writing and mailed by certified mail to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice will be deemed to have been received five (5) days subsequent to mailing.

27. **SECTION HEADINGS**: All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

28. **GOVERNING LAW**: This Lease will be governed by the provisions hereof and by the laws of the State of Colorado.

29. **FURTHER ASSURANCES**: Lessee will deliver to Lessor (i) an opinion of counsel in substantially the form of Schedule D attached hereto or as Lessor may otherwise request; and (ii) if applicable, a certificate of a duly authorized official as to designation as a qualified tax-exempt obligation. Moreover, Lessee will execute or provide, as requested by Lessor, any documents and information that are reasonably necessary with respect to the transaction contemplated by this Lease.

30. **ENTIRE AGREEMENT**: This Lease, together with the Schedules attached hereto and made a part hereof and other attachments hereto and other documents or instruments executed by Lessee and Lessor in connection herewith, constitute the entire agreement between the parties with respect to the lease of the Equipment, and this Lease will not be modified, amended, altered or changed except with the written consent of Lessee or Lessor.

31. **SEVERABILITY**: Any provision of this Lease found to be prohibited by law will be ineffective to the extent of such prohibition without invalidating the remainder of this Lease.

32. **WAIVER**: The waiver by Lessor of any breach by Lessee of any term, covenant or condition, hereof will not operate as a waiver of any subsequent breach hereof.

33. **CERTIFICATION AS TO ARBITRAGE**: Lessee hereby represents as follows:

   (a) The estimated total costs of the Equipment will not be less than the total principal amount of the Rental Payments.

   (b) The Equipment has been ordered or is expected to be ordered within six months of the effective date of this Lease, and the Equipment is expected to be delivered and installed, and the Vendor fully paid, within one (1) year of the effective date of this Lease.

   (c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rental Payments, or (ii) that may be used solely to prevent a default in the payment of Rental Payments.

   (d) The Equipment has not been, and is not expected to be, sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the final Rental Payment.

   (e) To the best of Lessee's knowledge, information and belief, the above expectations are reasonable.

34. **ELECTRONIC TRANSACTIONS**: The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT, ARE NOT ENFORCEABLE. TO PROTECT YOU (LESSEE(S) AND US (LESSOR) FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS WE REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS WRITING, WHICH IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US EXCEPT AS WE MAY LATER AGREE IN WRITING TO MODIFY IT.

BY SIGNING BELOW, YOU AND WE AGREE THAT THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN US.

<table>
<thead>
<tr>
<th>Lessor: Clayton Holdings, LLC</th>
<th>Lessee: Town of Avon, Colorado</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorized Signature:</td>
<td>Authorized Signature:</td>
</tr>
<tr>
<td>Printed Name:</td>
<td>Printed Name:</td>
</tr>
<tr>
<td>Title:</td>
<td>Title:</td>
</tr>
<tr>
<td>Date:</td>
<td>Date:</td>
</tr>
<tr>
<td>EIN #: 84-0771088</td>
<td>EIN #: 84-0771088</td>
</tr>
</tbody>
</table>
### Description of Equipment

**DESCRIPTION OF LEASED EQUIPMENT (Make. Kind. Model Number. Serial Number, Any other pertinent identification)**

<table>
<thead>
<tr>
<th>Description</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Solar Photovoltaic System – 150kW PV solar system and related components (panels, optimizers, inverters), Installation on the roof of the Town’s Transit Station</td>
<td>$258,258.00</td>
</tr>
</tbody>
</table>

**TOTAL**  
$258,258.00

### Location of Equipment

Street Address: ________________________________ (Town’s Transit Station)

City: Avon

State: CO  
Zip Code: 81620

Lessee hereby certifies that the description of the property set forth above constitutes an accurate account of the Equipment as referred to in the Lease.

*Town of Avon, Colorado*

**LESSEE:**

**BY:**

X

**DATE:**
Reference is made to the State and Municipal Lease/Purchase Agreement between the undersigned Town of Avon, Colorado ("Lessee"), and Clayton Holdings, LLC ("Lessor"), dated June 20, 2018 ("Lease") and to the Equipment as such term is defined therein. In connection therewith we are pleased to confirm to you the following:

1. All of the Equipment has been delivered to and received by the undersigned; all installation or other work necessary prior to the use thereof has been completed; said Equipment has been examined and/or tested and is in good operating order and condition and is in all respects satisfactory to the undersigned and as represented, and said Equipment has been accepted by the undersigned and complies with all terms of the Lease. Consequently, you are hereby authorized to pay for the Equipment in accordance with the terms of any purchase orders for the same.

2. In the future, in the event the Equipment fails to perform as expected or represented we will continue to honor the Lease in all respects and continue to make our rental and other payments thereunder in the normal course of business and we will look solely to the vendor, distributor or manufacturer for recourse.

3. We acknowledge that Lessor is neither the vendor nor manufacturer or distributor of the Equipment and has no control, knowledge or familiarity with the condition, capacity, functioning or other characteristics of the Equipment.

4. The serial number for each item of Equipment which is set forth on Schedule A to the Lease is correct.

This certificate will not be considered to alter, construe, or amend the terms of the Lease.

LESSEE: Town of Avon, Colorado

X

DATE:
**ATTACHMENT D**

**SCHEDULE C**

<table>
<thead>
<tr>
<th>Lessee:</th>
<th>Town of Avon, Colorado</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lessor:</td>
<td>Clayton Holdings, LLC</td>
</tr>
<tr>
<td>Lease Number:</td>
<td>5000218-002</td>
</tr>
<tr>
<td>Lease Term in Months:</td>
<td></td>
</tr>
<tr>
<td>Rental Periods</td>
<td></td>
</tr>
<tr>
<td>Capital Cost of Equipment:</td>
<td>$258,258.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rental Payment Date</th>
<th>Payment Amount</th>
<th>Amount Credited to Interest</th>
<th>Amount Credited to Capital Cost</th>
<th>Outstanding Principal Balance</th>
</tr>
</thead>
</table>

[ TO BE COMPLETED AT A LATER DATE ]

Interest, if any, accruing from the Start Date to the actual date of funding shall be retained by Lessor as additional consideration for entering into this Lease Purchase Agreement.

In the event Lessee desires to prepay this lease, they may do so in whole, but not in part at a premium of the then current Outstanding Principal Balance, calculated as follows: 3% in year (1), 2% in year (2), and 1% in each year thereafter until maturity. There is no prepayment penalty if Lessee is using internally generated funds for prepayment.

**LESSEE:**

**TOWN OF AVON, COLORADO**

**SIGNED BY:**

**TITLE AND DATE:**
Re: State and Municipal Lease/Purchase Agreement No. 5000218-002 dated June 20, 2018 (the "Lease"), between Clayton Holdings, LLC ("Lessor") and Town of Avon, Colorado ("Lessee")

Ladies and Gentlemen:

As legal counsel to Lessee, I have examined (a) the Lease, which, among other things, provides for the sale to and purchase by the Lessee of the Equipment, (b) an executed counterpart of the ordinance or resolution of Lessee which, among other things, authorizes Lessee to execute the Lease and (c) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions.

Based on the foregoing, I am of the following opinions:

1. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State, and has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power.

2. Lessee has the requisite power and authority to purchase the Equipment and to execute and deliver the Lease and to perform its obligations under the Lease.

3. The Lease and the other documents either attached thereto or required therein have been duly authorized, approved and executed by and on behalf of Lessee, and the Lease is a valid and binding obligation of Lessee enforceable in accordance with its terms.

4. The authorization, approval and execution of the Lease and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state and federal laws.

5. There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Lease or the security interest of Lessor or its assigns, as the case may be, in the Equipment.

Furthermore, I confirm that the name of the Lessee as stated in the Lease, as Town of Avon, Colorado is the exact legal name of the Lessee for all purposes contemplated herein.

All capitalized terms herein shall have the same meanings as in the Lease. Lessor, its successors and assigns and any counsel rendering an opinion on the tax-exempt status of the interest components of Rental Payments are entitled to rely on this opinion.

Very truly yours,
I, ______________________________, do hereby certify that I am the duly elected, or appointed and acting Secretary/Clerk of the Town of Avon, Colorado, an agency duly organized and existing under the laws of the State of Colorado (the "Lessee"), and that the following resolutions have been presented to and duly adopted by the Avon Town Council at a meeting duly and regularly held and convened in accordance with applicable law on the ___________________________ day of ______________________________, 20____.

WHEREAS, the Lessee is entering a State and Municipal Lease/Purchase Agreement ("Lease") dated June 20, 2018, with Clayton Holdings, LLC;

WHEREAS, Lessee has carefully reviewed its financing requirements for the current calendar year and reasonably expects that it will not issue more than ten million dollars ($10,000,000) of tax-exempt obligations during the calendar year;

NOW, THEREFORE, be it RESOLVED, that the Lessee be, and hereby is, authorized to enter into the Lease with Clayton Holdings, LLC for a period of ___ months, and be it further RESOLVED, that the following officials of the Lessee be, and hereby are, authorized, empowered and directed to sign on its behalf the Lease and any addenda, schedules, notes, UCC financing statements or other instruments issued under the provision of the Lease and any other instrument or document which may be necessary or expedient in connection with agreement upon or fulfillment of the provisions of the Lease.

<table>
<thead>
<tr>
<th>Title</th>
<th>Printed Name</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant Town Manager</td>
<td>Scott Wright</td>
<td></td>
</tr>
<tr>
<td>Mayor</td>
<td>Jennie Fancher</td>
<td></td>
</tr>
</tbody>
</table>

RESOLVED, that pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, this Lease be and hereby is designated a "qualified tax-exempt obligation" includable within the ten million dollars ($10,000,000) of the aggregate issues designated as "qualified tax-exempt obligations" for the calendar year within which this Lease is entered into.

RESOLVED, that Lessee shall not designate more than ten million dollars ($10,000,000) of tax-exempt obligations during the current calendar year as qualified tax-exempt obligations and Lessee, together with its subordinate entities, does not reasonably expect to issue more than ten million dollars ($10,000,000) of tax-exempt obligations during the current calendar year.

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal hereeto this day____ of __________, 2018.

LESSEE: Town of Avon, Colorado

BY:

X
Ladies and Gentlemen:

This confirms and affirms that the Equipment described in the Lease is essential to the function of the undersigned or to the service we provide to our citizens.

Further, we have an immediate need for, and expect to make immediate use of, substantially all such Equipment, which need is not temporary or expected to diminish in the foreseeable future. Such Equipment will be used by us only for the purpose of performing one or more of our governmental or proprietary functions consistent with the permissible scope of our authority. Specifically, such Equipment was selected by us to be used as follows: ____________________________________________________________
_______________________________________________________________________________________________________

The estimated useful life of such Equipment based upon manufacturer’s representations and our projected needs is ___________ years.

Our source of funds for payments of the Rental Payments due under the Lease for the current fiscal year is ____________________.

We currently expect and anticipate adequate funds to be available for all future payments of rent due after the current fiscal year for the following reasons:
________________________________________________________________________________________________________

Very truly yours,

LESSEE:

Town of Avon, Colorado

BY:

DATE:
Proof of Insurance

Insurance Agent Name: ________________________________
Agency Name: ________________________________
Address: ________________________________
Phone Number: ________________________________
E-Mail: _________________________________________

Ladies and Gentlemen:

Please add CLAYTON HOLDINGS, LLC, as both sole loss payee under property insurance covering the equipment listed on attached Schedule A and additional insured under the general liability insurance policy. The minimum liability coverage is $5,000,000.00 if any part of the Equipment constitutes a motor vehicle and $1,000,000 if the Equipment constitutes other than motor vehicles. Please mail or fax an insurance certificate to:

Clayton Holdings, LLC
P.O. Box 11309
St. Louis, MO 63105
Fax # 314-746-3744

Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance.

Please note that the Bank requires 30 day written notice of cancellation of the policy covering leased equipment.

LESSEE: Town of Avon, Colorado

By: ________________________________
Title: ________________________________
ACH Payment Authorization Form

Lease No. / Loan No.  5000218-002
Lessee / Borrower:  Town of Avon, Colorado

I authorize Commerce Bank (“Commerce”) to initiate debit entries and to initiate, if necessary, credit entries and adjustments for any debit entries in error on behalf of CBI Equipment Finance, Clayton Holdings or Commerce Bank as lender or lessor in the amount shown, and from the checking or savings account with the depository institution (“Bank”) named below, on the payment due date.

Bank Name: 

Address: 

ABA Routing No.: 

Account No.:    (X) Checking           (  ) Savings

This is a (X) New    or  (  ) Updated authorization form.

Debit Amount(s): $ 

Begin Auto Debit with Invoice Date Due: 

The final or balloon payment, if different from the ____________ payment, will not be auto debited.

I understand that this authorization will remain in full force and effect until I notify COMMERCE BANK at the address or phone number below that I wish to revoke this authorization. I understand that COMMERCE BANK requires at least 5 days prior notice in order to process any such cancellation.

X_________________________X_________________________

Borrower / Lessee Signature    Date

Note that there is NO charge for this service.
Also, your “Bank” need not be Commerce Bank to benefit from this feature. Any bank account can be auto debited. To commence service please return this form with your document package or send this signed form and a voided check (unless COMMERCE BANK is already currently debiting this same account for another lease schedule) to:

COMMERCE BANK
P.O. Box 11309
Clayton, MO 63105 or
LeasingACH@Commercebank.com

To discontinue or amend service, please email the request to the address above or call COMMERCE BANK at 314.746.3726.
Date: August 24, 2018

To: Clayton Holdings, LLC
8000 Forsyth Boulevard, Suite 510
St. Louis, MO 63105

RE: Town of Avon, Colorado
Lease Number: 5000218-002

Ladies and Gentlemen:

Please disburse the proceeds of the above lease as follows:

Wire or send to

PAYEE

Commerce Bank Escrow Account $258,258.00

Total Disbursement $258,258.00

Sincerely,

LESSEE: Town of Avon, Colorado

DATE:

X

BY: ________________________________
TITLE: ____________________________
**ATTACHMENT D**

**Information Return for Tax-Exempt Governmental Obligations**

**Part I Reporting Authority**

<table>
<thead>
<tr>
<th>Issuer's name</th>
<th>84-0771088</th>
</tr>
</thead>
<tbody>
<tr>
<td>Town of Avon, Colorado</td>
<td>3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)</td>
</tr>
<tr>
<td>1 Lake Street</td>
<td>3b Telephone number of other person shown on 3a</td>
</tr>
<tr>
<td>Avon, Colorado 81620</td>
<td>4 Number and street (or P.O. box if mail is not delivered to street address)</td>
</tr>
<tr>
<td>5 Report number (For IRS Use Only)</td>
<td>6 City, town, or post office, state, and ZIP code</td>
</tr>
<tr>
<td>7 Date of issue</td>
<td>8 Name of Issue</td>
</tr>
<tr>
<td>9 CUSIP number</td>
<td>10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)</td>
</tr>
<tr>
<td>Judy Popeck, Accounting Assistant 970-748-4003</td>
<td>10b Telephone number of officer or other employee shown on 10a</td>
</tr>
</tbody>
</table>

**Part II Type of Issue (enter the issue price).** See the instructions and attach schedule.

| Education | 11 |
| Health and hospital | 12 |
| Transportation | 13 |
| Public safety | 14 |
| Environment (including sewage bonds) | 15 $258,258.00 |
| Housing | 16 |
| Utilities | 17 |
| Other. Describe ▶ | 18 |

**Part III Description of Obligations.** Complete for the entire issue for which this form is being filed.

<table>
<thead>
<tr>
<th>(a) Final maturity date</th>
<th>(b) Issue price</th>
<th>(c) Stated redemption price at maturity</th>
<th>(d) Weighted average maturity</th>
<th>(e) Yield</th>
</tr>
</thead>
<tbody>
<tr>
<td>21</td>
<td>$258,258.00</td>
<td>N/A</td>
<td>years</td>
<td>%</td>
</tr>
</tbody>
</table>

**Part IV Uses of Proceeds of Bond Issue (including underwriters’ discount)**

| Proceeds used for accrued interest | 22 |
| Issue price of entire issue (enter amount from line 21, column (b)) | 23 |
| Proceeds used for bond issuance costs (including underwriters’ discount) | 24 |
| Proceeds used for credit enhancement | 25 |
| Proceeds allocated to reasonably required reserve or replacement fund | 26 |
| Proceeds used to currently refund prior issues | 27 |
| Proceeds used to advance refund prior issues | 28 |
| Total (add lines 24 through 28) | 29 |
| Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) | 30 |

**Part V Description of Refunded Bonds.** Complete this part only for refunding bonds.

| Enter the remaining weighted average maturity of the bonds to be currently refunded | ▶ years |
| Enter the remaining weighted average maturity of the bonds to be advance refunded | ▶ years |
| Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) | ▶ |
| Enter the date(s) the refunded bonds were issued (MM/DD/YYYY) | ▶ |

For Paperwork Reduction Act Notice, see separate instructions.
### Part VI Miscellaneous

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)</td>
<td></td>
</tr>
<tr>
<td>36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions)</td>
<td></td>
</tr>
<tr>
<td>b Enter the final maturity date of the GIC</td>
<td></td>
</tr>
<tr>
<td>c Enter the name of the GIC provider</td>
<td></td>
</tr>
<tr>
<td>37 Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units</td>
<td></td>
</tr>
<tr>
<td>38a If this issue is a loan made from the proceeds of another tax-exempt issue, check box □ and enter the following information:</td>
<td></td>
</tr>
<tr>
<td>b Enter the date of the master pool obligation</td>
<td></td>
</tr>
<tr>
<td>c Enter the EIN of the issuer of the master pool obligation</td>
<td></td>
</tr>
<tr>
<td>d Enter the name of the issuer of the master pool obligation</td>
<td></td>
</tr>
<tr>
<td>39 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box □</td>
<td></td>
</tr>
<tr>
<td>40 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box □</td>
<td></td>
</tr>
<tr>
<td>41a If the issuer has identified a hedge, check here □ and enter the following information:</td>
<td></td>
</tr>
<tr>
<td>b Name of hedge provider</td>
<td></td>
</tr>
<tr>
<td>c Type of hedge</td>
<td></td>
</tr>
<tr>
<td>d Term of hedge</td>
<td></td>
</tr>
<tr>
<td>42 If the issuer has superintegrated the hedge, check box □</td>
<td></td>
</tr>
<tr>
<td>43 If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box □</td>
<td></td>
</tr>
<tr>
<td>44 If the issuer has established written procedures to monitor the requirements of section 148, check box □</td>
<td></td>
</tr>
<tr>
<td>45a If some portion of the proceeds was used to reimburse expenditures, check here □ and enter the amount of reimbursement</td>
<td></td>
</tr>
<tr>
<td>b Enter the date the official intent was adopted</td>
<td></td>
</tr>
</tbody>
</table>

### Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS’s disclosure of the issuer’s return information, as necessary to process this return, to the person that I have authorized above.

<table>
<thead>
<tr>
<th>Signature of issuer’s authorized representative</th>
<th>Date</th>
</tr>
</thead>
</table>

### Paid Preparer Use Only

<table>
<thead>
<tr>
<th>Print/Type preparer’s name</th>
<th>Preparer’s signature</th>
<th>Date</th>
<th>Check ☐ if self-employed</th>
<th>PTIN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thomas Hotard</td>
<td></td>
<td></td>
<td></td>
<td>P01980904</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Firm’s name</th>
<th>Thomas Hotard</th>
<th>Firm's EIN</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Firm’s address</td>
<td>8000 Forsyth Blvd, Suite 510, St. Louis, MO 63105</td>
<td>Phone no.</td>
<td>(314) 746-3876</td>
</tr>
</tbody>
</table>

Form 8038-G (Rev. 9-2011)
ATTACHMENT D

8038-G QUESTIONNAIRE

Name of Lessee: Town of Avon, Colorado
Address of Lessee: 1 Lake Street, Avon, CO 81620
Contact Person: Judy Popeck, Accounting Assistant
Telephone Number: 970.748.4003
Email Address: j popeck@avon.org
Lessee's FEIN: 84-0771088

GENERAL

In September 2011, the Internal Revenue Service (“IRS”) updated Form 8038-G (the form used by Lessees to report the issuance of a tax-exempt obligation). The revised Form 8038-G asks specific questions about written procedures to: (1) monitor private use of assets financed with proceeds of a tax-exempt obligation and, as necessary, to take remedial actions to correct any violations of federal tax restrictions on the use of financed assets; and (2) monitor the yield on the investment of gross proceeds of tax-exempt obligations and, as necessary, make payments of arbitrage rebate earned to the United States. In addition, the revised Form 8038-G asks Lessees to report whether any proceeds will be used to reimburse the Lessee for an expenditure paid prior to issuance. This questionnaire is designed to obtain the information necessary to complete Form 8038-G for the Lease. Lessee will be required to review and approve the information entered prior to signing the 8038-G form.

At this time, the consequences of not having adopted written procedures to monitor private use of financed assets and yield on the investment of gross proceeds of tax-exempt obligations are unknown. If you have further questions, please consult your regular bond or legal counsel.

Part 1 – Written Tax Compliance Procedures

Note: If either of these questions is not answered, we will assume the Lessee has not adopted the described procedures.

1. Has the Lessee established written procedures to monitor compliance with federal tax restrictions for the term of the lease? The written procedures should identify a particular individual within Lessee’s organization to monitor compliance with the federal tax requirements related to use of the financed assets and describe actions to be taken in the event failure to comply with federal tax restrictions is contemplated or discovered. Yes ___ No ___

2. Has the Lessee established written procedures to monitor the yield on the investment of proceeds of the Lease on deposit in an escrow account or similar fund prior to being spent and to ensure that any positive arbitrage rebate earned is paid to the United States? Yes ___ No ___

Part 2 – Reimbursement of Prior Expenditures

1. As of the funding date, were any of the proceeds of the Lease used to reimburse Lessee for expenditures paid to acquire the financed assets prior to the funding date of the Lease? Yes ___ No ___

   If yes, please attach a spreadsheet listing the expenditure(s) together with the date paid, vendor paid and purpose of the expenditure or other proof of the expenditure(s) containing this information (i.e. invoices, receipts, cancelled checks).

   Items 2 and 3 need to be completed ONLY if the answer to item 1 above is YES.

2. Please attach a copy of Lessee’s resolution of intent to finance the financed assets, which includes date of adoption.

3. What is the amount of proceeds of the Lease reimbursed to Lessee? $______________

   BY: ________________________________

   NAME: ______________________________

   TITLE: ______________________________

   DATE: ______________________________
ESCROW AGREEMENT

This Escrow Agreement (the “Escrow Agreement”), dated as of June 20, 2018, and entered into among CLAYTON HOLDINGS, LLC, a Missouri banking corporation (together with its successors and assigns, “Lessor”), TOWN OF AVON, COLORADO, schools and political subdivision existing under the laws of Missouri (“Lessee”), and THE COMMERCE TRUST COMPANY, a Missouri banking corporation, as escrow agent (together with its successors and assigns, the “Escrow Agent”).

Name of Acquisition Fund: “Avon CH Sch 002”
Amount of Deposit into the Acquisition Fund: $258,258.00

TERMS AND CONDITIONS

1. This Escrow Agreement relates to and is hereby made a part of the State and Municipal Lease/Purchase Agreement dated as of June 20, 2018, (the “Lease”), between Lessor and Lessee.

2. Except as otherwise defined herein, all terms defined in the Lease shall have the same meaning for the purposes of this Escrow Agreement as in the Lease.

3. Lessor, Lessee and the Escrow Agent agree that the Escrow Agent will act as sole Escrow Agent under the Lease and this Escrow Agreement, in accordance with the terms and conditions set forth in this Escrow Agreement. The Escrow Agent shall not be deemed to be a party to the Lease, and this Escrow Agreement shall be deemed to constitute the entire agreement between Lessor and Lessee and the Escrow Agent.

4. There is hereby established in the custody of the Escrow Agent a special trust fund designated as set forth above (the “Acquisition Fund”) to be held and administered by the Escrow Agent in trust for the benefit of Lessor and Lessee in accordance with this Escrow Agreement.

5. Lessor shall deposit in the Acquisition Fund the amount specified above. Moneys held by the Escrow Agent hereunder shall be invested and reinvested by the Escrow Agent upon written order of an authorized Lessee representative, in accordance with the Arbitrage Instructions attached as Exhibit A, in Qualified Investments (as defined below) maturing or subject to redemption at the option of the holder thereof prior to the date on which it is expected that such funds will be needed. If an Authorized Lessee Representative fails to timely direct the investment of any moneys held hereunder, the Escrow Agent shall invest and reinvest such moneys in Qualified Investments described in 6(vi) below. Such investments shall be held by the Escrow Agent in the Acquisition Fund; any interest and gain earned on such investments shall be deposited in the Acquisition Fund, and any losses on such investments shall be charged to the Acquisition Fund. The Escrow Agent may act as purchaser or agent in the making or disposing of any investment. Qualified Investments described in 6(vi) below will be subject to an annualized sweep fee charged monthly to the earnings on monies invested.

6. “Qualified Investments” means, to the extent the same are at the time legal for investment of the funds being invested: (i) direct general obligations of the United States of America; (ii) obligations the timely payment of principal of and interest on which is fully and unconditionally guaranteed by the United States of America; (iii) general obligations of the agencies and instrumentalities of the United States of America acceptable to Lessor; (iv) certificates of deposit, time deposits or demand deposits with any bank or savings institution including the Escrow Agent or any affiliate thereof, provided that such
certificates of deposit, time deposits or demand deposits, if not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, are fully secured by obligations described in (i), (ii) or (iii) above; or (v) repurchase agreements with any state or national bank or trust company, including the Escrow Agent or any affiliate thereof, that are secured by obligations of the type described in (i), (ii) or (iii) above, provided that such collateral is free and clear of claims of third parties and that the Escrow Agent or a third party acting solely as agent for the Escrow Agent has possession of such collateral and a perfected first security interest in such collateral; or (vi) money market mutual funds that are invested in securities described in (i), (ii) or (iii) and that are rated “Aaa” by Moody's Investors Service or “AAAm-G” by Standard & Poor's Ratings Services or the comparable rating by Fitch IBCA, Inc.

7. Moneys in the Acquisition Fund shall be used to pay for the cost of acquisition of the Equipment listed in the Lease. Such payment shall be made from the Acquisition Fund upon presentation to the Escrow Agent of one or more properly executed Payment Request and Acceptance Certificates, a form of which is attached as Exhibit B, executed by Lessee and approved by Lessor, together with an invoice for the cost of the acquisition of said Equipment and a written approval by Lessor of the Vendor be paid. In making any disbursement pursuant to this Section 7, the Escrow Agent may conclusively rely as to the completeness and accuracy of all statements in such Payment Request and Acceptance Certificate, and the Escrow Agent shall not be required to make any inquiry, inspection or investigation in connection therewith. The approval of each Payment Request and Acceptance Certificate by the Lessor shall constitute unto the Escrow Agent an irrevocable determination by the Lessor that all conditions precedent to the payment of the amounts set forth therein have been completed.

8. The Acquisition Fund shall terminate upon the occurrence of the earlier of (a) the presentation of a proper Payment Request and Acceptance Certificate and the Final Acceptance Certificate, a form of which is attached as Exhibit C, properly executed by Lessee, or (b) the presentation of written notification by the Lessor, or, if the Lessor shall have assigned its interest under the Lease, then the assignees or subassignees of all of Lessor's interest under the Lease or an Agent on their behalf, that the Lease has been terminated pursuant to Section 8 or 20 of the Lease. Upon termination as described in clause (a) of this paragraph, any amount remaining in the Acquisition Fund shall be used to prepay the principal portion of Rental Payments unless Lessor directs that payment of such amount be made in such other manner directed by Lessor that, in the opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor, will not adversely affect the exclusion of the interest components of Rental Payments from gross income for federal income tax purposes. If any such amount is used to prepay principal, the Rental Payment Schedule attached to the Lease shall be revised accordingly as specified by Lessor. Upon termination as described in clause (b) of this paragraph, any amount remaining in the Acquisition Fund shall immediately be paid to Lessor or to any assignees or subassignees of Lessor interest in this Lease.

9. The Escrow Agent may at any time resign by giving at least 30 days written notice to Lessee and Lessor, but such resignation shall not take effect until the appointment of a successor Escrow Agent. The substitution of another bank or trust company to act as Escrow Agent under this Escrow Agreement may occur by written agreement of Lessor and Lessee. In addition, the Escrow Agent may be removed at any time, with or without cause, by an instrument in writing executed by Lessor and Lessee. In the event of any resignation or removal of the Escrow Agent, a successor Escrow Agent shall be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Escrow Agent shall indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Escrow Agent. Thereupon such successor Escrow Agent shall, without any further act or deed, be fully vested with all the trusts, powers, rights, duties and obligations of the Escrow Agent
under this Escrow Agreement and the predecessor Escrow Agent shall deliver all moneys and securities held by it under this Escrow Agreement to such successor Escrow Agent whereupon the duties and obligations of the predecessor Escrow Agent shall cease and terminate. If a successor Escrow Agent has not been so appointed with 90 days of such resignation or removal, the Escrow Agent may petition a court of competent jurisdiction to have a successor Escrow Agent appointed.

10. Any corporation or association into which the Escrow Agent may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Escrow Agent hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

11. The Escrow Agent incurs no responsibility to make any disbursements pursuant to the Escrow Agreement except from funds held in the Acquisition Fund. The Escrow Agent makes no representations or warranties as to the title to any Equipment listed in the Lease or as to the performance of any obligations of Lessor or Lessee.

12. The Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions hereof has been duly authorized to do so. The Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of this Escrow Agreement other than its own execution thereof or any instrument deposited with it, nor as to the identity, authority or right of any person executing the same; and its duties hereunder shall be limited to those specifically provided herein.

13. Unless the Escrow Agent is guilty of negligence or willful misconduct with regard to its duties hereunder, Lessee, to the extent permitted by law, and Lessor jointly and severally hereby agree to indemnify the Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Escrow Agreement; and in connection therewith, to indemnify the Escrow Agent against any and all expenses, including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

14. The aggregate amount of the costs, fees, and expenses of the Escrow Agent in connection with the creation of the escrow described in and created by this Escrow Agreement and in carrying out any of the duties, terms or provisions of this Escrow Agreement is a one-time fee in the amount of $250.00 to be paid by Lessee concurrently with the execution and delivery of this Escrow Agreement.

Notwithstanding the preceding paragraph, the Escrow Agent shall be entitled to reimbursement from Lessor of reasonable out-of-pocket, legal or extraordinary expenses incurred in carrying out the duties, terms or provisions of this Escrow Agreement. Claims for such reimbursement may be made to Lessor and in no event shall such reimbursement be made from funds held by the Escrow Agent pursuant to this Escrow Agreement. The Escrow Agent agrees that it will not assert any lien whatsoever on any of the money or Qualified Investments on deposit in the Escrow Fund for the payment of fees and expenses for services rendered by the Escrow Agent under this Escrow Agreement or otherwise.
15. If Lessee, Lessor or the Escrow Agent shall be in disagreement about the interpretation of the Lease or this Escrow Agreement, or about the rights and obligations, or the propriety of any action contemplated by the Escrow Agent hereunder, the Escrow Agent may, but shall not be required to, file an appropriate civil action to resolve the disagreement. The Escrow Agent shall be indemnified by Lessor and Lessee, to the extent permitted by law, for all costs, including reasonable attorneys’ fees and expenses, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under this Escrow Agreement until a final judgment in such action is received.

16. The Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection for any action or non-action taken by the Escrow Agent in accordance with the opinion of such counsel. The Escrow Agent shall otherwise not be liable for any mistakes of facts or errors of judgment, or for any acts or omissions of any kind unless caused by its negligence or willful misconduct.

17. This Escrow Agreement shall be governed by and construed in accordance with the laws of the state in which the Escrow Agent is located.

18. In the event any provision of this Escrow Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

19. This Escrow Agreement may not be amended except by a written instrument executed by Lessor, Lessee and the Escrow Agent.

20. This Escrow Agreement may be executed in several counterparts, each of which so executed shall be an original.
IN WITNESS WHEREOF, Lessor, Lessee and the Escrow Agent have caused this Escrow Agreement to be executed by their duly authorized representatives.

CLAYTON HOLDINGS, LLC
LESSOR

By: __________________________
Title: Officer

TOWN OF AVON, COLORADO
LESSEE

By: __________________________
Title: 

THE COMMERCE TRUST COMPANY
ESCROW AGENT

By: __________________________
Title: __________________________
EXHIBIT A

ARBITRAGE INSTRUCTIONS

These Arbitrage Instructions provide procedures for complying with § 148 of the Internal Revenue Code of 1986, as amended (the “Code”), in order to preserve the exclusion from federal gross income of the interest portions of the Rental Payments under the Lease.

1. **Temporary Period/Yield Restriction.** Except as described in this paragraph, money in the Acquisition Fund must not be invested at a yield greater than the yield on the Lease. Proceeds of the Lease in the Acquisition Fund and investment earnings on such proceeds may be invested without yield restriction for three years after the Start Date of the Lease. If any unspent proceeds remain in the Acquisition Fund after three years, such amounts may continue to be invested without yield restriction so long as Lessee pays to the IRS all yield reduction payments under § 1.148-5(c) of the Treasury Regulations.

2. **Opinion of Bond Counsel.** These Arbitrage Instructions may be modified or amended in whole or in part upon receipt of an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations, satisfactory to Lessor, that such modifications and amendments will not adversely affect the exclusion of the interest components of Rental Payments from gross income for federal income tax purposes.
To: THE COMMERCE TRUST COMPANY, as Escrow Agent
CLAYTON HOLDINGS, LLC, as Lessor
8000 Forsyth Blvd., Suite 510
St. Louis, Missouri 63105

Re: Avon CH Sch 002 Acquisition Fund established by the Escrow Agreement, dated as of June 20, 2018 (the “Escrow Agreement”) among Clayton Holdings, LLC, as lessor (“Lessor”), Town of Avon, Colorado, as lessee (“Lessee”), and The Commerce Trust Company, as Escrow Agent (the “Escrow Agent”)

Ladies and Gentlemen:

The Escrow Agent is hereby requested to pay from the Acquisition Fund to the person or corporation designated below as Payee, the sum set forth below in payment of a portion or all of the cost of the acquisition of the equipment or the interest portions of Rental Payment(s) described below. The amount shown below is due and payable under the invoice of the Payee attached hereto with respect to the cost of the acquisition of the equipment or payment of the interest portions of Rental Payment(s) and has not formed the basis of any prior request for payment.

The equipment described below is part or all of the “Equipment” that is listed in State and Municipal Lease/Purchase Agreement dated as of June 20, 2018 (the “Lease”) described in the Escrow Agreement.

Equipment: 

Payee: 

Amount: $ 

Lessee hereby certifies and represents to and agrees with Lessor and the Escrow Agent as follows:

(1) The Equipment described above (a) has been delivered, installed and accepted on the date hereof, or (b) the amount requested is a down payment currently due on said Equipment.

(2) If (1)(a) is applicable, Lessee has conducted such inspection and/or testing of said Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts said Equipment for all purposes.

(3) If (1)(a) is applicable, Lessee is currently maintaining the insurance coverage required by Section 17 of the Lease.
Lessee hereby certifies and represents to Lessor and the Escrow Agent that no event or condition that constitutes, or with notice or lapse of time or both would constitute, an Event of Default (as such term is defined in the Lease) exists at the date hereof.

Dated: _____________________, 20____.

TOWN OF AVON, COLORADO
LESSEE

By: _________________________
Title: _________________________

APPROVED:

CLAYTON HOLDINGS, LLC
LESSOR

By: _________________________
Title: Officer
EXHIBIT C

FINAL ACCEPTANCE CERTIFICATE

[THIS CERTIFICATE IS TO BE EXECUTED ONLY WHEN ALL EQUIPMENT HAS BEEN ACCEPTED]

The undersigned hereby certifies that the equipment described above, together with the equipment described in and accepted by Payment Request and Acceptance Certificates previously filed by Lessee with the Escrow Agent and Lessor pursuant to the Escrow Agreement, constitutes all of the Equipment subject to the Lease.

Dated: ____________________

TOWN OF AVON, COLORADO
LESSEE

By: _________________________
Title: _________________________
TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council

From: Scott Wright, Interim Town Manager

Date: July 10, 2018

Re: 2018 General Fund Supplemental Budget Amendment Resolution No. 2018-10

Introduction
It has been the practice to adopt a supplemental budget amendment in order to update beginning fund balance estimates and generally recognize revisions to the budget that were not identified at the time the budget was originally adopted.

This resolution amends the General Fund. Additional budget amendments for other Town operating funds will occur during the final revision process later in the year.

Below is a summary of the proposed budget revisions and the estimated impacts to the fund balance. The levels of fund balances continues to be positive and meets Town policy.

General Fund
Final audited figures for 2017 in the General Fund reflect a negative variance over the final ending fund balance of $89,977. This was due to primarily to a slowdown in various taxes collected late in the year ($267,973) partially offset by expenditure savings in many of the departmental budgets ($172,641).

A number of revisions to the General Fund budget have been accumulated since the beginning of the year including the appropriation of expenditures from contingency ($90,934), rollover of some 2017 unspent appropriations, net personnel savings of $64,993, an operating transfer to the Capital Projects Fund ($480,000), and other unforeseen items.

A summary of the proposed changes is listed below:
- $64,993 in personnel cost savings. Similar to previous years, it is fairly typical to have several personnel changes. The personnel cost savings this year relate primarily to vacant or new positions that have had delays in filling positions in Finance, Human Resources, Police, Special Events and Recreation. In addition, a new police officer trainee position is being added to offset understaffing and overtime that has been a regular occurrence over the past several years.
• Other material items include the following:
  o $7,640 for temporary employment services for Human Resources for scanning employee files into Laserfiche;
  o $35,578 budget savings by contracting with LodgingRevs versus Host Compliance for the short-term rental program in Finance;
  o $25,000 for the Red House pay-in-lieu payment to Eagle County Schools that was approved in 2017.

The following items have previously been approved by Town Council for transfer from the General Fund contingency.
• $5,528 for NWCOG membership;
• $10,000 for Creative Founding Committee;
• $15,372 for the Avon 40th anniversary celebration;
• $21,000 for the Avon Lake Street Market;
• $1,000 for the Recycling Event;
• $18,000 for the Avon Playhouse project;
• $20,023 for the Climate Action Collaborative.

The net result of these changes revises the current year net source (use) of funds from a surplus of $11,830 to a deficit of $431,158. Over the past 5 years, after the audit has been completed and evaluation has been made of how much undesignated fund balance could possibly be transferred to the Capital Projects Fund. Earlier in the year, this amount was determined to be $480,000. After these revisions, the General Fund stabilization balance, which represents reserves over and above the required 25% minimum fund balance, is decreased by $570,427 to a total of $519,117. Staff feels comfortable with this balance given some of the unknowns at this point in the year, including our sales tax and accommodations tax collections, salary survey efforts, and health insurance benefits.

Attachments:
1. Resolution No. 2018-10
2. General Fund Supplemental Amendment No. 1
A RESOLUTION TO AMEND THE 2018 TOWN OF AVON BUDGET

A RESOLUTION SUMMARIZING EXPENDITURES AND REVENUES BY FUND AND AMENDING THE 2017 BUDGET FOR THE TOWN OF AVON, COLORADO, FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY, 2018 AND ENDING ON THE LAST DAY OF DECEMBER, 2018

WHEREAS, the Town Council of the Town of Avon has previously adopted the 2018 budget; and

WHEREAS, the Town Council reviewed the revised estimated revenues and expenditures for all operating funds for 2018; and

WHEREAS, the Town Council finds it necessary to amend the 2018 budget to more accurately reflect the revenues and expenditures for 2018; and

WHEREAS, whatever increases may have been made in the expenditures, like increases were added to the revenues so that the budget remains in balance as required by law.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO:

Section 1. That estimated revenues and expenditures for the following funds are revised as follows for 2018:

<table>
<thead>
<tr>
<th></th>
<th>Original or</th>
<th>Current</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Previously</td>
<td>Proposed</td>
</tr>
<tr>
<td></td>
<td>Amended</td>
<td>Amended</td>
</tr>
<tr>
<td></td>
<td>2018 Budget</td>
<td>2018 Budget</td>
</tr>
<tr>
<td><strong>General Fund</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beginning Fund Balance</td>
<td>$ 5,904,568</td>
<td>$ 5,814,591</td>
</tr>
<tr>
<td>Revenues and Other Sources</td>
<td>16,580,030</td>
<td>16,580,030</td>
</tr>
<tr>
<td>Expenditures and Other Uses</td>
<td>16,568,200</td>
<td>17,014,188</td>
</tr>
<tr>
<td></td>
<td>$ 5,916,398</td>
<td>$ 5,380,433</td>
</tr>
</tbody>
</table>

Section 2. That the budget, as submitted, amended, and hereinabove summarized by fund, hereby is approved and adopted as the budget of the Town of Avon for the year stated above.
Section 3. That the budget hereby approved and adopted shall be signed by the Mayor and made part of the public record of the Town.

ADOPTED this 10th day of July, 2018.

AVON TOWN COUNCIL

By: ____________________________ Attest: ____________________________
      Jennie Fancher, Mayor                                  Debbie Hoppe, Town Clerk
## Fund Summary

<table>
<thead>
<tr>
<th>Source</th>
<th>Actual 2017</th>
<th>Adopted Budget 2019</th>
<th>Amended Budget 2018</th>
<th>Difference Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>REVENUES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taxes</td>
<td>$12,562,229</td>
<td>$12,828,034</td>
<td>$12,828,034</td>
<td>-</td>
</tr>
<tr>
<td>Licenses and Permits</td>
<td>341,543</td>
<td>226,100</td>
<td>226,100</td>
<td>-</td>
</tr>
<tr>
<td>Intergovernmental</td>
<td>959,782</td>
<td>1,029,926</td>
<td>1,029,926</td>
<td>-</td>
</tr>
<tr>
<td>Charges for Services</td>
<td>1,716,388</td>
<td>1,615,108</td>
<td>1,615,108</td>
<td>-</td>
</tr>
<tr>
<td>Fines and Forfeitures</td>
<td>94,311</td>
<td>92,445</td>
<td>92,445</td>
<td>-</td>
</tr>
<tr>
<td>Investment Earnings</td>
<td>126,329</td>
<td>135,000</td>
<td>135,000</td>
<td>-</td>
</tr>
<tr>
<td>Other Revenue</td>
<td>408,720</td>
<td>420,300</td>
<td>420,300</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Operating Revenues</strong></td>
<td>16,209,302</td>
<td>16,346,913</td>
<td>16,346,913</td>
<td>-</td>
</tr>
<tr>
<td><strong>Other Sources</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Capital Lease Proceeds</td>
<td>80,204</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Transfer-In From Capital Projects Fund</td>
<td>226,327</td>
<td>233,117</td>
<td>233,117</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Other Sources</strong></td>
<td>306,531</td>
<td>233,117</td>
<td>233,117</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL REVENUES</strong></td>
<td>$16,515,833</td>
<td>$16,580,030</td>
<td>$16,580,030</td>
<td>-</td>
</tr>
<tr>
<td><strong>EXPENDITURES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Government</td>
<td>$3,356,161</td>
<td>$3,669,039</td>
<td>$3,579,841</td>
<td>(89,198)</td>
</tr>
<tr>
<td>Community Development</td>
<td>1,505,073</td>
<td>1,334,749</td>
<td>1,392,985</td>
<td>58,236</td>
</tr>
<tr>
<td>Public Safety</td>
<td>3,416,991</td>
<td>3,631,929</td>
<td>3,697,529</td>
<td>65,600</td>
</tr>
<tr>
<td>Public Works</td>
<td>4,180,010</td>
<td>4,513,089</td>
<td>4,547,942</td>
<td>34,853</td>
</tr>
<tr>
<td>Recreation</td>
<td>1,436,483</td>
<td>1,517,394</td>
<td>1,504,825</td>
<td>(12,569)</td>
</tr>
<tr>
<td><strong>Total Operating Expenditures</strong></td>
<td>13,894,718</td>
<td>14,666,200</td>
<td>14,723,122</td>
<td>56,922</td>
</tr>
<tr>
<td>Contingency</td>
<td>-</td>
<td>200,000</td>
<td>109,066</td>
<td>(90,934)</td>
</tr>
<tr>
<td><strong>Other Uses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transfers-Out to Capital Projects Fund</td>
<td>1,120,000</td>
<td>120,000</td>
<td>600,000</td>
<td>480,000</td>
</tr>
<tr>
<td>Transfers-Out to Transit</td>
<td>1,390,415</td>
<td>1,182,000</td>
<td>1,182,000</td>
<td>-</td>
</tr>
<tr>
<td>Transfers-Out to Fleet Maintenance</td>
<td>360,000</td>
<td>400,000</td>
<td>400,000</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Other Uses</strong></td>
<td>2,870,415</td>
<td>1,702,000</td>
<td>2,182,000</td>
<td>480,000</td>
</tr>
<tr>
<td><strong>TOTAL EXPENDITURES</strong></td>
<td>16,765,133</td>
<td>16,568,200</td>
<td>17,014,188</td>
<td>445,988</td>
</tr>
<tr>
<td><strong>NET SOURCE (USE) OF FUNDS</strong></td>
<td>(249,300)</td>
<td>11,830</td>
<td>(434,158)</td>
<td>(445,988)</td>
</tr>
<tr>
<td><strong>FUND BALANCES, Beginning Of Year</strong></td>
<td>6,063,891</td>
<td>5,904,568</td>
<td>5,814,591</td>
<td>(89,977)</td>
</tr>
<tr>
<td><strong>FUND BALANCES, End Of Year</strong></td>
<td>$5,814,591</td>
<td>$5,916,398</td>
<td>$5,380,433</td>
<td>($535,965)</td>
</tr>
<tr>
<td><strong>FUND BALANCES:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Restricted For:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3% TABOR Emergency Reserve</td>
<td>$688,786</td>
<td>$664,805</td>
<td>$688,786</td>
<td>23,981</td>
</tr>
<tr>
<td>Assigned For:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special Events</td>
<td>-</td>
<td>100,000</td>
<td>100,000</td>
<td>-</td>
</tr>
<tr>
<td>Capital Improvements</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Unassigned:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25% Minimum Reserve Balance</td>
<td>3,911,283</td>
<td>4,062,050</td>
<td>4,076,281</td>
<td>14,231</td>
</tr>
<tr>
<td>Undesignated, Unreserved</td>
<td>1,214,522</td>
<td>1,089,543</td>
<td>515,367</td>
<td>(574,177)</td>
</tr>
<tr>
<td><strong>TOTAL FUND BALANCES</strong></td>
<td>$5,814,591</td>
<td>$5,916,398</td>
<td>$5,380,433</td>
<td>($535,965)</td>
</tr>
</tbody>
</table>
## Revenue Detail

<table>
<thead>
<tr>
<th>Account Number</th>
<th>Description</th>
<th>Original Budget 2017</th>
<th>Adopted Budget 2018</th>
<th>Amended Budget 2018</th>
<th>Difference Increase (Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>51101</td>
<td>General Property Tax</td>
<td>$1,736,538</td>
<td>$1,836,085</td>
<td>$1,836,085</td>
<td>-</td>
</tr>
<tr>
<td>51102</td>
<td>General Property Tax - Delinquent Collections</td>
<td>22</td>
<td>500</td>
<td>500</td>
<td>-</td>
</tr>
<tr>
<td>51103</td>
<td>General Property Tax - Interest</td>
<td>2,840</td>
<td>1,500</td>
<td>1,500</td>
<td>-</td>
</tr>
<tr>
<td>51104</td>
<td>General Property Tax - Abatements</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>51201</td>
<td>Specific Ownership Tax</td>
<td>99,498</td>
<td>120,000</td>
<td>120,000</td>
<td>-</td>
</tr>
<tr>
<td>51301</td>
<td>Sales Tax</td>
<td>8,051,066</td>
<td>8,218,606</td>
<td>8,218,606</td>
<td>-</td>
</tr>
<tr>
<td>51302</td>
<td>Utility Tax</td>
<td>102,279</td>
<td>110,000</td>
<td>110,000</td>
<td>-</td>
</tr>
<tr>
<td>51303</td>
<td>Accommodation Tax</td>
<td>1,333,939</td>
<td>1,306,343</td>
<td>1,306,343</td>
<td>-</td>
</tr>
<tr>
<td>51304</td>
<td>Penalties and Interest</td>
<td>32,450</td>
<td>25,000</td>
<td>25,000</td>
<td>-</td>
</tr>
<tr>
<td>51305</td>
<td>Sales Tax Audit Assessments</td>
<td>20,203</td>
<td>5,000</td>
<td>5,000</td>
<td>-</td>
</tr>
<tr>
<td>51307</td>
<td>VAA Retail Sales Fee</td>
<td>763,915</td>
<td>775,000</td>
<td>775,000</td>
<td>-</td>
</tr>
<tr>
<td>51402</td>
<td>Franchise Fees</td>
<td>419,479</td>
<td>430,000</td>
<td>430,000</td>
<td>-</td>
</tr>
<tr>
<td><strong>51000</strong></td>
<td><strong>Total Taxes</strong></td>
<td><strong>12,562,229</strong></td>
<td><strong>12,828,034</strong></td>
<td><strong>12,828,034</strong></td>
<td>-</td>
</tr>
<tr>
<td>52101</td>
<td>Liquor Licenses</td>
<td>8,086</td>
<td>7,000</td>
<td>7,000</td>
<td>-</td>
</tr>
<tr>
<td>52102</td>
<td>Business Licenses</td>
<td>85,425</td>
<td>85,000</td>
<td>85,000</td>
<td>-</td>
</tr>
<tr>
<td>52103</td>
<td>Contractor's Licenses</td>
<td>10,765</td>
<td>10,500</td>
<td>10,500</td>
<td>-</td>
</tr>
<tr>
<td>52201</td>
<td>Building Permits</td>
<td>200,756</td>
<td>115,000</td>
<td>115,000</td>
<td>-</td>
</tr>
<tr>
<td>52205</td>
<td>Road Cut Permits</td>
<td>11,361</td>
<td>8,000</td>
<td>8,000</td>
<td>-</td>
</tr>
<tr>
<td>52207</td>
<td>Mobile Vendor Cart Permits</td>
<td>150</td>
<td>600</td>
<td>600</td>
<td>-</td>
</tr>
<tr>
<td>52209</td>
<td>School Site In-lieu-of Payment</td>
<td>25,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>52000</strong></td>
<td><strong>Total Licenses and Permits</strong></td>
<td><strong>341,543</strong></td>
<td><strong>226,100</strong></td>
<td><strong>226,100</strong></td>
<td>-</td>
</tr>
<tr>
<td>53106</td>
<td>Click It or Ticket</td>
<td>4,180</td>
<td>5,500</td>
<td>5,500</td>
<td>-</td>
</tr>
<tr>
<td>53107</td>
<td>Ballistic Vests</td>
<td>1,237</td>
<td>2,000</td>
<td>2,000</td>
<td>-</td>
</tr>
<tr>
<td>53204</td>
<td>LEAF Grant</td>
<td>10,972</td>
<td>18,000</td>
<td>18,000</td>
<td>-</td>
</tr>
<tr>
<td>53206</td>
<td>High Visibility Grant</td>
<td>24,524</td>
<td>20,000</td>
<td>20,000</td>
<td>-</td>
</tr>
<tr>
<td>53299</td>
<td>Other State Grants</td>
<td>38,608</td>
<td>21,000</td>
<td>21,000</td>
<td>-</td>
</tr>
<tr>
<td>53900</td>
<td>Eagle River Youth Coalition</td>
<td>6,477</td>
<td>8,500</td>
<td>8,500</td>
<td>-</td>
</tr>
<tr>
<td><strong>53000</strong></td>
<td><strong>Subtotal: Grants</strong></td>
<td><strong>85,998</strong></td>
<td><strong>75,000</strong></td>
<td><strong>75,000</strong></td>
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## MUNICIPAL SERVICES
### General Fund

### Revenue Detail

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### Recreation Facility:

| 54601          | Admission Fees                                 | 963,861     | 915,000                      | 915,000             | -                              |
| 54602          | Program Fees                                   | 87,796      | 94,580                       | 94,580              | -                              |
| 54603          | Rentals                                        | 49,543      | 42,500                       | 42,500              | -                              |
| 54604          | Merchandise Sales                              | 7,660       | 8,500                        | 8,500               | -                              |
| 54606          | Rec Center Services                            | 9,531       | 10,000                       | 10,000              | -                              |
| 54607          | Fitness Program Revenues                       | 52,534      | 50,125                       | 50,125              | -                              |

### Other Recreation:

| 54651          | Adult Program Revenues                         | 19,350      | 24,921                       | 24,921              | -                              |
| 54652          | Cabin Equipment Rentals                        | 24,254      | 17,500                       | 17,500              | -                              |
| 54653          | Athletic Field Rentals                         | 2,270       | 2,000                        | 2,000               | -                              |
| 54655          | Youth Program Revenues                         | 170,710     | 215,625                      | 215,625             | -                              |

### Special Events:

| 54670          | Ticket Sales                                   | 80,807      | -                            | -                   | -                              |
| 54671          | Revenues from Vendor Sales                     | 6,868       | -                            | -                   | -                              |
| 54676          | Sponsorships                                   | 22,175      | 38,000                       | 38,000              | -                              |
| 54678          | Event Fees                                     | 10,600      | 10,525                       | 10,525              | -                              |
| 54679          | Special Event Admission Fees                   | 11,295      | 10,287                       | 10,287              | -                              |

### Subtotal: Recreation

|                | Total Charges for Services                     | 1,519,254   | 1,439,563                    | 1,439,563           | -                              |

### Fines and Forfeitures:

<p>| 55101          | Court Fines - Traffic                          | $63,765     | 51,300                       | 51,300              | -                              |
| 55102          | Court Fines - Criminal                         | 16,081      | 21,000                       | 21,000              | -                              |
| 55103          | Court Fines - Parking                          | 3,775       | 6,735                        | 6,735               | -                              |
| 55105          | Court Costs                                    | 5,210       | 7,000                        | 7,000               | -                              |</p>
<table>
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<tr>
<th>Account Number</th>
<th>Description</th>
<th>Original or Adopted</th>
<th>Amended Budget</th>
<th>Difference Increase (Decrease)</th>
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<td>Final Amended Budget 2018</td>
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## MUNICIPAL SERVICES
### General Fund

### Department Expenditure Summaries

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<th>Description</th>
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<th>Final Amended Budget 2018</th>
<th>Difference Increase (Decrease)</th>
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<td>1,504,825</td>
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**TOTAL OPERATING EXPENDITURES**

|                      | $ 13,894,718 | $ 14,666,200 | $ 14,723,122 | $ 56,922 |
TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Justin Hildreth, Town Engineer
Meeting Date: July 10, 2018
Topic: DIRECTION ON NOTICE OF AWARD FOR THE 2018 WHITESTREAM PARK REPAIR PROJECT

ACTION BEFORE COUNCIL
Council is asked to provide direction regarding Notice of Award for construction of the 2018 Whitewater Park Repair Project.

OPTIONS
Option 1:
Approve an increase in the 2018 Whitewater Park Repair Project budget in the amount of $70,000 for a total of $150,000 with the additional funding appropriated from the Capital Projects Fund Contingency to complete the project this year.

Option 2:
Construct a portion of the 2018 Whitewater Park Repair Project with the $80,000 currently budgeted and approved in the 2018 Capital Projects Fund. The remainder of the project could then be budgeted for and completed in 2019. However, some additional costs would be incurred for a second contractor mobilization and the Whitewater Park would not be fully operational during the 2019 Spring runoff.

BACKGROUND
In 2006, the Town spent $720,000 to build the Avon Whitewater Park and $432,000 to obtain the appropriate water rights, for a total of $1,152,000. The Whitewater Park has experienced some changes as a result of spring runoff over the last several years. The features need to be updated to make them more effective and enjoyable for kayakers and other boaters. The 2018 Whitewater Park Repair Project consists of maintenance activities of the three whitewater features and includes relocating and resetting approximately 550 tons of boulders within the channel with an Excavator. The boulders are existing whitewater feature boulders that have shifted from high flows as well as some identified borrow zone boulders. Equipment will be operating in the main channel to construct temporary coffer dam structures and relocate and place existing boulders. Approximately 87 CY of native alluvium will be temporarily excavated to place boulders and used to backfill whitewater features. Equipment will be accessing the channel downstream of Avon Road Bridge at the existing boat ramp location. Upstream of the Avon Road Bridge equipment will access the channel where minimal disturbance to the riparian area has been identified.
The Town solicited bids from three qualified contractors with experience on similar projects: Diggin’ It Riverworks, Hobbs Excavating and Trucking, and Kissner General Contractors. Diggin’ It Riverworks, the only contractor that submitted a proposal, came in with a bid of $137,351.

Pending direction on the presented options and approval to proceed from Colorado Parks and Wildlife, work on the project could begin as soon as July 21, 2018 and be completed by September 1, 2018. Colorado Parks and Wildlife has requested that any work on this project be performed at a time that minimizes impacts to the brown trout spawning period.

**FINANCIAL IMPLICATIONS**

The Whitewater Park Repair Project will be funded from the Capital Projects Fund budget and there is currently $80,000 budgeted in 2018 for the project. Based on the bid that was received, a $5,000 allocation for consultant site visits and construction administration, and a $7,649 allocation for contingency, it is estimated that an additional $70,000 will be required to complete the project in 2018. The 2018 Capital Projects Fund Contingency currently has a balance of $126,512.
ACTION BEFORE COUNCIL
Authorize Staff to issue Notice of Award for the Purchase and Installation of photovoltaic panels on the Mobility Center as approved in the Town of Avon 2018 Capital Projects Fund.

RECOMMENDED MOTION
“I move to approve issuance of Notice of Award for the purchase and installation of photovoltaic panels on the Mobility Center to the low bidder, Sunsense Solar in the amount of $258,258 as approved in the Town of Avon 2018 Capital Projects Fund.”

DISCUSSION
Staff solicited proposals from the following 3 companies that install solar photovoltaic panels on the western slope: Sunsense, Active Energies and Conundrum Technologies. Sunsense submitted the low bid for $258,258, Active Energies submitted a bid for $312,128 and Conundrum Technologies declined to bid on the project. Staff recommends Sunsense complete the project as they are the low bidder and have experience installing systems of this scale. The project is within the $325,000 budget in the 2018 Capital Projects Fund.

There are 2 other associated items on the Town Council agenda. The first is Ordinance 18-12 to capital lease purchase the panels and the second is the Power Purchase Agreement to sell the surplus generated energy to Holy Cross Energy.

Construction Schedule: The proposed work could begin in August and be completed by the end of September 2018.
TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Justin Hildreth, Town Engineer
Meeting Date: July 10, 2018
Topic: Approval of Power Purchase Agreement Between Town of Avon, A Colorado Home Rule Municipality, and Holy Cross Energy for Photovoltaic Panels Located on the Mobility Center

ACTION BEFORE COUNCIL
Council is asked to approve the Power Purchase Agreement between Town of Avon, a Colorado Home Rule Municipality, and Holy Cross Energy for solar photovoltaic panels located on the Avon Mobility Center.

PROPOSED MOTION
“I move to approve the Power Purchase Agreement between Town of Avon, a Colorado Home Rule Municipality, and Holy Cross Energy for solar photovoltaic panels located on the Avon Mobility Center.”

SUMMARY
A Photovoltaic Solar Generating Facility (PV Facility) located on the Avon Mobility Center is included in the 2018 Capital Projects Fund budget and Holy Cross Energy requires the Power Purchase Agreement to be executed for the Town to sell back surplus power. To be eligible to sell the power, the Town must agree to operate the PV facility for 20-years after the commissioning date.

There are 2 other associated items on the Town Council agenda. The first is Ordinance 18-12 to capital lease purchase the panels and the second is the Notice of Award to Sunsense to purchase and install the panels.

BUDGET IMPLICATIONS
The agreement allows the Town to sell to Holy Cross Energy the surplus power for $0.09572/kWh and is increased by 2.0% each calendar year to account for inflation. At this rate, it is projected that the energy generated by the solar panels will pay for them in 13.8 years.

ATTACHMENTS
A Power Purchase Agreement between Town of Avon, a Colorado Home Rule Municipality, and Holy Cross Energy
POWER PURCHASE AGREEMENT BETWEEN
TOWN OF AVON, A COLORADO HOME RULE MUNICIPALITY, AND
HOLY CROSS ENERGY

HOLY CROSS ELECTRIC ASSOCIATION, INC., d/b/a HOLY CROSS ENERGY ("HCE"), a Colorado cooperative with its principal place of business in Glenwood Springs, Colorado and TOWN OF AVON, A COLORADO HOME RULE MUNICIPALITY ("Seller"), a Colorado nonprofit corporation, hereby enter into this Power Purchase Agreement ("Agreement"). Seller and HCE are sometimes referred to in this Agreement jointly as “Parties” or individually as “Party.” In consideration of the mutual promises and obligations stated in this Agreement and its appendices, the Parties agree as follows:

1. DOCUMENTS INCLUDED; DEFINED TERMS

1.1. This Agreement includes the following appendices, which are specifically incorporated herein and made a part of this Agreement.

   Appendix A – Definitions
   Appendix B – Facility Description, Contract Price, Seller Contact Information
   Appendix C – Initial Energy Delivery Date Confirmation Letter

2. SELLER’S GENERATING FACILITY, PURCHASE PRICES AND PAYMENT

2.1. Facility. This Agreement governs HCE’s purchase of the Product from the electrical generating facility (hereinafter referred to as the “Facility”) as described in Appendix B.

2.2. Permission to operate. This Agreement does not provide Seller authorization to interconnect the Facility or inject power into HCE’s system. Seller acknowledges that the Generator Interconnection Agreement is a separate contract and the Generator Interconnection Agreement does not modify the Parties’ rights and obligations under this PPA.

2.3. Transaction.

   2.3.1. During the Delivery Term of this Agreement, Seller shall sell and deliver, or cause to be delivered, and HCE shall purchase and receive, or cause to be received, the Product at the Delivery Point subject to the terms and conditions of this Agreement.

   2.3.2. HCE shall be required to purchase solely Renewable Energy (as defined in C.R.S. § 40-2-124). In no event shall Seller have the right to procure the energy or capacity from a source or sources other than the Facility for sale or delivery to HCE under this Agreement. HCE shall have no obligation to receive or purchase energy or capacity from Seller prior to the Initial Energy Delivery Date or after the end of the Delivery Term.

   2.3.3. Unless HCE shall otherwise agree, Seller shall purchase from HCE all energy required to serve the Seller’s on-site electrical requirements, exclusive of Station Use, pursuant to HCE’s applicable tariff. Unless otherwise agreed by HCE, HCE
shall be entitled to all energy and associated capacity from the Facility, excluding Seller’s Station Use as set forth above, including any ancillary services.

2.4. Delivery Term. Seller shall deliver the Product from the Facility to HCE for 20 Contract Years (the “Delivery Term”), commencing on the first day of the calendar month following the Initial Energy Delivery, and continuing until 11:59 pm on the last day of the calendar month during which occurs the 20th anniversary of the Initial Energy Delivery Date or until any earlier date on which this Agreement is terminated in accordance with its terms.

2.5. Contract Price. HCE shall pay Seller for each kilowatt-hour (“kWh”) of the Product delivered to HCE at the Delivery Point during the Delivery Term pursuant to the terms of this Agreement at a rate as calculated per the terms of this Agreement as described in Appendix B. HCE’s payments under this section shall constitute full consideration for the purchase of the Product.

2.6. Billing. HCE shall pay Seller, at HCE’s option, by check or Automated Clearing House transfer within thirty days of the meter reading date if the value of the purchased energy in a month is at least fifty dollars; if less, HCE may pay Seller quarterly. HCE shall have the right, but not the obligation, to read the Facility’s meter on a daily basis.

2.7. Title and Risk of Loss. HCE shall be deemed to take title to and shall assume the risk of loss of the Product at the Delivery Point.

3. GREEN ATTRIBUTES

3.1. For the duration of the Delivery Term, Seller agrees that HCE is entitled to all Green Attributes associated with the electricity generation from the Facility, and Seller hereby conveys to HCE all present and future rights to such Green Attributes and agrees to take all further steps required to effect such transfer to HCE at the time of any such delivery, as further provided in Section 3.4.

3.2. Seller shall not sell, exchange, or reserve any claim of ownership of, the Green Attributes from the Facility which are required to be conveyed to HCE or take any other action that would prevent such Green Attributes from being used by HCE to meet the Colorado Renewable Portfolio Standard.

3.3. Payment of the contract price in Section 2.4 shall constitute full payment for Green Attributes and no additional consideration shall be due to Seller in respect of such transfer.

3.4. Within ninety days of HCE’s written request, the Parties shall cooperate to execute all documents and instruments necessary and desirable to evidence the Green Attributes and to effect or evidence transfer of such Green Attributes to HCE or its designee, including with respect to participation by HCE or Seller in the Western Renewable Energy Generation Information System (“WREGIS”) of Green Attributes sold to HCE under this Agreement. The Parties may use an alternate registration and tracking system upon written mutual agreement. Each Party shall promptly give to the other Party copies of all documents it submits to such registry, tracking or certification bodies to document, record, or effectuate these obligations. Each Party shall bear its own costs for such transfers, including administrative or membership costs.
4. REPRESENTATIONS AND WARRANTIES; COVENANTS

4.1. Representations and Warranties. On the Execution Date, each Party represents and warrants to the other Party that:

4.1.1. It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; and

4.1.2. The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Law applicable to it; and

4.1.3. This Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation, enforceable in accordance with its terms, subject to applicable bankruptcy or similar laws affecting creditors’ rights generally and subject, as to enforceability, to equitable principles of general application regardless of whether enforcement is sought in a proceeding in equity or at law); and

4.1.4. It is not bankrupt or insolvent and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt or insolvent; and

4.1.5. There is not pending or, to its knowledge, threatened against it or any of its affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement; and

4.1.6. It is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of this Agreement.

4.2. General Covenants. Each Party covenants that throughout the Term of this Agreement:

4.2.1. It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

4.2.2. It shall maintain (or obtain from time to time as required, including through renewal, as applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

4.2.3. It shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

4.3. Seller Representations and Warranties. Seller hereby represents and warrants that it holds all the rights to the Product, free and clear of all liens, taxes, claims, security interests, and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point, and that at the time of any delivery thereof to HCE, Seller will transfer good and marketable title to the Product free and clear of any such encumbrances or interests.
4.4. **Seller Covenant.** Seller hereby covenants that at the Execution Date, the Facility is an Eligible Energy Resource and that throughout the Delivery Term of the Agreement, the Seller shall take all necessary actions within its power to ensure that the Facility will continue at all times to meet the requirements for qualification as an Eligible Energy Resource, and that its output shall be counted towards satisfying HCE’s obligations under the Colorado Renewable Portfolio Standard.

Seller further covenants that at the Execution Date, the Facility meets the requirements of a “Qualifying Facility” (QF) under 18 Code of Federal Regulations (C.F.R.) §292.203(a) and §292.204 and is exempt from filing a Form 556 self-certification with the FERC under 18 C.F.R. §292.203(d). Seller shall take all necessary actions within its power to ensure that the Facility will continue at all times to meet the requirements of a QF.

5. **GENERAL CONDITIONS**

5.1. **Facility Care, Interconnection and Transmission Service.** Seller shall submit a Generator Interconnect Application to HCE within one hundred eighty days of execution of this Agreement. Seller shall pay and be responsible for designing, installing, operating, and maintaining the Facility in accordance with the terms of the HCE Generator Interconnection Policy, execute a Generator Interconnection Agreement and shall comply with all applicable HCE, transmission operator, RUS (if applicable), PUC and FERC regulations or tariffs, including applicable interconnection and metering requirements under HCE’s Generator Interconnect Policy. During the Delivery Term, Seller shall undertake all arrangements necessary to interconnect with HCE, except as HCE may otherwise determine, and shall be solely responsible to pay for any and all necessary costs thereof, including as set forth in the Generator Interconnect Policy and any related agreement with HCE. As a condition of HCE’s obligation to accept and purchase the Product from Seller, Seller must satisfy all obligations required by the Generator Interconnect Policy and related agreements with HCE in full force and effect throughout the Delivery Term.

5.2. **Metering Requirements.** HCE shall specify, install, and maintain an appropriate meter to measure the energy delivered to HCE at the Delivery Point at Seller’s sole expense. Such meter shall comply with HCE’s Generator Interconnect Policy and shall be capable of being electronically read at least daily by HCE. Upon HCE request, Seller shall be responsible for procuring and maintaining a communication link, as specified by HCE, to electronically retrieve this metering data at Seller’s sole expense.

5.3. **Standard of Care.** Seller shall: (a) maintain and operate the Facility and interconnection facilities, except facilities installed by HCE, in conformance with all applicable laws and regulations and in accordance with Good Utility Practices; (b) obtain any governmental authorizations and permits required for the construction and operation thereof; and (c) generate, schedule and perform transmission services in compliance with all applicable operating policies, criteria, rules, guidelines and tariffs and Good Utility Practices. Seller shall indemnify and hold HCE harmless for any and all losses, damages, claims, penalties, or liability HCE incurs as a result of Seller’s failure to obtain or maintain any governmental authorizations and permits required for construction and operation of the Facility throughout the Delivery Term of this Agreement.
5.4. **Access Rights.** HCE, its authorized agents, employees and inspectors shall have the right to inspect the Facility on reasonable advance notice during normal business hours and for any purposes reasonably connected with this Agreement or the exercise of any and all rights of HCE under Law, its tariff schedules or the Generator Interconnect Policy.

5.5. **Emergency Coordination.** Each Party shall use reasonable efforts to notify the other Party of emergencies and other events adversely affecting its facilities and the delivery of the Product hereunder, as soon as practicable following the occurrence of any such event. Subject to Section 5.3, Seller and its Facility operator, if any, shall coordinate Seller’s response to any such emergency with HCE, provided that Seller shall keep HCE advised of current procedures for communications directly between HCE and Seller and with any Facility operator.

5.6. **Protection of Property.** Each Party shall be responsible for protecting its own facilities from possible damage resulting from electrical disturbances or faults caused by the operation, faulty operation, or non-operation of the other Party’s facilities.

5.7. **HCE Performance Excuse; HCE Curtailment.**

5.7.1. **HCE Performance Excuse.** HCE shall not be obligated to accept or pay for the Product during a Force Majeure affecting HCE nor shall HCE be obligated to accept or pay for the Product during an HCE Curtailment as defined in Section 5.6.2 of this Agreement.

5.7.2. **HCE Curtailment.** HCE may require Seller to interrupt or reduce deliveries of energy: (a) when necessary to construct, install, maintain, repair, replace, remove, or investigate any of its equipment or part of HCE’s transmission system, distribution system, or facilities; or (b) if HCE determines that curtailment, interruption, or reduction is necessary because of an Emergency, Forced Outage, Force Majeure or compliance with Good Utility Practice.

5.8. **Notices of HCE Curtailment.** Whenever practicable, HCE shall give Seller reasonable notice of any HCE Curtailment.

5.9. **Notice of Seller Outages.** Whenever practicable, Seller shall give HCE reasonable notice of any Scheduled Outage, Forced Outage or Force Majeure or other condition that may cause Seller to interrupt or suspend deliveries of energy from the Facility.

6. **INDEMNITY**

Each Party as indemnitor shall save harmless and indemnify the other Party, its members, affiliates, directors, officers, agents, and employees from and against any and all loss or liability for injuries to persons including employees of either Party, and for any damage to property, including the property of either Party, including all claims, demands, costs or expenses for which such other Party may be deemed to be liable arising from any such loss, liability or damage, resulting from or arising out of: (a) the engineering, design, construction, maintenance, or operation of the Facility; or (b) the installation of replacements, additions, or betterments to the indemnitor’s facilities. This indemnity and save harmless provision shall apply notwithstanding the active or passive negligence of the indemnitee. Neither Party shall be indemnified for liability or loss resulting from its gross negligence or willful misconduct. The indemnitor shall, on the other Party’s request, defend any suit asserting a claim covered by this indemnity and
shall pay all costs, including reasonable attorney fees that may be incurred by the other Party in enforcing this indemnity.

7. LIMITATION OF DAMAGES

Except as otherwise provided in this Agreement, there is no warranty of merchantability or fitness for a particular purpose, and any and all implied warranties are disclaimed. Liability shall be limited to direct actual damages only; such direct actual damages shall be the sole and exclusive remedy and all other remedies or damages at law or in equity are waived unless expressly herein provided. Neither party shall be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, under any indemnity provision or otherwise, unless expressly herein provided, and subject to the provisions of Section 6 (Indemnity), it is the intent of the parties that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any party, whether such negligence be sole, joint or concurrent, or active or passive.

8. NOTICES

Notices shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail) when such delivery is followed by another method. Whenever this Agreement requires or permits delivery of a “notice” (or requires a Party to “notify”), the Party with such right or obligation shall provide a written communication in the manner specified below. A notice sent by e-mail will be recognized and shall be deemed received on the Business Day on which such notice was transmitted if received before 4 p.m. Mountain Standard time (and if received after 4 p.m., on the next Business Day) and a notice by overnight mail or courier shall be deemed to have been received two Business Days after it was sent or such earlier time as is confirmed by the receiving Party unless it confirms a prior oral communication, in which case any such notice shall be deemed received on the day sent. A Party may change its addresses by providing notice of same in accordance with this provision. All written notices shall be directed as follows:

To HCE by US Mail:
Holy Cross Energy
Attn: Vice President - Power Supply & Contracts
PO Box 2150
Glenwood Springs, CO 81602-2150

To HCE by courier or hand delivery:
Holy Cross Energy
Attn: Vice President - Power Supply & Contracts
3799 Highway 82
Glenwood Springs, CO 81601

To HCE by email: dgosli@holycross.com with a copy to renewables@holycross.com

To Seller: See Appendix B.
9. INSURANCE


9.1.1. Seller shall maintain for the Delivery Term specified herein, General Liability Insurance of not less than $1,000,000 of combined single limit or equivalent for bodily injury, personal injury, and property damage as the result of any one occurrence.

9.1.1.1. HCE shall be named as an additional insured by endorsement to the insurance policy.

9.1.1.2. Such liability insurance shall provide, by endorsement to the policy, that HCE shall not by reason of its inclusion as an additional insured incur liability to the insurance carrier for the payment of any premium for such insurance.

9.1.1.3. The liability insurance shall not exclude coverage for any incident related to the subject generator or its operation.

9.1.2. General Liability Insurance shall include coverage for liability arising from premises, operations, independent contractors, products/completed operations, contracts, property damage, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

9.1.3. Such insurance shall provide for thirty days written notice to HCE prior to cancellation, termination, alteration, or material change of such insurance.


9.2.1. Evidence of coverage described above in Paragraph 9.1 shall state that coverage provided is primary and is not excess to or contributing with any insurance or self-insurance maintained by HCE.

9.2.2. HCE shall have the right to inspect or obtain a copy of the original policy(ies) of insurance.

9.2.3. Seller shall furnish the certificates and endorsements required under this Agreement to HCE prior to the Initial Date of Delivery.

9.2.4. Seller shall ensure that its insurance carrier(s) shall provide HCE with thirty days’ prior notice or such other notice as is practicable of any lapse, cancellation, termination, non-renewal or material change to Seller’s insurance.

9.2.5. All insurance certificates, endorsements, cancellations, terminations, non-renewal and material changes of such insurance shall be issued and submitted in accordance with Section 8.

10. TERM, DEFAULT, TERMINATION EVENT AND TERMINATION

10.1. Term. The term of this Agreement shall commence upon the execution by the duly authorized representatives of each of HCE and Seller and shall remain in effect until the conclusion of the Delivery Term or unless terminated sooner pursuant to Section 10.3 of this Agreement (the “Term”). All indemnity rights shall survive the termination of this Agreement for twelve months.
10.2. Termination Event. Each of the following events shall constitute a “Termination Event”, as the result of which HCE shall be entitled to terminate the Agreement in accordance with Section 10.3:

10.2.1. Seller fails to submit an interconnection application in compliance with HCE’s Interconnection Policy within 180 days of the execution of this Agreement; or
10.2.2. Seller fails to submit a timely application to FERC pursuant to Section 2.2; or
10.2.3. Seller is denied QF status by the FERC; or
10.2.4. The Facility has not achieved Commercial Operation by the deadline in Appendix B; or
10.2.5. Seller has not sold or delivered energy from the Facility to HCE for a period of twelve consecutive months; or
10.2.6. Seller breaches any representation or warranty set forth herein; or
10.2.7. Seller breaches its covenant to maintain the Facility’s status as an Eligible Energy Resource as set forth in Section 4.4 of the Agreement; or
10.2.8. Seller breaches its covenant to maintain the Facility’s status as a QF as set forth in this Agreement; or
10.2.9. Seller makes an assignment for the benefit of its creditors, excluding, for clarity, any assignment permitted under Section 12; or
10.2.10. Seller files a petition of otherwise commences, authorizes, or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, or similar law for the protection of creditors, or has such petition filed against it and such petition is not withdrawn or dismissed for sixty days after such filing.

10.3. Termination.

10.3.1. Declaration of a Termination Event. If a Termination Event has occurred and is continuing, HCE shall have the right to: (a) send notice, designating a day, no earlier than five days after such notice is deemed to be received (as provided in Section 8) and no later than twenty days after such notice is deemed to be received (as provided in Section 8), as an early termination date of this Agreement (“Early Termination Date”) unless Seller has timely communicated with HCE and the Parties have agreed to resolve the circumstances giving rise to the termination Event; (b) accelerate all amounts owing between the Parties; and (c) terminate this Agreement and end the Delivery Term effective as of the Early Termination Date.

10.3.2. Release of Liability for Termination Event. Upon termination of this Agreement pursuant to Section 10.3.1, neither Party shall be under any further obligation or subject to liability hereunder, except with respect to the indemnity provision in Section 6 hereof, which shall remain in effect for a period of 12 months following the Early Termination Date.

10.3.3. RUS Approval. If applicable, the effectiveness of this Agreement is conditioned upon HCE’s receipt of any required approval from the Rural Utilities Service of the
US Department of Agriculture (RUS). HCE shall have no obligation to Seller as a result of HCE’s failure to obtain any such approval despite HCE’s reasonable efforts to do so.

11. CONFIDENTIALITY

Each Party agrees to keep confidential, except as required by law, all documents (excluding this Agreement), data, drawings, studies, projections, plans, and other written information provided by one Party that is not in the public domain and that the providing Party labels as “Confidential Information” at the time of delivery; provided that to the extent Confidential Information regarding the Facility is not in the public domain, a Party may disclose such information to the FERC, the North American Electric Reliability Corporation, Public Service Company of Colorado, the RUS, PUC, any of their successor organizations, and/or any other regulatory body, transmission operator, or governmental entity as necessary to comply with reasonable requests, applicable rules, regulations or contract obligations. A Party may also provide Confidential Information to its counsel, accountants, auditors, advisors, other professional consultants, credit rating agencies, lenders, underwriters, contractors, brokers, suppliers and others involved in construction, operation and financing arrangements for a Party or its subsidiaries or affiliates.

12. ASSIGNMENT

12.1. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided, however, either Party may, without the consent of the other Party (and without relieving it from liability hereunder), transfer, sell, pledge, encumber or assign this Agreement to its financing providers for collateral security purposes, provided that as a condition to becoming a Party to this Agreement or exercising any rights hereunder, the financing provider(s) or any transferee, as the case may be, shall agree in writing to be bound by the terms and conditions hereof and shall provide such further assurances as the non-transferring Party shall reasonably request. A Party executing a transfer, sale, pledge, encumbrance, or assignment shall provide the other Party written notice of such within 30 days of the effective date of such transaction.

12.2. HCE hereby notifies Seller that upon execution hereof, this Agreement shall be assigned by HCE for collateral security purposes to any such lender with existing loans to HCE that require such assignment. This may include the Administrator of the Rural Utilities Service of the United States Department of Agriculture, who shall have the authority set forth in 7 U.S.C. § 907, the National Rural Utility Cooperative Finance Corporation, or CoBank, ACB.

13. APPLICABLE LAW

This Agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of Colorado, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement. Any proceedings to enforce this Agreement, declare the parties’ rights and obligations under it, or in any way relating to it shall be brought in federal or state court, in Garfield County, Colorado. Each of the parties expressly consents to the
jurisdiction of either court over them personally for such purpose, and waives any objection to personal jurisdiction and venue in either court for such purpose.

14. SEVERABILITY

If any provision in this Agreement is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement and the Parties shall use their best efforts to modify this Agreement to give effect to the original intention of the Parties.

15. COUNTERPARTS

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by facsimile or PDF transmission will be deemed as effective as delivery of an originally executed counterpart. Each Party delivering an executed counterpart of this Agreement by facsimile or PDF transmission will also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement will not affect the validity or effectiveness of this Agreement.

16. GENERAL

16.1. Modification and Waiver. No amendment to or modification of this Agreement shall be enforceable unless reduced to writing and executed by both parties.

16.2. Successors and Assigns. This Agreement inures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns. This Agreement shall not impart any rights enforceable by any third party other than a permitted successor or assignee bound to this Agreement.

16.3. No Prior Agreements. This Agreement supersedes all other prior understandings or agreements, both written and oral, between the Parties relating to the subject matter hereof.

16.4. No Waiver. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default, nor shall any delay by a Party in the exercise of any right under this Agreement be considered as a waiver or relinquishment thereof.

16.5. Headings. The headings used herein are for convenience and reference purposes only.

16.6. Rules of Construction. “Hereof,” “herein,” “hereunder” and similar words refer to this Agreement in its entirety. “Or” is not necessarily exclusive. The term “including” when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation.

16.7. No Third Party Beneficiaries. This Agreement confers no rights whatsoever upon any person other than the Parties and shall not create, or be interpreted as creating, any standard of care, duty or liability to any person not a Party hereto.

16.8. This Agreement was negotiated and prepared by both Parties with the advice and participation of counsel. None of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this PPA or any part hereof.
16.9. The Parties shall act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this Agreement.
IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date of last signature provided below.

HOLY CROSS ELECTRIC ASSOCIATION, INC.

By: ___________________________ Date: _________________________
Name: _________________________
Title: __________________________

SELLER

By: ____________________________ Date: _________________________
Name: __________________________
Title: ___________________________
Appendix A

DEFINITIONS

“Automated Clearing House” means the electronic funds-transfer system run by the National Automated Clearing House Association or such other automated payment system as mutually acceptable to the Parties.

“Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday during the hours of 8:00 a.m. and 5:00 p.m. Mountain Prevailing Time.

“Colorado Renewable Portfolio Standard” means the renewable energy program and policies established by §40-2-124 C.R.S, as such provision may be amended, supplemented or replaced from time to time, including the regulations pursuant thereto.

“Contract Year” means a period of twelve consecutive months with the first Contract Year commencing on the first day of the month immediately following the Initial Energy Delivery Date and each subsequent Contract Year commencing on the anniversary of the Initial Energy Delivery Date.

“Delivery Point” means the point of interconnection to the HCE distribution system as further described in Appendix B.

“Delivery Term” shall have the meaning set forth in Section 2.4 of this Agreement.

“Eligible Energy Resource” means an “eligible energy resource” as defined pursuant to the Colorado Renewable Portfolio Standard, as such provision may be amended, supplemented or replaced from time to time, including the regulations thereto.

“Emergency” means any abnormal interconnection or system condition that requires automatic or immediate manual action to prevent or limit loss of HCE’s load or generation supply, that could adversely affect the reliability of the HCE system or generation supply, that could adversely affect the reliability of any interconnected system, or that could otherwise pose a threat to public safety.

“Execution Date” means the latest signature date found at the end of the Agreement.

“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

“Forced Outage” means any unplanned reduction or suspension of the electrical output from the Facility resulting in the unavailability of the Facility, in whole or in part, in response to a mechanical, electrical, or hydraulic control system trip or operator-initiated trip in response to an alarm or equipment malfunction and any other unavailability of the Facility for operation, in whole or in part, for maintenance or repair that is not the result of Force Majeure.

“Force Majeure” means any event or circumstance which wholly or partly prevents or delays the performance of any material obligation arising under this Agreement, but only if and to the extent (i) such event is not within the reasonable control, directly or indirectly, of the Party seeking to have its performance obligation(s) excused thereby, (ii) the Party seeking to have its performance obligation(s) excused thereby has taken all reasonable precautions and measures to prevent or avoid such event or mitigate the effect of such event on such Party’s ability to perform its obligations under this Agreement and which by the exercise of due diligence such Party could
not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome, and (iii) such event is not the direct or indirect result of the negligence or the failure of, or caused by, the Party seeking to have its performance obligations excused thereby. Force Majeure shall not be based on: (i) HCE’s inability economically to use or resell the energy or capacity purchased hereunder; (ii) Seller’s ability to sell the energy, capacity or other benefits produced by or associated with the Facility at a price greater than the price set forth in this Agreement, (iii) Seller’s inability to obtain approvals of any type for the construction, operation, or maintenance of the Facility; (iv) a strike or labor dispute limited only to Seller, Seller’s affiliates, the Engineering, Procurement, and Construction Contractor or subcontractors thereof; or (v) any equipment failure not caused by an event of Force Majeure of the specific type described in any of subsections (i) through (iv) of this definition of Force Majeure.

“Generator Interconnect Agreement” and “Generator Interconnect Policy” are the documents detailing the requirements and obligations of Seller and HCE involved with the interconnection of a generator to the HCE distribution system, available from HCE’s Engineering Department.

“Good Utility Practices” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

“Green Attributes” mean the full set of environmental, power source and emissions characteristics, whether in the form of credits (including Renewable Energy Credits), benefits, emissions reductions, offsets, allowances or by any other designation, attributable to the generation of electric energy from the Facility. Green Attributes include but are not limited to (1) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluoro carbons, perfluoro carbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise under Law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere, (2) any avoided emissions of sulfur oxides (SOx), nitrogen oxides (NOx) and carbon monoxide (CO), and of any other pollutant of the air, soil or water (other than GHGs) that is now or is proposed now or in the future to be regulated under Law, including as part of any renewable portfolio standard, or tradable under any registration or trading program, whether or not such Law, portfolio standard or registration or trading program is enacted, implemented or promulgated; and (3) the right of HCE as the owner or prospective owner of Green Attributes to report the ownership of accumulated Green Attributes to any agency, authority or other party, including without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future domestic, international or foreign Law, renewable portfolio standard or registration or trading program. One MWh of energy output generated from the Facility is assumed to be the equivalent to one unit of Green Attributes, subject to applicable Law, standards or trading program requirements. Green Attributes do not include: (i) any energy, capacity, reliability or other power
attributes from the Facility; (ii) production tax credits associated with the construction or operation of the energy projects and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income taxation obligation; or (iii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept or dispose of certain fuels, or local subsidies received by the generator for the destruction of particular pre-existing pollutants or the promotion of local environmental benefits.

“Initial Energy Delivery Date” means the date on which (i) the Facility is capable of operating; (ii) HCE confirms Seller’s satisfaction of all applicable requirements for interconnection with HCE, including those requirements as set forth in HCE’s Generator Interconnect Policy and any applicable agreements between the Parties; and (iii) Seller produces and delivers energy to HCE pursuant to the terms of this Agreement.

“Law” means any statute, law, treaty, rule, regulation, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, including any of the foregoing that are enacted, amended, or issued after the Execution Date, and which becomes effective during the Delivery Term; or any binding interpretation of the foregoing.

“Product” means the energy (net of Station Use), capacity and all ancillary products, services or attributes similar to the foregoing which are or can be produced by or associated with the Facility, including, without limitation, renewable attributes, Renewable Energy Credits, and Green Attributes.

“PUC” means the Colorado Public Utilities Commission, or successor entity.

“Renewable Energy Credit” or “REC” has the meaning set forth in C.R.S. § 40-2-124, as may be amended from time to time or as further defined or supplemented by Law, and any regulations adopted pursuant to this section.

“RUS” means the Rural Utilities Service of the US Department of Agriculture, or successor entity.

“Scheduled Outage” means any reduction in deliveries for any purpose that is anticipated or scheduled in advance of the reduction.

“Station Use” means energy consumed within the Facility’s electric energy distribution system as losses, as well as energy used to operate the Facility’s auxiliary equipment. The auxiliary equipment may include, but is not limited to, plant lighting, control systems, communications systems and inverters.
Appendix B

Facility Description

Facility name: Town of Avon, A Colorado Home Rule Municipality  
Address: 100 Mikaela Way, Avon, CO  
County: Eagle County  
AC nameplate rating: 130 kW  
DC nameplate rating: 150.15 kW  
Inverter output voltage: 480 V 3-Phase  
Grounding method: Zig-Zag transformer  
Delivery point: 480V terminals of the HCE supplied site transformer  
Scheduled Initial Energy Delivery Date: August 31, 2018

Contract Price

First calendar year Contract Price. Commencing at the Initial Energy Delivery Date through the end of the first calendar year, HCE shall pay Seller for each kWh delivered at the Delivery Point at a rate of $0.09572 per kWh.

Escalation. Each year of the Delivery Term after the first calendar year on the first day of each calendar year, the Contract Price shall be increased by 2.0% from the prior year’s rates and rounded to five decimal places.

Seller Contact Information

To Seller by US Mail:

__________________________________________
Attn: __________________________
__________________________________________
__________________________________________

To Seller by courier or hand delivery:

__________________________________________
Attn: __________________________
__________________________________________
__________________________________________

To Seller by email: __________________________
HCE 500 KVA TRANSFORMER

480Y/277V 3ɸ 4W SECONDARY

UNDERGROUND SERVICE FEEDERS

- MAIN BILLING METER
- PV TARIFF METER
- PV AC DISCONNECT

ELECTRICAL ROOM (GROUND FLOOR)

- MDP-1 - POINT OF INTERCONNECTION (ON LINE SIDE OF MAIN BILLING CT)
- PV AC TAP DISCONNECT
- PV TARIFF METER CT ENCLOSURE
- INVERTER AC COMBINER PANEL

- SOLAREDGE SE100KUS INVERTER
- SOLAREDGE SE30KUS INVERTER

UPPER WEST ROOF ARRAY

22,750 WATTS DC STC
(65) REC350TP2S 72 MODULES
(33) SOLAREDGE P730 OPTIMIZERS

FLUSH MOUNT ARRAY
TILT ANGLE - 14° | AZIMUTH - 200°

UPPER EAST ROOF ARRAY

19,950 WATTS DC STC
(57) REC350TP2S 72 MODULES
(29) SOLAREDGE P730 OPTIMIZERS

FLUSH MOUNT ARRAY
TILT ANGLE - 14° | AZIMUTH - 200°

MIDDLE ROOF ARRAY

66,150 WATTS DC STC
(189) REC350TP2S 72 MODULES
(95) SOLAREDGE P730 OPTIMIZERS

FLUSH MOUNT ARRAY
TILT ANGLE - 3° | AZIMUTH - 200°

LOWER ROOF ARRAY

41,300 WATTS DC STC
(118) REC350TP2S 72 MODULES
(59) SOLAREDGE P730 OPTIMIZERS

FLUSH MOUNT ARRAY
TILT ANGLE - 14° | AZIMUTH - 200°

AVON RTF PV SYSTEM SUMMARY

DC STC RATING - 150.15 KW
AC NAMEPLATE RATING - 130 KW

(429) REC350TP2S 72 MODULES
(1) SOLAREDGE SE100KUS INVERTER
(1) SOLAREDGE SE30KUS INVERTER

IRON RIDGE FLUSH MOUNT RACKING

ARRAY TILT ANGLE - 14° & 3°
ARRAY AZIMUTH - 200°
2. WHEN THE EFFECTIVE GROUNDING TRANSFORMER'S BREAKER TRIPS, IT WILL TRIP THE INVERTER COMBINER PANEL'S SHUNT TRANSFORMER MOUNTED.

1. INSTALL A NORMALLY OPEN AUXILIARY SWITCH ON THE EFFECTIVE GROUNDING TRANSFORMER'S BREAKER AND WIRE IT TO B. GROUNDING TRANSFORMER PV SHUT DOWN CONTROL.

131PV SERVICE

200 ANEMA 1, 3 POLE, 200 AMP CLASS R FUSES, NEUTRAL KIT.

3. GROUNDED AC CONDUCTORS SHALL BE WHITE OR GRAY.
Appendix C

Initial Energy Delivery Date Confirmation Letter

In accordance with the terms of that certain Renewable Generator Power Purchase Agreement dated _____ (“Agreement”) by and between Holy Cross Energy and St. Benedict’s Monastery (“Seller”), this letter serves to document the parties further agreement that (i) the conditions precedent to the occurrence of the Initial Energy Delivery Date have been satisfied, and (ii) Seller has delivered and HCE has received the Product, as specified in the Agreement, as of this ___ day of __________, 20__. This letter shall confirm the Initial Energy Delivery Date, as defined in the Agreement, as the date referenced in the preceding sentence.

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date of last signature provided below:

SELLER

By: ____________________________ Date: __________________
Name: __________________________
Title: ___________________________

HOLY CROSS ELECTRIC ASSOCIATION, INC.

By: ____________________________ Date: __________________
Name: __________________________
Title: ___________________________

This Agreement is effective when accepted and executed by HCE.
TO: Honorable Mayor Fancher and Town Council members  
FROM: Eric J. Heil, Town Attorney  
RE: Kevin Paul – Range Retainer Agreement  
DATE: July 7, 2018

SUMMARY: Kevin Paul is an attorney who has represented the retirement investment board and has provided legal support to the Town of Avon regarding public employment law issues for the last 9 years. Kevin’s previous law firm, Heizer Paul, has evolved over the years and is now named Range. I asked Kevin to provide an updated Legal Services Retainer Agreement. The Agreement is presented to Council for consideration. Kevin’s assistance with human resource issues is typically very limited and focused on specific issues with my direction and oversight.

Kevin has proven to be knowledgeable and cost efficient for legal advice on public employment law matters; therefore, I recommend approving the retainer agreement with Range law.

PROPOSED MOTION: “I move to approve the Professional Legal Services Agreement with Range and Kevin Paul.”

Thank you, Eric

ATTACHMENT: Fee retainer agreement.
May 2, 2018

Scott Wright  Eric Heil
Assistant Town Manager/Finance Director  Town Attorney
Town of Avon  Town of Avon
Email: swright@avon.org  Email: eheil@avon.org

Re: Professional Legal Services Agreement

Dear Scott & Eric:

Thank you for asking us to provide the Town assistance with employment law and employee benefits issues. If we agree to undertake additional projects, the terms of this Agreement will continue to apply unless we agree otherwise in writing.

Cindy Coleman and I will be the primary attorneys providing legal services to the Town. My hourly rate will be $350.00 and Cindy’s hourly rate will be $295.00. The current hourly rates of other paralegals and attorneys that may assist us range from $150.00 to $425.00 per hour.

We normally bill monthly with payment due upon receipt. We may elect to stop our work for the Town should your account become more than 60 days overdue.

In the event of any dispute between us, including a dispute regarding the amount of our fees or the quality of our services, such as a claim of professional negligence against any of our lawyers or employees, that dispute shall be subject to binding arbitration. We agree that arbitration is our preferred method of dispute resolution, and we agree to waive our rights to seek remedies in court and the right to a jury trial. This clause does not prevent us from trying to resolve any dispute through voluntary mediation, but there is no requirement that we do so.

Any dispute concerning fees or costs shall be submitted to the Legal Fee Arbitration Committee of the Denver Bar Association and the decision of the Committee shall be final and binding on both parties. Arbitration regarding any other issue shall be conducted by an arbitrator from the Denver, Colorado office of the Judicial Arbiter Group who is acceptable to both of us. Any filing fees or other administrative costs of arbitration shall be divided equally between you and our firm. Any arbitration proceeding between us, including the result, shall remain confidential.

This Agreement may be terminated by you or by our firm at any time. Upon termination by either of us, all payable fees and costs will become immediately due.
We will maintain files, including documents and other materials, for ten years after completion of each matter we handle. For example, we will maintain files for ten years after a transaction has closed, a case has been dismissed or settled, or final judgment has entered. At ten years, we will automatically destroy the file without further notice to you. If you wish to maintain files beyond our ten year retention period, please maintain your own file. Upon your request, we will provide you with a copy of your file(s). We generally keep files electronically.

Once again, thank you for the opportunity to serve the Town.

[The remainder of this page is intentionally left blank with the signature page to follow.]
Sincerely,

RANGE

Kevin C. Paul

I have read, I understand, and I agree to the terms and conditions of this Professional Legal Services Engagement Agreement. I understand that no attorney-client relationship will be formed unless and until I execute this Agreement and return it to the firm. The described scope of work, charges, and other terms are acceptable and I am authorized to execute this Agreement.

CLIENT: TOWN OF AVON

By:

_________________________ ____________________________
Signature Date

_________________________ ____________________________
Printed Name Title (if applicable)

Billing Address: ________________________________________

_____________________________________________________

Telephone: ____________________________________________

E-mail: ________________________________________________

Receipt of Billing Statement Preference: E-mail _____ or Regular Mail _____
To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Elizabeth Pierce-Durance, Special Counsel
Meeting Date: July 10, 2018
Topic: APPROVAL OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN EAGLE COUNTY AND THE TOWN OF AVON

ACTION BEFORE COUNCIL: Council is asked to approve the attached Intergovernmental Agreement between Eagle County and the Town of Avon, which agreement allows Eagle County to retain as a service fee 3.33% of sales tax collected on behalf of the Town when registering and titling vehicles.

PROPOSED MOTION: “I move to approve an Intergovernmental Agreement between Eagle County and the Town of Avon.”

SUMMARY: Eagle County has collected and remitted the Town’s sales tax for vehicles when registered with Eagle County and has remitted such Town sales tax less the 3.33% administrative fee. Eagle County recently notified the Town that it does not have an existing signed agreement for this collection, remittance and retention of the 3.33% administrative fee and has proposed and IGA for Town Council consideration. The IGA restates the existing agreement that Eagle County can retain 3.33% of amounts collected on behalf of the Town when the County registers and titles vehicles.

Amounts collected and retained by the County for the past three years were: 2015 - $5,105 collected, $170 retained; 2016 - $4,262 collected, $141.92 retained; and 2017 - $4,639 collected, $153 retained. The collection of the Town’s vehicle sales tax by the County is both convenient and cost effective for the Town. The Finance Department supports this IGA.

ATTACHMENT A: IGA between Eagle County and the Town of Avon.
INTEGOVERNMENTAL AGREEMENT BETWEEN
EAGLE COUNTY
AND THE TOWN OF AVON

This Agreement made this ________________, by and between Eagle County,
State of Colorado, a body corporate and politic ("County") and the Town of Avon, a Colorado
home rule municipal corporation ("Town").

WITNESSETH

WHEREAS, the County Clerk and Recorder registers and titles vehicles in accordance with
state statute; and

WHEREAS, when registering and titling vehicles, the County Clerk and Recorder must
collect all applicable sales tax unless proof is provided that sales tax has been paid for such
vehicles; and

WHEREAS, it is convenient for the County Clerk and Recorder to collect applicable sale
tax for vehicles on behalf of various municipalities and special districts within its jurisdiction and
remit it to those municipalities and special districts; and

WHEREAS, the Town desires for the County to collect applicable sales tax on vehicles on
behalf of it when registering or titling such vehicles ("Town Sales Tax"); and

WHEREAS, the County and the Town agree that the County will collect such Town Sales
Tax on behalf of the Town and remit the Sales Tax to the Town minus an appropriate vendor fee; and

WHEREAS, this Intergovernmental Agreement is authorized pursuant to Section 29-1-201
and 30-11-101, Colorado Revised Statutes, as amended, and Article XIV, Section 18, of the
Colorado Constitution.

AGREEMENT

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

1. Services. The County Clerk and Recorder will collect Town Sales Tax, on behalf of the
Town, when registering and titling vehicles. The County will remit such Town Sales Tax
to the Town on a regular basis minus a Vendor Fee.

2. Vendor Fee. The County Clerk and Recorder will retain 3.33% of the amount collected
to pay the costs and expenses associated with collection of the Town Sales Tax.
3. **Term of the Agreement.** This Agreement shall commence upon the date first written above, and subject to the provisions of paragraph 4 hereof, shall continue in full force and effect until terminated by the parties.

4. **Termination.** Either party shall have the right to terminate this agreement with or without cause at any time by giving the other party one hundred eighty (180) days' prior written notice of termination. Upon termination, the County shall be entitled to compensation for services performed prior to such termination, and both parties shall thereafter be relieved of any and all duties and obligations under this Agreement.

5. **Modification.** Any amendments or modifications shall be in writing signed by both parties.

6. **General Provisions.**

   A. **Notice.** All notices by the County and the Town, under this Agreement, shall be in writing and shall be deemed to have been given or served, if hand delivered to the parties, or if mailed by certified mail, postage prepaid, or sent via e-mail and shall be deemed delivered when receipt of the e-mail is acknowledged by the other party, to the addresses below:

   Eagle County:
   Eagle County Attorney
   500 Broadway
   Post Office Box 850
   Eagle, Co 81631
   Telephone: 970-328-8685
   Facsimile: 970-328-8699
   E-mail: atty@eaglecounty.us

   Town of Avon:
   Town of Avon Finance Director
   Post Office Box 975
   100 Mikaela Way
   Avon, CO 81620
   Telephone: 970-748-4000
   Facsimile: 970-949-9139
   E-mail: swright@avon.org

   Either party may change the address to which notices are to be given by a notice of change of address given in the manner set forth in this paragraph.

   B. No modification or waiver of this Agreement or of any covenant, condition, or provision herein contained shall be valid unless in writing and duly executed by the party to be charged therewith.
C. This written Agreement embodies the whole agreement between the parties hereto and there are no inducements, promises, terms, conditions, or obligations made or entered into either by the County or the Town other than those contained herein.

D. This Agreement shall be binding upon the respective parties hereto, their successors or assigns and may not be assigned by anyone without the prior written consent of the other respective party hereto.

E. All agreements and covenants herein are severable, and in the event that any of them shall be held invalid by a court of competent jurisdiction, this Agreement shall be interpreted as if such invalid Agreement or covenant were not contained herein.

F. The Town has represented to County and, likewise, the County has represented to the Town that it possesses the legal ability to enter into this Agreement. In the event that a court of competent jurisdiction determines that either of the parties hereto did not possess the legal ability to enter into this Agreement, this Agreement shall be considered null and void as of the date of such Court determination.

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

COUNTY OF EAGLE, STATE OF COLORADO,  
By and Through its BOARD OF COUNTY COMMISSIONERS

By: _____________________________  
Kathy Chandler-Henry, Chair

Attest:

By: __________________________________________  
Regina O’Brien, Clerk

TOWN OF AVON

By: _____________________________  
Jennie Fancher, Mayor

Attest:

By: __________________________________________  
Debbie Hoppe, Town Clerk
TOWN COUNCIL REPORT

To:    Honorable Mayor Jennie Fancher and Avon Town Council
From:  John Curutchet, Director of Recreation
        Matt Koch Recreation Programs Supervisor
Meeting Date:     July 10, 2018
Agenda Topic:     APPROVAL OF COLORADO HEALTH FOUNDATION FULL FUNDING GRANT AND AUTHORIZATION
                   FOR TOWN MANAGER OR TOWN ATTORNEY TO REVIEW AND EXECUTE GRANT AGREEMENT
                   DOCUMENTS

ACTION BEFORE COUNCIL
Council is asked to take action to approve a full funding grant from the Colorado Health Foundation to fund construction of adult, outdoor fitness equipment in Nottingham Park and to authorize the Town Manager or Town Attorney to review and execute grant agreement documents.

RECOMMENDED MOTION
“TODAY move to approve the Colorado Health Foundation full funding grant and authorize the Town Manager or Town Attorney to review and execute grant agreement documents.”

BACKGROUND
2016 land use planning and design efforts for Destination Jump, Splash, Learn playground included the components of an adult, outdoor fitness area where the old playground site is located. Cost priorities for playground construction and play components excluded the opportunity for the outdoor fitness court. Staff worked to submit a first-round grant cycle proposal for a Colorado Health Foundation grant to fund the outdoor fitness component. Colorado Health Foundation provided notice last month that the outdoor fitness area was approved for full funding at a build cost of $140,000

SUMMARY
Research and vetting was completed on several outdoor teen, adult and multi-generational fitness area options. Staff narrowed the selection to the “Sport Court” company. The Sport Court model, (Attachment A.), was selected as top choice based on the following advantages:

- Sport Court provides a full-body workout to people of all ability levels.
- The Fitness Court is a scientifically based training system designed around functional fitness movements. Its core DNA of circuit training has been shown through research to increase resting metabolic rate (RMR) with regular use.
- While advanced, the system has been specifically designed to accommodate those who are new to physical activity, as well as regular exercisers, and encourages continual improvement over time.
- The system includes over 30 pieces of body-weight equipment.
• Fitness Court will benefit the community of Avon residents of Eagle County and area visitors in a multitude of ways, from individual, casual use to group training and even for competitive events.

• The Fitness Court, which provides a unique social experience has been proven in thousands of communities by the National Fitness Campaign (NFC). NFC is a social enterprise that operates by building partnerships with cities, schools, corporations and organizations to help fund, build and activate local fitness campaigns. NFC invented the outdoor Fitness Court in 1979 to encourage people to adopt healthy lifestyles in public spaces. The original Fitness Courts were opened in San Francisco and at Stanford University. Wells Fargo Bank joined as the first sponsor, and helped cities and schools fund the program. Between 1980 and 1990, NFC grew to over 4,000 communities, building partnerships with more than 100 corporate sponsors and raising over $100 million dollars in the US, Canada and Australia. This was the largest ever public-private partnership in support of physical fitness.

ATTACHMENT
Attachment A – Sport Court PowerPoint presentation
MAKE FITNESS FREE
Fitness Court: An Emerging and Essential Element of Healthy Infrastructure
A Fully Integrated Campaign

Fitness Court
Mobile App
Activation

UPCOMING LAUNCH DATES

JUNE
JUN 15 | Avon, OH
JUN 16 | Parkland Mission Bay, CA
JUN 23 | Mishawaka, IN

JULY
JUL 7 | Brownsville, TX
JUL 13 | Pensacola, FL
JUL 14 | Fort Bend County, TX
JUL 21 | Redondo Beach, CA
JUL 27 | New Brunswick, NJ
JUL 28 | Alhambra, CA

AUGUST
Annapolis, MD
Ashland, WI
Auburn, ME
Columbus County, NC
DeKalb County, GA
Hobbs, NM
La Porte, IN
Lincoln, IL
Lovesjoy, GA
Maryland Heights, MO
Mount Vernon, NY
Mustang, OK
Oklahoma City, OK
Palmdale, CA
Perlis, CA
Pullaski County, AR
Riverside, MO
Seymour, IN
South Charleston, WV
St. Mary’s, PA
Tewksbury, MA
Ventnor City, NJ
Weirton, MN
Wayne County, MI
Westlake Village, CA

SEPTEMBER
Belvidere, IL
Big Rapids, MI
Bremerton, TN
Dover, NJ
Erie, PA
Garden City, MI
Hyattsville, MD
Imperial Beach, CA
Johnson City, NY
Kansas City, KS
Mokena, IL
Oxford, AL
Roseville and Eastpointe, MI
Sacramento, CA
Shreveport, LA
Sacramento, NM
South San Francisco, CA

OCTOBER
Alva, OK
Berkley, IL
Brownstown Township, MI
Burlington, MA
Butler County, PA
Clarkston, WA
Cudahy, CA
East St. Louis, IL
Emeryville, CA
Holy Hill, FL
Kingsburg, CA
La Quinta, CA
Lansing, IL
Las Cruces, NM
Leander, TX
Lower, NJ
Monterey Park, CA
Romulus, MI
San Marcos, CA
Vallejo, CA

NOVEMBER
Converse, TX
Foster City, CA
Green Brook, NJ
Green Cove Springs, FL

DECEMBER
Lynnwood, CA
Pittsburgh, CA
Rochester, NH
Tamarac, FL
Selecting a Site

Ideal Project for an active, visible public space

Required Size: 38’ x 38’

Possible Locations: Former Playground Site
- Upper Bench
- Lower Bench
- Lake Side: Failed Wetlands

Site Orientation: Option 1
Upper Bench: Former Playground
Site Orientation: Option 2
Lower Bench: Former Playground

Site Orientation: Option 3
Lake Side: Failed Wetlands
Funding The Campaign

$140,000 in Grant Funds
Physical Fitness for Children
and Adults in Nottingham Park

Town adopts project and allocates $140,000 in grant funding. Grant is expected to fully fund project including contingencies.

Attracting Sponsors

Visibility on the bodyweight training wall

Association with one of America’s most innovative cities.

Publication in all Fitness Court promotional materials and throughout activation campaign

Increased funding to improve area landscaping and project finishes
Cities Around the Country are Making World Class **Fitness Free**

By Joining the **2018 National Fitness Campaign**
1. A CALL TO ORDER & ROLL CALL
   Mayor Fancher called the meeting to order at 5:02 p.m. A roll call was taken and Council members present were Sarah Smith Hymes, Scott Prince, Jake Wolf, Matt Gennett, Amy Phillips and Megan Burch. Also present was Town Attorney Eric Heil.

2. APPROVAL OF AGENDA
   No changes to the agenda were requested.

3. PUBLIC COMMENT
   No comments were made.

4. EXECUTIVE SESSION REGARDING A PERSONNEL MATTER UNDER C.R.S. §24-6-402(2)(F) CONCERNING THE TOWN MANAGER’S ANNUAL PERFORMANCE EVALUATION
   Mayor Fancher moved to convene into Executive Session for discussion of a personnel matter under C.R.S. §24-6-402(2)(F) concerning the Town Manager’s Annual Performance Evaluation. Councilor Gennett seconded the motion and it passed unanimously by Council members present.

   Council convened into Executive Session at 5:08 p.m.

   Executive Session ended at 8:04 p.m.

   Mayor Fancher moved to reconvene into Executive Session for the purpose of a conference with the Town Attorney for receiving legal advice under C.R.S. §24-6-402(2)(B) concerning the Town Manager’s Annual Performance Evaluation.

   Council convened into Executive Session at 8:08 p.m.

   Executive Session ended at 8:52 p.m.

10. ADJOURNMENT
    There being no further business to come before the Council, Mayor Fancher moved to adjourn the special meeting. Councilor Wolf seconded the motion and it passed unanimously by Council members present. The time was 8:52 p.m.
These minutes are only a summary of the proceedings of the meeting. They are not intended to be comprehensive or to include each statement, person speaking or to portray with complete accuracy. The most accurate records of the meeting are the audio of the meeting, which is housed in the Town Clerk’s office, and the video of the meeting, which is available at www.highfivemedia.org.

RESPECTFULLY SUBMITTED:

____________________________________
Debbie Hoppe, Town Clerk

APPROVED:

Jennie Fancher

Sarah Smith Hymes

Jake Wolf

Megan Burch

Matt Gennett

Scott Prince

Amy Phillips
1. **A CALL TO ORDER & ROLL CALL**
   Mayor Fancher called the meeting to order at 4:01 p.m. A roll call was taken and Council members present were Sarah Smith Hymes, Scott Prince, Amy Phillips and Megan Burch. Jake Wolf arrived at 4:02 p.m. Matt Gennett arrived at 4:07 p.m. Also present were Acting Town Manager Scott Wright, Town Attorney Eric Heil, Police Chief Greg Daly, Planning Director Matt Pielsticker, Recreation Director John Curutchet, Deputy Town Manager Preston Neill and Town Clerk Debbie Hoppe.

2. **APPROVAL OF AGENDA**
   There were no changes to the agenda.

3. **MEETING PROCEDURES FOR THE MEETING OF JUNE 26, 2018**

4. **PUBLIC COMMENT: COMMENTS ARE WELCOME ON ITEMS NOT LISTED ON THE FOLLOWING AGENDA**
   No public comments were made.

5. **WORK SESSION**
   **Start time: 01:06 Part One**
   **DIRECTION ON TOWN MANAGER RECRUITMENT PROCESS (HUMAN RESOURCES DIRECTOR LANCE RICHARDS)**
   Council suggested fixing the organization chart and reviewing the culture statement. Council’s direction was to have Human Resources Director Lance Richards spearhead the recruitment process for a new Town Manager in-house.

6. **SPECIAL EVENTS UPDATE PRESENTATION (SPECIAL EVENTS MANAGER LOUISE DUNCAN)**
   **Start time: 50:27 Part One**
   Louise Duncan gave a brief overview of the special events season. Louise thanked Police Chief Greg Daly and Deputy Police Chief Coby Cosper, who worked diligently to ensure rider safety during the Mavic Haute Route time trial. They also worked to ensure the impact to drivers was as small as possible.

7. **LOCAL RECYCLING PRESENTATION**
   **Start time: 54:56 Part One**
   **(SHAWN BRUCKMAN, VAIL HONEYWAGON AND MELISSA KIRR, WALKING MOUNTAINS SCIENCE CENTER)**
   Rob Gunther with Dart Container Corporation, thanked Council for banning plastic bags and commented on the word “toxins” in the Local Recycling Presentation.

   Shawn Bruckman with Vail Honeywagon and Melissa Kirr with Walking Mountains Science Center gave a presentation on local-level recycling and sustainable material management.

   Mayor Fancher made a motion to continue the regular meeting and convene into the Liquor Authority meeting. Councilor Prince seconded the motion and it passed unanimously by Council members present.
LIQUOR LICENSE AUTHORITY MEETING
Start time: 01:52 Part One
Council reconvened into the regular meeting. A roll call was taken and Council members present were Sarah Smith Hymes, Jake Wolf, Matt Gennett, Amy Phillips and Sarah Smith Hymes. Scott Prince was absent.

8. JOINT WORK SESSION WITH EAGLE COUNTY COMMISSIONERS
Start time: 01:53 Part One
Councilor Prince returned to the meeting at 6:40 p.m.

The following topics were discussed:

9. ACTION ITEMS
Start time: 00:05 Part Two
9.1. AUTHORIZATION TO HIRE ANDERSON HALLAS ARCHITECTS, PC FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR THE RELOCATION AND REPURPOSING OF THE HAHNEWALD BARN
(TOWN ENGINEER JUSTIN HILDRETH AND PLANNING DIRECTOR MATT PIELSTICKER)
Liz Hallas with Anderson Hallas Architects gave a presentation to Council on their proposal for architectural and engineering services for the relocation and repurposing of the Hahnewald Barn.

Mayor Fancher opened the discussion for comments. Tamra Underwood suggested that this project is a great opportunity for Council. Peter Warren acknowledged Jim Horsley Project Engineer for being exceptional, professional and very willing to work with the members of the community, during his efforts in scheduling road projects in Wildridge. Peter Warren also proposed the following: 1) Stop all capital projects, 2) Publish a review of the budget and actual costs of projects over the last 10 years, so that the members of the community can understand the facts, 3) Hire and engineering company to come in and audit those projects, identify the issues, and make a series of recommended changes, 4) Publish all information for taxpayers. C. C. Nottingham and Alan Nottingham talked about the history of the Hahnewald Barn and were in support of preserving it. Pat Nolan gave a shout out to the Avon Recreation Center and Matt Koch for supporting senior programming, and said that the Barn would be an amazing addition. Kristi Ferraro expressed her support of the Hahnewald Barn. David Strandjord recommended raising private money to fund this project.

Councilor Burch moved to award the Architecture, and Engineering Services for the relocation and repurposing of the Hahnewald Barn to Anderson Hallas Architects, PC and direct staff to enter into a Professional Services Agreement for architectural services. Councilor Phillips seconded the motion.
and it passed with a vote of 4 to 3. Councilor Wolf, Councilor Gennett and Councilor Prince voted no.

9.2. REQUEST FOR ADDITIONAL FUNDING FOR NEW TOWN HALL CONSTRUCTION PROJECT
(TOWN ENGINEER JUSTIN HILDRETH)
Start time: 01:22 Part Two
Mayor Fancher opened the discussion for comments and David Strandjord noted that quite a few of the items listed are intended to meet code and he asked how meeting code is an unexpected item.

Councilor Prince moved to approve the increase in the New Town Hall construction budget in the amount of $123,488 for a total of $4,502,7123 and to include the change in the next Capital Projects Fund (CPF) budget amendment. Councilor Burch seconded the motion and it passed with a vote of 5 to 2. Councilor Wolf and Councilor Prince voted no.

9.3. RESOLUTION 18-11, CAPITAL PROJECTS FUND BUDGET AMENDMENT
(ACTING TOWN MANAGER SCOTT WRIGHT)
Start time: 01:43 Part Two
Mayor Fancher opened the discussion to the public and no comments were made. Councilor Phillips moved to approve Resolution 18-11, a resolution amending the 2018 Capital Projects Fund Budget. Councilor Prince seconded the motion and it passed with a vote of 5 to 2. Councilor Wolf and Councilor Prince voted no.

9.4. MINUTES FROM JUNE 12, 2018 COUNCIL MEETING (TOWN CLERK DEBBIE HOPPE)
Start time: 01:45 Part Two
Councilor Burch moved to approve the June 12, 2018 minutes, including the comment provided by Councilor Phillips to include staff members’ names in the minutes, because staff member Martha Anderson did a fabulous job and deserves recognition for her work on the Short-Term Rental Tax Study. Councilor Wolf seconded the motion and it passed unanimously by Council present.

10. WORK SESSION
Start time: 01:46 Part Two
10.1. PRESENTATION AND DIRECTION ON LICENSING REQUIREMENTS FOR TOBACCO RETAILERS AND INCREASING THE MINIMUM LEGAL SALES AGE FOR TOBACCO PRODUCTS FROM 18 TO 21
(MANDY IVANOV, EAGLE COUNTY)
Council directed staff to prepare an ordinance that would raise the minimum legal sales age for tobacco products in Avon from 18 to 21 and establish licensing requirements for tobacco retailers.

11. WRITTEN REPORTS
Start time: 02:39 Part Two
11.1. MONTHLY FINANCIALS REPORT (SENIOR ACCOUNTANT MARTHA ANDERSON)
11.2. Abstract from June 19, 2018 Planning and Zoning Commission Meeting
(Planning Director Matt Pielsticker)

11.3. Cat Declawing Ban (Deputy Town Manager Preston Neill)

11.4. Special Event Liquor License (Town Clerk Debbie Hoppe)

Council directed staff to prepare an ordinance that would prohibit the practice of cat declawing.

12. Mayor & Council Comments & Meeting Updates

Start time: 02:40 Part Two

Councilor Phillips remarked that the public comments for the evenings meeting were respectful, engaging, interactive and there was no name calling.

13. Adjournment

There being no further business to come before the Council, Mayor Fancher moved to adjourn the regular meeting. The time was 9:41 p.m.

These minutes are only a summary of the proceedings of the meeting. They are not intended to be comprehensive or to include each statement, person speaking or to portray with complete accuracy. The most accurate records of the meeting are the audio of the meeting, which is housed in the Town Clerk’s office, and the video of the meeting, which is available at www.highfivemedia.org.

RESPECTFULLY SUBMITTED:

________________________________
Debbie Hoppe, Town Clerk

APPROVED:

Jennie Fancher
Sarah Smith Hymes
Jake Wolf
Megan Burch
Matt Gennett
Scott Prince
Amy Phillips
TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Lance Richards, Human Resources Director
Meeting Date: July 10, 2018
Agenda Topic: REVIEW OF TOWN MANAGER RECRUITMENT SCHEDULE, TOWN MANAGER SALARY RANGE, AND DESIRED TOWN MANAGER CHARACTERISTICS

SUMMARY:
Staff is seeking direction from Council on several aspects of the Town Manager recruitment process, including the job profile, recruitment schedule, salary range, and what characteristics Council would like the new town manager to have.

Staff did receive direction from Council at the June 26, 2018 Council meeting to have the HR department complete the full search in-house.

Attached for review, discussion and direction is a draft version of the Town Manager Job Profile, as well as two separate search timelines.

Additionally, I’ve attached a brief spreadsheet which describes market comparators for the Town Manager total remuneration. Council will note that none of our direct comparator markets actually use hard min-mid-max structures, but do seem to place fully-qualified Town managers at the $175,000 base pay level, with some variances to benefits and other perks.

ATTACHMENTS:
Attachment 1 – Town Manager Job Profile
Attachment 2 – Search Timelines
Attachment 3 – Town Manager Salary Information
Town Manager

APPLICATION DEADLINE IS NOON, THURSDAY, SEPTEMBER.

Position Posting

Monday, October,

(INTERNAL AVON NOTE: All pictures have been temporarily removed to allow for a smaller document to share for comments. For that reason, pagination, picture and cutline placement are not accurate in the DRAFT stages.)

The Avon Community
Avon, Colorado, is a year-round mountain resort community and the gateway to the world-renowned Beaver Creek Resort. Located on Interstate 70, eight miles west of Vail, Colorado,
Avon is an unpretentious, small town that connects the shared values of both its residents and visitors creating a one-of-a-kind place to visit, work, grow a business, raise a family and play in a spectacular outdoor setting. With 6,500 year-round residents, plus another 3,500 part-time residents, Avon offers those looking for vibrant and inspiring Rocky Mountain experiences a comfortable community to recreate and enjoy the vast and rich cultural offerings of the region.

The Avon Town Government
The Town of Avon is a full-service municipality, governed by a home rule charter, with a Council-Manager form of government. The Mayor is selected by the seven-person elected Council. Eight (8) departments provide comprehensive community services, with 90 full-time staff and a part-time, seasonal and temporary staff that varies between 20 to 50 staff, depending on the season.

The Town has a large Recreation Center, with Rec programming taking place in various locations across the Town. We have a vibrant Special Events season, stretching through six months of the year. We also provide free bus transport throughout the year, including additional routes during our peak ski season. Our Police Department is the only law enforcement agency on the Western Slope holding CALEA Accreditation. The Town does not have a Library District, a Water or Sewer District or a Fire/Ambulance District, instead, partnering with local entities for the provision of those critical services to our citizens and residents.

Some current projects underway include a strategic look at various Town-owned properties, including various employee housing options. A redevelopment opportunity exists for our old Town Hall and a former fire station located in the Town core. Further definition and direction for our Special Events schedule, and other economic drivers is also in the immediate planning stages.

The Town is proud of our Avon Culture Statement, and the Town Manager is expected to lead and model that Culture Statement at all times. The Town of Avon Culture Statement is found below.

With a total annual budget of $28.0 million, the Town is in an excellent financial position.

Formal Job Description
The formal job description for the Town Manager is located in the Home Rule Charter for the Town of Avon, Colorado, and can be found here. It is located in Chapter VIII – Municipal Administration, under Section 8.3 – Powers and Duties. That section reads as follows:

The Town Manager shall be responsible to the Council for the proper administration of all affairs of the Town placed in his charge, and to that end the Town Manager shall have the power and duty and be required to:
(a) be responsible for the enforcement of the laws and ordinances of the Town;
(b) hire, suspend, transfer and remove Town employees;
(c) make appointments on the basis of executive and administrative ability and of the training and experience of such appointees in the work which they are to perform;
(d) cause a proposed budget to be prepared annually and submit it to the Council and be responsible for the administration of finances and administrative activities of the Town for the preceding year, and upon request of the Council make written or verbal reports at any time concerning the affairs of the Town under his supervision;
<there is no section 8.3(e)>
(f) keep the Council advised of the financial condition and future needs of the Town and make such recommendations to the Council for adoption as the Town Manager may deem necessary or expedient;
(g) exercise supervision and control over all executive and administrative departments except as otherwise herein provided, and recommend to the Council any proposal he or she thinks advisable to establish, consolidate or abolish administrative departments;
(h) be responsible for the enforcement of all terms and conditions imposed in favor of the Town in any contract or public utility franchise, and upon knowledge of any violation thereof, report the same to the Council for such action and proceedings as may be necessary to enforce the same;
(i) attend Council meetings and participate in discussions with the Council in an advisory capacity without right to vote;
(j) establish a system of accounting and auditing for the Town which shall reflect, in accordance with generally accepted accounting principles, the financial condition and financial operation of the Town;
(k) provide for engineering, architectural, maintenance and construction services required by the Town; and
(l) perform such other duties as may be prescribed by this Charter, or by ordinance, or required of him or her by Council which are not inconsistent with this Charter. (Ord. 11-13 §3)

The Ideal Candidate
So, that’s the textbook description of the Town Manager job. Beyond that, though, the Town Manager must be a confident, visionary leader, who, in addition to excellent people management skills, has the background, experience, desire and curiosity to envision, develop, plan and execute a wide array of priorities established by the Council.

An inclusive approach toward working with the Council and Mayor, as well as the Leadership Team and other Town staff, third party vendors, various Committees and stakeholder groups is essential.

The knowledge, skills and abilities expected of the Town Manager include:

1. Financial Management and Analysis
➢ A competent fiscal manager who identifies and distributes resources effectively, with strong analytical proficiency, and is accountable for outcomes.

➢ Possess strong financial management experience and abilities including: budget development and control; financial forecasting, revenue enhancement, capital improvement programming, and cost/benefit analysis. The Town develops and approves bi-annual budgets, thus ensuring a full two-year view of financial cycles.

➢ Expertise in conducting thorough analysis and examination of issues and the ability to specifically address the financial and political implications of various courses of action.

➢ Be a strong administrative leader and capable of assisting Town staff to identify, analyze, prioritize, and thoroughly deliberate and address administrative and management issues critical to meeting both current and longer-range needs of the overall community.

➢ Support and encourage grant applications to create alternative funding streams for various Town projects.

➢ Strong experience in economic development and fostering business-community relationships. Be adept and open to crafting meaningful and sustainable economic development initiatives.

2. **Town Council Relationships**

➢ Have maturity, self-confidence, and strength of professional convictions to provide insight and advice to Council. Be adept at firmly and diplomatically presenting professional views objectively and professionally.

➢ Have the experience and judgment to recognize the need for change when it arises and the leadership skills, savvy, technical competence, and grit to effect such change.

➢ Possess outstanding communication skills that provide a structure and environment in which staff, the Leadership Team, and elected officials can successfully communicate.

➢ Be politically astute, yet politically neutral.

➢ Be open to input and have the grace to handle criticism constructively, particularly when the criticism is not diplomatically offered.
➢ Be a strong administrative leader to help the Council identify, analyze, prioritize, and thoroughly deliberate and address policy issues that are critical to meeting both current and long-range needs in a consistent manner.

3. **Staff Development and Mentoring**

➢ Be a team player who is comfortable delegating responsibility and authority to professional staff, while remaining informed and conversant on the status of all programs and projects.

➢ Be adept at identifying, supporting, and promoting the professional development needs of department heads, as well as staff. Be a mentor and an advocate who provides support to continuing education and professional development for staff and self. Keep up to date and abreast of modern, innovative best practices.

➢ Have a desire and ability to develop and maintain staff into a high performing, technically proficient workforce.

➢ Be adept at developing a positive, cooperative, and team-oriented approach to addressing issues and solving problems.

➢ Have the ability to set overall internal priorities using an approach that is motivational and goals orientated without overwhelming the organization.

4. **Community Character**

➢ Understand and personally enjoy the mountain environment, lifestyle, and small-town brand and character of Avon.

➢ Possess an appreciation of and a deep desire to live in a Colorado mountain community characterized by immense natural beauty and an economically and culturally diverse population. Possess a commitment to the idea of a well-rounded community that serves all its citizens equally.

5. **Internal Operations**

➢ Have an understanding of modern/innovative municipal technology, programs and procedures so that such technology can be integrated to enhance transparency, increase efficiency, and provide strong customer service to residents.

➢ Be skilled at organizational analysis and staffing, and able to work within a small organizational structure that requires staff to possess a broad range of skills. Be adept at making organizational adjustments and changes when required to meet workload demands.

➢ Promote a strong, civic and service-oriented, “customer relations” approach.

6. **Partnerships**

➢ Have a successful record of working with community institutions, business leaders, and citizens’ groups in a cooperative and friendly manner. Be open to input from all.
➢ Have experience in intergovernmental relations, working with appropriate local, regional, state, and federal agencies in a constructive and cooperative manner. Be an effective representative for Town-approved policies and initiatives.

**Desired Management Style and Personal Traits**

➢ Friendly, approachable, positive, energetic, and someone who possesses a sense of humor as well as empathy for others.

➢ A leadership style that recognizes and empowers a diversity of viewpoints and backgrounds, with highly motivated and competent employees in ways that excite, motivate and build strong relationships within the Town culture.

➢ An approach that supports innovation and can participate fully in the challenges of new decisions, approaches, policies and procedures.

➢ Possess a successful record as an articulate and an effective communicator. Someone who is comfortable listening to and talking with a wide spectrum of people; who can clearly and concisely present written and oral information to decision makers and the public.

➢ Possess a high level of professional and personal ethics, integrity, and honesty.

➢ Serves as a results driver with the ability to be a “doer” as well as a manager, with an understanding and commitment to the Town’s “no task to big or too small” working ethos.

➢ Possess the ability to balance numerous projects and issues and carry out policy and administrative decisions in a timely, professional, and impartial manner.

➢ Be someone who can build bridges and bring people together.

➢ Be transparent and willing to share information as appropriate.

➢ Be a self-starter who has the vitality and energy to motivate and lead others; someone who seeks and enjoys a challenge.

➢ Possess the ability to quickly establish trust; someone who can relate to all elements of the community. Genuinely embraces and promotes diversity.

➢ Have a genuine passion for public service with an energetic, “can-do” enthusiasm for town government that leads to a long-term commitment to the organization.

➢ Be proactive, anticipatory, and innovative. Possess an open mind in dealing with the Town's complex and challenging issues that may compete with one another.

➢ Must be able to work effectively in the Council/Manager construct. That is, that Council works through the Town Manager, but does not give direction to Leadership Team members. The Town Manager must respect that Councilors will remain engaged and may ask questions or seek input from Leadership Team members. Leadership Team members will retain a solid-line, direct reporting relationship to the Town Manager, but are expected to respond to Councilor queries, and to share their opinions and viewpoints with Council members when asked.
Specific Job Duties

- Hires, promotes, suspends, transfers and removes Town employees on the basis of ability, training and experience of such employee in the work which they are to perform.
- Serves as supervisor of all department heads and administrative staff.
- Attends Council meetings and, in an advisory capacity, participates in discussions with the Council.
- Oversees preparation of an annual budget for Town Council approval and assumes responsibility for said budget after its adoption. This budget includes upcoming year and one year further, hence a bi-annual budget.
- Makes financial recommendations to the Town Council for adoption and keeps the Council advised of the financial and future needs of the Town.
- Prepares and submits to the Town Council a complete report on the finances and administrative activities of the Town for the preceding year at the end of the fiscal year and, upon request of the Town Council, makes written or verbal reports at any time concerning the affairs of the Town.
- Establishes and maintains a system of accounting and auditing for the Town which reflects, in accordance with generally accepted accounting principles, the financial condition and financial operation of the Town.
- Becomes and remains familiar with all terms and conditions of all Town contracts, and upon knowledge of any violation thereof, reports same to the Town Council for such action and proceedings as may be necessary to enforce the same.
- Provides for engineering, architectural, maintenance, planning, construction, and other services as required by the Town.
- Works closely with the Town Council to implement its vision for the Town, and serves as the liaison between the Town Council and Town staff.
- Works closely with Council to develop, implement, and update the Town’s Three-Year Strategic Plan.
- Assures representation for the Town on various boards, committees and taskforces concerning relevant local, state and national issues.
- Represents the Town in local, regional, and statewide organizations.
- Manages meetings with staff, consultants, elected officials, developers, other government organizations, and other individuals and groups.
- Performs such other duties as prescribed by ordinance or applicable law or as required by the Town Council.

Families and Visitors gather for Avon’s full array of Special Events, hosted at various locations, including Possibilities Plaza, above.
• Demonstrates proactive leadership on economic development and retention, competitiveness, infrastructure, livability, and other factors that help the Town achieve, maintain and improve its reputation as a desirable place to live and work.

Education and Experience Expectations

Requirements

• Graduation from a regionally accredited 4-year college or university with major coursework in public administration or business administration supplemented by graduate study in public administration or a related field and at least 10 years of increasingly responsible municipal or county administration involving a variety of management, fiscal, personnel, and public relations activities or an equivalent combination of education and experience.

• This experience may include private sector executive experience that is determined to be transferable to the public sector.

• Experience as an assistant executive in a larger municipality will also be considered as will any combination of education and experience that demonstrates the ability to perform the necessary requirements of the job.
• A Master’s Degree in Public Administration, Business Administration and/or other advanced level executive training such as ICMA Credentialed Manager, Kennedy School, etc., is highly preferred.

• Knowledge of and experience in managing a rural mountain resort community is highly desirable.

• Demonstration of continuing education via continued certification and professional education

**Compensation and Benefits**
The Town Manager role has a salary range of $XX,XXX at the minimum to $ZZ,ZZZ at the maximum. A hiring appointment for this role is expected to be in the range of $xx,xxx to $170,000, depending on the qualifications of the selected candidate. Salary ranges are reviewed against market conditions annually.

The Town Manager is eligible to have a short-term rent free lease of an unfurnished Town-owned Townhome for up to 6 months to allow settling in time for the new Manager and their family.

An automobile allowance will be provided at $350 per month. Additionally, the Town Manager will be supplied a Town-owned and -paid mobile phone for work purposes.

The Town of Avon provides a generous benefit package, including excellent healthcare, 401(a), free annual family pass to the Avon Recreation Center, and more. The Town Manager participates in all benefits at the same level as all other Town staff.

**Application Requirements and Details**
Please email a cover letter of interest and current resume to the Town of Avon at jobs@avon.org. The Town reserves the right to close the recruitment at an earlier date upon the receipt of sufficient qualified submissions, or to extend the closing date, to reject any and all candidates, and amend, terminate or restart the Town Manager recruitment process at any time.

**Recruitment Details**
This is a key position for the Town of Avon, and candidates can expect a rigorous interviewing and reference checking process.

Our interviewing process will include telephone or Skype interviews, in-person interviews in Avon, and Finalist interviews. Under Colorado law, once the Town has reached the point of
naming Finalists (expected to be 2-3 candidates) we are obligated to publish the names of those Finalist candidates publicly.

Our reference checking process will include full background evaluation, including education and employment verifications, DMV clearance, criminal and social media background checks, and telephone interviews with references and others. For our final candidate, we plan to send a 1-2 person interview team to the candidates’ current town and/or other places of past employment and conduct in-person interviews with persons knowledgeable of the candidate’s experience and character.

Position Posting: Monday, September
Response Deadline: Thursday, September
1st Round of Candidate Interviews (via telephone or Skype)
2nd Round of Candidate Review (in Avon)
Finalist Round of Candidate Interviews (in Avon)
Candidate References

For More Information
please contact:
Lance J. Richards
Director, Human Resources and Risk Management
970.748.4005 or at ljrichards@avon.org
(Please note that for any questions asked regarding job description terms, or other specifics, the question asked, and answer, will be shared with all submitted candidates (without attribution to the person posing the initial query.)

Avon is the gateway to Beaver Creek Resort. The Town’s centerpiece is Nottingham Lake, which is surrounded by the Harry A. Nottingham Park and the Town core. The natural beauty of the area shines, whether covered in a soft blanket of snow, bathed in sunlight and green, or colored by millions of golden aspens. Avon is truly the home of Endless Possibilities!
The Town of Avon appreciates your interest!

TOWN OF AVON CULTURE STATEMENT:
STRONG VALUES - HIGH PERFORMERS - PAY FOR PERFORMANCE

As employees of the Town of Avon, our workplace culture focuses on our own behaviors and skills that are necessary to ensure excellence in providing the public infrastructure and services for the support of private sector business operations and needs of our citizens and guests to go about their daily lives with ease and security.

Town of Avon employees know that we work for a monopoly with no competitor businesses offering the same comprehensive services that we currently provide. We are keenly aware that each function of the Town can be outsourced to a private sector business or to another governmental agency. It is this “competitive” awareness, which causes us to be highly efficient and effective in our work and in the expenditure of Town resources. We are confident that we are the most qualified and cost effective provider of municipal infrastructure and services.

We maintain our competitive position through a culture of strong values and consistently high performing employees.

VALUES: I, as a member of the Town of Avon team, fully understand and successfully practice these high ethical values and behaviors:

Honesty & Accountability – I am known for my candor and directness. I am quick to admit my mistakes. I am self-disciplined, self-aware and critically reflective for self-improvement. I am truthful, honest, and candid and expect the same from others.

Integrity & Communication – I fully support open and transparent communication of information and ideas and, therefore, do not rely upon, promote or participate in innuendo, rumors or gossip. I treat people with respect and act with the utmost integrity in all situations. I honor confidential information and am disciplined with that privilege. I am a skilled listener so I can better understand and react appropriately. I am poised in stressful situations.

Courage – I am willing to express my individual opinion, in a respectful and professional manner, even when it challenges the acceptable norm. I question actions inconsistent with our culture and values. My ideas and comments are expected to add value to decisions.

Passion – I inspire others with my drive for excellence and exemplify the practice of kindness and compassion. I care intensely about Avon’s success and readily celebrate gains. I am proud to represent the “Heart of the Valley” while I strive to be better than I was yesterday.
Judgment – I make wise decisions and can think strategically despite uncertainty. I can state clearly what I am doing and the benefit of the work. As I gain knowledge and experience, I am granted greater freedom in decision-making.

Diversity – I embrace and appreciate that each person brings his or her own ideas, experiences, culture, knowledge, skills and opinions to interactions. I build a stronger organization by engaging this diversity. I do not discriminate and do not tolerate discriminatory behavior in others.

HIGH PERFORMERS: We employ high performers in every position because we know talented, innovative high performers accomplish more, make fewer errors, and do not require a plethora of rules and procedures or layers of approvals to do his or her job exceptionally well. High performers are leaders of the workplace culture, scrupulously honest and genuinely committed to helping each other to be great. They are respected and learn from each other. As a high performing employee, I consistently demonstrate:

Collaboration – I am important to the thinking and decision-making process and the work done. I insist on inclusivity and work hard to break down barriers for the best ideas. I recognize that collaboration may take more time and brings forth a variety and diversity of ideas and viewpoints, which are needed to ensure that the right decisions are made. I am given the context in which to work and to participate in decision-making. I collaborate across departments and have a sense of shared responsibility.

Camaraderie – I am responsible for the enjoyable, friendly, interconnected atmosphere and good-humored tone of the workplace. I have a key role in ensuring that my peers want to be at work every day. I am always approachable, polite and well-mannered. I express genuine gratitude to my peers and others for the work and privileges provided through my employment. I do not create conflict through my behavior. I know that situations outside of work legitimately influence moods and attitudes, but I leave these outside impacts at the door. I bring my best energy and spirit into work.

Work Ethic – I accomplish amazing amounts of important work each day. I am known for valuable results and my colleagues can always rely on me. I am self-motivated and highly disciplined. I am efficient and productive with sustained top-level work.

Curiosity, Creativity & Innovation – I am an eager learner. I am attentive and can discover practical solutions to difficult problems. I think in a manner that sees better approaches that prove useful. I take pride in minimizing complexity and finding ways to simplify processes so the work of the Town is performed without waste.

Selflessness – My ego is not my amigo. I seek what is best for Avon, rather than what is best for my division or myself. I identify inefficiencies and I promote a more productive workplace. I make time to help colleagues and see how I can be helpful when and wherever I can. I am responsible for the unity of our employees and work towards the ultimate success of myself, my co-workers and the Town.

Decision-making Authority & Risk-taking – As I learn my job and invest in my own growth, I am granted greater freedom to make decisions in the work and manner of work done. I recognize
written rules and procedures, but I am encouraged to make independent decisions. I am pleased to belong to a culture that is committed to training, contextual understanding and support for measured risk-taking so that new approaches can be tested. Supervisors articulate and inspire around strategies and expected results.

**PAY FOR PERFORMANCE:** We are honest about only employing talented and high performing individuals.

Salary & Development – We foster professional development. We are committed to paying the highest competitive “top-of-the-range” salary within the first five years of employment. However, employees understand that unforeseen events can occur and salaries may become tied to these events; this can affect the rate at which “top-of-the-range” salaries are implemented. Some positions will see greater financial gains depending on these markets. The market analysis is done on an annual basis.

Retention & Promotion – We only retain employees who we know we would fight to keep, if they were offered another similar job elsewhere. We understand and support someone leaving Avon for an opportunity that we could not offer him or her. Promotions into management only happen when there is a need for a management position and the person being promoted is a superstar in his or her current position.

*As a self-reflecting, dynamic organization, we are committed to continuously reviewing our culture to ensure that we maintain our strong values, high performance and competitive pay.*

**STRONG VALUES - HIGH PERFORMERS - PAY FOR PERFORMANCE**
Tuesday, June 26
Briefed Council on options, came away with three deliverables for July 10 meeting
- Draft search calendar
- Draft job profile
- Draft pay construct

Tuesday, July 10
Present to Council in work session
- Draft search calendar
- Draft job profile
- Obtain Search Steering Committee appointments
Present to Council in Executive Session
- Draft pay construct for TM search and for Acting TM

Wednesday, July 11
Discuss Job Profile with Leadership Team

Thursday, July 12
Deliver PAFs to Mayor for pay adjustments for Acting TM (and any others)

Tuesday, July 24
Deliver Job Profile to Council and Leadership Team for final review.

Wednesday, July 25
Steering Committee to review and discuss posting locations and networking calls.
Steering Committee to discuss panel members for Second Round interviews in September.
Steering Committee to discuss logistics for Second Round interviews.
- Westin? Bus Barn? Other? Funding?
- Dinners for candidates arriving night prior?
- Lunch for panel participants?
- Thank you gift (Avon logo) for panel participants?

Friday, July 27
All changes to Job Profile received and consolidated.
Final draft to Steering Committee.
Monday, August 13
Job Profile posted onto all posting sites and ToA sites
Deadline of Monday, September 17th at 5:00pm MST.

Friday, August 17
All reference vendors identified
- Basic background and criminal
- Social Media checks
- Employment verification checks

Tuesday, August 28
Steering Committee to meet
- Discuss Resume Review process for any final changes
- Review and discuss timelines
- Review and discuss Finalist timelines

Aug 31-Sep 4 blocked out for Labor Day weekend

Friday, September 14
Resume Review Panel named.
(could be Steering Committee, plus others)

Monday, September 24
5pm MST Deadline for candidate submissions

Thursday, September 27
All candidate packets assembled and sent to all Resume Review Panel members for weekend review.

Tuesday, October 2
Resume Review Panel meets at TIME

Thursday to Friday, October 4 to 5
All initial “No, thank you” candidates notified by email.

Wednesday to Friday, October 10-12
All First Round candidates contacted and scheduled for phone call interview.

Monday-Thursday, October 22-25
Phone interviews held with all First Round candidates and Steering Committee
Tuesday, October 30
Steering Committee meets to review and discuss successful candidates from First Round.

- Do we have enough candidates to proceed?
- Do we have too many candidates to proceed?
- Is our next Town Manager in the mix somewhere? If not, what are we missing?
Committee also agrees on Second Round interviews for Friday, December 14.

Thursday and Friday, November 1 and 2
“No, thank you” calls made to candidates not proceeding.
“Good news, more info to follow” and “What’s your availability week of December 13th?” calls made to successful candidates.

Monday, November 5
Build Second Round interview schedule for week of December 13, to reflect number of Second Round candidates.

- Objective to complete all interviews in a two day range, using two panels.
- Candidates will also have a pre-brief with HR and one Steering Committee member prior to panels.
- Candidates will also have a one-on-one with Mayor and ATM.
Schedule candidates and panelists for Second Round interviews.

Tuesday, November 6
Elections

Monday to Friday, November 19 to 23
Blocked for Thanksgiving Week

Tuesday, November 27
Councilors sworn in

Wednesday November 28 – Monday, December 10
Staff is available to brief new Council members on the Town Manager recruitment process (besides general municipal government process and pending business)

Tuesday, December 11
First Council meeting with New Council

Thursday, December 13
Second Round candidates arrive in Avon
Social mixer with Council and Leadership Team

Friday, December 14
- Second Round candidates hosted at Westin
- Individual and Panel meetings take place in Westin conference rooms
- Second Round Debrief meetings Friday afternoon, November 30.

Monday, December 17
- Steering Committee meets following second round interviews to determine Finalists.
- All Second Round candidates are contacted by phone and advised of outcome of interviews.
- Finalist Candidates are advised of that status and reminded of the Town’s obligation to announce the Finalists.

Wednesday, December 19
Town of Avon announces Finalist Candidates for Town Manager

Friday, December 21 through Wednesday, January 2
Blocked for Christmas and New Year’s break

Sunday, January 6
Finalists arrive at Westin
Welcome reception with Council and Leadership Team

Monday, January 7
Finalist interviews with Panels
Meet and Greet with public 4-6p

Tuesday, January 8
One-on-one’s scheduled as appropriate
Finalists return home
Council has Executive Session to select Top Candidate

Thursday, January 10
Finalists are notified of Town decision
Reference process starts on Top Candidate

Friday, January 25
External references completed

Monday, January 28
Field Interviewers depart for field interviews on Top Candidate

**Tuesday to Friday, January 28 to February 1**
Field interviews and reference checks performed

**Tuesday, February 5**
Field Interview team reports back to Council; decision to offer the job is made. Employment Contract extended

**Monday, March 18**
Start date for new Town Manager
This version of the timeline assumes a decision is made BEFORE elections and new Council is seated.

**Town of Avon**

**Town Manager Search Timeline**

**Tuesday, June 26**
Briefed Council on options, came away with three deliverables for July 10 meeting
- Draft search calendar
- Draft job profile
- Draft pay construct

**Tuesday, July 10**
Present to Council in work session
- Draft search calendar
- Draft job profile
- Obtain Search Steering Committee appointments

Present to Council in Executive Session
- Draft pay construct for TM search and for Acting TM

**Wednesday, July 11**
Discuss Job Profile with Leadership Team

**Thursday, July 12**
Deliver PAFs to Mayor for pay adjustments for Acting TM (and any others)

**Tuesday, July 17**
Deliver Job Profile to Council and Leadership Team for final review.

**Wednesday, July 18**
Steering Committee to review and discuss posting locations and networking calls.
Steering Committee to discuss panel members for Second Round interviews in September.
Steering Committee to discuss logistics for Second Round interviews.
- Westin? Bus Barn? Other? Funding?
- Dinners for candidates arriving night prior?
- Lunch for panel participants?
- Thank you gift (Avon logo) for panel participants?

**Friday, July 20**
All changes to Job Profile received and consolidated.
Final draft to Steering Committee.
Monday, July 23
Job Profile posted onto all posting sites and ToA sites
Deadline of Thursday, August 16th at Noon.

Friday, August 3
All reference vendors identified
- Basic background and criminal
- Social Media checks
- Employment verification checks

Tuesday, August 7
Steering Committee to meet
- Discuss Resume Review process for any final changes
- Review and discuss timelines
- Review and discuss Finalist timelines

Friday, August 10
Resume Review Panel named.
(could be Steering Committee, plus others)

Thursday, August 16
Noon Deadline for candidate submissions

Friday, August 17
All candidate packets assembled and sent to all Resume Review Panel members for weekend review.

Tuesday, August 21
Resume Review Panel meets at TIME

Wednesday, August 22
All initial “No, thank you” candidates notified by email.

Thursday-Friday, August 23-24
All First Round candidates contacted and scheduled for phone call interview.

Monday-Thursday, August 27-30
Phone interviews held with all First Round candidates and Steering Committee

Aug 31-Sep 4 blocked out for Labor Day weekend
Wednesday, September 5
Steering Committee meets to review and discuss successful candidates from First Round.
  • Do we have enough candidates to proceed?
  • Do we have too many candidates to proceed?
  • Is our next Town Manager in the mix somewhere? If not, what are we missing?
Committee also agrees on Second Round interviews for week of Monday-Friday, September 24 to 28.

Thursday and Friday, September 6 & 7
“No, thank you” calls made to candidates not proceeding.
“Good news, more info to follow” and “What’s your availability week of September 24th?” calls made to successful candidates.

SEPTEMBER and OCTOBER HERE
Council will need to choose how much of the process to complete before elections. Following dates are placeholders, absent that direction.

Monday, September 10
Build Second Round interview schedule for week of September 24, to reflect number of Second Round candidates.
  • Objective to complete all interviews in a two day range, using two panels.
  • Candidates will also have a pre-brief with HR and one Steering Committee member prior to panels.
  • Candidates will also have a one-on-one with Mayor and ATM.
Schedule candidates and panelists for Second Round interviews.

Monday and Tuesday, September 24 and 25
  • Second Round candidates hosted at Westin
  • Individual and Panel meetings take place in Westin conference rooms
  • Second Round Debrief meetings Tuesday afternoon, September 25.

Wednesday, September 26th
Steering Committee meets following second round interviews to determine Finalists.

Thursday and Friday, September 27 and 28
  • All Second Round candidates are contacted by phone and advised of outcome of interviews.
  • Finalist Candidates are advised of that status and reminded of the Town’s obligation to announce the Finalists.
Monday, October 1
Town of Avon announces Finalist Candidates for Town Manager

Sunday, October 14
Finalists arrive at Westin
Welcome reception with Council and Leadership Team

Monday, October 15
Finalist interviews with Panels
Meet and Greet with public 4-6p

Tuesday, October 16
One-on-one’s scheduled as appropriate
Council has Executive Session to select Top Candidate

Wednesday, October 17
Finalists are notified of Town decision
Reference process starts on Top Candidate

Friday, October 26
External references completed

Tuesday, November 6
Elections

Tuesday, November 13
Councilors sworn in

Monday to Friday, November 19 to 23
Blocked for Thanksgiving Week

Monday, November 26
Field Interviewers depart for field interviews on Top Candidate

Tuesday to Friday, November 27 to 30
Field interviews and reference checks performed

Tuesday, December 4
Field Interview team reports back to Council; decision to offer the job is made.

Monday, January 14
Start date for new Town Manager
### Town Manager Compensation Comparators

**Comparable Group:**
- Glenwood Springs
- Snowmass Village
- Garfield County
- Eagle (Town of)
- Pitkin County
- Breckenridge
- Avon
- Carbondale
- Telluride
- Basalt
- Aspen
- Vail

**Direct Comparators**

<table>
<thead>
<tr>
<th>Position</th>
<th>Years in Position</th>
<th>Min. Salary Range</th>
<th>Max. Salary Range</th>
<th>Total Compensation</th>
<th>2017 Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aspen</td>
<td>11/20/2017</td>
<td>$146,000</td>
<td>$201,000</td>
<td>$260,000</td>
<td>7%</td>
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<td>Vail</td>
<td>11/20/2017</td>
<td>$159,000</td>
<td>$199,296</td>
<td>$318,377</td>
<td>9%</td>
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<td>Pitkin</td>
<td>12/1/2017</td>
<td>$135,061</td>
<td>$176,377</td>
<td>$216,023</td>
<td>8%</td>
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<tr>
<td>Snowmass Village</td>
<td>11/21/2017</td>
<td>$150,800</td>
<td>$196,550</td>
<td>$246,377</td>
<td>6%</td>
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<td>Telluride</td>
<td>4/20/2018</td>
<td>$174,760</td>
<td>$199,000</td>
<td>$358,965</td>
<td>20%</td>
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**Other Comparators**

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<tr>
<th>Comparable Group</th>
<th># of FTEs</th>
<th># of Direct Reports</th>
<th>Min. Salary Range</th>
<th>Max. Salary Range</th>
<th>Total Compensation</th>
<th>2017 Increase</th>
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</thead>
<tbody>
<tr>
<td>Aspen</td>
<td>500</td>
<td>12</td>
<td>$155,000</td>
<td>$200,000</td>
<td>$245,000</td>
<td>7%</td>
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<td>Carbondale</td>
<td>331.115</td>
<td>still TBD.</td>
<td>$160,700</td>
<td>$216,023</td>
<td>$276,000</td>
<td>TBD</td>
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</table>

### Direct Comparators

- **Pitkin County:**
  - Employer retirement contribution of 8%, with 4% for employees.
  - Cell phone allowance $70/mo.
  - Town provided cell phone.
  - Cell phone allowance $100/mo. ($1200 annually).
  - New TM was granted full 1st year vacation accrual available for use upon hire, no additional time given beyond standard employee accrual, but that he can use earlier during 1st year.
  - None.
  - $1200 cell phone / 4-5 bedroom house is $12,000 annually.
  - Employee Housing Program (tax-free) $50,000 annually.
  - Affordability housing purchased under APCHA guidelines.
  - Employee provided cell phone; $10k a year.
  - Employee Housing Program (tax-free) $50,000 annually.

- **Snowmass Village:**
  - Employer retirement contribution of 10%.
  - Cell phone allowance $500/mo. ($6000 annually).
  - Employee housing program.
  - Cell phone allowance $100/mo. ($1200 annually).
  - Employee Housing Program (tax-free) $50,000 annually.
  - Affordability housing purchased under APCHA guidelines.

- **Aspen:**
  - Employer retirement contribution of 10%.
  - Cell phone allowance $500/mo. ($6000 annually).
  - Employee housing program.
  - Cell phone allowance $100/mo. ($1200 annually).
  - Employee Housing Program (tax-free) $50,000 annually.
  - Affordability housing purchased under APCHA guidelines.

### Other Comparators

- **Snowmass Village:**
  - Employee Retirement Contribution of 10%.
  - Employee Housing Program (tax-free) $50,000 annually.
  - Affordability housing purchased under APCHA guidelines.

- **Pitkin County:**
  - Employee Retirement Contribution of 8%, with 4% for employees.
  - Cell phone allowance $70/mo.
  - Town provided cell phone.
  - Cell phone allowance $100/mo. ($1200 annually).
  - New TM was granted full 1st year vacation accrual available for use upon hire, no additional time given beyond standard employee accrual, but that he can use earlier during 1st year.
  - None.
  - $1200 cell phone / 4-5 bedroom house is $12,000 annually.
  - Employee Housing Program (tax-free) $50,000 annually.
  - Affordability housing purchased under APCHA guidelines.

- **Snowmass Village:**
  - Employer Retirement Contribution of 10%.
  - Employee Housing Program (tax-free) $50,000 annually.
  - Affordability housing purchased under APCHA guidelines.
## OTHER FRONT RANGE

<table>
<thead>
<tr>
<th>Location</th>
<th>Years</th>
<th>Salary</th>
<th>City contribution (401a)</th>
<th>City contribution (457)</th>
<th>City contribution (401a) - 18%</th>
<th>City contribution (457) - max allowed $36,000</th>
<th>5% annually for auto</th>
<th>Notes</th>
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<tbody>
<tr>
<td>Aurora</td>
<td>6 yrs.</td>
<td>$206,222</td>
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<td>$6,180 annually for auto</td>
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<td>Boulder</td>
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<td>$6,900 annually for auto</td>
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<td>Boulder County</td>
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<td>$214,165</td>
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<td>Cheyenne</td>
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<td>$334,039</td>
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<td>Castle Rock</td>
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<td>$180,000</td>
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<td>Cherry Hills</td>
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<td>Commerce City</td>
<td>5 yrs.</td>
<td>$248,334</td>
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<td>$6,600 annually for auto</td>
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<tr>
<td>Lakewood</td>
<td>8 yrs.</td>
<td>$239,637</td>
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<td>City contribution (457) - max allowed $36,000</td>
<td>$6,400 annually for auto</td>
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<td>Aurora</td>
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<td>$228,026</td>
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<td>City contribution (457) - max allowed $36,000</td>
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<td>6.2% 03/27/17</td>
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<td>Superior</td>
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<td>Wheatridge</td>
<td></td>
<td>$192,806</td>
<td></td>
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</tbody>
</table>

Notes:
- Breck Council chose to move the TM to $175,000 for parity, and did not consider this from a percentage basis.
- Cell phone/additional PTO valuation not included in total compensation.
- If housing is provided at no cost through employer, added value of annualized APCHA rental rates included in total compensation.
- Vacant or New Managers: Avon, Vail, Eagle, Garfield, and Basalt.

TOTAL: $336,972
To: Honorable Mayor and Town Council  
From: Preston Neill, Deputy Town Manager  
Date: July 10, 2018  

The Town Code of Ethics requires disclosure of any gifts received which exceed $50 in value. “Gifts” includes any present, or offer of future, individual gift, favor, loan, service or thing of value in excess of $50.00 and such gift is offered due to such person’s status as a Town Officer then such Officer shall report such gift and the estimated value to the Town Clerk. The Avon Municipal Code requires the Town Clerk to disclose through a report any gifts offered to any Town Officer per Section 2.30.170 of the Town Code of Ethics.

Please find attached the Town Clerk Gift Reporting Disclosure Report for June 2018, which lists 1) Fourteen (14) VIP passes to the CoverRock Music Festival on June 22nd and 23rd, 2) Fourteen (14) VIP passes to the 17th Annual Beaver Creek Rodeo Series this summer, and 3) Fourteen (14) VIP passes to the Vail Valley Brew Fest at Avon on June 30th.

Town Council is not required to take any action; however, any Town Council member may request Council consideration of a reported gift to determine whether such gift constitutes a conflict of interest.
In accordance with §7, Article XXIX of the Colorado Constitution and Section 2.30.170, Chapter 2.30 Avon Town Code of Ethics of the Avon Municipal Code, and any other applicable Avon Home Rule Charter provision, ordinance or resolution adopted by the Town of Avon, I, Debbie Hoppe, Town Clerk for Town of Avon, submit the following list of such gifts reported to be received by officers of the Town of Avon:

1. **2018 CoverRock Music Festival VIP Tickets** – The Town Council received fourteen (14) two-day VIP passes to the CoverRock Music Festival on June 22nd and June 23rd. Each member of Council received two (2) passes, one provided for the purpose of reviewing the event for production and for any future funding request, and the second provided as a gift for a guest. Each pass is valued at $189.00.

2. **17th Annual Beaver Creek Rodeo Series VIP Passes** – The Town Council received fourteen (14) VIP passes to the 16th Annual Beaver Creek Rodeo Series this summer. Each member of the Council received two (2) passes, one provided for the purpose of reviewing the event for any future funding request, and the second provided as a gift for a guest. With individual VIP tickets valued at $27.00 and there being seven (7) total rodeo events scheduled, the total value of each pass is $189.00.

3. **Vail Valley Brew Fest at Avon VIP Passes** – The Town Council received fourteen (14) VIP passes to the 16th Annual Beaver Creek Rodeo Series this summer. Each member of the Council received two (2) passes, one provided for the purpose of reviewing the event for any future funding request, and the second provided as a gift for a guest. Each pass is valued at $50.00.


Debbie Hoppe, Town Clerk