

Town of Keystone  
Town Council Regular Meeting  
February 8, 2024 at 7:00 p.m.  
1628 Sts John Rd  
Keystone, CO 80435

Meeting access via Zoom:  
<https://us02web.zoom.us/j/88467134586?pwd=VW90VIBDNTF3U2k4NnV0TFp2WlY3QT09>

REGULAR MEETING AGENDA

I. CALL TO ORDER, ROLL CALL

II. APPROVAL OF AGENDA

III. COMMUNICATIONS TO COUNCIL

*Public Comment (Non-Agenda Items Only; 3 Minute Time Limit Please)*

IV. CONSENT AGENDA

A. FIRST READING OF ORDINANCES -- NONE

B. RESOLUTIONS -- NONE

C. MEETING MINUTES -- NONE

V. CONTINUED BUSINESS

A. CONSIDERATION OF ORDINANCES (SECOND READING/PUBLIC HEARING) -- NONE

B. RESOLUTIONS

1. [Resolution 2024-01 declaring February 8, 2024, date of Incorporation](#)
2. [Resolution 2024-02 identifying terms of office for Councilmembers](#)
3. [Resolution 2024-03 Electing Mayor Pro Tem](#)
4. [Resolution 2024-04 appointing Gary Martinez interim Town Manager and interim Finance Director and approve 90-day engagement letter – Swearing in of Interim Town Manager](#)
5. [Resolution 2024-05 appointing the Town Clerk and approving consulting agreement – Swearing in of Town Clerk](#)

6. [Resolution 2024-06 appointing Town Attorney – Swearing in of Town Attorney](#)
7. [Resolution 2024-07 approving transition intergovernmental agreement with Summit County](#)
8. [Resolution 2024-08 to Join the SCHA effective Feb 8<sup>th</sup> \(swearing in date\)](#)
9. [Resolution 2024-09 to join CIRSA and approve the Property and Casualty and Workers Comp Policies](#)
10. [Resolution 2024-10 for Posting Meeting Notices](#)
11. [Resolution 2024-11 for Regular Meeting Schedule](#)
12. [Resolution 2024-12 Setting Policy for agendas and meeting materials](#)
13. [Resolution 2024-13 for approval of IGA for receipt of the Summit County sales tax](#)
14. [Resolution 2024-14 to approve Accountant Contract](#)
15. [Resolution 2024-15 approving banking relationship](#)
16. [Resolution 2024-16 authorizing laptop purchase](#)
17. [Resolution 2024-17 approving Benefit Package](#)
18. [Resolution 2024-18 Adopting A Policy Regarding Public Comment For Town Council Meetings](#)
19. [Resolution 2024-19 approving lease for Town Hall \[waiting for lease\]](#)
20. [Resolution 2024-20 approving Town Seal](#)

C. OTHER

VI. PLANNING MATTERS -- NONE

VII. REPORT OF TOWN MANAGER AND STAFF

VIII. REPORT OF MAYOR AND COUNCIL

IX. OTHER MATTERS (Town Manager/Mayor/Councilmember may bring up items on other matters that are not on the agenda)

X. SCHEDULED MEETINGS

XI. ADJOURNMENT

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen, Town Attorney

DATE: February 8, 2024

**SUBJECT: Resolution 2024-01, Declaring Complete The Incorporation Of Town Of Keystone**

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### **Executive Summary:**

The resolution is a formal record that the incorporation of the Town of Keystone is complete as of February 8, 2024.

### **Recommendation:**

The Interim Town Manager and Town Attorney recommend approval of this resolution.

### **Background:**

Colorado incorporation law provides that the incorporation of a new municipality is complete when the incorporation election papers and record entries have been made and filed and the first officers for the Keystone Town Council have been elected, and the first officers have been sworn in and qualified.

As of February 8, 2024, and in accordance with C.R.S. § 31-2-105, the incorporation election papers and record entries have been made and filed, the first officers for the Keystone Town Council have been elected, and the first officers have been sworn in and qualified.

This resolution is intended as a historical record documenting the incorporation date of the Town of Keystone as February 8, 2024.

### **Alternatives:**

There are no alternatives.

### **Financial Considerations:**

There are no financial considerations.

### **Previous Council Actions:**

None.

**Next Steps:**

None.

**Suggested Motions:**

I move to APPROVE Resolution 2024-01 Declaring Complete The Incorporation Of Town Of Keystone.

I move to DENY Resolution 2024-01 Declaring Complete The Incorporation Of Town Of Keystone.

**Attachments:**

- Resolution 2024-01 Declaring Complete The Incorporation Of Town Of Keystone

**TOWN OF KEYSTONE**  
**Summit County, Colorado**

**RESOLUTION 2024-01**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
DECLARING COMPLETE THE INCORPORATION OF TOWN OF KEYSTONE**

WHEREAS, on December 13, 2022, the Summit County District Court entered an order finding and determining that the territory of the proposed Town of Keystone and the circulated petitions met the requirements of C.R.S. § 31-2-101 and appointed nine individuals to serve as members of the Election Commission for purposes of organizing the incorporation election; and

WHEREAS, the Election Commission called for an election to be held on March 28, 2023; and at that election, the voters approved incorporation of the Town of Keystone, approved the formation of a Home Rule Charter Commission, and elected nine members to serve on the Charter Commission; and

WHEREAS, in accordance with C.R.S. § 31-2-103, the Election Commissioners have lodged a report regarding the incorporation election with the Summit County District Court. The Election Commission have confirmed the submission of certified copies of election documents to the Summit County Clerk and Recorder, the Colorado Department of Local Affairs, and the Colorado Office of the Secretary of State; and

WHEREAS, at the same time, the Charter Commission drafted a Home Rule Charter for the Town of Keystone and submitted that proposed Home Rule Charter to the Election Commission on June 27, 2023; and

WHEREAS, on June 29, 2023, the Election Commission approved its Resolution 2023-05 referring to the voters the proposed Home Rule Charter and calling for a special election on Tuesday, September 26, 2023; and

WHEREAS, at the September 26, 2023, special election, 288 registered electors voted “yes” on the adoption of the Town of Keystone proposed Home Rule Charter, and 58 registered electors voted “no” on the adoption of the proposed charter; and

WHEREAS, the Town of Keystone Home Rule Charter was approved by a vote of the majority (83.2%); and

WHEREAS, pursuant to C.R.S. §§ 31-2-209(5), 31-2-104, the Election Commission called for setting an election for the first election of officers of the Town Council; and

WHEREAS, the Town of Keystone Home Rule Charter, Section 2.1 provides that the Town Council is comprised of the Mayor and six (6) Councilmembers; and

WHEREAS, the Election Commission called for a special election to be held on Tuesday, January 30, 2024, for the election of the Mayor office and six Councilmember offices to be elected at large from the Town of Keystone; and

WHEREAS, on January 30, 2024, at a special election, the registered electors of Keystone, Colorado, elected a Mayor and six Councilmembers; and

WHEREAS, on February 8, 2024, the elected Mayor and six Councilmembers took the oath of office and were sworn in as the first members of the Keystone Town Council.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. As of February 8, 2024, and in accordance with C.R.S. § 31-2-105, the incorporation election papers and record entries have been made and filed, the first officers for the Keystone Town Council have been elected, and the first officers have been sworn in and qualified.

Section 2. The incorporation of the Town of Keystone is declared complete as of February 8, 2024, pursuant to C.R.S. § 31-2-105.

Section 3. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED** by a vote of \_\_ in favor and \_\_ against, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen, Town Attorney

DATE: February 8, 2024

SUBJECT: Resolution 2024-02, Identifying First Members Of Town Council And Terms Of Office

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### **Executive Summary:**

The resolution identifies the first members of Town Council and the terms of office for each according to the results of the January 30, 2024, election and Home Rule Charter section 2.3(a).

### **Recommendation:**

The Interim Town Manager and Town Attorney recommend approval of this resolution.

### **Background:**

On January 30, 2024, a special election was held to elect the first members of Town Council. Home Rule Charter section 2.3(a) provides that for the Councilmember position, the person receiving the three highest numbers of votes shall be elected and serve until a successor is elected at the Regulation Town Election in 2028. The persons receiving the next three highest votes shall be elected and serve until a successor is elected at the Regulation Town Election in 2026.

Based on the votes cast in the January 30, 2024, election and the Home Rule Charter section 2.3(a), the Councilmembers shall have the following terms of office:

Kenneth D. Riley, Mayor – four-year term  
Dan Sullivan, Councilmember – four-year term  
Gretchen Davis, Councilmember – four-year term  
Aaron Parmet, Councilmember – four-year term  
Sarah Keel, Councilmember – two-year term  
Valerie Thisted, Councilmember – two-year term  
Carol Kerr, Councilmember – two-year term

### **Alternatives:**

There are no alternatives.



**Financial Considerations:**

There are no financial considerations.

**Previous Council Actions:**

None.

**Next Steps:**

None.

**Suggested Motions:**

I move to APPROVE Resolution 2024-02 Identifying First Members Of Town Council And Terms Of Office.

I move to DENY Resolution 2024-02 Identifying First Members Of Town Council And Terms Of Office.

**Attachments:**

- Resolution 2024-02 Identifying First Members Of Town Council And Terms Of Office

**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-02**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
IDENTIFYING FIRST MEMBERS OF TOWN COUNCIL AND TERMS OF OFFICE**

WHEREAS, on December 13, 2022, the Summit County District Court entered an order finding and determining that the territory of the proposed Town of Keystone and the circulated petitions met the requirements of C.R.S. § 31-2-101 and appointed nine individuals to serve as members of the Election Commission for purposes of organizing the incorporation election; and

WHEREAS, pursuant to C.R.S. §§ 31-2-209(5), 31-2-104, the Election Commission called for setting an election for the first election of officers of the Town Council; and

WHEREAS, the Town of Keystone Home Rule Charter, Section 2.1 provides that the Town Council is comprised of the Mayor and six (6) Councilmembers; and

WHEREAS, the Election Commission called for a special election to be held on Tuesday, January 30, 2024, for the election of the Mayor office and six Councilmember offices to be elected at large from the Town of Keystone; and

WHEREAS, on January 30, 2024, at a special election, the registered electors of Keystone, Colorado, elected a Mayor and six Councilmembers; and

WHEREAS, on February 8, 2024, the elected Mayor and six Councilmembers took the oath of office and were sworn in as the first members of the Keystone Town Council.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. Based on the votes cast in the January 30, 2024, election and the Home Rule Charter section 2.3(a), the Councilmembers shall have the following terms of office:

Kenneth D. Riley, Mayor – four-year term  
Dan Sullivan, Councilmember – four-year term  
Gretchen Davis, Councilmember – four-year term  
Aaron Parmet, Councilmember – four-year term  
Sarah Keel, Councilmember – two-year term  
Valerie Thisted, Councilmember – two-year term  
Carol Kerr, Councilmember – two-year term

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED** by a vote of    in favor and    against, this        day of       , 2024.

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers  
THROUGH: Gary Martinez, Interim Town Manager  
FROM: Jennifer Madsen  
DATE: February 8, 2024  
SUBJECT: Resolution 2024-03, Electing A Mayor Pro Tem

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### **Executive Summary:**

The Home Rule Charter provides that Town Council shall elect a mayor pro tem to serve as the backup to the mayor.

### **Recommendation:**

Staff recommends that the Town Council approve Resolution 2024-03 electing a mayor pro tem.

### **Background:**

Section 2.5 of the Keystone Home Rule Charter provides that Town Council shall, at a regular meeting, elect one of its Councilmembers to serve as Mayor Pro Tem for a term of approximately one (1) year, commencing and expiring at the first regular meeting of the City Council scheduled for June of each year.

Resolution No. 2024-03 provides that \_\_\_\_\_ is elected and appointed by the Town Council as the Mayor Pro Tem of the Town of Keystone to act as Mayor in case the Mayor is absent from the Town or is for any reason temporarily unable to perform the duties of his/her office.

The Mayor Pro Tem shall remain in office from February 8, 2024 until the first regular meeting in June 2025 unless otherwise removed from the position by the Town Council.

### **Alternatives:**

N/A

### **Financial Considerations:**

None.

### **Previous Council Actions:**

None.

**Next Steps:**

None.

**Suggested Motions:**

I move to APPROVE Resolution 2024-03 Electing A Mayor Pro Tem

I move to DENY Resolution 2024-03 Electing A Mayor Pro Tem

**Attachments:**

- Resolution 2024-03 Electing A Mayor Pro Tem

**TOWN OF KEYSTONE**  
**Summit County, Colorado**  
**RESOLUTION 2024-03**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO**  
**ELECTING A MAYOR PRO TEM**

WHEREAS, the Town of Keystone is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, Section 2.5 of the Keystone Home Rule Charter provides that Town Council shall, at a regular meeting, elect one of its Councilmembers to serve as Mayor Pro Tem for a term of approximately one (1) year, commencing and expiring at the first regular meeting of the City Council scheduled for June of each year; and

WHEREAS, the Town Council wishes to elect from among its members a Mayor Pro Tem to serve as provided in the Keystone Home Rule Charter.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. \_\_\_\_\_ is elected and appointed by the Town Council as the Mayor Pro Tem of the Town of Keystone to act as Mayor in case the Mayor is absent from the Town or is for any reason temporarily unable to perform the duties of his/her office.

Section 2. The Mayor Pro Tem shall remain in position of mayor pro tem from February 8, 2024, and until the first regular meeting in June 2025 unless otherwise removed from the position by the Town Council.

Section 3. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED by a vote of \_\_ in favor and \_\_ against, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.**

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen, Town Attorney

DATE: February 8, 2024

SUBJECT: Resolution 2024-04, Appointing Interim Town Manager and Interim Finance Director And Delegating Contract Authority

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### **Executive Summary:**

Section 7.1 of the Keystone Home Rule Charter provides that Town Council shall hire a Town Manager. This resolution appoints an interim town manager.

### **Recommendation:**

Staff recommends that the Town Council approve Resolution 2024-04 which would formally appoint an Interim Town Manager and provide that person with contracting authority up to and including \$15,000.

### **Background:**

Section 7.1 of the Keystone Home Rule Charter provides that Town Council shall hire a Town Manager. The Town Manager is responsible for overseeing the operations of the Town and operates in the role of the administrative officer. The Town is in the process of reviewing resumes and interviewing candidates for the Town Manager position.

Until such time as Town Council selects and hires a Town Manager, Gary Martinez has agreed to serve as an Interim Town Manager. This resolution approves the consultant agreement with Mr. Martinez.

In addition, this resolution provides the Interim Town Manager with the authority to execute contracts not to exceed \$15,000.

### **Alternatives:**

N/A

### **Financial Considerations:**

The Town will compensate the Interim Town Manager as provided in the letter agreement.

### **Previous Council Actions:**

None.

**Next Steps:**

N/A

**Suggested Motions:**

I move to APPROVE Resolution 2024-04 Appointing Interim Town Manager and Interim Finance Director And Delegating Contract Authority

I move to DENY Resolution 2024-04 Appointing Interim Town Manager and Interim Finance Director And Delegating Contract Authority

**Attachments:**

- Resolution 2024-04 Appointing Interim Town Manager and Interim Finance Director And Delegating Contract Authority



**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-04**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
APPOINTING INTERIM TOWN MANAGER AND INTERIM FINANCE DIRECTOR AND  
DELEGATING CONTRACT AUTHORITY**

WHEREAS, the Town of Keystone is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, Section 7.1 of the Keystone Home Rule Charter provides that Town Council shall hire a Town Manager; and

WHEREAS, Town Council is in the process of selecting and hiring a Town Manager; and

WHEREAS, until such time as Town Council selects and hires a Town Manager, the Town Council appoints Gary Martinez as the Interim Town Manager and Interim Finance Director; and

WHEREAS, Interim Town Manager Gary Martinez shall serve at the pleasure of Town Council; and

WHEREAS, the Town Council delegates to the Interim Town Manager contract authority in the amount of fifteen thousand dollars (\$15,000) to execute contracts on behalf of the Town.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The Town Council appoints Gary Martinez to serve as the Interim Town Manager and Interim Finance Director until such time as full-time, permanent Town Manager is appointed. The Town Council authorizes the Mayor to execute a consultant agreement with Mr. Martinez.

Section 2. The Interim Town Manager shall have the authority to execute on behalf of the Town without first needing to obtain Town Council approval all contracts (regardless of title) for goods and services that do not exceed fifteen thousand dollars (\$15,000).

Section 3. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED by a vote of\_\_ in favor and\_\_against, this\_\_\_\_\_day of\_\_\_\_\_,  
2024.**

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

**PROFESSIONAL SERVICES AGREEMENT BETWEEN  
THE TOWN OF KEYSTONE, AND GARY MARTINEZ**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into this 8th day of February 2024 (“Effective Date”), by and between the Town of Keystone, a Colorado Municipality), and Gary Martinez (the “Consultant”). The Town of Keystone, and the Consultant may be collectively referred to as the “Parties” and each individually as “Party”.

**NOW, THEREFORE**, in consideration of the terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed by and between the Parties as follows:

**1. LINE OF AUTHORITY:** The Town of Keystone Town Council delegated to the Town Mayor the authority to sign this Agreement. The Town Mayor is designated as the Authorized Representative for the purpose of administering, coordinating, and approving the work performed by the Consultant under this Agreement.

**2. SCOPE OF SERVICES:** Consultant shall act as the Interim Town Manager for the Town of Keystone and advising the Town Council.. The Consultant shall be responsible to and report directly to the Town Council on the proper administration of all affairs of the Town placed in the Interim Town Manager’s charge, and to that end, the Interim Town Manager shall have the powers and duties as set forth by the Town Council by the Home Rule Charter, policy, and ordinance, including, but not limited to:

- Enforcing or supervising the enforcement of all laws of the Town; and
- Supervising and overseeing all aspects of Town functions and activities, services, contracts, personnel, and departments that report to the Interim Town Manager; and
- Performing or supervising the performance of budget-related duties, accounting duties and financial and risk planning, reporting, and management; and
- Reporting regularly to the Town Council on the functioning of all Town departments, services, activities, and financial matters; and
- Attending Town Council meetings unless attendance is excused; and
- Performing such other duties as set forth in the Ordinances of the Town or by direction of the Town Council; and
- Performing, or delegating the performance of, all Town Manager functions as required by Colorado law and the Town of Keystone Home Rule Charter; and
- Hiring and supervising the Town Staff consisting of the Town Clerk, Town Deputy Clerk, and Community Development Director, or any other staff position as directed by the Town Council; and
- Leading the search and, recommending the selection process to the Town Council for hiring the for a Permanent Town Manager; and
- Participating in negotiations and advising the Town Council on Intergovernmental Agreements; and
- Establishing the operations of Town functions and services; and
- Performing the duties of the Town Finance Director as required by Colorado Statute and the Town of Keystone Charter
- Performing other duties as requested by the Authorized Representative.

The Consultant shall perform the services in a manner reasonably satisfactory to the Authorized Representative and Town Council.

**3. COMPENSATION FOR SERVICES:** In consideration for the provision of Services described in Paragraph 2, the Town of Keystone agrees to compensate the Consultant the amount of \$150.00/hour. Consultant agrees the fee is not to exceed \$60,000 for performing as the Town of Keystone Interim Town Manager and consulting with the Town of Keystone Town Council and Town Manager unless the Authorized Representative agrees in writing to an increase.

The Town of Keystone agrees to reimburse the Consultant for reasonable expenses which include:

- Mileage at a rate of IRS rate of 67 cents per mile.
- Meals with receipts during travel to Keystone for work included in the scope of services outlined in paragraph 2 above.
- Other expenses as agreed upon by the Authorized Representative and Town Council.

The Consultant is not entitled to any fees or reimbursements beyond those specified in this contract.

Payment by the Town of Keystone is based on the following:

- The Consultant shall submit invoices to the Town of Keystone in accordance with the terms of this Agreement. Invoices will be billed on a regular basis, but no more frequently than every month. Consultant agrees that payment for the invoices can be deferred until no later than May 31, 2024.
- The Consultant's invoices shall be in a format acceptable to the Town of Keystone, shall be supported by information in such detail as may be required by Town of Keystone and shall be sufficient to substantiate that the Consultant has performed the Services described in paragraph 2. The Town of Keystone may withhold payment for work, which is not completed as scheduled, or which is completed unsatisfactorily, until completed satisfactorily and may deny payment for such work upon termination by the Consultant.

**4. TERM:** The term of the Agreement is expected to be less than ninety days. It is mutually agreed by the Parties that the term of this Agreement shall commence as of the Effective Date and terminate on the date as designated by the Authorized Representative. However, the Agreement shall not extend beyond April 30, 2024, unless the Authorized Representative agrees in writing to extend the consulting services.

**5. INDEPENDENT CONTRACTOR:** The Consultant shall perform the Services as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with the town of Keystone other than as an independent consultant. The Town of Keystone shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Consultant or the Consultant's employees, sub-consultants, Consultants, agents, or representatives, including coverage or benefits related but not limited to: local, state, or federal income or other tax contributions; insurance contributions (e.g., FICA); workers' compensation; disability, injury, or health; professional liability insurance, errors and omissions insurance; or retirement account contributions.

**THE CONSULTANT ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONSULTANT OR SOME ENTITY OTHER THAN THE ELECTION COMMISSION PROVIDES SUCH BENEFITS. THE CONSULTANT FURTHER ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO WORKERS' COMPENSATION BENEFITS. THE CONSULTANT ALSO ACKNOWLEDGES THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT.**

**6. INDEMNIFICATION:** The Town of Keystone cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of the Consultant or any other person or entity whatsoever.

**7. ASSIGNMENT:** The Consultant covenants and agrees that it will not assign or transfer its rights hereunder, either in whole or in part without the prior written approval of the Town of Keystone. Any attempt by the Consultant to assign or transfer its rights hereunder shall, at the option of the Authorized Representative, void the assignment or automatically terminate this Agreement and all rights of the Consultant hereunder.

**8. OWNERSHIP OF DOCUMENTS:** Any work product, materials, and documents produced by the Consultant pursuant to this Agreement shall become property of the Town of Keystone upon delivery and shall not be made subject to any copyright unless authorized by the Town of Keystone.

**9. TERMINATION:** The Town of Keystone shall have the right to terminate this Agreement, with or without cause, by giving written notice to the Consultant of such termination and specifying the effective date thereof, which notice shall be given at least ten (10) calendar days before the effective date of such termination. In such an event, all finished or unfinished documents, data, studies, and reports shall become the Town of Keystone's property. The Consultant shall be entitled to receive compensation in accordance with this Agreement for any satisfactory work completed pursuant to the terms of this Agreement prior to the date of notice of termination. Notwithstanding the above, the Consultant shall not be relieved of liability to the Town of Keystone for damages sustained by the Town of Keystone by virtue of any breach of the Agreement by the Consultant. The Consultant's indemnification obligations hereunder shall survive termination of this Agreement.

**10. GOVERNING LAW; VENUE:** This Agreement shall be deemed to have been made in, and construed in accordance with the laws of the State of Colorado. Venue for any action hereunder shall be in the District Court, County of Summit, State of Colorado. The Consultant expressly waives the right to bring any action in or to remove any action to any other jurisdiction, whether state or federal.

**11. COMPLIANCE WITH ALL LAWS AND REGULATIONS:** All of the Services performed under this Agreement by the Consultant shall comply with all applicable laws, rules, regulations of the State of Colorado.

**12. NO MULTIPLE YEAR OBLIGATION:** Nothing in the Agreement shall create a multiple-fiscal year financial obligation as contemplated and as prohibited by Article X, Section 20 of the Constitution of the State of Colorado. Therefore, the parties agree that this Agreement is subject

to an annual appropriation by the Town Council and that the failure to make such appropriation will be deemed a termination of the Agreement.

**13. SEVERABILITY:** In the event any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining provisions shall not be affected, provided that the remaining provisions without the invalidated provisions are consistent with the Parties' intent. Should either party fail to enforce a specific term of this Agreement, it shall not be a waiver of a subsequent right of enforcement, nor shall it be deemed a modification or alteration of the terms and conditions contained herein.

**14. NO THIRD-PARTY BENEFICIARIES:** The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the Town of Keystone and the Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement.

**15. HEADINGS; RECITALS:** The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. The Recitals to this Agreement are incorporated herein.

**16. COUNTERPARTS:** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

**17. ENTIRE AGREEMENT:** The Parties acknowledge and agree that the provisions contained herein constitute the entire agreement and that all representations made by any elected official, officer, director, agent or employee of the respective parties unless included herein are null and void and of no effect. No alterations, amendments, changes or modifications to this Agreement, except those which are expressly reserved herein to the Authorized Representative and/or the Consultant Authorized Representative, shall be valid unless they are contained in writing and executed by all the Parties with the same formality as this Agreement.

**18. FORCE MAJEURE:** Neither Party shall be liable for damages, delays, or failure to perform its obligations under this Agreement if performance is made impractical or impossible, or unpredictably and abnormally difficult or costly, as a result of any unforeseen occurrence, including but not limited to fire, flood, acts of God, civil unrest, failure of a third party to cooperate in providing services other than Consultant's subcontractors, or other occurrences beyond the reasonable control of the party invoking this Force Majeure clause. The Party invoking this Force Majeure clause shall notify the other Party immediately by verbal communication and in writing of the nature and extent of the contingency within five (5) business days after its occurrence or discovery of its occurrence and shall take reasonable measures to mitigate any impact of the event that triggered the invoking of this Force Majeure clause. If the Force Majeure event shall impact schedule or increases the costs incurred by the Consultant, such items shall be handled in accordance with Section 2 and 3.





The Town of Keystone

State of Colorado

County of Summit

I, **Gary Martinez**, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of Colorado, and the Charter and Ordinances of the Town of Keystone, and that I will faithfully perform the duties of the Town Manager office and the Finance Director office for the Town of Keystone to the best of my skill and ability.

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**Gary Martinez**, Town Manager and Finance Director, Town of Keystone, Colorado

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Madeline Sielu, Town Clerk, Town of Keystone, Colorado

Subscribed and sworn before me this 8th day of February A.D. 2024.



# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen, Town Attorney

DATE: February 8, 2024

SUBJECT: Resolution 2024-05, Authorizing the Appointment of the Town Clerk and Authoring a Consultant Agreement with Karen Goldman

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### **Executive Summary:**

Section 7.5 of the Keystone Home Rule Charter provides that Town Manager shall appoint and may remove the Town Clerk. This resolution affirms that authority and approves.

### **Recommendation:**

Staff recommends that the Town Council approve Resolution 2024-05.

### **Background:**

As stated above, Section 7.5 of the Keystone Home Rule Charter provides the Town Manager with the authority to hire a Town Clerk. The Interim Town Manager has identified Madeline Sielu for the role of Town Clerk.

In addition, the Interim Town Manager recommends approval of the consulting agreement with Karen Goldman for providing assistance in organizing and starting up the Town Clerk's office. The agreement is attached as an exhibit to this resolution.

### **Alternatives:**

N/A

### **Financial Considerations:**

The Town will compensate the Town Clerk as a Town employee and consultant clerk as provided in the consulting agreements.

### **Previous Council Actions:**

None.

### **Next Steps:**

N/A

**Suggested Motions:**

I move to APPROVE Resolution 2024-05 Authorizing the Appointment of the Town Clerk and Authoring a Consultant Agreement with Karen Goldman

I move to DENY Resolution 2024-05 Authorizing the Appointment of the Town Clerk and Authoring a Consultant Agreement with Karen Goldman

**Attachments:**

- Resolution 2024-05 Authorizing the Appointment of the Town Clerk and Authoring a Consultant Agreement with Karen Goldman

**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-05**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
APPOINTING INTERIM TOWN MANAGER AND  
DELEGATING CONTRACT AUTHORITY**

WHEREAS, the Town of Keystone is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, Section 7.5 of the Keystone Home Rule Charter provides that Town Manager shall appoint and may remove the Town Clerk; and

WHEREAS, Interim Town Manager has identified Madeline Sielu for the role of Town Clerk; and

WHEREAS, the Town Council accepts the Interim Town Manager's appointment of the Town Clerk.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The Town Council accepts the Interim Town Manager's appointment of Madeline Sielu for the role of Town Clerk.

Section 2. In addition, the Interim Town Manager recommends approval of the consulting agreement with Karen Goldman for providing assistance in organizing and starting up the Town Clerk's office. Town Council approves the agreement is attached as an exhibit to this resolution.

Section 3. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED by a vote of\_\_ in favor and\_\_against, this\_\_\_\_\_day of\_\_\_\_\_,  
2024.**

By:\_\_\_\_\_   
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By:\_\_\_\_\_  
Town Clerk

By:\_\_\_\_\_   
Town Attorney

**PROFESSIONAL SERVICES AGREEMENT BETWEEN  
THE TOWN OF KEYSTONE, AND KAREN GOLDMAN**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into this 8th day of February 2024 (“Effective Date”), by and between the Town of Keystone, a Colorado Municipality), and Karen Goldman (the “Consultant”). The Town of Keystone, and the Consultant may be collectively referred to as the “Parties” and each individually as “Party”.

**NOW, THEREFORE**, in consideration of the terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed by and between the Parties as follows:

**1. LINE OF AUTHORITY:** The Town of Keystone Town Council delegated to the Town Manager the authority to sign this Agreement. The Town Manager is designated as the Authorized Representative for the purpose of administering, coordinating, and approving the work performed by the Consultant under this Agreement.

**2. SCOPE OF SERVICES:** Consultant shall act as a Consultant to the Town Manager and Town Clerk for the Town of Keystone. Consultant shall perform all services related to Establishing the Town of Keystone Office of the Town Clerk Responsibilities:

- Educate and consult on Town Clerk Responsibilities, laws and procedures;
- Perform, or delegate the performance of, all Town Clerk functions as required by Colorado law and the Town of Keystone Home Rule Charter;
- Create procedures, including training materials, for all aspects of the Town Clerk Functions as requested;
- Attend meetings of the Town of Keystone Town Council as requested;
- Prepare Town Council Meeting Agendas and Minutes as requested;
- Train Town of Keystone staff members on Town Clerk responsibilities;
- Provide recommendations for Town Clerk software/hardware packages as requested.
- Provide assistance in implementing Town Clerk software/hardware packages as requested.
- Perform other duties as requested by the Authorized Representative.

The Consultant shall perform the services in a manner reasonably satisfactory to the Authorized Representative.

**3. COMPENSATION FOR SERVICES:** In consideration for the provision of Services described in Paragraph 2, the Town of Keystone agrees to compensate the Consultant the amount of \$80.00/hour. Consultant agrees the fee is not to exceed \$7,500 for the Establishing the Town Clerk function unless the Authorized Representative agrees in writing to an increase.

The Town of Keystone agrees to reimburse the Consultant for reasonable expenses which include:

- Mileage at a rate of IRS rate of 67 cents per mile.
- Meals with receipts during travel to Keystone for work included in the scope of services outlined in paragraph 2 above.
- Other expenses as agreed upon by the Authorized Representative.

The Consultant is not entitled to any fees or reimbursements beyond those specified in this contract.

Payment by the Town of Keystone is based on the following:

a. The Consultant shall submit invoices to the Town of Keystone in accordance with the terms of this Agreement. Invoices will be billed on a regular basis, but no more frequently than every month.

b. The Consultant's invoices shall be in a format acceptable to the Town of Keystone, shall be supported by information in such detail as may be required by Town of Keystone and shall be sufficient to substantiate that the Consultant has performed the Services described in paragraph 2. The Town of Keystone may withhold payment for work, which is not completed as scheduled, or which is completed unsatisfactorily, until completed satisfactorily and may deny payment for such work upon termination by the Consultant.

**4. TERM:** The term of the Agreement is expected to be less than ninety days. It is mutually agreed by the Parties that the term of this Agreement shall commence as of the Effective Date and terminate on the date as designated by the Authorized Representative. However, the Agreement shall not extend beyond March 31, 2024, unless the Authorized Representative agrees in writing to extend the consulting services.

**5. INDEPENDENT CONTRACTOR:** The Consultant shall perform the Services as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with the town of Keystone other than as an independent consultant. The Town of Keystone shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Consultant or the Consultant's employees, sub-consultants, Consultants, agents, or representatives, including coverage or benefits related but not limited to: local, state, or federal income or other tax contributions; insurance contributions (e.g., FICA); workers' compensation; disability, injury, or health; professional liability insurance, errors and omissions insurance; or retirement account contributions.

**THE CONSULTANT ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE CONSULTANT OR SOME ENTITY OTHER THAN THE ELECTION COMMISSION PROVIDES SUCH BENEFITS. THE CONSULTANT FURTHER ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO WORKERS' COMPENSATION BENEFITS. THE CONSULTANT ALSO ACKNOWLEDGES THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT.**

**6. INDEMNIFICATION:** The Town of Keystone cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of the Consultant or any other person or entity whatsoever.

**7. ASSIGNMENT:** The Consultant covenants and agrees that it will not assign or transfer its rights hereunder, either in whole or in part without the prior written approval of the Town of Keystone. Any attempt by the Consultant to assign or transfer its rights hereunder shall, at the

option of the Authorized Representative, void the assignment or automatically terminate this Agreement and all rights of the Consultant hereunder.

**8. OWNERSHIP OF DOCUMENTS:** Any work product, materials, and documents produced by the Consultant pursuant to this Agreement shall become property of the Town of Keystone upon delivery and shall not be made subject to any copyright unless authorized by the Town of Keystone.

**9. TERMINATION:** The Town of Keystone shall have the right to terminate this Agreement, with or without cause, by giving written notice to the Consultant of such termination and specifying the effective date thereof, which notice shall be given at least ten (10) calendar days before the effective date of such termination. In such an event, all finished or unfinished documents, data, studies, and reports shall become the Town of Keystone's property. The Consultant shall be entitled to receive compensation in accordance with this Agreement for any satisfactory work completed pursuant to the terms of this Agreement prior to the date of notice of termination. Notwithstanding the above, the Consultant shall not be relieved of liability to the Town of Keystone for damages sustained by the Town of Keystone by virtue of any breach of the Agreement by the Consultant. The Consultant's indemnification obligations hereunder shall survive termination of this Agreement.

**10. GOVERNING LAW; VENUE:** This Agreement shall be deemed to have been made in, and construed in accordance with the laws of the State of Colorado. Venue for any action hereunder shall be in the District Court, County of Summit, State of Colorado. The Consultant expressly waives the right to bring any action in or to remove any action to any other jurisdiction, whether state or federal.

**11. COMPLIANCE WITH ALL LAWS AND REGULATIONS:** All of the Services performed under this Agreement by the Consultant shall comply with all applicable laws, rules, regulations of the State of Colorado.

**12. NO MULTIPLE YEAR OBLIGATION:** Nothing in the Agreement shall create a multiple-fiscal year financial obligation as contemplated and as prohibited by Article X, Section 20 of the Constitution of the State of Colorado. Therefore, the parties agree that this Agreement is subject to an annual appropriation by the Town Council and that the failure to make such appropriation will be deemed a termination of the Agreement.

**13. SEVERABILITY:** In the event any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining provisions shall not be affected, provided that the remaining provisions without the invalidated provisions are consistent with the Parties' intent. Should either party fail to enforce a specific term of this Agreement, it shall not be a waiver of a subsequent right of enforcement, nor shall it be deemed a modification or alteration of the terms and conditions contained herein.

**14. NO THIRD-PARTY BENEFICIARIES:** The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the Town of Keystone and the Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement.

**15. HEADINGS; RECITALS:** The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. The Recitals to this Agreement are incorporated herein.

**16. COUNTERPARTS:** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

**17. ENTIRE AGREEMENT:** The Parties acknowledge and agree that the provisions contained herein constitute the entire agreement and that all representations made by any elected official, officer, director, agent or employee of the respective parties unless included herein are null and void and of no effect. No alterations, amendments, changes or modifications to this Agreement, except those which are expressly reserved herein to the Authorized Representative and/or the Consultant Authorized Representative, shall be valid unless they are contained in writing and executed by all the Parties with the same formality as this Agreement.

**18. FORCE MAJEURE:** Neither Party shall be liable for damages, delays, or failure to perform its obligations under this Agreement if performance is made impractical or impossible, or unpredictably and abnormally difficult or costly, as a result of any unforeseen occurrence, including but not limited to fire, flood, acts of God, civil unrest, failure of a third party to cooperate in providing services other than Consultant's subcontractors, or other occurrences beyond the reasonable control of the party invoking this Force Majeure clause. The Party invoking this Force Majeure clause shall notify the other Party immediately by verbal communication and in writing of the nature and extent of the contingency within five (5) business days after its occurrence or discovery of its occurrence and shall take reasonable measures to litigate any impact of the event that triggered the invoking of this Force Majeure clause. If the Force Majeure event shall impact schedule or increases the costs incurred by the Consultant, such items shall be handled in accordance with Section 2 and 3.

**IN WITNESS WHEREOF**, the Town of Keystone, and the Consultant have executed this Professional Services Agreement as of the above date.

**CONSULTANT: Karen Goldman**

BY:

\_\_\_\_\_ **Name:**  
Karen Goldman

**DATE:** \_\_\_\_\_, 2024

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Karen Goldman.

**Required for all contracts pursuant to C.R.S. § 8-40-202(2)(b)(IV)**

Notary

My Commission Expires: \_\_\_\_\_.

**Town of Keystone**

**BY:** \_\_\_\_\_  
Gary Martinez, Town Manager

**DATE:** \_\_\_\_\_, 2024

ATTEST:

By: \_\_\_\_\_  
Town Clerk





The Town of Keystone

State of Colorado

County of Summit

I, **Madeline Sielu**, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of Colorado, and the Charter and Ordinances of the Town of Keystone, and that I will faithfully perform the duties of the Town Clerk office for the Town of Keystone to the best of my skill and ability.

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**Madeline Sielu**, Town Clerk, Town of Keystone, Colorado

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Madeline Sielu, Town Clerk, Town of Keystone, Colorado

Subscribed and sworn before me this 8th day of February A.D. 2024.

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers  
FROM: Gary Martinez, Interim Town Manager  
DATE: February 8, 2024  
SUBJECT: Resolution 2024-06, Appointing Town Attorney

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### **Executive Summary:**

Section 8.2 of the Keystone Home Rule Charter provides that a majority of Town Council shall appoint a Town Attorney. This resolution appoints the town attorney.

### **Recommendation:**

Staff recommends that the Town Council approve Resolution 2024-06 which would formally appoint the Town Attorney.

### **Background:**

Section 8.2 of the Keystone Home Rule Charter provides that a majority of Town Council shall appoint a Town Attorney. The Town Attorney serves as the lawyer to the Town.

During the incorporation process, the Town has worked with Jennifer Madsen and the law firm, Widner Juran, to provide legal advice and guidance.

This resolution selects Jennifer Madsen of Widner Juran as the Town Attorney.

### **Alternatives:**

N/A

### **Financial Considerations:**

The Town will compensate the Town Attorney as provided in the fee agreement attached as Exhibit A.

### **Previous Council Actions:**

None.

### **Next Steps:**

N/A

### **Suggested Motions:**

I move to APPROVE Resolution 2024-06 Appointing Town Attorney

I move to DENY Resolution 2024-06 Appointing Town Attorney

**Attachments:**

- Resolution 2024-06 Appointing Town Attorney
- Exhibit A Fee Agreement with Widner Juran

**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-06**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
APPOINTING TOWN ATTORNEY**

WHEREAS, the Town of Keystone is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, Section 8.2 of the Keystone Home Rule Charter provides that a majority of Town Council shall appoint a Town Attorney; and

WHEREAS, Town Council desires to appoint Jennifer Madsen of the law firm Widner Juran as the Town of Keystone Town Attorney.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The Town Council appoints Jennifer Madsen of Widner Juran to serve as the Town Attorney.

Section 2. The Town Council approves the Fee Agreement with Widner Juran attached as Exhibit A. The Town Council authorizes the Mayor to execute the Fee Agreement.

Section 3. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED by a vote of\_\_ in favor and\_\_against, this\_\_\_\_\_day of\_\_\_\_\_,  
2024.**

By:\_\_\_\_\_   
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By:\_\_\_\_\_  
Town Clerk

By:\_\_\_\_\_   
Town Attorney

## AGREEMENT FOR LEGAL SERVICES OF TOWN ATTORNEY

### KEYSTONE, COLORADO

**THIS AGREEMENT** (“Agreement”) is made effective between **WIDNER JURAN LLP**, a Colorado limited liability partnership with its principal place of business at 13133 E. Arapahoe Road, Suite 100, Centennial, Colorado 80112, (the “Firm”), and the **TOWN OF KEYSTONE, COLORADO**, a municipal corporation of the State of Colorado (the “Town” or “Client”).

#### WITNESSETH:

WHEREAS, the Town, by and through its Town Council, wishes to retain the Firm for the purpose of providing legal representation for the Town, and the Firm wishes to provide such representation subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, for the consideration herein expressed, it is agreed as follows between the Town and the Firm:

#### 1. APPOINTMENT OF GENERAL LEGAL COUNSEL

A. The Firm is engaged and appointed as general legal counsel to represent and advise the Town with respect to legal matters referred by the Town to the Firm in accordance with this Agreement.

B. Jennifer Madsen is hereby designated and appointed as the Town Attorney. Ms. Madsen will be the primary and principal contact person for the Town in handling all legal matters for the Town. Ms. Madsen may designate other attorneys of the Firm to assist the Town Attorney during periods of the Town Attorney’s vacation, illness, injury, or other circumstance reasonably warranting the Town Attorney’s absence from service. Other Firm attorneys may also assist in matters under the direction of Ms. Madsen with the goal and understanding that the delegation of work will result in a cost-effective means of providing legal services due to lower billing rate, availability, and/or areas of special expertise. The Firm may represent to third parties and identify in Firm advertising, on the Firm website, and other Firm-sponsored materials that the Firm serves or represents the Town as the Town Attorney for Keystone unless the Town specifically directs the Firm in writing (including email) not to make such representation on a particular matter or to a particular party.

Ms. Madsen may appoint, with prior notice to the Town, another attorney of the Firm to serve with the title of as the Deputy Town Attorney or Assistant Town Attorney without the need to formally amend this Agreement. The Town reserves the right to reject any appointment made by Ms. Madsen at any time. The Town Attorney and the Firm will work cooperatively and in concert with other Town-appointed attorneys who may be appointed by the Town Council to represent the Town on specialized matters.

C. The Firm may utilize other qualified attorneys and para-professionals of the Firm to assist the Town Attorney and provide services to the Town as deemed appropriate by the Town Attorney. The Town shall retain the right to reasonably reject the assignment of any Firm attorney or para-professional. All delegations of

work to other attorneys or para-professionals shall be made with the goal and understanding that the delegation will result in reduced costs and greater efficiency due to lower billing rates and/or areas of special expertise.

- D. The Town authorizes the Firm's attorneys to execute documents connected with the representation of the Town, including pleadings, applications, protests, contracts, commercial papers, settlement agreements and releases, verifications, dismissals, orders, and all other documents, and to represent the Town in matters associated with providing legal services to the Town.

## 2. SCOPE OF LEGAL SERVICES

- A. Subject to direction of the Town through its Town Council, the Mayor, or Town Manager, the Firm shall provide to and coordinate for the Town all usual and customary legal services authorized to and provided by the Town Attorney for comparable towns that engage a law firm on a contract basis for general legal services. The legal services shall include, but not be limited to:
  - i. Representing the Town Council and the various Boards and Commissions of the Town;
  - ii. Providing legal advice and services associated with annexation, zoning, land use development, subdivision, and other land planning applications;
  - iii. Providing legal advice and services for the various administrative departments, divisions, and offices of the Town;
  - iv. Providing legal advice and services in support of the functions and operations of contractors of the Town only to the extent such advice or services are not otherwise imposed as a contract obligation of the contractor;
  - v. Preparing or reviewing all ordinances, contracts, bonds and other written instruments as requested by the Town;
  - vi. Representing the Town in judicial and appropriate administrative proceedings;
  - vii. Advising the Town regarding current municipal laws affecting the Town and changes or developments of such laws; and
  - viii. Providing advice and topical seminars or training to the Town Council, boards and commissions, and Town Staff on a periodic basis.
- B. The Town may authorize the Town Attorney to engage or contract with special legal counsel on any matter deemed appropriate by the Town to advise the Town or to assist the Firm. The Firm shall not engage any special legal counsel without the express approval of the Town and without a written fee agreement or contract between the counsel and the Town.
- C. The Firm shall maintain (without cost to the Town) working relationships with attorneys specializing in fields of interest to municipalities, including but not limited

to condemnation, litigation, and water law. The Firm may recommend hiring special legal counsel with special knowledge and expertise to represent the Town or assist the Firm when it deems reasonable and in the best interest of the Town and in cases of conflict of interest by the Firm. The Firm may also recommend hiring special legal counsel to advise the Town or provide second opinions on matters of extraordinary importance to the Town, including matters involving complex litigation or a substantial financial or other impact on the Town or its residents, considering the Town's budget as a whole, or considering Town functions or programs as a whole, when such matters of extraordinary importance also involve legal uncertainties or complexities.

- D. Any attorneys who are not employed by the Firm, but who are retained in accordance with paragraph 2(B) or 2(C) to perform legal representation, shall be under the general coordination of the Town Attorney although such non-Firm attorneys shall contract directly with the Town and the Firm shall not warrant the quality of work of such non-Firm attorneys or firms. The Firm shall take reasonable steps to prevent duplication of effort or duplication of billing between other attorneys and the Firm. Such coordination and supervision by the Firm shall not be undertaken when special legal counsel is appointed due to a conflict of interest on behalf of the Firm.
- E. Although the Firm and the Firm's attorneys actively seek to avoid potential for conflicts, the Town understands and recognizes that unanticipated conflicts may arise that could impair the ability of the Town Attorney and the Firm to represent the Town on specific legal matters. In such event, the Town Attorney shall comply with the requirements of the Colorado Rules of Professional Responsibility in addressing such conflict with the Town. The Parties understand that the Town is not obligated to waive any conflict in order to permit the Town Attorney to represent the Town.

## 2. COMPENSATION

- A. Compensation Generally. The Town shall compensate the Firm for legal services at rates set forth in **Exhibit A**.
- B. Exclusions from Compensation. The Town shall not incur charges or billing for the following legal services expenses:
  - i. Electronic and hardcopy library and research materials and research librarian services *except* database access charges (e.g., Lexis/Nexis or Westlaw) for legal research billed at Firm cost without administrative mark-up (such access charges are typically \$15.00 - \$25.00 per daily research session due to the Firm's favorable research contract with service providers);
  - ii. Employee benefits;
  - iii. Employee insurance, including malpractice insurance;
  - iv. Training and continuing legal education including attendance at legal conferences and seminars unless such attendance is specifically required by the Town;

- v. Bar and professional licensing expenses and registrations;
  - vi. Local professional memberships;
  - vii. Firm-owned electronic, computer and computer/network related communications equipment, hardware, software and information technology support services, including personal computers, laptops, computer printers, telefax, and mobile telephones;
  - viii. Routine in-Firm copying customarily performed in the day-to-day performance of legal services. Projects requiring *outside-Firm* copying and specialized printing services which may be charged at actual Firm cost without administrative mark-up and the Firm shall seek pre-approval of such costs unless the services are performed under emergency or urgent circumstances to meet deadlines (such as a court imposed litigation deadline);
  - ix. Telefax expenses;
  - x. Newspapers and professional periodicals;
  - xi. Postage for regular mail delivery by United States Postal Service except for mass mailings (with prior Town Manager approval) and special, expedited, or overnight delivery services, which may be charged at cost;
  - xii. Office supplies used by the Firm (to include items customarily associated with standard office operations and management such as paper, pens, notebooks, paper files, file folders, tape, paperclips, labels, etc.); and
  - xiii. Archival storage and retrieval by the Firm of outdated client files performed in accordance with the Firm's standard client file storage policies; provided, however, that the Firm may relinquish possession of outdated files to the Town for storage at the Town's expense.
- B. Other Fees and Costs. Upon invoice submitted to the Town, the Town shall compensate the Firm for out of-pocket fees and costs incurred on the Town's behalf, including but not limited to filing fees, service of process, expert witness fees (only as pre-authorized by the Town), court reporter fees, transcript fees, recording fees, title company's fees for reports of title, and publication fees. Such fees will be billed to the Town at the Firm's cost without mark-up.
- C. Mileage. Mileage is addressed in **Exhibit A**. Mileage, to the extent billed to the Town in accordance with **Exhibit A**, shall be included in the monthly invoice submitted to the Town for personal use of private vehicles used by the Town Attorney, other Firm attorneys and para-professionals for travel incurred in the direct and exclusive performance of services for the Town. Mileage shall be charged at the Firm's standard mileage rate (not to exceed U.S. Internal Revenue Service published business travel mileage allowance).
- D. Invoices. The Firm shall provide to the Town invoices each month for all legal services performed at an hourly rate. The Town shall pay all undisputed billings from the Firm within thirty (30) days of receipt of invoice. Disputed billing shall not be due and owed until resolution of the dispute. If the Town fails to pay any charges within thirty (30) days of the date of the bill, the Firm may elect, after express electronic mail notification to the Town, to stop all work for the Client. The Client's



obligation to make prompt payment of all fees and charges does not depend upon achievement of any specific result.

3. AVAILABILITY

- A. Unless otherwise instructed by the Mayor or Town Manager, the Town Attorney shall attend regular Town Council meetings and be reasonably available to provide legal services for the Town Council. Upon reasonable advance notice, the Town Attorney will attend Town Council special meetings, study sessions, Board retreats, and other Town business meetings as requested by the Mayor or Town Manager. During any period where the Town Attorney is unavailable due to illness, vacation, or other circumstance warranting absence, the Deputy Town Attorney or other attorney of the Firm shall attend meetings *as requested by the Town*.
- B. The Town Attorney shall be available to render the services required hereunder on an “on call” basis and, when necessary, shall cause any other Firm attorneys to be available by appointment for consultation with Town representatives.

4. INDEPENDENT CONTRACTOR

- A. Independent Contractor. The Firm shall perform the Services as an independent contractor to the Town and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with the Town other than as a contracting party and independent contractor.

Subject to conformance with Town-adopted policies and procedures and full conformance with Firm’s representations set forth in this Agreement, the Firm shall have and maintain the requisite judgment, discretion, and responsibility for and control of the performance of the Services, the discipline of the Firm’s employees and other matters incidental to the performance of the Services, duties and responsibilities as described and contemplated in this Agreement. Unless specifically stated otherwise herein, the Firm shall provide and bear the cost of all tools, and any other items, wages, or services required in the performance of the Services, and the Town shall not provide any other assistance or benefits to the Firm for performance of the Services under this Agreement.

- B. Liability for Employment Related Rights and Compensation. The Firm shall be solely responsible for all compensation, benefits, insurance and employment related rights of any person of the Firm providing the services hereunder during the course of or arising or accruing as a result of any Firm employment, whether past or present, as well as all legal costs including attorney’s fees incurred in the defense of any conflict or legal action resulting from such Firm employment. The Firm will comply with all laws, regulations, municipal codes, and ordinances and other requirements and standards applicable to the Firm’s employees, including, without limitation, federal and state laws governing wages and overtime, equal employment, safety and health, employees’ citizenship, withholdings, reports and record keeping. Accordingly, the Town shall not be called upon to assume any liability for or direct payment of any salaries, wages, contribution to pension funds, insurance premiums or payments, workers’ compensation benefits or any other

amenities of employment to any of the Firm's employees, or any other liabilities whatsoever, unless otherwise specifically provided herein. The following disclosure is provided in accordance with Colorado law:

**FIRM ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS FIRM OR SOME ENTITY OTHER THAN THE TOWN PROVIDES SUCH BENEFITS. FIRM FURTHER ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO WORKERS' COMPENSATION BENEFITS. FIRM ALSO ACKNOWLEDGES THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT.**

5. NON-DISCRIMINATION

During the performance of this Agreement, the Firm shall:

- A. Not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual orientation, age, military service, veteran status, marital status, national origin, or disability.
- B. Comply with all state and federal laws, regulations and executive orders regarding non-discrimination applicable to the Town and its programs.

6. ASSIGNMENT

This Agreement for services is personal to the parties hereto and shall not be assigned by either party.

7. TERM AND TERMINATION

- A. This Agreement shall be effective as of the date of execution by both parties which is expected to be approximately February 8, 2024, and may be terminated by either Party, upon written notice, without cause or reason upon thirty (30) days prior written notice to the non-terminating Party. During such period following notice and prior to termination, the Parties shall coordinate the transfer of legal services from the Firm to the Town's selected Town Attorney. The firm hereby waives those rights that may be afforded by State statute and the Town Code with regard to the Town's termination of this Agreement and termination of the Firm's services.
- B. Nothing in this Section shall preclude or prevent the Parties from modifying any notice requirement or term of notice or negotiating other terms for a mutually acceptable termination.

8. CONFLICTS

Unless otherwise agreed by the Town, the Firm shall not accept work on behalf of any client that will create a conflict or the potential for a conflict with the Town.

9. MISCELLANEOUS PROVISIONS

- A. Arbitration. Although the Parties do not expect that any dispute will arise between the Parties, in the unlikely event of any dispute under this Agreement, including a dispute regarding the amount of legal fees or costs owed to the Firm or the quality of the Firm's services, including any claim of malpractice, such dispute shall be subject to binding arbitration. The Town and the Firm acknowledge that they are waiving their right to seek remedies in court, including the right to a jury trial. This clause does not prevent the Town and the Firm from trying to resolve any dispute through voluntary mediation, but there is no requirement to do so.

Any dispute concerning fees or costs or concerning the quality of the Firm's services, including malpractice claims, shall be submitted to a single arbitrator and the decision of the arbitrator shall be final and binding on both parties. A final judgment can be entered on the arbitration award by a court of competent jurisdiction. The arbitrator shall be selected from the Judicial Arbiter Group, Denver, Colorado, unless the parties agree otherwise. If the parties do not agree on the selection of a single arbitrator within ten (10) days after a demand for arbitration is made, then the arbitrator shall be selected by the Judicial Arbiter Group from among its available professionals.

All arbitrations shall be held in Denver, Colorado, unless the parties mutually agree on some other location. All arbitrations shall proceed under the Commercial Arbitration Rules of the American Arbitration Association, except as modified in this Agreement, unless otherwise agreed by the parties. The arbitrator shall have the discretion to order that the costs of arbitration, fees (including expert witness and reasonable attorneys' fees), and other costs shall be borne by the losing party. Any filing fees or other administrative costs of arbitration shall be divided equally between the Town and the Firm. Arbitration of all disputes, and the outcome of the arbitration, to the extent legally permissible, shall remain confidential between the parties.

- B. Privacy Policy. The Firm's "Privacy Policy Notice" is attached to this Agreement as **Exhibit B**. The Firm will conduct its representation of the Town in accordance with this policy.
- C. Document Ownership. Files maintained by the Firm as the result of the performance of services for the Town shall remain property of the Firm during representation of the Town. Immediately upon termination of this Agreement, files maintained by the Firm shall become property of the Town and, in addition, the Firm shall coordinate with the Town to arrange for the prompt transfer of such files to the Town at the Town's expense.
- D. Insurance. The Firm shall maintain at its sole expense throughout the term of this Agreement a policy of general liability insurance and a policy of professional liability

insurance, each with a minimum combined single limit of \$500,000 per occurrence/claim and \$1,000,000 aggregate. In the case of any claims-made policy, the necessary retroactive date(s) and extended reporting period(s) shall be procured to maintain continuous coverage for services under this Agreement.

E. Any amendments or alterations to this Agreement will be agreed to by both parties, in writing.

IN WITNESS WHEREOF, the parties hereto have set their hands this \_\_\_\_ day of \_\_\_\_\_, 2024.

**TOWN OF KEYSTONE, COLORADO**

ATTEST:

By: \_\_\_\_\_  
Interim Town Clerk

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

**WIDNER JURAN LLP**

By: \_\_\_\_\_  
Jennifer Madsen, Partner

## Exhibit A

Widner Juran LLP shall provide legal services as the Town Attorney to the Town of Keystone in accordance with the following fee schedule:

### A. Hourly Rates for General Legal Services

1. Rates effective January 1, 2025:

Jennifer Madsen \$225/hour

Attorneys with 10 plus  
years experience \$225/hour

Attorneys with less than  
10 years experience \$200/hour

The years of experience for an attorney is based on time elapsed since graduation from law school.

The Firm agrees to provide services to the Town of Keystone at an introductory rates for 2024 as follows:

2. Introductory Rates (February 8, 2024 through December 31, 2024)

Jennifer Madsen \$200/hour

Attorneys with 10 plus  
years experience \$200/hour

Attorneys with less than  
10 years experience \$175/hour

Effective January 1, 2025, the attorney rates will automatically increase to the rates identified in paragraph A.1. above.

Rates *may* at the Firm's discretion be increased annually on January 1 of each year in an amount no greater than 4%.

### B. Litigation Rates

For matters handled after filing of a lawsuit (initial complaint) by or against the Town of Keystone in any court or administrative tribunal, the hourly rates for General Legal Services above will apply. For litigation matters deemed by the Firm to be more complex than typical municipal litigation (e.g., multi-party litigation, federal court litigation, or constitutional claims), the Firm reserves the right to increase litigation billing rates by \$10.00 per hour over the then-applicable general billing rate.

### C. Travel Expenses – Attorney Time and Mileage Charge

1. Hourly Rates: The Firm will charge 50% of the attorney's regular hourly rate for travel to attend/return from Keystone for attendance at meetings or other matters.

2. Mileage Charges: The Firm will charge a per-mile charge (up to the IRS allowed business mileage charge) for the Town Attorney or other attorney's travel to or from special meetings.

**D. Pass Through Rates**

In accordance with a Town Policy (either existing or to be later adopted) rates for attorney services that are passed-through and paid by others such as land developers, property owners seeking annexation, or applicants for forms of Town approval, the following rates for services will apply:

Jennifer Madsen                      \$280/hour

Attorneys with 10 plus  
years experience              \$280/hour

Attorneys with less than  
10 years experience \$220/hour

Attorney travel time (in full) and mileage charges shall be included as obligations for payment where travel and attendance is paid by others such as land developers, property owners seeking annexation, or applicants for forms of Town approval.

## **Exhibit B**

### **WIDNER JURAN LLP PRIVACY POLICY NOTICE**

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Attorneys, like other professionals, who advise on certain personal matters, are required by federal law to inform their clients of their policies regarding privacy of client information. Attorneys have been and continue to be bound by professional standards of confidentiality that are even more stringent than those required by federal law. Maintaining your trust and confidence is a high priority to our law firm. The purpose of this notice is to comply with the federal law by explaining our privacy policy with respect to your personal information.

#### **NONPUBLIC PERSONAL INFORMATION WE COLLECT:**

In the course of providing services to our clients, we collect personal and financial information about our clients that is not available to the public and which is provided to us by our clients or obtained by us with their authorization or consent.

#### **PRIVACY POLICY:**

As a current or former client of Widner Juran LLP, please be assured that all nonpublic personal information that we receive from you is held in confidence, and is not released to people outside the firm, except as agreed to by you, or as is permitted or required by law and applicable ethics rules.

#### **CONFIDENTIALITY AND SECURITY:**

We retain records relating to professional services that we provide so that we are better able to assist you with your professional needs and, in some cases, to comply with professional guidelines. We restrict access to nonpublic, personal information about you to those people in the firm who need to know that information to provide services to you (and their support personnel). In order to guard your nonpublic personal information, we maintain physical, electronic, and procedural safeguards that comply with our professional standards as well as federal regulations.

Please call the attorney you work with if you have any questions. Your privacy, our professional ethics, and the ability to provide you with quality service are very important to us.

Widner Juran LLP



The Town of Keystone

State of Colorado

County of Summit

I, **Jennifer Madsen**, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of Colorado, and the Charter and Ordinances of the Town of Keystone, and that I will faithfully perform the duties of the Town Attorney office for the Town of Keystone to the best of my skill and ability.

---

**Jennifer Madsen**, Town Attorney, Town of Keystone, Colorado

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Madeline Sielu, Town Clerk, Town of Keystone, Colorado

Subscribed and sworn before me this 8th day of February A.D. 2024.



# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen, Town Attorney

DATE: February 8, 2024

SUBJECT: Resolution 2024-07, Authorizing Intergovernmental Agreement for Continuation Of Services By Summit County And Consenting To Enforcement Of Summit County Regulations

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### **Executive Summary:**

The resolution is for approval of an Intergovernmental Agreement with Summit County to continue providing the same services it has been providing within the boundaries of the newly incorporated Town of Keystone (“Transition IGA”).

### **Recommendation:**

The Interim Town Manager and Town Attorney recommend approval of this resolution.

### **Background:**

Colorado incorporation law provides that upon the incorporation of a new municipality, the county shall continue to provide the same services it was providing to that incorporated area for a specified period of time. This continuation of services allows for the transition of services from the county to the new municipality. In addition, Colorado law allows for the application and enforcement of county regulations in the municipal boundary provided that the Town consents to the applicability of those regulations.

The Transition IGA provides that Summit County will continue to provide services to the Town of Keystone for a period of ninety days. The agreement may be extended beyond the ninety days with the written approval of Keystone and Summit County.

### **Alternatives:**

There are no alternatives.

### **Financial Considerations:**

Pursuant to the terms of the Transition IGA, Summit County will retain all fees, fines, and costs collected to provide the services.

### **Previous Council Actions:**

None.

**Next Steps:**

The Interim Town Manager and the Town Attorney will work with Summit County to continue with discussions on extension of the services beyond the initial ninety day term.

**Suggested Motions:**

I move to APPROVE Resolution 2024-07 Authorizing Intergovernmental Agreement for Continuation Of Services By Summit County And Consenting To Enforcement Of Summit County Regulations.

I move to DENY Resolution 2024-07 Authorizing Intergovernmental Agreement for Continuation Of Services By Summit County And Consenting To Enforcement Of Summit County Regulations.

**Attachments:**

- Resolution 2024-07 Authorizing Intergovernmental Agreement for Continuation Of Services By Summit County And Consenting To Enforcement Of Summit County Regulations

**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-07**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
AUTHORIZING INTERGOVERNMENTAL AGREEMENT FOR CONTINUATION OF  
SERVICES BY SUMMIT COUNTY AND CONSENTING TO ENFORCEMENT OF  
SUMMIT COUNTY REGULATIONS**

WHEREAS, Section 31-2-105(1), C.R.S., provides that the incorporation of a Colorado municipality is complete upon the filing of certified results of a municipal incorporation election, and the election and qualification of officers; and

WHEREAS, on March 28, 2023, the voters approved the incorporation of the Town of Keystone ("Keystone"), and thereafter all filings of certified results were completed; and

WHEREAS, on January 30, 2024, the initial officers of Keystone were elected, and on February 8, 2024, the officers were properly qualified and took office, and at such time the incorporation of Keystone was complete and the Town began existence as a legal entity; and

WHEREAS, upon the incorporation of Keystone, Summit County shall continue to provide County services pursuant to Section 31-2-108, C.R.S.; and

WHEREAS, pursuant to the provisions of § 18 of Article XIV of the Colorado Constitution, § 29-1-203, C.R.S., as amended, and other applicable authority, the Keystone and Summit County may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each; and

WHEREAS, the Summit County has agreed to continue to provide services to Keystone as provided in the intergovernmental agreement; and

WHEREAS, it is the intent of the Town Council to implement the goal of continuing services by Summit County to Keystone and its inhabitants with a minimum disruption, change or reduction.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The Town requests Summit County to continue providing to Keystone and its inhabitants those same services that have been provided by Summit County to the area encompassed by Keystone prior to its incorporation, in accordance with Section 31-2-108, C.R.S., and as those same services are permitted by other applicable law.

Section 2. The Town Council authorizes the execution of the intergovernmental agreement with Summit County (“Transition IGA) to continue services in Keystone as attached in Exhibit A. The Mayor is authorized to execute the Transition IGA in substantially the form attached in Exhibit A.

Section 3. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED** by a vote of \_\_\_ in favor and \_\_\_ against, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

EXHIBIT A  
INTERGOVERNMENTAL AGREEMENT WITH SUMMIT COUNTY

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE TOWN OF KEYSTONE AND SUMMIT COUNTY REGARDING  
THE INCORPORATION OF KEYSTONE, COLORADO**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") regarding the incorporation of Keystone, Colorado is entered into this\_ day of February, 2024, by and between the Town of Keystone, Colorado, a Colorado municipal corporation (the "Town") and the Board of County Commissioners of Summit County, Colorado, a political subdivision of the State of Colorado, (the "County"), regarding the incorporation of the Town and property located therein to which this Agreement is applicable ("Incorporated Area"). The Town and the County are collectively referred to herein as the "Parties."

WHEREAS, pursuant to Part 1, Article 2, of Title 31, C.R.S., the Town of Keystone was incorporated, effective February 8, 2024, for the purposes of providing municipal services to its residents and property owners; and

WHEREAS, Section 31-2-108, C.R.S., provides that the county of any newly incorporated municipality shall continue to perform all duties and responsibilities within that incorporated area and shall continue to apply all zoning, subdivision, and other regulations within the municipality for a period of ninety days after the election of officers or until superseded by ordinance; and

WHEREAS, the Town and the County hereby find it to be feasible, desirable and in the interest of public health, safety, and welfare that the Parties enter into this Agreement for the purpose of outlining certain aspects of the transition to the newly incorporated Town of Keystone; and

WHEREAS, pursuant to the provisions of § 18 of Article XIV of the Colorado Constitution, § 29-1-203, C.R.S., as amended, and other applicable authority, the Parties may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each; and

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby mutually agreed as follows:

**COVENANTS AND AGREEMENTS**

Section 1. TERM. The term of this Agreement shall commence on the date of signing of this Agreement by the Parties and shall continue in full force for a period of 90 days unless the Agreement is extended in whole or in part by the Parties as provided in Section 10 of this Agreement.

Notwithstanding the above, during the term of this Agreement, the Town may contract with other providers to provide services within any or all of the Incorporated Area prior to the termination of this Agreement and remove services from this Agreement. The Town agrees to provide thirty days'

notice to the County of the termination of specific services under this Agreement, unless the parties agree to a shorter period. In the event the Town terminates a service or services under this Agreement, the Parties agree to develop a transition plan which will govern the timing and process of transfer of responsibility for delivering service from the County to the Town or to another service provider. Issues to be addressed in the transition plan shall include, but not be limited to, determining the exact time at which the responsibility for providing services transfers from the County to the new service provider. The transition plan will be developed by the Town and County liaisons and will be ready for implementation prior to the date of termination.

Section 2. SERVICES, SUPPORT AND COMPENSATION. As provided in § 31-2-108, C.R.S., the County shall continue to perform certain existing services within the Town, as may be otherwise limited by this Agreement. The County shall continue to retain direct control of the manner, timing and performance of its continued services within the Town. For the term of this Agreement, it is the intention of the County to provide the specified services and support functions to the citizens of the Town utilizing the same prioritization criteria as the County had in place prior to the incorporation of the Town.

2.1. Retention of Fees, Costs, Fines, and Other Money. The County will continue to administer and enforce the existing laws, rules, regulations and ordinances currently applicable within the Town limits and as provided by the County, including but not limited to those specific regulatory systems identified below in bullets to this Section 2.1, and the County will continue to retain the fees, costs, fines, charges and other moneys collected pursuant to the applicable laws, rules ordinances and regulations.

- Planning services
- Engineering services
- Zoning services
- Liquor licensing
- Short-Term Rental Licensing
- Administration of the County’s existing ordinances and regulations including but not limited to:
  - "Land Use and Development Code”
  - “Regulation of Traffic Code & Vehicles” Ordinance
  - “Cigarette, Tobacco & Electronic Smooth Device Licensing” Ordinance
  - “Abandoned Vehicles” Ordinance
  - “False Alarm Code” Ordinance
  - “Smoking Prohibition” Ordinance
  - “Fire and Fireworks Ban” Ordinance
  - “Snowmobiles” Ordinance
  - “Noise” Ordinance
  - “Adult Businesses” Ordinance
  - Solid Waste Ordinance/Regulations
  - “Animal Control” Resolution
  - Open Space Regulations

Related to Planning and Engineering Functions, the Planning Department and Engineering Department staff will continue to provide staff support associated with land development applications submitted for review within the Town of Keystone during the term of this Agreement. The Town of Keystone shall decide all quasi-judicial applications.

The Planning Department and Engineering Department shall continue to review land use and subdivision applications. Staff shall assess conformance with County or Town codes and regulations, negotiating the resolution of issues which arise during the land use review process, and formulating recommendations to the Planning Commission, Town Council, as needed. Staff shall continue to provide technical assistance and guidance in the administration, maintenance and on-going development of County Land Development Regulations and Comprehensive Plan, and coordinating with the development community and other governmental agencies, as provided in its current work plan for 2024 and as resources allow. The Planning Department shall attempt to include the Town staff in all significant discussions and briefings regarding applications within the Town including executive session, to the extent permitted by law.

The Building Inspection Department will continue to perform permitting, plan review, and building inspection services as it does for the rest of the unincorporated County. In addition, the existing Board of Review will continue to hear appeals of Building Code interpretations and Building Inspection Department staff will provide standard support for such appeals.

22 Services at no expense. Except as otherwise provided herein, to the extent the County has historically provided other governmental services within the Town boundaries without the imposition of any corresponding fee, expense or cost, the County will continue to provide such other, previously existing County services in the same manner. Those services are described in Exhibit A.

23 Consent to enforcement of ordinances and resolutions. Pursuant to Section 30-15-401(8), C.R.S., the Town hereby consents to the provision and enforcement of the above-referenced County rules, regulations, ordinances, codes or other tools within Town boundaries, and agrees to adopt those rules, regulations, ordinances, codes or other tools as Town ordinances, regulations, codes or other tools where required to effectuate enforcement by the County within the Town boundaries.

2.4. Services not included in this Agreement. The County will continue to provide those services required by law to be provided to all areas of the County by the Board of County Commissioners, regardless of municipal boundaries, and intends to cooperate with the other independently elected officials of the County including the Treasurer, Assessor, Clerk and Recorder, Public Trustee, District Attorney and Coroner and Public Health including restaurant inspection.

2.5 Excluded services. The services provided by the County pursuant to law specifically do not include (but is also not limited to):

- a. Providing services or support related to annexations of property to the Town.
- b. Repairing and performing maintenance, reconstruction, or improvement to



and re-design of State highway right-of-way or improvements thereon or thereto within the Town limits. Pursuant to Colorado law, the County is not required to perform these services as of the date of this Agreement.

- c. Providing clerical support for the meetings or hearings of the Town's boards and commissions, including Town Council, the Planning Commission, Town Board of Adjustment, or the Town Board of Review. The County will not provide staff to record or administer the meetings or hearings or to take minutes or transcribe minutes of the proceedings of these Town bodies.
- d. Transmitting agendas and back-up materials to the public, press or elected or appointed members of Town bodies for any Town meeting or hearing other than meetings or hearing of the Town Planning Commission, Board of Adjustment, Board of Review or Liquor Licensing Authority.
- e. Providing legal advice to any Town body, whether elected or appointed.
- f. Providing quasi-judicial decision-making. The Town Council, Town commissions, and other Town agents or designees shall perform all quasi-judicial decision-making regarding matters within the Incorporated Area necessitated by existing County laws, rules, regulations, ordinances, and/or codes that will remain in full force and effect within the Town as provided herein.
- g. Except for claims filed against Summit County which are determined to be the responsibility of Summit County by the County, a state court, or federal court, and as approved by the Board of County Commissioners, neither County moneys nor insurance shall be utilized to pay claims or judgments arising out of the provision of services pursuant to this Agreement.
- h. Providing permanent record-keeping related to any recording, file or document generated regarding the Town. The County will continue to maintain document files for open cases, pending Liquor Licensing matters, claims and other such matters; however, the Town shall establish its own record-keeping system and files for retaining all recordings, files and documents once a matter is closed or concluded, including those land use and property documents which must, by law, be recorded with the County Clerk and Recorder. The County shall cooperate with the Town's design of a records management system for all records created or maintained by the Town.

Section 3. COMMUNICATION PLAN. An overall Communication Plan will be developed to facilitate proactive, frequent communication between the Town and the County. The parties agree that the Communication Plan will include, at a minimum:

- An initial communication meeting between the Town and the County. This meeting will identify liaisons between the Town and County for key activities.
- Meetings between the Board of County Commissioners and the Town Council, schedules permitting.
- A period of at least one hour set aside by the Town Council during its study sessions for a representative of the County to report on activities and issues relative to services provided within the Town by the County. Such Town study sessions are anticipated to be held on a biweekly (every other week) basis, although the Town Council may hold study sessions on a less frequent basis.

- An agreement by the Parties that in the event either Party receives an open records request related to the services provided pursuant to this Agreement, the Parties and their legal counsel shall cooperate in responding to such request.
- The County is to notify the Town liaison promptly of any applications submitted to the County for the Incorporation Area which applications are subject to a quasi-judicial process.

Section 4. MUTUAL COOPERATION. The parties acknowledge that this Agreement is entered into in a spirit of cooperation and with the common goal of providing services to their citizens. Upon termination of this Agreement, the County shall provide the Town with reasonable access, in the reasonable discretion of the County, to all information reasonably necessary to allow the Town to assume the provision of the service or function being terminated.

Section 5. COUNTY EMPLOYEES NOT TOWN EMPLOYEES OR CONTRACTORS. The County staff, its officers, employees and agents shall remain employees of the County and shall not, for any reason, be considered to be staff, officers, employees, agents or contractors of the Town.

Section 6. DELEGATION OF AUTHORITY. For the purpose of providing continuing County services within the Town pursuant to law, the Town agrees that County elected officials and their staffs, officers, employees and agents shall be authorized to enter onto public property, including but not limited to Town right-of-way, easements, and other property owned or constructed by or for the Town for the purpose of providing services and support functions pursuant to this Agreement. It is the intent of this Agreement that the County is authorized to act on behalf of the Town only to the extent necessary to carry out the continued provision of services as provided in § 31-2-108, C.R.S.

Section 7. NO LEGAL OBLIGATION OR ASSUMPTION OF DUTY BY COUNTY. The Parties understand and agree that this Agreement is intended solely to reflect the anticipated cooperative efforts of the Parties regarding the continuation of County services within the Town to the extent mandated by Section 31-2-108, C.R.S., and the eventual cessation of such services. Nothing in this Agreement is intended to impose any additional duty, contractual responsibility, or other obligation whatsoever on the County regarding its provision of services within the Town of Keystone, including any such duty, responsibility, or obligation to provide a new or higher level of service within or regarding the Town. Each Party will remain responsible for its own compliance with all applicable laws and regulations.

Section 8. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the Parties hereto relating to the work specified in Exhibit "A", and sets forth the rights, duties, and obligations of each as to the other as of the effective date hereof. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both Parties.

Section 9. NO WAIVER OF GOVERNMENTAL IMMUNITY. It is understood and agreed that the Parties are relying on, and do not waive or intend to waive by any provision of

this Agreement, the monetary limitations or any other rights, immunities, or protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101, et seq., C.R.S., as from time to time amended (the "Act"), or otherwise available to the Parties, their officers, or employees. The parties agree to allow and maintain the full extent of immunity of the County under the Act related to any liability associated with any alleged liability associated with roadways within Town.

Section 10. RECORDS. All records created or maintained by the County in the performance of functions or services on behalf of the Town pursuant to this Agreement shall be deemed to be records of the Town for purposes of public records requests and maintenance of records. The County shall develop a system for identifying all records created or maintained by the County for the Town as part of the services provided pursuant to this Agreement. Upon the expiration of the term of this Agreement or its early termination, such records not previously transferred to the Town, including records created or maintained in electronic format, shall be available to the Town in an orderly condition. Each Party shall have the right to access and review each other's records and accounts, at reasonable times during the Parties' regular office hours, for purposes connected with the provisions of this Agreement. Such records shall be subject to the provisions of the Public Records Act of the State of Colorado contained in Article 72 of Title 24, C.R.S. In the event of disputes or litigation between the Parties hereto, all access to, and requests for, records of the non-requesting Party shall be made in compliance with the Public Records Act and the Colorado Rules of Civil Procedure.

Section 11. LIMITED PURPOSE; NO THIRD PARTY BENEFICIARIES. As this Agreement is intended to be an expression of intent and not a binding agreement that imposes any independent binding obligation or duty on the County, this Agreement is also not intended and shall not be deemed to confer any benefit on any third party or otherwise be enforceable by any such third party whatsoever.

Section 12. CONTROLLING LAW. This Agreement shall be governed by and construed in accordance with the law of the State of Colorado.

Section 13. NOTICES. All notices in connection with this IGA must be in writing and signed by the party giving notice. Notice will be deemed properly delivered and received when personally delivered or upon deposit in the United States mail, first class postage prepaid. All such notices or other instruments will be addressed to the party at the address below or to such other addresses as the party may designate by written notice:

Summit County Government:  
Attn: Interim Summit County Manager  
P.O. Box 68  
Breckenridge, CO 80424

Town of Keystone  
Attn: Keystone Town Manager  
1628 Sts John Road  
Keystone, CO 80435

Section 14. MODIFICATION OF SERVICES. In order to allow a smooth transition for the Incorporated Area to the municipal government, the Town and the County agree to work together to determine if there are ways acceptable to both Parties to modify the extent and method of providing the services referenced in this Agreement.

Section 15. ANNUAL APPROPRIATION. Notwithstanding any other provision to the contrary, this Agreement is dependent upon the Town and the County appropriating sufficient funds for payment of fees due under this Agreement or necessary to perform the services for such subsequent fiscal year.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written which shall hereafter be deemed to be the effective date of the Agreement. By the signature of each representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Amendment on the date of last Party signature, below.

**COUNTY OF SUMMIT,  
STATE OF COLORADO**

ATTEST: \_\_\_\_\_  
Clerk to the Board

\_\_\_\_\_, Chair  
Board of County Commissioners

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

**TOWN OF KEYSTONE,  
STATE OF COLORADO**

ATTEST: \_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Kenneth D. Riley, Mayor

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



## **EXHIBIT A**

### **REFERENCED IN SECTION 2.2, DESCRIPTION OF SERVICES AND SUPPORT FUNCTIONS TO BE PROVIDED PURSUANT TO THE PROVISIONS OF THIS AGREEMENT**

#### **ROAD AND BRIDGE FUNCTIONS**

The majority of Road and Bridge work in the Town of Keystone consists of plowing, and the majority of plowing is done pursuant to a services agreement between Summit County and Vail-Summit Resorts, Inc., whereby Vail-Summit Resorts, Inc. plows the roads in exchange for compensation from Summit County. A services agreement has been entered into for the 2023-2024 winter season and plowing will continue pursuant to that agreement until the close of the season. Summit County Road and Bridge will continue to plow the two roads it has historically plowed, at the same level of service as historically provided and subject to resource availability and climatic conditions.

#### **LAW ENFORCEMENT SERVICES**

The Summit County Sheriff's Office will continue to provide services in the Town as it does for the rest of the unincorporated County and as have been previously provided to the Keystone area prior to incorporation of the Town. The law enforcement services will include animal control services. Any citations/summons and complaints will be issued into Summit County Court.

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen, Town Attorney

DATE: February 8, 2024

SUBJECT: Resolution 2024-08, Requesting Membership In The Summit Combined Housing Authority

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### **Executive Summary:**

As a jurisdiction within Summit County and contributing to the Workforce Housing sales tax collection, it makes sense for the Town of Keystone to become a member of the Summit Combined Housing Authority. Membership would benefit Keystone residents by furthering affordable housing opportunities.

### **Recommendation:**

Staff recommends that the Town Council approve Resolution 2024-08 which would formally request membership in the Summit Combined Housing Authority.

### **Background:**

The Summit Combined Housing Authority (“Authority”) consists of Summit County and the Towns of Breckenridge, Dillion, Frisco, Montezuma, and Silverthorne. It was formed by these contracting governments pursuant to an intergovernmental agreement approved in 2002 and subsequently amended in 2006 and 2016 (“IGA”). Summit County imposes Housing sales taxes collected by the state and distributed to members of the Authority through Summit County.

Pursuant to the IGA, each member jurisdiction must agree to the addition of a new member to the Authority. Because this process may take time, the Town’s approval of this Resolution is an important initial step towards Authority membership and requests membership effective February 8, 2024.

### **Alternatives:**

The Town Council could determine not to pursue membership on the Authority at this time.

### **Financial Considerations:**

The Authority receives sales tax revenue collected from taxpayers in Keystone for funding workforce housing. If Keystone is not a member, it will not receive that sales tax revenue.

**Previous Council Actions:**

None.

**Next Steps:**

If this Resolution is approved, the next step will be to reach out to the Authority and get on the Board's agenda at an upcoming meeting for discussion. Following that, each member jurisdiction's governing body will be required to formally approve the Town's membership and the IGA will be required to be amended as well.

**Suggested Motions:**

I move to APPROVE Resolution 2024-08 Requesting Membership In The Summit Combined Housing Authority

I move to DENY Resolution 2024-08 Requesting Membership In The Summit Combined Housing Authority

**Attachments:**

- Resolution 2024-08 Requesting Membership In The Summit Combined Housing Authority



**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-08**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
REQUESTING MEMBERSHIP IN THE SUMMIT COMBINED HOUSING AUTHORITY**

WHEREAS, the Town of Keystone is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, pursuant to an intergovernmental agreement (“IGA”) approved in 2002 and amended in 2006 and 2016, Summit County and the Towns of Breckenridge, Dillion, Frisco, Montezuma, and Silverthorne established and currently comprise the membership of a multi-jurisdictional housing authority known as the “Summit Combined Housing Authority” (the “Authority”); and

WHEREAS, the Authority is funded by various taxes and fees which are collected by Summit County and allocated to members; and

WHEREAS, as a jurisdiction located within Summit County and actively contributing to the Workforce Housing sales tax collection, the Town of Keystone hereby desires to become a member of the Authority to benefit its residents by furthering affordable housing within its jurisdiction.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The Town Council formally requests membership in the Summit Combined Housing Authority effective February 8, 2024, and asks that the Authority’s establishing members all agree to amend the IGA authorizing the addition of the Town as a member jurisdiction and for its inclusion and representation on the Authority’s Board of Directors.

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED by a vote of \_\_\_ in favor and \_\_\_ against, this 8<sup>th</sup> day of February, 2024.**

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_ By: \_\_\_\_\_  
Town Clerk Town Attorney

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

FROM: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen

DATE: February 8, 2024

SUBJECT: Resolution 2024-09 Approving The Bylaws And Intergovernmental Agreement To Join The Colorado Intergovernmental Risk Sharing Agency And Approving Quotes For Workers' Compensation And Property/Casualty Coverage

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### **Executive Summary:**

This resolution approves an intergovernmental agreement to join the Colorado Intergovernmental Risk Sharing Agency ("CIRSA"), an insurance pool, and selects the level of insurance coverage for 2024.

### **Recommendation:**

Staff is recommending that Town Council approve Resolution No. 2024-09, authorizing approval of the CIRSA IGA and selecting the coverage level.

### **Background:**

The Colorado Intergovernmental Risk Sharing Agency ("CIRSA") was formed through intergovernmental agreement among local governments to provide insurance coverage authorized by law, to provide claims services related to such coverage, and to provide risk management and loss control services to assist members in preventing and reducing losses and injuries.

In order to join the insurance pool, Town must agree to the CIRSA Bylaws and Intergovernmental Agreement ("Attachment A"), which constitutes a contract to cooperate with other public entities to participate in a self-insurance pool.

The Town has applied for admission into the CIRSA Workers' Compensation Pool and Property/Casualty Pool and received the quotes for workers compensation and property/casualty coverage offered by CIRSA as shown in Attachment B ("Coverage Quotes").

After a conversation with CIRSA representatives, the Town selects the following coverages for 2024:

- Workers' Compensation: DEDUCTIBLE/SCP OPTION 5 of \$5,000
- Preliminary Property/Casualty: QUOTE OPTION 5

**Alternatives:**

None currently.

**Financial Considerations:**

As outlined in Attachment B, the Town will pay approximately \$13,996 for 2024 for the workers compensation coverage 5 and \$3,514 for 2024 for property, casualty coverage 5.

**Previous Council Actions:**

None.

**Next Steps:**

None.

**Suggested Motions:**

I move to APPROVE Resolution 2024-09, Approving The Bylaws And Intergovernmental Agreement To Join The Colorado Intergovernmental Risk Sharing Agency And Approving Quotes For Workers' Compensation And Property/Casualty Coverage.

I move to DENY Resolution 2024-09, Approving The Bylaws And Intergovernmental Agreement To Join The Colorado Intergovernmental Risk Sharing Agency And Approving Quotes For Workers' Compensation And Property/Casualty Coverage.

**Attachments:**

- Resolution 2024-09 Approving The Bylaws And Intergovernmental Agreement To Join The Colorado Intergovernmental Risk Sharing Agency And Approving Quotes For Workers' Compensation And Property/Casualty Coverage
- Attachment A CIRSA IGA and Bylaws
- Attachment B Coverage Quotes.

**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-09**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
APPROVING THE BYLAWS AND INTERGOVERNMENTAL AGREEMENT TO JOIN  
THE COLORADO INTERGOVERNMENTAL RISK SHARING AGENCY AND  
APPROVING QUOTES FOR WORKERS' COMPENSATION AND  
PROPERTY/CASUALTY COVERAGE**

WHEREAS, the Town of Keystone is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, as a local government, the Town is authorized to cooperate with other local governments to form a self-insurance pool to provide all or part of the insurance coverage authorized by law in accordance with the provisions of C.R.S. §§ 24-10-115.5, 29-1-201 *et seq.*, 29-13-102, 8-44-101(1)(c) and (3), and 8-44-204, as amended, and Colorado Constitution, Article XIV, Section 18(2); and

WHEREAS, the Colorado Intergovernmental Risk Sharing Agency ("CIRSA") was formed through intergovernmental agreement among local governments to provide insurance coverage authorized by law, to provide claims services related to such coverage, and to provide risk management and loss control services to assist members in preventing and reducing losses and injuries; and

WHEREAS, the Town desires to join CIRSA as a member to provide insurance coverage to the Town and its property; and

WHEREAS, the Town has reviewed the CIRSA Bylaws and Intergovernmental Agreement ("Agreement"), which constitutes a contract to cooperate with other public entities to participate in a self-insurance pool; and

WHEREAS, a copy of said Agreement is attached hereto as **Attachment A** and incorporated into this Resolution; and

WHEREAS, the Town has applied for admission into the CIRSA Workers' Compensation Pool and Property/Casualty Pool and received the quotes for workers compensation and property/casualty coverage offered by CIRSA as shown in **Attachment B** ("Coverage Quotes"); and

WHEREAS, the Town Council of the Town of Keystone desires to join CIRSA as a member organization and participate in a self-insurance pool as set forth in the Agreement and to approve the Coverage Quotes.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The Agreement is hereby approved, and the Town Council authorizes the Mayor to execute the Agreement, the Coverage Quotes and other documents needed by CIRSA to ensure coverage.

Section 2. Participation in and coverage through CIRSA shall be for the coverage or coverages set forth in the Coverage Quotes as may be modified by any future applications or coverages offered by CIRSA and approved in any annual budget.

Section 3. Town Council selects the following coverages for 2024:

- Workers' Compensation: DEDUCTIBLE/SCP OPTION 5 of \$5,000
- Preliminary Property/Casualty: QUOTE OPTION 5

Section 3. Participation in and coverage through CIRSA as set forth in this Resolution shall take effect immediately.

Section 4. Town Council directs the Interim Town Manager to transmit a copy of this Resolution and the executed Agreement and selected Coverage Quotes to transmit to CIRSA at 3665 Cherry Creek North Drive, Denver, CO 80209.

Section 5. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED by a vote of \_\_\_in favor and \_\_\_against, this \_\_\_\_\_day of \_\_\_\_\_, 2024.**

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

**ATTACHMENT A**  
CIRSA INTERGOVERNMENTAL AGREEMENT

# Bylaws and Intergovernmental Agreement

**ARTICLE I. Definitions.** As used in this agreement, the following terms shall have the meanings hereinafter set out:

- (1) ADMINISTRATIVE COSTS. All costs of CIRSA other than contributions to a loss fund or a reserve fund.
- (2) BOARD. Board of Directors of CIRSA.
- (3) BYLAWS. The Bylaws and Intergovernmental Agreement Colorado Intergovernmental Risk Sharing Agency.
- (4) CIRSA. The Colorado Intergovernmental Risk Sharing Agency established pursuant to the Constitution and the statutes of this state by this intergovernmental agreement.
- (5) CLAIM YEAR. Any twelve consecutive month period established by the Board.
- (6) DIRECTOR. A person serving on the Board.
- (7) EXCESS INSURANCE. Insurance purchased by CIRSA from an insurance company approved by the Insurance Commissioner of the State of Colorado to underwrite such coverage in Colorado providing certain coverage for losses over a prudent amount up to a pre-set maximum amount of coverage.
- (8) EXECUTIVE DIRECTOR. Executive Director of CIRSA.
- (9) FISCAL YEAR. January 1 to December 31.
- (10) INTERGOVERNMENTAL AGREEMENT. The Bylaws and Intergovernmental Agreement, Colorado Intergovernmental Risk Sharing Agency.
- (11) LOSS FUND. A fund or funds of money established by the Board to pay covered losses and loss adjustment expenses.
- (12) MEMBERS. The municipalities and other entities which are authorized to participate in CIRSA pursuant to Article VI of these Bylaws and which enter into this intergovernmental agreement.
- (13) RESERVE FUND. A fund or funds of money established by the Board to be used as provided in Article IX of this intergovernmental agreement.
- (14) STOP LOSS INSURANCE. Insurance purchased by CIRSA from an insurance company approved by the Insurance Commissioner to underwrite such coverage in Colorado providing certain coverage up to a contracted amount for otherwise uninsured losses to be borne by the loss fund, which in any one year aggregate to a pre-set maximum amount of coverage.



**ARTICLE II. Creation of CIRSA.** The Colorado Intergovernmental Risk Sharing Agency, a separate and independent governmental and legal entity, is hereby formed by intergovernmental agreement by its members pursuant to the provisions of 24-10-115.5, 29-1-201 et seq., 29-13-102, 8-44-101(1)(c) and (3), and 8-44-204, C.R.S., as amended, and Colorado Constitution, Article XIV, Section 18(2).

**ARTICLE III. Purposes.**

- (1) The purposes of CIRSA are to provide members the coverages authorized by law, through joint self-insurance, insurance, reinsurance, or any combination thereof, to provide claims services related to such coverages, and to provide risk management and loss control services to assist members in preventing and reducing losses and injuries.
- (2) It is the intent of the members of CIRSA to create an entity in perpetuity which will administer and use funds contributed by the members to defend and indemnify, in accordance with these Bylaws, any member of CIRSA against stated liability or loss, to the limit of the financial resources of CIRSA available to pay such liability or loss. It is also the intent of the members to have CIRSA provide continuing stability and availability of needed coverages at reasonable costs.
- (3) All income and assets of CIRSA shall be at all times dedicated to the exclusive benefit of its members.
- (4) This intergovernmental agreement shall constitute the Bylaws of CIRSA.

**ARTICLE IV. Source of Money; Non-Waiver of Immunity.**

- (1) All CIRSA monies are monies plus earned interest derived from its members.
- (2) It is the intent of the members that, by entering into this intergovernmental agreement, they do not waive and are not waiving any immunity or other limitation on liability provided to the members or their officers or employees by any law.
- (3) No waiver by a member of any immunity or other limitation on liability provided to the member or its officers or employees by any law shall expand the coverages established by the Board. No member shall waive any such immunity or other such limitation on liability without first notifying CIRSA in writing.

**ARTICLE V. CIRSA Powers.**

- (1) The powers of CIRSA to perform and accomplish the purposes set forth above shall, within the budgetary limits of CIRSA and subject to the procedures set forth in these Bylaws, be the following:
  - (a) To retain agents, employees and independent contractors.
  - (b) To purchase, sell, encumber and lease real property and to purchase, sell, encumber or lease equipment, machinery, and personal property.
  - (c) To invest funds as allowed by Colorado statutes.
  - (d) To carry out educational and other programs relating to risk management and loss control.
  - (e) To create one or more loss funds, and to purchase reinsurance, excess insurance and/or stop loss insurance.

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(f) To establish reasonable and necessary loss control standards and procedures to be followed by the members.

(g) To provide risk management and claim adjustment or to contract for such services, including the defense and settlement of claims.

(h) To carry out such other activities as are necessarily implied or required to carry out the purposes of CIRSA or the specific powers enumerated in these Bylaws.

(i) To sue and be sued.

(j) To enter into contracts.

(k) To reimburse directors for reasonable and approved expenses, including expenses incurred in attending Board meetings.

(l) To purchase fidelity bonds from an insurance company approved by the Insurance Commissioner of Colorado to do business in Colorado.

(m) To process claims, investigate their validity, settle or defend against such claims within established financial limits, tabulate such claims, costs and losses and carry out other assigned duties.

#### **ARTICLE V.5. Services to Nonmembers.**

(1) CIRSA may provide to nonmembers, by intergovernmental agreement, one or more services pertaining to or associated with insurance or self-insurance, loss control, risk management, and claims administration, if such services will not adversely affect the tax exempt status of CIRSA.

(2) The nonmembers to which the services described in paragraph (1) above may be provided shall be limited to governmental entities which are defined as "public entities" under 24-10-103(5), C.R.S., and which are authorized to enter into an intergovernmental agreement for such services pursuant to 29-1-201 et seq., C.R.S.

(3) The intergovernmental agreement described in paragraph (1) above shall comply with 29-1-203(2), C.R.S., and shall be approved by the Board and by the governing body of the nonmember governmental entity to whom the services described in paragraph (1) are to be provided.

(4) Neither the property and liability coverages authorized by 24-10-115.5 and 29-13-102, C.R.S., nor the workers' compensation coverages authorized by 8-44-101(1)(c) and 8-44-204, C.R.S., shall be provided except to entities which meet the requirements for membership in CIRSA and which properly adopt and execute these Bylaws.

#### **ARTICLE VI. Participation.**

(1) The membership of CIRSA shall be limited to the following entities which properly adopt and execute this intergovernmental agreement:

(a) Any municipality which is a member of the Colorado Municipal League;

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(b) Any city and county which is formed as a result of a change in the status of a CIRSA member from a municipality to a city and county, except that the continued membership of any such member after such a change in status shall be subject to Board approval in the same manner as set forth in subsection (6) of this section for a new member, and shall also be subject to notice to and action by the membership in the same manner as set forth in subsection (7) of this section for a new member; and

(c) Any other entity which meets all of the following requirements:

1. The entity is a “public entity” as said term is defined in C.R.S. 24-10-103(5), as from time to time amended, other than the state, a county, a city and county, or a school district;
2. The entity has, throughout the term of its membership, an intergovernmental agreement in effect with a member municipality for the provision of one or more functions, services, or facilities lawfully authorized to both the entity and the municipality, and such member municipality consents to the entity’s participation;
3. Participation by the entity is permitted by applicable state law; and
4. Participation by the entity will not adversely affect the tax-exempt status of CIRSA.

(2) An entity which ceases to have in effect an intergovernmental agreement with a member municipality as required by Section VI.1.b.2 shall cease to be a member as of the last day of the claim year in which the entity ceased to have such agreement in effect.

(3) No representative of any entity other than a member municipality may serve on the Board.

(4) Notwithstanding any other provision of these Bylaws, no proposed amendment to these bylaws to permit a representative of any entity other than a member municipality to serve on the Board shall be effective unless approved by at least two-thirds of the municipalities which are members of CIRSA.

(5) A member may participate in CIRSA for either or both of the following purposes:

(a) The property and liability coverages authorized by 24-10-115.5 and 29-13-102, C.R.S., as amended, and claims services, loss control services, and risk management services related to such coverages; and

(b) The workers’ compensation coverages authorized by 8-44-101(1)(c) and (3) and 8-44-204, C.R.S., as amended, and claims services, loss control services, and risk management services related to such coverages.

(6) New members may be admitted only by a vote of the Board, subject to the payment of such sums and under such conditions as the Board shall in each case or from time-to-time establish.

(7) The members shall be notified in writing of each proposed new member. Ten percent (10%) of the members may request a membership meeting to consider admission of a new member. The request shall be in writing and must be received at the CIRSA offices no later than fifteen (15) days after mailing of the notice. If such request is received within the fifteen- (15) day period, a membership meeting shall be called by the Chairman and the new member shall be admitted only by a two-thirds (2/3) vote of the members present at the meeting. A member may waive its right to receive notification of proposed

new members pursuant to this section. The waiver shall be in writing and shall be signed by the mayor or manager or, if there is no manager, the clerk. Such a waiver by a member shall not prevent it from requesting a membership meeting to consider, or from taking any other action under these Bylaws concerning, the admission of a new member.

(8) A member who is participating in CIRSA for one of the purposes set forth in section (5) of this Article may be authorized to participate in CIRSA for the other of those purposes by a vote of the Board, subject to the payment of such sums and under such conditions as the Board shall in each case or from time-to-time establish. Compliance with the provisions of section (7) of this Article shall not be required in connection with the authorization unless such compliance is made a condition of the authorization by a vote of the Board.

#### **ARTICLE VII. Members' Powers and Meetings.**

(1) The members at a meeting thereof shall have the power to:

(a) Elect Directors by vote of the members present at the annual meeting.

(b) Amend the Bylaws by a two-thirds (2/3) vote of the members present at a meeting. Notice of any proposed Bylaw amendment shall be mailed to each member at least fifteen (15) days in advance of the vote thereon. An amendment shall take effect immediately unless otherwise provided in the amendment or in the motion to approve the amendment. No Bylaw amendment shall apply to or affect any member which withdraws from CIRSA within fifteen (15) days after approval of the Bylaw amendment and notifies the Board in writing, within such fifteen (15) day period, of its opposition to the Bylaw amendment.

(c) Decide an appeal from an expulsion decision as provided in Article XV, and admit members as provided in Article VI.

(d) Remove a Director by a two-thirds (2/3) vote of the members present at a meeting. Notice of the proposed removal of a Director shall be mailed to each member at least fifteen (15) days in advance of the vote thereon.

(2) Meetings of the members shall be held as follows:

(a) Members shall hold at least one membership meeting annually at a time and place to be set by the Board, with notice mailed to each member at least fifteen (15) days in advance. At least one of said membership meetings shall be held between June 1 and June 30 of each year.

(b) Special meetings shall be held if called by the Board or by a written petition of thirty percent (30%) of the members. Notice of special meetings shall be mailed to each member at least fifteen (15) days in advance.

(c) The Chairman of the Board will preside at the meetings.

(d) Thirty percent (30%) of the total number of members of CIRSA as of the date of any meeting shall constitute a quorum to do business during that meeting.

(e) No absentee or proxy voting shall be allowed.

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(f) Each member shall be entitled to one vote on each issue.

(2.5) (a) Notwithstanding any other provision of these Bylaws, in order to accommodate the meeting date provided for in article VII(2)(a), the terms of office of Directors who are elected in December, 2002 shall continue only until June, 2004, and the terms of office of Directors who were elected in December, 2001 shall continue only until June, 2003.

(2.5) (b) This subsection 2.5 is repealed effective December 31, 2003.

#### **ARTICLE VIII. Obligations of Members.**

(1) The obligations of members of CIRSA shall be as follows:

(a) To pay promptly all annual and supplementary contributions and other payments to CIRSA at such times and in such amounts as shall be established by the Board pursuant to these Bylaws. Any delinquent payments shall be paid with interest which shall be equivalent to the prime interest rate on the date of delinquency of the bank which invests the majority of the CIRSA funds. Payments will be considered delinquent forty-five (45) days following the due date.

(b) To designate in writing, signed by the Mayor or Manager or, if there is no Manager, the Clerk, a voting representative and alternate for the members' meetings. A member's voting representative must be an employee or officer of the member, but may be changed from time-to-time.

(c) To allow CIRSA and its agents, officers and employees reasonable access to all facilities of the member and all member records, including but not limited to financial records, as required for the administration of CIRSA.

(d) To allow CIRSA and attorneys designated by CIRSA to represent the member in the investigation, settlement and litigation of any claim made against the member within the scope of loss protection furnished by CIRSA.

(e) To cooperate fully with CIRSA's attorneys, claims adjusters and any other agent, employee, or officer of CIRSA in activities relating to the purposes and powers of CIRSA.

(f) To follow the loss control standards and procedures adopted by the Board.

(g) To report to CIRSA, in such form and within such time as CIRSA may require, all incidents or occurrences which could reasonably be expected to result in CIRSA being required to cover a claim against the member, its agents, officers, or employees, or for casualty losses to municipal property, within the scope of coverages undertaken by CIRSA.

(h) To maintain an active safety committee, safety coordinator, or safety contact.

(i) To report to CIRSA, in such form and within such time as CIRSA may require, the addition of new programs and facilities or the significant reduction or expansion of existing programs and facilities or other acts which will cause material changes in the member's potential loss.

(j) To provide CIRSA, in such form and within such time as CIRSA may require, a completed renewal application.

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(k) To participate in coverage of losses and to pay contributions as established and in the manner set forth by the Board.

(l) To the extent permitted by law, each member shall prevent its officers, employees and attorneys from representing voluntarily any person or entity or providing voluntarily any expert testimony or other assistance to any person or entity in any tort claim made or tort action brought against any other member or against any officer, employee or attorney of another member for action taken as an officer, employee or attorney of such other member. The obligation imposed by this paragraph shall not apply where such claim is made or action is brought by a member itself or by an officer or employee thereof acting in an official capacity.

#### **ARTICLE IX. Contributions.**

(1) It is the intention of CIRSA to levy contributions from the members as established by the Board.

(2)(a) The contributions may include contributions to a reserve fund. The reserve fund may be used only to pay claims, and expenses related thereto, accepted by the Board pursuant to Article XI (1)(r) for which previous contributions for a claim year are insufficient.

(b) If the reserve fund is so used, the proportionate shares in the reserve fund of those members and former members which were members during the claim year for which claims were paid from the reserve fund shall be correspondingly reduced and the Board shall promptly determine, pursuant to policies adopted by the Board for replenishment contributions, whether replenishment of the reserve fund is necessary and, if so, the allocation among members and former members and the amount and timing thereof.

(c) All members and former members, by virtue of their membership during any claim year, waive the right to assert that the levy of replenishment contributions pursuant to this Article for such claim year is barred by any statute of limitations.

(3) The Board shall annually review and report to the members the contributions to the reserve fund, the earnings thereon and the expenditures therefrom. The Board shall credit members and former members making such contributions, in the same proportions as the contributions were made, all amounts in excess of the amounts which the Board reasonably determines to be necessary to pay claims and expenses related thereto, including sufficient funds for payments which might be made pursuant to Article XI (1)(r). Credits to members may be made in the form of credits against future contributions or in the form of payments, as the Board shall determine. Credits to former or withdrawing members shall be made in the form of payments. No credit shall be given or paid to any member or former or withdrawing member which owes any amount to CIRSA until the amount owing is paid, and any credit or payment to be made under this Article IX (3) may be used to pay such amount.

(4) Any money contributed to any loss fund or for the administrative expenses of CIRSA and not needed for loss fund purposes or administrative expense purposes may be credited to the reserve fund or may be as credited to members and former or withdrawing members, or both, in the manner determined by the Board, except otherwise specifically provided in these Bylaws or in policies adopted by the members as authorized in these Bylaws. Credits to members may be made in the form of credits against future contributions or in the form of payments, as the Board shall determine. Credits to former or withdrawing members shall be made in the form of payments. All credits shall be in similar proportions

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as the contributions paid by the members. The Board shall reasonably determine whether money is available for reserve fund credit or contribution credit, or both, and the timing, proportions, and amounts thereof.

(5) No loss fund created for the property and liability coverages authorized by 24-10-115.5 and 29-13-102, C.R.S., as amended, shall be combined or commingled with any loss fund created for the workers' compensation coverages authorized by 8-44-101(1)(c) and (3) and 8-44-204, C.R.S., as amended.

#### **ARTICLE X. Board of Directors.**

(1) The Board shall be composed of seven (7) Directors, each from a different member. Directors will be elected from among the members' voting representatives. There will be:

(a) Two Directors, each from a different member under ten thousand (10,000) population

(b) Two Directors, each from a different member of ten thousand (10,000) to forty thousand (40,000) population.

(c) Two Directors, each from a different member above forty thousand (40,000) population.

(d) One Director at large.

(2) Every year population will be determined by the most current available population figures provided by the state Department of Local Affairs.

(3) The election of Directors will be made by the members at the membership meeting to be held between June 1 and June 30 of each year. A Director shall assume office at the first Board meeting held after the election.

(4) Terms of the Directors will be two-year-staggered terms.

(5) Notwithstanding subsections (3) and (4) of this section, commencing with the terms of office of Directors elected at the June, 2010 election, terms of Directors will be four-year-staggered terms, and Director elections shall be held in even-numbered years. In order to maintain staggered terms, terms of office of Directors elected at the June, 2009 election shall be three-year terms.

(6) A vacancy shall exist when a Director resigns, is no longer the member's voting representative, dies, or is removed by the members pursuant to these Bylaws.

(7) No person shall be removed from office as a Director by reason of any change, during the term of office for which such person was elected or appointed, in the population categories described in (1)(a),(b) and (c) of this Article or in the population of the Director's municipality.

#### **ARTICLE XI. Powers and Duties of the Board of Directors.**

(1) The Board has the following powers, in addition to any other powers set forth in these Bylaws:

(a) To elect during the first Board meeting held after the election as provided in Article X(3), a chairman, vice chairman, secretary/treasurer and other officers as appropriate. Each officer shall serve until his

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or her successor is elected, but there shall be no limit on the number of terms served by any person.

(b) To admit new members as provided in Article VI and to adopt criteria for new members.

(c) To establish contributions to be paid by the members, at such time or times and in such amounts as the Board deems appropriate for the operation of CIRSA and as necessary to ensure the solvency and avoid impairment of CIRSA.

(d) To establish the types of losses to be covered, the limits of liability, and the types of deductions which CIRSA provides.

(e) To select all service providers necessary for the administration of CIRSA.

(f) To set the dates, places and provide an agenda for Board and members' meetings.

(g) To fill vacancies in the Board by majority vote of the remaining Directors for the unexpired term.

(h) To exercise all powers of CIRSA except powers reserved to the members.

(i) To hire and discharge personnel or to delegate such authority to the Executive Director.

(j) To provide for claims and loss control standards and procedures, to establish conditions which must be met prior to the payment or defense of a claim, and to deny a claim or the defense of a claim if the conditions are not met.

(k) To provide for the investment and disbursement of funds.

(l) To establish rules governing its own conduct and procedure and the powers and duties of its officers, not inconsistent with these Bylaws.

(m) To issue subordinated debentures consistent with applicable requirements of the Insurance Commissioner of Colorado.

(n) To form committees and provide other services as needed by CIRSA. The Board shall determine the method of appointment and terms of committee members.

(o) To do all acts necessary and proper for the operation of CIRSA and implementation of these Bylaws subject to the limits of the Bylaws and not in conflict with these Bylaws.

(p) Dissolve CIRSA and disburse its assets by a two-thirds (2/3) vote of the entire membership provided that a notice of intent to dissolve CIRSA shall be given to the Insurance Commissioner at least ninety (90) days prior to the effective date. No such plan to dissolve CIRSA shall be effective until approved by the Insurance Commissioner. Upon dissolution of CIRSA, the assets of CIRSA not used or needed for the purposes of CIRSA, as determined by CIRSA and subject to approval by the Insurance Commissioner, shall be distributed exclusively to municipalities which are members of CIRSA prior to dissolution to be used for one or more public purposes.

(q) To delegate to the Executive Director, by motion approved by the Board, any of the Board's powers and duties, except that the Board may not so delegate its powers to elect officers, admit new members,

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establish contributions by the members, fill vacancies in the Board, adopt CIRSA's budget, establish conditions which must be met prior to the payment or defense of a claim, or dissolve CIRSA.

(r) Notwithstanding any other provision of these Bylaws or any limitation on CIRSA coverages, for any claim year since the inception of CIRSA the Board may pay those claims and expenses related thereto which would otherwise be denied for the reason that payment would exceed any applicable specified aggregate limit and available insurance or reinsurance. Any such payment shall be made only from a reserve fund established pursuant to Article IX (2), shall not exceed the amount in the reserve fund, shall be subject to the conditions and requirements of Article IX (2), and shall be consistent with such policy as the members may adopt by a two-thirds (2/3) vote of the members present at a meeting.

(s) To make reports to the members at member meetings or otherwise.

(t) To impose a reasonable fee on a former member for the costs of administration which pertain to that member and which arise after the conclusion of the membership. Such fee may be billed against and deducted from any surpluses that would otherwise be credited to the former member pursuant to Article IX, or may be billed to the former member.

(2) The Board has the following duties, in addition to any other duties set forth in these Bylaws:

(a) To prepare, adopt, and report CIRSA's budget to the members.

(b) To make reports to the members at their meetings.

(c) To provide to members annually an audit of the financial affairs of CIRSA to be made by a Certified Public Accountant at the end of each fiscal year in accordance with generally accepted auditing principles and state law.

(d) To provide to members annually an annual report of operations.

(e) To adopt a policy describing those CIRSA documents and records which are available to CIRSA members and to the public and any limitations thereon.

(f) To provide for payment of covered claims and expenses related thereto in the order in which the amounts become due, until any applicable specified aggregate limit and insurance or reinsurance available for such payment is depleted.

## **ARTICLE XII. Meetings of the Board of Directors.**

(1) The Board may set a time and place for regular meetings which may be held without further notice, and shall establish procedures for notice of special meetings.

(2) Four (4) Directors shall constitute a quorum to do business. All acts of the Board shall require a majority vote of the Directors present.

(3) One or more or all Directors on the Board may participate in any meeting of the Board by means of a conference telephone or similar communications equipment by which all persons participating in the meeting can communicate with each other at the same time. Participation by such means shall constitute

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presence at the meeting. No such meeting shall be held unless diligent effort is made to notify all Board members.

(4) Any action of the Board may be taken without a meeting if consent in writing setting forth the action so taken is signed by all Directors then serving on the Board. Such consent shall have the same effect as a unanimous vote and may be executed in counterparts.

**ARTICLE XIII. Liability of Board of Directors or Officers.** The Directors, officers and committee members of CIRSA should use ordinary care and reasonable diligence in the exercise of their powers, and in the performance of their duties hereunder; they shall not be liable for any mistake of judgment or other action made, taken or omitted by them in good faith; nor for any action taken or omitted by any agent, employee or independent contractor selected with reasonable care. No Director, officer, or committee member shall be liable for any action taken or omitted by any other Director, officer or committee member. CIRSA shall obtain a bond or other security to guarantee the faithful performance of each Director's, officer's and the Executive Director's duties hereunder. CIRSA may use any loss fund to defend and indemnify any Director, officer, committee member or employee for any action made, taken, or omitted by any such person in good faith within the scope of his or her authority for any CIRSA, or may pay for or reimburse the reasonable expenses, including liability expenses and attorneys' fees, incurred by any such person who is a party in a proceeding resulting from such an action, in advance of the final disposition of the proceeding, but any such payment or reimbursement shall be repaid to CIRSA if it is determined that the action was not made, taken, or omitted in good faith or was not within the scope of his or her authority for CIRSA. CIRSA may purchase or otherwise provide for insurance coverage for such Directors, officers, committee members and employees.

**ARTICLE XIV. Withdrawal from Membership.**

(1) Any member may withdraw from CIRSA by giving prior notice in writing to the Board of the prospective effective date of its withdrawal.

(2) If the effective date of a member's withdrawal is a date other than a January 1, the withdrawing member shall not be entitled to receive any refund of contributions made for administrative costs for the claim year of withdrawal. The withdrawing member shall be entitled to receive within forty-five (45) days after the effective date of withdrawal, a proportionate return of its contribution to any loss fund.

(3) If the effective date of a member's withdrawal is January 1 but the member's written notice of withdrawal is received by CIRSA more than thirty (30) days after the date on which CIRSA mailed a preliminary quote of the contribution to be assessed the member for the year beginning on that January 1, the withdrawing member shall be obligated to pay its share of CIRSA's administrative costs for the year beginning on that January 1. However, if the preliminary quote is mailed by CIRSA prior to September 1, members shall not be obligated for future claim year administrative costs if the member's written notice of withdrawal is received by CIRSA on or before the October 1 preceding the January 1 renewal date.

(4) The members may, by a two-thirds (2/3) vote of the members present at a meeting, adopt or amend a policy establishing additional conditions applicable to members which withdraw.

**ARTICLE XV. Expulsion of Members.**

(1) A member which fails to make any contribution or other payment due to CIRSA shall be automatically expelled from CIRSA on the sixtieth (60th) day following the due date, unless the member makes a request for extension prior to the sixtieth (60th) day, the request is granted by the Executive Director, and payment

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is made within any extended period. A notice of failure to make a contribution or other payment due to CIRSA shall be mailed to the member at least seven (7) days prior to the first date of automatic expulsion. If time for payment is extended by the Executive Director and payment is not made within any extended period, the automatic expulsion shall occur on a date no later than twenty (20) days after the last day of the extended period. An expulsion under this subsection (1) shall not be subject to the provisions of subsection (2).

(2) A member may be expelled by the Board for failure to carry out any other obligation of the member pursuant to these Bylaws, or for failure to address in an effective manner a condition that the Board deems hazardous to the CIRSA membership as a whole, subject to the following:

(a) The member shall receive notice from the Board of the alleged failure and not less than thirty (30) days in which to cure the alleged failure, along with notice that expulsion may result if the failure is not so cured.

(b) The member shall receive at least thirty (30) days prior notice from the Board of the date, place and time when the Board will consider expelling the member from the pool, and the member shall be entitled to be present at that meeting and to present evidence and reasons why it should not be expelled. The decision of the Board shall be effective as of the date and upon the terms and conditions set forth in the Bylaws and applicable excess or reinsurance policies and as otherwise specified by the Board, except as provided in paragraph (c) of this Article XV (2).

(c) The member may appeal the Board's decision to the membership. Notice of the appeal shall be provided to each member. The appeal shall be considered by the members only if twenty percent (20%) of the members request the Board, in writing, to schedule a membership meeting on the appeal; otherwise the appeal shall be considered denied. If the appeal will be considered by the members, the Chairman of the Board shall schedule a membership meeting and each member, including the appealing member, shall be provided at least ten (10) days prior written notice of the date, time and place of the meeting. The appealing member shall be entitled to be present at the meeting and to present evidence and reasons why it should not be expelled and the Board may present evidence and reasons why expulsion is proper. The appealing member shall not be counted in determining the number of votes required, nor shall the appealing member be entitled to vote on the appeal. The decision of the members shall be by majority vote of those present at the meeting and shall be final, and any expulsion shall be effective as of the date and upon the terms and conditions set forth in the Bylaws and applicable excess or reinsurance policies, and as otherwise specified by the members.

(3) The members may, by a two-thirds (2/3) vote of the members present at a meeting, adopt or amend a policy establishing requirements applicable to members which are expelled.

#### **ARTICLE XVI. Conditions of Withdrawal and Expulsion.**

(1) A withdrawn or expelled member shall remain obligated for all amounts owing prior to withdrawal or expulsion from CIRSA and for all amounts which thereafter become owing pursuant to CIRSA Bylaws and policies adopted by the members which are in effect at the time of withdrawal or expulsion including, but not limited to, contributions levied pursuant to Article IX (2) of the CIRSA Bylaws.

(2) A withdrawn or expelled member is considered a member of CIRSA for the purpose of payment of the member's claims and expenses related thereto which remain covered under the terms of CIRSA's excess policies. A withdrawn or expelled member shall remain subject to all conditions of coverage and

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obligations of a member under CIRSA Bylaws, insurance or reinsurance policies, and policies adopted by the members which are in effect at the time of withdrawal or expulsion. A withdrawn or expelled member shall have no right to vote on any matter pending before the CIRSA membership.

(3) Except as otherwise provided in these Bylaws:

(a) A withdrawn member shall retain all rights of a withdrawn member under CIRSA Bylaws and policies adopted by the members which are in effect at the time of the withdrawal;

(b) An expelled member shall retain all rights of an expelled member under CIRSA Bylaws and policies adopted by the members which are in effect at the time of the expulsion; and

(c) No withdrawn or expelled member may be adversely affected by any change in such Bylaws or policies adopted subsequent to the effective date of the member's withdrawal or expulsion.

(4) An expelled member shall have no right to be credited for any amounts pursuant to Article IX (3) or (4) of the Bylaws. Any such amounts that would have been credited but for the expulsion shall be redistributed among those members who were members on the effective date of such member's expulsion, in similar proportions as the contributions paid by those members.

(5) Unless disapproved by an affected insurance or reinsurance carrier, CIRSA shall offer a withdrawing member, no later than forty-five (45) days after CIRSA's receipt of the written notice of withdrawal, at least twenty-four (24) months of extended reporting period on any claims-made coverage provided through CIRSA, at a cost reasonably calculated by CIRSA and subject to any contract terms existing at withdrawal.

## **ARTICLE XVII. General.**

(1) This document shall constitute an intergovernmental contract among the members of CIRSA. The terms of this contract may be enforced in court by CIRSA itself or by any of its members.

(2) The consideration for the duties herewith imposed upon the members to take certain actions and to refrain from certain other actions shall be based upon the mutual promises and agreements of the members set forth herein.

(3) A certified copy of the ordinance, resolution or other document of approval for each member, accompanied by an attorney's certification of proper authority and adoption, shall be attached to the original Bylaws on file with CIRSA. These Bylaws may be executed in counterparts.

(4) Except to the extent of the limited financial contributions to CIRSA agreed to herein or such additional obligations as may come about through amendments to these Bylaws, no member agrees or contracts herein to be held responsible for any claims in tort or contract made against any other member. The contracting parties intend in the creation of CIRSA to establish an organization only within the scope herein set out, and have not herein created as between member and member any relationship of surety, indemnification or responsibility for the debts of or claims against any other member.

(5) In the event that any article, provision, clause or other part of these Bylaws should be held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability with respect to other articles, provisions, clauses, applications or occurrences, and these Bylaws are expressly declared to be severable.

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ATTEST: \_\_\_\_\_

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
City/Town

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ATTACHMENT B**  
**Workers' Compensation Contribution Quote**

The following preliminary quote is for the proposed coverages described in ATTACHMENT A, along with administrative costs, claims servicing fees, and a reserve fund contribution. It also reflects any Deductible/Special Contribution Plan (SCP) options requested. Contribution rates are calculated utilizing a loss experience factor for your entity.

The reserve fund contribution is an amount required to increase surplus in the Pool. This amount is designated as equity attributable to your entity, and will be accounted for separately, as will interest earnings.

**DEDUCTIBLE/SCP OPTION 1 of \$0 for January 1, 2024, through January 1, 2025.**

	<u>Annual</u>
2024 Contribution (Net of Reserve Fund)	\$ 15,146.22
2024 Reserve Fund Contribution	\$ <u>757.31</u>
<b>Total 2024 Preliminary Quotation</b>	<b>\$ 15,903.53</b>

**DEDUCTIBLE/SCP OPTION 2 of \$500 for January 1, 2024, through January 1, 2025.**

	<u>Annual</u>
2024 Contribution (Net of Reserve Fund)	\$ 14,691.84
2024 Reserve Fund Contribution	\$ <u>734.60</u>
<b>Total 2024 Preliminary Quotation</b>	<b>\$ 15,426.44</b>

**DEDUCTIBLE/SCP OPTION 3 of \$1,000 for January 1, 2024, through January 1, 2025.**

	<u>Annual</u>
2024 Contribution (Net of Reserve Fund)	\$ 14,464.63
2024 Reserve Fund Contribution	\$ <u>723.24</u>
<b>Total 2024 Preliminary Quotation</b>	<b>\$ 15,187.87</b>

Attachment B, continued

DEDUCTIBLE/SCP OPTION 4 of **\$2,500** for **January 1, 2024, through January 1, 2025.**

	<u>Annual</u>
2024 Contribution (Net of Reserve Fund)	\$ 13,934.53
2024 Reserve Fund Contribution	\$ <u>696.73</u>
<b>Total 2024 Preliminary Quotation</b>	<b>\$ 14,631.26</b>

DEDUCTIBLE/SCP OPTION 5 of **\$5,000** for **January 1, 2024, through January 1, 2025.**

	<u>Annual</u>
2024 Contribution (Net of Reserve Fund)	\$ 13,328.68
2024 Reserve Fund Contribution	\$ <u>666.43</u>
<b>Total 2024 Preliminary Quotation</b>	<b>\$ 13,995.11</b>

**ACCEPTANCE OF  
WORKERS' COMPENSATION QUOTE**

Please complete, sign and return this form if your entity has decided to **accept** CIRSA's **preliminary** workers' compensation quote for 2024.

\*\*\*\*\*

This is to notify CIRSA that the **Town of Keystone** accepts the following preliminary quote for workers' compensation coverages for 2024 (check and fill in as applicable):

\_\_\_\_\_ The **Town of Keystone** accepts the deductible amount of \$\_\_\_\_\_ for the quote amount of \$\_\_\_\_\_ effective \_\_\_\_\_, 2024.

**THIS IS NOT A BILL. AN INVOICE WILL BE SENT.**

The Board has established two options for payment of your Workers' Compensation Pool billing. **Please select one of the boxes below indicating how you would like to be billed:**

**Annual billing**

**Quarterly billing**

By signing below, the undersigned represents that he or she is properly authorized to accept this preliminary quote on behalf of the **Town of Keystone**.

**Signature must be that of the Mayor, Manager, Clerk or equivalent  
(such as President of a Special District).**

Signature: \_\_\_\_\_

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

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

**ATTACHMENT B**  
**Preliminary Property/Casualty Contribution Quote**  
**Limit/Deductible Option Selection**

The following preliminary quote is for the proposed coverages described in ATTACHMENT A, along with administrative costs, claims servicing fees, and a reserve fund contribution. The preliminary quote is based on deductibles and limits shown. If you requested more than one deductible and/or limit option, each option is shown below.

The reserve fund contribution is an amount required to increase equity in the pool. This amount is designated as equity attributable to your entity, and will be accounted for separately, as will the interest earnings.

<b>QUOTE OPTION 1:</b>	<b>Initial Here to Accept this Option: _____</b>
<u>Limits:</u> General Liability, Public Officials Liability, and Law Enforcement Liability:       \$5,000,000 Auto Liability:                         \$5,000,000	<u>Annual Quote:</u> 2024 Contribution:                         \$ 3,267.16 <i>(Net of Reserve Fund)</i> 2024 Reserve Fund Contribution*:     \$ 161.78 <b>Total 2024 Contribution:               \$ 3,428.94</b>
<u>Deductibles:</u> Auto Liability:                             \$ 500 Auto Physical Damage:                 \$ 500 All Risk Property:                         \$ 500 General Liability:                         \$ 500 Public Officials Liability:             \$ 1,000 Law Enforcement Liability:            \$ 1,000	

<b>QUOTE OPTION 2:</b>	<b>Initial Here to Accept this Option: _____</b>
<u>Limits:</u> General Liability, Public Officials Liability, and Law Enforcement Liability:       \$5,000,000 Auto Liability:                         \$5,000,000	<u>Annual Quote:</u> 2024 Contribution:                         \$ 3,171.93 <i>(Net of Reserve Fund)</i> 2024 Reserve Fund Contribution*:     \$ 156.93 <b>Total 2024 Contribution:               \$ 3,328.86</b>
<u>Deductibles:</u> Auto Liability:                             \$ 500 Auto Physical Damage:                 \$ 500 All Risk Property:                         \$ 1,000 General Liability:                         \$ 1,000 Public Officials Liability:             \$ 2,500 Law Enforcement Liability:            \$ 1,000	



Attachment B, continued

<b>QUOTE OPTION 3:</b>		<b>Initial Here to Accept this Option: _____</b>	
<u>Limits:</u>		<u>Annual Quote:</u>	
General Liability, Public Officials Liability, and Law Enforcement Liability:	\$5,000,000	2024 Contribution:	\$ 3,030.58
Auto Liability:	\$5,000,000	(Net of Reserve Fund)	
		2024 Reserve Fund Contribution*:	\$ 149.70
		<b>Total 2024 Contribution:</b>	<b>\$ 3,180.28</b>
<u>Deductibles:</u>			
Auto Liability:	\$ 500		
Auto Physical Damage:	\$ 500		
All Risk Property:	\$ 2,500		
General Liability:	\$ 2,500		
Public Officials Liability:	\$ 5,000		
Law Enforcement Liability:	\$ 1,000		

<b>QUOTE OPTION 4:</b>		<b>Initial Here to Accept this Option: _____</b>	
<u>Limits:</u>		<u>Annual Quote:</u>	
General Liability, Public Officials Liability, and Law Enforcement Liability:	\$5,000,000	2024 Contribution:	\$ 2,986.52
Auto Liability:	\$5,000,000	(Net of Reserve Fund)	
		2024 Reserve Fund Contribution*:	\$ 147.32
		<b>Total 2024 Contribution:</b>	<b>\$ 3,133.84</b>
<u>Deductibles:</u>			
Auto Liability:	\$ 500		
Auto Physical Damage:	\$ 500		
All Risk Property:	\$ 5,000		
General Liability:	\$ 5,000		
Public Officials Liability:	\$ 5,000		
Law Enforcement Liability:	\$ 1,000		

Attachment B, continued

<b>QUOTE OPTION 5:</b>		<b>Initial Here to Accept this Option: _____</b>	
<u>Limits:</u>		<u>Annual Quote:</u>	
General Liability, Public Officials Liability, and Law Enforcement Liability:	\$10,000,000	2024 Contribution:	\$ 3,348.07
Auto Liability:	\$5,000,000	(Net of Reserve Fund)	
		2024 Reserve Fund Contribution*:	\$ 165.83
		<b>Total 2024 Contribution:</b>	<b>\$ 3,513.90</b>
<u>Deductibles:</u>			
Auto Liability:	\$ 500		
Auto Physical Damage:	\$ 500		
All Risk Property:	\$ 500		
General Liability:	\$ 500		
Public Officials Liability:	\$ 1,000		
Law Enforcement Liability:	\$ 1,000		

<b>QUOTE OPTION 6:</b>		<b>Initial Here to Accept this Option: _____</b>	
<u>Limits:</u>		<u>Annual Quote:</u>	
General Liability, Public Officials Liability, and Law Enforcement Liability:	\$10,000,000	2024 Contribution:	\$ 3,250.25
Auto Liability:	\$5,000,000	(Net of Reserve Fund)	
		2024 Reserve Fund Contribution*:	\$ 160.85
		<b>Total 2024 Contribution:</b>	<b>\$ 3,411.10</b>
<u>Deductibles:</u>			
Auto Liability:	\$ 500		
Auto Physical Damage:	\$ 500		
All Risk Property:	\$ 1,000		
General Liability:	\$ 1,000		
Public Officials Liability:	\$ 2,500		
Law Enforcement Liability:	\$ 1,000		

Attachment B, continued

<b>QUOTE OPTION 7:</b>		<b>Initial Here to Accept this Option: _____</b>	
<u>Limits:</u>		<u>Annual Quote:</u>	
General Liability, Public Officials Liability, and Law Enforcement Liability:	\$10,000,000	2024 Contribution:	\$ 3,105.19
Auto Liability:	\$5,000,000	(Net of Reserve Fund)	
		2024 Reserve Fund Contribution*:	\$ 153.43
		<b>Total 2024 Contribution:</b>	<b>\$ 3,258.62</b>
<u>Deductibles:</u>			
Auto Liability:	\$ 500		
Auto Physical Damage:	\$ 500		
All Risk Property:	\$ 2,500		
General Liability:	\$ 2,500		
Public Officials Liability:	\$ 5,000		
Law Enforcement Liability:	\$ 1,000		

<b>QUOTE OPTION 8:</b>		<b>Initial Here to Accept this Option: _____</b>	
<u>Limits:</u>		<u>Annual Quote:</u>	
General Liability, Public Officials Liability, and Law Enforcement Liability:	\$10,000,000	2024 Contribution:	\$ 3,060.22
Auto Liability:	\$5,000,000	(Net of Reserve Fund)	
		2024 Reserve Fund Contribution*:	\$ 151.01
		<b>Total 2024 Contribution:</b>	<b>\$ 3,211.23</b>
<u>Deductibles:</u>			
Auto Liability:	\$ 500		
Auto Physical Damage:	\$ 500		
All Risk Property:	\$ 5,000		
General Liability:	\$ 5,000		
Public Officials Liability:	\$ 5,000		
Law Enforcement Liability:	\$ 1,000		

**NOTE: For flood claims, an additional property deductible will apply separately to each location in a National Flood Insurance Program (NFIP) zone A if total building and contents values at that location are in excess of \$1,000,000. The deductible will be the maximum limit of coverage which could have been purchased through NFIP, whether it is purchased or not.**

**ATTACHMENT B ACCEPTANCE FORM**  
**Property/Casualty Quotation**  
**Uninsured/Underinsured Motorist Coverage**  
**And Billing Frequency Selection**

Please complete, sign and return this form if your entity has decided to **accept** CIRSA's **preliminary** property/casualty and prior acts coverage for 2024.

The **Town of Keystone** wishes to

- Include Uninsured/Underinsured Motorists Coverage for 2024 (see attached explanation)
- Exclude Uninsured/Underinsured Motorists Coverage for 2024 (see attached explanation)

The **Town of Keystone** wishes to be billed in 2024 as follows:

- Annual billing
- Quarterly in January, April, July and October.

**THIS IS NOT A BILL. AN INVOICE WILL BE SENT.**

By signing below, the undersigned represents that he or she is properly authorized to accept this quotation on behalf of the **Town of Keystone**.

Signature must be that of the Mayor, Manager, Clerk, or equivalent (such as President of a Special District).

Signature: \_\_\_\_\_

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

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

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen

DATE: February 8, 2024

SUBJECT: Resolution 2024-10, Designating The Location For Posting Of Notices Of Public Meetings

---

### **Executive Summary:**

Colorado law requires municipalities to identify a posting location for meeting notices required by the Colorado Open Meetings law.

### **Recommendation:**

Staff recommends that the Town Council approve Resolution 2024-10 designating the location for posting the meeting notices.

### **Background:**

Pursuant to §24-6-402(2) C.R.S. public meetings of the Town Council, Boards and Commissions and other formally constituted bodies, where a quorum of three or more members are expected to be in attendance, must be posted at least twenty-four (24) hours prior to each meeting. This section also provides that the public place for posting such notices shall be designated annually at the Town Council's first regular meeting of the calendar year.

Resolution No. 2024-10 provides the designated posting location to be a Public Meeting Notices Binder located immediately within the internal entrance to the 1628 Sts John Road, Keystone, CO 80435. Without need to amend this resolution, the City may choose to administratively re-designate the posting location to a bulletin board, kiosk, computer monitor, television screen, or other manner or method of visible display within the same location. Once a Town operated website is in place, the meeting notices will be made available on that Town website.

### **Alternatives:**

N/A

### **Financial Considerations:**

None.

**Previous Council Actions:**

None.

**Next Steps:**

None.

**Suggested Motions:**

I move to APPROVE Resolution 2024-10 Designating The Location For Posting Of Notices Of Public Meetings

I move to DENY Resolution 2024-10 Designating The Location For Posting Of Notices Of Public Meetings

**Attachments:**

- Resolution 2024-10 Designating The Location For Posting Of Notices Of Public Meetings

**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-10**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
DESIGNATING THE PUBLIC PLACE FOR  
POSTING OF NOTICES OF PUBLIC MEETINGS**

WHEREAS, the Town of Keystone is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, pursuant to Section 24-6-402(2), C.R.S., and Section 3.10 of the Keystone Home Rule Charter, any public meeting of the Town Council of the Town of Keystone, and/or the Town's boards, commissions, and other formally constituted bodies, at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, for the discussion of public business, must by law be held only after full and timely notice to the public; and

WHEREAS, the Town is deemed to have given full and timely notice if the notice of the public meeting is posted in a designated public place within the boundaries of the Town of Keystone no less than twenty-four hours prior to the holding of the meeting; and

WHEREAS, the public place or places for posting such notice must be designated annually at the Council's first meeting of the calendar year; and

WHEREAS, the Council has convened its first regular meeting of the 2024 calendar year on this 8th day of February, 2024; and

WHEREAS, this Resolution is to apply only to those meetings for which applicable state or local law requires public notice to be posted by the Town as a Town-conducted meeting; and

WHEREAS, the Council wishes to designate the location for posting notice of its meetings as set forth herein.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. Notices of public meetings of the Town Council, and the Town's boards, commissions, and other formally constituted local public bodies, as defined in Section 24-6-402, C.R.S., shall be posted (i.e., made available for public inspection at all times during business hours) at least 24 hours prior to each meeting at the front reception area located immediately within the internal entrance to: 1628 Sts John Road, Keystone, CO 80435. Without need to amend this resolution, the Town may administratively redesignate the posting location to a bulletin board, kiosk, computer monitor, television

screen, or other manner or method of visible display within the publicly accessible main entrance, entry way, vestibule, or exterior of the building at 1628 Sts. John Road, Keystone, CO 80435.

Section 2. At such time that the Town has in place a Town operated website, the Town will endeavor to make available the notices of public meetings of the Town Council and the Town's boards, commissions, and other formally constituted local public bodies on that Town website.

Section 3. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED by a vote of \_\_\_ in favor and \_\_\_ against, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.**

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney



# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen

DATE: February 8, 2024

SUBJECT: Resolution 2024-11, Setting The Regular Meeting Dates Of Town Council

---

### **Executive Summary:**

In accordance with the Town of Keystone Home Rule Charter, this resolution establishes the regular meeting dates of the Town Council.

### **Recommendation:**

Staff recommends that the Town Council approve Resolution 2024-11 setting the regular meeting dates.

### **Background:**

Section 3.1 of the Keystone Home Rule Charter provides that Town Council shall meet regularly at least once each month at a day and hour and place to be fixed by the procedures and rules of order adopted by resolution.

Until such time as Town Council adopts its procedures and rules of order, the Town Council sets its regular meetings schedule as the second and fourth Tuesday of each month commencing at 7:00 p.m. and to be held at the Keystone Center, 1628 Saints John Rd, Keystone, Colorado. The Town Council may cancel or reschedule such regular meetings.

The resolution also provides that the Mayor and Town Manager may set work sessions and study sessions with at least 24 hours' notice to Town Council. To start, work sessions will be held at 4:00 p.m. or 4:30 p.m. on the same days as the regular meeting days.

### **Alternatives:**

N/A

### **Financial Considerations:**

None.

**Previous Council Actions:**

None.

**Next Steps:**

None.

**Suggested Motions:**

I move to APPROVE Resolution 2024-11 Setting The Regular Meeting Dates Of Town Council

I move to DENY Resolution 2024-11 Setting The Regular Meeting Dates Of Town Council

**Attachments:**

- Resolution 2024-11 Setting The Regular Meeting Dates Of Town Council

**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-11**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
SETTING THE REGULAR MEETING DATES OF TOWN COUNCIL**

WHEREAS, the Town of Keystone is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, Section 3.1 of the Keystone Home Rule Charter provides that Town Council shall meet regularly at least once each month at a day and hour and place to be fixed by the procedures and rules of order adopted by resolution; and

WHEREAS, until such time as Town Council adopts its procedures and rules of order, the Town Council sets its regular meetings schedule as the second and fourth Tuesday of each month commencing at 7:00 p.m. and to be held at the Keystone Center, 1628 Saints John Rd, Keystone, Colorado.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The Town Council Regular Meetings shall be held on the second and fourth Tuesday of each month commencing at 7:00 p.m. at the Keystone Center, 1628 Saints John Rd, Keystone, Colorado. The Town Council recognizes that it may be necessary from time to time to alter the schedule of such regular meetings by canceling some meetings and adding others, consistent with Town Council's rules and procedures.

Section 2. The Mayor and Town Manager may schedule work sessions and study sessions with at least 24 hours advance notice to Town Council until such time as Town Council adopts rules and procedures. Thereafter, Town Council shall follow its rules and procedures for scheduling work sessions.

Section 3. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED** by a vote of \_\_\_ in favor and \_\_\_ against, this \_\_\_\_\_ day of \_\_\_\_\_,  
**2024.**

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers  
THROUGH: Gary Martinez, Interim Town Manager  
FROM: Jennifer Madsen  
DATE: February 8, 2024  
SUBJECT: Resolution 2024-12, Defining The Process For Setting Meeting Agendas

---

### **Executive Summary:**

In accordance with organized meeting practice, this resolution establishes a process for setting meeting agendas until such time as Town Council approves its rules of procedure.

### **Recommendation:**

Staff recommends that the Town Council approve Resolution 2024-12 defining a process for setting meeting agendas.

### **Background:**

Consistent with organized meeting practice, it is helpful to have a process for setting agendas and determining what matters will be discussed by the Town Council at its regular meetings.

### **Alternatives:**

N/A

### **Financial Considerations:**

None.

### **Previous Council Actions:**

None.

### **Next Steps:**

None.

### **Suggested Motions:**

I move to APPROVE Resolution 2024-12 Defining The Process For Setting Meeting Agendas

I move to DENY Resolution 2024-12 Defining The Process For Setting Meeting Agendas

**Attachments:**

- Resolution 2024-12 Defining The Process For Setting Meeting Agendas

**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-12**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
DEFINING THE PROCESS FOR SETTING MEETING AGENDAS**

WHEREAS, the Town of Keystone is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, until such time as Town Council adopts its procedures and rules of order, the Town Council desires to define a process for setting meeting agendas.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The Town Council delegates to the Mayor and the Town Manager the task of setting the meeting agendas for regular and special meetings and for work sessions of the Town Council. In addition, two members of the Town Council may request that the Town Manager place an item on a meeting agenda. Meeting agendas will be posted in advance of the meeting as required by the Town of Keystone Home Rule Charter and Colorado law.

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED by a vote of \_\_\_in favor and \_\_\_against, this \_\_\_\_\_day of \_\_\_\_\_, 2024.**

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen, Town Attorney

DATE: February 8, 2024

SUBJECT: Resolution 2024-13, Approving the Revenue Sharing IGA with Summit County

---

### **Executive Summary:**

The resolution is an approval of an intergovernmental agreement with Summit County (“Revenue Sharing IGA”) regarding advance payment and distribution of the 2% countywide sales tax collected in the Town of Keystone. The Revenue Sharing IGA also addresses Summit County’s collection of its lodging tax and revenue received for the Summit Combined Housing Authority’s sales tax and use tax.

### **Recommendation:**

The Interim Town Manager and Town Attorney recommend approval of this resolution.

### **Background:**

In 1970, the Summit County Board of County Commissioners approved Sales Tax Resolution 70-34 referring to the voters a countywide sales tax. Also in 1970, Summit County voters approved the 2% sales tax on sales of tangible personal property in Summit County. Examples of tangible personal property include clothing, household items, and equipment.

Sales tax revenue collected in municipal boundaries is to be distributed to those municipalities. The Sales Tax Resolution 70-34 provides that newly incorporated municipalities will receive a distribution for the sales tax revenue collected in the Town.

This resolution approves the Revenue Sharing IGA with Summit County. Pursuant to the IGA, Summit County will begin distributing \$200,000 to the Town starting on February 15, 2024, and through September 15, 2024. These advance payments will be deducted from the sales tax revenue from Keystone sales after the incorporation date received by the County.

The resolution provides that Summit County will safekeep and retain all revenues collected from the lodging tax for the properties located in Keystone for the period of time between the Keystone Incorporation date and up to and including June 30, 2024. The



County will safekeep and retain such revenue until June 30, 2027. The County and Keystone will collaborate and develop a plan for the expenditure in Keystone of such lodging revenues generated in Keystone in accordance with all applicable authority.

Lastly, the IGA provides that once Keystone becomes a member of Summit Combined Housing Authority, the County will begin distributing to the Town all such MJHA revenues generated in Keystone after the Keystone Incorporation date.

**Alternatives:**

The Town Council may not agree to the Revenue Sharing IGA or the Town Council may request amendments to the IGA.

**Financial Considerations:**

The financial considerations are the revenues received for the countywide sales tax revenue collected in Keystone and the multijurisdictional housing authority sales tax generated in Keystone.

**Previous Council Actions:**

None.

**Next Steps:**

If the Town Council approves this resolution, the Interim Town Manager and the Town Attorney will finalize the Revenue Sharing IGA with Summit County.

**Suggested Motions:**

I move to APPROVE Resolution 2024-13 Approving the Revenue Sharing IGA with Summit County.

I move to DENY Resolution 2024-13 Approving the Revenue Sharing IGA with Summit County.

**Attachments:**

- Resolution 2024-13 Approving the Revenue Sharing IGA with Summit County

**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-13**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
AUTHORIZING INTERGOVERNMENTAL AGREEMENT WITH SUMMIT COUNTY  
FOR THE DISBURSEMENT OF 2% SALES TAX**

WHEREAS, in 1970, Summit County voters approved a county wide 2% sales tax on retail sales in the county Section 31-2-105(1), C.R.S., provides that the incorporation of a Colorado municipality is complete upon the filing of certified results of a municipal incorporation election, and the election and qualification of officers; and

WHEREAS, on March 28, 2023, the voters approved the incorporation of the Town of Keystone ("Keystone"), and thereafter all filings of certified results were completed; and

WHEREAS, on January 30, 2024, the initial officers of Keystone were elected, and on February 8, 2024, the officers were properly qualified and took office, and at such time the incorporation of Keystone was complete and the Town began existence as a legal entity; and

WHEREAS, upon the incorporation of Keystone, Summit County shall continue to provide County services pursuant to Section 31-2-108, C.R.S.; and

WHEREAS, pursuant to the provisions of § 18 of Article XIV of the Colorado Constitution, § 29-1-203, C.R.S., as amended, and other applicable authority, the Keystone and Summit County may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each; and

WHEREAS, the intergovernmental agreement between Summit County and Keystone attached as Exhibit A provides for the distribution of the 2% county sales tax to Keystone; and

WHEREAS, it is the intent of the Town Council to agree to the terms of the intergovernmental agreement for the collection of the 2% county sales tax.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The Town Council authorizes the execution of the intergovernmental agreement with Summit County ("Revenue Sharing IGA) for the distribution of the sales tax as attached in Exhibit A. The Mayor is authorized to execute the Sales Tax IGA in substantially the form attached in Exhibit A.

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED** by a vote of \_\_\_ in favor and \_\_\_ against, this \_\_\_\_\_ day of \_\_\_\_\_,  
**2024.**

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

EXHIBIT A  
INTERGOVERNMENTAL AGREEMENT WITH SUMMIT COUNTY

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE TOWN OF KEYSTONE AND SUMMIT COUNTY  
REGARDING THE ADMINISTRATION OF CERTAIN TAX REVENUE**

THIS INTERGOVERNMENTAL AGREEMENT regarding the administration of certain tax revenues ("Revenue Agreement") is entered into this \_\_\_ day of February 2024, by and between the Town of Keystone, Colorado, a Colorado municipal corporation (the "Town") and the Board of County Commissioners of Summit County, Colorado, a political subdivision of the State of Colorado, (the "County"). The Town and the County are collectively referred to herein as the "Parties."

WHEREAS, pursuant to Part 1, Article 2, of Title 31, C.R.S., the Town of Keystone was incorporated, effective February 8, 2024, for the purpose of providing municipal services to its residents and property owners (hereinafter "Keystone Incorporation date"); and

WHEREAS, pursuant to Resolution 70-34 of the Board of County Commissioners, a countywide sales tax in the amount of two percent was approved by the voters of Summit County and imposed throughout the incorporated and unincorporated areas of Summit County ("Countywide Sales Tax"); and

WHEREAS, Sections 4(2) and 4(4) of Resolution 70-34 provide that the Countywide Sales Tax revenues generated within each incorporated areas of the County would be remitted to such incorporated municipality, including any newly incorporated municipality within Summit County; and

WHEREAS, the Town and the County hereby find it to be feasible, desirable and in the interest of public health, safety, and welfare that the Parties enter into this Agreement for the purpose of outlining the administration of the Countywide Sales Tax certain tax revenues during the transition of governmental services within the newly incorporated Town of Keystone; and

WHEREAS, Pursuant to Resolution 22-57 of the Board of County Commissioners, the County has also imposed a lodging tax within Summit County which will cease to be collected within Keystone on July 1, 2024 in accordance with the laws, rules and regulations of the State of Colorado Department of Revenue concerning tax revenue collections; therefore, the Parties desire to confirm the County's administration of such lodging tax revenues during the transition period; and

WHEREAS, pursuant to the provisions of § 18 of Article XIV of the Colorado Constitution, § 29-1-203, C.R.S., as amended, and other applicable authority, the Parties may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each; and

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby mutually agreed as follows:

Section 1. Term. The term of this Agreement shall commence on the date of signing of this Agreement by the Parties.

Section 2. Countywide Sales Tax Revenues

2.1. Deposit of Revenues For the public purpose of facilitating the assumption of municipal services by Keystone and to expedite the administration of sales tax revenues as provided for in Resolution 70-34, the County will deposit the sum of \$200,000.00 in the bank account of Keystone on or before the 15th day of each month from the period between February 15, 2024 until August 15, 2024. This amount is intended to be the parties' good faith estimate of the average monthly sales tax revenues generated within Keystone during the months in which such deposit is made. The parties may adjust the amount of such monthly deposit for one or more months as agreed to by the Parties to accomplish the purposes of this Revenue Agreement.

2.2 Monthly Accounting

(a) The County Finance Department shall continue to receive the actual countywide sales tax revenues disbursed for each calendar month by the Colorado Department of Revenue (DOR) for subject transactions occurring within Keystone commencing on the date of incorporation through June 30, 2024. Upon receipt of such revenues and reports, the County shall calculate the actual countywide sales tax revenues generated within Keystone for each calendar month from February 2024 through June 30, 2024. However, for the month of February 2024, the monthly sales tax revenues generated from within the Keystone boundaries shall be pro-rated between the County and Keystone based on the number of days in such month that the Keystone area remained in the unincorporated area of the County. By way of example, if Keystone is incorporated on the evening of February 8, 2024, then the sales tax revenues for February shall be prorated as follows: seventy-six percent will be distributed to Keystone and twenty-four percent to the County.

(b) The County or its designee shall prepare a monthly Sales Tax Report for Keystone that includes Countywide Sales Tax revenues received from each vendor or taxable transaction within Keystone. This report shall be provided to Keystone by the end of each calendar month for which the Sales Tax revenues funds are remitted to the County as described above. The County or its designee will reconcile sales within Keystone and validate information of new vendors as they are licensed by the Town and/or DOR that appear on the monthly reports.

(c) Such disbursed sales tax revenues shall first be credited to the County as reimbursement for the monthly sums advanced to Keystone as provided in Section 2.1 above. The County shall also be credited with an one-time administrative fee of \$5,000 (five thousand dollars), which includes both interest on the advanced sums plus a fee for administration of the tax revenues, until such sums that were advanced by the County plus the administrative fee are recouped from Keystone once Keystone begins receiving actual sales tax revenues from the DOR.

(d) The amount of disbursed sales tax revenues generated within Keystone each month that is in excess of the amount deposited to Keystone pursuant to section 2.1 above shall be deposited

with Keystone in the bank account provided by Keystone to the County by the last day of each month, once such revenues as are attributable to Keystone after the date of incorporation begin to be remitted by DOR. The Parties acknowledge that the monthly Countywide Sales Tax revenues and associated reports are not provided to the County by the DOR until approximately 75 days after the end of each calendar month; as such, the County shall use its good faith efforts to promptly perform its administrative and accounting review of such DOR revenues and reports and thereafter remit the balance of funds due to Keystone as provided for herein. In the event the actual sales tax revenues for any calendar month are less than the amount deposited with Keystone by the County, for that month, the deficiency shall be carried forward to the succeeding calendar month in which adequate revenues are received for reimbursement to the County as provided in subsection (b) above.

(e) Commencing with tax receipts for the month of July 2024, the Town will begin receiving tax revenues directly from the DOR (which are anticipated to be deposited in September 2024). The Town will use such funds to reimburse the County for those sums of money deposited with Keystone in advance during July and August, as well as any other sums that may be due hereunder until the County is reimbursed in full for its advance payments to Keystone.

Section 2.3 Final Accounting. The County will provide Keystone with a final accounting report of all Countywide Sales Tax revenues and disbursements pursuant to this Agreement for calendar year 2024 on or before March 1, 2025. The parties shall review such report and identify any issues of concern promptly after the submission of such report.

#### Section 2.4 Ongoing Tax Administration, Correction of Errors

(a) The Parties also acknowledge that at present there is only one DOR sales tax revenue code for all businesses and taxable transactions in and around the Keystone Resort in the Snake River Basin, without regard to whether such business will be located within Keystone or remain in the unincorporated area of the County. It is anticipated that there will be a need to correct a variety of reporting errors in the Countywide Sales Tax receipt coding and reporting during the period of this agreement (as well as all other tax reporting). The Parties agree to work in good faith to correct any such errors, administrative challenges or enforcement problems in full cooperation with each other and the DOR and ultimately create a new sales tax revenue code for Keystone.

(b) To address the above referenced challenges, the County or its designee shall take reasonable actions to determine the jurisdictional location of a vendor is correct, including making updates to location data for new vendors or annexed areas within thirty (30) days after the receipt of information from Keystone or other sources. The County or its designee shall make jurisdictional location available to Keystone monthly during calendar year 2024 and thereafter on an annual basis for a period of two years to verify the accuracy of the location data. In the event the jurisdictional location of a vendor or other business, entity or person that generates taxable transactions is not correct, the County and Keystone shall determine the correct jurisdictional location and allocate the Countywide Sales Tax in the manner provided by this Agreement. Any Party claiming an incorrect receipt of Countywide Sales Tax revenues shall notify Summit County and any other affected Party in writing of the alleged error. Such notification must be given within one year of the date the claiming Party knew or should have known through the exercise of

reasonable diligence of the alleged improper receipt of the Sales Tax revenues. In the event of any dispute between the Parties regarding the administration of the Countywide Sales Tax, the Finance Departments of both the Town and the County will attempt to informally address and resolve such dispute promptly, with the assistance of the DOR. If such efforts are unsuccessful, the Parties shall engage in the dispute resolution process described in Section 5 below.

### Section 3. Summit Combined Housing Authority Revenues

(a) Pursuant to Resolutions 06-02 and 2016-02 of the Summit Combined Housing Authority (“SCHA”), a multijurisdictional housing authority (“MJHA”), the SCHA currently imposes a sales tax, use tax, and a development impact fee throughout Summit County. The County currently receives all revenues derived from such taxes and fees from within the area to be incorporated as the Town of Keystone. Should Keystone become a member of the SCHA as provided by the Third Amended and Restated IGA Among Summit County and the Towns of Breckenridge, Dillon, Frisco, Montezuma, and Silverthorne (“SCHA IGA”) creating the MJHA, the County will distribute to the Town all such MJHA revenues generated in Keystone as directed by the SCHA. The County agrees to distribute the MJHA revenues to the Town in the manner provided in the SCHA IGA.

(b) Any MJHA development impact fee revenues received by the County subsequent to the incorporation of Keystone and its membership in the SCHA shall be remitted to Keystone as provided for in Section 2 above. On the date that the administration of building service functions transfer to Keystone, Keystone acknowledges Keystone will be responsible for the administration, collection, and remittance of any MJHA development impact fees in accordance with Keystone’s rules, regulations, and policies.

### Section 4. Lodging Tax

(a) Pursuant to Resolution 22-57 of the Board of County Commissioners, the County has imposed a lodging tax within Summit County which will cease to be collected within Keystone on July 1, 2024, in accordance with the laws, rules and regulations of the DOR concerning tax revenue collections. The Parties desire to confirm the County’s administration of such lodging tax revenues generated from within Keystone during the transition period.

(b) The County will continue to administer and collect the lodging tax in accordance with the applicable County regulations and procedures. The County will safekeep and retain all revenues collected from the lodging tax for the properties located in Keystone for the period of time between the Keystone Incorporation date and up to and including June 30, 2024. The County will safekeep and retain such revenue until June 30, 2027. The County and Keystone agree to collaborate and develop a plan for the expenditure of such lodging revenues generated in Keystone in accordance with all applicable authority. The County will continue to be solely responsible for the collection, administration and expenditure of such revenues and will indemnify, defend and hold Keystone harmless from its collection, administrations and expenditure of such revenues.

### Section 5. Dispute Resolution.



(a) The Parties shall attempt to informally resolve all disputes and claims arising from or related to this Agreement, beginning first with discussions among affected Town(s) and County staff, and if not resolved, escalating to discussions between the applicable Town Manager(s) and County Manager, and ultimately to the Town Council(s) and Board of County Commissioners. Disputes with any designee of the County shall be governed by separate agreement.

(b) Any and all disputes and claims arising from or related to this Agreement that are not resolved pursuant to Section (a), above shall thereafter be submitted to mediation. The affected Parties shall share equally the mediator's fees and costs associated with the mediation, and each Party shall pay its own fees, costs, and expenses related to the mediation. If the dispute is not resolved by mediation, any affected Party may commence a Court proceeding, with jurisdiction and venue residing exclusively in the Summit County District Court. Each Party waives its right to have such dispute decided by jury trial.

(c) In the event that the County or Town defaults in the performance of any of the duties and responsibilities under this Agreement, the non-defaulting Party shall be limited to the remedies of specific performance and mandamus. Prior to exercising such remedies, the non-defaulting Party shall give written notice to the other party of the nature of the claimed default and declare that such default must be cured within thirty (30) days from the date notice is given.

Section 6. No Assumption of Duty by County. The Parties understand and agree that this Agreement is intended solely to reflect the anticipated cooperative efforts of the Parties regarding the transition of revenue administration and disbursements to Keystone because of its incorporation. Each Party will remain responsible for its own compliance with all applicable laws and regulations.

Section 7. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties hereto relating to the work specified in Exhibit "A", and sets forth the rights, duties, and obligations of each as to the other as of the effective date hereof. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both Parties.

Section 8. General Provisions

(a) The parties acknowledge that this Agreement is entered into in a spirit of cooperation and with the common goal of providing services to their citizens. Each Party shall provide the other Party with reasonable access to all information reasonably necessary to allow the Parties to accomplish the purposes of this Agreement.

(b) Each Party and its officers, employees and agents shall remain employees of such Party and shall not, for any reason, be considered to be staff, officers, employees, agents or contractors of the other Party hereto.

Section 9. NO THIRD-PARTY BENEFICIARIES. This Agreement is also not intended and shall not be deemed to confer any benefit on any third party or otherwise be enforceable by any such third party whatsoever.

Section 10. CONTROLLING LAW. This Agreement shall be governed by and construed in accordance with the law of the State of Colorado.

Section 11. NOTICES. All notices in connection with this IGA must be in writing and signed by the party giving notice. Notice will be deemed properly delivered and received when personally delivered or upon deposit in the United States mail, first class postage prepaid. All such notices or other instruments will be addressed to the party at the address below or to such other addresses as the party may designate by written notice:

Summit County Government:  
Attn: Interim Summit County Manager  
P.O. Box 68  
Breckenridge, CO 80424

Town of Keystone  
Attn: Keystone Town Manager  
1628 Sts John Rd  
Keystone, CO 8080435

Section 12. ANNUAL APPROPRIATION. Notwithstanding any other provision to the contrary, this Agreement is dependent upon the Town and the County appropriating sufficient funds for payment of fees due under this Agreement or necessary to perform the services for such subsequent fiscal year.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written which shall hereafter be deemed to be the effective date of the Agreement. By the signature of each representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

**COUNTY OF SUMMIT,  
STATE OF COLORADO**

**ATTEST:** \_\_\_\_\_  
Clerk to the Board

\_\_\_\_\_  
Tamara Pogue, Chair  
Board of County Commissioners

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

**TOWN OF KEYSTONE,  
STATE OF COLORADO**

**ATTEST:** \_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Kenneth D. Riley, Mayor

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



# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

FROM: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen

DATE: February 8, 2024

SUBJECT: Resolution 2024-14 Authorizing A Professional Services Agreement With Accounting Firm

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### **Executive Summary:**

This resolution is for approval of a professional services agreement with Marchetti & Weaver, LLC.

### **Recommendation:**

Staff is recommending that Town Council approve Resolution No. 2024-14, authorizing execution of an agreement for accountant services.

### **Background:**

To conduct business, Town needs to contract with an accounting firm to provide accounting and financial services for the Town. This resolution authorizes execution of a service agreement with the accounting firm.

### **Alternatives:**

None currently.

### **Financial Considerations:**

The Town will pay Marchetti & Weaver approximately \$72,000 per year for the accounting services agreement.

### **Previous Council Actions:**

None.

### **Next Steps:**

None.

### **Suggested Motions:**

I move to APPROVE Resolution 2024-14, Authorizing A Professional Services Agreement With Accounting Firm.

I move to DENY Resolution 2024-14, Authorizing A Professional Services Agreement With Accounting Firm.

**Attachments:**

- Resolution 2024-14 Authorizing A Professional Services Agreement With Accounting Firm
- Exhibit A Professional Services Agreement.

**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-14**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT  
WITH ACCOUNTING FIRM**

WHEREAS, the Town of Keystone (“Town”) is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, the Town desires to enter into a professional services agreement with Marchetti & Weaver, LLC for the purposes of performing accounting services for the Town; and

WHEREAS, the Town desires to enter into an agreement with Paylocity for human resources payroll services; and

WHEREAS, the Town Council finds that it is in the best interests of the Town to enter into a Professional Services Agreement with Marchetti & Weaver, LLC.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The Professional Services Agreement between the Town of Keystone and Marchetti & Weaver, LLC for accounting services is authorized and approved in a form substantially similar to the form attached hereto as Exhibit A and made a part of this resolution. The Mayor is authorized to execute the Professional Services Agreement on behalf of the Town.

Section 2. This Resolution also authorizes the Mayor to execute an agreement with Paylocity for human resources payroll.

Section 3. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED by a vote of \_\_\_ in favor and \_\_\_ against, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.**

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney



EXHIBIT A  
PROFESSIONAL SERVICES AGREEMENT

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## AGREEMENT FOR PROFESSIONAL SERVICES

(Not for Use for Services Relating to Public Works Or Public Construction Projects)

THIS AGREEMENT FOR PROFESSIONAL SERVICES (the "Agreement") is made and entered into this 5th day of February, 2024 (the "Effective Date"), by and between the **TOWN OF KEYSTONE**, a Colorado home-rule municipal corporation with an address of 1628 Sts John Rd, Keystone, CO 80435 (the "Town"), and **Marchetti & Weaver, LLC**, an independent contractor with a principal place of business at 28 Second Street, Suite 213, Edwards, CO 81632 ("Contractor") (each a "Party" and collectively the "Parties").

WHEREAS, the Town requires professional services; and

WHEREAS, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required professional services.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **I. SCOPE OF SERVICES**

A. Contractor shall provide to the Town certain services and furnish all Deliverables described in **Exhibit A**, attached hereto and incorporated herein by this reference, and known as: **Accounting Services**. In addition, Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services set forth in **Exhibit A**.

B. A change in the Scope of Services or Deliverables shall not be effective unless authorized as an amendment to this Agreement. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

### **II. TERM AND TERMINATION**

A. This Agreement shall commence on the Effective Date and shall continue until terminated as provided herein.

B. Either Party may terminate this Agreement upon 120 days advance written notice. The Town shall pay Contractor for all work previously authorized and completed as of the date of termination. If, however, Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.

C. **Effect of Termination.** In the event of termination, Contractor shall immediately discontinue performance, and deliver to the Town all Work Product (as defined herein). Without prejudice to any other rights or remedies it may have hereunder or at law or in equity, the Town may itself or through another service provider take over any unfinished Services and Deliverables by whatever reasonable method it may deem

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expedient. In addition, at the Town's request, Contractor shall timely: (a) document in reasonable detail the status of the terminated Services and unfinished Deliverables; (b) submit a final accounting and final invoice of charges for all outstanding and unpaid Services and reimbursable expenses performed prior to the Contractor's receipt of notice of termination and for any services authorized to be performed by the notice of termination; and (c) deliver to the Town copies of all documents and data reasonably required for the completion of any unfinished Services and Deliverables.

D. Nothing in this Agreement shall prevent, preclude, or limit any claim or action for default or breach of contract resulting from non-performance by a Party, nor shall it preclude the Parties from executing a written amendment or agreement to suspend the Services upon terms and conditions mutually acceptable to the Parties for any period of time.

### III. COMPENSATION

A. In consideration for the Contractor's completion of the Scope of Services and furnishing of Deliverables, and subject to any adjustments authorized under this Agreement, the Town shall pay Contractor (check and initial as applicable below):

\_\_\_\_\_ A fixed sum of \$ \_\_\_\_\_.

\_\_\_\_\_ Based upon services rendered and billed in accordance with the rate schedule attached hereto as Exhibit A, but in no event shall the total compensation exceed \$ \_\_\_\_\_.

\_\_\_\_\_ As described in Exhibit A.

This amount shall include all fees, costs and reimbursable expenses (defined below) incurred by Contractor, and no additional amounts shall be paid by the Town for such fees, costs and expenses. Contractor may submit periodic invoices, but may not submit invoices more frequently than monthly, which shall be paid by the Town within 30 days of receipt.

B. Reimbursable Expenses. The following fee, cost, charge or expense explicitly stated below shall be considered "reimbursable expenses" for purposes of this Agreement and may be billed to the Town without administrative mark-up, but which must be accounted for by the Contractor and proof of payment shall be provided by the Contractor with the Contractor's monthly invoices:

None

Vehicle Mileage (billed at not more than the prevailing per mile charge permitted by the Internal Revenue Service as a deductible business expense)

Printing and Photocopying Related to the Services (billed at actual cost)

Long Distance Telephone Charges Related to the Services

Postage and Delivery Services

- 
- Lodging and Meals (but only with prior written approval of the Town as to dates and maximum amount)

Any fee, cost, charge, or expense incurred by the Contractor not otherwise specifically listed or stated in this Section III.B shall be deemed a non-reimbursable cost that shall be borne by the Contractor, and shall not be paid by the Town.

C. Contents of Invoices. Invoices shall include the basis upon which payment is requested, such as actual time, number of hours worked, materials and expenses, along with a general description of the Services performed and/or Deliverables worked on, the start and completion dates of any Services or Deliverables, and who performed the Services or completed the Deliverables. Contractor shall provide appropriate supporting documentation with each invoice.

D. Disputes. If there exists a good faith dispute with regard to an item appearing on an invoice, the Town has the right to withhold payment on any amounts that are disputed while the Parties attempt to resolve the dispute, provided that the Town provides Contractor with notice of such dispute within thirty (30) days after receipt of the invoice and pays all undisputed amounts by the due date. The Town's withholding of such disputed amount shall not constitute a breach of this Agreement, nor shall it be grounds for Contractor to suspend or terminate its performance of undisputed Services.

E. Set Off: In addition to any other rights the Town has under this Agreement to indemnification or recoupment, Contractor agrees that the Town is entitled to set off any amounts it may owe Contractor under this Agreement against such claims for indemnity or recoupment.

#### **IV. PROFESSIONAL RESPONSIBILITY**

A. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professionals in the same or similar type of work in the applicable community. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

B. Contractor further warrants and acknowledges as follows: (1) Contractor shall not access, process or otherwise use Dependency Information other than as necessary to facilitate Services; (2) shall not give any third party access to Dependency Information, including without limitation Contractor's other customers or clients; (3) shall exercise commercially reasonable efforts to prevent unauthorized exposure or disclosure of Dependency Information, and shall implement administrative, technical and physical safeguards for managing unauthorized disclosure or exposure of Dependency Information stored by Contractor; and (4) in the event that Contractor has on-site or remote access to Town systems or networks in connection with the Services hereunder, Contractor will comply with the Town's security requirements.

C. The Town's review, approval or acceptance of, or payment for any services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

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D. Because the Town has hired Contractor for its professional expertise, Contractor agrees not to employ subcontractors to perform any work except as expressly set forth in the Scope of Services.

E. Except with the Town's knowledge and consent, Contractor shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise Contractor's professional judgment with respect to this Project.

## **V. OWNERSHIP**

A. Client Materials. All right, title and interest in and to any materials provided by the Town to Contractor, including without limitation, Dependency Information, hardware, software, equipment and other pre-existing technology, other materials of any kind and nature, and any trademarks, service marks, trade logos or other pre-existing intellectual property rights ("Client Materials") are and shall remain the sole property of the Town. Town grants to Contractor a limited, nontransferable, fully-paid, royalty-free, non-sublicensable, nonexclusive right during the term of this Agreement to copy, store, record, transmit, display, view, print or otherwise use the Client Materials solely to the extent necessary to perform its obligations under this Agreement. No Client Materials shall be removed from the Town's premises without the Town's prior written consent. All Client Materials shall be returned upon the earlier of (a) the Town's request for their return; and (b) completion or termination of the Services. Contractor shall maintain such materials in good condition.

B. Work Product. Any Deliverables, materials, items, and work specified in the Scope of Services, and any and all related documentation and materials provided or developed by Contractor ("Work Product") have been or will have been specially ordered or commissioned by the Town, and accordingly, each is and will be a "work made for hire" (as such term is used in 17 U.S.C. § 201) for the Town, effective as of the moment each such item is fixed in a tangible medium, whether or not such item is complete. Contractor hereby transfers and assigns to the Town all of its all right, title, and interest in and to all Work Product, including, but not limited to, all United States and foreign copyright, patent, trademark, trade secret and any other proprietary rights pertaining to such Work Product held by Contractor To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving consent from Contractor. The forgoing shall not apply to previously created and/or owned intellectual property of Contractor. Nothing in this Agreement will prevent Contractor from retaining copies of documents for the lawful use in its own business purposes. Contractor will provide the Town with a ten (10) day written notice prior to disposal of documents it has retained, during which time the Town may take physical possession of same

## **VI. INDEPENDENT CONTRACTOR**

Contractor is an independent contractor, and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with the Town. Notwithstanding any other provision of this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is a Town employee for any purposes. Contractor understands that Contractor is not entitled to unemployment insurance benefits from the Town,

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nor is it or its agent or employees entitled to workers' compensation benefits. Contractor shall be responsible for payment of all taxes, including federal, state and local taxes arising out of Contractor's activities under this Agreement, including, by way of illustration but not limitation, federal and state income tax, social security tax, unemployment insurance taxes, and any other taxes or business license fees as required.

## **VII. INSURANCE**

A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Agreement. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.

2. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers, employees, and contractors as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

3. Professional liability insurance with minimum limits of \$1,000,000 each claim and \$2,000,000 general aggregate.

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees or its contractors shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

## **VIII. INDEMNIFICATION**

A. Contractor agrees to indemnify and defend the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any

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officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor. Contractor's liability under this indemnification provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor.

B. If Contractor is providing architectural, engineering, surveying or other design services under this Agreement, the extent of Contractor's obligation to indemnify the Town may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement between the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

## **IX. TOWN OBLIGATIONS/CONFIDENTIALITY**

A. Dependency Information. The Town shall provide Contractor with data, information, reports and such other documentation ("Dependency Information") as may be available to the Town, and reasonably required by Contractor perform the Services or furnish the Deliverables.

B. Access to Property and Records. The Town shall provide Contractor with access to its property as required and necessary to perform the Services or to complete the Deliverables. To the extent required by law, the Town and Contractor agree to make this Agreement and any related records available for public disclosure pursuant to any open records law, including, without limitation, the Colorado Open Records Act, C.R.S. §§ 24-72-200.1, *et seq.* Contractor agrees to hold the Town harmless from the disclosure of any records that the Town reasonably believes it is legally required to disclose.

C. Confidentiality; Protection. From time to time during the Term, either party may disclose or make available to the other party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media, and whether or not marked, designated or otherwise identified as "confidential" (collectively, "Confidential Information"). Confidential Information does not include information that, at the time of disclosure is: (i) in the public domain; (ii) known to the receiving party at the time of disclosure; (iii) rightfully obtained by the receiving party on a non-confidential basis from a third party; or (iv) independently developed by the receiving party. The receiving party shall not disclose the disclosing party's Confidential Information to any person or entity, except to the receiving party's employees who have a need to know the Confidential Information for the receiving party to exercise its rights or perform its obligations hereunder. Contractor expressly recognizes that the Town is subject to the Colorado Open Records Act and may be required to disclose certain information pursuant to the requirements of that Act. Notwithstanding the foregoing, each party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the party making the disclosure pursuant to the order shall first have given written notice to the other party so that the disclosing party may interpose an objection to such disclosure or take such other action as it deems appropriate to protect the Confidential Information; or (ii) to establish a party's rights under this Agreement, including to make required court filings.

D. Return of Materials. Upon expiration or termination of this Agreement, except as necessary to exercise the rights granted by the Town to Contractor pursuant to Section III, each Party will return promptly or, at the other Party's request, destroy all documents and other tangible objects containing or representing

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Confidential Information of the other Party except to the extent that such documents must be retained to satisfy auditing or regulatory requirements. If requested by the other Party, each Party will provide the other Party with written certification of compliance with the foregoing obligations under this Section X.D

**X. MISCELLANEOUS**

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Summit County, Colorado.

B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. Integration. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. Third Parties. There are no intended third-party beneficiaries to this Agreement.

E. Notice. Any notice to the parties required under this Agreement shall be in writing, delivered to the person designated below for the parties at the indicated address unless otherwise designated in writing. Only mailing by United States mail or hand delivery shall be utilized for notice required to be given under this Agreement. Facsimile and e-mail addresses are provided for convenience only. However, copies of mailed or hand-delivered notices may be sent to the parties via e-mail or facsimile.

**TOWN:** Town Manager  
1628 Sts John Road  
Keystone, CO 80435

**CONTRACTOR:** Kenneth Marchetti  
28 2<sup>nd</sup> St, Ste 213  
Edwards, CO 81632

F. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. Modification. This Agreement may only be modified upon written agreement of the Parties.

H. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

I. Governmental Immunity. The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

J. Rights and Remedies. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way



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limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

K. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

L. Representative Authority. Each person signing this Agreement represents and warrants that he or she is duly authorized and has the legal capacity to execute the Agreement.

M. Counterparts and Signatures. This Agreement may be executed by the parties in counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall constitute one and the same Agreement. Each of the parties shall be entitled to rely upon a counterpart of the instrument executed by the other party and sent by facsimile or electronic transmission. The parties further agree this Agreement may be executed by electronic signatures, and any electronic signatures, electronic record of this Agreement containing an electronic signature, or a paper copy of an electronic signature shall be binding upon the party providing such electronic signature as if it were the party's original signature .

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**TOWN OF KEYSTONE, COLORADO**

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Kenneth D. Riley, Mayor

ATTEST:

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Town Clerk

APPROVED AS TO FORM:

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Town Attorney

**CONTRACTOR**

By: 

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**EXHIBIT A**  
**SCOPE OF SERVICES and COMPENSATION**

Marchetti Weaver Proposal to Town of Keystone, February 5, 2024



February 5, 2024

Mr. Ken Riley, Mayor-elect  
Town Council  
Town of Keystone

We are pleased to submit a proposal to provide accounting and financial services to Town of Keystone (referred to herein as “Town”) and hereby respectfully submit our proposal to perform the services detailed below. Services we will perform are:

**Accounting and Financial Statement Preparation** – The fundamental service the Firm provides is an integrated financial reporting system that is oriented toward providing budgetary and managerial financial reports including long range financial projections. These reports are designed to provide information to the Town council to equip them with the financial information they need to manage the financial affairs of the Town in a professional and prudent manner. The financial statements compiled by the Firm are designed to be budgetary and managerial in nature rather than “GAAP” (generally accepted accounting principles) and are reconciled to the annual audit that is prepared on a GAAP basis. The financial statements we prepare may not include the statement of net position, the statement of activities, management discussion and analysis and related notes to the financial statements. It is hereby noted that such disclosures will be included in the Town’s annual audited financial statements. The summary of significant accounting policies required by the guidelines for presentation of a forecast established by the American Institute of Certified Public Accountants (AICPA) may also be omitted.

**Financial Planning and Cash Flow Projections** – Whether used for internal planning or in conjunction with long-term financing, a long range financial plan or cash flow model is a very helpful financial tool. The Firm utilizes this tool prepared in conjunction with the Council and management staff to help the Town plan for and manage its long-term finances. Long range financial plans prepared by the Firm are typically an integral part of the Town’s strategic planning process.

**Budgeting** – A significant emphasis is placed on the budgeting process, working closely with the Town to budget expenditures and corresponding revenue sources. This process involves analyzing revenue sources such as sales taxes, property taxes, service fees, etc. Actual financial results are then compared to budgets on an ongoing basis and financial forecasts are updated so the Town can monitor not only “where it has been” but also “where it is going”.

**Audit Workpaper Preparation and Audit Coordination** – Our Firm is not independent from the Town’s financial reporting and therefore is not eligible to audit the Town. The Town is required to be audited on an annual basis by an independent CPA firm. We will

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***Mountain Office***

28 Second Street, Suite 213  
Edwards, CO 81632  
(970) 926-6060

***Website & Email***

[www.mwcpaa.com](http://www.mwcpaa.com)  
[Admin@mwcpaa.com](mailto:Admin@mwcpaa.com)

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***Front Range Office***

245 Century Circle, Suite 103  
Louisville, CO 80027  
(720) 210-9136

work with the Council for selection of an independent CPA audit firm and at the end of each fiscal year we will prepare audit workpapers and coordinate the audit with the independent auditors. The auditors will also coordinate directly with Town management and selected Board members to ensure an open communication channel between the Town and the independent auditors. The Firm also works closely with the State Auditor when necessary if audit issues arise.

**Cash Investments and Cash Management** – The Firm assists with placement of the Town’s cash investments in accounts and investments that meet the investment policy of the Town and that maximize the Town’s income within the parameters of safety and liquidity established by the Town.

**Bond Issuance and Ongoing Reporting** – When needed, the Firm will work closely with bond underwriters and bond counsel for issuance of bonds as well as compliance with continuing disclosure undertakings.

**Equipment Financing** – the Firm can coordinate equipment financing and lease/purchase agreements to finance the purchase of equipment for the Town.

**Arbitrage Compliance** – The Firm coordinates with specialists in the extremely complex area of arbitrage compliance to ascertain that its Town is compliant in this area.

**Payroll and Employee Benefits** – The Firm works with the Council to determine desired employment benefit packages and then facilitates setting up and administering employment benefit plans and programs. And the Firm handles payroll preparation and all related payroll tax reporting and filing on behalf of the Town.

## **Our Responsibilities**

The objective of the financial statement preparation portion of our engagement is to prepare financial statements in accordance with accounting principles generally accepted in the United States of America based on information provided by you and from accounting records you provide. We will conduct our engagement in accordance with Statements on Standards for Accounting and Review Services (SSARS) promulgated by the Accounting and Review Services Committee of the AICPA and comply with the AICPA’s Code of Professional Conduct, including the ethical principles of integrity, objectivity, professional competence, and due care. We are not required to, and will not, verify the accuracy or completeness of the information you will provide to us for the engagement or otherwise gather evidence for the purpose of expressing an opinion or a conclusion. Accordingly, we will not express an opinion or a conclusion or provide any assurance on the financial statements.

Our engagement cannot be relied upon to identify or disclose any financial statement misstatements, including those caused by fraud or error, or to identify or disclose any wrongdoing within the entity or noncompliance with laws and regulations.

**The Council’s Responsibilities**

The engagement to be performed is conducted on the basis that the Council acknowledges and understands that our role is to prepare financial statements in accordance with accounting principles generally accepted in the United States of America. The Council has the following overall responsibilities that are fundamental to our undertaking the engagement to prepare your financial statements in accordance with SSARS:

- a) For prevention and detection of fraud
- b) To ensure that the entity complies with the laws and regulations applicable to its activities
- c) For the accuracy and completeness of the records, documents, explanations, and other information, including significant judgments, you provide to us for the engagement to prepare financial statements
- d) To provide us with:
  - i) Documentation, and other related information that is relevant to the preparation and presentation of the financial statements,
  - ii) Additional information that may be requested for the purpose of the preparation of the financial statements, and
  - iii) Unrestricted access to persons within Town of Keystone of whom we determine necessary to communicate.

The financial statements will not be accompanied by a report. However, you agree that the financial statements will clearly indicate that no assurance is provided on them.

**Other Relevant Information**

Our fees for these services will be billed on an hourly rate basis based on our actual time incurred at our standard billing rates. Current 2024 rates for staff proposed to be assigned to the Town are as follows:

Ken Marchetti- Principal	\$283/hour generally but certain tasks may be billed at a higher rate, for example bond transactions
Account Managers	\$150-\$180/hour

Current billing rates may be increased (generally commensurate with inflation) for 2025 and future years. We may also charge for out-of-pocket expenses incurred such as, including but not limited to, computer and copy expenses, office supplies used directly by the Town, postage, and travel expenses for Town business.

Marchetti & Weaver, LLC hereby states that as of the date of this letter, it does not knowingly employ or contract with an illegal alien who will perform work under this agreement and that it will participate in the “E-Verify Program” or “Department Program” (as defined in §8-17.5-101 & 102, C.R.S.) in order to confirm the employment eligibility of all employees who are newly

MARCHETTI & WEAVER, LLC

Town of Keystone  
February 5, 2024  
Page 4

hired for employment to perform work under this agreement. The provisions of §8-17.5-102 (2) (b), C.R.S. are incorporated herein by this reference. If we fail to comply with any provision of §8-17.5-101 & 102, C.R.S., the Town may terminate this agreement for breach of contract, and we shall be liable for actual and consequential damages to the Town. We shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation pursuant to §8-117-102.

We will be pleased to discuss this letter with you at any time.

Respectfully,  
MARCHETTI & WEAVER, LLC

Kenneth J. Marchetti, Principal

RESPONSE:

This proposal is accepted and agreed to and correctly sets forth the understanding between Marchetti & Weaver, LLC and Town of Keystone.

TOWN OF KEYSTONE

\_\_\_\_\_  
President

\_\_\_\_\_  
Date

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen, Town Attorney

DATE: February 8, 2024

SUBJECT: Resolution 2024-15, Authorizing A Corporate Banking Agreement With FirstBank

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### **Executive Summary:**

The resolution is a formal approval of banking relationship with FirstBank.

### **Recommendation:**

The Interim Town Manager and Town Attorney recommend approval of this resolution.

### **Background:**

Town needs to establish a banking relationship in order to conduct regular business. To establish this banking relation, the Town Council needs to enter into an agreement with FirstBank. This resolution designates Interim Town Manager Gary Martinez and Mayor Kenneth D. Riley as signers on the accounts.

### **Alternatives:**

There are no alternatives.

### **Financial Considerations:**

There are no financial considerations.

### **Previous Council Actions:**

None.

### **Next Steps:**

None.

### **Suggested Motions:**

I move to APPROVE Resolution 2024-15 Authorizing A Corporate Banking Agreement With FirstBank.

I move to DENY Resolution 2024-15 Authorizing A Corporate Banking Agreement With FirstBank.

**Attachments:**

- Resolution 2024-15 Authorizing A Corporate Banking Agreement With FirstBank



**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-15**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
AUTHORIZING A CORPORATE BANKING AGREEMENT WITH FIRSTBANK**

WHEREAS, the Town of Keystone desires to establish a banking relationship in order to conduct regular business; and

WHEREAS, the Town of Keystone wishes to enter into a banking agreement with FirstBank Mountains Market 160 US Hwy 6, P.O. Box 347, Silverthorne, CO 80498 to define the service, responsibilities and liabilities for both parties, and the security and regulatory requirements; and

WHEREAS, the Town Council believes that it is in the best interest of the Town to enter into such banking agreement.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The Town is authorized and directed to enter into a banking arrangement with FirstBank Mountains Market, Attn Michael Shambarger-EVP, 160 US Hwy 6, P.O. Box 347, Silverthorne, CO 80498.

Section 2. Mayor Kenneth D. Riley and the Interim Town Manager Gary Martinez are authorized signers for the banking agreements.

Section 3. The Mayor and the Interim Town Manager are authorized to execute necessary agreements for the banking relationship with FirstBank.

Section 4. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED** by a vote of \_\_\_ in favor and \_\_\_ against, this \_\_\_\_\_ day of \_\_\_\_\_,  
**2024.**

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers  
FROM: Gary Martinez, Interim Town Manager  
FROM: Jennifer Madsen  
DATE: February 8, 2024  
SUBJECT: Resolution 2024-16 Authorizing Purchase of Laptops

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### **Executive Summary:**

This resolution is for approval of purchase of laptops.

### **Recommendation:**

Staff is recommending that Town Council approve Resolution No. 2024-16.

### **Background:**

The resolution authorizes approval of laptops Town staff and Town Council.

### **Alternatives:**

None currently.

### **Financial Considerations:**

The Town will pay \$13,427 for the laptops.

### **Previous Council Actions:**

None.

### **Next Steps:**

None.

### **Suggested Motions:**

I move to APPROVE Resolution 2024-16, Authorizing Purchase of Laptops.

I move to DENY Resolution 2024-16, Authorizing Purchase of Laptops.

### **Attachments:**

- Resolution 2024-16 Authorizing Purchase of Laptops
- Exhibit A Purchase Order

**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-16**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
AUTHORIZING AN AGREEMENT FOR INFORMATION TECHNOLOGY SERVICES**

WHEREAS, the Town of Keystone (“Town”) is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, the Town desires to purchase laptops to allow Town staff and Town Council to conduct business.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The Mayor is authorized to sign the purchase order attached as Exhibit A for purchase of laptops for Town staff and Town Council.

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED by a vote of \_\_\_ in favor and \_\_\_ against, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.**

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

EXHIBIT A  
Purchase Order

# Purchase Order



The Town of Keystone

Attn: Accounts Payable

1628 Sts John Rd

Keystone, CO 80435

Phone: (719.239.3551

Fax: 970.262.0152

townofkeystone@outlook.com

DATE: 1/30/2024

EIN: 99-0786151

PO# 24- 00002

Approved By:

**Kenneth D. Riley**

Mayor, Town of Keystone

**VENDOR:**

Verticomm

1635 W. 13th Ave.

Denver, CO 80204-2403

Phone: (303)295-0741

mjaso@verticomm.com

**SHIP TO:**

The Town of Keystone

Attn: Rick Kerr

1628 Sts John Rd

Keystone, CO 80435

719.239.3551

**SHIPPING TERMS**

Cost, Insurance & Freight

**SHIPPING METHOD**

tbd

**DELIVERY DATE**

2/2/2024

Item	Part #	DESCRIPTION	QTY	UNIT PRICE	TOTAL
1		Lenovo ThinkPad E14 Gen 5 14" Touchscreen Notebook - WUXGA - 1920x1200 - Intel Core i5 13th Gen i5-1335U Deca-core (10 Core) 1.30 GHz - 16 GB Total RAM - 8 GB On-board Memory - 512 GB SSD - Graphite Black - Intel Chip - Windows 11 Pro - Intel	7	\$1,037.04	\$7,259.28
2		Lenovo ThinkPad E16 Gen 1 16" Touchscreen Notebook - WUXGA - 1920x1200 - Intel Core i5 13th Gen i5-1335U Deca-core (10 Core) 1.30 GHz - 16 GB Total RAM - 8 GB On-board Memory - 512 GB SSD - Graphite Black - Intel Chip - Windows 11 Pro - Intel	6	\$1,026.19	\$6,157.14

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Comments or Special Instructions

per Verticomm quote # 011767

SubTotal	13,416.42
Tax	0.00
Shipping	10.22
<b>TOTAL</b>	<b>\$13,426.64</b>

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

FROM: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen

DATE: February 8, 2024

SUBJECT: Resolution 2024-17 Authorizing Benefits Package for Town Staff and Town Council

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### **Executive Summary:**

This resolution is for approval of a benefits package for Town Staff and Town Council.

### **Recommendation:**

Staff is recommending that Town Council approve Resolution No. 2024-17, authorizing a benefits package for Town Staff and Town Council.

### **Background:**

With the incorporation of the Town of Keystone, employees are needed to conduct the day-to-day business of the Town. To hire and retain employee, the Town will need to provide employee benefits. This resolution authorizes approval of a benefit package for Town Staff and Town Council.

### **Alternatives:**

None currently.

### **Financial Considerations:**

The Town will incur monthly expenses depending on the number of employees for the benefits package.

### **Previous Council Actions:**

None.

### **Next Steps:**

None.

### **Suggested Motions:**

I move to APPROVE Resolution 2024-17, Authorizing Benefits Package for Town Staff and Town Council.

I move to DENY Resolution 2024-17, Authorizing Benefits Package for Town Staff and Town Council.

**Attachments:**

- Resolution 2024-17 Authorizing Benefits Package for Town Staff and Town Council
- Exhibit A Benefits Package



**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-17**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
AUTHORIZING BENEFITS PACKAGE FOR TOWN STAFF AND TOWN COUNCIL**

WHEREAS, the Town of Keystone (“Town”) is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, the Town desires to provide benefits, including retirement, health insurance, and other benefits, to its staff to attract and retain employees to conduct the day-to-day business of the Town; and

WHEREAS, the Town Council finds that it is in the best interests of the Town to enter into agreements for a benefits package for Town staff.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. Town Council approves adopting a benefits package. The Mayor is authorized to execute any of documents in order to implement the benefits on behalf of the Town.

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED** by a vote of \_\_\_ in favor and \_\_\_ against, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

THROUGH: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen

DATE: February 8, 2024

SUBJECT: Resolution 2024-18, Adopting a Policy Regarding Public Comment for Town Meetings

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### **Executive Summary:**

In accordance with organized meeting practice and consistent with First Amendment jurisprudence, this resolution establishes a policy for public comment for Town Council meetings until such time as Town Council approves its rules of procedure.

### **Recommendation:**

Staff recommends that the Town Council approve Resolution 2024-18 adopting a policy regarding public comment for Town Council meetings.

### **Background:**

Consistent with organized meeting practice and the First Amendment, it is helpful to have protocols and requirements in place for facilitating the public's right to debate and discuss (even criticize) how their government is performing while balancing the need to accomplish business in a reasonably efficient manner.

### **Alternatives:**

N/A

### **Financial Considerations:**

None.

### **Previous Council Actions:**

None.

### **Next Steps:**

None.

### **Suggested Motions:**

I move to APPROVE Resolution 2024-18 Adopting a Policy Regarding Public Comment for Town Meetings

I move to DENY Resolution 2024-18 Adopting a Policy Regarding Public Comment for Town Meetings

**Attachments:**

- Resolution 2024-18 Adopting a Policy Regarding Public Comment for Town Meetings

**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-18**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
ADOPTING A POLICY REGARDING PUBLIC COMMENT FOR TOWN COUNCIL  
MEETINGS**

WHEREAS, the Town of Keystone (“Town”) is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, the Town has a legitimate, compelling interest in conducting orderly, efficient Town Council meetings to ensure that it can accomplish its business in a reasonably efficient manner during such meetings; and

WHEREAS, Town Council meetings, and the “public comment” period of such meetings, shall be and shall remain a limited public forum available for First Amendment purposes; and

WHEREAS, a limited public forum allows the government to regulate certain features of speech, including content, if the restrictions are viewpoint-neutral and reasonable considering the forum’s purpose; and

WHEREAS, consequently, Town Council is free to decide to whether to offer a “public comment” period at its meetings in the first place, to limit comments to relevant subject matters, to set an overall time limit for “public comment” and to impose time limits for individual speakers during such period so as to control disruptive or overly repetitive speakers, and to decide when the public comment period of their meetings will occur during Town Council meetings—whether it be at the beginning or end of the meeting—so as to ensure order at its meeting and not to impair the performance of City business; and

WHEREAS, the Town Council also recognizes that the purpose of a public comment period is to permit the public an opportunity to raise matters of public concern with their elected officials and in so doing to address, praise, and/or criticize their elected officials; and

WHEREAS, until such time as Town Council adopts its procedures and rules of order, the Town Council desires to establish protocols and reasonable requirements for public comments during the “Public Comment” period at its meeting in furtherance of maintaining order and decorum during public meetings, and finds that such requirements are a rational means to advancing the municipality’s broader interest in conducting orderly, efficient Town Council meetings so that it can accomplish its business in a reasonably efficient manner, while also facilitating continued public engagement in the Town government.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. Each regular meeting agenda will contain a public comment period, which shall occur near the beginning of the meeting. The total time for public comment shall not exceed thirty (30) minutes. Once that total time is reached, public comment is closed for the meeting. Any public statements made during Public Comment are subject to the following rules:

- (a) Before delivering any remarks, a participant must first state their name and the general area of Town where such person lives (if the participant resides in the Town), the city/town of such person's place of residence (if the speaker lives outside of Town), or group affiliation, if acting as a representative of an entity, organization, or group.
- (b) A participant may speak only once.
- (c) A participant may speak for a maximum of three (3) minutes.
- (d) A participant may not donate or yield their time to speak to another speaker to extend that person's time, except that a participant's time may be shared with or donated to another speaker who has been selected to serve as a spokesperson to represent a group's views. In such case, the spokesperson may speak for a maximum of five (5) minutes.
- (e) A participant who wants to display any materials, such as presentations or videos, during such person's public comments must send them via email to the Town Clerk by 5:00 p.m. the day prior to the meeting.
- (f) A participant who has any documentation or written comments to present to the Town Council must provide them to the clerk for distribution. If possible, a total of seven (7) copies of any document should be provided.
- (g) A participant may speak on matters that are not on the regular agenda regarding matters of public concern.
- (h) A participant may not prevent or attempt to prevent another participant from speaking by carrying out or employing a heckler's veto on the speaker, such as playing loud music, chanting, shouting down, or using other disruptive tactics to censor or silence another participant's remarks.
- (i) A participant may not engage in conduct that directly, demonstrably, and imminently causes or threatens to cause specific, objectively serious harm.

Section 2. Public Comment is not intended for a discussion or entering into a dialogue with Town Council. Accordingly, the Town Council will not engage in a debate or back-and-forth discussion with a speaker nor respond to questions during Public Comment. The Town Council or a staff member may reply later using the contact information provided on the public comment sheet.

Section 3. The Town may provide a reasonable accommodation to any individual possessing a disability upon request, to provide such person access to Town Council meetings. A request for reasonable accommodation for disability, or other assistance, should be made, if possible, at least three (3) days in advance, to the town clerk.

Section 4. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED** by a vote of    in favor and    against, this        day of           , 2024.

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers

FROM: Gary Martinez, Interim Town Manager

FROM: Jennifer Madsen

DATE: February 8, 2024

SUBJECT: Resolution 2024-19 Authorizing A Lease Of A Portion Of The Keystone Center

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### **Executive Summary:**

The Town and The Keystone Center have negotiated the attached lease for a portion of the Keystone Center located at 1628 Saints John Road, Keystone, Colorado 80435. The Town intends to lease, occupy, and use a portion of the Keystone Center to serve as the site of Town Hall and for use as a government workplace. The initial term of the proposed lease is one year.

### **Recommendation:**

Staff is recommending that Town Council approve Resolution No. 2024-19, authorizing a lease of a portion of the Keystone Center.

### **Background:**

Presently, the Town does not own or lease any real property or other physical space in which to conduct Town business, public hearings, and all other governmental, administrative and ministerial matters. The Town, as a home-rule municipality, may acquire or lease real property for such municipal purposes. The Town has identified a space within the Keystone Center as a potential site for Town Hall where Town Council may meet and to serve as a government workplace.

### **Alternatives:**

None currently.

### **Financial Considerations:**

The Town will pay The Keystone Center in the amount of approximately \$56,000 for monthly rent for the duration of the lease term and a security deposit of \$4,900.

### **Previous Council Actions:**

None.

**Next Steps:**

None.

**Suggested Motions:**

I move to APPROVE Resolution 2024-19, Authorizing A Lease Of A Portion Of The Keystone Center.

I move to DENY Resolution 2024-19, Authorizing A Lease Of A Portion Of The Keystone Center.

**Attachments:**

- Resolution 2024-19 Authorizing A Lease Of A Portion Of The Keystone Center
- Exhibit A Keystone Center Lease Agreement.



**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-19**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
AUTHORIZING A LEASE OF A PORTION OF THE KEYSTONE CENTER**

**WHEREAS**, the Town of Keystone (“Town”) is a home rule municipality governed by the Keystone Home Rule Charter; and

**WHEREAS**, The Keystone Center owns approximately 5.75 acres more or less of real property located at 1628 Saints John Road, Keystone, Colorado 80435, which is the site of the Keystone Center (the “Property”); and

**WHEREAS**, the Town desires to enter into a lease with The Keystone Center to use of a portion of the Property as Town Hall and for a government workplace; and

**WHEREAS**, the Town Council finds that it is in the best interests of the Town to lease the Property from the Keystone Center.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The Lease Agreement between the Town of Keystone and the Keystone Center for use of a portion of he Keystone Center as Town Hall and as a government workplace is authorized and approved in the form substantially similar to the form attached hereto as Exhibit A and made a part of this resolution. The Mayor is authorized to execute the Lease Agreement on behalf of the Town.

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED by a vote of \_\_ in favor and \_\_ against, this \_\_\_\_ day of \_\_\_\_\_, 2024.**

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney

EXHIBIT A  
LEASE AGREEMENT

**OFFICE LEASE**  
**SUMMARY OF BASIC LEASE TERMS**

1. Tenant: Town of Keystone
2. Building.
  - (a) Address: 1628 Sts. John Rd, Keystone, Colorado 80435
3. Demised Premises.
  - (a) Approximate Total Floor Area:
    - Small Offices - approximately 100 square feet per office
    - Medium Offices - approximately 130 square feet per office
    - Large Office - approximately 180 square feet
    - Community room - approximately 1748 square feet
    - Downey Library - approximately 380 square feet
    - Common Space - approximately 340 square feet
  - (b) Address: Offices 101, 102, 103, 104, 105, 106, 107, 109, and 111 of the building in addition to the Downey Memorial Library and the east end common space
4. Lease Term.
  - (a) February 1, 2024 through January 31, 2025 (as further described in Section 2.2 of this Lease)
  - (b) Details:
    - Monthly Rent - February 1, 2024 - \$1,900
    - Monthly Rent - March 1, 2024 through January 31, 2025 - \$4,900

Office Number	Size	Monthly Rent	Total Rent	Lease Dates
107	Small	\$ 350.00	\$ 4,200.00	2/1/24 - 1/31/25
109	Small	\$ 350.00	\$ 4,200.00	2/1/24 - 1/31/25
111	Large	\$ 600.00	\$ 7,200.00	2/1/24 - 1/31/25
Community Room		\$ 600.00	\$ 7,200.00	2/1/24 - 1/31/25
103	Medium	\$ 400.00	\$ 4,400.00	3/1/24 - 1/31/25
104	Medium	\$ 400.00	\$ 4,400.00	3/1/24 - 1/31/25
105	Medium	\$ 400.00	\$ 4,400.00	3/1/24 - 1/31/25
106	Medium	\$ 400.00	\$ 4,400.00	3/1/24 - 1/31/25
101	Corner	\$ 400.00	\$ 4,400.00	3/1/24 - 1/31/25
102	Corner	\$ 400.00	\$ 4,400.00	3/1/24 - 1/31/25
Downey Library		\$ 350.00	\$ 3,850.00	3/1/24 - 1/31/25
Common Space		\$ 250.00	\$ 2,750.00	3/1/24 - 1/31/25
		\$ 4,900.00	\$55,800.00	

6. Initial Payment Due May 1, 2024:
  - (a) February through May Rent totaling \$16,600.00
  - (b) Security Deposit of \$4,900.00
7. Address for Notices and Payment to Landlord.
 

Keystone Policy Center  
1628 Sts John Rd  
Keystone, CO 80435
8. Address for Notices and Billings to Tenant.
 

Town of Keystone  
1628 Sts John Rd  
Keystone, CO 80435
9. Permitted Use(s) by Tenant: general office purposes and for conducting public meetings and public business and for no other purpose

Landlord's Initials \_\_\_\_\_

Tenant's Initials \_\_\_\_\_

## OFFICE LEASE

This Lease ("Lease") is made this 8<sup>th</sup> day of February 2024, between The Keystone Center, a Colorado nonprofit corporation ("Landlord"), and the Town of Keystone ("Tenant").

### 1. DEMISE.

**1.1 Demise.** Landlord enters into this Lease in consideration of the payment by Tenant of the rents herein reserved and the keeping, observance and performance by Tenant of the covenants and agreements of Tenant herein contained. Subject to the provisions, covenants and agreements herein contained, Landlord hereby leases and demises to Tenant, and Tenant hereby leases from Landlord, the Demised Premises as hereinafter defined, subject to existing covenants, conditions, restrictions, easements and encumbrances affecting the same.

**1.2 Demised Premises.** The "Demised Premises" means the space to be occupied by Tenant and its employees and the public, in space as permitted by Tenant, containing approximately the Floor Area set forth in the Summary. The address of the Demised Premises is the address set forth in the Summary. Landlord reserves the right to relocate the Demised Premises to another location in the Property, provided that the Floor Area of such substitute Demised Premises is reasonably comparable to the Demised Premises.

**1.3 Definitions.** "Land" shall mean the parcel of real property more particularly described as the Land in Exhibit A attached hereto. "Building" shall mean the building or buildings constructed on the Land and containing approximately the Floor Area set forth on the Summary. "Improvements" shall mean the Building, the Parking Area as hereinafter defined, and all other fixtures and improvements owned by Landlord on the Land, including landscaping thereon. "Property" shall mean the Land, the Building and the Improvements and any fixtures and personal property used in operation and maintenance of the Land, Building and Improvements other than fixtures and personal property of Tenant and other users of space in the Building.

**1.4 Common Facilities.** Tenant is hereby granted the non-exclusive right and license to use, in common with others entitled to such use, the Common Facilities (defined below), subject to the rights of Landlord reserved herein. Landlord acknowledges and agrees that the public may need to use the Common Facilities to conduct business with the Tenant and to attend public meetings. Tenant shall not interfere, at any time, with the rights of Landlord and others entitled to use any part of the Common Facilities, and shall not store, either permanently or temporarily, any materials, supplies or equipment in or on the Common Facilities. "Common Facilities" shall mean all of the Property except (a) the Demised Premises, (b) any other premises in the Building leased or held for lease to other tenants, and (c) any areas reserved by Landlord for special purposes as determined by Landlord from time to time. Common Facilities shall include the Parking Area, any walks and driveways, and any other interior and exterior areas designated by Landlord from time to time for common use of Tenant and other users of space in the Building or the Property. "Parking Area" shall mean that portion of the Common Facilities which is designated by Landlord for the parking of motor vehicles. Landlord reserves the right to use the roof, the demising floors, walls and ceilings, and the exterior walls of the Demised Premises, the Building and the Property, and all telecommunications and utilities chases, ducts or other passageways located within the Demised Premises or the Building (collectively, "Reserved Area"). The installation of any telecommunications, data, utility or other wires, cables or other equipment or facilities in the Reserved Area by Tenant or for use by Tenant shall be subject to the prior approval of Landlord, and Landlord shall be entitled to charge Tenant for any costs related thereto. Tenant shall: (i) keep any Common Facilities it uses neat and clean, (ii) pick up trash that originated from Tenant after each use, and (iii) control the activities of Tenant's employees, agents, visitors, contractors, and invitees (collectively, "Tenant's Agents") in the Common Facilities so that they do not create a nuisance. Notwithstanding the foregoing.

**1.5 Covenant of Quiet Enjoyment.** Landlord covenants and agrees that, provided a Default (as hereinafter defined) by Tenant has not occurred, and provided that Tenant keeps, observes and performs its covenants and agreements contained in this Lease, Tenant shall have quiet possession of the Demised Premises and such possession shall not be unreasonably disturbed or interfered with by Landlord. Landlord shall under no circumstances be held responsible for restriction or disruption of use, enjoyment or access to the Property from public streets caused by construction work or other actions taken by governmental authorities or other tenants (their employees, agents, visitors, contractors or invitees), or any entry or work by Landlord in or around the Demised Premises authorized under this Lease, or any other cause not entirely within Landlord's direct control, and such circumstances shall not constitute a constructive eviction of Tenant nor give rise to any right of Tenant against Landlord.

**1.6 Condition of Demised Premises.** Tenant covenants and agrees that, upon taking possession of the Demised Premises, Tenant shall be deemed to have accepted the Demised Premises "as is" and Tenant shall be deemed to have waived any warranty of condition or habitability, suitability for occupancy, use or habitation, fitness for a particular purpose or merchantability, express or implied, relating to the Demised Premises. Tenant's acceptance of the Demised Premises shall constitute its acknowledgment that the Demised Premises was in good condition, order and repair at the time of such acceptance including, without limitation, all mechanical and electrical systems.

### 2. LEASE TERM AND RENT.

**2.1 Lease Term.** The term of this Lease (the "Lease Term") shall commence on the commencement date specified in the Summary ("Commencement Date") and expiring at midnight on the last day of the lease term. If for any reason Landlord has been unable to deliver possession of the Demised Premises to Tenant on or before the Commencement Date of the Lease Term, then the Lease Term and all other applicable deadlines shall be delayed in their entirety until Landlord has delivered possession of the Demised Premises to Tenant. In no event shall Landlord be liable to Tenant for any loss or damage and in no event shall this Lease be void or voidable as a result of any such delay. If Landlord grants access or occupancy of the Demised Premises prior to the Commencement Date of the Lease Term or Tenant otherwise enters the Demised Premises for any reason whatsoever, Tenant's access, occupancy and entry shall be subject to all terms and conditions of this Lease. The Tenant will have the right to renew the Lease upon written notice delivered to the Landlord at least ten (10) days prior to the expiration of the then-current Lease Term.

**2.2 Rent.** Tenant covenants and agrees to pay to Landlord, without offset, reduction, deduction, counterclaim or abatement, rent for the Lease Term in the amount specified as rent in the Summary (“Rent”). In addition, Tenant shall pay Tenant’s printing and copying costs billed by the Landlord (a code will be assigned to Tenant by Landlord) and such costs shall also be included in the definition of “Rent”. Rent shall be payable monthly in advance, without notice, in installments in the amount of monthly Rent specified in the Summary. The first such monthly installment shall be due May 1, 2024 (to cover February – May 2024 rent) and a monthly installment shall be due and payable on or before the first day of each calendar month thereafter for that month’s monthly Rent. If applicable, rental payment for any fractional calendar month at the commencement or end of the Lease Term shall be prorated based on a thirty (30) day month. Rent and all other sums payable by Tenant to Landlord under this Lease shall be paid to Landlord at the place for payments specified in the Summary, or such other place as Landlord may, from time to time, designate in writing.

**2.3 Security Deposit.** Tenant shall deposit with Landlord the amount specified as a security deposit in the Summary (“Security Deposit”) on or before May 1, 2024. The Security Deposit shall be retained by Landlord and may be applied by Landlord, to the extent necessary, to pay and cover any loss, cost, damage or expense, including attorneys’ fees sustained by Landlord by reason of the failure of Tenant to comply with any provision, covenant or agreement of Tenant contained in this Lease. To the extent not necessary to cover such loss, cost, damage or expense, the Security Deposit, without any interest thereon, shall be returned to Tenant after the expiration of the Lease Term in accordance with applicable law. Tenant shall, from time to time, within five (5) days of Landlord’s demand, deposit with Landlord such amounts as may be necessary to replenish the Security Deposit to its original amount. The Security Deposit is not an advance payment of Rent or a measure of Tenant’s liability for damages.

**2.4 General Provisions as to Security Deposit.** Landlord may commingle the Security Deposit with Landlord’s own funds and use such funds as Landlord determines. In no event shall Landlord be required to hold such funds in escrow or trust for Tenant. Landlord shall not be obligated to pay interest to Tenant on account of the Security Deposit. In the event of a transfer by Landlord of Landlord’s interest in the Demised Premises, Landlord may deliver the remaining balance of any Security Deposit to the transferee of Landlord’s interest and Landlord shall thereupon be discharged from any further liability to Tenant with respect to such Security Deposit. In the event of a Transfer (as defined in Section 4.5) by Tenant of Tenant’s interest in this Lease, Landlord shall be entitled to return the Security Deposit to Tenant’s successor in interest and Landlord shall thereupon be discharged from any further liability with respect to the Security Deposit.

**2.5 Taxes.** Tenant shall pay, prior to delinquency, all taxes coming due which accrue during or after the Term of this Lease against Tenant’s interest in this Lease, as well as all taxes levied against Tenant’s personal property, fixtures and improvements in the Demised Premises. Landlord acknowledges that Tenant is a tax-exempt entity.

**2.6 Landlord’s Insurance.** Landlord covenants and agrees to maintain such insurance for the Building and the Common Facilities, in such amounts, from such company, with such deductible and on such terms and conditions as Landlord deems appropriate. Any such insurance obtained by Landlord need not name Tenant as an additional insured or loss payee.

**2.7 Tenant’s Insurance.**

(a) Tenant covenants and agrees to obtain and maintain, throughout the Lease Term, property insurance covering the Demised Premises and all of Tenant’s business and personal property, equipment, fixtures, and improvements, with coverage as broad as ISO Causes of Loss -Special Form- against risks of direct physical loss or damage (commonly known as “all risk”) for an amount adequate to replace, and at replacement cost coverage, all of Tenant’s equipment, fixtures, improvements, business or personal property, and any other property for which Tenant is responsible located in or about the Building and Demised Premises; and Tenant acknowledges that Landlord has no responsibility to determine adequate values for Tenant’s property.

(b) Tenant covenants and agrees to maintain, throughout the Lease Term, a commercial general liability insurance policy, with coverage including at least \$500,000.00 in respect of personal injury or death in respect of any one person and of not less than \$1,000,000.00 for death or injury to more than one person, and \$500,000.00 for property damage, which general liability policy shall: (i) name Landlord, any property manager, and any mortgagee as additional insureds; (ii) be endorsed to be primary and non-contributory to any other similar insurance of said additional insureds; (iii) be endorsed to include a waiver of subrogation in favor of additional insureds; (iv) provide at least thirty (30) days prior written notice be given to additional insureds of any cancellation, non-renewal or material change as respects the coverages required by this Lease; and (v) not contain any deductible, retention or self-insured provisions or any contractual liability coverage exclusion modifying or deleting the definition of “insured contract”, unless otherwise approved in writing by Landlord. The limits of insurance required in this Lease do not limit or restrict the limit of liability of Tenant hereunder. Prior to the occupancy of the Demised Premises and prior to the expiration of the then-current policy, Tenant shall cause to be delivered to the Landlord certificates of insurance evidencing that the insurance required under this Lease is in effect. Tenant covenants and agrees to obtain other insurance, coverages and endorsements as requested from time to time by Landlord.

(c) Tenant acknowledges that Landlord is not obligated to maintain any insurance or extended coverage insurance with respect to damage to any plate glass or other glass located in the Demised Premises. Tenant shall be entitled to obtain any such insurance for plate glass or other glass located in the Demised Premises; provided, however, that Tenant shall be obligated to replace any damaged or broken or plate glass or other glass located in the Demised Premises, whether or not Tenant has obtained such insurance coverage.

**2.8 Waiver.** Tenant waives all right of recovery against Landlord, its property manager, their respective officers, partners, members, agents, representatives, and employees for loss or damage to Tenant’s real business or personal property kept in or about the Building, the Property or Demised Premises, for loss which is capable of being insured against or for loss of business revenue or extra expense arising out of or related to the use and occupancy of the Demised Premises, to the extent there is valid and collectible insurance provided by Tenant’s property insurance policy as required to be carried by Tenant under this Lease. In obtaining such property insurance as required by this Lease, Tenant shall notify its insurance carrier of this foregoing waiver and provide to Landlord certificate of insurance so representing such waiver of subrogation.

**2.11 Place of Payments.** Rent and all other sums payable by Tenant to Landlord under this Lease shall be paid to Landlord by check, or wire transfer, in immediately available funds at the place for payments specified in the Summary, or such other place as Landlord may, from time to time, designate in writing. All payments made to Landlord by Tenant by check or wire transfer shall be payable to the name set forth in the Summary, until such time as Landlord may notify Tenant otherwise. Landlord shall not be liable for and Tenant hereby releases and covenants not to bring any action against Landlord for any loss, liability or damage incurred by Tenant or any third party in connection with Landlord's initiation or acceptance of any such wire transfers or debit entries in accordance with this Lease.

### **3. MAINTENANCE AND REPAIR.**

**3.1 Utilities.** During the Lease Term, Landlord, at its expense, shall furnish the Demised Premises with: (i) electric current to the extent available and reasonably required for lighting and other normal and customary business office uses (but expressly excluding electric current for computers or any office machines or equipment that do not operate on existing circuits in the Building or that require special circuits or equipment); (ii) heat in the appropriate seasons reasonably required for the comfortable occupation of the Demised Premises; and (iii) replacement of bulbs for Building standard lights in the Demised Premises. Tenant shall pay the cost of any modifications to the electrical system or heating and air conditioning system of the Building necessitated by its usage, the cost of separate metering if required by Landlord and the cost of any additional electrical service provided to Tenant (any and all such costs shall be deemed "Rent" for purposes of this Lease, and shall be payable by Tenant within five (5) days following Landlord's demand therefor). Landlord shall also provide reasonable trash collection and disposal for the Building and Tenant shall have the right to access Landlord's internet by LAN or by wireless network using existing devices and cabling. Landlord shall not be liable for any damage, loss or expense incurred by Tenant by reason of any interruption, reduction (permanent or temporary) or failure of any utilities or services for the Demised Premises or the Building. Landlord may, with written notice to Tenant (except that no notice shall be required in the event of an emergency), cut off and discontinue any utilities and services when such discontinuance is necessary in order to make repairs or alterations or if otherwise required in connection with the fulfillment of Landlord's obligations under this Lease or pursuant to applicable law. In no event shall Tenant be entitled to any abatement of Rent as a result of the Demised Premises being rendered unusable due to any such failure, interruption or reduction. No failure, interruption or reduction of utilities or services shall be construed as an eviction or disturbance of possession by Landlord and Tenant shall have no right to terminate this Lease as a result thereof. Tenant shall cooperate with Landlord in connection with all benchmarking, rating, reporting and other requirements of Landlord under any energy efficiency programs including, without limitation, providing Landlord with access to the Demised Premises to perform any required lighting upgrades and/or retro-commissioning (as determined by Landlord in its sole discretion) and providing Landlord with information and reports regarding Tenant's energy and other utility usage in the Demised Premises as requested by Landlord from time to time. Tenant acknowledges and agrees that Landlord may be required to disclose energy and other utility usage data for the Building (including the Demised Premises) to governmental authorities and such data may be made available to the public.

**3.2 Tenant's Maintenance.** Tenant, at its sole cost and expense, shall maintain, repair, replace and keep the Demised Premises and all improvements, fixtures and personal property thereon in good, safe and sanitary condition, order and repair and in accordance with all applicable laws, ordinances, orders, rules and regulations of governmental authorities having jurisdiction.

**3.3 Landlord's Maintenance.** Landlord shall maintain and replace the exterior walls and structural elements of the Building and the Improvements. Landlord, at its sole cost and expense, shall be responsible for the replacement of the roofs of the Building. Landlord's maintenance obligation shall be determined in Landlord's sole and absolute discretion. Notwithstanding the foregoing, Landlord shall not be obligated to repair or replace any damage caused by the acts or omissions of Tenant or Tenant's Agents, which repair and replacement shall be at the sole cost and expense of Tenant, and, if performed by Landlord, Tenant shall additionally remit to Landlord upon demand a ten percent (10%) administrative fee.

**3.5 Parking.** Tenant shall be entitled to the non-exclusive use of the Parking Area on a first come-first serve basis. Landlord may designate a specific area for Tenant's parking spaces within the Parking Area, may institute charges for use of parking facilities, and may modify, relocate, reduce or restrict any portion of the Parking Area. Landlord shall not be liable for and Tenant hereby releases and covenants not to bring any action against Landlord for any loss, damage or theft to or from any motor vehicle or other property of Tenant or Tenant's Agents which occurs in or about the Parking Area.

### **4. TENANT'S COVENANTS.**

**4.1 Use by Tenant.** Tenant covenants and agrees to use the Demised Premises only for the use or uses set forth as Permitted Uses by Tenant in the Summary and for no other purposes, except with the prior written consent of Landlord. Tenant covenants and agrees that nothing shall be done or kept on the Demised Premises in violation of any law, ordinance, order, rule or regulation of any governmental authority having jurisdiction and that the Demised Premises shall be used, kept and maintained in compliance with any such law, ordinance, order, rule or regulation and with the certificate of occupancy issued for the Building and the Demised Premises. Tenant shall provide written notice to Landlord within one (1) day after Tenant receives any notice of a violation or other requirement to comply with any such law, ordinance, rule or regulation. Tenant covenants and agrees that nothing shall be done or kept on the Demised Premises which impairs or increases the cost of insurance maintained with respect to the Demised Premises or the Property, which increases the insured risks or results in cancellation of any such insurance. No signs or advertising devices shall be erected by Tenant except if approved by Landlord. Landlord agrees to allow Tenant to post signs for public meeting notices under the Colorado Open Meetings Law. With the exception of the public meeting notice signs, Tenant agrees not to place signs, stickers, decals or other advertising devices shall be installed or displayed in any windows or on any doors of the Demised Premises or otherwise be visible from outside of the Demised Premises (other than suite identification signage (if any) approved in advance by Landlord). Notwithstanding anything to the contrary contained in this Lease, and without in anyway limiting the provisions of this Section 4.1, Tenant acknowledges and agrees that its use of the Demised Premises shall be subject to the following: (i) Tenant shall not be open to the public other than between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday and any time after 5:00 p.m. for scheduled Tenant meetings (Tenant will provide advance notice to Landlord of scheduled Tenant meetings after 5:00 p.m.); (ii) Tenant shall minimize foot traffic to

and from the Demised Premises at all times; (iii) in no event shall Tenant permit use of the Demised Premises as for purposes of a marijuana dispensary, food service, beverage sales, saloon or public house, adult book- or gift store, massage parlor, gambling parlor, or similar uses (and such other uses as Landlord may, in its discretion, prohibit from time to time); (iv) Tenant shall turn off all lights and appliances and lock all doors and windows to the Demised Premises at any time during which Tenant is not in physical occupancy thereof; and (v) Tenant acknowledges that, if Tenant desires janitorial service within the Demised Premises (which shall be provided by Landlord at such times as Landlord deems appropriate), Tenant must provide unlocked access to the Demised Premises for that purpose (provided, however, that in no event shall Landlord be in breach of this Lease for failure to provide janitorial service to the Demised Premises for any reason, including but not limited to Tenant's failure to so provide access to the Demised Premises).

**4.2 No Waste or Nuisance.** Tenant covenants and agrees that (a) nothing shall be done or kept on the Demised Premises or the Property which impairs the value of the Demised Premises or the Property or constitutes waste; (b) nothing shall be done or kept on the Demised Premises or the Building which impairs the structural soundness of the Building or results in an overload of electrical lines serving the Building; (c) no noxious or offensive activity shall be carried on upon the Demised Premises or the Property nor shall anything be done or kept on the Demised Premises or the Property which is a public or private nuisance or which causes disturbance or annoyance to others in the Building or on adjacent or nearby property; (d) no refuse, scrap, debris, garbage, trash, bulk materials or waste shall be kept, stored or allowed to accumulate on the Demised Premises or the Property except as may be securely enclosed within the Demised Premises; and (e) Tenant shall not commit, suffer or permit any violation of any covenant, condition or restriction affecting the Property.

**4.3 Restriction on Changes.** Tenant covenants and agrees not to improve, change, alter, add to, remove or demolish any improvements on the Demised Premises, including, without limitation, any work, restoration, removal or decommissioning (individually and collectively, "Changes"), without the prior written consent of Landlord. Tenant covenants and agrees that any Changes approved by Landlord shall be completed with due diligence and in a good and workmanlike fashion and in compliance with all conditions imposed by Landlord and all applicable permits, authorizations, laws, ordinances, orders, rules and regulations of governmental authorities having jurisdiction, and that the costs and expenses with respect to such Changes shall be paid promptly when due and that the Changes shall be accomplished free of mechanics' and materialmen's liens. In addition, if any Changes affect compliance of the Demised Premises or any portion of the Property with the Americans With Disabilities Act ("ADA"), Tenant shall be solely responsible for all costs of compliance with the ADA resulting from such Changes. At least twenty (20) days prior to any Changes, Tenant shall provide written notice to Landlord of the date of commencement of any Changes. Landlord shall have the right, at any time and from time to time, to post and maintain on the Demised Premises and Building such notices as Landlord deems necessary to protect the Demised Premises against any liens. Tenant covenants and agrees not to permit or suffer, and to cause to be removed and released within thirty (30) days after imposition, any mechanic's, materialman's or other lien occurring by, through or under Tenant. Tenant covenants and agrees that all Changes shall become the property of Landlord at the expiration or earlier termination of the Lease Term or, if Landlord so requests, Tenant shall, at or prior to expiration of the Lease Term and at its sole cost and expense, remove such Changes and restore the Demised Premises to their condition prior to such Changes.

**4.4 Subordination.** Tenant covenants and agrees that this Lease and Tenant's interest in the Demised Premises shall be junior and subordinate to any mortgage or deed of trust ("Mortgage") now or hereafter encumbering the Property. In the event of a foreclosure of any Mortgage, Tenant shall attorn to the party acquiring title to the Property as the result of such foreclosure. No act or further agreement by Tenant shall be necessary to establish the subordination of this Lease to any such Mortgage, which subordination is self-executing, but Tenant covenants and agrees, within five (5) days following request by Landlord or mortgagee, to execute such documents as may be necessary or appropriate to confirm and establish this Lease as subordinate to any Mortgage in accordance with the foregoing provisions (including, without limitation, such mortgagee's form of subordination, non-disturbance and attornment agreement). If any mortgagee or purchaser at foreclosure thereof succeeds to the interest of Landlord in the Land or the Building, such person shall not be (i) liable for any act or omission of Landlord under this Lease; (ii) liable for the performance of Landlord's covenants hereunder which arise prior to such person succeeding to the interest of Landlord hereunder; (iii) bound by the payment of any Rent which Tenant may have paid more than one month in advance; (iv) liable for any security deposit which was not delivered to such person; or (v) bound by any modifications to this Lease to which such person has not consented in writing.

**4.5 Assignment or Subletting.** Tenant covenants and agrees not to make or permit a Transfer. A "Transfer" by Tenant shall include (i) an assignment of this Lease, a sublease of all or any part of the Demised Premises, (ii) any assignment, sublease, transfer, mortgage, pledge or encumbrance of all or any part of the Demised Premises or of Tenant's interest under this Lease or in the Demised Premises, by operation of law or otherwise, (iii) the use or occupancy of all or any part of the Demised Premises by anyone other than Tenant, (iv) the transfer or change, whether voluntary, involuntary, or by operation of law, of twenty-five percent (25%) or more of the control or ownership, whether legal or beneficial, in Tenant, (v) the dissolution, merger, consolidation or other reorganization of Tenant, or (vi) the withdrawal, resignation or termination of the majority of any general partners, managers or board of directors of Tenant. Any such Transfer by Tenant without Landlord's written consent shall be void and shall constitute a Default by Tenant under this Lease. Notwithstanding any Transfer by Tenant, Tenant shall not be relieved of its obligations under this Lease and Tenant shall remain liable, jointly and severally, and as a principal, not as a guarantor or surety, under this Lease, to the same extent as though no Transfer by Tenant had been made, unless specifically provided to the contrary in Landlord's prior written consent. The acceptance of rent by Landlord from any person other than Tenant shall not be deemed to be a waiver by Landlord of the provisions of this Section or of any other provision of this Lease and any consent by Landlord to a Transfer by Tenant shall not be deemed a consent to any subsequent Transfer by Tenant. Tenant shall reimburse Landlord for all of Landlord's costs incurred in connection with any request for consent to a Transfer, including, without limitation, a reasonable sum for attorneys' fees. Notwithstanding the foregoing, Landlord shall, at Landlord's option, have the right in lieu of consenting to a Transfer by Tenant, to terminate this Lease as to the portion of the Demised Premises that is the subject of the proposed Transfer, and in such event Landlord may (but shall not be required to) enter into a new lease with the proposed transferee. Alternatively, at the request of Landlord, Tenant shall pay over to Landlord all sums received by Tenant from such transferee in excess of the Rent payable by Tenant hereunder which is attributable on an equally allocable Floor Area basis, to any subletting of all or any portion of the Demised Premises so subleased, and all consideration received on account of or attributable to any assignment of this Lease. Tenant shall not publicly advertise the rate of other terms upon which Tenant is willing to Transfer the Demised Premises. As a condition to any Transfer by Tenant, Tenant shall

acknowledge in writing to Landlord that Tenant shall remain obligated and liable under this Lease, any assignee or other transferee (other than a subtenant) shall expressly assume all the obligations of Tenant under this Lease, and any subtenant shall covenant to Landlord to comply with all obligations of Tenant under this Lease as applied to the portion of the Demised Premises so sublet and to attorn to Landlord, at Landlord's election, in the event of any termination of this Lease prior to the expiration date of the Lease Term; all of which shall be in a written instrument satisfactory to Landlord and delivered not later than fifteen (15) days prior to the effective date of such Transfer. Nothing in this paragraph 4.5 prohibits the Tenant from allowing others to use the Community Room for periods of 5 hours or less on any day with the prior approval of Tenant.

**4.6 Financial Statements.** Tenant covenants and agrees to furnish to Landlord, within ten (10) days after written request thereof from Landlord, copies of publicly, available financial statements of Tenant certified by the chief financial officer of Tenant. Landlord may deliver any such financial statements to any existing or prospective mortgagee or purchaser of the Property. The financial statements shall include a balance sheet as of the end of, and a statement of profit and loss for, the preceding fiscal year of Tenant.

**4.7 Estoppel Certificates.** Tenant covenants and agrees to execute, acknowledge and deliver to Landlord, within five (5) days of Landlord's written request, a written statement certifying that this Lease is unmodified (or, if modified, stating the modifications) and in full force and effect; stating the dates to which Rent has been paid; stating the amount of the Security Deposit held by Landlord; stating that there have been no defaults by Landlord or Tenant and no event which with the giving of notice or the passage of time, or both, would constitute such a default (or, if there have been defaults, setting forth the nature thereof); and stating such other matters concerning this Lease as Landlord may request. Tenant agrees that such statement may be delivered to and relied upon by any existing or prospective mortgagee or purchaser of the Property.

**4.8 Landlord's Access.** Tenant covenants and agrees that Landlord and the authorized representatives of Landlord shall have the right to enter the Demised Premises at any reasonable time during ordinary business hours (or at any time in the event of an emergency) for the purposes of inspecting, repairing or maintaining the Demised Premises or the Building, performing any alterations or improvements to the Demised Premises or the Building as Landlord may determine from time to time, performing any obligations of Tenant which Tenant has failed to perform hereunder, or for the purposes of showing the Demised Premises to any existing or prospective mortgagee, purchaser or tenant of the Property or the Demised Premises. When practical, Landlord agrees to provide 12 hours' notice to Tenant of the need to enter the Demised Premises.

**4.9 Tenant Indemnification.** To the extent permitted by law, Tenant covenants and agrees to protect, indemnify, defend and save Landlord and Landlord's managers, employees, agents, beneficiaries, successors, assigns and other affiliated or related parties ("Related Parties") harmless from and against all liability, obligations, claims, damages, penalties, causes of action, costs and expenses, including attorneys' fees, imposed upon, incurred by or asserted against Landlord or its Related Parties by reason of (a) any accident, injury to or death of any person or loss of or damage to any property occurring on or about the Demised Premises; (b) any accident, injury to or death of any person or loss or damage to any property occurring on or about the Common Facilities as a result of the actions, omissions, or negligence of Tenant or any of Tenant's Agents, or (c) any failure on the part of Tenant or Tenant's Agents to perform or comply with any of the provisions, covenants or agreements of Tenant contained in this Lease or with any applicable law. To the extent permitted by law, Tenant further covenants and agrees that, in case any action, suit or proceeding is brought against Landlord or its Related Parties by reason of any of the foregoing, Tenant shall, at Tenant's sole cost and expense, defend Landlord and its Related Parties in any such action, suit or proceeding with counsel reasonably acceptable to Landlord.

**4.10 Limitation of Landlord Liability.** Notwithstanding any claim by Tenant against Landlord, Landlord and its Related Parties shall not be personally liable with respect to any of the terms, covenants and conditions of this Lease, and Tenant shall look solely to the equity of Landlord in the Property in the event of any default or liability of Landlord under this Lease, such exculpation of liability to be absolute and without any exception whatsoever.

**4.11 Transfer by Landlord.** In the event of a transfer by Landlord of the Property or of Landlord's interest as Landlord under this Lease, Landlord's successor or assign shall take subject to and be bound by this Lease and in such event, Tenant covenants and agrees that Landlord and its Related Parties shall be released from all obligations of Landlord under this Lease, except obligations which arose and matured prior to such transfer by Landlord; that Tenant shall thereafter look solely to Landlord's successor or assign for satisfaction of the obligations of Landlord under this Lease; and that, upon demand by Landlord or Landlord's successor or assign, Tenant shall attorn to such successor or assign.

**4.12 Rules and Regulations.** Tenant shall observe and comply with any rules and regulations promulgated by Landlord, which may be amended from time to time by Landlord by providing written notice thereof to Tenant. Landlord shall not be responsible to Tenant for the failure of any other tenant of the Building to observe or comply with any such rules or regulations.

**4.13 Hazardous Substances.** Tenant shall, at its sole cost and expense, promptly respond to and clean up any release or threatened release of any Hazardous Substance (as hereinafter defined) on or about the Demised Premises or, if resulting from the actions, omissions, or negligence of Tenant or Tenant's Agents, the balance of the Property, including any such release or threatened release into the drainage systems, soil, surface water, groundwater, or atmosphere, in a safe manner, in strict accordance with all applicable laws, and as authorized or approved by all federal, state, and/or local agencies having authority to regulate the permitting, handling, and cleanup of Hazardous Substances; provided, however, Tenant's obligations under this sentence shall not include any Hazardous Substances which Tenant conclusively proves existed on the Property on the Commencement Date of the Lease Term unless caused by any act, omission, or negligence of Tenant or Tenant's Agents. Tenant and Tenant's Agents shall not use, store, generate, treat, transport, or dispose of any Hazardous Substance at the Property without first obtaining Landlord's written approval, which consent shall be in Landlord's sole and absolute discretion. Tenant hereby indemnifies, defends and holds harmless Landlord from and against any suits, actions, legal or administrative proceedings, demands, claims, liabilities, fines, penalties, losses, injuries, damages, expenses or costs, including interest and attorneys' fees, incurred by, claimed or assessed against Landlord or its Related Parties in any way connected with any injury to any person or damage to any property, or any loss to Landlord or its Related Parties occasioned in any way by Hazardous Substances on the Property; provided, however, Tenant's obligations under this sentence shall not include any Hazardous Substances which Tenant conclusively proves existed on the Property on the Commencement Date of the Lease Term unless caused by any act, omission, or negligence of Tenant or Tenant's Agents. Tenant hereby waives, releases and discharges



forever Landlord from all present and future claims, demands, suits, legal and administrative proceedings and from all liability for damages, losses, costs, liabilities, fees and expenses, present and future, arising out of or in any way connected with any condition of environmental contamination of the Property, or the existence of Hazardous Substances in any state on the Property, however they came to be placed there. "Hazardous Substance(s)" shall mean any hazardous substance, pollutant, contaminant, waste, by-product or constituent regulated under any of the applicable laws; oil and petroleum products, natural gas, natural gas liquids, liquefied natural gas, and synthetic gas usable for fuel; pesticides regulated under any applicable laws; asbestos and asbestos containing materials, PCBs and other substances regulated under any applicable laws. As used in this Section, the term "applicable laws" shall include, but shall not be limited to, all federal, state, and local statutes, ordinances, regulations and rules regulating the environmental quality, health, safety, contamination and cleanup.

## **5. CASUALTY OR CONDEMNATION.**

**5.1 Substantial Damage.** If any portion of the Demised Premises shall be damaged or destroyed by fire or other casualty, Tenant shall give prompt written notice thereof to Landlord ("Tenant's Notice of Damage"). Upon receipt of Tenant's Notice of Damage, Landlord shall determine the nature and extent of the damage or destruction and estimate the time necessary to repair or restore the Demised Premises. As soon as reasonably possible, Landlord shall give written notice to Tenant stating Landlord's estimate of the time necessary to repair or restore the Demised Premises ("Landlord's Notice of Repair Time"). If Landlord reasonably estimates that repair or restoration of the Demised Premises cannot be completed within two hundred (200) days from the time of Tenant's Notice of Damage, Landlord and Tenant shall each have the option to terminate this Lease. If, however, the damage or destruction was caused by the act, omission, or negligence of Tenant or Tenant's Agents, Landlord shall have the option to terminate this Lease at any time and, in such event, Tenant shall not have the option to terminate this Lease. Any option granted hereunder shall be exercised by written notice to the other party given within ten (10) days after Landlord's Notice of Repair Time. If either Landlord or Tenant exercises its option to terminate this Lease, the Lease Term shall expire ten (10) days after written notice by either Landlord or Tenant exercising such party's option to terminate this Lease. As used herein, the term "other casualty" shall mean casualty insured under a customary property damage insurance policy without modifications or endorsements, and does not include an event or occurrence involving Hazardous Substances or other environmental matters or similar events or occurrences (which events or occurrences shall be governed by Section 4.13 above).

**5.2 Building Damage.** If the Building in which the Demised Premises is located shall be damaged or destroyed by fire or other casualty (though the Demised Premises may not be affected or, if affected, can be repaired within two hundred (200) days) to the extent of fifty percent (50%) or more of the replacement value of the Building, Landlord may elect not to reconstruct or rebuild the Building. In such event, upon written notice to Tenant, this Lease shall terminate and Landlord shall refund to Tenant such amounts of Rent paid by Tenant for the period of the Lease Term after such damage less the reasonable value of any use or occupation of the Demised Premises by Tenant during such period.

**5.3 Repair and Abatement.** If repair and restoration of the Demised Premises can be completed within the period specified in Section 5.1, in Landlord's reasonable estimation, or if neither Landlord nor Tenant terminates this Lease as provided in Sections 5.1 or 5.2, then this Lease shall continue in full force and effect and Landlord shall proceed forthwith to cause the Demised Premises (including any improvements constructed by Landlord but excluding any alterations, improvements, Changes, fixtures, furniture, equipment, and personal property constructed or owned by Tenant) to be repaired and restored with reasonable diligence and there shall be abatement of Rent proportionate to the extent of the space and period of time that Tenant is unable to use and enjoy the Demised Premises. The proceeds of any property insurance maintained on the Demised Premises, other than property insurance maintained by Tenant on fixtures and personal property of Tenant, shall be paid to and become the property of Landlord, subject to any obligation of Landlord to cause the Demised Premises to be repaired and restored and further subject to any rights under any Mortgage encumbering the Property to such proceeds. Landlord's obligation to repair and restore the Demised Premises provided in this Section 5 is limited to the repair and restoration that can be accomplished with the proceeds of any property insurance maintained by Landlord on the Demised Premises. The amount of any such insurance proceeds is subject to any right of any mortgagee to apply such proceeds to its secured debt under its Mortgage. In the event that Landlord determines that the proceeds of any property insurance are not sufficient to complete the repair and restoration of the Demised Premises or the Building (as the case may be), Landlord shall have the right to terminate this Lease by providing written notice thereof to Tenant.

**5.4 Condemnation.** A "Taking" shall mean the taking of all or any portion of the Demised Premises or the Building as a result of the exercise of the power of eminent domain or condemnation for public or quasi-public use or the sale of all or part of the Demised Premises or the Building under the threat of condemnation. A "Substantial Taking" shall mean a Taking of twenty-five percent (25%) or more of the Floor Area of either the Demised Premises or the Building. An "Insubstantial Taking" shall mean a Taking which does not constitute a Substantial Taking. If there is a Substantial Taking with respect to the Demised Premises or the Building, the Lease Term shall expire on the date of vesting of title pursuant to such Taking. In the event of termination of this Lease under the provisions hereof, Landlord shall refund to Tenant such amounts of Rent theretofore paid by Tenant as may be applicable to the period subsequent to the time of termination of this Lease. In the event of an Insubstantial Taking with respect to the Demised Premises or the Building, this Lease shall continue in full force and effect, Landlord shall proceed forthwith to cause the Demised Premises (but excluding any alterations, improvements, Changes, fixtures, furniture, equipment and personal property constructed or owned by Tenant), less such Taking, to be restored as near as may be to the original condition thereof and there shall be abatement of Rent proportionate to the extent of the space so taken. The total award, compensation, damages or consideration received or receivable as a result of a Taking ("Award") shall be paid to and be the property of Landlord, including, without limitation, any part of the Award made as compensation for diminution of the value of this leasehold or the fee of the Demised Premises. Tenant hereby assigns to Landlord all of Tenant's right, title and interest in and to any such Award. Tenant covenants and agrees to execute, immediately upon demand by Landlord, such documents as may be necessary to facilitate collection by Landlord of any such Award. Notwithstanding Landlord's right to the entire Award, Tenant shall be entitled to a separate award, if any, for the loss of Tenant's personal property, the loss of Tenant's business and profits, and Tenant's moving expenses, which may be pursued by Tenant at its sole expense.

## 6. DEFAULT AND REMEDIES.

**6.1 Defaults.** In the event that any of the following events shall occur, Tenant shall be deemed to be in default of Tenant's obligations under this Lease (each of the following shall be referred to as a "Default by Tenant"): (a) Tenant fails to pay Rent or any other amounts payable by Tenant within five (5) days after such rental or other amount is due under the terms of this Lease; (b) Tenant breaches or fails to comply with any non-monetary agreement, term, covenant or condition in this Lease and does not cure such breach or failure within twenty (20) days after written notice thereof by Landlord to Tenant; (c) Tenant's interest under this Lease or in the Demised Premises shall be taken upon execution or by other process of law directed against Tenant, or shall be subject to any attachment at the instance of any creditor or claimant against Tenant and said attachment shall not be discharged or disposed of within fifteen (15) days after the levy thereof; and/or (d) Tenant shall file a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any similar act of any state, or shall voluntarily take advantage of any such law or act by answer or otherwise, or shall be dissolved or shall make an assignment for the benefit of creditors or if involuntary proceedings under any such bankruptcy or insolvency law or for the dissolution of Tenant shall be instituted against Tenant or a receiver or trustee shall be appointed for the Demised Premises or for all or substantially all of the property of Tenant, and such proceedings shall not be dismissed or such receivership or trusteeship vacated within sixty (60) days after such institution or appointment.

**6.2 Remedies.** Upon the occurrence of any Default by Tenant, Landlord shall have the right, at Landlord's election, then or any time thereafter, to exercise any one or more of the following remedies:

(a) Landlord may, at Landlord's option, but without obligation to do so, and without releasing Tenant from any obligations under this Lease, make any payment or take any action as Landlord may deem necessary or desirable to cure any Default by Tenant in such manner and to such extent as Landlord may deem necessary or desirable. Landlord may do so without demand on, or written notice to, Tenant and without giving Tenant an opportunity to cure such Default by Tenant. Tenant covenants and agrees to pay to Landlord, within ten (10) days after demand, all advances, costs and expenses of Landlord in connection with the making of any such payment or the taking of any such action including, without limitation, (i) a charge in the amount of fifteen percent (15%) of such advances, costs and expenses payable to Landlord to compensate for the administrative overhead attributable to such action, (ii) reasonable attorneys' fees, and (iii) interest as hereinafter provided from the date of payment of any such advances, costs and expenses by Landlord. Action taken by Landlord may include commencing, appearing in, defending or otherwise participating in any action or proceeding and paying, purchasing, contesting or compromising any claim, right, encumbrance, charge or lien, with respect to the Demised Premises which Landlord, in its sole and absolute discretion, may deem necessary or desirable to protect its interest in the Demised Premises and under this Lease. In the event that the Lease Term has expired or Tenant is no longer occupying the Demised Premises, Landlord shall be entitled to take such actions as provided under this Section 6.2 without Landlord being required to provide the notice to Tenant.

(b) Landlord may terminate this Lease, effective at such time as may be specified by written notice to Tenant, and demand (and, if such demand is refused, recover) possession of the Demised Premises from Tenant. Tenant shall remain liable to Landlord for damages in an amount equal to the Rent and other sums which would have been owing by Tenant hereunder for the balance of the Lease Term, had this Lease not been terminated, less the net proceeds, if any, of any reletting of the Demised Premises by Landlord subsequent to such termination (provided, however, that Landlord shall have no obligation to relet the Demised Premises or otherwise mitigate its damages except to the extent that may be required by applicable law), after deducting all Landlord's expenses in connection with such recovery of possession or reletting. Landlord shall be entitled to collect and receive such damages from Tenant on the days on which the Rent and other amounts would have been payable if this Lease had not been terminated. Alternatively, at the option of Landlord, Landlord shall be entitled to recover forthwith from Tenant, as damages for loss of the bargain and not as a penalty, an aggregate sum which, at the time of such termination of this Lease, represents the excess, if any, of (i) the aggregate of the Rent and all other sums payable by Tenant hereunder that would have accrued for the balance of the Lease Term, over (ii) the aggregate rental value of the Demised Premises for the balance of the Lease Term, both discounted to present worth at the discount rate of the Federal Reserve Bank of San Francisco at the time of such award plus one percent (1%) per annum.

(c) Landlord may reenter and take possession of the Demised Premises or any part thereof, without demand or notice, and repossess the same and expel Tenant and any party claiming by, under or through Tenant, and remove the effects of both using such force for such purposes as may be necessary, without being liable for prosecution on account thereof or being deemed guilty of any manner of trespass, and without prejudice to any remedies for arrears of rent or right to bring any proceeding for breach of covenants or conditions. No such reentry or taking possession of the Demised Premises by Landlord shall be construed as an election by Landlord to terminate this Lease unless a written notice of such intention is given to Tenant. No notice from Landlord hereunder or under a forcible entry and detainer statute or similar law shall constitute an election by Landlord to terminate this Lease unless such notice specifically so states. Landlord reserves the right, following any reentry or reletting, to exercise its right to terminate this Lease by giving Tenant such written notice, in which event this Lease shall terminate as specified in said notice. After recovering possession of the Demised Premises, Landlord may, from time to time, but shall not be obligated to, relet the Demised Premises, or any part thereof, for the account of Tenant, for such term or terms and on such conditions and upon such other terms as Landlord, in its sole and absolute discretion, may determine. Landlord may make such repairs, alterations or improvements as Landlord may consider appropriate to accomplish such reletting, and Tenant shall reimburse Landlord upon demand for all costs and expenses, including attorneys' fees, which Landlord may incur in connection with such reletting. Landlord may collect and receive the rents for such reletting but Landlord shall in no way be responsible for or liable for any failure to relet the Demised Premises, or any part thereof, or for any failure to collect any rent due upon such reletting. Notwithstanding Landlord's recovery of possession of the Demised Premises, Tenant shall continue to pay on the dates herein specified, the Rent and other amounts which would be payable hereunder if such repossession had not occurred. Upon the expiration or earlier termination of this Lease, Landlord shall refund to Tenant any amount, without interest, by which the amounts paid by Tenant, when added to the net amount, if any, recovered by Landlord through any reletting of the Demised Premises, exceeds the amounts payable by Tenant under this Lease. If, in connection with any reletting, the new lease term extends beyond the existing Lease Term, or the premises covered thereby include other premises not part of the Demised Premises, a fair apportionment of the rent received from such reletting and the expenses incurred in connection therewith shall be made in determining the net amount recovered from such reletting.

(d) Actions or suits for the recovery of amounts and damages payable under this Lease may be brought by Landlord from time to time, at Landlord's election, and Landlord shall not be required to await the date upon which the Lease Term would have expired to bring any such action or suit. All costs and expenses incurred by Landlord in connection with collecting any amounts and damages owing by Tenant pursuant to the provisions of this Lease or to enforce any provision of this Lease, including reasonable attorneys' fees, whether or not any action is commenced by Landlord, shall be paid by Tenant to Landlord upon demand.

(e) Notwithstanding any other remedies for nonpayment of rent, if the monthly payment of Rent is not received by Landlord on or before the fifth (5<sup>th</sup>) day of the month for which such rental is due, or if any other payment due Landlord by Tenant is not received by Landlord on or before the fifth (5<sup>th</sup>) day of the month next following the month in which Tenant was invoiced, an administrative late charge of five percent (5%) of such past due amount shall become due and payable, in addition to such amounts owed under this Lease, to help defray the additional cost to Landlord for processing such late payments. Tenant covenants and agrees to pay Landlord interest on demand at the rate of eighteen percent (18%) per annum, compounded on a monthly basis, on the amount of any Rent or other charges not paid when due, from the date due and payable, and on the amount of any payment made by Landlord required to have been made by Tenant under this Lease and on the amount of any costs and expenses, including reasonable attorneys' fees, paid by Landlord in connection with the taking of any action to cure any Default by Tenant, from the date of making any such payment or the advancement of such costs and expenses by Landlord; and (f) exercise of any of the remedies of Landlord under this Lease shall not prevent the concurrent or subsequent exercise of any other remedy provided for in this Lease or otherwise available to Landlord at law or in equity, recover as damages, in addition to all other damages and remedies provided hereunder, an amount equal to the total of (i) the cost of recovering possession of the Demised Premises, (ii) the unpaid Rent and any other amounts current at the time of such Default by Tenant, (iii) damages for the wrongful withholding of the Demised Premises by Tenant, and (iv) consequential damages and loss of profits. Moreover, in the event of a Default by Tenant, Tenant shall be liable to Landlord for the entire amount of all tenant improvements, tenant improvement allowances, rental abatements, or other concessions or allowances provided to Tenant, in addition to all other remedies and damages available to Landlord. Nothing contained in this Lease shall limit or prejudice the right of Landlord to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership, reorganization or dissolution proceeding, an amount equal to the maximum allowable by any statute or rule of law governing such proceeding in effect at the time when such damages are to be proved, whether or not such amount be greater, equal or less than the amounts recoverable, either as damages or rent, under this Lease.

## **7. SURRENDER AND HOLDING OVER.**

**7.1 Surrender.** Upon the expiration or earlier termination of this Lease, or on the date specified in any demand for possession by Landlord after any Default by Tenant, Tenant shall immediately quit and surrender possession of the Demised Premises to Landlord broom clean, in good order and condition, ordinary wear and tear excepted, and in the condition required under this Lease with all lighting, doors (including, without limitation, all loading dock doors, dock levelers, and related dock systems and areas) electrical and mechanical systems in good working order and condition, all walls in clean condition and holes or punctures in the walls repaired, and otherwise in the same condition as when Tenant first occupied the Demised Premises. Tenant covenants and agrees to remove, at or prior to the expiration or earlier termination of the Lease Term, all of Tenant's equipment, apparatus, machinery, signs, furniture, furnishings, trade fixtures, and other personal property used in the operation of the business of Tenant (as distinguished from the use and operation of the Demised Premises). Prior to the expiration or earlier termination of this Lease, Tenant shall remove all Changes (unless otherwise agreed to in writing by Landlord). If, Tenant has vacated the Demised Premises prior to the expiration of the Lease Term, Landlord shall have the right to decorate, remodel, repair, or otherwise prepare the Demised Premises for reletting and re-occupancy. In addition, Tenant shall surrender any and all keys to the Demised Premises to Landlord.

## **8. MISCELLANEOUS.**

**8.1 General.** No failure by Landlord to insist upon the strict performance of any term, covenant or agreement contained in this Lease, no failure by Landlord to exercise any right or remedy under this Lease, and no acceptance of full or partial payment during the continuance of any Default by Tenant, shall constitute a waiver of any such term, covenant or agreement, or a waiver of any such right or remedy, or a waiver of any such Default by Tenant. The covenants, agreements, obligations and indemnifications of the parties hereto shall continue in force and effect and survive any expiration or earlier termination of this Lease. This Lease shall be construed as if the covenants herein between Landlord and Tenant are independent, and not dependent, and Tenant shall not be entitled to any offset against Landlord if Landlord fails to perform its obligations under this Lease. Time is of the essence under this Lease, and all provisions herein relating thereto shall be strictly construed. This Lease shall be interpreted and enforced according to the laws of the State of Colorado.

**8.2 Binding Effect.** This Lease shall extend to and be binding upon the heirs, executors, legal representatives, successors and assigns of the respective parties hereto. The terms, covenants, agreements and conditions in this Lease shall be construed as covenants running with the Land. If there is more than one party constituting Tenant or liable for the obligations of Tenant under this Lease, such parties shall be jointly and severally liable for the obligations of Tenant under this Lease. Neither this Lease nor any memorandum or other memorialization of this Lease shall be recorded in the records of any County Clerk and Recorder of the State of Colorado or any other public records without Landlord's prior consent. If any provision of this Lease shall be held invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and there shall be deemed substituted for the affected provision a valid and enforceable provision as similar as possible to the affected provision. This Lease, the Summary, and any Attachments, Exhibits and Addenda referred to herein or attached hereto, constitute the final and complete expression of the parties' agreements with respect to the Demised Premises and Tenant's occupancy thereof. Each party agrees that it has not relied upon or regarded as binding any prior agreements, negotiations, representations, or understandings, whether oral or written, except as expressly set forth herein. No amendment or modification of this Lease, and no approvals, consents or waivers by Landlord under this Lease, shall be valid or binding unless in writing and executed by the party to be bound.

**8.3 Notices.** All notices under this Lease shall be provided by Landlord to Tenant at the address set forth in the Summary by regular mail or personal delivery. All other notices and demands under this Lease shall be in writing, signed by the party giving the same and shall be deemed properly given and received when personally delivered or three (3) business days

after mailing through the United States mail, postage prepaid, certified or registered, return receipt requested, addressed to the party to receive the notice at the address set forth for such party in the Summary or at such other address as either party may notify the other of in writing.

**8.5 Real Estate Brokers.** Tenant covenants to pay, hold harmless and indemnify Landlord from and against any and all cost, expense or liability for any compensation, commissions, charges or claims by any broker or other agent with respect to this Lease or the negotiation thereof, whether or not meritorious, other than the broker(s) listed as the Broker(s) on the Summary. Tenant acknowledges Landlord is not liable for any representations by Tenant's Broker (as set forth in Section 10 of the Summary) or by Landlord's Broker, regarding the Demised Premises, the Building, the Property or this Lease.

**8.6 Authority of Tenant.** Each individual executing this Lease on behalf of Tenant represents and warrants that he or she is duly authorized to deliver this Lease on behalf of Tenant and that this Lease is binding upon Tenant in accordance with its terms.

**8.7 Counterparts/Electronic Signatures.** This Lease may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute the binding and enforceable agreement of the parties hereto. This Lease may be executed and delivered by a party by facsimile or email transmission, which transmission copy shall be considered an original and shall be binding and enforceable against such party. Landlord and Tenant acknowledge and agree that electronic signatures used for the execution of this Lease and/or amendments hereto (if any) shall be valid, binding and enforceable against such party.

**8.8 Waiver of Jury Trial.** The parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way related to this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises or the Building, and/or any claim of injury, loss or damage.

**8.9 TABOR.** The Parties understand and agree that the Tenant is subject to Article X, Section 20 of the Colorado Constitution ("TABOR"). The parties do not intend to violate the terms of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR.

**8.10 No Governmental Immunity Waiver.** Nothing in this Agreement is intended to waive any protection afforded to the Tenant by the Colorado Governmental Immunity Act, C.R.S. Section 24-10-101 et seq., or any other applicable law providing immunity to the Tenant, its officials, and employees.

**8.11 Right of First Refusal. Right of First Refusal to Purchase.** Tenant shall have the right of first refusal to purchase the demised premises as hereinafter set forth. If at any time during the term and as may be extended, Landlord shall receive a bona fide offer from a third person for the purchase of the demised premises, which offer Landlord shall desire to accept, Landlord shall promptly deliver to Tenant a copy of such offer, and Tenant may, within thirty (30) days thereafter, elect to purchase the demised premises. If Landlord shall receive an offer for the purchase of the demised premises, which is not consummated by delivering a deed to the offerer, the Tenant's right of first refusal to purchase shall remain applicable to subsequent offers. If Landlord shall sell the demised premises after a failure of Tenant to exercise its right of first refusal, such shall be subject to the Lease and shall continue to be applicable to subsequent sales of the demised premises.

**8.12 Exhibits and Attachments.** The Summary of Basic Lease Terms ("Summary"), Attachments, Exhibits and Addenda listed below shall be attached to this Lease and be deemed incorporated in this Lease by this reference. In the event of any inconsistency between such Summary, Attachments, Exhibits and Addenda and the terms and provisions of this Lease, the terms and provisions of the Summary, Attachments, Exhibits and Addenda shall control. The Summary, Attachments, Exhibits and Addenda to this Lease are:

Summary of Basic Lease Terms  
Exhibit A — Legal Description of Land

IN WITNESS WHEREOF the parties hereto have caused this Lease to be executed the day and year first above written.

**TENANT:**

Town of Keystone

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LANDLORD:**

The Keystone Center,  
a Colorado nonprofit corporation

By: \_\_\_\_\_  
Name: Susan Wilcox \_\_\_\_\_  
Title: VP of Business and Administration \_\_\_\_\_

**EXHIBIT A**

**Legal Descriptions of Land**

1628 Sts. John Road  
Keystone, Colorado 80435

Part Tenderfoot  
Subdivision #2

# TOWN OF KEYSTONE, COLORADO

## STAFF REPORT

TO: Mayor & Town Councilmembers  
THROUGH: Interim Town Manager Gary Martinez  
FROM: Jennifer Madsen, Town Attorney  
DATE: February 8, 2024  
SUBJECT: Resolution 2024-20 Adopting a Seal for the Town of Keystone

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### **Executive Summary:**

An official seal is used by a municipality to authenticate its official documents. This Resolution approves the official seal for the Town of Keystone.

### **Recommendation:**

Staff recommends Town Council approve Resolution 2024-20 Adopting a Seal.

### **Background:**

Government entities use seals to mark official documents. This is usually accomplished with an embosser (metal seal that imprints the seal on paper) or an ink seal. Resolution 2024- creates the seal for the Town of Keystone with a circular inscription and the "TOWN OF KEYSTONE, CO" and "INC 2024" in a circular form around the margin.

### **Alternatives:**

N/A

### **Financial Considerations:**

N/A

### **Next Steps:**

None.

### **Suggested Motions:**

I move to APPROVE Resolution 2024-20 Adopting a Seal

I move to DENY Resolution 2024-20 Adopting a Seal

### **Attachments:**

- Resolution 2024-20 Adopting a Seal

**TOWN OF KEYSTONE  
Summit County, Colorado**

**RESOLUTION 2024-20**

**A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF KEYSTONE, COLORADO  
ADOPTING A SEAL**

WHEREAS, the Town of Keystone is a home rule municipality governed by the Keystone Home Rule Charter; and

WHEREAS, the Town was duly formed and organized as a Colorado home rule municipality in accordance with state law; and

WHEREAS, the Town, as a body politic and corporate, may have a seal to certify official actions of the Town of Keystone under § 31-15-101(1)(e), C.R.S.

**Now, Therefore, be it Resolved by the Town Council of the Town of Keystone, Colorado, that:**

Section 1. The seal of the Town of Keystone shall consist of a circular plate and disc with the words “TOWN OF KEYSTONE, CO” and “INC 2024” in a circular form around the margin and as shown in Exhibit A.

Section 2. Effective Date. This Resolution shall take effect upon its approval by the Town Council.

**ADOPTED by a vote of \_\_\_ in favor and \_\_\_ against, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.**

By: \_\_\_\_\_  
Kenneth D. Riley, Mayor

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Town Attorney



EXHIBIT A  
OFFICIAL SEAL

