



# CITY OF LEADVILLE

800 HARRISON AVE.  
LEADVILLE, CO 80461

## REGULAR COUNCIL MEETING AGENDA

Tuesday  
August 1, 2023

6:00 P.M.

**Council Chambers & Zoom**

<https://leadville-co.gov.zoom.us/j/83526944548?pwd=aEdjdGtpNlEyZmt5YVQ1bDBQbnN4dz09>

Meeting ID: 835 2694 4548

Passcode: 80461

Dial by your location

+1 719 359 4580 US

6:00 pm	1.	<b>Call to order of regular meeting of the City Council</b>
	2.	Roll call
	3.	Approval of agenda
	4.	Housekeeping matters
	5.	Public comments about items not on the agenda
		Citizens wishing to speak to council on issues <u>not</u> on the agenda are requested to send a message in the chat section or raise their hand in the participant's section of Zoom or in person. Staff will call on the public in order. Comments are limited to three (3) minutes (not including council questions). Action, if required, will be assigned to city staff. For matters <u>on the agenda</u> , public input will be heard prior to a vote being taken on the matter.
6:15 pm	6.	<b>Consent Agenda:</b>
		A. Approval of July 18th, 2023 Minutes
6:20 pm	7.	<b>Action Items:</b>
		A. Re-appointment of Marcia Martinek and Scott Spillman as Historic Preservation Chair and Commissioner respectively
		B. Consideration of a Conditional Use Permit (CUP) for Engelbach Change of Use from Commercial Office to Residential Duplex; 610 Front St.
		C. Resolution No. 16, Series of 2023, a Resolution Authorizing the Purchase of Real Property Known as 117 W. 10th Street and Ratifying a Contract to Buy and Sell Commercial Real Estate for municipal purposes, including but not limited to a potential community center
		D. Certification of Deputy City Clerk Hannah Scheer as a Designated Election Official
7:20 pm	8.	<b>Presentations and Discussions:</b>
		A. City Administrator's Report
		B. Presentation regarding child care in Leadville - Brooke Carlson
		C. Discussion regarding the pledge of allegiance at City Council meetings
7:50 pm	8.	Council Reports
	9.	Mayor's Report

\* These items may not have briefs or may have additional briefs Tuesday before the Council meeting.



	10.	Public Meetings Planner
	11.	Public Comments
<b>8:00 pm</b>	12.	Adjournment



## REGULAR COUNCIL MEETING MINUTES

Tuesday,  
July 18, 2023

6:00 P.M.

Council Chambers & Zoom

1. **Call to order** of regular council meeting at 6:02 p.m.
2. **Roll call:**
  - a. **Present:** CM Thomas, CM Lauritzen, CM Luna-Leal, MPT Greene, CM Hill
  - b. **Absent:** Mayor Labbe, CM Grant

**Staff Members Present:** Deputy City Clerk Hannah Scheer, Administrative Assistant Lori Tye, City Administrator Laurie Simonson, Planning Director Chapin LaChance, Human Resources Director Erin Lusin, Chief Dailey, Interim Chief Chavez, Animal Shelter Manager Caitlin Kuczko, Street Department Director Tony Medina, and acting as City Attorney, Evin King

3. **Approval of the agenda:** CM Lauritzen **moved** to approve the agenda, and CM Hill **seconded**. All present were in favor.
  - a. **Agenda Revisions:** N/A
4. **Housekeeping Matters:**

MPT Greene: Would like to add the Pledge of Allegiance for discussion at future meeting

CM Luna-Leal: May leave the current meeting for medical reason

5. **Public comments for items not on the agenda:**
  - a. **Steve Prestash**
    - i. Said Pledge of Allegiance – would like it said at the beginning of each meeting.
    - ii. Commented on the multiple conflicts of interest between the City and County
    - iii. Comment on corporations
  - b. **Justin Kurth**
    - i. Works for Brittany Peterson, he is based in Penrose
    - ii. Here to let us know the services he can provide

- iii. Discussed community project funding requests - i.e. St. Vincent and Lake County Housing Authority have reached out for monetary assistance

**c. Jackie Whelihan**

- i. Discussed the need for an intergovernmental agreement between the City and the County giving approval for Proposition 123 in order for her to apply on behalf of the City and County
- ii. Applied for additional funding to help with the deficit
- iii. Will make a supplemental budget request in a future meeting

**6. Consent Agenda:**

CM Luna- Leal **moved** to approve the minutes of July 5, 2023; CM Thomas **seconded**. All present were in favor.

REVISIONS: None

**7. Department Reports:**

**a. City Administrator's Report:**

- i. Former CM Forgensi raised a question in a previous meeting about security at City Hall. The following are modifications that are planning to be made:
  - 1. Using phone as a panic button
  - 2. Colorado Information Analysis Center Trooper Jason McCull visited to discuss safety concerns the staff has about the building.
    - a. Fire safety, cameras, etc.
  - 3. Training for an active shooter situation
  - 4. Infrastructure measures
- ii. Parklet is almost finished
  - 1. The sidewalk is being expanded by 1 foot - it was already within ADA (Americans with Disabilities Act) compliance, but widened regardless
  - 2. Close to obtaining the certificate of occupancy
- iii. Salary Assessment
  - 1. Received 3 quotes from 3 companies - chose the company that worked with Salida on their salary assessment
- iv. Thanked the Leadville Police Department and the Lake County Sheriff's Office for handling a barricade situation in which Chaffee County SWAT was also called for assistance
- v. Interim Chief Chavez offered any member of City Council to do a ride-along with an officer or himself to see what a day-to-day shift is like for an officer

- vi. Asked who would like to be on the committee that will be selecting and interviewing our future Chief of Police
- vii. CM Thomas would like to be on the committee for selecting a new City attorney
- viii. Acknowledged Dawna Schneiter for her dedication and knowledge of the City - her last day was 7/7
- ix. Thanked Michelle Meroney for picking up duties in the midst of Dawna’s departure

Department heads gave their monthly reports.

**8. Presentations and Discussions**

- a. Economic Development Corporation Update
  - i. CM Hill represents the City at the EDC - Tamira has taken over as president of the board
  - ii. Organized a series of strategic planning sessions
  - iii. Making sure their role within the City is clear
  - iv. Next meeting is 8/4, 6 hour meeting
  - v. Want to work closely with local businesses, tourism, etc.
  - vi. Illuminate the City, County, and the community as a whole
  - vii. Identifying local and outside resources - i.e. - housing, workforce, childcare from funding at a higher level
  - viii. Moving on a more defined path with actual tasks and goals
  - ix. Idea to have a policy advisement team
  - x. Working toward consistency and a timeline that holds the vision of Leadville and where it’s going
  - xi. Business/Industrial park could use some work

**9. Action Items:**

- a. **Resolution No. 14, Series of 2023A Resolution Approving a Services Agreement between the City of Leadville and Metcalf Archaeological Consultants, Inc.**

CM Hill moved to approve **Resolution No. 14, Series of 2023A Resolution Approving a Services Agreement between the City of Leadville and Metcalf Archaeological Consultants, Inc.**, CM Lauritzen seconded.

	YES	NO	Abstain	Absent
CM Lauritzen	*			
CM Luna-Leal	*			
MPT Greene	*			

Mayor Labbe				*
CM Grant				*
CM Thomas	*			
CM Hill	*			

**b. Resolution No. 15, Series of 2023A Resolution Authorizing \$3,605 to the Historic Preservation Commission for expenses related to the Cultural Resource Survey**

CM Lauritzen **moved** to adopt **Resolution No. 15, Series of 2023A Resolution Authorizing \$3,605 to the Historic Preservation Commission for expenses related to the Cultural Resource Survey**; CM Hill **seconded**.

	YES	NO	Abstain	Absent
CM Lauritzen	*			
CM Luna-Leal	*			
MPT Greene	*			
Mayor Labbe				*
CM Grant				*
CM Thomas	*			
CM Hill	*			

**c. RootsRx Change of Ownership Public Hearing**

CM Hill **moved** to approve **RootsRx Change of Ownership from Robert Holmes, Jr. to Sun Theory, LLC, Connor Oman**; CM Lauritzen **seconded**.

8:03 p.m. - Public commented opened; 8:04 p.m. CM Luna-Leal **moved** to close the public comment portion, CM Lauritzen **seconded** the motion. 8:07 p.m.- Public Hearing closed

	YES	NO	Abstain	Absent
CM Lauritzen	*			
CM Luna-Leal	*			
MPT Greene	*			
Mayor Labbe				*
CM Grant				*
CM Thomas	*			
CM Hill	*			

**d. Ordinance No. 4, Series of 2023: An Ordinance Amending Section 2.40.030 of the Leadville Municipal Code Concerning the Compensation of the Mayor - First Reading**

CM Luna-Leal moved to **Ordinance No. 4, Series of 2023: An Ordinance Amending Section 2.40.030 of the Leadville Municipal Code Concerning the Compensation of the Mayor on First Reading**; CM Lauritzen seconded.

	YES	NO	Abstain	Absent
CM Lauritzen	*			
CM Luna-Leal	*			
MPT Greene	*			
Mayor Labbe				*
CM Grant				*
CM Thomas	*			
CM Hill	*			

**10. Public Comments:**

**a. Steve Prestash**

- i. Thanked CM Grant and MPT Greene for re-adding public comment at the end of City Council meetings
- ii. Commented that a statement he had made at a previous City Council meeting was unconfirmed information

- iii. Suggested there be permanent record of City Council meetings other than the minutes and YouTube videos
- iv. Said the State Statutes of Colorado should be on hand to reference during discussions
- v. Objected to the term “community”
- vi. Talked about the “strong-mayor system” versus the “weak-mayor system”

**11. Public Meetings Planner:**

- a. 7/19/23 - Regional Housing Authority has their next meeting at 5:30 pm at the library - meetings are the 3rd Wednesday of every month
- b. 8/4/23 - Economic Development Corporation meeting
- c. 8/29/23 - Planning and Zoning work session regarding housing variety code amendments
- d. 9/12/23 - Short-term rental work session
- e. Leadville Urban Renewal Authority has meetings every other month
- f. Tourism panel has a bi-monthly meeting, next meeting is 8/15/23

**12. Mayor’s Report: N/A**

**13. Council Reports:**

- a. CM Luna-Leal
  - i. Affordable housing - interested land banking
    - 1. Suggested having a work session about what we have versus what we need
  - ii. The City is overdue for a City assessment
  - iii. Housing coalition: activist roll, new funding, narrowing focus, research, deed restrictions, what works for the community

**Adjournment:** 8:36 p.m.

**APPROVED** this 1st day of August, 2023 by a vote of  in favor  against,  abstaining, and  absent.

CITY OF LEADVILLE, COLORADO

ATTEST:

By

\_\_\_\_\_  
Deputy City Clerk





## AGENDA ITEM #7B

### CITY COUNCIL COMMUNICATION FORM

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**MEETING DATE:** August 1, 2023

**SUBJECT:** Conditional Use Permit for Engelbach Change of Use from Commercial Office to Two-Family Dwelling

**PRESENTED BY:** Chapin LaChance, Planning Director

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- ORDINANCE  
 RESOLUTION  
 MOTION  
 INFORMATION
- 

**I. REQUEST OR ISSUE:**

The Planning and Zoning Commission recommends that the City Council conditionally approve this Conditional Use Permit application to change the use of the property from commercial office to a two-family dwelling, with short-term rental use on the main floor and long-term rental use on the upper floor.

**II. BACKGROUND INFORMATION:**

Two-family dwellings are a conditionally allowed use in the Commercial/Highway Business (C) zoning district, requiring public hearings at Planning and Zoning Commission (P&Z) and City Council. This property is the only property not currently used for residential use on the block bounded by Front St. to the south, Elm St. to the north, Loomis St. to the west, and James St. to the east. Multiple multi-family residential uses exist on this block, and all of the immediately adjacent land uses are either single-family or two-family residential dwellings. Of the 17 properties along Front St., 11 (65%) are residential uses. Considering the proposed residential use is surrounded by residential uses, that it would be the last property on the block to be residential use, and the proposed use would be consistent with the predominant residential use along Front

St., staff and the P&Z do not have any concern regarding compatibility of the proposed use with the neighboring land uses.

**III. FISCAL IMPACTS:**

None.

**IV. LEGAL ISSUES:**

None.

**VI. PLANNING COMMISSION RECOMMENDATION:**

The Planning and Zoning Commission reviewed this application at a public hearing on July 26, 2023. All four (4) Commissioners present recommended the approval of the application with the attached Findings and Conditions of Approval.

**VII. COUNCIL OPTIONS:**

1. Approve the Application.
2. Approve the Application with conditions.
3. Deny the Application.
4. Table consideration of the Application and provide direction to staff.

**VIII. PROPOSED MOTION:**

“I move to approve the Engelbach Change of Use Conditional Use Permit, PL-2023-007, located at 610 Front St., along with the attached Findings and Conditions.”

**IX. ATTACHMENTS:**

1. Staff report for the July 26, 2023 Public Hearing at Planning Commission.
2. Recommended Findings and Conditions of Approval.
3. Proposed plans and applicant narrative.



## Planning and Zoning Commission Staff Report

- Subject:** Engelbach Change of Use from Commercial Office to Two-Family Dwelling (Conditional Use Permit, Public Hearing)
- Application #:** PL-2023-007
- Proposal:** The applicant proposes to change the use of the property from commercial to a two-family dwelling, with short-term rental use on the main floor and long-term rental use on the upper floor.
- Legal Description:** Oro Addition, Block 11, Lots 5,6,7,8
- Address:** 610 Front St.
- Date:** July 26, 2023
- Application Manager:** Chapin LaChance, AICP - Comm. Dev. and Planning Director
- Applicant:** Bill Engelbach
- Property Owner:** Thomas Engelbach
- Lot size:** 0.274 acres (11,944 sq. ft.)
- Zoning District:** Commercial/Highway Business (C)
- Historic District:** No
- Site Conditions:** The existing 1.5 story historic residential-style building contains an approximately 1,507 sq. ft. commercial office space on the main level and an approximately 861 sq. ft. apartment on the upper level. The site consists of five (5) lots, contains a 430 sq. ft. detached garage, and a shed and outbuilding which both encroach on to the rear public alley. There is a wooden fence along the northern, eastern, and western property boundaries, and a chain link fence along a portion of the southern frontage. There are two (2) paved parking areas along Front. St.
- Adjacent Uses:** North: two (2) two-family dwellings (zoned TR)  
South: Front St. right-of-way  
East: single-family dwelling (zoned C)  
West: single-family dwelling, 1,110 sq. ft. is taxed as “commercial, merchandising” by Lake County Assessor (zoned C)

## Site Photos



Image 1 (Above): Satellite image with the property's location highlighted in red.

Image 2 (Below): Zoning map excerpt, showing the property's location highlighted in red.

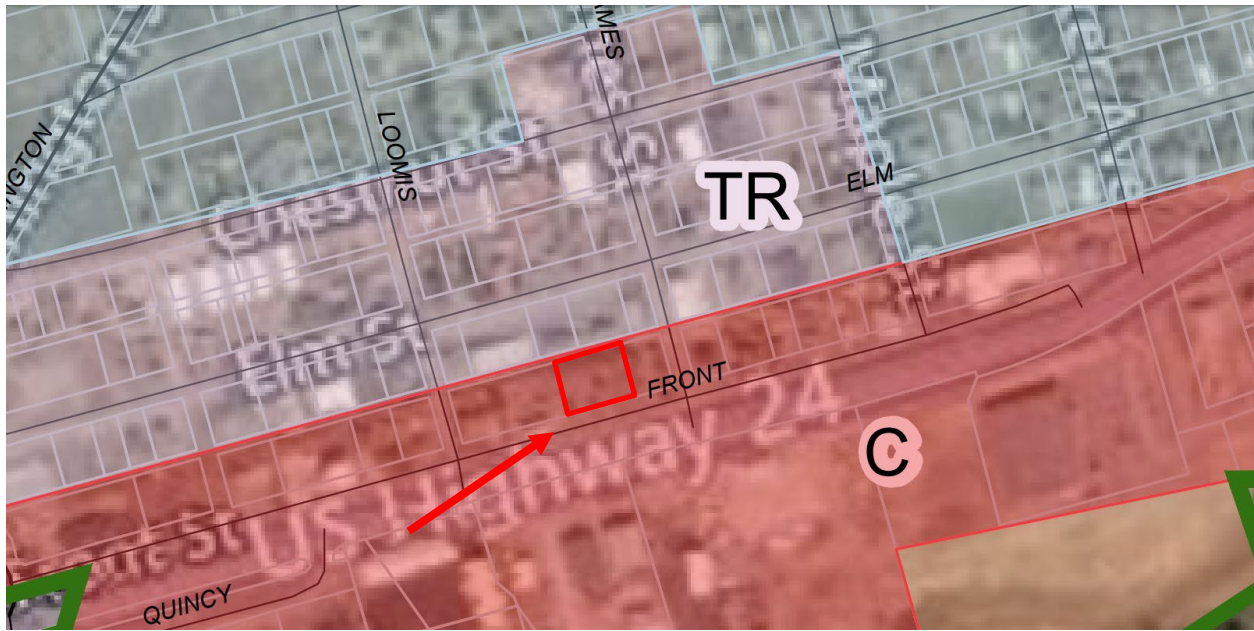




Image 3 (Above): Looking north at the property from Front St.

Image 4 (Below): Looking northwest at the property from Front St.





Image 5 (Above): Looking northeast at the property from Front St.

History

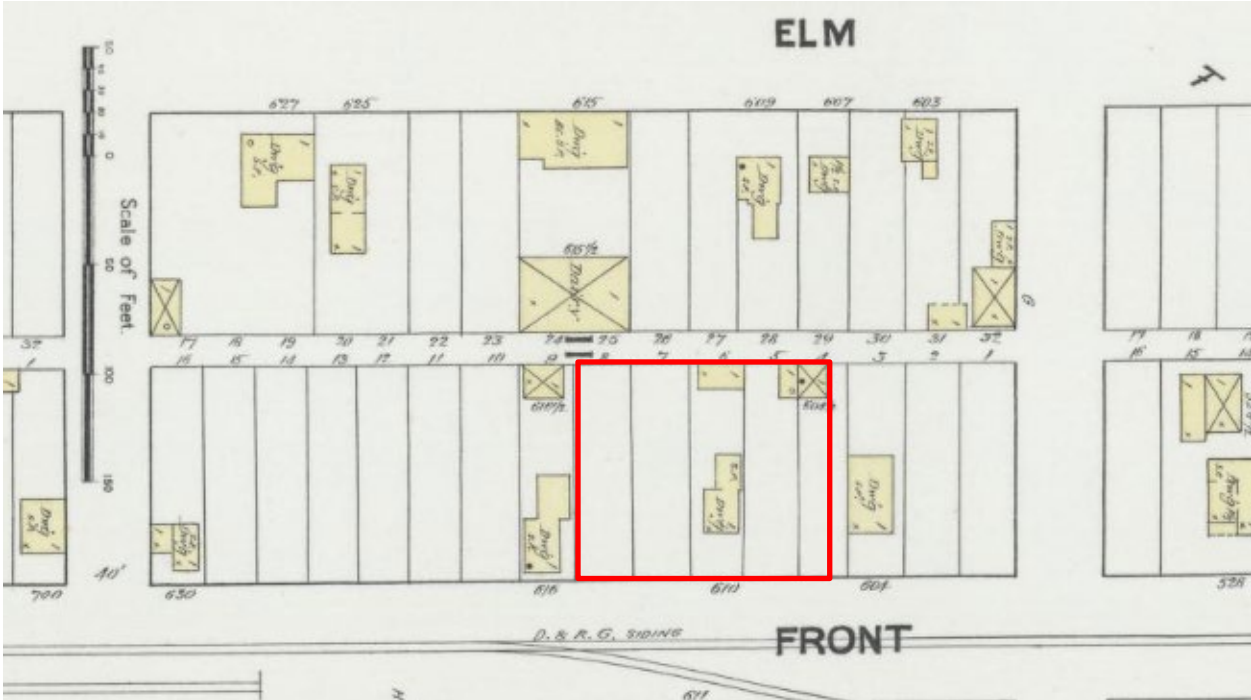


Image 6 (Above): 1889 Sanborn fire insurance map excerpt, with property highlighted in red.

Image 7 (Below): 1937 Sanborn fire insurance map excerpt, with property highlighted in red.



According to the Sanborn maps above, the two-story building has existed since 1889, and traditionally serving as a single-family dwelling. The building was used more recently as a chiropractic office.

**Staff Comments**

This application is subject to the zoning code in effect at the time of application, and is not subject to Ordinance No. 2, Series 2023. This ordinance changed the use allowance for 3-4 unit multi-family dwellings in the Commercial zoning district to a by-right use, but two-family dwelling use remains a Conditional Use in the Commercial zoning district.

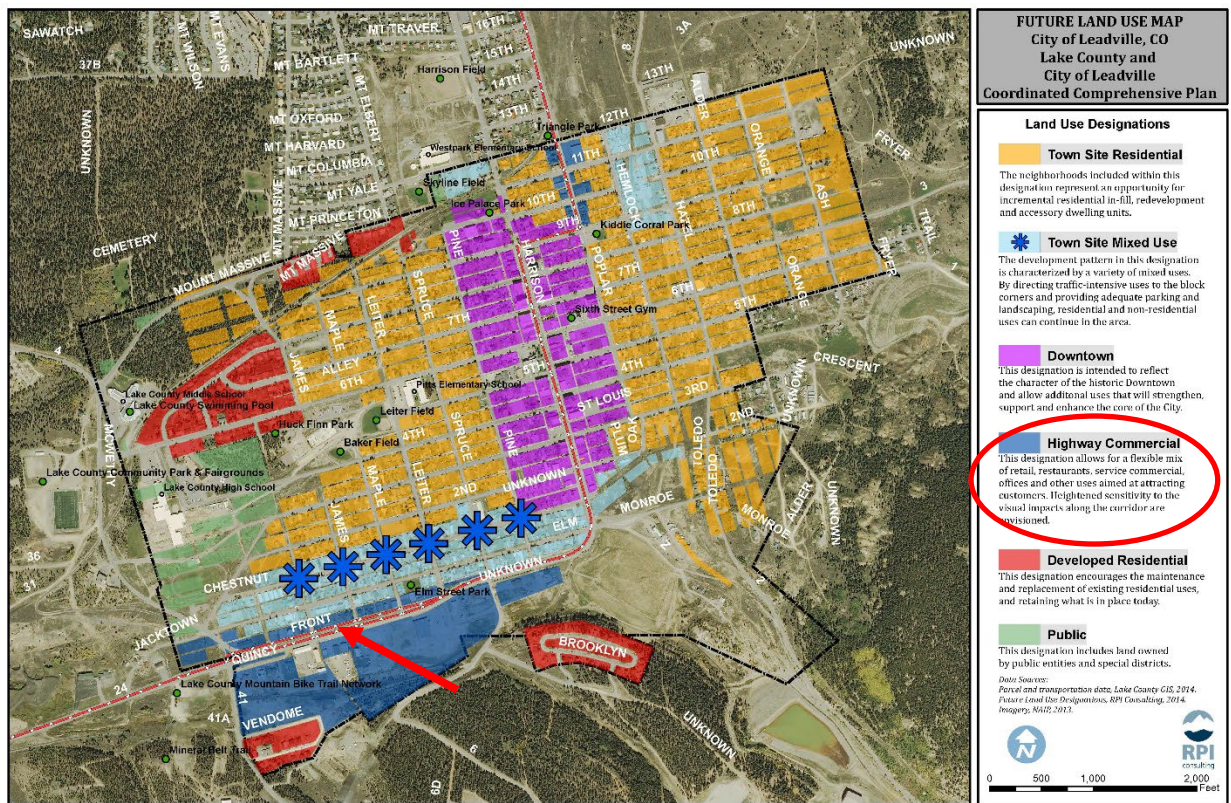
**17.48.010 – By Right, Conditional, and Prohibited Uses:** This subject property is located within the Commercial/Highway Business (C) zoning district. Within the C zoning district, “two-family dwellings” are only allowed as a Conditional Use requiring a public hearing.

The general intent statement in the Zoning code preceding the specific regulations for the TC zone district states: *“This district is created for the purposes of providing for tourism and automobile oriented business and commercial, office and retail services along the city's major highway approaches, and providing for the scenic and visual enhancement of those major highway approaches to Leadville. Consequently, the visual appearance and contribution to attractiveness of Leadville's gateways shall be a significant characteristic of all new and expanded development in this district.”* While this statement is not a code-criteria for approval, it emphasizes the importance of a highway gateway entrance that is commercial in character. Note that residential use is not mentioned in the general intent statement. This is evaluated in more detail in the criteria discussion below.

**17.52.040 - Criteria for action on an application for conditional use.**

A. That the proposed conditional use conforms to the requirements and provisions of this zoning regulation; The only proposed exterior modification is a new egress window for a bedroom, so there are not any issues concerning setbacks, height, or lot coverage with this application. The property is 0.274 acres and the C zoning district allows 9 dwelling units per acre, so the property is allowed to have the two (2) proposed dwelling units (0.274 acres x 9 du/ac = 2.466 dwelling units allowed).

B. That the proposed conditional use is consistent with and in compliance with the Leadville comprehensive plan, as amended; The property lies within the “Highway Commercial” land use designation of the [Comprehensive Plan’s Future Land Use Plan](#) of the designates the property, which is a designation that “allows for a flexible mix of retail, restaurants, service commercial, offices and other uses aimed at attracting customers. Heightened sensitivity to the visual impacts along the corridor are envisioned. Similar to the Highway Commercial zoning district, the Future Land Use plan also does not contemplate residential use within this area.



C. That the proposed conditional use is consistent with and in harmony with neighboring land uses and future intended land uses in the area; This property is the only property not currently used for residential use on the block bounded by Front St. to the south, Elm St. to the north, Loomis St. to the west, and James St. to the east. Considering all of the immediately adjacent land uses are either single-family or two-family residential dwellings, staff does not have any concern regarding compatibility of the proposed use with the neighboring land use. Of the 17 properties along Front St., 11 (65%) are residential uses. Considering these existing land use patterns, staff finds the proposed use meets this criteria.

D. That the proposed conditional use will not result in overly intensive use of the land relative to the surrounding land; This is a large property consisting of five (5) lots. The building is centrally located on the property, providing ample buffering between adjacent properties. Considering the ample buffering,



staff does not find the proposed residential use will be overly intensive. Short-term rentals are regulated by Chapter 5.12 – Short-Term Rentals. Staff has added a Condition of Approval that any short-term rental use of the proposed two-family dwelling must comply with Chapter 5.12 of the Leadville Municipal Code.

*E. That the proposed conditional use will not result in excessive traffic congestion or hazards to vehicular or pedestrian traffic;* Staff does not have any concerns regarding excessive traffic, considering the site has ample off-street parking. Staff estimates that six (6) vehicles could park on the property, minimizing the need for guests and residents to park along Front St. Vehicles would back directly onto the Front St. right-of-way, which is discouraged by the off-street parking requirements but is normal and customary throughout Leadville.

*F. That the proposed conditional use will not unnecessarily scar the land on which such use would be located and that the site be free from loose piles of soil or other materials and open, unprotected pits or holes;* N/A.

*G. That the proposed conditional use will not be likely to prove detrimental to the public health, safety or welfare of city residents nor cause hardship for neighboring persons;* Staff finds the proposed residential use is compatible with neighboring residential uses. Short-term rentals are regulated by Chapter 5.12 - Short-Term Rentals. Staff has added a Condition of Approval that the applicant shall obtain any required permits from the Lake County Building Dept. prior to using the property as a two-family dwelling.

*H. That the proposed site of the conditional use is and will be free from natural and manmade hazards or such hazards as have been identified can and will be adequately mitigated;* N/A.

*I. That all roadway systems and access roads will be open and readily accessible to police, fire and other emergency and public safety vehicles on a year-round basis.* Staff does not have any concerns regarding access to the property, as the property is immediately adjacent to the paved Front St.

#### **17.76.020 - Off-street parking space requirements**

Under the existing zoning code, two-family dwellings are exempt from the off-street parking requirements. Staff estimates that there are six (6) paved off-street parking spaces on the property, including the garage.

**Public comment:** Staff has not received any public comment at the time of this report.

**Other:** Staff notes that the proposed use of the upstairs apartment for long-term residential use is voluntary, and there are not any zoning code requirements at this time for the applicant to deed restrict the proposed long-term residential apartment to community housing.

#### **Questions for the Commission**

1. Considering the proposed residential use is 1) surrounded by residential uses, 2) the last property on the block to be residential use, and 3) consistent with the predominant residential use along Front St., does the Commission support the proposed change of use?

#### **Recommendation**

Staff has evaluated this application for compliance with Title 17 Zoning of the Leadville Municipal Code. Pending the Commission's responses to the question above, staff finds the proposal complies with this title. Staff recommends the Planning and Zoning Commission recommend the City Council approve the

Engelbach Change of Use Conditional Use Permit, PL-2023-007, located at 610 Front St., along with the attached Findings and Conditions.

Recommended motion: *“I move the Planning and Zoning Commission recommended the City Council approve the Engelbach Change of Use Conditional Use Permit, PL-2023-007, located at 610 Front St., along with the attached Findings and Conditions.”*

## CITY OF LEADVILLE

**Engelbach Change of Use from Commercial Office to Two-Family Dwelling  
Oro Addition, Block 11, Lots 5,6,7,8  
Conditional Use Permit  
PL-2023-007**

### FINDINGS

1. The proposed conditional use conforms to the requirements and provisions of this zoning regulation.
2. The proposed conditional use is consistent with and in compliance with the Leadville Comprehensive Plan, as amended.
3. The proposed conditional use is consistent with and in harmony with neighboring land uses and future intended land uses in the area.
4. The proposed conditional use will not result in overly intensive use of the land relative to the surrounding land.
5. The proposed conditional use will not result in excessive traffic congestion or hazards to vehicular or pedestrian traffic.
6. The proposed conditional use will not unnecessarily scar the land on which such use would be located and that the site be free from loose piles of soil or other materials and open, unprotected pits or holes.
7. The proposed conditional use will not be likely to prove detrimental to the public health, safety or welfare of city residents nor cause hardship for neighboring persons.
8. The proposed site of the conditional use is and will be free from natural and manmade hazards or such hazards as have been identified can and will be adequately mitigated.
9. All roadway systems and access roads will be open and readily accessible to police, fire and other emergency and public safety vehicles on a year-round basis.
10. This approval is based on the staff report dated **July 26, 2023** and findings made by the City Council with respect to the project. Your project was approved based on the proposed design of the project and your acceptance of these terms and conditions imposed.
11. The terms of approval include any representations made by you or your representatives in any writing or plans submitted to the City of Leadville, and at the hearing on the project held on **July 26, 2023** and **August 1, 2023** as to the nature of the project. In addition to Commission minutes, the audio of the meetings of the Commission are recorded.

## CONDITIONS

1. This permit does not become effective, and the project may not be commenced, unless and until the applicant accepts the preceding findings and following conditions in writing and transmits the acceptance to the City of Leadville.
2. If the terms and conditions of the approval are violated, the City, in addition to criminal and civil judicial proceedings, may, if appropriate, issue a stop work order requiring the cessation of work, revoke this permit, or require removal of any improvements made in reliance upon this permit. The payment of any costs incurred by the City related to enforcement actions related to violations of this permit shall be the sole responsibility of the applicant and shall constitute a lien on the property.
3. The terms and conditions of this permit are in compliance with the statements of the staff and applicant made on the staff report and application.
4. This permit contains no agreement, consideration, or promise that a certificate of occupancy or certificate of compliance will be issued by the City. A certificate of occupancy or certificate of compliance will be issued only in accordance with the City's planning requirements/codes and building codes.
5. **Any short-term rental use of the proposed two-family dwelling must comply with Chapter 5.12 of the Leadville Municipal Code.**
6. **Applicant shall obtain any required permits from the Lake County Building Dept. prior to using the property as a two-family dwelling.**

## **Letter of Intent**

**Thomas R Engelbach**

**610 Front Street, Leadville**

To: City of Leadville

Planning & Zoning

This letter of intent is to support the application for a Conditional Use Permit at 610 Front St. The owner, Thom Engelbach, proposes to change the use of this 2-story building from commercial offices to a residential duplex. Before Mr. Engelbach purchased the building in December 2022, the location was used as a chiropractor's office with a one-bedroom apartment above. If the new use is approved, the building will supply much-needed housing for the City. The owner plans to provide licensed, short-term rental accommodation in the lower unit for sports enthusiasts and others visiting Leadville. The upper level apartment will be for long term residents.

The parcel is the West 19 feet of Lot 4 and all of Lots 5,6,7, and 8, Oro Addition, Block 11, County of Lake and State of Colorado.

It is zoned Commercial, which allows for 9 dwelling units per acre. At .274 acres, this parcel would allow two dwelling units. Both units will exceed the 600 sf threshold for minimum dwelling size.

The upper unit would provide affordable rental housing in Leadville, aligning with the objectives of the Leadville Comprehensive Plan. The lower unit would also support the plan's economic objectives by providing desirable accommodations for small groups of runners, hikers, and skiers that visit Leadville for sports events and support local businesses.

As the neighboring properties are currently in use as residential housing, the proposed duplex is consistent with the land use in the area. The use will not be more intensive than its previous function as a commercial office.

The house is served by a secondary street, Front Street, and its own driveway which are separated from Highway 24 and should not cause undue hazards to pedestrians or vehicular traffic. There will not be a significant increase in the volume of traffic or number of vehicles using the property.

No excavation activities or scarring of the land are planned for the property or will result from the proposed use.

The proposed residential use will be consistent with the current neighborhood character and will not be detrimental to the health, safety, and welfare of the adjacent residents. There will be no introduction of hazards to the location and any safety or building code issues that arise will be addressed promptly. The street serving the property, Front Street, will remain clear and accessible to police, fire, and public safety vehicles.

Respectfully submitted,

Thomas R Engelbach

06/26/2023



1 Site plan  
1" = 10'-0"



Sheet List	
Sheet Name	Sheet Number
Cover / Site	A0
Plan	A1
Second floor	A1.1
Basement plan	A1.2

Building codes used:  
 2012 IRC, with Amendments  
 2012 IMC  
 2012 IPC  
 2012 IFGC  
 2012 IEBC

Owner : Thom Engelbach  
 Ph: 303-818-2111

Parcel #2633-261-26-008  
 Parcel area : 11,944 sf / .274 ac  
 Zoned C  
 Area :  
 Basement 234 sf  
 Level 1 1507 sf  
 Level 2 861 sf

**General Contractor**  
 Colorado Choice Builders  
 Thom Engelbach  
 PO Box 7952 Boulder CO 80306  
 303 818 2111  
 thomas.engelbach@gmail.com

Thom Engelbach  
 PROPERTY LINE  
 610 Front St.  
 Leadville CO 80461

610 Front St.

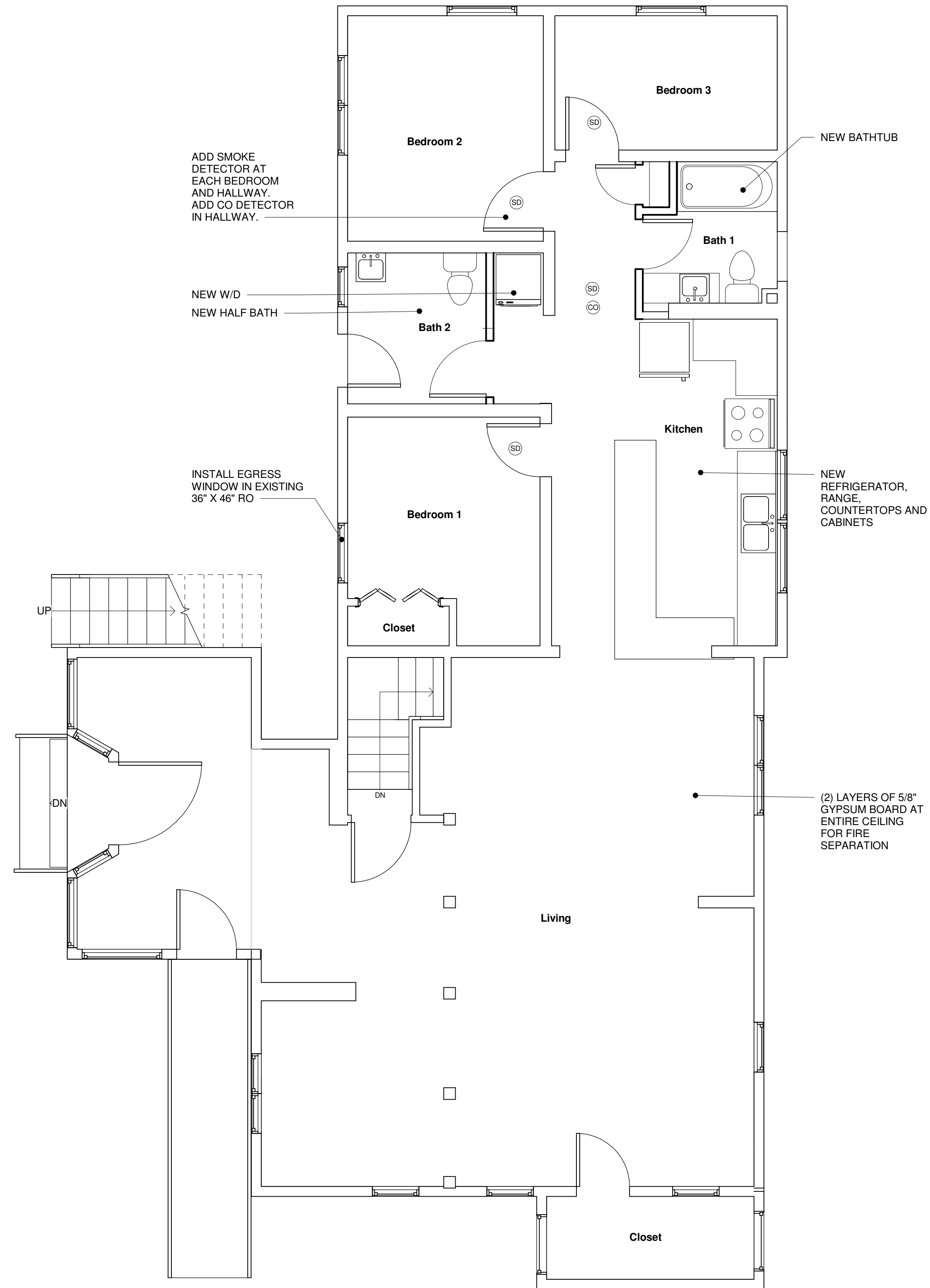
No.	Description	Date
1	Schematic design	03/31/2023

Cover / Site

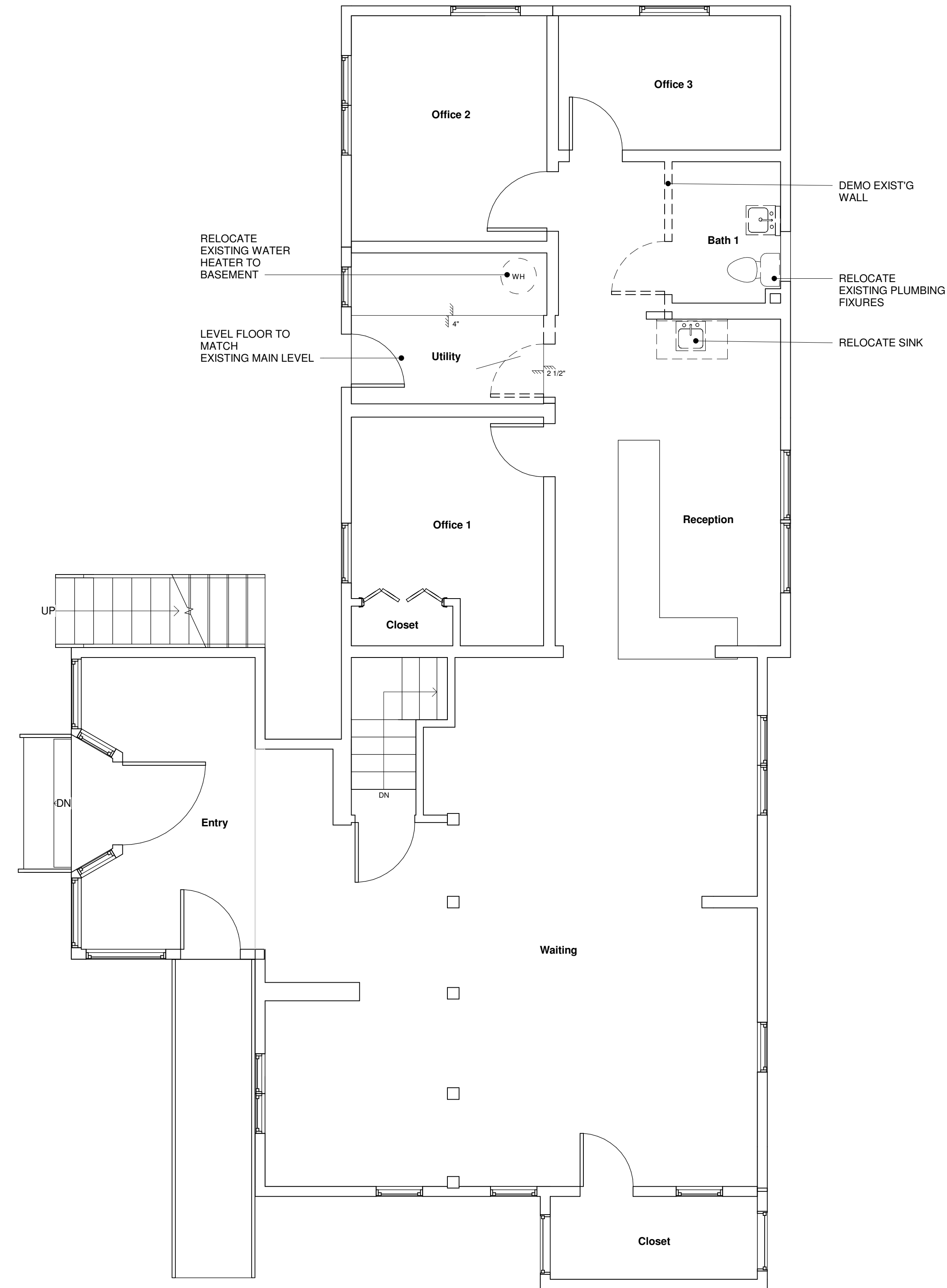
Date  
 Drawn by BE

A0

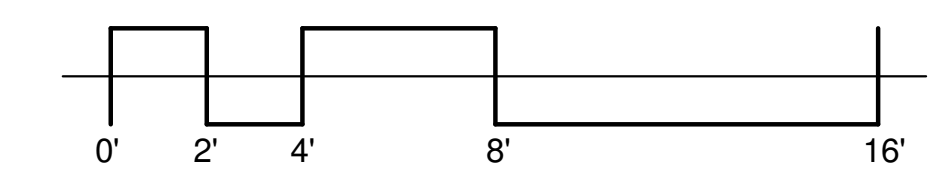
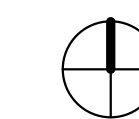
Scale 1" = 10'-0"



2 First floor plan- proposed  
1/4" = 1'-0"



1 First floor plan- existing  
1/4" = 1'-0"



**General Contractor**  
Colorado Choice Builders  
Thom Engelbach  
PO Box 7952 Boulder CO 80306  
303 818.2111  
thomas.engelbach@gmail.com

Thom Engelbach

610 Front St.  
Leadville CO 80461

610 Front St.

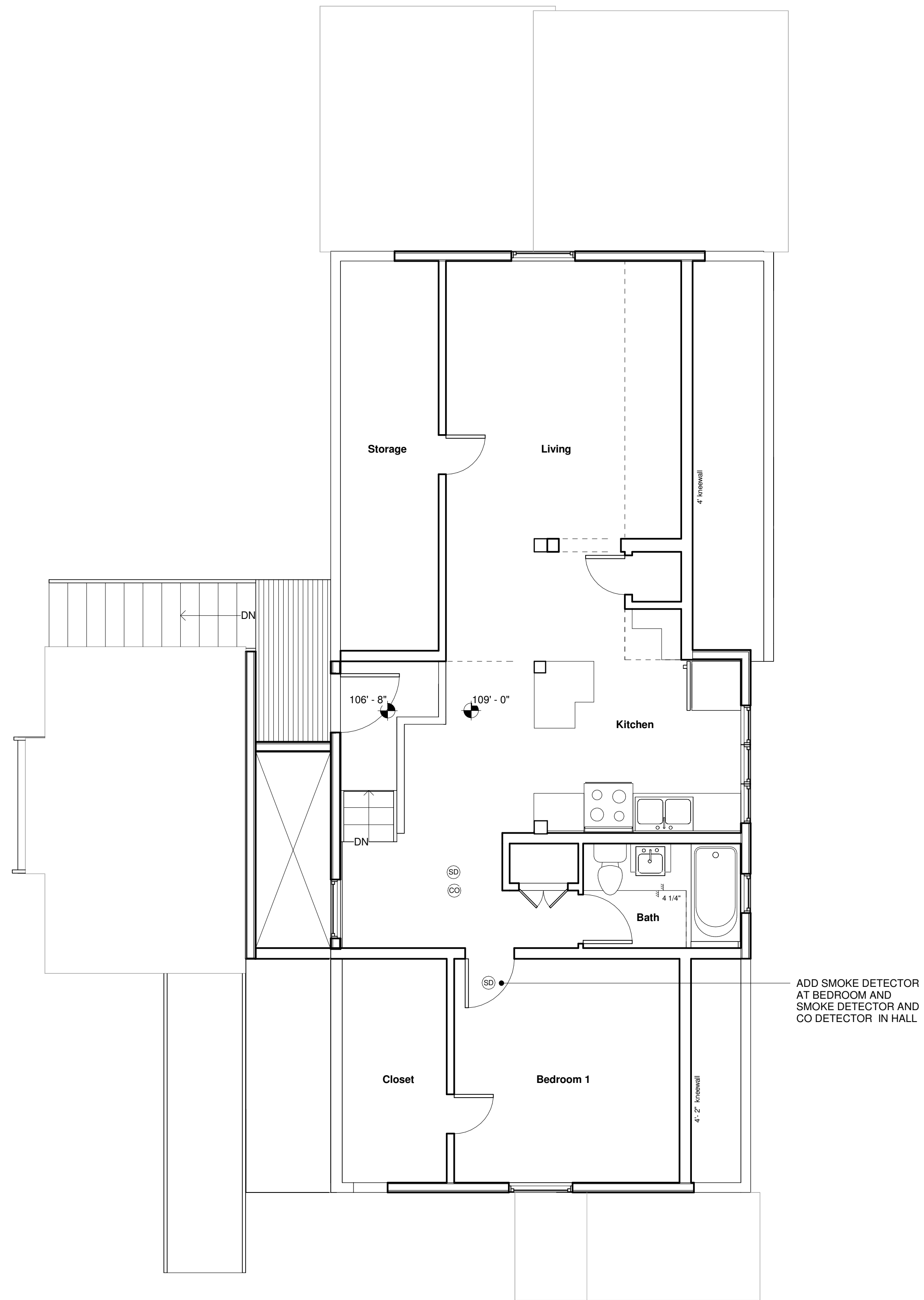
No.	Description	Date
1	Schematic design	03/31/2023

Plan

Date  
Drawn by  
Author

A1

Scale 1/4" = 1'-0"



① Second floor (existing to remain)  
1/4" = 1'-0"

**General Contractor**  
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Thom Engelbach  
PO Box 7952 Boulder CO 80306  
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Thom Engelbach  
610 Front St.  
Leadville CO 80461

610 Front St.

No.	Description	Date
1	Schematic design	03/31/2023

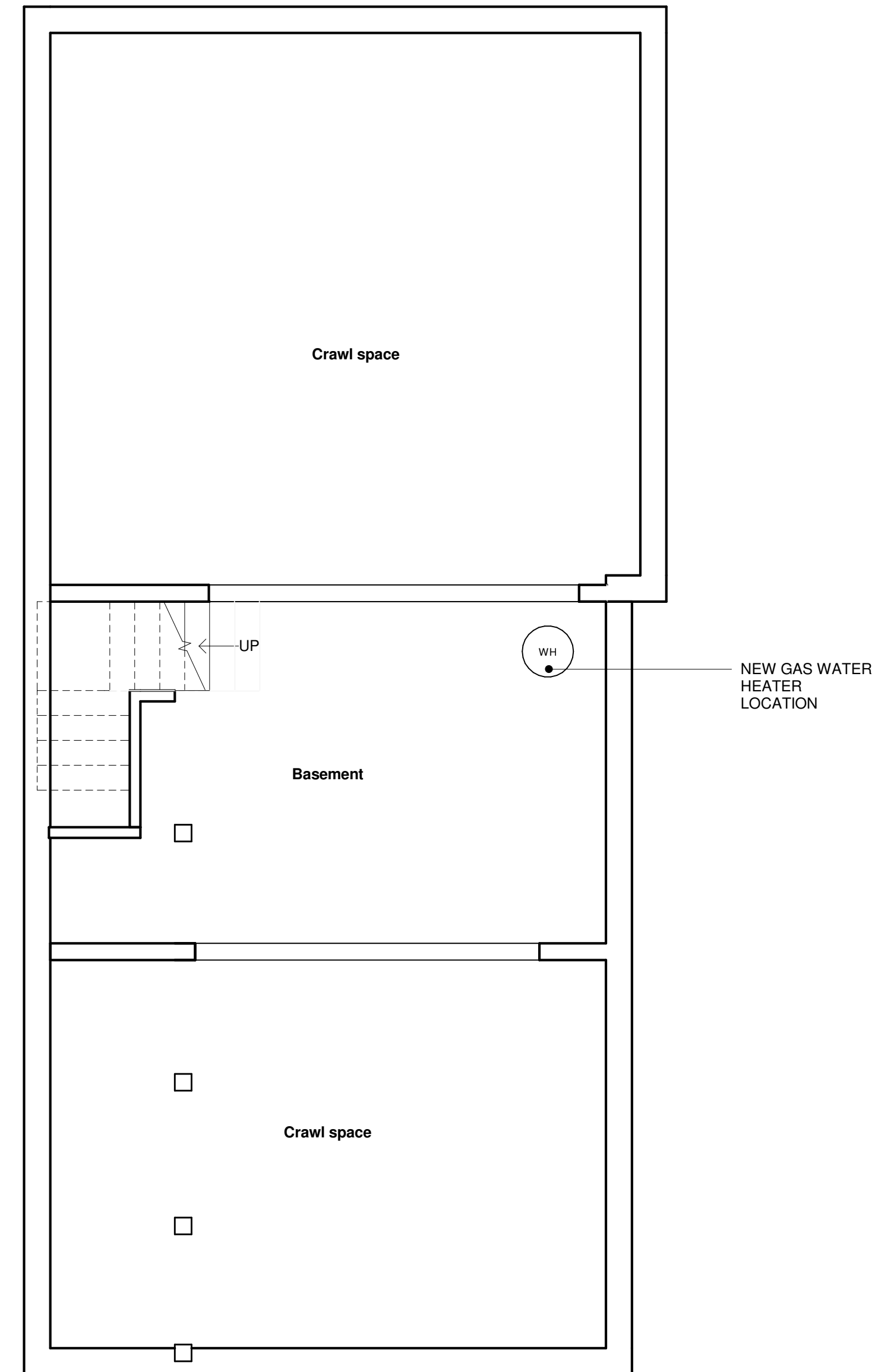
Second floor

Date \_\_\_\_\_ Author \_\_\_\_\_  
Drawn by \_\_\_\_\_

A1.1

Scale 1/4" = 1'-0"





1 Basement  
1/4" = 1'-0"

**General Contractor**  
 Colorado Choice Builders  
 Thom Engelbach  
 PO Box 7952 Boulder CO 80306  
 303 618 2111  
 thomas.engelbach@gmail.com

Thom Engelbach  
 610 Front St.  
 Leadville CO 80461

610 Front St.

No.	Description	Date
1	Schematic design	03/31/2023

Basement plan

Date \_\_\_\_\_ Author \_\_\_\_\_  
 Drawn by \_\_\_\_\_

A1.2

Scale 1/4" = 1'-0"



## AGENDA ITEM #7C

### CITY COUNCIL COMMUNICATION FORM

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**MEETING DATE:** August 1, 2023

**SUBJECT:** Resolution No. 16, Series of 2023, a Resolution Authorizing the Purchase of Real Property Known as 117 W. 10<sup>th</sup> Street and Ratifying a Contract to Buy and Sell Commercial Real Estate for municipal purposes, including but not limited to a potential community center

**PRESENTED BY:** Laurie Simonson, City Administrator

---

ORDINANCE  
 RESOLUTION  
 MOTION  
 INFORMATION

---

**I. REQUEST OR ISSUE:**

Staff requests that council approve Resolution No. 16, Series of 2023, a Resolution Authorizing the Purchase of Real Property Known as 117 W. 10th Street and Ratifying a Contract to Buy and Sell Commercial Real Estate for municipal purposes, including but not limited to a potential community center.

**II. BACKGROUND INFORMATION:**

On July 24, 2023, the City Council held a special meeting and an executive session to discuss the potential purchase of real property known as 117 W. 10th Street for municipal purposes, including but not limited to a potential community center. At that time, the council authorized the City Administrator to enter into negotiations with the property owner.

After this special city council meeting, the property owner and the city agreed upon terms and a purchase price for the property. The city's broker, Amy Tait, prepared a Contract to Buy and Sell Commercial Real Estate attached as Attachment 1. The city council is now asked to ratify this contract by way of the Resolution attached as Attachment 2.

The City will be working with the community, in partnership with the University of Colorado – Denver Technical Assistance Program (UTAP) and a team of graduate planning and architecture students, on potential designs for the property. (See Attachment 3.)

### **III. FISCAL IMPACTS:**

This acquisition requires an initial capital investment of \$825,000.

This acquisition will include the following on-going costs:

1. Insurance
2. Maintenance
3. Property management

Staff recommends that the funding for the acquisition come from the city's general fund. (Funds for the on-going costs can be made from the general fund as the council decides during the budget process each year.)

The city is in a financial position to afford acquisition of the property. The city's current reserves are at approximately \$3,748,562.37. The Department of Legislative Affairs ("DOLA") recommends a reserve for a city of our size at \$2,000,000.

The city's sales tax revenue for 2023 is approximately 18% over budgeted revenue. The city's total sales tax revenues are \$260,854 over projections as of June 2023.

### **IV. LEGAL ISSUES:**

City Attorney Linda Michow provided a legal review of the purchase contract.

### **VI. STAFF RECOMMENDATION:**

Staff recommends that the council approve Resolution No. 16, Series of 2023, a Resolution Authorizing the Purchase of Real Property Known as 117 W. 10th Street and Ratifying a Contract to Buy and Sell Commercial Real Estate for municipal purposes, including but not limited to a potential community center.

### **VII. COUNCIL OPTIONS:**

1. Approve Resolution No. 16, Series of 2023
2. Deny Resolution No. 16 Series of 2023
3. Table consideration of Resolution No. 16, Series of 2023 and provide direction to staff.

### **VIII. PROPOSED MOTION:**

"I move to approve Resolution No. 16, Series of 2023, a Resolution Authorizing the Purchase of Real Property Known as 117 W. 10th Street and Ratifying a Contract to Buy and Sell Commercial Real Estate for municipal purposes, including but not limited to a potential community center."

**IX. ATTACHMENTS:**

1. Contract to Buy and Sell Commercial Real Estate for the purchase of 117 W. 10<sup>th</sup> Street, Leadville, CO;
2. Resolution No. 16, Series of 2023, a Resolution Authorizing the Purchase of Real Property Known as 117 W. 10th Street and Ratifying a Contract to Buy and Sell Commercial Real Estate for municipal purposes, including but not limited to a potential community center.
3. Scope of Work with the University of Colorado Technical Assistance Program.



Centennial Real Estate  
Amy M. Tait  
Ph: 719-486-1409  
Fax: 719-486-1482

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (CBS3-6-21) (Mandatory 1-22)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

## CONTRACT TO BUY AND SELL REAL ESTATE (COMMERCIAL)

**Property with No Residences)**  
 **Property with Residences-Residential Addendum Attached)**

Date: 7/24/2023

### AGREEMENT

1. **AGREEMENT.** Buyer agrees to buy and Seller agrees to sell the Property described below on the terms and conditions set forth in this contract (Contract).

2. **PARTIES AND PROPERTY.**

2.1. Buyer. City of Leadville (Buyer) will take title to the Property described below as

Joint Tenants  Tenants In Common  Other .

2.2. **No Assignability.** This Contract **IS NOT** assignable by Buyer unless otherwise specified in **Additional Provisions.**

2.3. Seller. RGCC, LLC (Seller) is the current owner of the Property described below.

2.4. **Property.** The Property is the following legally described real estate in the County of Lake, Colorado (insert legal description):

See Exhibit A for corrected legal description

known as: 117 W 10th Street, Leadville, CO 80461

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

2.5. **Inclusions.** The Purchase Price includes the following items (Inclusions):

2.5.1. **Inclusions – Attached.** If attached to the Property on the date of this Contract, the following items are included unless excluded under **Exclusions:** lighting, heating, plumbing, ventilating and air conditioning units, TV antennas, inside telephone, network and coaxial (cable) wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls, built-in vacuum systems (including accessories) and garage door openers (including 0 remote controls). If checked, the following are owned by the Seller and included:  **Solar Panels**  
 **Water Softeners**  **Security Systems**  **Satellite Systems** (including satellite dishes). Leased items should be listed under § 2.5.7. (Leased Items). If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

2.5.2. **Inclusions – Not Attached.** If on the Property, whether attached or not, on the date of this Contract, the following items are included unless excluded under **Exclusions:** storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings and treatments, curtain rods, drapery

Initials \_\_\_\_\_

57 rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, carbon monoxide  
58 alarms, smoke/fire detectors and all keys.

59 **2.5.3. Other Inclusions.** The following items, whether fixtures or personal property, are also  
60 included in the Purchase Price:

61 **2.5.4. Encumbered Inclusions.** Any Inclusions owned by Seller (e.g., owned solar panels) must  
62 be conveyed at Closing by Seller free and clear of all taxes (except personal property and general real estate  
63 taxes for the year of Closing), liens and encumbrances, except:

64 **2.5.5. Personal Property Conveyance.** Conveyance of all personal property will be by bill of  
65 sale or other applicable legal instrument.

66 **2.5.6. Parking and Storage Facilities.** The use or ownership of the following parking facilities:  
67 two parking lots and metal garage; and the use or ownership of the following storage facilities:  
68 Note to Buyer: If exact rights to the parking and storage facilities is a concern to Buyer, Buyer should  
69 investigate.

70 **2.5.7. Leased Items.** The following personal property is currently leased to Seller which will be  
71 transferred to Buyer at Closing (Leased Items):

72 **2.5.8. Trade Fixtures.** With respect to trade fixtures, Seller and Buyer agree as follows:  
73 The trade fixtures to be conveyed at Closing will be conveyed by Seller free and clear of all taxes  
74 (except personal property taxes for the year of Closing), liens and encumbrances, except . Conveyance will  
75 be by bill of sale or other applicable legal instrument.

76 **2.6. Exclusions.** The following items are excluded (Exclusions):  
77 Private property in garage and some items in the main building.

78 **2.7. Water Rights/Well Rights.**

79  **2.7.1. Deeded Water Rights.** The following legally described water rights:  
80 Any deeded water rights will be conveyed by a good and sufficient deed at Closing.

81  **2.7.2. Other Rights Relating to Water.** The following rights relating to water not included in §§  
82 2.7.1., 2.7.3. and 2.7.4., will be transferred to Buyer at Closing:

83  **2.7.3. Well Rights.** Seller agrees to supply required information to Buyer about the well. Buyer  
84 understands that if the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water Well"  
85 used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in Ownership  
86 form for the well. If an existing well has not been registered with the Colorado Division of Water Resources in  
87 the Department of Natural Resources (Division), Buyer must complete a registration of existing well form for  
88 the well and pay the cost of registration. If no person will be providing a closing service in connection with the  
89 transaction, Buyer must file the form with the Division within sixty days after Closing. The Well Permit # is .

90  **2.7.4. Water Stock Certificates.** The water stock certificates to be transferred at Closing are as  
91 follows:

92 **2.7.5. Conveyance.** If Buyer is to receive any rights to water pursuant to § 2.7.2. (Other Rights  
93 Relating to Water), § 2.7.3. (Well Rights), or § 2.7.4. (Water Stock Certificates), Seller agrees to convey such  
94 rights to Buyer by executing the applicable legal instrument at Closing.

95 **2.7.6. Water Rights Review.** Buyer  Does  Does Not have a Right to Terminate if  
96 examination of the Water Rights is unsatisfactory to Buyer on or before the **Water Rights Examination**  
97 **Deadline.**

98 **3. DATES, DEADLINES AND APPLICABILITY.**

99 **3.1. Dates and Deadlines.**

Item No.	Reference	Event	Date or Deadline
1	§ 3	Time of Day Deadline	<b>6:00 PM MST</b>
2	§ 4	Alternative Earnest Money Deadline	<b>5 days from MEC</b>
		<b>Title</b>	

116	3	§ 8	Record Title Deadline (and Tax Certificate)	<b>8/7/2023</b>	Monday
117	4	§ 8	Record Title Objection Deadline	<b>8/10/2023</b>	Thursday
118	5	§ 8	Off-Record Title Deadline	<b>8/7/2023</b>	Monday
119	6	§ 8	Off-Record Title Objection Deadline	<b>8/10/2023</b>	Thursday
120	7	§ 8	Title Resolution Deadline	<b>8/17/2023</b>	Thursday
121	8	§ 8	Third Party Right to Purchase/Approve Deadline		
122			<b>Owners' Association</b>		
123	9	§ 7	Association Documents Deadline		
124	10	§ 7	Association Documents Termination Deadline		
125			<b>Seller's Disclosures</b>		
126	11	§ 10	Seller's Property Disclosure Deadline		
127	12	§ 10	Lead-Based Paint Disclosure Deadline (if Residential Addendum attached)		
128			<b>Loan and Credit</b>		
129	13	§ 5	New Loan Application Deadline		
130	14	§ 5	New Loan Terms Deadline		
131	15	§ 5	New Loan Availability Deadline		
132	16	§ 5	Buyer's Credit Information Deadline		
133	17	§ 5	Disapproval of Buyer's Credit Information Deadline		
134	18	§ 5	Existing Loan Deadline		
135	19	§ 5	Existing Loan Termination Deadline		
136	20	§ 5	Loan Transfer Approval Deadline		
137	21	§ 4	Seller or Private Financing Deadline		
138			<b>Appraisal</b>		
139	22	§ 6	Appraisal Deadline	<b>8/22/2023</b>	Tuesday
140	23	§ 6	Appraisal Objection Deadline	<b>8/23/2023</b>	Wednesday
141	24	§ 6	Appraisal Resolution Deadline	<b>8/24/2023</b>	Thursday
142			<b>Survey</b>		
143	25	§ 9	New ILC or New Survey Deadline		
144	26	§ 9	New ILC or New Survey Objection Deadline		
145	27	§ 9	New ILC or New Survey Resolution Deadline		
146			<b>Inspection and Due diligence</b>		
147	28	§ 2	Water Rights Examination Deadline		
148	29	§ 8	Mineral Rights Examination Deadline		
149	30	§ 10	Inspection Termination Deadline		
150	31	§ 10	Inspection Objection Deadline		
151	32	§ 10	Inspection Resolution Deadline		
152	33	§ 10	Property Insurance Termination Deadline		
153	34	§ 10	Due Diligence Documents Delivery Deadline		
154	35	§ 10	Due Diligence Documents Objection Deadline		

Initials \_\_\_\_\_

174 175 176	36	§ 10	Due Diligence Documents Resolution Deadline	
177 178	37	§ 10	Environmental Inspection Termination Deadline	
179	38	§ 10	ADA Evaluation Termination Deadline	
180 181	39	§ 10	Conditional Sale Deadline	
182 183	40	§ 10	Lead-Based Paint Termination Deadline (if Residential Addendum attached)	
184	41	§ 11	Estoppel Statements Deadline	
185 186	42	§ 11	Estoppel Statements Termination Deadline	
187			<b>Closing and Possession</b>	
188 189	43	§ 12	Closing Date	<b>9/14/2023</b> Thursday
190	44	§ 17	Possession Date	<b>on the day of closing</b>
191 192 193	45	§ 17	Possession Time	<b>at the time of closing and funding</b>
194	46	§ 27	<b>Acceptance Deadline Date</b>	<b>7/24/2023</b> Monday
195 196	47	§ 27	<b>Acceptance Deadline Time</b>	<b>7:00PM MST</b>
197	48			
198 199	49			

200 **3.2. Applicability of Terms.** If any deadline blank in § 3.1. (Dates and Deadlines) is left blank or  
 201 completed with "N/A", or the word "Deleted," such deadline is not applicable and the corresponding provision  
 202 containing the deadline is deleted. Any box checked in this Contract means the corresponding provision  
 203 applies. If no box is checked in a provision that contains a selection of "None", such provision means that  
 204 "None" applies.

205  
 206 The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have  
 207 signed this Contract. The abbreviation "N/A" as used in this Contract means not applicable.

208 **3.3. Day; Computation of Period of Days; Deadlines.**

209 **3.3.1. Day.** As used in this Contract, the term "day" means the entire day ending at 11:59 p.m.,  
 210 United States Mountain Time (Standard or Daylight Savings, as applicable). Except however, if a **Time of**  
 211 **Day Deadline** is specified in § 3.1. (Dates and Deadlines), all Objection Deadlines, Resolution Deadlines,  
 212 Examination Deadlines and Termination Deadlines will end on the specified deadline date at the time of day  
 213 specified in the **Time of Day Deadline**, United States Mountain Time. If **Time of Day Deadline** is left blank  
 214 or "N/A" the deadlines will expire at 11:59 p.m., United States Mountain Time.

215 **3.3.2. Computation of Period of Days.** In computing a period of days (e.g., three days after  
 216 MEC), when the ending date is not specified, the first day is excluded and the last day is included.

217 **3.3.3. Deadlines.** If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday  
 218 (Holiday), such deadline  **Will**  **Will Not** be extended to the next day that is not a Saturday, Sunday or  
 219 Holiday. Should neither box be checked, the deadline will not be extended.

220  
 221  
 222 **4. PURCHASE PRICE AND TERMS.**

223 **4.1. Price and Terms.** The Purchase Price set forth below is payable in U.S. Dollars by Buyer as  
 224 follows:  
 225  
 226

Item No.	Reference	Item	Amount	Amount
227 228 229	1	§ 4.1.	Purchase Price	\$ <b>825,000.00</b>
230 231	2	§ 4.3.	Earnest Money	\$ <b>11,000.00</b>

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232	3	§ 4.5.	New Loan		\$
233					
234	4	§ 4.6.	Assumption Balance		\$
235	5	§ 4.7.	Private Financing		\$
236					
237	6	§ 4.7.	Seller Financing		\$
238	7				\$
239	8				\$
240					
241	9	§ 4.4.	Cash at Closing		\$ <b>814,000.00</b>
242	10		<b>Total</b>	\$ <b>825,000.00</b>	\$ <b>825,000.00</b>
243					

244 **4.2. Seller Concession.** At Closing, Seller will credit to Buyer \$ (Seller Concession). The Seller  
 245 Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed  
 246 by the Buyer's lender and is included in the Closing Statement or Closing Disclosure at Closing. Examples of  
 247 allowable items to be paid for by the Seller Concession include, but are not limited to: Buyer's closing costs,  
 248 loan discount points, loan origination fees, prepaid items and any other fee, cost, charge, expense or  
 249 expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere  
 250 in this Contract.

251 **4.3. Earnest Money.** The Earnest Money set forth in this Section, in the form of a **Good Funds**, will  
 252 be payable to and held by **Stewart Title** (Earnest Money Holder), in its trust account, on behalf of both  
 253 Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the  
 254 parties mutually agree to an **Alternative Earnest Money Deadline** for its payment. The parties authorize  
 255 delivery of the Earnest Money deposit to the company conducting the Closing (Closing Company), if any, at  
 256 or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money  
 257 deposits transferred to a fund established for the purpose of providing affordable housing to Colorado  
 258 residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money  
 259 deposited with the Earnest Money Holder in this transaction will be transferred to such fund.

261 **4.3.1. Alternative Earnest Money Deadline.** The deadline for delivering the Earnest Money, if  
 262 other than at the time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

263 **4.3.2. Disposition of Earnest Money.** If Buyer has a Right to Terminate and timely terminates,  
 264 Buyer is entitled to the return of Earnest Money as provided in this Contract. If this Contract is terminated as  
 265 set forth in § 24 and, except as provided in § 23 (Earnest Money Dispute), if the Earnest Money has not  
 266 already been returned following receipt of a Notice to Terminate, Seller agrees to execute and return to Buyer  
 267 or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within three  
 268 days of Seller's receipt of such form. If Seller is entitled to the Earnest Money, and, except as provided in §  
 269 23 (Earnest Money Dispute), if the Earnest Money has not already been paid to Seller, following receipt of an  
 270 Earnest Money Release form, Buyer agrees to execute and return to Seller or Broker working with Seller,  
 271 written mutual instructions (e.g., Earnest Money Release form), within three days of Buyer's receipt.

272 **4.3.2.1. Seller Failure to Timely Return Earnest Money.** If Seller fails to timely execute  
 273 and return the Earnest Money Release Form, or other written mutual instructions, Seller is in default and  
 274 liable to Buyer as set forth in **"If Seller is in Default", § 20.2. and § 21**, unless Seller is entitled to the  
 275 Earnest Money due to a Buyer default.

276 **4.3.2.2. Buyer Failure to Timely Release Earnest Money.** If Buyer fails to timely execute  
 277 and return the Earnest Money Release Form, or other written mutual instructions, Buyer is in default and  
 278 liable to Seller as set forth in **"If Buyer is in Default, § 20.1 and § 21**, unless Buyer is entitled to the Earnest  
 279 Money due to a Seller Default.

280 **4.4. Form of Funds; Time of Payment; Available Funds.**

281 **4.4.1. Good Funds.** All amounts payable by the parties at Closing, including any loan proceeds,  
 282 Cash at Closing and closing costs, must be in funds that comply with all applicable Colorado laws, including  
 283 electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds).

284 **4.4.2. Time of Payment.** All funds, including the Purchase Price to be paid by Buyer, must be  
 285 paid before or at Closing or as otherwise agreed in writing between the parties to allow disbursement by  
 286 Closing Company at Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT.**

Initials \_\_\_\_\_

291 4.4.3. **Available Funds.** Buyer represents that Buyer, as of the date of this Contract,  **Does**  
292  **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount  
293 stated as Cash at Closing in § 4.1.

294 4.5. **New Loan.** (Omitted as inapplicable)

295 4.6. **Assumption.** (Omitted as inapplicable)

296 4.7. **Seller or Private Financing.** (Omitted as inapplicable)  
297

298  
299 

<b>TRANSACTION PROVISIONS</b>
-------------------------------

  
300

301  
302 5. **FINANCING CONDITIONS AND OBLIGATIONS.** (Omitted as inapplicable)

303 5.3. **Credit Information.** (Omitted as inapplicable)

304 5.4. **Existing Loan Review.** (Omitted as inapplicable)  
305

306  
307 6. **APPRAISAL PROVISIONS.**

308 6.1. **Appraisal Definition.** An "Appraisal" is an opinion of value prepared by a licensed or certified  
309 appraiser, engaged on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised  
310 Value). The Appraisal may also set forth certain lender requirements, replacements, removals or repairs  
311 necessary on or to the Property as a condition for the Property to be valued at the Appraised Value.

312 6.2. **Appraised Value.** The applicable appraisal provision set forth below applies to the respective  
313 loan type set forth in § 4.5.3., or if a cash transaction (i.e., no financing), § 6.2.1. applies.

314 6.2.1. **Conventional/Other.** Buyer has the right to obtain an Appraisal. If the Appraised Value is  
315 less than the Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline**  
316 Buyer may, on or before **Appraisal Objection Deadline**:

317 6.2.1.1. **Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract  
318 is terminated; or

319 6.2.1.2. **Appraisal Objection.** Deliver to Seller a written objection accompanied by either a  
320 copy of the Appraisal or written notice from lender that confirms the Appraised Value is less than the  
321 Purchase Price (Lender Verification).  
322

323 6.2.1.3. **Appraisal Resolution.** If an Appraisal Objection is received by Seller, on or before  
324 **Appraisal Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on  
325 or before **Appraisal Resolution Deadline**, this Contract will terminate on the **Appraisal Resolution**  
326 **Deadline**, unless Seller receives Buyer's written withdrawal of the Appraisal Objection before such  
327 termination, (i.e., on or before expiration of **Appraisal Resolution Deadline**).  
328

329 6.3. **Lender Property Requirements.** If the lender imposes any written requirements, replacements,  
330 removals or repairs, including any specified in the Appraisal (Lender Property Requirements) to be made to  
331 the Property (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract,  
332 this Contract terminates on the earlier of three days following Seller's receipt of the Lender Property  
333 Requirements, or Closing, unless prior to termination: (1) the parties enter into a written agreement to satisfy  
334 the Lender Property Requirements; (2) the Lender Property Requirements have been completed; or (3) the  
335 satisfaction of the Lender Property Requirements is waived in writing by Buyer.  
336

337 6.4. **Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be  
338 timely paid by  **Buyer**  **Seller**. The cost of the Appraisal may include any and all fees paid to the  
339 appraiser, appraisal management company, lender's agent or all three.  
340

341 7. **OWNERS' ASSOCIATIONS.** This Section is applicable if the Property is located within one or more  
342 Common Interest Communities and subject to one or more declarations (Association).  
343

344 7.1. **Common Interest Community Disclosure.** **THE PROPERTY IS LOCATED WITHIN A**  
345 **COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY.**  
346 **THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS'**  
347 **ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND**  
348

349 REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS AND RULES AND  
350 REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY,  
351 INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES  
352 NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY  
353 AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS AND RULES AND  
354 REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE  
355 PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF  
356 THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY  
357 WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL  
358 OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ  
359 THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF  
360 THE ASSOCIATION.  
361

362 **7.2. Association Documents to Buyer.** Seller is obligated to provide to Buyer the Association  
363 Documents (defined below), at Seller's expense, on or before **Association Documents Deadline**. Seller  
364 authorizes the Association to provide the Association Documents to Buyer, at Seller's expense. Seller's  
365 obligation to provide the Association Documents is fulfilled upon Buyer's receipt of the Association  
366 Documents, regardless of who provides such documents.  
367

368 **7.3. Association Documents.** Association documents (Association Documents) consist of the  
369 following:

370 **7.3.1.** All Association declarations, articles of incorporation, bylaws, articles of organization,  
371 operating agreements, rules and regulations, party wall agreements and the Association's responsible  
372 governance policies adopted under § 38-33.3-209.5, C.R.S.;

373 **7.3.2.** Minutes of: (1) the annual owners' or members' meeting and (2) any executive boards' or  
374 managers' meetings; such minutes include those provided under the most current annual disclosure required  
375 under § 38-33.3-209.4, C.R.S. (Annual Disclosure) and minutes of meetings, if any, subsequent to the  
376 minutes disclosed in the Annual Disclosure. If none of the preceding minutes exist, then the most recent  
377 minutes, if any (§§ 7.3.1. and 7.3.2., collectively, Governing Documents); and  
378

379 **7.3.3.** List of all Association insurance policies as provided in the Association's last Annual  
380 Disclosure, including, but not limited to, property, general liability, association director and officer professional  
381 liability and fidelity policies. The list must include the company names, policy limits, policy deductibles,  
382 additional named insureds and expiration dates of the policies listed (Association Insurance Documents);  
383

384 **7.3.4.** A list by unit type of the Association's assessments, including both regular and special  
385 assessments as disclosed in the Association's last Annual Disclosure;

386 **7.3.5.** The Association's most recent financial documents which consist of: (1) the Association's  
387 operating budget for the current fiscal year, (2) the Association's most recent annual financial statements,  
388 including any amounts held in reserve for the fiscal year immediately preceding the Association's last Annual  
389 Disclosure, (3) the results of the Association's most recent available financial audit or review, (4) list of the  
390 fees and charges (regardless of name or title of such fees or charges) that the Association's community  
391 association manager or Association will charge in connection with the Closing including, but not limited to,  
392 any fee incident to the issuance of the Association's statement of assessments (Status Letter), any rush or  
393 update fee charged for the Status Letter, any record change fee or ownership record transfer fees (Record  
394 Change Fee), fees to access documents, (5) list of all assessments required to be paid in advance, reserves  
395 or working capital due at Closing and (6) reserve study, if any (§§ 7.3.4. and 7.3.5., collectively, Financial  
396 Documents);  
397

398 **7.3.6.** Any written notice from the Association to Seller of a "construction defect action" under §  
399 38-33.3-303.5, C.R.S. within the past six months and the result of whether the Association approved or  
400 disapproved such action (Construction Defect Documents). Nothing in this Section limits the Seller's  
401 obligation to disclose adverse material facts as required under § 10.2. (Disclosure of Adverse Material Facts;  
402 Subsequent Disclosure; Present Condition) including any problems or defects in the common elements or  
403 limited common elements of the Association property.  
404

405 **7.4. Conditional on Buyer's Review.** Buyer has the right to review the Association Documents.  
406 Buyer has the Right to Terminate under § 24.1., on or before **Association Documents Termination**

407 **Deadline**, based on any unsatisfactory provision in any of the Association Documents, in Buyer's sole  
408 subjective discretion. Should Buyer receive the Association Documents after **Association Documents**  
409 **Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate  
410 received by Seller on or before ten days after Buyer's receipt of the Association Documents. If Buyer does  
411 not receive the Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be  
412 received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before  
413 Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions  
414 of the Association Documents as satisfactory and Buyer waives any Right to Terminate under this provision,  
415 notwithstanding the provisions of § 8.6. (Third Party Right to Purchase/Approve).  
416  
417

## 418 8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.

### 419 8.1. Evidence of Record Title.

420  **8.1.1. Seller Selects Title Insurance Company.** If this box is checked, Seller will select the  
421 title insurance company to furnish the owner's title insurance policy at Seller's expense. On or before **Record**  
422 **Title Deadline**, Seller must furnish to Buyer, a current commitment for an owner's title insurance policy (Title  
423 Commitment), in an amount equal to the Purchase Price, or if this box is checked,  an **Abstract of Title**  
424 certified to a current date. Seller will cause the title insurance policy to be issued and delivered to Buyer as  
425 soon as practicable at or after Closing.  
426

427  **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the  
428 title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record**  
429 **Title Deadline**, Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title  
430 Commitment), in an amount equal to the Purchase Price.  
431 If neither box in § 8.1.1. or § 8.1.2. is checked, § 8.1.1. applies.  
432

433 **8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment  **Will**  **Will Not** contain  
434 Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or  
435 insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3)  
436 survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time  
437 of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and  
438 unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be  
439 paid by  **Buyer**  **Seller**  **One-Half by Buyer and One-Half by Seller**  **Other** .  
440 Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or  
441 delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may  
442 require a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance  
443 Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.7. (Right to Object to Title,  
444 Resolution).  
445

446 **8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats,  
447 declarations, covenants, conditions and restrictions burdening the Property and (2) copies of any other  
448 documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in  
449 the Title Commitment furnished to Buyer (collectively, Title Documents).  
450

451 **8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**,  
452 copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of  
453 the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the  
454 documents required in this Section will be at the expense of the party or parties obligated to pay for the  
455 owner's title insurance policy.

456 **8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title  
457 covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title**  
458 **Deadline**.

459 **8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title Commitment  
460 and any of the Title Documents as set forth in § 8.7. (Right to Object to Title, Resolution) on or before  
461 **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or content of  
462 Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title condition, in  
463 Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are not  
464  
465

received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2. (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required by § 8.1. (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title Commitment and Title Documents as satisfactory.

**8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other title matters not shown by public records, of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New Survey** governed under § 9 (New ILC, New Survey). Buyer has the right to inspect the Property to investigate if any third party has any right in the Property not shown by public records (e.g., unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2. (Record Title) and § 13 (Transfer of Title), in Buyer's sole subjective discretion, must be received by Seller on or before **Off-Record Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the **Off-Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection pursuant to this § 8.3. (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters and rights, if any, of third parties not shown by public records of which Buyer has actual knowledge.

**8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.**

**8.5. Tax Certificate.** A tax certificate paid for by  Seller  Buyer, for the Property listing any special taxing districts that affect the Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is located within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may terminate, on or before **Record Title Objection Deadline**. Should Buyer receive the Tax Certificate after **Record Title Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Tax Certificate. If Buyer does not receive the Tax Certificate, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Tax Certificate and the inclusion of the Property in a special taxing district, if applicable, as satisfactory and Buyer waives any Right to Terminate under this provision. If Buyer's loan specified in §4.5.3, (Loan Limitations) prohibits Buyer from paying for the Tax Certificate, the Tax Certificate will be paid for by Seller.

**8.6. Third Party Right to Purchase/Approve.** If any third party has a right to purchase the Property

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524 (e.g., right of first refusal on the Property, right to purchase the Property under a lease or an option held by a  
525 third party to purchase the Property) or a right of a third party to approve this Contract, Seller must promptly  
526 submit this Contract according to the terms and conditions of such right. If the third-party holder of such right  
527 exercises its right this Contract will terminate. If the third party's right to purchase is waived explicitly or  
528 expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly  
529 notify Buyer in writing of the foregoing. If the third party right to purchase is exercised or approval of this  
530 Contract has not occurred on or before **Third Party Right to Purchase/Approve Deadline**, this Contract will  
531 then terminate. Seller will supply to Buyer, in writing, details of any Third Party Right to Purchase the  
532 Property on or before the Record Title Deadline.  
533

534 **8.7. Right to Object to Title, Resolution.** Buyer has a right to object or terminate, in Buyer's sole  
535 subjective discretion, based on any title matters including those matters set forth in § 8.2. (Record Title), §  
536 8.3. (Off-Record Title), § 8.5. (Special Taxing District) and § 13 (Transfer of Title). If Buyer exercises Buyer's  
537 rights to object or terminate based on any such title matter, on or before the applicable deadline, Buyer has  
538 the following options:

539 **8.7.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any title  
540 matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not  
541 agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on  
542 the expiration of **Title Resolution Deadline**, unless Seller receives Buyer's written withdrawal of Buyer's  
543 Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to  
544 Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title  
545 Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2. (Record Title) or § 8.3.  
546 (Off-Record Title) the Title Resolution Deadline also will be automatically extended to the earlier of Closing or  
547 fifteen days after Buyer's receipt of the applicable documents; or

549 **8.7.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under §  
550 24.1., on or before the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole  
551 subjective discretion.  
552

553 **8.8. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and  
554 should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the  
555 title, ownership and use of the Property, including, without limitation, boundary lines and encroachments,  
556 set-back requirements, area, zoning, building code violations, unrecorded easements and claims of  
557 easements, leases and other unrecorded agreements, water on or under the Property and various laws and  
558 governmental regulations concerning land use, development and environmental matters.

559 **8.8.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE**  
560 **PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND**  
561 **TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE**  
562 **MINERAL ESTATE OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL,**  
563 **GAS, OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE**  
564 **PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF**  
565 **THE PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.**  
566

567 **8.8.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE**  
568 **PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE**  
569 **AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE**  
570 **COUNTY CLERK AND RECORDER.**

571 **8.8.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR**  
572 **ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING,**  
573 **WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES,**  
574 **PRODUCING WELLS, REWORKING OF CURRENT WELLS AND GAS GATHERING AND PROCESSING**  
575 **FACILITIES.**  
576

577 **8.8.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL**  
578 **INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY,**  
579 **INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE**  
580 **COLORADO OIL AND GAS CONSERVATION COMMISSION.**  
581

582 **8.8.5. Title Insurance Exclusions.** Matters set forth in this Section and others, may be  
583 excepted, excluded from, or not covered by the owner's title insurance policy.

584 **8.9. Mineral Rights Review.** Buyer  Does  **Does Not** have a Right to Terminate if examination of  
585 the Mineral Rights is unsatisfactory to Buyer on or before the **Mineral Rights Examination Deadline**.  
586

587  
588 **9. NEW ILC, NEW SURVEY.**

589 **9.1. New ILC or New Survey.** If the box is checked, (1)  **New Improvement Location Certificate**  
590 **(New ILC)**; or, (2)  **New Survey** in the form of ; is required and the following will apply:

591 **9.1.1. Ordering of New ILC or New Survey.**  **Seller**  **Buyer** will order the New ILC or New  
592 Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form,  
593 certified and updated as of a date after the date of this Contract.  
594

595 **9.1.2. Payment for New ILC or New Survey.** The cost of the New ILC or New Survey will be paid, on  
596 or before Closing, by:  **Seller**  **Buyer** or:

597 **9.1.3. Delivery of New ILC or New Survey.** Buyer, Seller, the issuer of the Title Commitment (or  
598 the provider of the opinion of title if an Abstract of Title) and will receive a New ILC or New Survey on or  
599 before **New ILC or New Survey Deadline**.  
600

601 **9.1.4. Certification of New ILC or New Survey.** The New ILC or New Survey will be certified by  
602 the surveyor to all those who are to receive the New ILC or New Survey.

603 **9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection.** Buyer may select a  
604 New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller  
605 or change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective  
606 discretion, waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.  
607

608 **9.3. New ILC or New Survey Objection.** Buyer has the right to review and object based on the New  
609 ILC or New Survey. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to  
610 Buyer, in Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection**  
611 **Deadline**, notwithstanding § 8.3. or § 13:

612 **9.3.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1, that this Contract is  
613 terminated; or

614 **9.3.2. New ILC or New Survey Objection.** Deliver to Seller a written description of any matter  
615 that was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer  
616 requires Seller to correct.

617 **9.3.3. New ILC or New Survey Resolution.** If a **New ILC or New Survey Objection** is received  
618 by Seller, on or before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not  
619 agreed in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this  
620 Contract will terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller  
621 receives Buyer's written withdrawal of the New ILC or New Survey Objection before such termination (i.e., on  
622 or before expiration of **New ILC or New Survey Resolution Deadline**).  
623  
624

625  
626 **DISCLOSURE, INSPECTION AND DUE DILIGENCE**  
627

628 **10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY AND DUE DILIGENCE.**

629 **10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller  
630 agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's  
631 Seller's Property Disclosure form completed by Seller to Seller's actual knowledge and current as of the date  
632 of this Contract.  
633

634 **10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition.** Seller  
635 must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract.  
636 Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an  
637 adverse material fact after the date of this Contract, Seller must timely disclose such adverse fact to Buyer.  
638 Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days  
639  
640

641 after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer  
642 acknowledges that Seller is conveying the Property to Buyer in an "As Is" condition, "Where Is" and "With All  
643 Faults."

644 **10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right  
645 to have inspections (by one or more third parties, personally or both) of the Property, Leased Items, and  
646 Inclusions (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not  
647 limited to, the roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other  
648 mechanical systems of the Property, (2) the physical condition of the Inclusions and Leased Items, (3) service  
649 to the Property (including utilities and communication services), systems and components of the Property  
650 (e.g., heating and plumbing), (4) any proposed or existing transportation project, road, street or highway, or  
651 (5) any other activity, odor or noise (whether on or off the Property) and its effect or expected effect on the  
652 Property or its occupants is unsatisfactory, in Buyer's sole subjective discretion, Buyer may:

653 **10.3.1. Inspection Termination.** On or before the **Inspection Termination Deadline**, notify  
654 Seller in writing, pursuant to § 24.1., that this Contract is terminated due to any unsatisfactory condition,  
655 provided the Buyer did not previously deliver an Inspection Objection. Buyer's Right to Terminate under this  
656 provision expires upon delivery of an Inspection Objection to Seller pursuant to § 10.3.2.; or

657 **10.3.2. Inspection Objection.** On or before the **Inspection Objection Deadline**, deliver to  
658 Seller a written description of any unsatisfactory condition that Buyer requires Seller to correct.

659 **10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before  
660 **Inspection Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on  
661 or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline**  
662 unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination (i.e., on  
663 or before expiration of **Inspection Resolution Deadline**). Nothing in this provision prohibits the Buyer and  
664 the Seller from mutually terminating this Contract before the Inspection Resolution Deadline passes by  
665 executing an Earnest Money Release.

666 **10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other  
667 written agreement between the parties, is responsible for payment for all inspections, tests, surveys,  
668 engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that  
669 occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any  
670 kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold  
671 Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any  
672 such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by  
673 Seller to defend against any such liability, damage, cost or expense, or to enforce this Section, including  
674 Seller's reasonable attorney fees, legal fees and expenses. The provisions of this Section survive the  
675 termination of this Contract. This § 10.4. does not apply to items performed pursuant to an Inspection  
676 Resolution.

677 **10.5. Insurability.** Buyer has the Right to Terminate under § 24.1., on or before **Property Insurance**  
678 **Termination Deadline**, based on any unsatisfactory provision of the availability, terms and conditions and  
679 premium for property insurance (Property Insurance) on the Property, in Buyer's sole subjective discretion.

680 **10.6. Due Diligence.**

681 **10.6.1. Due Diligence Documents.** Seller agrees to deliver copies of the following documents  
682 and information pertaining to the Property and Leased Items (Due Diligence Documents) to Buyer on or  
683 before **Due Diligence Documents Delivery Deadline**:

684 **10.6.1.1. Occupancy Agreements.** All current leases, including any amendments or other  
685 occupancy agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining  
686 to the Property that survive Closing are as follows (Leases):

687 **10.6.1.2. Leased Items Documents.** If any lease of personal property (§ 2.5.7., Leased  
688 Items) will be transferred to Buyer at Closing, Seller agrees to deliver copies of the leases and information  
689 pertaining to the personal property to Buyer on or before **Due Diligence Documents Delivery Deadline**.  
690 Buyer  **Will**  **Will Not** assume the Seller's obligations under such leases for the Leased Items (§ 2.5.7.,  
691 Leased Items).

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698



699 **10.6.1.3. Encumbered Inclusions Documents.** If any Inclusions owned by Seller are  
700 encumbered pursuant to § 2.5.4. (Encumbered Inclusions) above, Seller agrees to deliver copies of the  
701 evidence of debt, security and any other documents creating the encumbrance to Buyer on or before **Due**  
702 **Diligence Documents Delivery Deadline.** Buyer  **Will**  **Will Not** assume the debt on the Encumbered  
703 Inclusions (§ 2.5.4., Encumbered Inclusions).  
704

705 **10.6.1.4. Other Documents.** If the respective box is checked, Seller agrees to additionally  
706 deliver copies of the following:  
707

708  **10.6.1.4.1.** All contracts relating to the operation, maintenance and management of the  
709 Property;

710  **10.6.1.4.2.** Property tax bills for the last years;

711  **10.6.1.4.3.** As-built construction plans to the Property and the tenant improvements,  
712 including architectural, electrical, mechanical and structural systems; engineering reports; and permanent  
713 Certificates of Occupancy, to the extent now available;

714  **10.6.1.4.4.** A list of all Inclusions to be conveyed to Buyer;

715  **10.6.1.4.5.** Operating statements for the past years;

716  **10.6.1.4.6.** A rent roll accurate and correct to the date of this Contract;

717  **10.6.1.4.7.** A schedule of any tenant improvement work Seller is obligated to complete  
718 but has not yet completed and capital improvement work either scheduled or in process on the date of this  
719 Contract;

720  **10.6.1.4.8.** All insurance policies pertaining to the Property and copies of any claims  
721 which have been made for the past years;

722  **10.6.1.4.9.** Soils reports, surveys and engineering reports or data pertaining to the  
723 Property (if not delivered earlier under § 8.3.);

724  **10.6.1.4.10.** Any and all existing documentation and reports regarding Phase I and II  
725 environmental reports, letters, test results, advisories and similar documents respective to the existence or  
726 nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances and/or  
727 underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller,  
728 Seller warrants that no such reports are in Seller's possession or known to Seller;

729  **10.6.1.4.11.** Any *Americans with Disabilities Act* reports, studies or surveys concerning  
730 the compliance of the Property with said Act;

731  **10.6.1.4.12.** All permits, licenses and other building or use authorizations issued by any  
732 governmental authority with jurisdiction over the Property and written notice of any violation of any such  
733 permits, licenses or use authorizations, if any; and

734  **10.6.1.4.13.** Other:  
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736 **10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and  
737 object based on the Due Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or  
738 are unsatisfactory, in Buyer's sole subjective discretion, Buyer may, on or before **Due Diligence Documents**  
739 **Objection Deadline:**

740 **10.6.2.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract  
741 is terminated; or

742 **10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description of  
743 any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

744 **10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents Objection  
745 is received by Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and Seller  
746 have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution**  
747 **Deadline**, this Contract will terminate on **Due Diligence Documents Resolution Deadline** unless Seller  
748 receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination (i.e.,  
749 on or before expiration of **Due Diligence Documents Resolution Deadline**).

750 **10.6.3. Zoning.** Buyer has the Right to Terminate under § 24.1., on or before **Due Diligence**  
751 **Documents Objection Deadline**, based on any unsatisfactory zoning and any use restrictions imposed by  
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any governmental agency with jurisdiction over the Property, in Buyer's sole subjective discretion.

**10.6.4. Due Diligence – Environmental, ADA.** Buyer has the right to obtain environmental inspections of the Property including Phase I and Phase II Environmental Site Assessments, as applicable.  Seller  Buyer will order or provide **Phase I Environmental Site Assessment, Phase II Environmental Site Assessment** (compliant with most current version of the applicable ASTM E1527 standard practices for Environmental Site Assessments) and/or , at the expense of  Seller  Buyer (Environmental Inspection). In addition, Buyer, at Buyer's expense, may also conduct an evaluation whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and evaluations must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants' business uses of the Property, if any.

If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the **Environmental Inspection Termination Deadline** will be extended by days (Extended Environmental Inspection Objection Deadline) and if such Extended Environmental Inspection Objection Deadline extends beyond the **Closing Date**, the **Closing Date** will be extended a like period of time. In such event,  Seller  Buyer must pay the cost for such Phase II Environmental Site Assessment.

Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this § 10.6.4., Buyer has the Right to Terminate under § 24.1., on or before **Environmental Inspection Termination Deadline**, or if applicable, the Extended Environmental Inspection Objection Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.

Buyer has the Right to Terminate under § 24.1., on or before **ADA Evaluation Termination Deadline**, based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

**10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of that certain property owned by Buyer and commonly known as . Buyer has the Right to Terminate under § 24.1. effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if such property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller does not receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right to Terminate under this provision.

**10.8. Source of Potable Water (Residential Land and Residential Improvements Only).**  
**[Intentionally Deleted - See Residential Addendum if applicable]**

**10.9. Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none of the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller will not amend, alter, modify, extend or cancel any of the Leases nor will Seller enter into any new leases affecting the Property without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed.

**10.10. Lead-Based Paint. [Intentionally Deleted - See Residential Addendum if applicable]**

**10.11. Carbon Monoxide Alarms. [Intentionally Deleted - See Residential Addendum if applicable]**

**10.12. Methamphetamine Disclosure. [Intentionally Deleted - See Residential Addendum if applicable]**

## 11. TENANT ESTOPPEL STATEMENTS.

**11.1. Estoppel Statements Conditions.** Buyer has the right to review and object to any Estoppel Statements. Seller must request from all tenants of the Property and if received by Seller, deliver to Buyer on or before **Estoppel Statements Deadline**, statements in a form and substance reasonably acceptable to Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of the Lease stating:

**11.1.1.** The commencement date of the Lease and scheduled termination date of the Lease;

**11.1.2.** That said Lease is in full force and effect and that there have been no subsequent modifications or amendments;

**11.1.3.** The amount of any advance rentals paid, rent concessions given and deposits paid to Seller;

- 816 11.1.4. The amount of monthly (or other applicable period) rental paid to Seller;
- 817 11.1.5. That there is no default under the terms of said Lease by landlord or occupant; and
- 818 11.1.6. That the Lease to which the Estoppel Statement is attached is a true, correct and
- 819 complete copy of the Lease demising the premises it describes.

820 **11.2. Seller Estoppel Statement.** In the event Seller does not receive from all tenants of the Property  
821 a completed signed Estoppel Statement, Seller agrees to complete and execute an Estoppel Statement  
822 setting forth the information and documents required §11.1. above and deliver the same to Buyer on or  
823 before **Estoppel Statements Deadline**.

824 **11.3. Estoppel Statements Termination.** Buyer has the Right to Terminate under § 24.1., on or  
825 before **Estoppel Statements Termination Deadline**, based on any unsatisfactory Estoppel Statement, in  
826 Buyer's sole subjective discretion, or if Seller fails to deliver the Estoppel Statements on or before **Estoppel**  
827 **Statements Deadline**. Buyer also has the unilateral right to waive any unsatisfactory Estoppel Statement.  
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**CLOSING PROVISIONS**

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833 **12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

834 **12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the  
835 Closing Company to enable the Closing Company to prepare and deliver documents required for Closing to  
836 Buyer and Seller and their designees. If Buyer is obtaining a loan to purchase the Property, Buyer  
837 acknowledges Buyer's lender is required to provide the Closing Company, in a timely manner, all required  
838 loan documents and financial information concerning Buyer's loan. Buyer and Seller will furnish any  
839 additional information and documents required by Closing Company that will be necessary to complete this  
840 transaction. Buyer and Seller will sign and complete all customary or reasonably required documents at or  
841 before Closing.  
842

843 **12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions  **Are**  
844  **Are Not** executed with this Contract.  
845

846 **12.3. Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the  
847 date specified as the **Closing Date** or by mutual agreement at an earlier date. At Closing, Seller agrees to  
848 deliver a set of keys for the Property to Buyer. The hour and place of Closing will be as designated by .  
849

850 **12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality and extent  
851 of service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title  
852 companies).  
853

854 **12.5. Assignment of Leases.** Seller must assign to Buyer all Leases at Closing that will continue  
855 after Closing and Buyer must assume Seller's obligations under such Leases. Further, Seller must transfer to  
856 Buyer all Leased Items and assign to Buyer such leases for the Leased Items accepted by Buyer pursuant to  
857 § 2.5.7. (Leased Items).

858 **13. TRANSFER OF TITLE.** Subject to Buyer's compliance with the terms and provisions of this Contract,  
859 including the tender of any payment due at Closing, Seller must execute and deliver the following good and  
860 sufficient deed to Buyer, at Closing:  special warranty deed  general warranty deed  
861  bargain and sale deed  quit claim deed  personal representative's deed  deed. Seller, provided  
862 another deed is not selected, must execute and deliver a good and sufficient special warranty deed to Buyer,  
863 at Closing.  
864

865 Unless otherwise specified in § 29 (Additional Provisions), if title will be conveyed using a special  
866 warranty deed or a general warranty deed, title will be conveyed "subject to statutory exceptions" as defined  
867 in §38-30-113(5)(a), C.R.S.  
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869 **14. PAYMENT OF LIENS AND ENCUMBRANCES.** Unless agreed to by Buyer in writing, any amounts  
870 owed on any liens or encumbrances securing a monetary sum against the Property and Inclusions, including  
871 any governmental liens for special improvements installed as of the date of Buyer's signature hereon,  
872 whether assessed or not, and previous years' taxes, will be paid at or before Closing by Seller from the  
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874 proceeds of this transaction or from any other source.

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876 **15. CLOSING COSTS, FEES, ASSOCIATION STATUS LETTER AND DISBURSEMENTS, TAXES AND**  
877 **WITHHOLDING.**

878 **15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs and all  
879 other items required to be paid at Closing, except as otherwise provided herein.

881 **15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by  
882  Buyer  Seller  One-Half by Buyer and One-Half by Seller  Other .

883 **15.3. Association Fees and Required Disbursements.** At least fourteen days prior to **Closing Date**,  
884 Seller agrees to promptly request that the Closing Company or the Association deliver to Buyer a current  
885 Status Letter, if applicable. Any fees associated with or specified in the Status Letter will be paid as follows:

886 **15.3.1. Status Letter Fee.** Any fee incident to the issuance of Association's Status Letter must  
887 be paid by  Buyer  Seller  One-Half by Buyer and One-Half by Seller  N/A.

888 **15.3.2. Record Change Fee.** Any Record Change Fee must be paid by  Buyer  Seller  
889  One-Half by Buyer and One-Half by Seller  N/A.

891 **15.3.3. Assessments, Reserves or Working Capital.** All assessments required to be paid in  
892 advance (other than Association Assessments as defined in § 16.2. (Association Assessments), reserves or  
893 working capital due at Closing must be paid by  Buyer  Seller  
894  One-Half by Buyer and One-Half by Seller  N/A.

895 **15.3.4. Other Fees.** Any other fee listed in the Status Letter as required to be paid at Closing will  
896 be paid by  Buyer  Seller  One-Half by Buyer and One-Half by Seller  N/A.

897 **15.4. Local Transfer Tax.** Any Local Transfer Tax must be paid at Closing by  Buyer  Seller  
898  One-Half by Buyer and One-Half by Seller  N/A.

900 **15.5. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction must be  
901 paid when due by  Buyer  Seller  One-Half by Buyer and One-Half by Seller  N/A.

902 **15.6. Private Transfer Fee.** Any private transfer fees and other fees due to a transfer of the Property,  
903 payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at  
904 Closing by  Buyer  Seller  One-Half by Buyer and One-Half by Seller  N/A.

905 **15.7. Water Transfer Fees.** Water Transfer Fees can change. The fees, as of the date of this  
906 Contract, do not exceed \$50 for:

907  Water Stock/Certificates  Water District

908  Augmentation Membership  Small Domestic Water Company  Leadville Sanitation

909 and must be paid at Closing by  Buyer  Seller  One-Half by Buyer and One-Half by Seller  N/A.

910 **15.8. Utility Transfer Fees.** Utility transfer fees can change. Any fees to transfer utilities from Seller to  
911 Buyer must be paid by  Buyer  Seller  One-Half by Buyer and One-Half by Seller  N/A.

912 **15.9. FIRPTA and Colorado Withholding.**

913 **15.9.1. FIRPTA.** The Internal Revenue Service (IRS) may require a substantial portion of the  
914 Seller's proceeds be withheld after Closing when Seller is a foreign person. If required withholding does not  
915 occur, the Buyer could be held liable for the amount of the Seller's tax, interest and penalties. If the box in  
916 this Section is checked, Seller represents that Seller  **IS** a foreign person for purposes of U.S. income  
917 taxation. If the box in this Section is not checked, Seller represents that Seller is not a foreign person for  
918 purposes of U.S. income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide  
919 any reasonably requested documents to verify Seller's foreign person status. If withholding is required, Seller  
920 authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with  
921 Seller's tax advisor to determine if withholding applies or if an exemption exists.

922 **15.9.2. Colorado Withholding.** The Colorado Department of Revenue may require a portion of  
923 the Seller's proceeds be withheld after Closing when Seller will not be a Colorado resident after Closing, if  
924 not otherwise exempt. Seller agrees to cooperate with Buyer and Closing Company to provide any  
925 reasonably requested documents to verify Seller's status. If withholding is required, Seller authorizes Closing  
926 Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to  
927 determine if withholding applies or if an exemption exists.

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**16. PRORATIONS AND ASSOCIATION ASSESSMENTS.**

**16.1. Prorations.** The following will be prorated to the **Closing Date**, except as otherwise provided:

**16.1.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of Closing, based on

**Taxes for the Calendar Year Immediately Preceding Closing**

**Most Recent Mill Levy and Most Recent Assessed Valuation**, adjusted by any applicable qualifying seniors property tax exemption, qualifying disabled veteran exemption or  **Other**

**16.1.2. Rents.** Rents based on  **Rents Actually Received**  **Accrued**. At Closing, Seller will transfer or credit to Buyer the security deposits for all Leases assigned to Buyer, or any remainder after lawful deductions, and notify all tenants in writing of such transfer and of the transferee's name and address.

**16.1.3. Other Prorations.** Water and sewer charges, propane, interest on continuing loan and

**16.1.4. Final Settlement.** Unless otherwise specified in Additional Provisions, these prorations are final.

**16.2. Association Assessments.** Current regular Association assessments and dues (Association Assessments) paid in advance will be credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred maintenance by the Association will not be credited to Seller except as may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special assessment assessed prior to **Closing Date** by the Association will be the obligation of  **Buyer**  **Seller**. Except however, any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller unless otherwise specified in Additional Provisions. Seller represents there are no unpaid regular or special assessments against the Property except the current regular assessments and // Association Assessments are subject to change as provided in the Governing Documents.

**17. POSSESSION.** Possession of the Property and Inclusions will be delivered to Buyer on **Possession Date at Possession Time**, subject to the Leases as set forth in § 10.6.1.1.

If Seller, after Closing occurs, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable to Buyer, notwithstanding § 20.2. (If Seller is in Default), for payment of \$ 1000 per day (or any part of a day notwithstanding § 3.3., Day) from **Possession Date** and **Possession Time** until possession is delivered.

**General Provisions**

**18. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION; AND WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.

**18.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other perils or causes of loss prior to Closing (Property Damage) in an amount of not more than ten percent of the total Purchase Price and if the repair of the damage will be paid by insurance (other than the deductible to be paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller's reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's insurance company and Buyer's lender; or (2) the parties may enter into a written

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agreement prepared by the parties or their attorney requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the insurance claim.

**18.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement of such Inclusion or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the Association, if any, will survive Closing.

**18.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of the Property or Inclusions, but such credit will not include relocation benefits or expenses or exceed the Purchase Price.

**18.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

**19. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller acknowledge that their respective broker has advised that this Contract has important legal consequences and has recommended: (1) legal examination of title; (2) consultation with legal and tax or other counsel before signing this Contract as this Contract may have important legal and tax implications; (3) to consult with their own attorney if Water Rights, Mineral Rights or Leased Items are included or excluded in the sale; and (4) to consult with legal counsel if there are other matters in this transaction for which legal counsel should be engaged and consulted. Such consultations must be done timely as this Contract has strict time limits, including deadlines, that must be complied with.

**20. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines in this Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including Earnest Money, is not paid, honored or tendered when due, or if any obligation is not performed timely as provided in this Contract or waived, the non-defaulting party has the following remedies:

**20.1. If Buyer is in Default:**

**20.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money is not a penalty, and the parties agree the amount is fair and reasonable. Seller may recover such additional damages as may be proper. Alternatively, Seller may elect to treat this Contract as being in full force and effect and Seller has the right to specific performance or damages, or both.

**20.1.2. Liquidated Damages, Applicable. This § 20.1.2. applies unless the box in § 20.1.1. is checked.** Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money amount specified in § 4.1. is LIQUIDATED DAMAGES and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4. and 21), such amount is SELLER'S ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional damages.

1049 **20.2. If Seller is in Default:**

1050 **20.2.1. Specific Performance, Damages or Both.** Buyer may elect to treat this Contract as  
1051 canceled, in which case all Earnest Money received hereunder will be returned to Buyer and Buyer may  
1052 recover such damages as may be proper. Alternatively, in addition to the per diem in § 17 (Possession) for  
1053 failure of Seller to timely deliver possession of the Property after Closing occurs, Buyer may elect to treat this  
1054 Contract as being in full force and effect and Buyer has the right to specific performance or damages, or  
1055 both.  
1056

1057 **20.2.2. Seller's Failure to Perform.** In the event Seller fails to perform Seller's obligations under  
1058 this Contract, to include, but not limited to, failure to timely disclose Association violations known by Seller,  
1059 failure to perform any replacements or repairs required under this Contract or failure to timely disclose any  
1060 known adverse material facts, Seller remains liable for any such failures to perform under this Contract after  
1061 Closing. Buyer's rights to pursue the Seller for Seller's failure to perform under this Contract are reserved and  
1062 survive Closing.  
1063

1064 **21. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event  
1065 of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court  
1066 must award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and  
1067 expenses.  
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1069 **22. MEDIATION.** If a dispute arises relating to this Contract (whether prior to or after Closing) and is not  
1070 resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the  
1071 parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators  
1072 cannot impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must  
1073 agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share  
1074 equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the  
1075 entire dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by  
1076 one party to the other at that party's last known address (physical or electronic as provided in § 26). Nothing  
1077 in this Section prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property,  
1078 before or after the date of written notice requesting mediation. This Section will not alter any date in this  
1079 Contract, unless otherwise agreed.  
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1082 **23. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must  
1083 release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller.  
1084 In the event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to  
1085 release the Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1)  
1086 wait for any proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a  
1087 court of competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable  
1088 attorney and legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless  
1089 Earnest Money Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller)  
1090 containing the case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money  
1091 Holder's notice to the parties, Earnest Money Holder is authorized to return the Earnest Money to Buyer. In  
1092 the event Earnest Money Holder does receive a copy of the Lawsuit and has not interpleaded the monies at the  
1093 time of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order of the  
1094 Court. The parties reaffirm the obligation of § 22 (Mediation). This Section will survive cancellation or  
1095 termination of this Contract.  
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1099 **24. TERMINATION.**

1100 **24.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to  
1101 Terminate), the termination is effective upon the other party's receipt of a written notice to terminate (Notice to  
1102 Terminate), provided such written notice was received on or before the applicable deadline specified in this  
1103 Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the  
1104 Right to Terminate accepts the specified matter, document or condition as satisfactory and waives the Right  
1105 to Terminate under such provision.  
1106

1107 **24.2. Effect of Termination.** In the event this Contract is terminated, and all Earnest Money received  
1108 hereunder is timely returned to Buyer, the parties are relieved of all obligations hereunder, subject to §§ 10.4.  
1109 and 21.  
1110

1111 **25. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS.** This Contract, its exhibits and  
1112 specified addenda, constitute the entire agreement between the parties relating to the subject hereof and any  
1113 prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this  
1114 Contract. No subsequent modification of any of the terms of this Contract is valid, binding upon the parties, or  
1115 enforceable unless made in writing and signed by the parties. Any right or obligation in this Contract that, by  
1116 its terms, exists or is intended to be performed after termination or Closing survives the same. Any successor  
1117 to a party receives the predecessor's benefits and obligations of this Contract.  
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1120 **26. NOTICE, DELIVERY AND CHOICE OF LAW.**

1121 **26.1. Physical Delivery and Notice.** Any document or notice to Buyer or Seller must be in writing,  
1122 except as provided in § 26.2. and is effective when physically received by such party, any individual named in  
1123 this Contract to receive documents or notices for such party, Broker, or Brokerage Firm of Broker working  
1124 with such party (except any notice or delivery after Closing must be received by the party, not Broker or  
1125 Brokerage Firm).  
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1127 **26.2. Electronic Notice.** As an alternative to physical delivery, any notice may be delivered in  
1128 electronic form to Buyer or Seller, any individual named in this Contract to receive documents or notices for  
1129 such party, Broker or Brokerage Firm of Broker working with such party (except any notice or delivery after  
1130 Closing, cancellation or Termination must be received by the party, not Broker or Brokerage Firm) at the  
1131 electronic address of the recipient by facsimile, email or .  
1132

1133 **26.3. Electronic Delivery.** Electronic Delivery of documents and notice may be delivered by: (1) email  
1134 at the email address of the recipient, (2) a link or access to a website or server provided the recipient  
1135 receives the information necessary to access the documents, or (3) facsimile at the facsimile number (Fax  
1136 No.) of the recipient.  
1137

1138 **26.4. Choice of Law.** This Contract and all disputes arising hereunder are governed by and construed  
1139 in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign  
1140 a contract in Colorado for real property located in Colorado.  
1141

1142 **27. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal will expire unless accepted in writing,  
1143 by Buyer and Seller, as evidenced by their signatures below and the offering party receives notice of such  
1144 acceptance pursuant to § 26 on or before **Acceptance Deadline Date** and **Acceptance Deadline Time**. If  
1145 accepted, this document will become a contract between Seller and Buyer. A copy of this Contract may be  
1146 executed by each party, separately and when each party has executed a copy thereof, such copies taken  
1147 together are deemed to be a full and complete contract between the parties.  
1148

1149 **28. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith  
1150 including, but not limited to, exercising the rights and obligations set forth in the provisions of **Financing**  
1151 **Conditions and Obligations; Title Insurance, Record Title and Off-Record Title; New ILC, New Survey;**  
1152 **and Property Disclosure, Inspection, Indemnity, Insurability and Due Diligence.**  
1153  
1154

1155 **ADDITIONAL PROVISIONS AND ATTACHMENTS**  
1156  
1157

1158 **29. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the  
1159 Colorado Real Estate Commission.)  
1160

1161 ***Seller acknowledges that Buyer is a public entity and therefore this contract is subject to City***  
1162 ***Council Ratification no later than August 1, 2023.***  
1163

1164 **30. OTHER DOCUMENTS.**  
1165



1166 **30.1. Documents Part of Contract.** The following documents **are a part** of this Contract:  
1167 [Exhibit A - Corrected Legal Description](#)

1171  
1172 **30.2. Documents Not Part of Contract.** The following documents have been provided but are **not a**  
1173 part of this Contract:

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**Signatures**

*Laurie Simonson*

Date: 7/24/2023

Buyer: **City of Leadville**

**By: Laurie Simonson**

[NOTE: If this offer is being countered or rejected, do not sign this document.]

*Trent Reynolds, Member*

Date: 7/24/2023

Seller: **RGCC, LLC**

**By: Trent Reynolds, Member**

**END OF CONTRACT TO BUY AND SELL REAL ESTATE**

**BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.**

**A. Broker Working With Buyer**

Broker  **Does**  **Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Buyer as a  **Buyer's Agent**  **Transaction-Broker** in this transaction.

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**Customer.** Broker has no brokerage relationship with Buyer. See § B for Broker's brokerage relationship with Seller.

Brokerage Firm's compensation or commission is to be paid by  **Listing Brokerage Firm**  **Buyer**  
 **Other** Commission shall be \$5,000 in lieu of what is offered in the MLS.

This Broker's Acknowledgements and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.

Brokerage Firm's Name: **Centennial Real Estate**

Brokerage Firm's License #: **EC100086182**



Date: **7/24/2023**

Broker's Name: **Amy M. Tait**

Broker's License #: **ER040036377**

Address: **1020 Poplar Street Leadville, CO 80461**

Ph: **719-486-1409** Fax: **719-486-1482** Email Address: **leadvillere@gmail.com**

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### B. Broker Working with Seller

Broker  **Does**  **Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Seller as a  **Seller's Agent**  **Transaction-Broker** in this transaction.

**Customer.** Broker has no brokerage relationship with Seller. See § A for Broker's brokerage relationship with Buyer.

Brokerage Firm's compensation or commission is to be paid by  **Seller**  **Buyer**  **Other** .

This Broker's Acknowledgements and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.

Brokerage Firm's Name: **Brokers Guild Homes**

Brokerage Firm's License #: **EC 100017229**

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*Michelle Reynolds*

Date: 7/24/2023

Broker's Name: **Michelle Reynolds**

Broker's License #: **FA.100080941**

Address: **7995 E Hampden Ave Denver, CO 80237**

Ph: **(303) 752-0007** Fax: Email Address: **michellereynoldsre@gmail.com**

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**CBS3-6-21. CONTRACT TO BUY AND SELL REAL ESTATE (COMMERCIAL)**

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Initials \_\_\_\_\_

**CITY OF LEADVILLE, COLORADO  
RESOLUTION NO. 16  
SERIES OF 2023**

**A RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY KNOWN  
AS 117 W. 10TH STREET AND RATIFYING A CONTRACT TO BUY AND SELL  
COMMERCIAL REAL ESTATE FOR MUNICIPAL PURPOSES, INCLUDING BUT  
NOT LIMITED TO A POTENTIAL COMMUNITY CENTER**

**WHEREAS**, the City of Leadville (“City”) is authorized under Article 15 of Title 31 of the Colorado Revised Statutes to acquire, hold, lease, and dispose of property, both real and personal; and

**WHEREAS**, the City Council desires to purchase real property located at 117 W. 10<sup>th</sup> Street, Leadville, Colorado 80461 (the “Property”) for general municipal purposes, including but not limited to a potential community center; and

**WHEREAS**, the City Council finds that the purchase of the Property is in the best interest of the public health, safety, convenience and welfare of the community; and

**WHEREAS**, the City Council further finds that the purchase price of the Property is at or below market value.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LEADVILLE, COLORADO, AS FOLLOWS:**

**Section 1. Purchase of the Property.** The City Council hereby authorizes the purchase of real property located at 117 W. 10th Street, City of Leadville, County of Lake, State of Colorado, for the purchase price of Eight Hundred and Twenty-Five Thousand Dollars and No Cents (\$825,000.00).

**Section 2. Purchase and Sale Agreement.** The City Council ratifies the purchase and sale agreement for the Property as attached as Exhibit 1.

**Section 3. Authorization.** The City Administrator is authorized to sign the purchase and sale agreement for the Property on behalf of the City. The City Administrator is further authorized to execute all documents necessary to effectuate this purchase at the closing for the Property. In addition, the Mayor, City Administrator, Finance Director, and City Attorney are authorized and directed to take any additional actions necessary and appropriate to effectuate the provisions of this Resolution.

**Section 4. Severability.** If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining portions of this Resolution.

**Section 5. Effective Date.** This Resolution shall be effective immediately upon approval of the City Council of the City of Leadville.

**ADOPTED this \_\_\_th day of 2023 by a vote of \_\_\_ in favor, \_\_\_\_ against,  
\_\_\_\_\_ abstaining, and \_\_\_ absent.**

CITY OF LEADVILLE, COLORADO:

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Greg Labbe, Mayor

ATTEST:

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Deputy City Clerk

**Attachment A – Scope of Services**  
**Leadville, Colorado, Community Center Facility Design**  
**University Technical Assistance Program (UTAP)**  
**University of Colorado Denver, CCCD-DOLA Program.**  
**April 5, 2023**

The University Technical Assistance Program (UTAP) has been requested to provide planning and design services to the City of Leadville, Colorado. Currently, the city is considering a prominent facility in the heart of the community that with a remodel, would be a perfect location for a community center. This facility could be redesigned with appropriate interior and exterior architectural program to address the needs of the community and surrounding region at large. The following are project task areas discussed with the scope of work for each and a timeline and budget that follow.

### Work Scope

Work for this project will include coordination with city staff on community input as well as refinement of architectural programs and plans. This work is to consider a range of key factors including:

- Evaluate the current site and facility for development options, conduct site analysis, and site planning to explore feasible development alternatives.
- Through community input, define program and square footage needs for a Community Facility.
- Create functional conceptual Plans and Renderings of the Community Center Facility.
- Opinion of Probable Cost for the preferred design (cost estimate with high and low range).
- Production of a final report document that visually and succulently captures the process, input, presentations, site, architectural plans, and floor plans.

Work is to be coordinated by the City of Leadville to fit the project timelines. Meetings and work tasks for this effort will include:

- Project Kick-off
  - A kickoff meeting will occur after all signatures on the MOU are secured to further discuss needs.
    - This can be virtual but will also include a site visit to Leadville to include an initial program evaluation of the facility and site. During the site visit, measurements can be taken of the facility to aid in the design.
- The UTA team will conduct a background material review.
  - Student Interns will review existing information as well as codes and requirements for the new use of the facility. Supporting feasibility analysis and mapping to support the need can be included.
  - Case studies of admirable Community Center facilities and comparable remodeled facilities can be reviewed and discussed.
  - Students will also review existing site conditions, design inspiration, appropriate improvements, and precedent designs. This material will be presented and discussed in meetings.
- Design Work in the Studio.
  - The current community use of the facility, including relevant architectural analysis will be documented and discussed on tours of the facility.
  - Site analysis on the property will be conducted. Program diagrams will be created to understand adjacencies, building layout, and development options. Phasing will be considered and evaluated during the facility analysis as well as the design alternatives.

- The Community/ Public Input process will be developed and can include virtual and in-person meetings, online surveys, attending intercept events, etc. A strategic approach and the exact mechanism of input will be determined during the project.
- After the program is established, student Interns will create a few Draft Preliminary Plans for review and input.
- After presenting and discussing these Preliminary Plans with staff and any relevant stakeholders, the plans will be refined and finalized into a Preferred Plan.
- Architectural Plans, Renderings and Opinion of Cost will be produced for the Preferred Plan that depict realistic and feasible plans for both the Site and Facility. An opinion of cost will be created for the Preferred Plan. Phasing diagrams and a high level approach to construction can also be created.
- A Report will be prepared for the clients.
  - The Final Report will be delivered to the client and can be made available digitally. Hard copies can be provided upon request.
  - On-going coordination with the student interns will help define the final report and can be accomplished via in person meetings, emails, and phone/zoom conferences.
  - The final report can be presented to the city, depending on the need.
  - Any additional support materials can be created to share the vision with the community, leadership, partners or stakeholders.

After the initial site visit, meetings will be scheduled and held at key milestones in the project. This includes background analysis, the development and refinement of the Draft Preliminary Plans, and to discuss the Preferred Plan. The report will be shared throughout the project as it captures the process. Meetings will be conducted online via Zoom/Teams or in person.

Work is intended to be completed through the design development stage. The UTAP cannot stamp or sign or issue drawings for construction under their own title and would need others, if/as acceptable to take over responsibility for permit/construction drawing completion when deemed necessary at the sole discretion of the UTA.

Work is supervised by Jennifer Kovarik, UC Denver UTAP Supervisor within the UTAP program, and prepared by graduate-level students from the UCD Architecture and Planning program in Denver. Randi Snead, Regional Manager, will administer the DOLA part of this project.

## Timeline

It is estimated that work can begin with a kick-off meeting in the spring/summer of 2023 with the approval of this MOU and Scope. It is thought this work can be completed over the following months with the final report completed in the winter of 2024. A formal completion date is set for May 1, 2024. If a tighter timeline is desired, we can work with that as well. The timeline may be expanded or reduced based on the need for other time-extending tasks.

## Cost Estimate-Budget

Work will be billed to the City of Leadville at the completion of the final work task. It is estimated that work on this project will require \$5250 to cover the staff work, travel expenses, follow-up review, and preparation of the final documents. The cost of this work is to be covered by the City of Leadville and the DOLA Match.

<u>Total Leadville Community Center Facility Design</u>	
DOLA Match	\$2100
<u>Match/ share of cost</u>	<u>\$3150</u>
Total	\$5250

End of Attachment A



## **The Lake County Early Care and Education Fund Proposal**

**August 2023**

**To:** The City Council and County Commissioners

**Presented by:** Representatives from Rocky Mountain Early Childhood Council and Lake County Build a Generation's Child Care Coalition (Stacy Petty + Brooke Carlsen)

In an effort to address challenges that families in Lake County face in accessing quality and affordable care and education for young children (ages birth-5) as well as ultimately reduce health inequalities, Lake County Build a Generation created a Childcare Coalition in the year 2020. Since then, representatives from the Rocky Mountain Early Childhood Council (RMECC), local licensed programs and other affiliated organizations have worked to identify the root of those challenges and create projects and systems that work to support positive change. Around the United States, local sustainable funding sources directly supporting the Early Care and Education system have served as an incredibly successful way to address the multifaceted challenges the system faces. In our neighboring counties, there are already tax allocations going towards supporting local Early Care and Education systems.

With this information, The Childcare Coalition decided to involve representatives from the City and County in identifying what sustainable funding for our Early Care and Education system looks like in Lake County. The determination was that a local fund needed to be created and would be housed under the fiscal agent of The Lake County Community Fund (LCCF), called The Lake County Early Care and Education Fund (LCECE). The LCECE's mission is to support and promote licensed high quality Early Care and Education programs in Lake County.

Countless studies over the past several decades from accredited organizations as well as State and Federal agencies have clearly demonstrated the significant social and economic impacts that quality Early Care and Education provide to a community. The key here is QUALITY care and its influence on individual growth and development as well as the high economic return on investment to that quality. Termed as the 'foundation for all future health, learning and well-being' for children and their families, these vital years of a child's life (birth to 8 years old) are the most impactful than any other period of development with 90% of our brain growth happening during this time. High quality early childhood programs help lead individuals to lifelong benefits including but not limited to: academic success, higher future earnings, improved overall health and lower participation in social service programs and the criminal justice system. Financial investments in these effective programs during the early years offer a return of 13% over time-about \$6 for each \$1 invested, not to mention the additional economic benefits of parents returning to the workforce, attracting new businesses and potential employees and more.



Over the past four months, the Childcare Coalition has collected data from our three local licensed providers and saw common themes that emerged in terms of their financial needs. Based on the budgets and information provided, the LCECE will be requesting \$50,000 from The City of Leadville and \$80,000 from Lake County to start the initial year of financial support. Following the pilot year with demonstrated proven success, the LCECE will be requesting a financial renewal option with potential for multi-year commitments from both the City and County. The success of the fund will be closely tied with improved quality efforts from local licensed providers and increased access to families. The \$200 yearly fee and 10% indirect costs to LCCF will also be included in the budget for this fund to remain open. We will also be approaching additional philanthropic funding opportunities (such as Freeport McMoRan grants) to diversify this fund.

The fund has been established and we are now in the process of creating a committee who will manage the funds. The committee will be comprised of representatives who hold professional positions in the field of Early Childhood Education and have no conflicts of interest (staff/board members of providers receiving funds). It would then be the committee's responsibility to manage and allocate the funds based on equitable allocation across identified allowable expenses. This committee will be tasked with establishing eligibility requirements for anyone who applies for financial support as well as to help determine needs and gaps accordingly. Allowable costs and sustainability plans will be clearly defined within these eligibility requirements as well. Additional potential guidelines for applications can include but are not limited to: participation in other initiatives such as Universal Preschool, Colorado Shines and Colorado Child Care Assistance Program in order to maximize and leverage all funding available to licensed providers. This blending of multiple financial programs will also help support efforts for equitable, high quality programming available for all children and families in Lake County. To be clear, these funds are not meant to supplant funds that already exist but are to be used to supplement and fill the enormous gap of financial need.

Once guidelines have been established for applicants, licensed providers will submit an application including a breakdown of how funds will be utilized. Using a rubric, the Committee will issue award letters. Funds would go to support several different targets according to the data collected from local licensed centers: staff recruitment and retention efforts, operational costs and tuition assistance. More specifically, staff benefits and stipends, recruitment incentives, quality improvement costs, capital funding for program expansion, tuition assistance for families and more. Funding for these specific needs are incredibly hard to come by for licensed providers and thus, the LCECE fund would fill the large gap of financial need. More specifically, it would help to support families as there is a significant population of families who do not qualify for State/Federal programs but desperately struggle to afford childcare. Again, financial support from this fund will not be completely unrestricted, but it will be much more accessible for licensed providers to utilize within their budget where the largest gaps are and other financial programs cannot assist. Providers that receive financial assistance from other programs will be required to report out all current funding sources on a yearly basis before their applications are approved. Recipients will also have mid-year and final-year reporting requirements to determine how the funds are being utilized and to support reporting and documentation.

**The Lake County Early Care and Education Fund works In Partnership with:**



#### **Addendum- Bright Start Family Testimonies**

My name is Taryn, I am a full-time resident in Lake County. I have a 4-year-old and a 1-year-old in my home. We have struggled for the last 4 years to provide childcare for our children as we are in a family with two full-time working parents. The only way we have been able to provide childcare for our children under 3 in the last few years is to create a nanny-share with other local families. There is no childcare for infants in our community and I switched jobs in January 2023 to move to a place where they have an infant-at-work policy to supplement the expensive cost of the nanny share and to be able to bring my child to work.

We need sustainable childcare for kids who are not yet in school because of the conundrum of working parents. We just got our house appraised by the county and apparently, it's worth \$980,000 so how is a family supposed to live in this community without two working parents as a primary question and then as a secondary question, even if we are able to support childcare providers, how can we expect them to stay in Lake County on a wage of \$15-20/hour? It's impossible.

We need affordable housing for families and working childcare providers, a living wage for childcare providers and we need support for families of young children or else everyone will be forced to move to a more affordable community.

Sincerely,

Taryn Barrette

To whom it may concern,

My name is Gabby Voeller and I am the mother to two young children under the age of 5. We are full-time residents of Lake County. My family depends on childcare in order for both working parents to keep their jobs. Compared to peer communities, Lake County's childcare support is severely lacking in options and financial support. I understand the complexities of keeping

childcare centers running, and that affordable housing for staff is a huge barrier. However, Leadville and Lake County will not be able to thrive unless it can retain and attract families that need childcare. Piecing things together with nannies (prohibitively expensive for most), family members, and half-day options just doesn't cut it to truly support our youngest residents. My family has considered leaving multiple times and did leave for most of the summer of 2022 in order to get better care hours and keep our jobs. I am privileged to even be able to do that compared to many other families. Childcare is the biggest stressor on our families' wellbeing. On a positive note, Sara Luna and the Brightstart Board of Directors have created an incredible care center with warm loving staff, good communication with parents, and a welcoming, nurturing community for our kids. It deserves our fullest support. The work they do is incredible, and certainly not easy. We should support their work long term with consistent funding. Many of the surrounding communities contribute to childcare via a specific tax or general fund transfer. They are able to pay a living wage to the employees and keep the price affordable for all families. Let's step up and do the same!

Gabby Voeller

1. Megan Vicini

2. Full time resident

3. We currently have a 1 year old and both parents work full time. We feel very lucky that our jobs have been supportive and allowed for flexible hours so we were able to juggle work and childcare on our own for the first 6 months of his life, then we have been able to find babysitters here and there to help us out BUT we have been STRUGGLING trying to keep up with work and childcare and have not been in the best state mentally. We are very blessed that our struggles are not financially related but regardless we have still been unable to secure stable full time childcare. **This issue is not isolated to affordable childcare, it is a lack of ALL childcare, affordable or not.** There have been many days where I would have been willing to pay almost anything to get some help and still, unable to find a reliable option. We are starting to see some light at the end of the tunnel now that our child is over the age of 1 some options have been opening up to us and we now have a couple days a week at Sophie's childcare which has been a life changer. We still don't have a full time option and do not see that in our future for a while since all options are full right now. The childcare challenge has made us not want to expand our family as I feel if we were to have another child one of us would have to stop working for the first year at a minimum since there are no options for any childcare under the age of 1.

4. If we don't fix the childcare in Leadville we are going to lose families in the area and/or families will stop expanding which is not good for the future of Leadville. I am willing to help in any way I can, I am just not sure what I can do to help.

BRIGHT START:

Bright Start has been a tremendous resource for our family over the last six years. We are so grateful! Our oldest, Liam, attended Bright Start from age 1 to age 4.5. Our youngest, Lars, age 4, still attends Bright Start and began at age 1.

My husband and I are blessed to make good livings but still cannot afford private childcare. If Bright Start was not available and offering reasonable tuition, we would not be able to keep working. If we were not able to keep working, we would not be able to financially support our family or contribute to the local economy.

Because we have Bright Start in our community, however, we are able to keep working. More importantly, we are able to do so knowing our children are receiving quality care and having a great time! I strongly encourage funders to support Bright Start so families like ours can continue to benefit from this vital resource for years to come.

Bright Start has dramatically impacted our family's move up to Leadville, which is why we love it here! The warm and friendly teachers have created a safe and comforting environment for Russell. They recognize his individuality and cater to his unique needs, making learning an exciting journey for him every day.

Russell's growth and development at Bright Start have been extraordinary. The breadth of topics he explores daily continues to amaze me. He comes home every day ready to tell us about the solar system, whales, or, lately, cactuses. His knowledge, curiosity, and ability to converse on a variety of subjects is a testament to the education he is receiving. I also love the amount of active playtime built into the day.

We could not have moved to Leadville if Brightstart was not available. The lack of very early childhood care in the area options is extremely limiting for families. I am so impressed with how much Sara has grown the program in the year and a half since it reopened. Please continue to support Brightstart and help this program grow so more families can benefit.

Bright Start has provided stable, joyful care for my daughter Hailey. Before having Hailey at Bright Start, I had frequently had to consider quitting my job because the other childcare options in the county were inconsistent and frequently closed. I cannot stress how helpful it has been to have a dependable, safe and good place to bring my daughter while I work. She has adjusted well to the consistent schedule and enjoys telling me about her days when I pick her up. It means so much to know that she is surrounded by peers and learning and maturing in a safe, good place.

Bright Start has provided wonderful care for our child in a nurturing environment. Juniper wasn't even 2 years old yet when she started at Bright Start. She has really blossomed socially and has

learned SO much from each of her teachers, and continues to daily. It's difficult leaving your child in order to make work possible, but Bright Start has made this easier on us! We have peace of mind knowing that our daughter is safe at school, in competent hands. It's amazing that they provide nutritious snacks twice daily, some foods of which Juni might not eat at home without the influence of other children! This, along with our reasonable tuition, help our family immensely! We love watching her grow and enjoy the friendships she's making with each child at Bright Start! Thank you!

The staff is wonderful and my child being there helps her development so much- as well as giving mom a break!

Bright Start has significantly changed our family life for the better. In 2020 both parents in our household were working and commuting to Summit County, and the kids were in daycare in Summit County as well. With that being our only option for childcare for both kids, we were trapped in a commuter lifestyle because not working was not an option. My husband took a job with Ski Cooper in July of 2021, which left me as the only parent commuting with the kids to Summit County. When Bright Start opened in October of 2021, we were able to enroll both kiddos, and I was able to quit my job in Summit County by December of 2021. I now work for Lake County Government in Public Health and our entire family life is based in Lake County. What I didn't realize as a commuter, is what a rich community we were missing out on in Lake County. Due to Bright Start re-opening and the incredible staff there, my kids have friends in Leadville, we are connected to other families in Leadville, both parents are able to work locally, my kids are safe and are learning daily, and I do not have to commute 1-2 hours a day with both kids in the car. In addition to that, when I was working in Summit, about 80% of my salary was going towards childcare, it almost wasn't worth it to work but I HAD to take the 20% home that wasn't going to childcare. While childcare is still a large budget item for our family, it does not consume most of our budget and allows for us to have a small amount of financial flexibility/stability. The tuition at Bright Start is a huge selling point that makes it possible for parents to stay in the local workforce. I could write a novel about the positive impacts Bright Start has had on our family, it has literally changed the course of our entire family life for the better.

Bright Start came to our rescue. We didn't have childcare for the entire pandemic for our son who was born on 12/12/19. When we got into this amazing program we could finally breath a sigh of relief and stop the manic around the clock juggling. Balancing the work of both parents and a child was not ideal for anyone in our household. Our ability to be better parents and better employees increased greatly after Dante got into Bright Start.

Our son Dante was working with the early intervention program with LCSD when he started at the daycare. Bright Start was more than accommodating to allow those sessions to continue in their classrooms. The therapists were welcomed into the playroom to work with Dante in his peer setting.

Aside from the EIP work, Dante's growth with language and peer engagement took off with the help of the Bright Start employees and the peers he could finally be around.

We have been nothing but impressed with Sara and the Staff at Bright Start. Sara is on top of operations, communication and program news is clear and timely. The staff does a great job work with our son and keeping us up to date in the Bright Wheel app.

We will be using Bright Start Until Dante is 5 or 7 years old. I do not know what we'd do if we lost access to this program. It would be very straining on our family and Dante's progress would be stifled. We are fortunate that we might be able to hire help at home and/or flex our work to accommodate covering child care ourselves if this program were to go away. I know that isn't true of the rest of the Bright Start families. Before Bright Start opened we were on 5 wait lists in 3 counties, and to be honest, our positions haven't moved on those other program waitlist.

I only hope the Bright Start can continue to run and even expand to help cover the needs of our awesome community. Access to excellent childcare could make or break the future of Leadville. Let us keep this program running so that our town has a brighter future.

- Alex and Sierra Willis

# July 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
25 7am - LTF Trail 100 Run 9am - Animal Shelter	26	27 4pm - HPC - Regular Mtg	28 6pm - P&Z Meeting @	29	30 7am - LTF MTB Camp of	1 7am - LTF MTB Camp of
2 7am - LTF MTB Camp of	3	4 Independence Day - City 8:30am - Firecracker 5k 10am - 4th of July Parade 11am - BOCC @ 505	5 6pm - Regular CC Mtg	6	7	8
9	10	11 4pm - HPC Meeting @	12 5pm - Sanitation @ 6pm - P&Z Meeting -	13 1pm - Leadville Municipal 5:15pm - Parkville Water 5:30pm - LURA Board	14	15
16	17	18 8:30am - Tourism Panel 11am - BOCC @ 500 6pm - Regular CC Mtg @	19	20	21	22
23 3pm - City Council	24	25 4pm - HPC - Regular Mtg	26 6pm - P&Z Meeting @	27	28	29
30	31	1 11am - BOCC @ 505 6pm - Regular CC Mtg	2	3 6pm - LURA Board	4 8am - Fire Management	5

# August 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
30	31	1 11am - BOCC @ 505 6pm - Regular CC Mtg	2	3 6pm - LURA Board	4 8am - Fire Management	5
6	7	8 4pm - HPC Meeting @	9 5pm - Sanitation @ 6pm - P&Z Meeting @	10 1pm - Leadville Municipal 5:15pm - Parkville Water	11	12
13	14	15 8:30am - Tourism Panel 11am - BOCC @ 500 6pm - Regular CC Mtg @	16	17	18	19
20	21	22 4pm - HPC - Regular Mtg	23 6pm - P&Z Meeting @	24	25	26
27	28	29 Joint City Council Work	30	31	1	2



# September 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
27	28	29 Joint City Council Work	30	31	1	2
3	4 Labor Day - City Hall	5 11am - BOCC @ 505 6pm - Regular CC Mtg	6	7 6pm - LURA Board	8	9
10	11	12 Short Term Rental City 4pm - HPC Meeting @	13 5pm - Sanitation @ 6pm - P&Z Meeting @	14 1pm - Leadville Municipal 5:15pm - Parkville Water	15	16
17	18	19 8:30am - Tourism Panel 11am - BOCC @ 500 6pm - Regular CC Mtg @	20	21	22	23
24	25	26 4pm - HPC - Regular Mtg	27 6pm - P&Z Meeting @	28	29	30