



Wednesday February 2, 2022 – 5:30PM

AGENDA

**Town Council Meeting
Minturn Town Hall / Council Chambers
302 Pine St Minturn, CO**

The agenda is subject to change, including the addition of items 24 hours in advance or the deletion of items at any time. The order of agenda items listed are approximate. This agenda and meetings can be viewed at www.minturn.org.

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This will be an in-person meeting with access for the public to attend in person or via the Zoom link included. Zoom Link: <https://us02web.zoom.us/j/81914201715>

Zoom Call-In Information: **1 651 372 8299 or 1 301 715 8592 Webinar ID: 819 1420 1715**

Please note: all virtual participants are muted. In order to be called upon an unmuted, you will need to use the “raise hand” feature in the Zoom platform. When it’s your turn to speak, the moderator will unmute your line and you will have five (5) minutes for public comment.

PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on the agenda can be submitted to Jay Brunvand, Town Clerk, prior to the meeting and will be included as part of the record.

CALL TO ORDER

ROLL CALL & PLEDGE OF ALLEGIANCE

CONSENT AGENDA *Consent agenda items are routine Town business, items that have received clear direction previously from the council, final land-use file documents after the public hearing has been closed, or which do not require council deliberation.*

1. January 19, 2022 Meeting Minutes Pg 3
2. January 25, 2022 Special Meeting Minutes Pg 12
3. Golden Aspen Leaf Inc, DBA Gourmet Cowboy Bar, annual renewal of a Hotel and Restaurant Liquor license; 455 Main St; Clifford Dorn III, Owner/President – Brunvand Pg 18
4. 542 Main St llc, dba Sunrise annual renewal of a Hotel & Restaurant (City) Liquor license; 132 Main St; Doug McAvity, Owner/Manager Pg 22

APPROVAL OF AGENDA *Opportunity for amendment or deletions to the agenda.*

DECLARATION OF CONFLICTS OF INTEREST

PUBLIC COMMENT *Citizens are invited to comment on any item on the Consent Agenda, or not on the regular Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person unless arrangements have been made for a presentation with the Town Clerk. Those who are speaking are requested to state their name and address for the record.*

SPECIAL PRESENTATIONS *Presentations are limited to 5 minutes. Invited presentations are limited to 10 minutes if prior arrangements are made with the Town Clerk.*

COUNCIL COMMENTS & COMMITTEE REPORTS

BUSINESS ITEMS *Items and/or Public Hearings are listed under Business may be old or new and may require review or action by the Council.*

1. Ordinance 02 – Series 2022 (Second Reading) an Ordinance amending Chapter 16 of the Minturn Municipal Code for the purpose of aligning with state statute concerning day care homes – Hunn Pg 26
2. Ordinance 03 – Series 2022 (Second Reading) an Ordinance approving an Intergovernmental Agreement between The Town of Minturn, Eagle River Water and Sanitation District, and Upper Eagle Regional Water Authority regarding Bolts Lake – Metteer Pg 34
3. Resolution 04 – Series 2022 a Resolution of support and authorization for grant submittal of an application to the Colorado Dept of Transportation (CDOT) for commitment of funding for CDOT revitalizing main streets for construction of pedestrian and non-motorized forms of transportation along U.S. Highway 24 within the Town of Minturn – Metteer Pg 72

DISCUSSION / DIRECTION ITEMS

STAFF REPORTS

1. Town Manager Update Pg 79

FUTURE AGENDA ITEMS Pg 81

ADJOURN

INFORMATIONAL ONLY ITEMS

Council Meetings:

- February 2, 2022
- February 16, 2022
- March 2, 2022
- March 16, 2022



Wednesday January 19, 2022 – 5:00PM

OFFICIAL MINUTES

**Town Council Meeting
Minturn Town Hall / Council Chambers
302 Pine St Minturn, CO**

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MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This will be a Zoom Meeting ONLY. Zoom Link: <https://us02web.zoom.us/j/82622889451>

Zoom Call-In Information: **1 651 372 8299 or 1 301 715 8592 Webinar ID: 826 2288 9451**

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PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on the agenda can be submitted to Jay Brunvand, Town Clerk, prior to the meeting and will be included as part of the record.

CALL TO ORDER

The Minturn Town Council will open the Regular Meeting at 5:00 for the purpose of convening into Executive Session. The Regular Meeting will convene in public AFTER the Executive Session.

The meeting was called to order by Mayor Earle Bidez at 5:02pm using the ZOOM on-line meeting format.

ROLL CALL & PLEDGE OF ALLEGIANCE

Those present include: Mayor Earle Bidez, Mayor Pro Tem Terry Armistead, and Town Council members George Brodin, Lynn Feiger, Eric Gotthelf, Gusty Kanakis, and Tom Sullivan.

Staff present: Town Manager Michelle Metteer, Town Attorneys Michael Sawyer, Town Planners Scot Hunn and Madison Harris, and Town Treasurer/Town Clerk Jay Brunvand.

EXECUTIVE SESSION

1. Executive Session pursuant to C.R.S. § CRS 24-6-402(4)(b) for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS 24-6-402(4)(e) – Eagle River Water and Sanitation District, Battle Mountain – Winokur/Sawyer

Motion by George B., second by Lynn F., to convene in Executive Session pursuant to C.R.S. § CRS 24-6-402(4)(b) for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS 24-6-402(4)(e) – Eagle River Water and Sanitation District, Battle Mountain. Motion passed 7-0.

Those present in the Executive Session included the Council present, Michell M., Michael Sawyer, Meghan Winokur, Cristy Radabaugh, and Jill Van Noord.

Reconvened in Public Session at 5:53pm

APPROVAL OF AGENDA *Opportunity for amendment or deletions to the agenda.*

Motion by Gusty K., second by Eric., to approve the agenda of January 19, 2022 as amended for packet page number discrepancy. Motion passed 7-0.

DECLARATION OF CONFLICTS OF INTEREST

PUBLIC COMMENT *Citizens are invited to comment on any item on the Consent Agenda, or not on the regular Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person unless arrangements have been made for a presentation with the Town Clerk. Those who are speaking are requested to state their name and address for the record.*

Mr. Greg Sparhawk, 245 Pine St., spoke regarding his proposed development, Minturn North. He noted they had met with Jim Mann and is asking the Council for direction to have the Michael S. review the Metro District aspect of the project. He stated without the creation of the district they cannot move forward.

CONSENT AGENDA *Consent agenda items are routine Town business, items that have received clear direction previously from the council, final land-use file documents after the public hearing has been closed, or which do not require council deliberation.*

1. January 5, 2022 Meeting Minutes
2. January 13, 2022 Special Meeting Minutes

Motion by George B., second by Eric G., to approve the Consent Agenda as presented. Motion passed 7-0.

SPECIAL PRESENTATIONS *Presentations are limited to 5 minutes. Invited presentations are limited to 10 minutes if prior arrangements are made with the Town Clerk.*

COUNCIL COMMENTS & COMMITTEE REPORTS

Earle B. noted the County has rescinded the COVID mask mandate and asked the Council for direction to proceed with hybrid in-person/on-line meetings. Council direction was to so proceed.

BUSINESS ITEMS *Items and/or Public Hearings are listed under Business may be old or new and may require review or action by the Council.*

1. Ordinance 01 – Series 2022 (Second Reading) an Ordinance regulating fowl within the Town of Minturn – Hunn

Scot H. presented the changes made since First Reading and noted Ordinance No. 1 will amend the Minturn Municipal Code (MMC) to provide regulations, processes and standards for the keeping of chickens and other fowl within the Town of Minturn. Ordinance No. 1 was presented to the Council on first reading on January 5, 2022. The ordinance amends the following sections of the Minturn Municipal Code, Chapter 16 – *Zoning*:

1. Section 16-2-20 - Definitions
2. Chapter 16, Article 17 - Supplemental Regulations and Standards

The Town Council has directed staff to bring forth an ordinance addressing and regulating fowl within the Town of Minturn. In reviewing the Ordinance at first reading, the Town Council gave direction to staff to:

- Remove the provisions for or restrictions on processing or harvesting fowl on permitted properties;
- Remove proposed language regulating “quiet hours;” and
- Revise proposed language related to maximum coop size; coop structures are not to exceed 120 square feet, while the size or extent of runs will not be limited.

No members of the public spoke at the public hearing held by the Town Council on January 5, 2022. Public notice was provided in accordance with the Minturn Municipal Code as a matter of posting of the official agenda and packet materials for public review prior to the hearing, as well as the requirements in Section 16-21-610 of the Minturn Municipal Code.

Eric G. asked questions regarding the restrictions on roosters that was removed. It was noted during the last council discussion, it was directed to remove that restriction as it was difficult to enforce.

Public Hearing Opened

Michelle M. stated she had received an email from Ms. Jill Koellhoffer, 436 Taylor St and read the email into the record. The email stated Ms. Koellhoffer was not against backyard chickens but was not a fan of fowl farms as they burden the neighbors and are an attraction for wildlife and rodents. Ms. Koellhoffer cited several concerns regarding poorly kept or constructed coops as well

as size and quantity of coops.

Public Hearing Closed

Terry A. discussed the concern of coops and construction thereof. She noted a shed that is falling down would not be a safe coop for the chickens. Scot H. noted the code handles dilapidated structures as a nuisance. Michelle M. stated those can be addressed if they are viewable from the public areas or that the Building Inspector would be able to enter private property to investigate as well. Scot H. also noted this would be addressed when the permit is issued.

Motion by George B., second by Terry A., to approve Ordinance 01 – Series 2022 (Second Reading) an Ordinance amending Chapter 16 of the Minturn Municipal Code to provide for the use and regulation of fowl within the Town of Minturn as presented. Motion passed 7-0.

2. Ordinance 02 – Series 2022 (First Reading) an Ordinance amending Chapter 16 of the Minturn Municipal Code for the purpose of aligning with state statute concerning day care homes – Hunn

Scot H. presented this is a review of the Chapter 16 Amendment to provide for the rezoning of residential zone districts in relation to day care homes recommended to Council by the Planning Commission from their regular meeting of January 12, 2022 and that this change will bring Minturn into compliance with recent state law. The attached ordinance is presented for consideration by the Town Council. The ordinance addresses amendments/additions in the following sections of the Minturn Municipal Code, Chapter 16 – *Zoning*:

- Section 16-2-20 – Definitions
- Section 16-6-80 - Old Town Character Area limited use standards
- Section 16-7-70 - South Town Character Area limited use standards
- Chapter 16, Article 17 - Supplemental Regulations and Standards

In reviewing the Ordinance, the Planning Commission considered the effects of this ordinance on existing child care businesses. No members of the public spoke at the Planning Commission public hearing.

Public Hearing Opened

No Public Comment

Public Hearing Closed

Motion by Eric G., second by Gusty K., to approve Ordinance 02 – Series 2022 (First Reading) an Ordinance amending Chapter 16 of the Minturn Municipal Code for the purpose of aligning with state statute concerning day care homes as presented. Motion passed 7-0.

DISCUSSION / DIRECTION ITEMS

1. Review of an Intergovernmental Agreement between the Town of Minturn, Eagle River Water & Sanitation District and the Upper Eagle Regional Water Authority – Metteer/Sawyer/Winokur

Earle B. noted this is a public discussion only, no decision will be made on this tonight. There is a special meeting on January 25 5:30pm where this will be presented as an Ordinance on First Reading and on February 2 at 5:30pm on Second Reading.

Michelle M. outlined the discussion. Minturn staff, consultants and attorneys request the Town Council begin a public discussion outlining the concepts and options being proposed through an Intergovernmental Agreement (Agreement) between the Town of Minturn, the District, and the Authority. The draft Agreement is expected to be publicly available on Tuesday, January 18th for review. A copy of the Agreement will be emailed out to the subscription notification list as an update to the Town Council packet, posted to the town web page, and available in print at town hall. The Agreement will be publicly discussed at the Minturn Town Council meeting on January 19th at 5:30 pm. The Council recognizes twenty-four hours is not enough time for public review prior to the Council considering a vote, therefore the meeting on the 19th will be for discussion purposes only. After the first discussion on the 19th, the public will have a week to review the Agreement materials and contact their Council representatives with questions and additional information prior to a first reading which will be held at a Special Council meeting scheduled for January 25th at 5:30 pm.

A proposed agreement between Minturn and the Eagle River Water District would provide for Minturn to receive significant valuable water rights, which rights would provide important water security to Minturn. Minturn will also receive a Recreational Covenant for Use of the Lake, when completed. In exchange, the District would get the use of Minturn's Bolts Lake Easement and the cooperation of the Town. If Minturn does not enter into this agreement, The District will, in all likelihood, obtain the easement by condemnation and Minturn would then be entitled to only the value of the easement as determined in Court. Minturn is currently in the process of obtaining an appraisal of the value of its Bolt's Lake Easement, and that appraisal will be available before the proposed agreement goes before Council for final consideration. Battle North (formerly Battle Mountain or Ginn) signed a contract last year to sell land for Bolts Lake reservoir to the District and Authority via the "Agreement Pertaining to Acquisition for Bolts Lake Reservoir Project." This Agreement includes a one-year due diligence period prior to execution. The due diligence period will be complete as of February 9, 2022.

Long-time residents may recall the multiple agreements with Battle North's predecessor, which voters approved in 2008 as part of the annexation procedures for the Battle North property to be incorporated into the Town of Minturn. Among other promises, the 2008 Agreements included Minturn acquiring an easement for the Bolts Lake area, and Battle North developing the reservoir for use by a future Battle North project and the Town of Minturn, primarily for augmentation purposes. The Town has provided legal notice of its intention to sue Battle North for breach of the various agreements pertaining to the Battle North property and development approvals. Prior to filing the lawsuit, the Town and Battle North have agreed to mediation which will begin in March of 2022. The Town of Minturn, in all likelihood, does not have the ability to stop the sale of the Bolts Lake parcel because the District and Authority are prepared to file a condemnation act if necessary. The Town is still entitled to sue Battle North for damages. If Minturn's easement is condemned, Minturn will receive the value of the easement as determined by the court. Minturn is in the process of obtaining an appraisal of the easement which should be received by early February.

The District and Authority want to proceed with construction of Bolts Lake reservoir as quickly as possible, and to do so, have sought Minturn's cooperation. To this end, the District and Authority are willing to commit, among other things, certain augmentation use rights to Minturn. Staff and Council have been involved in intense negotiations with the District and Authority to obtain the best agreement possible. In exchange for the easement, Minturn will obtain the following benefits. If the public is not supportive of the proposed Agreement the deal does not have to be finalized.

BENEFITS:

- The District and Authority are offering Minturn a permanent supply of augmentation water not offered to other entities outside of their service area.
- Waiver of purchase price for 20-acre feet of permanent augmentation water (this is an \$860,000 cash value).
 - The 20-acre feet is a perpetual augmentation supply as opposed to Minturn's current 40-year contract with the Colorado River Water Conservation District.
 - The reduction in annual operation, maintenance, and repair costs between the District/Authority supply and Minturn's current augmentation water contract over a 99- year time period equates to approximately \$280,000.
- Eagle River Surface diversion water right for 4.0 cfs – Case 21CW3030
 - With the approval of a Water Court Case 21CW3030 submitted by the District and Authority, Minturn will receive a surface diversion water right in the area of the confluence of Cross Creek and the Eagle River. This would allow Minturn to develop a fully redundant back up raw-water supply that could serve the entire Town and infill growth.
 - With the approval of Water Court Case 21CW3030 submitted by the District and Authority, Minturn would receive a water right at Dowd Junction (well field or surface diversion to still be determined).
 - The District and Authority are paying for all fees associated with the Water Court application process (including attorney fees) at an estimated value of \$100,000 to \$250,000.
- Option to Purchase Augmentation Water Supply
 - 55-acre feet will be held in reserve by the District and Authority for up to 30-years from the date of the IGA for Minturn's right to purchase. The option to purchase will be phased as follows:
 - 30-acre feet will be made available when the District and Authorities decrees are entered by the Water Court. ▪
 - 25-acre feet will be available once Bolts Reservoir is operational
 - This allows Minturn to reduce its current augmentation water contracts and direct the savings to other water system improvements.
- Environmental Remediation of the Old Tailings Pile (part of the Eagle Mine Superfund Site)
 - The District and Authority have agreed to pay for the remediation of the Old Tailings Pile.
- Recreational Use at Bolts Reservoir
 - The District and Authority would issue Minturn a recreational use covenant to allow public summer-time (approximately May – November) non-motorized use of the reservoir. This would include such activities as stand up paddleboarding, swimming, canoeing, and fishing.
- Cooperation with the District & Authority

- The IGA would provide for cooperation between the Town and the District and Authority on a number of topics including: administration of water rights on Cross Creek, environmental remediation in the Bolts Lake area, provision of water to Dowd Junction, and a commitment that the District and Authority will not claim that Minturn has abandoned any portion of its water rights.

WHAT MINTURN IS GIVING TO THE DISTRICT

- The right to enforce Minturn's Bolts Lake Easement
 - Minturn will still have the right to sue Battle Mountain in the 2008 Water Services Agreement
- Minturn would commit to not develop its conditional water right as it pertains to Bolts Reservoir in a way that would interfere with the operation of Bolts Reservoir.
- Release of the 2008 Water Service Agreement from the Bolts Lake Property
- Minturn would cooperate with the District and Authority with respect to the construction of Bolts Reservoir.

Minturn has until February 9, 2022 to either accept or reject the Agreement with the District and Authority. We anticipate Minturn will have the appraisal prior to any final decision being made by the Town Council. It was specifically noted the importance of Community Input during this process.

Lynn F. noted we are not releasing the easement we are just not enforcing it against the District. We would still be able to sue Battle Mountain North for selling our easement. Also, the Town is getting an appraisal of the easement and we will have this prior to final (Council) vote. ERWSD will pay for all of the work necessary.

Michael S. stated this agreement with the town is in part to mitigate the damages caused by Battle Mtn's 2008 Water Services breach of agreement. Here the District would do the work at their cost. The town would be able to sue to hold Battle Mtn accountable for this, we are not giving up this right.

Gusty K. noted the 55-acre feet of augmentation held in reserve by the District, if exercised by the Town would be used for items other than Battle Mountain.

Terry A. asked if recreation was included originally in the agreements. Cristy R. state no, it was not and that it was specifically excluded in the original agreement, this agreement does allow recreation uses.

George B. asked regarding the storage rights, the augmentation rights are for "wet" water within Bolts Lake. Meghan W. 20af would be available immediately and 30af and 25af would be available for purchase in the future. It was discussed that when our River District leases are to be renewed the River District could opt to NOT renew. In this agreement, this water is guaranteed by the District and reserved for Minturn for up to 30 years.

Earle B. noted with the exceptions of O&M we are getting 20af of augmentation without cost to the town citizens. Meghan W. noted there are O&M costs but not lease costs. If/when we opted for the future rights, that would be a fee to the town as well.

George B. noted Battle Mtn is responsible for the cleanup of the old tailings pond. Michael S. stated to date there has been remediation by the EPA to a base standard. Battle Mtn would then increase this base standard to a higher level in order to allow housing on the property. This is all enforceable by EPA and the state. The dirt excavated from Bolts Lake will be used to increase the base level on the Old Tailings Pond (OTP). It was noted that the money to do this will be escrowed in order to best protect the Town and ensure the project is completed. In the event they are not able to do the work, the escrow will complete the project.

Discussion ensued as to how this would guarantee the lake and the OTP are treated and completed.

The discussion was opened for Public Comment.

Mr. Jason Cowles, ERWSD, outlined how the excavation of the lake and the placement on the OTP would be simultaneous. He did not feel the remediation of the OTP was a sticking point as it has been discussed with Battle Mountain and he has a high confident level of the intent, need and funding.

Ms. Virginial Olsen, 298 Eagle St, asked for clarification of if there is currently water in Bolts Lake and why it is the OTP is being incorporated as well as where the OTP and lake are located. Michelle M. stated there is currently not water in Bolts Lake. Mr. Cowles stated the to date remediation has taken the land to a specific Trespass base level. The excavated dirt work will take this base level to a higher standard to allow for housing use. It was clarified the OTP remediation created the existing Consolidated Tailings Pile by the Maloit Park school.

Mr. Kelly Toon, 531 Main St, asked about the release of easement and the storage, and why there is no winter recreation. He added no one has discussed the positives of having this lake in case of a fire. Lynn F. stated we would be better off if we could enforce the original agreement, we would be better off, but now, if we don't do the deal the District will condemn the property and we will lose the appraised value of the easement as well as the offered 20af and future 75af. In any event, we will retain the right to sue Battle Mtn as and if necessary. Jason Cowles stated it is an augmentation reservoir and as it is used the water level will fluctuate. When this occurs in the winter the ice sheet may become unstable as the water is pulled from under it and that will affect the safety of the ice in the winter causing the exclusion of winter time recreation.

Michael S. stated the refusal of Battle Mtn has an impact far beyond the easement, we still would need to construct the reservoir. We will get less augmentation water from this agreement; we are not incurring the expense of the dam construction nor sole O&M expenses.

Jason Cowles noted augmentation water is a diversion to back fill water pulled under junior water rights. It puts water in the stream propping up diversions lower on the river. Bolts Lake will be filled primarily using a diversion point on the Eagle River. Cross Creek would be used as a secondary source however, Minturn water rights would be senior to District water rights diverted from Cross Creek under this plan.

Mr. Hany Malek, 498 Taylor St, asked how deep will the reservoir be and is there potential leaching from the consolidated pile into the lake, also who would be maintaining the structures.

Mr. Cowles stated the depth of the new Bolts Lake will be about 50ft, the dam will be about 25-30ft high. He stated based on the studies, the reservoir will be lined in order to not leak and not accept leach. Discussion ensued how caps are built and maintained over tailings ponds.

Terry A. asked what steps are taken to ensure the health of the lake prior to it being released into the river. Jason Cowles outlined how this works. Water quality is monitored to ensure toxins do not grow and then contaminate any other bodies of water they may be diverted into.

Mr. Bill Hoblitzell, 216 Taylor St., asked about augmentation. Since Minturn cannot currently augment into Cross Creek it will be made in to Eagle River. If Bolts water is necessary to be released into Cross Creek it will be a requirement of Battle Mtn to accommodate that diversion. The long-term goal is to have a diversion supply that would take Eagle River water up to our new water plant and then be released on to Cross Creek.

Mr. Jason Cowles stated they are looking at a 5-10year process before the lake is filled at a cost of \$60m-\$70m. This IGA is the first step in a very long process.

Earle B. stated this has been a long process and thanked all the involved parties. He reminded all of the Special Meeting on Tuesday 1/25/22 for First Reading and it will then be taken up again at the 2/2/22 meeting for Second Reading allowing two more opportunities for the public to comment.

STAFF REPORTS

1. Town Manager Update

Michelle M. noted the next meeting will be held hybrid both in-person and on-line.

Discussion ensued on if Michael S. and staff has the band width to address the Minturn North Metro District request for review. Direction was that the IGA is very time sensitive and to continue with the current IGA and prepare for the upcoming Battle Mtn mediation. This would not allow the necessary resources to review the Minturn North Metro District at this time.

FUTURE AGENDA ITEMS

ADJOURN

Motion by Eric G., second by Tom S., to adjourn at 8:09pm.

INFORMATIONAL ONLY ITEMS

Council Meetings:

- February 2, 2022
- February 16, 2022
- March 2, 2022



TUESDAY January 25, 2022
4:00PM (Executive Session)
5:30PM (Regular Session)

OFFICIAL MINUTES – SPECIAL MEETING

Town Council Meeting
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MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

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PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on the agenda can be submitted to Jay Brunvand, Town Clerk, prior to the meeting and will be included as part of the record.

CALL TO ORDER

The Minturn Town Council will open the Regular Meeting at 4:00PM for the purpose of convening into Executive Session. The Regular Meeting will convene in public AFTER the Executive Session *estimated* start time is 5:30PM.

The meeting was called to order by Mayor Earle Bidez at 4:00pm using in-person and the ZOOM on-line meeting format.

ROLL CALL & PLEDGE OF ALLEGIANCE

Those present include: Mayor Earle Bidez, Mayor Pro Tem Terry Armistead, and Town Council members George Brodin, Lynn Feiger, Eric Gotthelf (via Zoom), Gusty Kanakis, and Tom Sullivan (via Zoom).

Staff present: Town Manager Michelle Metteer and Town Treasurer/Town Clerk Jay Brunvand. In addition, attorneys Michael Sawyer, Meghan Winokur, and Jill Van Noord attended both the Executive Session and the Regular Session (all via Zoom).

EXECUTIVE SESSION

1. Executive Session pursuant to C.R.S. § CRS 24-6-402(4)(b) for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS 24-6-402(4)(e) – Eagle River Water and Sanitation District, Battle Mountain – Winokur/Sawyer

Motion by George B., second by Gusty K., to convene in Executive Session pursuant to C.R.S. § CRS 24-6-402(4)(b) for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS 24-6-402(4)(e) – Eagle River Water and Sanitation District, Battle Mountain. Motion passed 7-0.

Reconvened in Public Session at 5:33pm

APPROVAL OF AGENDA *Opportunity for amendment or deletions to the agenda.*

Motion by George B., second by Gusty K., to approve the agenda of January 25, 2022 as presented. Motion passed 7-0.

DECLARATION OF CONFLICTS OF INTEREST

PUBLIC COMMENT *Citizens are invited to comment on any item on the Consent Agenda, or not on the regular Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person unless arrangements have been made for a presentation with the Town Clerk. Those who are speaking are requested to state their name and address for the record.*

BUSINESS ITEMS *Items and/or Public Hearings are listed under Business may be old or new and may require review or action by the Council.*

1. Ordinance 03 – Series 2022 (First Reading) an Ordinance approving an Intergovernmental Agreement between Minturn, Eagle River Water and Sanitation District and Upper Eagle Regional Water Authority – Winokur/Sawyer/Metteer

Minturn staff, consultants and attorneys request the Town Council consider an Ordinance for an Intergovernmental Agreement (Agreement) between the Town of Minturn, Eagle River Water and Sanitation District (District), and the Upper Eagle Regional Water Authority (Authority).

A proposed agreement between Minturn and the Eagle River Water District would provide for Minturn to receive significant valuable water rights, which rights would provide important water security to Minturn. Minturn will also receive a Recreational Covenant for Use of the Lake, when

completed. In exchange, the District would get the use of Minturn's Bolt's Lake Easement and the cooperation of the Town.

If Minturn does not enter into this agreement, The District will, in all likelihood, obtain the easement by condemnation and Minturn would then be entitled to only the value of the easement as determined in Court. Minturn is currently in the process of obtaining an appraisal of the value of its Bolt's Lake Easement, and that appraisal will be available before the proposed agreement goes before Council for final consideration.

Battle North (formerly Battle Mountain or Ginn) signed a contract last year to sell land for Bolts Lake reservoir to the District and Authority via the "[Agreement Pertaining to Acquisition for Bolts Lake Reservoir Project](#)." This Agreement includes a one-year due diligence period prior to execution. The due diligence period will be complete as of February 9, 2022.

Long-time residents may recall the multiple agreements with Battle North's predecessor, which voters approved in 2008 as part of the annexation procedures for the Battle North property to be incorporated into the Town of Minturn. Among other promises, the 2008 Agreements included Minturn acquiring an [easement for the Bolts Lake area](#), and Battle North developing the reservoir for use by a future Battle North project and the Town of Minturn, primarily for augmentation purposes.

The Town has provided legal notice of its intention to sue Battle North for breach of the various agreements pertaining to the Battle North property and [development approvals](#). Prior to filing the lawsuit, the Town and Battle North have agreed to mediation which will begin in March of 2022. The Town of Minturn, in all likelihood, does not have the ability to stop the sale of the Bolts Lake parcel because the District and Authority are prepared to file a condemnation act if necessary. The Town is still entitled to sue Battle North for damages.

If Minturn's easement is condemned, Minturn will receive the value of the easement as determined by the court. Minturn is in the process of obtaining an appraisal of the easement which should be received by early February.

The District and Authority want to proceed with construction of Bolts Lake reservoir as quickly as possible, and to do so, have sought Minturn's cooperation. To this end, the District and Authority are willing to commit, among other things, certain augmentation use rights to Minturn. Staff and Council have been involved in intense negotiations with the District and Authority to obtain the best agreement possible. In exchange for the easement, Minturn will obtain the following benefits.

If the public is not supportive of the proposed Agreement the deal does not have to be finalized.

BENEFITS:

- The District and Authority are offering Minturn a permanent supply of augmentation water not offered to other entities outside of their service area.

- Waiver of purchase price for 20-acre feet of permanent augmentation water (this is an \$860,000 cash value).
 - The 20-acre feet is a perpetual augmentation supply as opposed to Minturn's current 40-year contract with the Colorado River Water Conservation District.
 - The reduction in annual operation, maintenance, and repair costs between the District/Authority supply and Minturn's current augmentation water contract over a 99-year time period equates to approximately \$280,000.
- Eagle River Surface diversion water right for 4.0 cfs – Case 21CW3030
 - With the approval of a Water Court Case 21CW3030 submitted by the District and Authority, Minturn will receive a surface diversion water right in the area of the confluence of Cross Creek and the Eagle River. This would allow Minturn to develop a fully redundant back up raw-water supply that could serve the entire Town and infill growth.
 - With the approval of Water Court Case 21CW3030 submitted by the District and Authority, Minturn would receive a water right at Dowd Junction (well field or surface diversion to still be determined).
 - The District and Authority are paying for all fees associated with the Water Court application process (including attorney fees) at an estimated value of \$100,000 to \$250,000.
- Option to Purchase Augmentation Water Supply
 - 55-acre feet will be held in reserve by the District and Authority for up to 30-years from the date of the IGA for Minturn's right to purchase. The option to purchase will be phased as follows:
 - 30-acre feet will be made available when the District and Authorities decrees are entered by the Water Court.
 - 25-acre feet will be available once Bolts Reservoir is operational
 - This allows Minturn to reduce its current augmentation water contracts and direct the savings to other water system improvements.
- Environmental Remediation of the Old Tailings Pile (part of the Eagle Mine Superfund Site)
 - The District and Authority have agreed to pay for the remediation of the Old Tailings Pile.
- Recreational Use at Bolts Reservoir
 - The District and Authority would issue Minturn a recreational use covenant to allow public summer-time (approximately May – November) non-motorized use of the reservoir. This would include such activities as stand up paddleboarding, swimming, canoeing, and fishing.
- Cooperation with the District & Authority
 - The IGA would provide for cooperation between the Town and the District and Authority on a number of topics including: administration of water rights on Cross Creek, environmental remediation in the Bolts Lake area, provision of water to

Dowd Junction, and a commitment that the District and Authority will not claim that Minturn has abandoned any portion of its water rights.

WHAT MINTURN IS GIVING TO THE DISTRICT

- The right to enforce Bolts Lake Easement
 - Minturn will still have the right to sue Battle Mountain in the 2008 Water Services Agreement
- Minturn would commit to not develop its conditional water right as it pertains to Bolts Reservoir in a way that would interfere with the operation of Bolts Reservoir.
- Release of the 2008 Water Service Agreement from the Bolts Lake Property
- Minturn would cooperate with the District and Authority with respect to the construction of Bolts Reservoir.

Discussion ensued regarding better defined recreational use of the lake by Minturn citizens and diverting Eagle River water to Cross Creek for augmentation of Minturn junior water rights. It was noted this would take further negotiation and potentially separate IGA's to accommodate. Concern was also expressed of how the salient deadlines for exercise of augmentation of future water rights would be noticed to the town as they become due.

Public Comment Opened

There were seven attendees on zoom and one attendee in the audience, no comments were made.

Public Comment Closed

Terry A. thanked the staff and the committee work as well as the District and Authority for bringing this to fruition. This has been years in the making and it is a wonderful agreement.

Motion by Terry A., second by Gusty K., to approve Ordinance 03 – Series 2022 (First Reading) an Ordinance approving an Intergovernmental Agreement between Minturn, Eagle River Water and Sanitation District and Upper Eagle Regional Water Authority as presented. Motion passed 7-0.

FUTURE MEETINGS

Michelle M. asked for an executive session to receive legal advice regarding the historical preservation designation process. It was directed to include during the February 16, 2022 meeting.

Terry A. noted the Minturn Community Fund has formed a Shovel Squad to assist with citizens in need of shoveling their walk ways.

ADJOURN

Motion by George B., second by Lynn F., to adjourn the meeting at 6:00pm.

INFORMATIONAL ONLY ITEMS

Council Meetings:

- February 2, 2022
- February 16, 2022
- March 2, 2022
- March 16, 2022



To: Mayor and Council

From: Jay Brunvand

Date: February 2, 2022

Agenda Item: Annual renewal of Hotel and Restaurant Liquor License

REQUEST:

Staff is requesting Council to review and approve the attached annual renewal of a Hotel and Restaurant Liquor License for the Golden Aspen Leaf Inc, DBA Gourmet Cowboy Bar located at 455 Main St.

INTRODUCTION:

This establishment has an existing H&R License and this is the annual renewal. The current lease expires 12/31/22, about two months shy of a full year. State law requires the license extend beyond the period that the license is granted for. I have spoken with the applicants and they have assured me they are working on the new lease and are confident they will have a renewed multi-year lease in the near future, well before the existing lease expires.

ANALYSIS:

Not Applicable

COMMUNITY INPUT:

Not Applicable

BUDGET / STAFF IMPACT:

The applicant has submitted the required fee of \$125.00.

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #4 the Town will advance decisions/projects/initiatives that expand future opportunity and viability for Minturn. Both as an employer and a sales tax contributor these businesses each help further Minturn.

RECOMMENDED ACTION OR PROPOSED MOTION:

This item is approved on the Consent Agenda, no separate motion is required.

ATTACHMENTS:

- Application and supporting documentation for the license renewal.

GOURMET COWBOY BAR
PO BOX 3998
Vail CO 81658

Fees Due		
Renewal Fee		500.00
Storage Permit	\$100 X _____	\$
Sidewalk Service Area	\$75.00	\$
Additional Optional Premise Hotel & Restaurant	\$100 X _____	\$
Related Facility - Campus Liquor Complex	\$160.00 per facility	\$
Amount Due/Paid		\$

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name GOLDEN ASPEN LEAF INC		Doing Business As Name (DBA) GOURMET COWBOY BAR		
Liquor License # 03-06064	License Type Hotel & Restaurant	Sales Tax License # 29893451	Expiration Date 03/02/2022	Due Date 01/16/2022
Business Address 455 MAIN STREET Minturn CO 81645				Phone Number 9707486898
Mailing Address PO BOX 3998 Vail CO 81658			Email gourmetcowboy@comcast.net	
Operating Manager Sarah K Biggs	Date of Birth 02/15/79	Home Address 0211 Greenhorn Ave, Eagle, CO 81631		Phone Number 970-748-6898
1. Do you have legal possession of the premises at the street address above? <input checked="" type="radio"/> Yes <input type="radio"/> No Are the premises owned or rented? Owned <input type="radio"/> Rented* <input checked="" type="radio"/> *If rented, expiration date of lease 2023 working on renewal now				
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. Yes <input type="radio"/> No <input checked="" type="radio"/>				
3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? Yes <input type="radio"/> No <input checked="" type="radio"/>				
3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? Yes <input type="radio"/> No <input checked="" type="radio"/>				
4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. Yes <input type="radio"/> No <input checked="" type="radio"/>				
5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. Yes <input type="radio"/> No <input checked="" type="radio"/>				
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes <input type="radio"/> No <input checked="" type="radio"/>				
7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. Yes <input type="radio"/> No <input checked="" type="radio"/>				

Tax Check Authorization, Waiver, and Request to Release Information

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

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

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

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

Name (Individual/Business) <u>Golden Aspen Leaf Inc</u>		Social Security Number/Tax Identification Number	
Address <u>PO Box 3998</u>			
City <u>Vail</u>		State <u>CO</u>	Zip <u>81658</u>
Home Phone Number <u>970-748-6898</u>		Business/Work Phone Number <u>970-763-5621</u>	
Printed name of person signing on behalf of the Applicant/Licensee <u>Sarah K Biggs, vice president</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) <u>Sarah K Biggs</u>			Date signed <u>1/24/2022</u>

Privacy Act Statement

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



To: Mayor and Council

From: Jay Brunvand

Date: February 2, 2022

Agenda Item: Annual renewal of Hotel and Restaurant Liquor License

REQUEST:

Staff is requesting Council to review and approve the attached annual renewal of a Hotel and Restaurant Liquor License for the 542 Main St, dba Sunrise Minturn located at 132 Main St.

INTRODUCTION:

This establishment has an existing H&R License and this is the annual renewal.

ANALYSIS:

Not Applicable

COMMUNITY INPUT:

Not Applicable

BUDGET / STAFF IMPACT:

The applicant has submitted the required fee of \$125.00.

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #4 the Town will advance decisions/projects/initiatives that expand future opportunity and viability for Minturn. Both as an employer and a sales tax contributor these businesses each help further Minturn.

RECOMMENDED ACTION OR PROPOSED MOTION:

This item is approved on the Consent Agenda, no separate motion is required.

ATTACHMENTS:

- Application and supporting documentation for the license renewal.

Submit to Local Licensing Authority

Fees Due	
Annual Renewal Application Fee	\$ 50.00
Renewal Fee	
Storage Permit \$100 X _____	\$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X _____	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

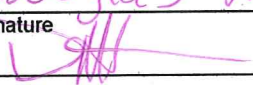
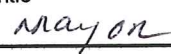
Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name <i>542 main st LLC</i>			Doing Business As Name (DBA) <i>Sunrise Minturn</i>		
Liquor License # <i>03-09182-0000</i>	License Type <i>Hotel + Restaurant</i>	Sales Tax License Number <i>35294481-0000</i>	Expiration Date <i>2/13/22 2/13/22</i>	Due Date	
Business Address <i>132 main st Minturn CO 81645</i>				Phone Number <i>970 627 5353</i>	
Mailing Address <i>PO Box 1285 Minturn CO 81645</i>			Email <i>SunriseMinturn@gmail.com</i>		
Operating Manager <i>Douglas McAvoy</i>	Date of Birth <i>04/14/83</i>	Home Address <i>1133 main st Minturn CO 81645</i>		Phone Number	
1. Do you have legal possession of the premises at the street address above? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Are the premises owned or rented? <input type="checkbox"/> Owned <input checked="" type="checkbox"/> Rented* *If rented, expiration date of lease <i>2027</i>					
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
3a. Are you renewing a takeout and/or delivery permit? (Note: must hold a qualifying license type and be authorized for takeout and/or delivery license privileges) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
3b. If so, which are you renewing? <input type="checkbox"/> Delivery <input type="checkbox"/> Takeout <input type="checkbox"/> Both Takeout and Delivery					
4a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
4b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
5. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

7. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes No
8. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. Yes No

Affirmation & Consent		
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.		
Type or Print Name of Applicant/Authorized Agent of Business	Title	
Douglas McAuity	owner	
Signature	Date	
	1/25/22	
Report & Approval of City or County Licensing Authority		
The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.		
Therefore this application is approved.		
Local Licensing Authority For	Date	
Town of Arapahoe		
Signature	Title	Attest
	Mayor	

Tax Check Authorization, Waiver, and Request to Release Information

I, Douglas McAvity am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of 542 Main St LLC (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

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

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

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

Name (Individual/Business) <u>542 Main St LLC</u>		Social Security Number/Tax Identification Number <u>82-2828753</u>	
Address <u>132 Main St</u>			
City <u>Montrose</u>		State <u>CO</u>	Zip <u>81645</u>
Home Phone Number <u>970 445 8349</u>		Business/Work Phone Number <u>970 827 5353</u>	
Printed name of person signing on behalf of the Applicant/Licensee <u>Douglas McAvity</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) <u>[Signature]</u>			Date signed <u>1/25/22</u>

Privacy Act Statement

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



To: Mayor and Council

From: Madison Harris, Planner I
Scot Hunn, Planning Director

Date: January 13, 2022

Agenda Item: Ordinance No. 2, Series 2022

REQUEST:

Review of the Chapter 16 Amendment to provide for the rezoning of residential zone districts in relation to day care homes recommended to Council by the Planning Commission from their regular meeting of January 12, 2022.

INTRODUCTION:

The attached ordinance is presented for consideration by the Town Council. The ordinance addresses amendments/additions in the following sections of the Minturn Municipal Code, Chapter 16 – *Zoning*:

1. **Section 16-2-20 - Definitions**
2. **Section 16-6-80 - Old Town Character Area limited use standards**
3. **Section 16-7-70 - South Town Character Area limited use standards**
4. **Chapter 16, Article 17 - Supplemental Regulations and Standards**

ANALYSIS:

In reviewing the Ordinance, the Planning Commission considered the effects of this ordinance on existing child care businesses.

COMMUNITY INPUT:

No members of the public spoke at the public hearing. Public notice was provided in accordance with the Minturn Municipal Code as a matter of posting of the official agenda and packet materials for public review prior to the hearing, as well as the requirements in Section 16-21-610 of the Minturn Municipal Code.

BUDGET / STAFF IMPACT:

N/A.

STRATEGIC PLAN ALIGNMENT:

The Town Council’s review and approval of the ordinance aligns with the following key strategies:

PRACTICE FAIR, TRANSPARENT AND COMMUNICATIVE LOCAL GOVERNMENT

THE TOWN WILL SEEK TO MAKE INFORMED, DATA-BASED DECISIONS WITH A STANDARD OF “DOING IT RIGHT.” WITH AN HONEST APPROACH TO ALL ASPECTS OF LOCAL GOVERNMENT AND A FOCUS ON THE PUBLIC PROCESS, THE TOWN COUNCIL AND STAFF ARE COMMITTED TO SERVING MINTURN WITH THE HONESTY AND INTEGRITY EXPECTED OF A SMALL-TOWN GOVERNMENT.

ADVANCE DECISIONS/PROJECTS/INITIATIVES THAT EXPAND FUTURE OPPORTUNITY AND VIABILITY FOR MINTURN

The ability for Minturn to approach development as **resilient, sustainable, creative and diverse** will allow the town to continue embracing what has **“made Minturn, Minturn.”** The town can further leverage its crossroads location as a valley-wide benefit and **competitive advantage**.

RECOMMENDED ACTION OR PROPOSED MOTION:

Approve the following ordinance:

“Ordinance No. 2, Series 2022, An ordinance of the Town of Minturn, Colorado amending Chapter 16 of the Minturn Municipal Code to provide for the rezoning of the Old Town Residential Zone District, the South Town Residential Zone District, the Martin Creek Residential Estate Zone District, the Cross Creek Residential Zone District and the Willow Creek, Rock Creek, and Holy Cross Residential Zone Districts for the purpose of aligning with state statute concerning day care homes.”

ATTACHMENTS:

- Staff memo to Planning Commission dated January 8, 2022
- Ordinance No. 2, Series 2022

Minturn Planning Department
Minturn Town Center
302 Pine Street
Minturn, Colorado 81645



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Elliot Hovey
Chris Manning
Tom Priest
Jena Skinner

To: Town of Minturn Planning Commission
From: Scot Hunn, Planning Director
Date: January 8, 2022
Re: Chapter 16 - “Family Child Care Home” Text and Zoning Amendment Ordinance

At the direction of the Minturn Town Council and the Town Attorney, staff is presenting a draft ordinance to amend certain sections of Chapter 16 - *Zoning*, of the Minturn Municipal Code to align with recently passed State of Colorado legislation.

In June, 2021, the State of Colorado Legislature passed HB-21-1222, an act to align “local governing authority regulations to expand opportunities to access child care in family child care homes.” Accordingly, this bill requires local jurisdictions to ensure that their land use regulations and zoning codes are aligned with the new state law.

Two primary areas of revision proposed within this ordinance will: 1) add a new section under Chapter 16, Article 17 - *Supplemental Regulations*, specifying that “Family Child Care Home” uses shall be treated as uses ‘by right’ within all residential zone districts; and, 2) revise existing definitions contained within Chapter 16, Article 2 - *Definitions*, in accordance with the State’s definitions.

HB-21-1222 and Allowing for Family Day Care Home Uses in Residential Zone Districts

In accordance with HB-21-1222, local governments are now required to make specific provisions within their land use regulations and zoning codes for “Family Child Care Homes” to expand access to such uses. Specifically, local governments are compelled to remove or reduce barriers to access to family child care homes; such uses are to be treated the same as residential uses. Per guidance provided by Ms. Joely Denkinger of the Town Attorney’s office:

“During the 2021 session, the legislature passed HB-21-1222 (available [here](#)), which requires local governing authorities to “treat family child care homes as residential property use in the application of local regulations,” including zoning, land use, development, fire & safety, sanitation, and building code regulations.

- *The law provides that “local governing authorities shall not impose any additional regulations governing family child care homes that do not also apply to other residential properties.”*

- *The law does preserve some local authority and allows local governments to, “on a case-by-case basis,” prohibit or manage the traffic and parking related to two large family child care homes immediately adjacent to one another.*

“For reference, Colorado law defines a “family child care home” as “a facility for child care in a place of residence of a family or person for the purpose of providing less than twenty-four-hour care for children under the age of eighteen years who are not related to the head of such home.” (C.R.S. 26-6-102) (Note that this is different from a “child care center” which is usually a commercial or non-profit day care center that is run out of a separate facility, and not out of someone’s residence.)”

For this reason, this ordinance will amend Chapter 16 - *Zoning*, to ensure that “Family Child Care Homes” are permitted as uses ‘by right’ within each of the Town’s residential zone districts while not fundamentally changing the Town’s ability to regulate or treat “Day Care Centers” as commercial ventures.

Definitions

At the advice of the Town Attorney, this ordinance proposes to amend and/or add certain definitions within Chapter 16, Article 2 - *Definitions*, to align with new State law and the State’s definitions. Here is what changes:

- Replaced the definition of “Day Care Home” with a new definition for “Family Child Care Home”
- Updated the definition for “Day Care Center” to align with the most recent State definitions and requirements (reducing the threshold number of unrelated children in such commercial facilities from seven to five).

Supplemental Regulations

Article 17 - *Supplemental Regulations*, currently provides specific regulations and standards for certain uses and improvements within the Town of Minturn. In order to best meet the intent of the new State law, staff has been advised to add a new section of Article 17 specific to “Family Child Care Home” uses specifying that such uses shall be treated the same as residential uses. Therefore, this ordinance proposes to create Section 16-17-220 - *Family Child Care Homes* rather than adding the same as a line item to each of the various Use Tables that exist for each residential zone district in the current Chapter 16.

Day Care Center as Limited Review Use

Currently, Chapter 16 permits “Day Care Centers” by Limited Review Use in the Old Town and South Town Character Areas. In accordance with current State definitions of “Day Care Center” staff is proposing to amend specific Limited Review Use standards in both zone districts to reflect a change in the threshold number of children under care at such facility (the minimum number of children needed to classify the use as a “center”) from seven (7) to five (5). Such centers will still be regulated via the Limited Review Use process as a commercial venture.

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 2 – SERIES 2022**

**AN ORDINANCE OF THE TOWN OF MINTURN,
COLORADO AMENDING CHAPTER 16 OF THE MINTURN
MUNICIPAL CODE TO PROVIDE FOR THE REZONING
OF THE OLD TOWN RESIDENTIAL ZONE DISTRICT,
THE SOUTH TOWN RESIDENTIAL ZONE DISTRICT, THE
MARTIN CREEK RESIDENTIAL ESTATE ZONE
DISTRICT, THE CROSS CREEK RESIDENTIAL ZONE
DISTRICT, GAME CREEK RESIDENTIAL ZONE
DISTRICT, AND THE WILLOW CREEK, ROCK CREEK,
AND HOLY CROSS RESIDENTIAL ZONE DISTRICTS FOR
THE PURPOSE OF ALIGNING WITH STATE STATUTE
CONCERNING DAY CARE HOMES.**

WHEREAS, the Town of Minturn (“Town”) is a Colorado home rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Town of Minturn Home Rule Charter for which the Minturn Town Council (“Town Council”) is authorized to act; and

WHEREAS, the State of Colorado passed into law HB-21-1222 to expand opportunities to access child care in family child care homes, which requires local governing authorities to “treat family child care homes as residential property use in the application of local regulations,” including zoning, land use, development, fire & safety, sanitation, and building code regulations; and

WHEREAS, the law provides that “local governing authorities shall not impose any additional regulations governing family child care homes that do not also apply to other residential properties;” and

WHEREAS, the law does preserve some local authority and allows local governments to, “on a case-by-case basis,” prohibit or manage the traffic and parking related to, two large family child care homes immediately adjacent to one another; and

WHEREAS, Town Council has directed staff to draft text amendments to Minturn Municipal Code Chapter 16, the Town Land Use Regulations, in accordance with HB-21-1222, as provided herein; and

WHEREAS, on January 12, 2022 the Minturn Planning Commission recommended approval of this ordinance; and

WHEREAS, the Minturn Planning Commission and Town Council have determined that the text amendments to the Land Use Regulations Chapter 16 as provided herein are necessary and proper.

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

SECTION 1. The foregoing recitals are incorporated herein as if set forth in full.

SECTION 2. Chapter 16 of the Minturn Municipal Code is hereby amended read as follows, with additions shown in double underlined text and ~~strike through language~~ is deleted. Sections of Chapter 16 which are not expressly described in this Ordinance are deemed to continue to be in full effect without change.

ARTICLE 2 - Definitions, Illustrations and Lot Standards

* * *

Sec. 16-2-20. - Definitions.

~~*Day care home* means a licensed residence or facility which provides regular care and supervision, for an entire day or a portion of a day, for more than two (2) but not more than six (6) children who are not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care.~~

Day care center means a licensed facility which provides regular care and supervision, for an entire day or a portion of a day, for ~~seven~~ five (75) or more children who are not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care.

Family child care home means a facility for child care in a place of residence of a family or person for the purpose of providing less than twenty-four-hour care for up to twelve (12) children who are not related to the person or persons providing the care, as defined and regulated by the Colorado Department of Human Services Child Care Facility Licensing regulations, whether such facility is operated with or without compensation for such care.

* * *

ARTICLE 6 - Old Town Character Area

* * *

Sec. 16-6-80. - Old Town Character Area limited use standards.

* * *

(h) Day care center.

* * *

(2) Size: ~~Seven~~ Five (75) or more children shall be permitted; however, the applicant shall demonstrate that the size of the facility is suitable for the number of children permitted.

* * *

ARTICLE 7 - South Town Character Area

* * *

Sec. 16-7-70. - South Town Character Area limited use standards.

* * *

(g) Day care center

* * *

(2) Size: ~~Seven~~ Five (75) or more children shall be permitted; however, the applicant shall demonstrate that the size of the facility is suitable for the number of children permitted.

* * *

ARTICLE 17 - Supplemental Regulations and Standards

* * *

Sec. 16-17-220. - Family child care homes.

Family child care homes will be treated as residential properties in all residential zone districts within the Town of Minturn.

* * *

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THE 19th DAY OF JANUARY 2022. A PUBLIC HEARING ON THIS ORDINANCE SHALL BE HELD AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO ON THE 2nd DAY OF FEBRUARY, 2022 AT 5:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

Earle Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE ENACTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THIS 2ND DAY OF FEBRUARY, 2022.

TOWN OF MINTURN, COLORADO

Earle Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk



To: Mayor and Council
From: Michelle Metteer
Date: February 2, 2022
Agenda Item: Proposed Intergovernmental Agreement (“Agreement”) between the Town of Minturn (“Town”), Eagle River Water & Sanitation District (“ERWSD” or “District”) and the Upper Eagle Regional Water Authority (“UERWA” or “Authority”)

REQUEST:

Minturn staff, consultants and attorneys request the Town Council consider an Ordinance for an Intergovernmental Agreement (Agreement) between the Town of Minturn, the District, and the Authority. **IGA Exhibits have been included for second reading's approval.**

INTRODUCTION:

A proposed agreement between Minturn and the Eagle River Water District would provide for Minturn to receive significant valuable water rights, which rights would provide important water security to Minturn. Minturn will also receive a Recreational Covenant for Use of the Lake, when completed. In exchange, the District would get the use of Minturn's Bolt's Lake Easement and the cooperation of the Town.

If Minturn does not enter into this agreement, The District will, in all likelihood, obtain the easement by condemnation and Minturn would then be entitled to only the value of the easement as determined in Court. Minturn is currently in the process of obtaining an appraisal of the value of its Bolt's Lake Easement, and that appraisal will be available before the proposed agreement goes before Council for final consideration.

Battle North (formerly Battle Mountain or Ginn) signed a contract last year to sell land for Bolts Lake reservoir to the District and Authority via the [“Agreement Pertaining to Acquisition for Bolts Lake Reservoir Project.”](#) This Agreement includes a one-year due diligence period prior to execution. The due diligence period will be complete as of February 9, 2022.

Long-time residents may recall the multiple agreements with Battle North’s predecessor, which voters approved in 2008 as part of the annexation procedures for the Battle North property to be incorporated into the Town of Minturn. Among other promises, the 2008 Agreements included Minturn acquiring an [easement for the Bolts Lake area](#), and Battle North developing the reservoir for use by a future Battle North project and the Town of Minturn, primarily for augmentation purposes.

The Town has provided legal notice of its intention to sue Battle North for breach of the various agreements pertaining to the Battle North property and [development approvals](#). Prior to filing the lawsuit, the Town and Battle North have agreed to mediation which will begin in March of 2022. The Town of Minturn, in all likelihood, does not have the ability to stop the sale of the Bolts Lake parcel because the District and Authority are prepared to file a condemnation act if necessary. The Town is still entitled to sue Battle North for damages.

If Minturn's easement is condemned, Minturn will receive the value of the easement as determined by the court. Minturn is in the process of obtaining an appraisal of the easement which should be received by early February.

ANALYSIS:

The District and Authority want to proceed with construction of Bolts Lake reservoir as quickly as possible, and to do so, have sought Minturn's cooperation. To this end, the District and Authority are willing to commit, among other things, certain augmentation use rights to Minturn. Staff and Council have been involved in intense negotiations with the District and Authority to obtain the best agreement possible. In exchange for the easement, Minturn will obtain the following benefits.

If the public is not supportive of the proposed Agreement the deal does not have to be finalized.

BENEFITS:

- **The District and Authority are offering Minturn a permanent supply of augmentation water not offered to other entities outside of their service area.**
- **Waiver of purchase price for 20-acre feet of permanent augmentation water (this is an \$860,000 cash value).**
 - The 20-acre feet is a perpetual augmentation supply as opposed to Minturn's current 40-year contract with the Colorado River Water Conservation District.
 - The reduction in annual operation, maintenance, and repair costs between the District/Authority supply and Minturn's current augmentation water contract over a 99-year time period equates to approximately \$280,000.
- **Eagle River Surface diversion water right for 4.0 cfs – Case 21CW3030**
 - With the approval of a Water Court Case 21CW3030 submitted by the District and Authority, Minturn will receive a surface diversion water right in the area of the confluence of Cross Creek and the Eagle River. This would allow Minturn to develop a fully redundant back up raw-water supply that could serve the entire Town and infill growth.
 - With the approval of Water Court Case 21CW3030 submitted by the District and Authority, Minturn would receive a water right at Dowd Junction (well field or surface diversion to still be determined).
 - The District and Authority are paying for all fees associated with the Water Court application process (including attorney fees) at an estimated value of \$100,000 to \$250,000.
- **Option to Purchase Augmentation Water Supply**
 - 55-acre feet will be held in reserve by the District and Authority for up to 30-years from the date of the IGA for Minturn's right to purchase. The option to purchase will be phased as follows:
 - 30-acre feet will be made available when the District and Authorities decrees are entered by the Water Court.
 - 25-acre feet will be available once Bolts Reservoir is operational
 - This allows Minturn to reduce its current augmentation water contracts and direct the savings to other water system improvements.

- **Environmental Remediation of the Old Tailings Pile (part of the Eagle Mine Superfund Site)**
 - The District and Authority have agreed to pay for the remediation of the Old Tailings Pile.
- **Recreational Use at Bolts Reservoir**
 - The District and Authority would issue Minturn a recreational use covenant to allow public summer-time (approximately May – November) non-motorized use of the reservoir. This would include such activities as stand up paddleboarding, swimming, canoeing, and fishing.
- **Cooperation with the District & Authority**
 - The IGA would provide for cooperation between the Town and the District and Authority on a number of topics including: administration of water rights on Cross Creek, environmental remediation in the Bolts Lake area, provision of water to Dowd Junction, and a commitment that the District and Authority will not claim that Minturn has abandoned any portion of its water rights.

WHAT MINTURN IS GIVING TO THE DISTRICT

- **The right to enforce Bolts Lake Easement**
 - Minturn will still have the right to sue Battle Mountain in the 2008 Water Services Agreement
- **Minturn would commit to not develop its conditional water right as it pertains to Bolts Reservoir in a way that would interfere with the operation of Bolts Reservoir.**
- **Release of the 2008 Water Service Agreement from the Bolts Lake Property**
- **Minturn would cooperate with the District and Authority with respect to the construction of Bolts Reservoir.**

TIMING

Minturn has until February 9, 2022 to either accept or reject the Agreement with the District and Authority. We anticipate Minturn will have the appraisal prior to any final decision being made by the Town Council.

COMMUNITY INPUT: Required

BUDGET / STAFF IMPACT: TBD

STRATEGIC PLAN ALIGNMENT:

Practice fair, transparent and communicative local government

Advance decisions/projects/initiatives that expand future opportunity and viability for Minturn

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to approve Ordinance 03 – Series 2022 and Ordinance approving an Intergovernmental

Agreement among the Town of Minturn, The Eagle River Water & Sanitation District and the Upper Eagle Regional Water Authority.

ATTACHMENTS:

- Ordinance 03 – Series 2022
- Intergovernmental Agreement among the Town of Minturn, The Eagle River Water & Sanitation District and the Upper Eagle Regional Water Authority.

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 03 – SERIES 2022**

**AN ORDINANCE OF THE TOWN OF MINTURN,
COLORADO APPROVING AN INTERGOVERNMENTAL
AGREEMENT BETWEEN THE TOWN OF MINTURN AND
THE EAGLE RIVER WATER AND SANITATION
DISTRICT AND THE UPPER EAGLE RIVER WATER
AUTHORITY**

WHEREAS, the Town of Minturn (“Town”) is a Colorado home rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Town of Minturn Home Rule Charter for which the Minturn Town Council (“Town Council”) is authorized to act; and

WHEREAS, C.R.S. § 29-20-105 authorizes and encourages local governments to cooperate and contract with other units of government for such purposes as joint planning, land use regulation, zoning, development, and other related regulations; and

WHEREAS, the Eagle River Water and Sanitation District (“District”) and Upper Eagle River Water Authority (“Authority”) have contracted to purchase various property interests from Battle North in order to construct Bolts Lake reservoir; and

WHEREAS, the Town owns various real property and water rights interests associated with Bolts Lake; and

WHEREAS, various entities associated with the Battle Mountain development, including Battle North, are obligated under agreements with the Town to construct Bolts Lake and provide the Town with 160 acre-feet of storage in the reservoir; and

WHEREAS, the entities associated with Battle Mountain have defaulted on their Bolts Lake obligations; and

WHEREAS, the Town desires to have Bolts Lake constructed by the District and Authority and cooperate in the development of Bolts Lake with respect to the real property and water rights interests the Town possesses; and

WHEREAS, the Town will receive various benefits identified in the Intergovernmental Agreement; and

WHEREAS, by entering into the Intergovernmental Agreement the Town will partially mitigate the damages flowing from the breaches of agreements by the entities associated with the Battle Mountain development related to the failure to construct the Bolts Lake reservoir; and

WHEREAS, the Town Council finds and determines that adoption of this Ordinance is necessary for the best interests of the Town and the preservation of the public peace, health, safety and property.

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

SECTION 1. The foregoing recitals are incorporated herein as if set forth in full.

SECTION 2. The Town of Minturn Town Council hereby approves and authorizes the Mayor to sign the Intergovernmental Agreement between the Town of Minturn and the District and Authority regarding Bolts Lake.

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THE 25th DAY OF JANUARY, 2022. A PUBLIC HEARING ON THIS ORDINANCE SHALL BE HELD AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO ON THE 2ND DAY OF FEBRUARY, 2022 AT 5:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO



Earle Bidez, Mayor

ATTEST:

By: 
Jay Brunvand, Town Clerk



THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE ENACTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS 2ND DAY OF FEBRUARY, 2022.

TOWN OF MINTURN, COLORADO


Earle Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

**INTERGOVERNMENTAL AGREEMENT AMONG THE TOWN OF MINTURN, THE
EAGLE RIVER WATER & SANITATION DISTRICT AND THE UPPER EAGLE
REGIONAL WATER AUTHORITY**

This Agreement dated February 2, 2022 (“Effective Date”), is among the Town of Minturn (“Minturn”), Eagle River Water & Sanitation District (“District”) and the Upper Eagle Regional Water Authority (“Authority”) (the “Agreement”).

A. Whereas, the District and Authority have an integrated water system that provides municipal water service from the Town of Vail to Wolcott.

B. Whereas, the District provides sanitation service from Vail to Wolcott, including Minturn.

C. Whereas, Minturn’s jurisdictional boundaries are included within the District for sanitation purposes, but not for water purposes, and Minturn operates its own independent water system within its municipal boundaries.

D. Whereas, Minturn has requested that the District provide Minturn with augmentation water to serve needs within Minturn’s jurisdictional boundaries.

E. Whereas, the District has an available augmentation water supply which has a current cash-in-lieu price of \$43,000 per acre-foot.

F. Whereas, the District and Authority have contracted with Battle North, LLC (“Battle North”) to purchase land within Minturn’s municipal boundaries for construction of Bolts Lake storage reservoir, conditional water rights, easements and additional commitments (the “Battle North Agreement”).

G. Whereas, the Battle North Agreement provides for conveyance of Battle North’s conditional water rights in Bolts Lake and Bolts Ditch as well as the real property underlying the Bolts Lake location to the District and Authority;

H. Whereas, the Battle North Agreement commits the District and Authority to provide a series of augmentation credit options for Battle North to develop its property (the “Battle North Augmentation Options”) and be served with domestic water supplies by Minturn, should Minturn be willing to provide physical water service, or alternatively for the District and Authority to provide physical water service if Minturn declines water service.

I. Whereas, the District and Authority desire to own, construct and operate Bolts Lake to meet existing and future water service obligations for the region.

J. Whereas, the District and Authority have filed an application for water rights, augmentation and exchange for Bolts Lake in Case No. 21CW3029 in the Water Court in and for Water Division No. 5 (the “Water Court”).

K. Whereas, the District and Authority have filed an application for water rights, augmentation and exchange for various augmentation options in Case No. 21CW3030 in the Water Court.

L. Whereas, Minturn has filed Statements of Opposition to the applications in Case Nos. 21CW3029 and 21CW3030.

M. Whereas, Minturn also owns conditional water storage rights in Bolts Lake which list Bolts Ditch as a source of fill.

N. Whereas, Minturn and multiple entities called the “Ginn Entities”, a prior owner and developer of the Bolts Lake property, entered into a Water Service Agreement on February 27, 2008 (the “WSA”), which provided for conveyance to Minturn of conditional water rights, included an easement for constructed storage capacity in Bolts Lake (the “Easement”), and required the Ginn Entities to provide replacement storage and capacity to the Town if Bolts Lake was not constructed within a five-year period.

O. Whereas, Minturn recorded the WSA on March 27, 2008 in the real property records of the Eagle County Clerk and Recorder at Reception No. 200806743.

P. Whereas, almost fourteen (14) years have passed since the WSA was executed and recorded and the District and Authority estimate that it will take a minimum of ten (10) years to construct Bolts Lake following acquisition of the Bolts Lake reservoir property.

Q. Whereas, the District and Authority have offered to Minturn use of augmentation water supplies as defined herein.

R. Whereas, Minturn recorded the Easement on October 7, 2021 in the real property records of Eagle County Clerk & Recorder at Reception No. 202122820.

S. Whereas there is disagreement between Minturn and the current owner and developer of the Bolts Lake property, Battle North, regarding the obligations set forth in the WSA.

T. Whereas, the District and Authority intend to close on the purchase outlined in the Battle North Agreement by February 9, 2022.

U. Whereas, the District and Authority desire to obtain clear title to the Bolts Lake property without a formal condemnation proceeding, and in connection therewith have requested that Minturn release the Easement and WSA from the Bolts Lake property.

V. Whereas, the District and Authority desire to obtain the right to divert water from Bolts Ditch to fill Bolts Lake and in connection therewith have requested that Minturn take certain actions to support the District's and Authority's efforts to obtain necessary approvals to operate Bolts Ditch.

W. Whereas, the parties desire to enter into an intergovernmental agreement in satisfaction of the formal permitting process under Article 25 of the Minturn Municipal Code.

X. Whereas, the District and Authority desire to secure Minturn's cooperation on the operation and filling of Bolts Lake.

Y. Whereas, Minturn is entering into this Agreement, in part, to mitigate damages it believes arise from Ginn's and/or Battle North's failure to construct Bolts Lake pursuant to the WSA.

Z. Whereas, Minturn is a permitting authority for the construction and operation of Bolts Lake.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Water Service Agreement and Easement. Minturn agrees that for purposes of the WSA and Easement, neither the District nor the Authority shall be treated as a "successor" or "assign" of the Ginn Entities or Battle North; nor shall the WSA or the Easement be deemed to have been assigned to the District or Authority; and Minturn will not look to the District and/or Authority for enforcement of outstanding obligations, if any, under the WSA or Easement. No later than March 16, 2022, Minturn will record a Release of the Easement and WSA in the form attached hereto as **Exhibit A** (the "Release"). The District and Authority agree not to interfere with any enforcement of the WSA or Easement or any claims that Minturn may have against Battle North under the WSA or Easement, however, if the District and/or Authority (or a successor entity of either) construct Bolts Lake, Minturn shall not claim rights to any storage capacity, including enforcement of the Easement or WSA, in Bolts Lake.

2. Provision of Supplemental Augmentation Water to Minturn. (a) As consideration to Minturn for effecting clear title through the release of the Easement and WSA as set forth in Section 1 herein, the District and Authority shall provide without charge of cash-in-lieu fees to Minturn a source of augmentation water in the amount of 20 acre feet to shore up augmentation supplies for Minturn's water rights ("Supplemental Augmentation Supply"). The present cash-in-lieu price of the Supplemental Augmentation Supply is \$860,000. The Supplemental Augmentation Supply shall be a use right, and not a title conveyance, and shall consist of a mix of storage water and historic consumptive use credits chosen annually by the District/Authority in their sole discretion.

(b) The Supplemental Augmentation Supply shall be legally available to augment depletions associated with Minturn's points of diversion on Cross Creek and the Eagle River (at or above Dowd Junction).

(c) The Supplemental Augmentation Supply shall be provided to Minturn upon entry of a full and final judgement and decree in Case No. 21CW3030.

(d) Until such time as a full and final judgement and decree is entered in Case No. 21CW3030, upon Minturn's request the District shall provide to Minturn the Supplemental Augmentation Supply (up to 20 acre feet) from its Eagle Park Reservoir Project supply, for augmentation of out-of-priority depletions under Minturn's plan for augmentation decreed in Case No. 07CW225.

3. Provision of Augmentation Options. The District/Authority shall reserve and grant to Minturn an option to obtain the right to the perpetual deliveries and use of water to augment the municipal diversions in Minturn up to a maximum of 55 acre feet of augmentation water (the “Minturn Option”). The water provided pursuant to the Minturn Option shall be a use right, and not a title conveyance, and shall consist of a mix of storage water and historic consumptive use credits chosen annually by the District/Authority in their sole discretion (the “Option Water”). The Option Water shall be legally available to augment depletions associated with Minturn’s points of diversion on Cross Creek and the Eagle River (at or above Dowd Junction). The Minturn Option may be exercised in an amount of up to 30 acre feet upon entry of a full and final judgement and decree in Case No. 21CW3030, and the option period shall extend for 30 years from the Effective Date of this Agreement. The remaining 25 acre feet of the Option Water may only be exercised after such time as Bolts Lake Reservoir is constructed and operational, and shall extend for (i) 30 years from the Effective Date of this Agreement, or (ii) 15 years from the date upon which Bolts Lake Reservoir is constructed and operational, whichever occurs later. Such option period may be extended upon mutual agreement of the parties. The District and Authority shall provide notice to Minturn at such time as Bolts Lake Reservoir is constructed and operational in accordance with paragraph 26 below. The Minturn Option shall not be subject to the “first come, first serve” policy of the District/Authority. The price for the Option Water shall be the cash in lieu fee of the District/Authority then in effect (for in-district rates) at the time Minturn exercises any portion of the Minturn Option. It is anticipated that the Option Water shall be paid for by developers of future residential and commercial properties within Minturn’s service area, however, Minturn may also pay applicable cash in lieu fees in order exercise the Minturn Option directly for usage within its municipal water system. If Minturn wishes to request additional augmentation supplies from the District and Authority after the Minturn Option has been fully exercised or has expired, the District and Authority will evaluate Minturn’s request for additional water at that time.

4. Annual OM&R. (a) The District shall also assess Minturn an annual operations, maintenance and capital replacement fee (“OM&R”) associated with the Supplemental Augmentation Supply and the volume of Option Water exercised pursuant to the Minturn Option based on a pro-rata share of costs based on the percentage of single family equivalents in Minturn compared to the percentage of single family equivalents in the District’s service area. Operations, maintenance and capital replacement fees unrelated to the Supplemental Augmentation Supply and the Option Water shall not be included in the OM&R fee assessed to Minturn. A description of the OM&R fee and the component costs as would be assessed in 2022 is attached as **Exhibit B**. This Exhibit is attached to give an example of the types of operations, maintenance, and capital replacement items that are associated with the Supplemental Augmentation Supply and will be associated with the Option Water upon any exercise of the Minturn Option; but recognizing that the exact OM&R components and costs may change over time as the District develops and changes the elements of its augmentation water supplies. The District will provide Minturn with a breakdown of the OM&R fee associated with the Supplemental Augmentation Supply and the Minturn Option on an annual basis.

(b) Minturn shall commence payment of OM&R fees on the Supplemental Augmentation Supply upon entry of a full and final decree in Case No. 21CW3030. If Minturn requests the District to provide the Supplemental Augmentation Supply for augmentation under Case No. 07CW225 (as described above in paragraph 2(d)) prior to entry of a full and final judgement and decree in Case No. 21CW3030, then Minturn shall commence payment of OM&R fees on that portion of the Supplemental Augmentation Supply made available at such time.

(c) Minturn shall commence payment of OM&R fees on the Option Water on such amounts and at such time as the cash in lieu fee is paid to the District and Authority. For the first year that OM&R fees are paid by Minturn, OM&R fees shall be pro-rated based upon the day of the year on which the final decrees are entered or the cash in lieu fee is paid divided by the total number of days in the year.

5. Subsequent Water Augmentation Agreements. The parties will enter into subsequent water augmentation agreements that set forth detailed terms for the provision of Supplemental Augmentation Supply and the Option Water purchased pursuant to the Minturn Option, in the form attached hereto as **Exhibit C**. In recognition that Minturn released its rights in its permanent Easement, the Supplemental Augmentation Supply and Option Water purchased pursuant to the Minturn Option shall be made available by the District and Authority on a permanent basis. However, the subsequent water augmentation agreements shall have set terms (99 years) with an automatic renewal provision, to avoid concerns with the rule against perpetuities. The subsequent water augmentation agreements will be recorded in the public records of Eagle County. The parties will also prepare and record an annual joint statement

identifying Option Water secured by Minturn in the public records of Eagle County on an annual basis.

6. Obligation to purchase Option Water. During the option period described in Paragraph 3, Minturn shall require that all Town water users shall secure a perpetual use right to Option Water to fulfill any cash in lieu payment obligations provided for under the Minturn Town Code. Any water use made by the Town of Minturn or the Eagle County School District (up to 120 SFEs and irrigation of lands owned by the Eagle County School District with water rights owned by the School District) shall be exempt from this obligation. If Minturn collects cash-in-lieu payments prior to entry of a full and final judgement and decree in Case No. 21CW3030, Minturn will hold such payments in escrow and then transfer such funds to the District and Authority within 30 days of entry of such decree in satisfaction of the obligation to purchase Option Water. Minturn shall assess cash-in-lieu fees no less than the cash-in-lieu fees that are charged by the District and Authority at the time the payment is collected. Within six months of entry of full and final judgements and decrees in Case No. 21CW3030, the Town shall amend its Code to implement the requirement that new water uses shall require the purchase Option Water.

7. Process of Case Nos. 21CW3029 and 21CW3030. Obtaining water rights for Bolts Lake in Case No. 21CW3029 and augmentation supplies for Minturn and Battle North in Case No. 21CW3030 are crucial priorities for the District and Authority in order to provide essential water supplies for all of its customers within its service area as well as be in compliance with the terms of this Agreement and the Battle North Agreement. Accordingly, the District and Authority will pursue the cases through completion of final judgments and decrees as quickly as possible, and, if necessary, through trials and appeals. The District and Authority shall file amended applications within 30 days of the recording of the Release to effectuate the commitments set forth in this Agreement.

8. Minturn's Conditional Water Right in Bolts Lake. (a) Minturn owns a conditional water right for Bolts Lake and associated rights to divert water into Bolts Lake through the Bolts Ditch. If Minturn desires to exercise its conditional water storage right in Bolts Lake, Minturn may do so only pursuant to a decree entered by the Water Court that changes the place of storage of the water right to a location outside of the land underlying Bolts Lake that the District and Authority have contracted to acquire from Battle North and shall not fill from the Bolts Ditch. Any such change of water right application shall be filed by Minturn no later than one month prior to Minturn's first deadline to file an application seeking a finding of diligence on its Bolts Lake water right after Bolts Lake is constructed and operational.

(b) Minturn shall not file an action against the District or Authority to condemn the real

property underlying Bolts Lake. Nor shall Minturn file an action against the District or Authority to condemn water storage capacity in the Bolts Lake Reservoir.

9. Land Use Approvals.

(a) The District and the Authority intend to develop, construct, and operate Bolts Lake and the associated diversion, pipelines, ditches, and outlet facilities for all decreed beneficial uses to meet the water requirements of their existing and future service areas. The Town has, set forth in Article 25 of the Minturn Municipal Code (the “**1041 Regulations**”), certain requirements and criteria related to the construction of major facilities of public utilities, such as the Bolts Lake Reservoir. The formal permitting process under the 1041 Regulations can be fulfilled by entering into an intergovernmental agreement with an implementing governmental entity addressing the various requirements of the 1041 Regulations. This Agreement constitutes, in part, an intergovernmental agreement entered into to partially fulfill the 1041 Regulations requirements. The Parties hereby agree as follows that for purposes of the Town’s 1041 Regulations:

- i. The Town will not require security for the construction of Bolts Lake.
- ii. Any changes to Article 25 of the Code adopted after February 2, 2022 will not apply to construction of Bolts Lake without the District’s and Authority’s consent.
- iii. In lieu of public hearings contemplated under Section 16-25-110 of the Town Code, the Town will conduct public hearings as part of the adoption of this Agreement and any subsequent intergovernmental agreements related to Bolts Lake.
- iv. The District and Authority, through prior presentations to the Town and the additional provisions of water contemplated by this Agreement, have met the “demonstration of need” requirement of Section 16-25-270 of the Code.
- v. The District and Authority anticipate purchasing title insurance upon taking title to the Bolts Lake property, which title commitment does not show any mineral owners required to be notified pursuant to Section 16-25-270(11) of the Town Code and Section 24-65.5-101, *et seq.*, of the Colorado Revised Statutes. The District and Authority will present a copy of the title commitment to the Town, which will satisfy the mineral owners’ notice requirement.
- vi. The Parties agree that once completed, the impacts of the Reservoir on utilities, water supply, emergency services, transportation, infrastructure, etc. will be de minimus.

- vii. The recreational use covenant set forth in Section 10 of this Agreement satisfies the requirement to describe impacts and net effect of the project on recreational opportunities as set forth in Section 16-25-270(15) of the Code.
 - viii. The requirement to provide a description of social impacts as set forth in Section 16-25-270(16) of the Code is inapplicable to further land use actions involving Bolts Lake.
 - ix. The District's provision of water to the Town pursuant to this Agreement satisfies the water quantity provisions of Section 16.25-270(23) of the Code.
- (b) The staging and placement of excavated material on the Old Tailings Pile area are components of the CERCLA remedy for Operable Unit 3 of the Eagle Mine Superfund Site, as set forth in the United States Environmental Protection Agency's 2017 Record of Decision. Accordingly, so long as the activities are conducted entirely on-site and in compliance with section 121 of CERCLA, 42 U.S.C. § 9621, the Town will not apply the 1041 permitting process or requirements to those specific activities.
- (c) The Town's land use code applies to the area where Bolts Lake will be constructed. For purposes of zoning compliance, the parties agree:
- i. Section 16-10-20(6) of the Code allows for lands within the Bolt's Lake Character Area to be used, as a matter of right, for: Operation, maintenance and use of water rights, water resources, water diversion structures, ditches, pipeline structures, ponds, water impoundments and associated facilities consistent with the decreed uses but subject to these restrictions. The parties agree that the current zoning allows for the use by right for construction of the Bolts Lake Reservoir and the associated points of diversion, ditches, and pipelines associated with Bolts Lake. The Town agrees not to modify the zoning for the Bolt's Lake Character Area in any manner that would alter the use by right nature of the Bolts Lake project.
 - ii. The Bolts Lake project is subject to Minturn Code provisions of general applicability.
- (d) No later than April 30, 2022, the Parties will enter into a separate intergovernmental agreement, pursuant to Section 16-25-40(8) of the Town of Minturn Municipal Code, outlining and satisfying how the requirements under

Article 25 of the Minturn Municipal Code (the “1041 Regulations”) will be implemented as further information is generated for the Bolts Lake project. The Parties agree to address the following within the intergovernmental agreement:

- i. As part of the construction of Bolts Lake, the District and Authority must obtain numerous state and federal permits. The Town, following review of the applications for such permits and participation as a cooperating agency where applicable and permitted by the state or relevant federal agency, agrees to consider such state and federal permits as satisfactory of relevant provisions of the 1041 Regulations.
- ii. As further construction plans and construction phasing for the Bolts Lake project are generated, the Town will review such documents and pursuant to a process to be identified in the intergovernmental agreement impose reasonable restrictions to effectuate compliance with the 1041 Regulations.
- iii. The Parties intend to minimize duplication of efforts and outside consultations related to the processing and review of the project under the 1041 Regulations so that the ultimate cost to the taxpayers and customers is minimized.

10. Bolts Ditch. (a) Minturn shall execute and deliver to the District and Authority the assignment attached hereto as **Exhibit D** which assigns to the District and the Authority all of Minturn’s interest in and to the physical headgate and ditch structure of the Bolts Ditch, together with any special use permit to the Bolts Ditch which it may obtain. Minturn shall pass a resolution in support of the District’s and Authority’s efforts to obtain the approval of the U.S. Forest Service to the assignment of any special use permit to the Bolts Ditch that it may obtain, or to have the District and Authority substituted for Minturn as the permittee of the special use permit for the Bolts Ditch.

(b) Minturn shall support the amendment of the Bolts Ditch federal legislation passed as part of S.47 entitled the John D. Dingell, Jr. Conservation, Management and Recreation Act to include the District and the Authority as permittees of the U.S. Forest Service special use permit for the Bolts Ditch. Minturn’s support shall be limited to passing a resolution in support of such amendment and tendering the same to the Colorado congressional delegation.

(c) Minturn shall support any application filed by the District and Authority to obtain a special use permit from the U.S. Forest Service for a structure that diverts water from Cross Creek and the associated diversion facilities that transport the Cross Creek water to Bolts Lake. Minturn’s support shall be limited to passing a resolution in support of the application and tendering the same to the United States Forest Service.

11. Recreational Use. Certain terms and conditions contained in Article X of the Battle North Agreement provide for allowed public recreational uses of the Bolts Lake reservoir including: (i) non-motorized boating, (ii) fishing from shores, boats, or float tubes (i.e. belly boats), (iii) paddle boarding, (iv) picnicking, (v) hiking around lake, and (vi) other future uses approved by the District and Authority. The District and Authority confirm that Article X of the Battle North Agreement is strictly a type of use limitation and that the granting of authority to use or operate the Bolts Lake reservoir remains at the discretion of the District and Authority, as further acknowledged in Section 10.1(k) of the Battle North Agreement. The District and Authority hereby authorize Minturn the right to provide recreational services and facilities to the general public as follows:

(a) Any recreational use of Bolts Lake shall be secondary and subordinate to the primary use of Bolts Lake by the District and the Authority for the existing and future decreed uses.

(b) Any recreational use shall be limited to: (i) non-motorized boating, (ii) fishing from shores, boats, or float tubes (i.e. belly boats), (iii) paddle boarding, (iv) picnicking, (v) hiking around lake, and (vi) other future uses approved by the District and Authority. Minturn shall be allowed to stock Bolts Lake with fish subject to the provisions of paragraph 11 of this Covenant. Except for the above permitted uses, no other recreational uses shall be allowed on Bolts Lake. Moreover, no recreation use of Bolts Lake by a commercial operator shall be permitted.

(c) There shall be no right to maintenance of water levels in Bolts Lake for the purpose of supporting the permitted recreational use. No surface recreational use shall be allowed during the months of December through April, or when it would jeopardize the health, safety and welfare of users.

(d) One dock may be installed at Bolts Lake at no cost to the District and Authority to facilitate the above-described recreational uses. The design of the dock shall be subject to review and approval by the District and Authority; provided that such approval may be withheld at their sole discretion.

(e) Should new water quality regulations be adopted in Colorado that would subject Bolts Lake to increased water quality testing as a result of body contact with the water stored in Bolts Lake, the body contact recreational use shall be discontinued to ensure that the recreational use of Bolts Lake does not result in the District and Authority being subjected to increased testing and treatment costs; provided, however, if Minturn pays for all costs and agrees to

assume all liabilities associated with testing and treatment costs, recreational uses involving body contact will be allowed to continue.

(f) To the extent permitted by law, Minturn shall indemnify the District and Authority against any claims, demands and liabilities arising out of, resulting from or related to the recreational use of Bolts Lake. The District and Authority will notify Minturn of any such claim or demand, when and if made, and Minturn shall defend against or participate in the defense against such claims and the District and Authority shall cooperate fully in the defense of such claims.

(g) Minturn must obtain and maintain appropriate insurance coverage related to the recreational use of Bolts Lake and name the District and Authority as additional insureds. If necessary, to obtain such insurance, the District and Authority shall grant at no charge a recreational use lease to Minturn for Bolts Lake in a form mutually agreeable to the District, Authority and Minturn.

(h) The District and Authority may prohibit any and all recreation use of Bolts Lake if they determine in their sole discretion, following notice to Minturn, that such recreation use (i) interferes with or in any manner restricts the use of Bolts Lake as a water storage facility for its decreed uses; and/or (ii) increases the cost of operating Bolts Lake. In the event the District and Authority have made the decision to prohibit any or all recreation use of Bolts Lake pursuant to this provision, the District and Authority shall provide written notice to Minturn specifically describing the recreational use at issue and the reasons for prohibiting such recreational use. Minturn shall have 60 days from receipt of such notice to cure the cause of such recreation use prohibition identified by the District and Authority, or such other amount of time as the parties mutually agree in writing is reasonably necessary to cure the cause of such recreation use prohibition: provided; however, that the District and Authority shall have sole discretion to determine whether to allow more than 60 days to achieve a cure. If Minturn is not able to achieve a cure to the satisfaction of the District and Authority within 60 days of receiving notice from the District and Authority, then the recreation use that is being prohibited shall cease in whole or part if required by the District and Authority.

(i) The District and Authority shall determine, in their sole discretion, the specific areas of Bolts Lake that will be open to public access and the Permitted Recreational Uses, including the locations of any access, parking areas, trails, and the dock.

(j) To implement the provisions set forth in this Paragraph 11, the parties will enter into a separate site-specific intergovernmental agreement in the future. The parties shall commence negotiations at such time as Minturn develops a conceptual recreation site plan for the reservoir that includes proposed access, parking areas, trails, and the dock subject to

subparagraph (i) above. The site-specific intergovernmental agreement shall be consistent with the terms set forth in this Paragraph 11.

12. Minturn Eagle River Diversion.

(a) The District and Authority have appropriated a 2 cubic foot per second (c.f.s.) conditional water right for the Minturn Eagle River Diversion pending in Case No. 21CW3030. Water from the Minturn Eagle River Diversion is anticipated to be utilized to provide physical water service to Battle North, by either Minturn or the District and Authority.

(b) Minturn would also like to utilize the Minturn Eagle River Diversion as a location to divert water to the Minturn municipal water system as augmented by the Supplemental Augmentation Supply and the Option Water for use in Minturn's municipal service area.

(c) The District and Authority agree to amend the pending application in Case No. 21CW3030 to increase the flow rate of the Minturn Eagle River Diversion to a rate of 6.0 c.f.s. and convey an undivided interest in an amount of 4.0 c.f.s. to Minturn. The District and Authority also agree to include Minturn's contract supplies from the Colorado River Water Conservation District as augmentation sources for the Minturn Eagle River Diversion in the amended application in Case No. 21CW3030.

(d) The District and Authority agree to convey an undivided interest in the Minturn Eagle River Diversion to Minturn in an amount of 4.0 c.f.s. within 60 days of entry of a full and final judgment and decree in Case No. 21CW3030. In the event that Minturn serves as the physical water provider to Battle North, the District and Authority will convey an additional 2.0 c.f.s. of the Minturn Eagle River Diversion to Minturn.

(e) Following the construction of the Minturn Eagle River Diversion, in the event that the District and Authority have not obtained a final judgment and decree in Case No. 21CW3030, Minturn may seek a substitute water supply plan in order to supply Minturn with the Supplemental Augmentation Supply while a final decree is pending in Case No. 21CW3030.

13. District/Authority and Minturn Water Rights Decreed at Same Locations.

Minturn has numerous decreed diversion points on Cross Creek at the same diversion points claimed by the District and Authority in Case No. 21CW3030. The parties agree to work together to eliminate duplicative points of diversion decreed to their respective water rights where appropriate. Each party will be responsible for developing its own physical infrastructure unless there is an agreement between the parties otherwise.

14. Settlement of Opposition.

(a) Minturn agrees that it will Stipulate to entry of a decree in the District and Authority's Case Nos. 21CW3029 and 21CW3030 within 30 days after the amended applications are filed in the cases. Such stipulations shall include the terms set forth on **Exhibit E**.

(b) Minturn has filed an Application for Water Right, Approval of Plan for Augmentation and Appropriative Rights of Exchange in Case No. 21CW3180. Minturn agrees to stay Case No. 21CW3180 upon execution of this Agreement, and to withdraw such application within 30 days of entry of full and final judgments and decrees in Case Nos. 21CW3030.

15. Cross Creek Diversions.

(a) The District/Authority acknowledge that Minturn's decreed water rights on Cross Creek are senior to the District/Authority's Cross Creek water rights pending in Case Nos. 21CW3029 and 21CW3030. Accordingly, if Minturn places a valid call for its senior water rights on Cross Creek, the District and Authority will be subject to that call.

(b) The District and Authority shall coordinate Bolts Lake operations, including operation of exchanges, with Minturn to ensure that flows at the USGS Gage at Cross Creek Near Minturn (Gage No. 09065100) do not drop below the Colorado Water Conservation Board instream flows decreed in Case No. 78W3795 as a result of diversion into Bolts Lake from Cross Creek.

(c) The District and Authority shall not seek diligence in Water Court on the conditional water rights acquired from Battle North (originally decreed in Case No. 06CW264) at such time as full and final judgments and decrees are entered in Case Nos. 21CW3029 and 21CW3030 and Bolts Lake is constructed and operational.

16. Environmental Considerations. The parties will work together on matters involving environmental protections in the Bolts Lake area. The District and Authority will provide Minturn with electronic copies of all non-confidential, non-privileged and non-draft records, reports, documents or other information (the "Documentation") provided to the District and Authority by Battle North or the District and Authority's consultants directly related to the Reservoir Project, including Documentation that will be or has been submitted to the Environmental Protection Agency and/or the Colorado Department of Public Health and Environment (together, the "Agencies"). The District and Authority will make best efforts to timely provide the Documentation.

17. Water Service to Battle North. The parties acknowledge that additional negotiations are required between Minturn and Battle North prior to finalizing any development plans and approvals. However, the parties prefer that Minturn be the physical water provider to whatever development is approved within Minturn's water service area, if appropriate arrangements can be

reached between Minturn and Battle North. If Minturn is the physical water provider to Battle North, the District and Authority consent to the Battle North Augmentation Options being assigned by Battle North to Minturn.

18. Dowd Junction Water Service Options.

(a) The District and Authority are open to exploring water service options to a future development at Dowd Junction via an interconnect line to the District and Authority's water system. In the event that an interconnect line is mutually agreed to, Minturn or a future developer would be solely responsible for all costs associated with infrastructure necessary to provide such service and for all applicable water rights dedication fees, impact fees, and monthly water service fees to the District and Authority. However, the parties acknowledge that water quality considerations of a smaller system exclusively to Dowd Junction may make an interconnect infeasible.

(b) The District and Authority will include in the amendment of the pending augmentation plan in Case No. 21CW3030 a Dowd Junction well or wells and surface diversion points, to be augmented by the augmentation sources listed in Case No. 21CW3030. If Minturn develops a well, wells or a surface diversion at Dowd Junction that are covered by the augmentation plan in Case No. 21CW3030, the augmentation supply would come from the exercise of the Minturn Option provided herein. Development of a well, wells or surface at Dowd Junction shall be at Minturn's sole expense.

19. Mutual Cooperation. The parties wish to provide mutual assurances on future cooperation in water cases to maximize water supplies for the region. The parties mutually agree that they will not object to movement of diversion points less than 1,500 feet from decreed diversion points; the parties mutually agree they will work together on nearby or coincident diversion structures. The parties shall not claim in any future judicial action that any party to this Agreement has abandoned any portion of any of its water rights. The District and Authority further agree that they will not object to a future downstream change in point of diversion for any of Minturn's water rights, provided that only a change in point of diversion is sought and the District and Authority do not divert water in the impacted reach.

20. Remedies. (a) The terms of this Agreement shall be specifically enforceable; provided, however, nothing contained herein shall obligate the District or the Authority to construct Bolts Lake. If Minturn fails to record the Release by March 16, 2022, the District and Authority may pursue condemnation of Minturn's interests in the Bolts Lake property and may delay prosecution of Case Nos. 21CW3029 and 21CW3030 until either such time as Minturn has recorded the Release, or the District and Authority elect to notify Minturn that this Agreement is null and void and of no further effect.

(b) Prior to enforcing in Court any remedy for breach of this Agreement, the party asserting that such a breach has occurred shall give the other party written notice thereof including a description of the alleged breach and citation to the relevant provisions in this Agreement. The party against whom a breach is asserted shall have fourteen (14) days after such notice is sent in which to cure the breach.

21. Recording. This Agreement and all exhibits attached to this Agreement shall be recorded in the records of Eagle County, Colorado.

22. No Waiver. Nothing contained herein shall constitute a waiver by Minturn, the District or the Authority as against any third party of their respective rights of immunity under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq., or a waiver of any rights these parties may have under the Colorado Recreational Use Act, C.R.S. § 33-44-101 et seq.

23. Assignment

(a) The District and Authority may assign its interests and obligations under this Agreement to each other or to a successor consolidated district or authority.

(b) The terms of this Agreement shall be binding on the parties' successors and assigns.

24. Counterparts. This Agreement may be executed in counterparts.

25. Governing Law and Venue. This Agreement shall be construed under the laws of the State of Colorado. In the event of a dispute involving this Agreement, such dispute shall be heard in the District Court for the State of Colorado in Eagle County.

26. Notice. Any notice or communication required pursuant to this Agreement shall be in writing and may be given either personally, or by email with a printed copy sent via First Class U.S. Mail. If given by email and U.S. Mail, notice shall be deemed to have been given and received on the date that the email was sent. If personally delivered, notice shall be deemed to have been given and received on the date delivered to the party to whom it is addressed. Any party may, by giving written notice, designate any other address or person in substitution of or in addition to the names and addresses contained herein. Such notice and communication shall be given to the parties at the addresses set forth below:

If to Town: Town of Minturn
 Town Manager
 302 Pine Street

P.O. Box 309
Minturn, CO 81645
manager@minturn.org

With Copy To: Michael Sawyer, Esq.
Karp Neu Hanlon
P.O. Drawer 2030
Glenwood Springs, CO 81602
mjs@mountainlawfirm.com

With Copy To: Meghan Winokur, Esq.
Holland & Hart
600 Main Street #104
Aspen, CO 81611
mwinokur@hollandhart.com

If to District/Authority:
Eagle River Water and Sanitation District
Upper Eagle Regional Water Authority
General Manager and Director of Engineering & Water
Resources
846 Forest Road,
Vail, CO 81657
lbrooks@erwsd.org
jcowles@erwsd.org

With Copy To: Kathryn Winn, Esq.
Collins, Cole, Flynn, Winn & Ulmer
165 South Union Blvd., Suite 785
Lakewood, CO 80228
kwinn@cogovlaw.com

With Copy To: Kristin Moseley, Esq
Somach Simmons Dunn
2033 11th Street, Suite 5
Boulder, CO 80302
kmoseley@somachlaw.com

27. Construction. The parties represent that they have been represented by legal counsel in the drafting of this Agreement and that the parties have each had the full opportunity to

EXHIBIT A

EASEMENT RELEASE AND VACATION

[TO BE INSERTED]

EXHIBIT B

2022 Operations Maintenance and Capital Replacement Fee

The 2022 Intergovernmental Agreement Among Minturn, the District and Authority provides that the District shall assess Minturn with an annual operations, maintenance and capital replacement fee (OM&R) associated with Minturn's Supplemental Augmentation Supply and Option Water exercised pursuant to the Minturn Option. The annual OM&R fee shall be based on a pro-rata share of costs associated with the sources of water that comprise Minturn's Supplemental Augmentation Supply and Minturn's Option Water multiplied by the percentage of single family equivalents served with water in Minturn compared to the percentage of single family equivalents served with water in the District's service area. The estimated OM&R fee for 2022 includes the following costs:

- Annual operating assessments charged by the Eagle Park Reservoir Company, which include but are not limited to, the District's pro rata share of costs for reservoir operations and maintenance, East Fork pump station operations and maintenance, water quality sampling, water rights accounting, reservoir company administration, and annual dam safety inspections.
- Annual water rights accounting and administration costs of the District for its augmentation supplies.
- General legal fees associated with augmentation supply water rights protection and the administration of Eagle Park Reservoir Company.
- Although the District's proposed augmentation plan pending in Case No. 21CW3030 includes Wolford Mountain Reservoir as a source of augmentation, the District's annual contract costs of \$193,500 was omitted from the 2022 OM&R fee calculation, as it is anticipated these contracts will be substantially reduced or eliminated upon construction of Bolts Lake.

The District's average annual OM&R costs in 2020 and 2021 were \$293,000. The District currently provides water service for 10,671 single family equivalents (SFEs). Minturn currently serves 751 SFEs. Thus, by way of example for 2022 OM&R fee purposes, Minturn's estimated pro rata share of costs is 6.6% of the District's annual OM&R costs. Thus, Minturn's OM&R fee if assessed in 2022 would be \$19,338.

EXHIBIT C

WATER AUGMENTATION AGREEMENT

This Water Augmentation Agreement is made between the Town of Minturn (“Minturn”), Eagle River Water & Sanitation District (the “District”) and the Upper Eagle Regional Water Authority (the “Authority”) (the District and Authority are referred to together as the “District/Authority”) (the “Agreement”), effective as of the date of the parties’ execution indicated below.

RECITALS

A. Minturn and the District/Authority are parties to that certain Intergovernmental Agreement dated February 2, 2022, recorded in the real property records of Eagle County on _____ at Reception No. _____ (“IGA”).

B. The District/Authority committed to provide without charge of cash-in-lieu fees to Minturn a perpetual source of augmentation water in the amount of 20 acre feet to shore up augmentation supplies for Minturn’s water rights (“Supplemental Augmentation Supply”) on the terms set forth in the IGA. The Supplemental Augmentation Supply shall be a use right, and not a title conveyance, and shall consist of a mix of storage water and historic consumptive use credits chosen annually by the District/Authority in their sole discretion.

C. Pursuant to the IGA, the Supplemental Augmentation Supply shall be provided to Minturn upon entry of a full and final judgement and decree in the District/Authority’s Case No. 21CW3030 (the Supplemental Augmentation Supply may also be provided prior to entry of such decree on the terms set forth in the IGA; such provision of water at Minturn’s request will be the subject of a separate agreement among the parties).

D. The District/Authority also reserved and granted to Minturn an option to obtain the right to the perpetual deliveries and use of water to augment the municipal diversions in Minturn up to a maximum of 55 acre feet of augmentation water (the “Minturn Option”) on the terms set forth in the IGA. The water provided pursuant to the Minturn Option shall be a use right, and not a title conveyance, and shall consist of a mix of storage water and historic consumptive use credits chosen annually by the District/Authority in their sole discretion (“Option Water”).

E. Pursuant to the IGA, the Minturn Option may be exercised in an amount of up to 30 acre feet upon entry of a full and final judgement and decree in Case No. 21CW3030, and the option period shall extend for 30 years from the Effective Date of the IGA. The remaining Option Water in an amount up to 25 acre feet under the Minturn Option may only be exercised after such time as Bolts Lake Reservoir is constructed and operational, and the option period shall extend for (i) 30 years from the Effective Date of the IGA, or (ii) 15 years from the date upon which Bolts Lake Reservoir is constructed and operational, whichever occurs later. Such option period may be extended upon mutual agreement of the parties in accordance with the IGA.

F. The parties desire to set forth the terms and conditions for the delivery of the following annual supply of water by the District/Authority:

- a. up to 20 acre feet of Supplemental Augmentation Supply; and
- b. up to 55 acre feet of Option Water (referred to together as the “Augmentation Supply”).

AGREEMENT

The foregoing Recitals are incorporated into this agreement between the Minturn and the District/Authority.

1. District/Authority Water Delivery Obligations and Responsibilities.

- a. Delivery. Consistent with the IGA, and in accordance with the terms of this Agreement, the District/Authority will deliver the Augmentation Supply at the confluence of the Eagle River and Cross Creek up to the annual amounts shown above in Recital F each year. Unless otherwise agreed to among the parties, the District/Authority will make releases or request that releases be made for Minturn, based upon Minturn’s written schedule of anticipated augmentation need, adjusted based on communications between the parties.
- b. Delivery Contingency. The District/Authority’s delivery of the Augmentation Supply shall be subject to Minturn’s payments of agreed-upon annual fees pursuant to paragraph 3 below.
- c. Water Measurements. The District/Authority shall record in their accounting the sources of supply and daily quantities released or provided for augmentation under this Agreement and shall include this information in their accounting submittals to the Division Engineer’s Office of Colorado Water Division No. 5. Copies of such accounting records shall be provided to Minturn upon request.
- d. Water Quality. The District/Authority shall have no obligation to Minturn regarding and make no warranties or representations to Minturn concerning the quality of the Augmentation Supply delivered pursuant to this Agreement by releases of raw water to natural streams.
- e. Source. The District/Authority will deliver the Augmentation Supply from the sources of water identified and anticipated to be decreed in Case Nos. 21CW3029 and 21CW3030 to meet Minturn’s augmentation need.

2. Minturn’s Water Use Obligations and Responsibilities.

- a. Scheduling of Use. Minturn shall provide the District/Authority a preliminary written schedule of its anticipated monthly demands for the Augmentation Supply for each project year, which shall be considered a calendared year (“Project Year”). The schedule provided by Minturn shall serve as the schedule to be used until it is modified in writing by Minturn’s representatives to the District/Authority representatives.
- b. Use per Agreement and Law. Minturn’s use of the Augmentation Supply shall be in accordance with the terms of this Agreement and the IGA. Minturn is not authorized to apply for or secure any change in the water rights for or associated with any of the sources of supply of the Augmentation Supply.
- c. Limitation on Disposition. Minturn shall not sublet, sell, donate, loan, assign or otherwise dispose of any of its rights to this Agreement or to the Augmentation Supply without prior written notice to, and the written approval of, the District/Authority.
- d. Minturn’s Water Rates. Minturn may charge its water customers who are supplied water related to the Augmentation Supply such rates and charges as are permitted by Colorado law and determined by Minturn.
- e. Nondiscrimination. Minturn shall not discriminate in the availability of or charges for any water service or water supply made available pursuant to or based upon the Augmentation Supply on account of race, color, religion, or national origin or any other criteria prohibited under state or federal law.
- f. Accounting of Use. Minturn shall maintain accounting of its use of the Augmentation Supply. Minturn shall submit its accounting forms to the Division Engineer’s Office of Colorado Water Division No. 5. Copies of such accounting records shall be provided to the District/Authority upon request.

3. Minturn’s OM&R Fees.

- a. The District shall assess Minturn an annual operations, maintenance and capital replacement fee (“OM&R”) associated with the Augmentation Supply based on a pro-rata share of costs based on the percentage of single family equivalents (SFEs) in Minturn compared to the percentage of SFEs in the District’s service area. Operations, maintenance and capital replacement fees unrelated to the Augmentation Supply shall not be included in the OM&R fee assessed to Minturn.

- b. A description of the OM&R fee and the component costs as would be assessed in 2022 is attached as Exhibit B to the IGA. Such exhibit was attached to the IGA to give an example of the types of operations, maintenance, and capital replacement items that are associated with the Augmentation Supply; but the exact OM&R components and costs may change over time as the District develops and changes the elements of its augmentation water supplies.
- c. The initial SFE count in Minturn will be determined by the District based on meter records for Minturn and will not exceed 750 SFEs. As rights are exercised under the Minturn Option or the Eagle County School District land is developed as previously approved by Minturn, the parties will execute and record a supplement to this agreement identifying the associated Augmentation Supply and the SFE count.
- d. The District will provide Minturn with a breakdown of the OM&R fee associated with the Augmentation Supply on an annual basis.
- e. The District shall invoice for the annual OM&R fee to Minturn no later than March 1 of each year. Such assessment shall be for the actual OM&R fees due for the previous Project Year. The parties shall agree in writing to the method and timing of Minturn's payment of the invoiced fees (at a minimum, Minturn shall have 30 days to pay such invoices).
- f. In the event that the OM&R fees for a particular Project Year are anticipated to increase more than 10% over the fees for the preceding Project Year, the District will provide notice to Minturn upon making such determination, to allow Minturn time to plan for the increase in fees.

4. Cash-in-Lieu Fees when Option is Exercised.

- a. During the option period described above in Recital E, Minturn shall require that all Town water users shall secure a perpetual use right to Option Water to fulfill any cash in lieu payment obligations provided for under the Minturn Town Code. Any water use made by Minturn or the Eagle County School District (up to 120 SFEs and irrigation of lands owned by the Eagle County School District with water rights owned by the School District) shall be exempt from this obligation.
- b. The price for the Option Water shall be the cash in lieu fee of the District/Authority then in effect (for in-district rates) at the time Minturn exercises any portion of the Minturn Option. Minturn shall assess and collect the fee, and then render payment to the District/Authority in satisfaction of the payment requirements established in the IGA and described herein.

- c. As rights are exercised under the Minturn Option to secure Option Water on the terms set forth in the IGA, the parties will execute and record a supplement to this Agreement identifying the associated Augmentation Supply and the SFE count.
- d. The parties shall also prepare and record an annual joint statement identifying Option Water secured by Minturn in the public records of Eagle County on an annual basis to ensure that the public records clearly reflect the total amount of the Minturn Option that has been exercised pursuant to this Agreement and supplements thereto.

5. Agreement Term.

- a. The term of this Agreement shall be 99 years from the date of execution.
- b. The Agreement shall automatically renew for subsequent 99-year periods unless Minturn provides notice to the District/Authority of termination of the Agreement.

6. Miscellaneous/Standard Provisions.

a. Notices.

- i. Any notice or communication required pursuant to this Agreement shall be in writing and may be given either personally, or by email with a printed copy sent via First Class U.S. Mail. If given by email and U.S. Mail, notice shall be deemed to have been given and received on the date that the email was sent. If personally delivered, notice shall be deemed to have been given and received on the date delivered to the party to whom it is addressed. Any party may, by giving written notice, designate any other address or person in substitution of or in addition to the names and addresses contained herein. Such notice and communication shall be given to the parties at the addresses set forth below:

If to Town:	Town of Minturn Town Manager 302 Pine Street P.O. Box 309 Minturn, CO 81645 manager@minturn.org
-------------	--

With Copy To:	Meghan Winokur, Esq. Holland & Hart LLP
---------------	--

600 Main Street #104
Aspen, CO 81611
mwinokur@hollandhart.com

Cristy Radabaugh
Martin and Wood Water Consultants
538 Commons Dr
Golden, CO 80401
cradabaugh@martinandwood

If to District/Authority: Eagle River Water and Sanitation District
Upper Eagle Regional Water Authority
General Manager and Director of
Engineering & Water Resources
846 Forest Road
Vail, CO 81657
lbrooks@erwsd.org
jcowles@erwsd.org

With Copy To: Kristin Moseley, Esq
Somach Simmons Dunn
2033 11th Street, Suite 5
Boulder, CO 80302
kmoseley@somachlaw.com

ii. Either party may, by written notice given in accordance with this provision, change the address to which notices to it shall be mailed or delivered.

b. Amendments. No amendment, modification, or novation of this contract or its provisions and implementation shall be effective unless documented in writing which is approved and executed by both parties with the same formality as they have approved and executed this Agreement.

EAGLE RIVER WATER & SANITATION DISTRICT

UPPER EAGLE REGIONAL WATER AUTHORITY

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT E

The following general concepts will be addressed in the stipulations between Minturn, the District and the Authority in Case Nos. 21CW3029 and 21CW3030.

- The terms of the stipulations will be consistent with the terms of this intergovernmental agreement.
- The parties will agree upon terms for future communication on accounting and other matters relating to the progress of the cases.
- The parties will agree upon terms for Minturn to review certain revised proposed rulings in the cases as they progress.
- The parties will agree upon the timing for conveyance of an undivided 4.0 cfs in the Minturn Eagle River Diversion to Minturn.
- The parties will agree upon language to be included in the proposed rulings and/or the stipulations relating to operations on Cross Creek.



To: Mayor and Council
From: Jay Brunvand
Date: February 02, 2022
Agenda Item: Resolution 04 - Series 2022

REQUEST:

Staff is requesting Council to approve Resolution 04 - Series 2022 a Resolution in support of a Colorado Dept of Transportation Financial Grant for use in extending the sidewalk in the South Minturn area from where it currently ends, approximately the 950 area of Main St and extending to approximately the Boneyard Park, approximately 1351 Main St.

INTRODUCTION:

During the April 7, 2021 Council Meeting, Council approved the original application for this grant and the allocation of the 20%, \$400,000, grant match. Resolution 11-2021 memorializes this Council direction. The town anticipates applying for a DOLA EIAF grant to apply toward the 20% required match.

ANALYSIS:

This Resolution directs support of the application of a CDOT Grant to assist in funding for this project. The intent is to match Town funds with available grants for the installation of sidewalk/curb/gutter an additional approximate three blocks south from where it currently terminates. This project will formalize parking, drainage, and sidewalk as well as open up safe pedestrian traffic to the Boneyard Park and river access for recreation. The project will add additional safe areas for school and ECO Transit buses as well as access north into the main part of town and Little Beach park.

COMMUNITY INPUT:

The community has had ample input in previous comments, community surveys, and the project is in line with our adopted Strategic Plan.

BUDGET/ STAFF IMPACT:

Up to \$440,000. It is anticipated these funds will come from existing unrestricted savings and additional grants available that we might qualify for.

STRATEGIC PLAN ALIGNMENT:

ADVANCE DECISIONS/PROJECTS/INITIATIVES THAT EXPAND FUTURE OPPORTUNITY AND VIABILITY FOR MINTURN PRACTICE FAIR, TRANSPARENT AND COMMUNICATIVE LOCAL GOVERNMENT LONG-TERM STEWARDSHIP OF THE NATURAL BEAUTY AND HEALTH OF MINTURN'S ENVIRONMENT

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to approve Resolution 04 - Series 2022 as presented.

ATTACHMENTS:

Resolution 04 - Series 2022

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 04 – SERIES 2022**

**A RESOLUTION OF SUPPORT AND AUTHORIZATION
FOR GRANT SUBMITTAL OF AN APPLICATION TO THE
COLORADO DEPARTMENT OF TRANSPORTATION
(CDOT) FOR COMMITMENT OF FUNDING FOR A
(CDOT) TRANSPORTATION ALTERNATIVES PROGRAM
GRANT FOR CONSTRUCTION OF PEDESTRIAN AND
NON-MOTORIZED FORMS OF TRANSPORTATION
ALONG U.S. HIGHWAY 24 WITHIN THE TOWN OF
MINTURN, EAGLE COUNTY, COLORADO**

WHEREAS, The Town of Minturn recognizes the benefits of acquiring alternative funding sources for operations and capital improvements to the Town transportation system through the pursuit of federal/state grants, public/private cost sharing opportunities, and other community share resources; and,

WHEREAS, The Town of Minturn sees this CDOT Grant opportunity as a way to achieve goals set by our community; and

WHEREAS, The area of US Highway 24 within Minturn has been identified as providing inadequate and potentially unsafe bicycle and pedestrian facilities; and,

WHEREAS, Certain school bus stops for children have inadequate sidewalks leading to the stops; and

WHEREAS, US Highway 24 is increasingly being used by bicyclists for general recreation, tours and races; and widened paved road shoulders would provide a safety enhancement; and

WHEREAS, US Highway 24 is a Colorado Scenic Byway and consideration will be given to construct turnouts and viewing areas; and

WHEREAS, The Town of Minturn’s Master Plan identifies and recommends that sidewalks or trails or paths be incorporated along US Highway 24; and,

WHEREAS, As adopted in the Strategic Plan by the Town of Minturn the Town will advance decisions, projects, and initiatives that expand future opportunities and the continued viability for Minturn; and

WHEREAS, The Town of Minturn has identified and committed to a contribution of up to \$440,000 in available reserves required by the grant as a 20% match; and

WHEREAS, The Town of Minturn’s Master Plan identifies and recommends that sidewalks or trails or paths be incorporated along US Highway 24; and,

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

1. The Town Council of the Town of Minturn, CO supports any potential grant awarded by CDOT to the Town of Minturn.
2. The Town Council of the Town of Minturn, CO has sufficient funds on hand to match the required 20% contribution of cash funding up to \$440,000.
3. The Town Council of The Town of Minturn, CO authorizes the expenditure of funds necessary to meet the terms and obligations of any Grant awarded.
4. This resolution to be in full force and effect from and after its passage and approval.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED THIS 2nd DAY OF FEBRUARY, 2022.

TOWN OF MINTURN

By: _____
Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk

TOWN OF MINTURN ENGINEER'S OPINION OF PROBABLE COST	Revitalizing Main Streets Grant

Project Name	US 24 MINTURN DOWNTOWN - MIDBLOCK TO BONEYARD	Date:	01/27/22	
County of	EAGLE	US 24	Length In Feet 1,752.00	Length In Miles 0.33
Type	PEDESTRIAN IMPROVEMENTS	Roadway Pavement	Asphalt	
Prepared by	Stolfus & Associates, Inc.	Thickness in inches	Roadway: 8" over 4" ABC	

In providing opinions of probable construction cost, the Client understands that Stolfus & Associates Inc. has no control over costs or the price of labor, equipment or materials, or over the Contractor's method of pricing, and that the opinions of probable construction costs provided herein are to be made on the basis of our qualifications and experience. These costs do not reflect escalation for future costs. Stolfus & Associates, Inc. makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs.

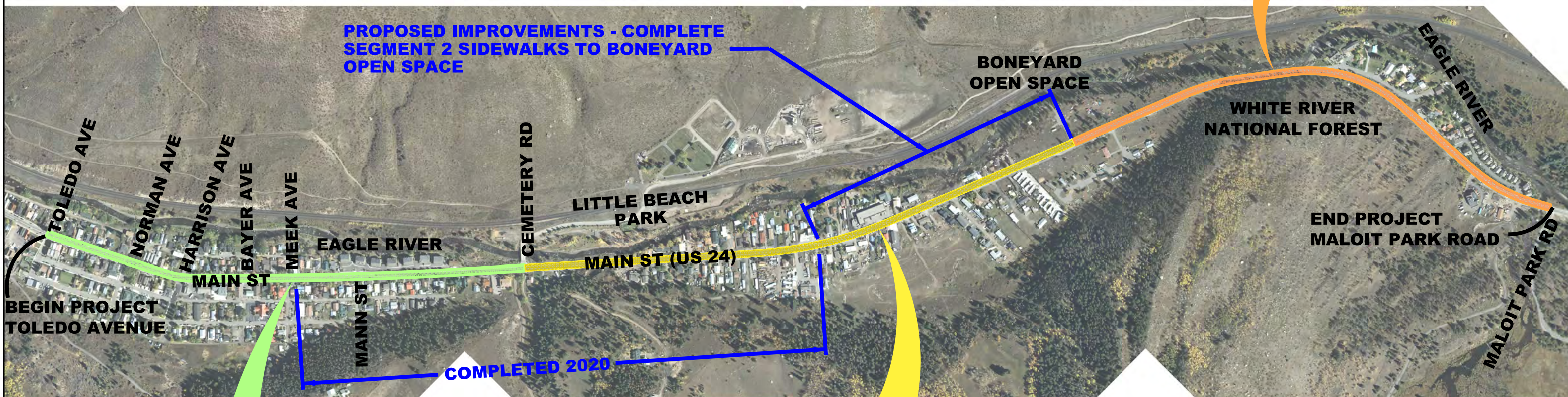
ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT COST	COST
201-00000	CLEARING AND GRUBBING	LS	1	\$5,000.00	\$5,000
202-00000	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	LS	1	\$5,000.00	\$5,000
202-00210	REMOVAL OF CONCRETE PAVEMENT	SY	393	\$17.00	\$6,681
202-00220	REMOVAL OF ASPHALT MAT	SY	2,864	\$15.00	\$42,960
203-00050	UNSUITABLE MATERIAL	CY	50	\$50.00	\$2,500
203-00060	EMBANKMENT MATERIAL (COMPLETE IN PLACE)	CY	1,280	\$50.00	\$64,000
210-01000	RESET FENCE	LF	265	\$40.00	\$10,600
210-04010	ADJUST MANHOLE	EACH	1	\$800.00	\$800
210-04050	ADJUST VALVE BOX	EACH	12	\$500.00	\$6,000
304-06007	AGGREGATE BASE COURSE (CLASS 6)	CY	716	\$75.00	\$53,700
403-00720	HOT MIX ASPHALT (PATCHING) (ASPHALT)	TON	74	\$230.00	\$17,020
403-34701	HOT MIX ASPHALT (GRADING SX) (75)	TON	1,303	\$160.00	\$208,480
411-03355	ASPHALT CEMENT PERFORMANCE GRADE (PG 58-34)	TON	73	\$800.00	\$58,400
411-10255	EMULSIFIED ASPHALT (SLOW-SETTING)	GAL	138	\$5.00	\$690
412-00600	CONCRETE PAVEMENT (6 INCH)	SY	1,404	\$125.00	\$175,500
420-00132	GEOTEXTILE (SEPARATOR) (CLASS 1)	SY	12	\$10.00	\$120
506-00206	RIPRAP (6 INCH)	CY	2	\$200.00	\$367
603-01185	18 INCH REINFORCED CONCRETE PIPE (COMPLETE IN PLACE)	LF	963	\$120.00	\$115,560
603-05018	18 INCH REINFORCED CONCRETE END SECTION	EACH	2	\$1,400.00	\$2,800
604-13006	INLET TYPE 13/16 (5 FOOT) (SPECIAL)	EACH	10	\$4,700.00	\$47,000
608-00000	CONCRETE SIDEWALK	SY	1,658	\$85.00	\$140,939
608-00010	CONCRETE CURB RAMP	SY	73	\$175.00	\$12,775
609-20010	CURB TYPE 2 (SECTION B)	LF	200	\$50.00	\$10,000
609-21020	CURB AND GUTTER TYPE 2 (SECTION II-B)	LF	3,374	\$40.00	\$134,960
614-00011	SIGN PANEL (CLASS I)	SF	198	\$30.00	\$5,940
614-01573	STEEL SIGN SUPPORT (2-1/2 INCH ROUND NP-40) (POST & SLIPBASE)	EACH	2	\$450.00	\$900
627-00009	MODIFIED EPOXY PAVEMENT MARKING (INLAID)	GAL	10	\$180.00	\$1,800
627-30411	PREFORMED THERMOPLASTIC PAVEMENT MARKING (XWALK-STOP LINE) (SPECIAL)	SF	90	\$40.00	\$3,600

Total Major Items (A) **\$1,135,000 (A)**

Item	Percent Range	Percent Selected	Costs \$
Major Items (above)			\$1,135,000 (A)
Erosion Control	1 to 5% of (A)	3%	\$35,000 (C)
Construction Surveying	1 to 5% of (A)	3%	\$35,000 (D)
Construction Phasing & Traffic Control	5 to 25% of (A+B+C+D)	10%	\$121,000 (E)
Landscaping	1 to 5% of (A)	1%	\$12,000 (F)
Mobilization	4 to 10% of (A+B+C+D+E)	6%	\$80,000 (F2)
TOTAL OPINION OF PROBABLE CONSTRUCTION BID ITEMS COST, CBI	(A+C+D+E+F+F2)		\$1,418,000 (G)
Force Account - Utilities	1 to 5% of (G)	3%	\$43,000 (H)
Force Account - Miscellaneous	1 to 5% of (G)	3%	\$43,000 (I)
TOTAL OPINION OF PROBABLE CONSTRUCTION ITEMS COST, CI	(G+H+I)		\$1,504,000 (J)
Construction Management	15% of (J)	15%	\$226,000 (K)
TOTAL CONSTRUCTION OPINION OF PROBABLE COST	(J+K)		\$1,730,000 (L)
Right-of-Way Estimate			\$208,000 (M)
Right-of-Way Acquisition Services			\$140,000 (N)
Engineering/Completion of Construction Documents	5% of (L)		\$87,000 (O)
Subsurface Utility Engineering	2% of (L)		\$35,000 (P)
TOTAL PROJECT OPINION F PROBABLE COST	(L+M+N+O+P)		\$2,200,000

MAIN STREET PEDESTRIAN IMPROVEMENTS PLAN PROJECT OVERVIEW MAP

SEGMENT 3
WIDEN HIGHWAY TO
PROVIDE SHOULDERS TO
ACCOMMODATE BICYCLES



PROPOSED IMPROVEMENTS - COMPLETE
SEGMENT 2 SIDEWALKS TO BONEYARD
OPEN SPACE

**BONEYARD
OPEN SPACE**

**WHITE RIVER
NATIONAL FOREST**

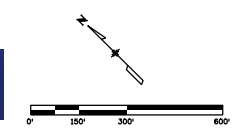
**END PROJECT
MALOIT PARK ROAD**

**BEGIN PROJECT
TOLEDO AVENUE**

SEGMENT 1
EXTEND THE DOWNTOWN
CORRIDOR - IMPROVE
FACILITIES TO MEET ADA
REQUIREMENTS

SEGMENT 2
PROVIDE PEDESTRIAN
FACILITIES THROUGH
SOUTH MINTURN

APRIL 2021



5. Provide a description/illustration of the proposed improvement and the extent to which it addresses the crash problem



Michelle Metteer
Town Manager
P.O. Box 309 | 302 Pine Street
Minturn, CO 81645
970-827-5645
manager@minturn.org
www.minturn.org



Town Council
Mayor – Earle Bidez
Mayor Pro Tem – Terry Armistead
Council Members:
George Brodin
Lynn Feiger
Gusty Kanakis
Eric Gotthelf
Tom Sullivan

February 2, 2022 | Manager Update

Bolts Ditch Headgate

Work continues on the 299-Permit for the USFS toward Minturn’s use of the Bolts Ditch Headgate. Metcalf Archaeological Consultants have been reviewing the headgate and ditch since the summer of 2021 and their initial report has determined the structure contains historical significance. They are tentatively recommending the structure and ditch be listed on the State Historic Register. As of right now, I do not believe this would stop Minturn from utilizing the structures. More to come.

Colorado River District

The River District had to postpone their January Board meeting due to COVID. This means Minturn’s grant application will be reviewed and considered during the rescheduled meeting in February.

Congressionally Directed Spending

Minturn’s request for \$1,000,000 of congressionally directed spending is expected to be taken up by Congress in mid-February as part of the larger appropriations bill. These would be federal funds that we could accept without compromising the Enterprise Fund. This request has been supported by both senator Bennett and Hickenlooper and would go toward offsetting the cost of the new water tank.

Revitalizing Main Streets Grant (Round II)

Minturn is in the process of applying for another round of Revitalizing Main Street grant application – which would encompass Phase II of the Main Street sidewalk project. The applications are due in early February and since we scored very well on the last round (just not well enough to receive any funds) we’re hopeful for a positive outcome.

Historic Preservation Committee

Work continues toward the creation of an Ordinance to form an Historic Preservation Commission. I expect the work of the Committee will be completed in the next meeting and the draft Ordinance will then move to the Planning Commission for one meeting where I will get additional feedback before coming to Council.

[Here is the link to Minturn’s webpage on Historic Preservation.](#)

[Here is the link to the Committee’s Historic Preservation Survey Results.](#)

[Here is the link to the video of the first Committee meeting.](#)

[Here is the link to the template Ordinance that Minturn is working to modify.](#)

Snowmobiles & the Shooting Range

The USFS Road to the Shooting Range is closed to motorized access in the winter months due to the wintering elk. We've had several calls about snowmobiles not respecting the signs and utilizing the railroad tracks for traveling to the shooting range. A sign has gone up on the RR tracks identifying no motorized access, the USFS has been notified and the ECSO is doing additional patrols of the area. Ideally it would be great if these snowmobilers would respect our local wildlife but after at least one verbal warning the behavior has not stopped.

Community Plan Downtown Area Sub-Committee

The SE Group is currently prepping for a subcommittee meeting next month to review and determine final take-aways for the 100-block design review. The subcommittee will be working from the materials created at the charrette last year and this will be the groundwork for the Old Town Character Area/Downtown Design Guideline booklet. Terry Armistead & Gusty Kanakis represent the Council on the Community Plan Steering Committee and Tom Sullivan is representing the Council for the Downtown area sub-committee.

Planning Commission Openings

There will be two planning commission seats open in March. If anyone you know is interested in submitting a letter of interest, please keep the mid-March deadline in mind.

Water Line Leaks

Minturn has identified four water leaks over the course of the last several weeks. One leak is on a main line and is being repaired. The rest of the leaks are on service lines (private property). Arnold is working with the property owners to get the service line leaks repaired as quickly as possible. This is the type of issue that creates an increased monthly water loss rate. We'll continue to work with property owners in hopes they will get these repairs made as quickly as possible.

Water Tank RFP

The updated RFP for the new water tank goes out this week. Of note, the tank will be sized to NOT accommodate any future growth in the Battle Mountain area of Maloit Park. Expect to have SGM come before the Town Council in early March for approval of a bid award.

Jay Brunvand
 Clerk/Treasurer
 301 Pine St #309 ♦ 302 Pine St
 Minturn, CO 81645
 970-827-5645 x1
treasurer@minturn.org
www.minturn.org



Town Council
 Mayor – Earle Bidez
 Mayor Pro Tem – Terry Armistead
 Council Members:
 George Brodin
 Lynn Feiger
 Eric Gotthelf
 Gusty Kanakis
 Tom Sullivan

Below reflects proposed topics to be scheduled at future Town Council meetings and is informational only. Dates and topics are subject to change.

REGULAR TOWN COUNCIL MEETINGS
February 2, 2022
Ord 03 – Series 2022 An Ordinance Approving an Intergovernmental Agreement between the Town of Minturn, Eagle River Water & Sanitation District and Upper Eagle Regional Water Authority.
Resolution Approving a Grant Application for Phase II of the Minturn Main Street Sidewalk Project.
Ord 2 – Series 2022 – An Ordinance amending Chapter 16 of the Minturn Municipal Code – Child Care Homes.
February 16, 2022
Pine Street Repairs & Construction Phasing Update – Spanel/IME Engineering
Water TAP Moratorium Request – Belden Place / Alison Perry
Exec Session re legal advice for Historical Preservation designation process
Final Subdivision Plan/Plat – Belden Place
March 2, 2022
Water Tank Bid Update
Minturn Water Tap Update & Direction
DATE TO BE DETERMINED
30’ River Setback Policy Review & Eagle River Park (MMC Sec. 16-2-50(b)) – waiting on Planning Commission review
2021-23 Strategic Plan Amendment – Building Code Updates
Potential legislation regarding Mobile homes
Car Idling