



TOWN OF AVON, COLORADO
TOWN OF AVON MEETINGS FOR TUESDAY, FEBRUARY 9, 2016
AVON LIQUOR AUTHORITY MEETING BEGINS AT 5:00 PM
REGULAR MEETING BEGINS AT 5:05PM
AVON TOWN HALL, ONE LAKE STREET

AVON LIQUOR LICENSING AUTHORITY MEETING BEGINS AT 5:00 PM (SEE SEPARATE AGENDA PAGE 2)

REGULAR MEETING BEGINS AT 5:05 PM

- 1. CALL TO ORDER & ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENT - COMMENTS ARE WELCOME ON ITEMS NOT LISTED ON THE FOLLOWING AGENDA**
- 4. WORK SESSION**
 - 4.1. REVIEW OF REPORT ON TOWN OF AVON SALES TAX ON BUILDING MATERIALS (ASSISTANT TOWN MANAGER SCOTT WRIGHT, TOWN MANAGER VIRGINIA EGGER, TOWN ATTORNEY ERIC HEIL)
- 5. ACTION ITEMS**
 - 5.1. CONSIDERATION OF FOURTH AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH EAGLE RIVER FIRE PROTECTION DISTRICT TO WAIVE FEES RELATED TO THE CONSTRUCTION OF THE JOINT PUBLIC SAFETY FACILITY (TOWN ENGINEER JUSTIN HILDRETH)
 - 5.2. APPROVAL OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF AVON AND EAGLE COUNTY FOR PLAN4HEALTH PROJECT (TOWN ATTORNEY ERIC HEIL)
 - 5.3. RESOLUTION NO. 16-02, A RESOLUTION INITIATING ANNEXATION PROCEEDINGS AND SETTING A PUBLIC HEARING FOR THE ANNEXATION OF UPPER EAGLE RIVER WATER AUTHORITY MOUNTAIN STAR WATER TANK PROPERTY (TOWN ATTORNEY ERIC HEIL)
 - 5.4. MINUTES FROM JANUARY 26, 2016 MEETING (TOWN CLERK DEBBIE HOPPE)
- 6. WRITTEN REPORTS**
- 7. COMMITTEE MEETING UPDATES: COUNCILORS AND MAYOR**
- 8. MAYOR & COUNCIL COMMENTS**
- 9. ADJOURNMENT**



TOWN OF AVON, COLORADO
TOWN OF AVON MEETINGS FOR TUESDAY, FEBRUARY 9, 2016
AVON LIQUOR AUTHORITY MEETING BEGINS AT 5:00 PM
AVON TOWN HALL, ONE LAKE STREET

CALL TO ORDER AND ROLL CALL

- 1. APPROVAL OF AGENDA**
- 2. PUBLIC COMMENT**
- 3. RENEWAL OF LIQUOR LICENSES**
 - 3.1. APPLICANT: SVO COLORADO MANAGEMENT, INC. D/B/A SHERATON MOUNTAIN VISTA
LOCATION: 160 BEAVER CREEK WEST
TYPE: HOTEL AND RESTAURANT LICENSE
MANAGER: DAVID WEISS

 - 3.2. APPLICANT: FIESTA JALISCO NUMBERO TRES, LLC D/B/A FIESTA JALISCO
LOCATION: 240 CHAPEL PLACE B-12
TYPE: HOTEL AND RESTAURANT LICENSE
MANAGER: RICARDO ARAGON
- 4. REPORT OF CHANGES – CHANGE IN MANAGER**
 - 4.1. APPLICANT: FIESTA JALISCO NUMBERO TRES, LLC D/B/A FIESTA JALISCO
LOCATION: 240 CHAPEL PLACE B-12
CURRANT MANAGER: RICARDO ARAGON
NEW MANAGER: JOSE G. RODRIQUEZ
- 5. MINUTES FROM JANUARY 26, 2016**
- 6. ADJOURNMENT**



LIQUOR AUTHORITY REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Debbie Hoppe, Town Clerk

Meeting Date: January 9, 2016

Agenda

Topic: Renewal Application–Sheraton Mountain Vista

PROPOSED MOTION

I move to approve (or deny stating the reasons for denial) the Renewal Application for SVO Colorado Management, Inc. d/b/a Sheraton Mountain Vista.

ACTION BEFORE COUNCIL

The Town Council serving as the Avon Liquor Licensing Authority will consider the following Liquor License Application for renewal at its Board meeting next week:

RENEWAL OF LIQUOR LICENSE

Applicant: SVO Colorado Management, Inc. d/b/a Sheraton Mountain Vista

Location: 160 Beaver Creek West

TYPE: Hotel and Restaurant License

Manager: David Weiss

BACKGROUND

Colorado Liquor Code, 12-47-302, provides for guidelines related to liquor licensing renewals; applications for the renewal of an existing license shall be made to the local licensing authority. The Town Clerk, Town Attorney, and Police Department have reviewed the application submitted and referenced above and the materials are in order. The Police Report results show the following information:

SVO Colorado Management, Inc. d/b/a Sheraton Mountain Vista:

There have been no concerns or violations during the past year.

The owner/manager has been invited to attend the Liquor Board meeting.

During the liquor license renewal process, the Liquor Authority has broad discretion to consider any character issues related to the licensee holder at renewal in the same manner as granting a license. If there have been various types of behavior, such as failure to pay taxes and fraud, the courts have held these behaviors as a valid reason to find the applicant does not possess character. The Colorado Liquor Code §12-47-302 sets forth the local authority's ability to hold a hearing on the application for renewal. It is also noted that a "yes or no action" only is required on renewals; there are no conditions that can be mandated in this process.

Attachments:

- ✓ State of Colorado Renewal Application Form
- ✓ Avon Police Department Summary Reports

**LIQUOR OR 3.2 BEER LICENSE
 RENEWAL APPLICATION**

Fees Due	
Renewal Fee	\$500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
Amount Due/Paid	

SHERATON MOUNTAIN VISTA
 9002 SAN MARCO CT
 ORLANDO FL 32819-8600

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

PLEASE VERIFY & UPDATE ALL INFORMATION BELOW

RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE

Licensee Name SVO COLORADO MANAGEMENT INC		DBA SHERATON MOUNTAIN VISTA		
Liquor License # 14464180001	License Type Hotel & Restaurant (city)	Sales Tax License # 14464180001	Expiration Date 3/6/2016	Due Date 1/21/2016
Street Address 160 BEAVER CRK WEST AVON CO 81620				Phone Number
Mailing Address 9002 SAN MARCO CT ORLANDO FL 32819-8600				
Operating Manager David Weiss	Date of Birth [REDACTED]	Home Address 6056 S. Kingston Cir Englewood		Phone Number 970-748-6001

- Do you have legal possession of the premises at the street address above? YES NO **Co. 80111**
 Is the premises owned or rented? Owned Rented* *If rented, expiration date of lease _____
- Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. YES NO
NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS: If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. YES NO
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. YES NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. YES NO
- SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit - Restriction on Public Benefits (available online or by calling 303-205-2300) and attach a copy of their driver's license, state-issued ID or valid passport.

AFFIRMATION & CONSENT

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business David Weiss	Title General Manager
Signature <i>[Signature]</i>	Date 1/7/16

REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. THEREFORE THIS APPLICATION IS APPROVED.

Local Licensing Authority For Town of Avon	Date
Signature	Title
	Attest

**Avon Police Department
Liquor License Application**

Individual Name(s): David Weiss

Name of Business: SVO Colorado Management, Inc. d/b/a Sheraton Mountain Vista

Type of License: Hotel & Restaurant
 Special Event Permit

Event Name: N/A
Date of Event: N/A

Location of Business: 160 W. Beaver Creek Blvd.
Avon, Colorado 81620

Date Received: January 28th 2016

Photographs/Fingerprints: On File
 Special Event – N/A

Investigation by:
 Detective Sergeant Jonathan Lovins
 Detective Jeremy Holmstrom

Date: February 3, 2016

CBI Criminal Investigation (attached): No Problems.

Local Criminal Investigation: No Problems.

Comments: No negative law enforcement contacts.

Liquor Code Violations in the past calendar year: Yes No
If yes, explain: _____

Smoking violation in the past calendar year: Yes No
If yes, explain: _____

Background investigation conducted with no problems and or areas of concern.

N.C.I.C. database not accessed on this applicant.

Investigation Time: 2 hours.

Administration Time: 1 hour.

*RLJ
2-3-16*



LIQUOR AUTHORITY REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Debbie Hoppe, Town Clerk

Meeting Date: January 9, 2016

Agenda

Topic: Renewal Application–Fiesta Jalisco

PROPOSED MOTION

I move to approve (or deny stating the reasons for denial) the Renewal Application for Fiesta Jalisco Numero Tres, LLC d/b/a Fiesta Jalisco.

ACTION BEFORE COUNCIL

The Town Council serving as the Avon Liquor Licensing Authority will consider the following Liquor License Application for renewal at its Board meeting next week:

RENEWAL OF LIQUOR LICENSE

Applicant: Fiesta Jalisco Numero Tres, LLC d/b/a Fiesta Jalisco

Location: 240 Chapel Place B-12

Type: Hotel and Restaurant License

Manager: Jose G. Rodriguez

BACKGROUND

Colorado Liquor Code, 12-47-302, provides for guidelines related to liquor licensing renewals; applications for the renewal of an existing license shall be made to the local licensing authority. The Town Clerk, Town Attorney, and Police Department have reviewed the application submitted and referenced above and the materials are in order. The Police Report results show the following information:

Fiesta Jalisco Numero Tres, LLC d/b/a Fiesta Jalisco:

There have been no concerns or violations during the past year.

The owner/manager has been invited to attend the Liquor Board meeting.

During the liquor license renewal process, the Liquor Authority has broad discretion to consider any character issues related to the licensee holder at renewal in the same manner as granting a license. If there have been various types of behavior, such as failure to pay taxes and fraud, the courts have held these behaviors as a valid reason to find the applicant does not possess character. The Colorado Liquor Code §12-47-302 sets forth the local authority's ability to hold a hearing on the application for renewal. It is also noted that a "yes or no action" only is required on renewals; there are no conditions that can be mandated in this process.

Attachments:

- ✓ State of Colorado Renewal Application Form
- ✓ Avon Police Department Summary Reports

**LIQUOR OR 3.2 BEER LICENSE
 RENEWAL APPLICATION**

FIESTA JALISCO
 PO BOX 2559
 AVON CO 81620

Fees Due	
Renewal Fee	\$500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
Amount Due/Paid	

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

PLEASE VERIFY & UPDATE ALL INFORMATION BELOW

RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE

Licensee Name FIESTA JALISCO NUMERO TRES LLC		DBA FIESTA JALISCO		
Liquor License # 15380840000	License Type Hotel & Restaurant (city)	Sales Tax License # 15380840000	Expiration Date 3/2/2016	Due Date 1/17/2016
Street Address 240 CHAPEL PLACE B-12 AVON CO 81620				Phone Number (970) 845 8088
Mailing Address PO BOX 2559 AVON CO 81620				
Operating Manager Jose G. Rodriguez	Date of Birth [REDACTED]	Home Address 426 Big Horn Ct		Phone Number 970-485-3482

- Do you have legal possession of the premises at the street address above? YES NO
 Is the premises owned or rented? Owned Rented* *If rented, expiration date of lease **OCT 2016**
- Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. YES NO
NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS: If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. YES NO
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. YES NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. YES NO
- SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit – Restriction on Public Benefits (available online or by calling 303-205-2300) and attach a copy of their driver's license, state-issued ID or valid passport.

AFFIRMATION & CONSENT

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business Jose G Rodriguez	Title Manager
Signature 	Date 1-26-16

REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. **THEREFORE THIS APPLICATION IS APPROVED.**

Local Licensing Authority For Town of Avon	Date
Signature	Title
	Attest

**Avon Police Department
Liquor License Application**

Individual Name(s): Jose G. Rodriguez Deleon

Name of Business: Fiesta Jalisco Numero Tres, LLC d/b/a Fiesta Jalisco

Type of License: Hotel & Restaurant
 Special Event Permit

Event Name: N/A
Date of Event: N/A

Location of Business: 240 Chapel Place, #B-12
Avon, Colorado 81620

Date Received: January 28th 2016

Photographs/Fingerprints: On File
 Special Event – N/A

Investigation by:
 Detective Sergeant Jonathan Lovins
 Detective Jeremy Holmstrom

Date: February 3, 2016

CBI Criminal Investigation (attached): No Problems

Local Criminal Investigation: No Problems

Comments: No Problems

Liquor Code Violations in the past calendar year: Yes No

If yes, explain: n/a

Smoking violation in the past calendar year: Yes No

If yes, explain: n/a

Background investigation conducted with no problems and or areas of concern.

N.C.I.C. database not accessed on this applicant.

Investigation Time: 2 hours.

Administration Time: 1 hour.

Handwritten: RJ
2.4.16



LIQUOR AUTHORITY REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Debbie Hoppe, Town Clerk

Meeting Date: February 09, 2016

Agenda

Topic: Report of Changes: Change in Manager for Fiesta Jalisco

PROPOSED MOTION

I move to approve (or deny stating the reasons for denial) the Permit Application Change in Manager for Fiesta Jalisco Numero Tres, LLC d/b/a Fiesta Jalisco.

ACTION BEFORE COUNCIL

Town Council acting as the Local Liquor Licensing Authority is asked to consider the Permit Application Change in Manager for Fiesta Jalisco Numero Tres, LLC d/b/a Fiesta Jalisco. Jose G. Rodriguez is the owner of Fiesta Jalisco and will be replacing Ricardo Aragon, former manager on the property.

BACKGROUND

The Permit Application & Report of Changes Form is used when "manager" changes occur; the applicant completed a Report of Change form section 8. Once approved by the local authority, the application is forwarded to the Colorado Liquor Enforcement Division for its approval. Jose G. Rodriguez, new manager, has been invited to attend the Liquor Board meeting to answer any questions.

The Liquor Code contains special requirements that there be a registered "manager" in the case of several types of licenses, i.e. hotel, restaurant, and tavern licenses. The Municipal Code Section 5.08.150 (c), requires background checks on all managers.

A background investigation has been completed by the Avon Police Department and the report indicates no concerns. The Colorado Bureau of Investigation report indicates no concerns.

PERMIT APPLICATION CHANGE OF MANAGER ATTACHMENTS:

The applicants for the permit application change of manager submitted the following materials:

- ✓ Permit application and report of changes (State form DR 8442)
- ✓ Police Report on Background Checks

PERMIT APPLICATION AND REPORT OF CHANGES

CURRENT LICENSE NUMBER 15380840000
ALL ANSWERS MUST BE PRINTED IN BLACK INK OR TYPEWRITTEN
LOCAL LICENSE FEE \$ _____
APPLICANT SHOULD OBTAIN A COLORADO LIQUOR & BEER CODE BOOK TO ORDER CALL (303) 370-2165

1. Applicant is a <input type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Limited Liability Company	PRESENT LICENSE NUMBER 15380840000
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2. Name of Licensee Fiesta Jalisco Numero Tres LLC	3. Trade Name Fiesta Jalisco Numero tres, LLC
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4. Location Address
240 Chapel place B-129

City Avon, CO	County Eagle	ZIP 81620
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SELECT THE APPROPRIATE SECTION BELOW AND PROCEED TO THE INSTRUCTIONS ON PAGE 2.

Section A – Manager reg/change	Section C
<ul style="list-style-type: none"> • License Account No. <u>153808400</u> 1983-750 (999) <input type="checkbox"/> Manager's Registration (Hotel & Restr.)...\$75.00 2012-750 (999) <input type="checkbox"/> Manager's Registration (Tavern).....\$75.00 <input checked="" type="checkbox"/> Change of Manager (Other Licenses) NO FEE 	<ul style="list-style-type: none"> 2210-100 (999) <input type="checkbox"/> Retail Warehouse Storage Permit (ea) \$100.00 2200-100 (999) <input type="checkbox"/> Wholesale Branch House Permit (ea).... 100.00 2260-100 (999) <input type="checkbox"/> Change Corp. or Trade Name Permit (ea) .50.00 2230-100 (999) <input type="checkbox"/> Change Location Permit (ea)..... 150.00 2280-100 (999) <input type="checkbox"/> Change, Alter or Modify Premises \$150.00 x _____ Total Fee _____ 2220-100 (999) <input type="checkbox"/> Addition of Optional Premises to Existing H/R \$100.00 x _____ Total Fee _____ 1988-100 (999) <input type="checkbox"/> Addition of Related Facility to Resort Complex \$75.00 x _____ Total Fee _____
Section B – Duplicate License	
<ul style="list-style-type: none"> • Liquor License No. _____ 2270-100 (999) <input type="checkbox"/> Duplicate License\$50.00 	

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

DATE LICENSE ISSUED	LICENSE ACCOUNT NUMBER	PERIOD
-750 (999)	-100 (999)	The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.
TOTAL AMOUNT DUE		\$.00

INSTRUCTION SHEET

FOR ALL SECTIONS, COMPLETE QUESTIONS 1-4 LOCATED ON PAGE 1

Section A

To Register or Change Managers, check the appropriate box in section A and complete question 8 on page 4. Proceed to the Oath of Applicant for signature (Please note: Hotel, Restaurant, and Tavern licensees are required to register their managers).

Section B

For a Duplicate license, be sure to include the liquor license number in section B on page 1 and proceed to page 4 for Oath of Applicant signature.

Section C

Check the appropriate box in section C and proceed below.

- 1) **For a Retail Warehouse Storage Permit**, go to page 3 complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 4 for Oath of Applicant signature.
- 2) **For a Wholesale Branch House Permit**, go to page 3 and complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 4 for Oath of Applicant signature.
- 3) **To Change Trade Name or Corporation Name**, go to page 3 and complete question 6 (be sure to check the appropriate box). Submit the necessary information and proceed to page 4 for Oath of Applicant signature.
- 4) **To modify Premise**, go to page 4 and complete question 9. Submit the necessary information and proceed to page 4 for Oath of Applicant signature.
- 5) **For Optional Premises or Related Facilities** go to page 4 and complete question 9. Submit the necessary information and proceed to page 4 for Oath of Applicant signature.
- 6) **To Change Location**, go to page 3 and complete question 7. Submit the necessary information and proceed to page 4 for Oath of Applicant signature.

STORAGE PERMIT

5. Retail Warehouse Storage Permit or a Wholesalers Branch House Permit

Retail Warehouse Permit for:

- On-Premises Licensee (Taverns, Restaurants etc.)
- Off-Premises Licensee (Liquor stores)

Wholesalers Branch House Permit

Address of storage premise: _____

City _____, County _____, Zip _____

Attach a deed/ lease or rental agreement for the storage premises.
Attach a detailed diagram of the storage premises.

CHANGE TRADE NAME OR CORPORATE NAME

6. Change of Trade Name or Corporation Name

Change of Trade name / DBA only

Corporate Name Change (Attach the following supporting documents)

1. Certificate of Amendment filed with the Secretary of State, or
2. Statement of Change filed with the Secretary of State, and
3. Minutes of Corporate meeting, Limited Liability Members meeting, Partnership agreement.

Old Trade Name	New Trade Name
Old Corporate Name	New Corporate Name

CHANGE OF LOCATION

7. Change of Location

NOTE TO RETAIL LICENSEES: An application to change location has a local application fee of \$750 payable to your local licensing authority. You may only change location within the same jurisdiction as the original license that was issued. Pursuant to 12-47-311 (1) C.R.S. Your application must be on file with the local authority thirty (30) days before a public hearing can be held.

Date filed with Local Authority _____ **Date of Hearing** _____

(a) Address of current premises _____

City _____ County _____ Zip _____

(b) Address of proposed New Premises (Attach copy of the deed or lease that establishes possession of the premises by the licensee)

Address _____

City _____ County _____ Zip _____

(c) New mailing address if applicable.

Address _____

City _____ County _____ State _____ Zip _____


(d) Attach detailed diagram of the premises showing where the alcohol beverages will be stored, served, possessed or consumed. Include kitchen area(s) for hotel and restaurants.

CHANGE OF MANAGER	<p>8. Change of Manager or to Register the Manager of a Tavern or a Hotel and Restaurant liquor license.</p> <p>(a) Change of Manager (attach Individual History, DR 8404-I H/R and Tavern only)</p> <p>Former manager's name <u>Bicardo Aragon</u></p> <p>New manager's name <u>Jose G. Rodriguez</u></p> <p>(b) Date of Employment <u>01/2002</u></p> <p>Has manager ever managed a liquor licensed establishment?..... Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Does manager have a financial interest in any other liquor licensed establishment?..... Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>If yes, give name and location of establishment _____</p>
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MODIFY PREMISES OR ADDITION OF OPTIONAL PREMISES OR RELATED FACILITY	<p>9. Modification of Premises, Addition of an Optional Premises, or Addition of Related Facility</p> <p>NOTE: Licensees may not modify or add to their licensed premises until approved by state and local authorities.</p> <p>(a) Describe change proposed _____</p> <p>_____</p> <p>(b) If the modification is temporary, when will the proposed change:</p> <p>Start _____ (mo/day/year) End _____ (mo/day/year)</p> <p>NOTE: THE TOTAL STATE FEE FOR TEMPORARY MODIFICATION IS \$300.00</p> <p>(c) Will the proposed change result in the licensed premises now being located within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?</p> <p>(If yes, explain in detail and describe any exemptions that apply) Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>(d) Is the proposed change in compliance with local building and zoning laws? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>(e) If this modification is for an additional Hotel and Restaurant Optional Premises or Resort Complex Related Facility, has the local authority authorized by resolution or ordinance the issuance of optional premises? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>(f) Attach a diagram of the current licensed premises and a diagram of the proposed changes for the licensed premises.</p> <p>(g) Attach any existing lease that is revised due to the modification.</p>
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OATH OF APPLICANT

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

Signature 	Title <u>Member Manager</u>	Date <u>1-26-16</u>
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REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY / COUNTY)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 12, Articles 46 and 47, C.R.S., as amended. **THEREFORE, THIS APPLICATION IS APPROVED.**

Local Licensing Authority (City or County) <u>Town of Aron</u>	Date filed with Local Authority <u>1/26/2016</u>
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Signature	Title	Date
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REPORT OF STATE LICENSING AUTHORITY

The foregoing has been examined and complies with the filing requirements of Title 12, Article 47, C.R.S., as amended.

Signature	Title	Date
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TOWN OF AVON, COLORADO
AVON LIQUOR LICENSING AUTHORITY MEETING MINUTES FOR TUESDAY, JANUARY 26, 2016
AVON TOWN HALL, ONE LAKE STREET

1. CALL TO ORDER AND ROLL CALL

Chairman Fancher called the meeting to order at 5:00 p.m. A roll call was taken and Board members present were Jake Wolf, Buz Reynolds, Matt Gennett, Megan Burch, Scott Prince and Sarah Smith Hymes. Also present were Town Manager Virginia Egger, Town Attorney Eric Heil, Assistant Town Manager Scott Wright, Police Chief Bob Ticer, Recreation Director John Curutchet, Executive Assistant Preston Neill and Town Clerk Debbie Hoppe.

2. APPROVAL OF AGENDA

There were no changes to the agenda.

3. PUBLIC COMMENT – COMMENTS ARE WELCOME ON TOPICS NOT ON THE AGENDA

No public comments made.

4. PUBLIC HEARING SPECIAL EVENTS PERMIT

- 4.1. APPLICANT NAME: WALKING MOUNTAINS SCIENCE CENTER
- EVENT NAME: WINTERWONDERGRASS MUSIC AND BREW FESTIVAL (4ND ANNUAL)
- EVENT ADDRESS: HARRY A. NOTTINGHAM PARK, ONE LAKE STREET
- EVENT MANAGER: SCOTT STOUGHTON
- EVENT DATES / TIMES: FEBRUARY 19, 2016, 2:00 P.M. UNTIL 10:30 P.M.
- FEBRUARY 20, 2016, 2:00 P.M. UNTIL 10:30 P.M.
- FEBRUARY 21, 2016, 2:00 P.M. UNTIL 10:00 P.M.

Vice Chairman Wolf recused himself due to a conflict.

The application was presented by Scott Stoughton. Chairman Fancher opened the public hearing and no comments were made. Board member Smith Hymes moved to approve the the Special Events Permit for the WinterWonderGrass Music and Brew Festival; Board member Reynolds seconded the motion and it passes unanimously by those present. Vice Chairman Wolf abstained from the vote.

5. PUBLIC HEARING FOR TRANSFER OF OWNERSHIP

- 5.1. APPLICANT: 3 DRAGONS LLC
- CURRENT OWNER: CHINA GARDEN, INC.
- ADDRESS: 100 W. BEAVER CREEK BLVD.
- NEW OWNER: LANA SWEANEY
- MANAGER:
- TYPE: HOTEL AND RESTAURANT LICENSE

The application was presented with no concerns. Chairman Fancher opened the public hearing and no comments were made. Board member Smith Hymes moved to approve the Transfer of Ownership Liquor License for 3 Dragons, LLC d/b/a China Garden until the January 26th meeting; Vice Chairman Wolf seconded the motion and it passes unanimously by those present.



TOWN OF AVON, COLORADO
AVON LIQUOR LICENSING AUTHORITY MEETING MINUTES FOR TUESDAY, JANUARY 26, 2016
AVON TOWN HALL, ONE LAKE STREET

6. RENEWAL OF LIQUOR LICENSES

6.1. APPLICANT: MILLERS BOTTLE SHOP, LLC D/B/A JOE'S LIQUORS
LOCATION: 1060 W. BEAVER CREEK BLVD. #1B
TYPE: LIQUOR STORE LICENSE
MANAGER: SCOTT SEITZ

Vice Chairman Wolf moved to approve the Liquor Store License for Millers Bottle Shop, LLC d/b/a Joe's Liquors; Board member Prince seconded the motion and it passes unanimously by those present.

6.2. APPLICANT: PHO 20, LLC D/B/A PHO 20
LOCATION: 47 BEAVER CREEK BLVD. UNIT C-13 & C-14
TYPE: HOTEL AND RESTAURANT LICENSE
MANAGER: CONG HUANG

Board member Burch moved to approve the Hotel and Restaurant License for PHO 20, LLC d/b/a PHO 20; Board member Gennett seconded the motion and it passes unanimously by those present.

7. MINUTES FROM JANUARY 12, 2016

Board member Burch moved to approve the Minutes from January 12, 2016; Vice Chairman Wolf seconded the motion and it passed unanimously by those present. Board member Reynolds abstained from the vote.

8. Adjournment

There being no further business to come before the Board, the meeting adjourned at 5:10 p.m.

RESPECTFULLY SUBMITTED:

Debbie Hoppe, Town Clerk

APPROVED:

Jennie Fancher
Jake Wolf
Matt Gennett
Megan Burch
Albert "Buz" Reynolds
Scott Prince
Sarah Smith Hymes

[Signature lines for approvers]



THE TOWN OF AVON

SALES TAX REPORT

ON

BUILDING MATERIALS

INCLUDING
COLLECTION DATA, LEGAL REVIEW, TAX RELIEF OPTIONS,
FINANCIAL INFORMATION AND
ADMINISTRATION RECOMMENDATIONS

Prepared for the February 9, 2016
regular meeting of the
Avon Town Council

Town Attorney Eric J. Heil
Assistant Town Manager Scott Wright
Town Manager Virginia Egger



SALES TAX REPORT ON BUILDING MATERIALS
February 4, 2016

EXECUTIVE SUMMARY

This Sales Tax Report on Building Materials ("**Report**") has been requested by Mayor Jennie Fancher, on behalf of the Avon Town Council. The purpose of this Report is to provide additional information and background on the Town's past and present administrative procedures related to sales tax collection, relevant financial information, legal analysis and response to various questions, potential options for amending Town's sales tax regulations and recommendations regarding additional improvements to Town's administrative procedures as relates to sales tax collections on Building Materials. For the purposes of this Report, "**Building Materials**" includes "construction materials" and "tangible personal property" (as defined in the Town's sales tax regulations) which are related to building projects.

This Report is based on sales tax reporting information available to the Town. The Town has adopted the Colorado Municipal Records Retention Schedule and therefore only has sales tax reporting information as far back as 2010. Sales tax reporting information prior to 2010 has been destroyed in accordance with the Colorado Municipal Records Retention Schedule procedures.

Sales tax reporting information is required to be filed by a Retailer who has obtained a sales tax license. Sales tax reporting information indicates the total quantity of retail sales (i.e. gross retail sales) within the Town of Avon for a given period but does not specify the identity of individual purchasers (or contractors or suppliers in the case of building projects). The Town does have business address information for Retailers and can determine in-town Retailers from out-of-town Retailers. The Town also categorizes business licenses according to industry and can determine which Retailers sell Building Materials.

Although certain large isolated sales of Building Materials by out-of-town Retailers can be attributed to large building projects anecdotally, the Town does not require individual building projects to report the Building Materials purchased and the sales tax paid. Rather, in accordance with State law, the primary obligation to impose, collect, remit and report sales tax is on the Retailer and not the building contractor. ***Town's records indicate that the Town has collected sales tax on Building Materials from numerous out-of-town Retailers throughout the period of available sales tax reporting information. (see below - Executive Summary Table - Out-of-Town Retailers of Building Materials)***

The Town's administrative procedures to impose and collect sales tax on Building Materials and other tangible personal property has evolved and progressed, especially since 2010. As described in the Town Attorney's legal memorandum for the January 12, 2016 Council meeting, the law concerning the imposition of sales tax on materials delivered into a local government taxing jurisdiction changed with the 1992 U.S. Supreme Court case of *Quill Corp. v. North Dakota* and the 2010 Colorado Appellate Court case of *Leggett & Platt, Inc. v. Ostrom*. Collectively, these cases ruled that it is legally permissible to impose municipal sales tax on goods delivered into a municipality.¹

¹ The *Quill Corp.* case re-affirmed a "bright line" exception that goods delivered by common carrier where no other business connection existed were not subject to sales tax at the point of delivery.



SALES TAX REPORT ON BUILDING MATERIALS
February 4, 2016

peer communities, including the Town of Breckenridge, and explores methods of improving administrative procedures to promote greater awareness and compliance with the Town’s sales tax regulations. From 2012 through 2015, the Finance Department adopted improved administrative procedures to notify contractors, sub-contractors and suppliers of the Town’s sales tax requirements and applicability of the Town’s sales tax to Building Materials delivered into Avon. The Finance Department implemented MUNIREvs software in 2014 and Town Council adopted revisions to business licensing regulations by Ordinance No. 15-02. These two actions expanded the Town’s ability to identify businesses operating in Avon and the Town’s ability to notify such businesses of Town’s sales tax requirements. ***The number of business licenses issued to out-of-town Retailers selling Building Materials in Avon increased from 2010 to 2015 due to Town’s improvements to its administrative procedures and notifications and due to the overall increase in building activity in Avon.***

The sales tax collected on Building Materials from out-of-town Retailers as relates to overall construction activity for years 2010-2015 is summarizes as follows:

EXECUTIVE SUMMARY TABLE			
OUT-OF-TOWN RETAILERS OF BUILDING MATERIALS			
Year	Number of Out-of-Town Retailers of Building Materials filing Sales Tax Reports	Sales Tax Collected from Out-of-Town Retailers of Building Materials	Total Building Activity by Valuation
2010	47	\$ 44,218.85	\$13,021,586
2011	51	\$ 57,873.18	\$ 9,334,790
2012	52	\$ 72,747.72	\$13,848,500
2013	85	\$100,061.95	\$36,149,636
2014	105	\$318,821.24	\$15,235,900
2015	118	\$311,607.95	\$34,999,261

Building Activity by Valuation is based on building permit information. The purchase of Building Materials at retail and remittance of the associated sales tax for such Building Materials may occur in the succeeding year or later depending upon the timing and progress of the building project.

Council has the legislative authority to enact a variety of options to exempt, credit or rebate sales tax imposed on Building Materials generally or upon Building Materials sold by out-of-town Retailers and delivered into Avon. The financial impact of not collecting sales tax on Building Materials delivered into Avon is dependent upon the level of construction activity. ***The projected reduction in sales tax revenue in future years is estimated to average \$300,000 annually based upon the amount of sales tax collected in 2014 and 2015.***

The Town provides a sales tax credit on “taxable transactions” in The Village (at Avon) that corresponds to a public improvement fee imposed in the Village (at Avon). The public improvement fee on retail sales is the most significant revenue source for Traer Creek Metropolitan District. ***Legislative action to provide an exemption from sales tax for Building Materials delivered into the Village (at Avon) may reduce the future potential***



revenues of Traer Creek Metropolitan District.

Finally, uniformity in taxation of retail transactions is widely considered to be fair, efficient, beneficial and preferred, both at the state level and national level. ***Sales tax exemptions or tax relief which are not uniform across Avon and other jurisdictions can result in a competitive disadvantage for some Retailers.***

This Report is organized into six sections, described as follows:

I. SALES TAX COLLECTIONS ON BUILDING MATERIALS

This section includes basic terms and definitions; a chronology of the Town's administrative efforts to collect sales tax on Building Materials; a description of the licensing, collection and reporting process; and, an overview of enforcement practices. Also included are examples of forms and collection letters as attached exhibits.

II. LEGAL

Town Attorney Eric J. Heil addresses legal questions raised at the January 12, 2016, Council meeting regarding tax policy change, TABOR issues, the 2002 Use Tax Ballot question, Village at (Avon) Annexation and Development Agreement, and legal considerations concerning potential legislative options to amend the Town's sales tax regulations.

III. SUMMARY OF FINANCIAL INFORMATION

Two detailed reports are included in this section. The first is a summary of sales tax collections related to Building Materials and the number of return filers from 2010-2015. The second report is a ten-year summary of building permit activity within the Town of Avon. In addition, two credit ratings reports, from Standard & Poor's and Moody's, providing credit opinions on the Town of Avon, are included along with a general discussion based on their comments.

IV. LEGISLATIVE OPTIONS

This section identifies and discusses an array of options the Town Council may consider for a sales tax on Building Materials, considerations for potential outcomes of the option, and additional questions that may be raised in considering the action.

V. RECOMMENDATIONS FOR SALES TAX ADMINISTRATION IMPROVEMENT

This section details staff's recommendations for additional efforts to improve administration of the Town sales tax on Building Materials.

VI. EXHIBITS

The following Exhibits referred to in the above sections.

1. Exhibit 1 – Supplier Verification Form
2. Exhibit 2 – Contractor Letter
3. Exhibit 3 – 1st Delinquency Letter
4. Exhibit 4 – 2nd Delinquency Letter
5. Exhibit 5 – Standard & Poor's Rating Opinion Letter
6. Exhibit 6 – Moody's Rating Opinion Letter
7. Table 1 – Sales Tax Collections Related to Building Materials
8. Table 2 – Commercial and Residential Construction



SECTION I SALES TAX COLLECTIONS ON BUILDING MATERIALS

Terms and Definitions:

- **Person** means an individual or any recognized legal entity.
- **Retailer** means any person selling tangible personal property at retail.
- **Sales Taxpayer** means a person buying taxable goods from a Retailer.
- **Business License** means a license required by the Town for any person engaged in business in the Town.
- **Sales Tax License** means the license required by the Town for any person engaged in the business of making retail sales within the Town.

Chronology of Efforts to Enhance Sales Tax Compliance

2010

- Electronic Business Licenses & Sales Tax Records on File - The Records Retention Act, established by the Colorado State Archives, which is authorized by Colorado State Statute, and adopted by the Town of Avon, directs the disposition schedules of public documents.
 - a. Sales Tax Return Records: Required to be retained for four (4) years after filing of the return. Electronic records are currently on file for years beginning in 2010. Since 2010, the Town no longer accepts paper returns. Paper returns, prior to 2010, have been destroyed in compliance with the Records Retention Act.
 - b. Business Licenses: Required to be retained for two (2) years after expiration. Electronic records are currently on file for years beginning in 2014. Prior to March, 2015, only contractors and subcontractors, with a fixed location in Avon, were required to have a Business License.
- Town administration relies on Retailers and businesses to understand that business licensing, sales tax licensing and other regulations apply when commencing or engaging in business in Avon.
- Town's website includes informational links both on the www.avon.org homepage under the button "Online Payments", as well as under the Finance Department's page.
- Enforcement is practiced on a limited basis when license holders fail to file a return, returns appear inconsistent when filed, or the Finance Department becomes aware of a Retailer who did not have a Business License.



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2012- 2013

- Town hires new Accounting Assistant – Additional duties included sales tax administration.
- Town staff attends Colorado Tax Audit Professionals meetings. Among current topics, discussions include how to ensure the enforcement and collection of sales taxes on construction projects due to the increase in building activity coming out of the great recession.
- Town staff researches the Town of Breckenridge process, which also has a sales tax on Building Materials and no use tax.
- Finance Director and Town Attorney agree that a process similar to the Town of Breckenridge for identifying suppliers and contractors on large building projects, called a “*Supplier Verification Form*” should be implemented in Avon.
- May, 2013 – Town of Avon Building Official notifies in writing all Building Permit recipients of the Town’s sales tax requirements at the time of Building Permit issuance. General Contractors are given a general information letter and form – see Exhibits 1 and 2.
- Town purchases MUNIRev software for sales tax administration.
- Building Permits begin to increase with better economy. Wyndham project is approved and is a significant construction project with delivery of many Building Materials. Town staff contacts the contractor, and subsequently all its subcontractors and suppliers, to promote awareness of the Town’s sales tax requirements and applicability to delivered Building Materials.

2014

- Business License administration is re-organized, with the Finance Department becoming responsible for all aspects of Business License administration, which was previously the duty of the Town Clerk’s office.
- Finance Department begins the process of transferring the administration of the licensing into new MUNIRevs software. This change of administration oversight brought together all information needed to identify, track and monitor businesses and sales tax remittance.
- The website is updated to list the MUNIRevs telephone number prominently on the web page and to describe the processes for obtaining a Business License and Sales Tax License.



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2015

- In March, 2015, the Town Council adopted Ordinance No. 15-02 which cross-referenced the sales tax definition of “doing business in Town” for uniformity and thus required anyone doing business in Town to obtain a Business License. Previously, only businesses with physical locations in Town were required to get a Business License.
- The revision to the Business License regulations in early 2015 resulted in the issuance of Business Licenses to approximately 347 new businesses. Many of the new Business Licenses are related to the building industry, including both Retailers of Building Materials, contractors and sub-contractors. Contractors with an address outside of Avon who do business in Avon must now obtain a Business License in addition to obtaining a Contractor’s License.
- Contractors are set up in the MUNIREvs with sales tax forms on either a monthly or quarterly basis (unless the Finance Department has been informed by the contractor that the respective business operations are not subject to Avon sales tax (i.e. service-related only)). If there are no taxable transactions, a business with a Sales Tax License must still file a sales tax return indicating zero amount due.
- For 2015, the Finance Department has collected a total of \$76,675 in Business License fees for all businesses compared to \$22,300, in 2014.

SUMMARY:

The changes to the Town’s Business License Regulations in the Avon Municipal Code and changes to administrative procedures along with an overall increase in economic activity and building activity have resulted in an increase in the number of Business Licenses and Sales Tax Licenses held by out-of-town Retailers of Building Materials. The number of in-town Retailers of Building Materials has remained comparatively stable over the last six years. The legislative and administrative changes over the last several years have resulted in a greater number of Business Licenses and Sales Tax Licenses for businesses “doing business in Avon” have thereby advanced uniformity in the application of the Town’s sales tax. The change in Business Licenses and Sales Tax Licenses for Retailers of Building Materials is summarized as follows:

Year	In-Town Retailers	Out-of-Town Retailers	Sales Tax from In-Town Retailers	Sales Tax from Out-of-Town Retailers	Total Building Activity by Valuation
2010	14	47	\$166,154	\$ 44,219	\$13,021,586
2011	14	51	\$180,254	\$ 57,873	\$ 9,334,790
2012	15	52	\$258,565	\$ 72,748	\$13,848,500
2013	18	85	\$237,766	\$100,062	\$36,149,636
2014	16	105	\$282,976	\$381,821	\$15,235,900
2015	21	118	\$331,503	\$311,608	\$34,999,261



**Process for Business Licenses, Sales Tax Notification, Collection & Enforcement
(May, 2013 - Present)**

With the implementation of MUNIREvs, the Town's online licensing and sales tax collection system, obtaining a Business License, Sales Tax License, filing of returns, and payment of taxes is all accomplished in one place.

- Registration of a business is accomplished through the process of obtaining a Business License. A Sales Tax License must be performed prior to opening the business and making retail sales. Business License fees vary depending on the location and type of business. There is no fee to obtain a Sales Tax License.
- Detailed information and instructions for registration are found on the Town of Avon website (www.avon.org) under both the Business License and Sales Tax links under the Home Page drop-down screen for Departments. In addition, there is specific information regarding the collection of sales tax on materials delivered to job sites within the Town. This information has been available since 2014.
- There are also informational links both on the www.avon.org homepage under the button "Online Payments" as well as under the Finance Department's page to the MUNIREvs registration site. In addition, the MUNIREvs telephone number is shown prominently on the web page and throughout the process for obtaining the Business and Sales Tax Licenses.
- Once a Sales Tax License is issued, the Retailer must file a sales tax return, which includes the payment of tax. This process is performed online. The Retailer is required to report the amount of gross taxable sales made for the reporting period, the amount of returned goods, and the amount of retail sales that are exempt from taxation.²
- Sales tax returns are due by the 20th day of the month for the sales activities occurring in the preceding calendar month. The Finance Department does allow quarterly and annual filing of returns for those businesses that do not have minimal retail sales activity.
- It is the duty of each Retailer who obtains a Sales Tax License to keep and preserve adequate records of sales and such other books and accounts necessary to determine the amount of sales tax. Such books and records of the Retailer may be examined at any time by the Director of Finance and must be kept for a period of three (3) years.³

² AMC 3.08.120(b)

³ AMC 3.08.200



Enforcement

Enforcement of the Town's sales tax regulations generally follows these steps:

- 1. Written Notice:** Written notice of a failure to file is sent out through the mail on approximately the 1st of the month following the due date of the return. After approximately 30 additional days, subsequent mailings are sent out under the Town Attorney's signature for failure to respond or file. Copies of these collection letters are attached as Exhibits 3 and 4.
- 2. Municipal Court Complaint:** If a business does not respond to the Town's multiple letter requests then a municipal court citation is issued and/or a sales tax lien is placed on a business. Often, the Sales Taxpayer is instructed by the Court to work out a payment plan with the Finance Department. On only two occasions over the past twenty years has the Finance Director issued a distraint warrant to the County Sheriff. A distraint warrant is an order to seize and sell personal property for payment of delinquent tax amounts due. The Town works cooperatively with the Colorado Department of Revenue in matters involving collection of state sales tax delinquency.
- 3. Audits:** The Finance Director is responsible for examining returns. The Director performs an initial examination of returns as taxes are remitted to determine if the sales tax remittance is unusual or unexpected considering the nature of the business. The Director has authority to order an investigation (i.e. audit) of the Retailer's books.⁴

Audits are sometimes conducted as group audits of large Retailers with other municipalities. Audits may also occur for a select number of specific businesses within the Town. Businesses are selected based upon size of the business and/or concerns identified by sales tax reports. The use of audits is relatively rare in Avon. The Town has not adopted formal programmatic random audits for each business category in a manner similar to larger urban municipalities.

In 2015, the Finance Department ordered audits of seven companies (none of these audits involved any Retailers selling Building Materials). Four of the audits found that the Retailer was in compliance. The other three audits resulted in additional tax assessments of \$22,549.58. The total cost of these audits was \$13,919. The Town has not conducted any recent audits of Building Materials suppliers or contractors.

An audit is the only administrative procedure that authorizes the Town to obtain additional information on specific retail transactions beyond the general reporting of gross retail sales. Information obtained from audits is confidential, except that the Town may publish statistics if, "so classified as to prevent the identification of particular reports or returns or items thereof".⁵

⁴ AMC 3.08.170

⁵ AMC 3.08.200



SECTION II LEGAL

SUMMARY: This **Section II – Legal** has been prepared by Eric J. Heil, Avon Town Attorney. Avon Town Council met on January 12, 2016 to review administration of the Town’s sales tax on building projects in Avon. Specifically, Council discussed and reviewed the application of the Town’s sales tax to Building Materials sold by out-of-town Retailers and delivered in Avon. Several additional legal questions were raised at this meeting which are addressed in this Section.

The conclusions in this **Section II - Legal** are summarized as follows:

- *Town staff has an affirmative duty to administer and enforce sales tax as is legally permissible.*
- *A change in administrative procedures to increase sales tax compliance does not constitute a tax policy change requiring advance voter approval where Town voters have previously approved the Town’s authority to exceed revenue limits set forth by TABOR.*
- *The legal effect of enacting “tax exemptions” versus “tax credits” versus “tax rebates” should be understood because each results in different restrictions on the legislative discretion of future Town councils.*
- *The voter rejection of the referred Use Tax ballot question in 2002 does not affect, restrict or diminish the Town’s legal authority to impose and collect the sales tax under the Town’s sales tax regulations and authority.*
- *The enactment of any exemption, tax credit or tax rebate for Building Materials will likely have a financial affect on the Village (at Avon). The degree of financial affect and potential financial impact depends upon the scope of such exemption, credit or rebate.*
- *The Town Council has broad discretion to enact exemptions, credits and rebates on sales tax imposed on Building Materials provided that such tax relief is (1) for a public purpose, (2) does not discriminate against a protected class and (3) does not discriminate against interstate commerce, thereby violating the dormant commerce clause.*
- *The Town is not liable for refunds of any past sales taxes imposed and collected on Building Materials if Council adopts legislation to provide an exemption, credit or rebate of sales tax on Building Materials.*

Specific legal topics are discussed as follows:

TOWN’S DUTY TO ADMINISTER AND ENFORCE SALES TAX: Chapter 3.08 – Sales Tax includes several provisions for enforcement and administration of the Town’s sales tax regulations. **Section 3.08.290 – Administration** states, “The administration of all the provisions of this Chapter is vested in the Director of Finance, who may, with the approval



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of the Town Manager, prescribe forms and reasonable rules and regulations in conformity with this Chapter for the making of returns, for the ascertainment, assessment and collection of the taxes imposed hereunder, and for the proper administration and enforcement hereof, a copy of which forms, rules and regulations shall be made available to the public.” The **Avon Home Rule Charter, Section 8.3 Powers and Duties**, states the Town Manager’s first power and duty as, “(a) be responsible for the enforcement of laws and ordinances of the Town.” The Town Staff, by and through the Town Manager, has a general affirmative duty to administer and enforce the collection of sales tax.

TAX POLICY CHANGE: The Taxpayer’s Bill of Rights (“TABOR”) was an amendment to the Colorado constitution adopted in 1992 that established a variety of circumstances related to increases in revenue, taxation and debt that required prior voter approval. Article X, Section 20(4)(a) states that [D]istricts must have voter approval in advance for . . . any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, or extension of an expiring tax, or **a tax policy change directly causing a net tax revenue gain to any district.** [emphasis added]. As outlined in my memorandum of January 8, 2016, the imposition of the Town’s 4% sales tax on Building Materials delivered into Avon is based on the sales tax regulations properly adopted by Avon and pre-dating TABOR. As such, the imposition of the Town’s sales tax is not a “new tax” or “tax rate increase” as legally defined by TABOR.

The Colorado Supreme Court announced in 2009 *Mesa County Board of County Commissioners* case that a “tax policy change directly causing a net tax revenue gain to any district” must be considered in conjunction with Subsection (7) of TABOR concerning revenue limits.⁶ Where prior voter approval has properly occurred to allow the District to collect revenues in excess of TABOR revenues limits, a subsequent vote is not required for each tax policy change directly causing a net tax revenue gain. “We find that a tax policy change directly causing a net tax revenue gain only requires voter approval when the revenue gain exceeds the limits dictated by subsection (7).”⁷

The Mesa County Board of County Commissioners involved a challenge to legislation to direct school district funds. In the Town of Avon, no legislative action by Council has occurred with regard to the imposition of sales tax to Building Materials delivered into Avon. Rather, the imposition of the Town’s sales tax has resulted from changes in case law and administrative efforts to increase compliance and uniformity.

TABOR CONSIDERATIONS: The Taxpayer’s Bill of Rights raises several legal constraints that Council should understand. The Town may legally enact temporary “tax credits,” which may expire or may be repealed and thus effectively allow the re-imposition of the tax without constituting a “new tax” or “tax rate increase” that requires prior voter approval. Tax credits may be extended in the Council’s discretion.

The Town Council may also enact “tax rebates” whereby the tax continues to be imposed, is collected, and then is rebated to the party paying the tax. Tax rebates are permissible where Council has determined that the primary reason for the rebate is a

⁶ *Mesa County Board of County Commissioners v. State*, 203 P.3d 519 (Colo.2009).

⁷ *Mesa County Board of County Commissioners*, at P.529.



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public purpose. Tax rebates can be specific to a community policy goal (e.g. affordable housing) or specific to a project that is expected to provide public benefits. Tax rebates are essentially an agreement to appropriate an expenditure of revenues received and therefore must be “subject to annual budget and appropriation” or must be new “special project revenues” in order to comply with TABOR’s restriction on multi-year fiscal obligations.

Alternatively, the enactment of a “tax exemption” by ordinance is permanent and such exemption cannot be repealed or reversed without voter approval in compliance with TABOR.

EFFECT OF USE TAX REJECTED BY VOTERS: The Avon voters rejected a Use Tax in 2002. The referred ballot question was in the form required by TABOR and asked if Town’s taxes should be increased, “by the imposition of a four percent (4%) use tax on the privilege of using or consuming in the Town any construction materials.” As stated in my January 8, 2016, memorandum, sales tax and use tax are legally distinct. Each tax has a separate legal authority that authorizes the imposition of such tax. The scope of transactions subject to sales tax and the scope of transactions subject to a use tax overlaps and courts have long recognized that some transactions are subject to both the sales tax and use tax authority (but liable to pay both sales tax and use tax). The 2002 Use Tax ballot question did not in any manner affect the Town’s legal authority to impose a sales tax on all transactions legally subject to the Town’s sales tax, including the imposition of the Town’s sales tax on retail transactions that occur within the Town of Avon. Specifically, the 2002 Use Tax did not ask whether the use or consumption of construction materials in Avon should be exempt from paying Avon’s sales tax.

The Use Tax Ballot Question referred to the voters in 2002 was worded as follows:

“SHALL THE TOWN OF AVON TAXES BE INCREASED \$1.6 MILLION (\$1,600,000) ANNUALLY IN 2003, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY THE IMPOSITION OF A FOUR PERCENT (4%) USE TAX ON THE PRIVILEGE OF USING OR CONSUMING IN THE TOWN ANY CONSTRUCTION MATERIALS, SUCH USE TAX REVENUES TO BE APPROPRIATED AND SPENT SOLELY FOR TRANSPORTATION AND RECREATION CAPITAL PROJECTS AND SERVICES AND INFRASTRUCTURE RELATED THEREO [SIC], ALL IN ACCORDANCE WITH ORDINANCE NO. 02-18 ADOPTED BY THE TOWN COUNCIL; AND SHALL THE REVENUES COLLECTED FROM SUCH TAX AND ANY EARNINGS FROM THE INVESTMENT OF SUCH REVENUES BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?”

VILLAGE (AT AVON): The Town of Avon originally entered into an Annexation and Development Agreement with the Village (at Avon) in 1998 that included an agreement to provide a “Tax Credit” on Town sales tax, accommodations tax and real estate transfer tax. The Annexation and Development Agreement was amended several times, then was substantially revised as part of settlement of litigation in 2014. The Consolidated,



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Amended and Restated Annexation and Development Agreement for the Village (at Avon) (“**Development Agreement**”) includes the Town’s agreement to provide a credit on sales taxes on “Taxable Transactions”.⁸ This Tax Credit is codified in the Avon Municipal Code at Section 3.08.035.

The Development Agreement establishes a multi-party arrangement whereby (1) the Town of Avon provides a Tax Credit, (2) the non-profit Public Improvement Companies impose a “Public Improvement Fee” or “PIF” on retail transactions and remit those revenues to the Traer Creek Metropolitan District, and (3) the Traer Creek Metropolitan District then issues tax exempt municipal bonds and constructs public improvements to serve development in the Village (at Avon).

The Development Agreement does restrict the Town’s ability to take any action that would reduce the Tax Credit on Taxable Transactions, but does not restrict the Town’s legislative authority to enact exemptions to transactions that are subject to the Town’s sales tax. The definition of “Taxable Transaction(s)” means a retail sales transaction ***that is subject to the Town’s sales tax.*** [Emphasis added]. Therefore, the Town may amend its sales tax regulation by ordinance to enact new exemptions, thereby defining certain transactions that are not subject to the Town’s sales tax, which exemptions would then apply in the Village (at Avon). Such action by the Town would not violate the Development Agreement. However, it is important to recognize that any significant legislative change to the Town’s sales tax regulations should be coordinated with Traer Creek Metropolitan District due to interrelated financial relationship. Council is encouraged to understand and consider any potential negative consequences that new sales tax exemptions may have on the revenue sources and ability of Traer Creek Metropolitan District to service outstanding bonds.

DISCRETION TO GRANT EXEMPTIONS: The Town Council may adopt exemptions which are specific to certain transactions or industries provided that (1) there is a public benefit or purpose to such exemption and (2) the exemption does not violate constitutional considerations. There are many examples in the statutory tax authority for granting exemptions, or legislatively defining certain transactions that are not subject to a tax. Examples of sales tax exemptions include application to public entities, purchases of food, purchases of food with food stamps, and purchases of medical supplies. The Town’s existing sales tax regulations exempt “medial supplies” “prosthetic devices” and “therapeutic devices” from the imposition of sales tax.⁹

With regard to real estate transfer tax, the Town provides an exemption for the first \$160,000 when a property is purchased for use as a primary residence. The Town Council may grant an exemption when it finds that the exemption will promote a public purpose. Council is acting in a legislative capacity when enacting such exemptions.

⁸ Sec. 4.2(a) of the Development Agreement.

⁹ AMC 3.08.040

Substantial discretion is granted by courts to the Town Council when acting in a legislative capacity to determine what constitutes a valid public purpose. However, such legislative discretion is not without discretion. Legal limits can be found in the following circumstances:

1. the true intent is to provide a private benefit (i.e. gift) in violation of the gift clause of the Colorado Constitution;
2. the exemption violates equal protection (i.e. discriminates based upon a protected class – e.g. race, religion, gender, age, etc.); and,
3. the legislation would discriminate against interstate commerce and violate the dormant commerce clause (e.g. granting an exemption for Retailers of Building Materials located in Eagle County or in Colorado but imposing the sales tax on out-of-state Retailers that deliver Building Materials to Avon).

EXEMPTION FOR PUBLIC ENTITIES: Section 3.08.050 Exempt Tax Payers, subsection (1) provides a general exemption from sales tax for public entities, but then states in subsection (3): “Nothing herein contained shall be deemed to exempt from the tax levied by this Chapter sales of building material or supplies to be used by a contractor for the construction of an improvement for any of the institutions or agencies enumerated in Subsections (1) or (2) above.”¹⁰ The language in subsection (3) differs from state statute which does exempt public entities from paying state and county sales tax and/or use tax on construction materials used in public projects. Council may adopt language that parallels state statute.

EXEMPTION FOR AFFORDABLE HOUSING: Council may adopt an exemption of sales tax on Building Materials for housing projects. The provision of adequate and affordable housing has long been recognized as a legitimate public purpose for all levels of government. It is well within Council’s discretion to adopt an exemption (or credit or rebate) on sales tax on Building Materials for affordable housing projects. Specific considerations for any sales tax exemption, credit or rebate for affordable housing projects include:

- Defining projects eligible for exemption. Such as deed restricted, public/non-profit rental projects, or other housing projects intended to serve a housing demand.
- Applying the exemption for all construction materials, whether purchased from in-town vendors and out-of-town vendors who deliver materials to Avon.
- Adopting an exemption versus a “credit” or “rebate.” A rebate has the advantage that it would help a purchaser avoid paying sales tax on Building Materials in another municipality and a rebate could be reduced or terminated in the future without requiring voter approval.

LIABILITY FOR REFUND IF CODE AMENDED: The question was asked if the Town would be liable for a refund to those who have paid the Town sales tax on Building Materials

¹⁰ This language was adopted in 1982 by Ordinance No. 82-27



SALES TAX REPORT ON BUILDING MATERIALS
February 4, 2016

delivered in the Town in the past if the Town amended its sales tax regulations to exempt such transactions. As stated in my prior memorandum dated January 8, 2016, it is my legal opinion that existing sales tax regulation was properly adopted and may be legally applied to the sale of Building Materials when those retail transactions occur in Avon, including the transfer of possession or title of such Building Material by delivery in Avon. The Town is not legally or financially liable for past administration and enforcement of a law, including a sales tax regulation, by virtue of amending or partially repealing such law by legislative action.

THREE YEAR LIMITATION OF ACTIONS: Section 3.08.330 – Sales tax – collection – limitation of actions states that the Town may commence enforcement actions for unpaid sales tax for up to three years after the date on which the tax was payable; however, when a Retailer has failed to file a return, the sales tax may be assessed and collected at any time. **Section 3.08.340 – Sales tax – refunds – limitation of actions** states that an application for refund of tax moneys paid in error or by mistake must be made within three years after the date of the purchase. If there was a successful legal challenge the Town’s collection of sales tax on Building Materials sold by out-of-town Retailers and delivered into Town, the Town could be liable for a refund of all similar collections for the preceding three year period.

CHANGES IN FEDERAL AND STATE LAW: Federal and state law is expected to continue evolving with regard to the imposition of sales tax on out-of-jurisdiction Retailers who deliver goods into a jurisdiction. The U.S. Supreme Court *Quill Corp.* strongly emphasized that Congress has a direct role in legislating on such issues. The Market Place Fairness Act was introduced in 2010, which would have required out-of-state Retailers to collect and remit sales tax on purchases shipped to residents. The Marketplace Fairness Act (a substantially similar bill) was introduced in 2013 and 2015.

Although Congress has not yet passed legislation requiring on-line Retailers to collect and remit sales tax, several large internet retailers have already begun collecting and remitting sales tax. Amazon recently announced that it will collect Colorado state sales tax after an on-going legal challenge to Colorado’s law to require consumers to pay sales tax and to require on-line Retailers to report sales to Colorado consumers to the Colorado Department of Revenue. The national trend is clearly towards on-line Retailers collecting and remitting sales tax on delivered goods. Any change in the national law to legislate that sales tax may be imposed upon goods that are delivered (via U.S. mail, common carrier or any other method) and/or to redefine what constitutes “doing business in a state or local jurisdiction” will most likely directly affect local sales tax regulations. Council is cautioned to be mindful of adopting any permanent exemptions to Avon’s sales tax which may become inconsistent with future national law concerning out-of-state Retailers.



SECTION III SUMMARY OF FINANCIAL INFORMATION

Included in this **Section III – Summary of Financial Information** are two tables containing statistical information regarding building activity and a discussion regarding credit ratings.

Table 1. Table 1 is a summary of sales taxes collected on Building Materials for the years 2010 through 2015. Also included is information regarding the number of sales tax return filers, both in-town and out-of-town, for each Building Materials category. In addition, totals are provided for both in-town and out-of-town Building Materials sales tax collections and filers. Finally, total sales tax collections for all categories of sales taxes for both in-town and out-of-town are presented.

Table 2. Table 2 is a summary of commercial and residential building activity including the number of permits issued, total square footage and value for commercial construction, and the number of dwelling units and values for residential construction.

Credit Ratings. Even a partial reduction in the Town's sales tax base could have undesirable consequences. The Town is proposing to issue Certificates of Participation for its portion of the financing of the joint Police / Fire Regional Station at Buck Creek. In the past, this type of debt has been rated by Standard & Poor's (A+) and Moody's (Aa3) (see attached Exhibits 5 and 6) due primarily to the Town's reserves, consistent financial performance, and modestly-sized tax base based on an adequate economy supported by good financial management. A down-grade in these ratings would undoubtedly increase the interest cost of the Town's debt.

According to Moody's Credit Opinion for the Town of Avon, page 4 states that both a "Deterioration in the Town's financial position" and "Substantial decline in tax base size" could move the Town's ratings down. Enacting any sales tax exemption which is not common for Colorado municipalities and which is viewed as a material change to the Town's tax base could adversely affect the Town's credit rating from both Standard and Poor's and Moody's.

SECTION IV LEGISLATIVE OPTIONS

This **Section IV - Legislative Options** outlines and describes options for Council consideration regarding the imposition of sales tax on Building Materials. Some of the options may be combined or may be varied by Council direction and community input. For all options, it is assumed that the effect on the Town's budget (either positive or negative) is a relevant consideration for Council; however, it difficult and somewhat speculative for Town staff to estimate or forecast the potential financial effect of each option.

1. **No Legislative Action:** Council has the option of not amending Chapter 3.08 of the Avon Municipal Code. Under this option, Town staff would continue current efforts to inform, impose, collect and enforce the Town's sales tax on the sale of Building Materials by Retailers located outside Avon and delivered into the Town of Avon. Town staff is continuing to improve and update the administration, notification and guidance materials to facilitate understanding and compliance of the Town's sales tax requirements. Direction from Council would be appropriate on specific methods or actions that would best accomplish the goal of improving uniformity and compliance.
2. **Enact An Exemption on Delivered "Building Materials":** Council may amend Chapter 3.08 to expressly exempt the application of sales tax on Building Materials that are delivered to Avon AND where the Retailer does not have a physical office presence in Avon. Specific considerations on the details of such an exemption include:
 - a. Should the definition of "Building Materials" that qualify for exemption include only Building Materials that are incorporated into the real estate (e.g. concrete, lumber, insulation, drywall, fasteners, etc.)? Should the exemption apply to fixtures (e.g. appliances, toilets, sinks, faucets, furnace, etc.)? Should the exemption include the sales of material and equipment from "retailer-contractors"?
 - b. Should an exemption for delivered "Building Materials" also apply to out-of-town Retailers that actively advertise within the Town of Avon or actively use sales persons within the Town of Avon? (Active advertisement and the use of sales persons within the jurisdiction are facts which courts have considered relevant and material when determining whether a business is 'conducting business' within a jurisdiction and therefore subject to that jurisdictions taxation).
 - c. Are there any financial consequences to the Town's credit rating?
 - d. Are there any financial consequences to the Traer Creek Metropolitan District's ability to service existing debt and ability to issue new debt to finance the construction of additional public improvements in the Village (at Avon).

- e. Are there any impacts to existing and future in-town Retailers of Building Materials arising from such an exemption.
 - f. Will this exemption result in the contractor paying sales tax to another municipality when the Retailer's physical location is in another municipality?
3. **Enact an Exemption on all "Building Materials"**: Council may amend Chapter 3.08 to exempt from sales tax all Building Materials, whether purchased from a Retailer located outside Avon and delivered into the Town of Avon or purchased from a Retailer located in Avon. Specific considerations on the details of such an exemption include:
- a. The general considerations stated above concerning the definition of Building Materials; and,
 - b. A comprehensive exemption would significantly impact Public Improvement Company fee revenue sources from Home Depot and other retailer-vendors in the Village (at Avon) which may materially affect the existing Public Improvement Fee revenue streams and the ability of Traer Creek Metropolitan District to service existing debt payments.
4. **Enact an Exemption on all Delivered Materials**: Council may amend Chapter 3.08 to exempt all tangible personal property from Town's sales tax when sold by a Retailer located outside of Avon but delivered into the Town of Avon. Specific considerations on the details of such an exemption include:
- a. Consideration of marketing activities within the Town by out-of-town Retailer; and,
 - b. The competitive impact on existing in-town Retailers.
5. **Enact an Exemption for Public Facilities and Projects**: Council may amend Chapter 3.08 to exempt the imposition of sales tax on Building Materials used for public facilities and projects. Such exemption would simply repeal Section 3.08.050(3) so that the Town's sales tax regulations are consistent with the State's sales tax regulations. Such an exemption would apply to both sales by in-town Retailers and sales by out-of-town Retailers that deliver to Town.
6. **Enact an Exemption for Affordable Housing Projects**: Council may amend Chapter 3.08 to exempt the imposition of sales tax on Building Materials for affordable housing projects. Specific considerations on the details of such an exemption include:
- a. Defining what qualifies as an affordable housing project (e.g. deed restriction); and,

- b. Whether to apply the exemption to sales by both out-of-town and in-town Retailers.
7. **Enact a “Credit” or “Rebate” Rather Than Exemption:** Council may provide sales tax relief in the form of a credit or rebate rather than an exemption. A “credit” or a “rebate” may be repealed or re-defined in scope without the requirement of advance voter approval as required by the Taxpayer’s Bill of Rights. A credit or rebate may be more appropriate when granting tax relief for affordable housing projects because the Council retains greater flexibility to update the definitions and scope of the credit or rebate over time depending upon circumstances.
8. **Enact a Temporarily Reduced Sales Tax on Delivered Building Materials:** Council may enact a temporary sales tax credit or rebate on delivered building materials which is phased out over time. The Town’s existing 4% sales tax was originally phased-in such that the sales tax rate was 1% for the first year, 2% the second year, 3% the third year, and the full 4% commencing on the fourth year.
9. **Refer a Use Tax Ballot Question for Voter Consideration:** Council may refer a ballot question on Use Tax to the next eligible TABOR election on November 8, 2016, which, if approved by the Avon voters, would (1) complement the Town’s sales tax, as widely recognized throughout the nation, (2) would be more comprehensive in applying to all goods used in Avon rather than goods that are delivered in Avon or sold in Avon, and (3) would significantly simplify administration, compliance and enforcement.
10. **Dedicate Sales Tax on Building Materials to a Specific Purpose:** Council may enact an ordinance pledging the revenue from sales tax on Building Materials to a specific purpose (e.g. capital improvement projects, affordable housing). Council has previously enacted an ordinance pledging Real Estate Transfer Tax revenues to the capital improvement projects fund. An ordinance adopting a pledge or earmark of revenues for an identified purpose can be changed by a future Council by adoption of a new ordinance.

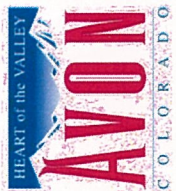


SECTION V
RECOMMENDATIONS FOR SALES TAX ADMINISTRATION IMPROVEMENT

Town staff provides the following recommendations to improve sales tax administration:

1. **Meet with New Licensees.** Newly licensed contractors would be required to meet with Finance Department representatives prior to being issued a building permit to ensure they have the proper business license, determine whether or not they are required to have a sales tax license, and provide necessary assistance and guidance in these processes.
2. **Create and Publish Administrative Guidelines.** Administrative Guidelines would be used to provide more information and/or guidance on specific sales tax-related issues. They can be more detailed than the Municipal Code and can use real-life examples.
3. **Reach-out to Potential New Licensees.** Conduct periodic informational campaigns to inform the public and potential new businesses about the Town's licensing requirements.
4. **Work with Community Development Department.** Coordinate with the Community Development Department to identify ways to ensure compliance with the Town's licensing requirements.
5. **Website Improvements.** Continue to review information provided on the Town's website and update when appropriate to improve it's efficiency, accessibility and functionality for users.

EXHIBIT 1



Supplier Verification Form

Project Name _____ Permit # _____

Contact Name, Phone Number _____

Supplier/Contractor	Address (street, city, state, zip)	Phone Number	Delivered or Picked up (where)?

To the best of my knowledge and belief, the foregoing information is true, correct, and complete.

Signature _____ Date _____

EXHIBIT 2

Dear Contractor and/or Project Manager:

Thank you for choosing Avon for your project.

We recognize that some Colorado municipalities you do business in have a use tax payable at the time of permitting, and therefore have a related sales tax exemption on construction materials. We would like to take a few moments of your time to educate you on the Town of Avon tax process. The Town of Avon does not collect a use tax and ***does not exempt construction materials from sales tax.*** As a contractor pulling a permit, this means that you will need to pay sales tax to your vendors for all taxable materials; the rate of tax applied to invoices will depend upon the point of delivery. All materials delivered to a job site located within the Town of Avon will be subject to the Town of Avon sales tax of 4%, in addition to applicable State, County, and special district taxes. Alternatively, materials that you take possession of in another municipality would be subject to that municipality's tax rate. This information also applies to your subcontractors and their vendors, and it is your responsibility to relay this important information to all involved on your project.

Contracts that you may enter into including those involving sub-contractors or construction related suppliers of windows, concrete, construction material, appliances, furniture, etc. are subject to Town of Avon taxation and require that the business possess a Town of Avon sales tax license. From your perspective as the developer of the property, bids and invoices for such materials as named above, for example, should include appropriate estimates of sales tax that are required to be remitted by the supplier to the Town of Avon, or other municipality, based upon the point of delivery. Please keep this in mind when reviewing and approving any potential bid or contract.

Town of Avon staff experience has determined that sales have taken place in the construction industry that has not been properly taxed. Whether this is due to a misunderstanding of the Code or an intentional disregard for current law has not been determined. As a result, staff has decided to elevate educational efforts to familiarize the industry.

Chapter 3.08.010 of the Avon Municipal Code clearly defines taxable transactions, including an extensive (but not all-inclusive) list of construction materials. The Code further goes on to define "engaged in business in the Town" to include performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the Town.

The Town of Avon has provided a "Supplier Verification Form". The purpose of the Supplier Verification Form is to provide information to the Finance Department setting forth the name, business address and telephone number of each contractor, subcontractor and material supplier who provided labor or materials in connection with the property for which the permit was issued. This information is used to substantiate compliance with licensing and sales tax provisions designed to ensure an equitable business environment within the Town of Avon. The Town of Avon strongly urges you to complete this information to prove compliance with our sales tax policies.

On behalf of all of us who work for the Town of Avon, let me extend our thanks to you for choosing to pursue business in Avon. We also thank you for understanding this process and its importance in successfully providing an even and equitable business environment that is crucial to operating a first rate Town.

For additional information, you may review the Town Code on line at www.Avon.org. Please address any questions that you or your subcontractors/vendors have on this process to, Beth Johnston via email bjohnston@avon.org or via phone 970-748-4019.

EXHIBIT 3



FTF ①
11/23/15
1/4 (Oct) 2nd not out yet

January 12, 2016

«DBA_Name»
«Business_Name»
«Mailing_Address_1»
«Mailing_Address_2»
«Mailing_City», «Mailing_State» «Mailing_Postal»

Re: Failure to File Notice for Account #«Account_Number»

Dear Taxpayer:

As of the date of this letter we still have not received your tax return for:

Tax Return

Due Date

Your tax return must be filed and paid in full within ten (10) days of the date of this letter or the Town will have no alternative other than to proceed to collect the appropriate tax through other means, which may include an assessment of estimated tax based on prior filings.

Returns filed after the due date are considered delinquent and will be assessed a penalty of either \$15.00 or 10% of the delinquent tax, whichever is greater, plus a 1.5% per month interest charge.

If no tax is owed for a particular period, a return must still be filed by the due date indicating that no tax is owed. Zero (\$0) tax returns not filed by the due date are considered delinquent.

Avon encourages online filing. Please file and pay your tax return online at www.Avon.org. If you need assistance registering your account online, please contact MUNIRevs Support at 888-751-1911. If you prefer to file your return by any method other than electronic, please contact the Finance Department at 970-748-4019.

Should you have any questions regarding this notice, you may contact me by phone to (970) 748-4019 or by email to salestax@avon.org.

Sincerely,

 Kelly

Beth Johnston
Accounting Assistant II

EXHIBIT 4



FTF (2)

DATE

«Business_Name»
«DBA_Name»
«Mailing_Address_1»
«Mailing_Address_2»
«Mailing_City», «Mailing_State» «Mailing_Postal»

Sent to Eric 12/31
mailed 1/13/16

Re: FINAL NOTICE – FAILURE TO FILE for Account #«Account_Number»

Dear Taxpayer:

The Town of Avon recently sent you a letter regarding your delinquent tax return for the following period(s). No response to that letter has been received, your account remains delinquent, and the matter has now been referred to me for further action.

Tax Return

«Task_Detail»
«Task_Detail1»

Due Date

«Task_Due_Date»
«Task_Due_Date1»

As of the date of this letter, you are seriously delinquent in the filing of your return. If the Town does not receive your delinquent return and payment in full from you within five (5) days of the date of this letter, a summons will be issued charging you with the violation of the Town’s tax ordinance and requiring your appearance in the Town of Avon Municipal Court. The Town may also proceed to collect the tax through other avenues available including the filing of tax liens and the issuance of distraint warrants. Please note that the penalty for negligent or intentional disregard of the Town of Avon’s tax regulations includes an additional ten percent (10%) of the total amount of the deficiency as well as interest in the amount if one and one-half percent (1 ½%) of the total amount of the deficiency in accordance with Section 3.08.140 and/or 3.28.080 of the Avon Municipal Code. Additional penalties may be assessed in accordance with Section 3.08.310 and/or 3.28.090 and Section 1.08.010 of the Avon Municipal Code, which penalties can include fines up to \$1000 per offense.

If no tax is owed for a particular period, a return must still be filed by the due date indicating that no tax is owed. Avon encourages online filing. Please file and pay your tax return online at www.Avon.org. If you prefer to file your return by any method other than electronic, please contact the Finance Department at 970-748-4019.

Should you have any questions regarding this notice, you may contact me by phone to (970) 748-4019 or by email to salestax@avon.org.

Sincerely,

Eric J. Heil
Town Attorney

RatingsDirect®

Summary:

Avon, Colorado; Appropriations

Primary Credit Analyst:

Bryan A Moore, San Francisco (1) 415-371-5077; bryan.moore@standardandpoors.com

Secondary Contact:

Daniel J Zuccarello, New York (1) 212-438-7414; daniel.zuccarello@standardandpoors.com

Table Of Contents

Rationale

Outlook

Related Criteria And Research

Summary:

Avon, Colorado; Appropriations

Credit Profile

US\$5.93 mil certs of part ser 2014A due 12/01/2039

Long Term Rating

A+/Stable

New

Rationale

Standard & Poor's Ratings Services assigned its 'A+' rating to Avon, Colo.'s series 2014A certificates of participation (COPs). At the same time, Standard & Poor's affirmed its 'A+' rating on the town's COPs outstanding. The outlook is stable.

The series 2014A COPs represent an interest in lease payments made by the town of Avon, Colo., as lessee, to UMB Bank, N.A., as lessor, for the use and possession of the leased assets. The lessor assigns all sublease payments to the trustee, UMB Bank N.A. The debt service payments will be on June 1 and Dec. 1 of each fiscal year, and the lease payments will be due on the 15th of the prior month. The lease is subject to annual renewal by the town. The town also has the option to purchase the property and terminate the lease. The town may not abate lease payments in the event of damage to or the destruction of the assets.

The rating reflects our assessment of the following factors for Avon:

- We believe the town has adequate income levels and valuation, with a projected per capita effective buying income at 86% of the U.S. level and per capita market value of \$205,300. Avon, with a population of approximately 7,100, is a residential community located about 100 miles west of Denver and eight miles west of Vail along the Interstate 70 corridor in Eagle County. Because the Vail, Beaver Creek, and Arrowhead ski resorts are all located within 10 miles of Avon, the local economy is based largely in the tourism and ski industries. Eagle County's 2013 unemployment rate was 6.6%, above state and national levels.
- In our opinion, the town's budgetary flexibility is very strong. Reserves were above 30% of expenditures for fiscal 2013, and management estimates that they will remain about the same for the next two years. Audited available fiscal 2013 reserves were \$4.8 million, or 41.5% of expenditures, and management is projecting to have balanced operations in fiscal 2014.
- Avon's budgetary performance is adequate, in our opinion, with a surplus of 11.1% for the general fund and a deficit of 5% for the total governmental funds in fiscal 2013. Management attributes the large surplus in part to improved sales tax revenues, which represent approximately 50% of general fund revenue. Sales tax revenue rose 11% in fiscal 2013 from fiscal 2012. For fiscal 2014, sales tax revenue is currently up 7% year over year. Management projects having balanced general fund operations in fiscal 2015 and fiscal 2016. Also, the town settled a pending lawsuit that will generate roughly \$650,000 of additional revenues annually and result in reduced legal fees going forward.
- We believe strong liquidity supports Avon's finances, with total government available cash to government fund expenditures and cash to debt service at 22% and 88% of debt service coverage, respectively. Based on past issuance of debt, we believe that the issuer has strong access to capital markets to provide for liquidity needs if necessary.

EXHIBIT 5

Summary: Avon, Colorado; Appropriations

- In our opinion, Avon's management conditions are adequate with "standard" financial practices under our Financial Management Assessment (FMA) methodology. An FMA of "standard" indicates our opinion that the government maintains adequate policies in some, but not all, key areas. The town builds its budget assumptions using a third-party source and has a reserve policy of keeping 25% of expenditures in the general fund. The town does not have a debt management policy.
- In our opinion, Avon's debt and contingent liabilities profile is very weak, with total governmental funds debt service at 25.3% of total governmental funds expenditures and with net direct debt at 72.3% of total government revenues. Avon participates in a defined contribution pension plan through the Town of Avon General Employees Retirement plan and the Town of Avon Police Officers Money Purchase retirement plan to provide pension benefits for employees. It has contributed 100% of the annual required contribution (ARC) in each of the past three years. The combined ARC pension costs for fiscal 2013 were less than 10% of expenditures, and we don't expect these costs will increase substantially in the near term. We also understand that the town is issuing series 2014B COPs as a private placement with UMB Bank N.A. We understand that there are no acceleration or greater nation clauses in the documents.
- We consider the institutional framework score for Colorado cities as strong. See Institutional Framework score for Colorado.

Outlook

The stable outlook reflects our view of Avon's continued consistent financial performance and underlying adequate economy supported by good management. We do not expect to change the rating during our two-year outlook horizon due to our expectation that the town will maintain very strong financial flexibility.

Related Criteria And Research

Related Criteria

- USPF Criteria: Local Government GO Ratings Methodology And Assumptions, Sept. 12, 2013
- USPF Criteria: Appropriation-Backed Obligations, June 13, 2007

Related Research

- S&P Public Finance Local GO Criteria: How We Adjust Data For Analytic Consistency, Sept. 12, 2013
- Institutional Framework Overview: Colorado Local Governments

Ratings Detail (As Of October 17, 2014)

Avon Twn rfdg certs of part
Long Term Rating

A+/Stable

Affirmed

Complete ratings information is available to subscribers of RatingsDirect at www.globalcreditportal.com. All ratings affected by this rating action can be found on Standard & Poor's public Web site at www.standardandpoors.com. Use the Ratings search box located in the left column.

EXHIBIT 5

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EXHIBIT 6



Moody's assigns Aa3 rating to Town of Avon, CO's COPs

Global Credit Research – 14 October 2013

\$11.9 million in debt affected; Aa2 issuer rating affirmed

Municipality
CO

Moody's Rating

ISSUE		RATING
Certificates of Participation, Series 2014		Aa3
Sale Amount	\$5,930,000	
Expected Sale Date	10/22/2014	
Rating Description	Lease	

Opinion

Moody's Investors Service has assigned an Aa3 rating to the Town of Avon, Colorado's Certificates of Participation, Series 2014. At this time, Moody's affirms the Aa3 rating on the district's outstanding \$6.0 million in outstanding parity certificates of participation, as well as the town's Aa2 issuer rating. Proceeds from the current issue will be used to finance the acquisition and improvement of a building that will serve as the town's primary administrative facility. The COPs will be secured by annually appropriated base rental payments on the building.

RATING RATIONALE

The Aa2 issuer rating reflects the town's modestly-sized tax base with an economy that is dependent upon winter tourism and sports activity, sound finances that are buffered by the presence of a substantial amount of available reserves outside the general fund, a debt burden that is somewhat high as a function of general fund revenues, and no pension liabilities.

The Aa3 COP rating primary reflects the lease structure including an annual appropriation of base rental payments, the critical nature of the leased asset, and adequate collateralization. The somewhat high total lease burden and absence of a debt service reserve fund are weaknesses that are mitigated by the legal availability of Capital Projects Fund reserves to make base rental payments, as well as substantial available reserves outside the general fund.

STRENGTHS

- Sound financial operations with a substantial amount of available reserves
- No pension liabilities

EXHIBIT 6

CHALLENGES

- Somewhat small tax base with limited local economy
- Somewhat high aggregate lease burden

DETAILED CREDIT DISCUSSION

ANNUAL APPROPRIATION PLEDGE WITH ADEQUATE TIMING AND LEGAL PROVISIONS

Moody's believes that the essential nature of the leased assets significantly reduces the risk of nonpayment. The leased asset is the "Skier Building," a 16,273 square foot structure located on a 10,840 square foot parcel that the town will acquire and improve with certificate proceeds. The parcel is adjacent to a town-owned parking lot, adding value to the facility unavailable to other potential purchasers. Given the limited number of appropriate comparables, the asset's assessed value is somewhat speculative; however, the replacement cost of the asset, including the adjacent town-owned parking lot, is estimated at \$7.1 million. The certificates are secured by the town's pledge to annually appropriate base rental payments equal to debt service under an annually renewable lease purchase agreement between the town and UMB Bank, N.A., which is both the trustee and lessor. Under the lease agreement, the town must include in its annual budget the lease payments for the ensuing fiscal year, with funds due to the trustee 15 days prior to scheduled debt service payments. Base rental payments are not abatable once appropriated by the town. In the event that on or before December 31st the town does not budget and appropriate moneys sufficient to pay all lease payments coming due for the next fiscal year, then an event of non-appropriate shall be deemed to have occurred by the first business day of February. The town will have 30 days from the receipt of notice from the trustee to cure any event of non-appropriate. If the event of non-appropriation is not cured, the district shall vacate or surrender possession of the leased property by March 1st. The district may also occupy the leased asset as a tenant on a month-to-month basis under which the district would pay the equivalent of one-sixth of the interest and one-twelfth of principal payments for the COPs.

The current issue will not have a funded debt service reserve fund, a credit weakness that is mitigated by the essentiality of the pledged asset as well as substantial available reserves.

SMALL SKI RESORT TOWN WEST OF VAIL

The town, located 114 miles west of Denver (Aaa) and eight miles east of Vail (Aa1), covers just 8.25 square miles in the Rocky Mountains along Interstate 70. Although the full-time resident population is small at just 6,434, the winter and summer time populations increase substantially due to the town's proximity to the Beaver Creek and Vail resorts. Skiing is a popular local activity, and in 2015 the town will host the World Alpine Ski Championship. Like most Colorado resort towns, Avon suffered a substantial decline in property values during the recession. The town's current \$1.6 billion market valuation is down from its pre-recession peak of \$2.1 billion. However, local officials report significant market activity being reflected in real-estate transfer tax revenues, and estimate that the town's next valuation will likely see a 10% or greater increase. The town's ten largest taxpayers are primarily developers, and comprise a moderate 17.5% of assessed value. Wealth measures in the town are average, with median family income at just 81.8% of the US, according to data from the Census Bureau. However, full value per capita, a better proxy measure of wealth given the nature of the tax base, is strong at \$244,925. Unemployment in the region is low, with July 2014 data from the Bureau of Labor Statistics showing just a 4.7% unemployment rate.

SOUND FINANCIAL OPERATIONS WITH SUBSTANTIAL AVAILABLE RESERVES

EXHIBIT 6

Moody's views the town's financial operations as sound, despite having operating deficits in four of the last five audited fiscal years. The town's primary source of revenue is from sales taxes, which in 2013 comprised 49.7% of general fund revenues, followed by local property taxes (12.6%), and charges for services (10.3%). The town's primary expenses are for culture/recreation (28.9%), general government (24.0%), and public safety (22.1%). At the peak of the recession in 2009, the town's operating deficit was just shy of \$2.0 million, primarily the result of falling sales tax revenues and charges for services. In 2010 and 2011, with revenues improving but still well-below pre-recession peaks, town officials estimate they incurred legal fees of approximately \$1.0 million annually stemming from a dispute with a developer. Beneficially, a final settlement of the lawsuit occurred in August 2014. Despite some expenditure reductions during the recession, including the implementation of a one day a month furlough and a 2% pay cut for employees, declining property tax revenues resulted in a small operating deficit of \$215,000 in 2012. In fiscal 2013, the town delivered an operating surplus of nearly \$1.3 million, the result of a strong return to growth of sales tax revenues, as well as substantial cost savings from vacated management positions that were not filled. Town officials anticipate 2014 financial results to likely exceed budgeted expectations of a small surplus, and expect expenses to be lower than budgeted by as much as 5%. The town does not anticipate significant deviations from this pattern in 2015.

During this period of operating deficits, the town maintained sizeable available reserves, primarily in its general fund but also in other town funds, including the Transit Fund, the Fleet Fund, the Affordable Housing Fund, and the Capital Projects Fund. In aggregate, available reserves hit a high of \$10.4 million in 2008 (73.4% of general fund revenues), falling to a still substantial recession low of \$8.2 million in 2012 (71.1% of general fund revenues). 2013 available reserves were 76.3% of general fund revenues, or \$9.8 million. At these levels, the town's available reserves far exceed those of similarly rated peer medians both in Colorado and across the nation. The town recently changed its 35% general fund reserve policy to a 25% policy that also reflects transfers out to other funds; transfers out of the general fund have averaged 10.4% of revenues over the past five audited fiscal years.

SOMEWHAT HIGH ANNUAL LEASE BURDEN

The current issuance has a level repayment structure of approximately \$506,000 annually, or a manageable 4.0% of 2013 general fund revenues. The town will also privately place \$3.8 million in additional COPs (Series 2014B) in November, resulting in \$15.7 million in total outstanding COPs. The privately placed COPs have a bullet payment in 2024 of \$1.7 million that the town intends to refinance or pay off. Peak debt service on all of the town's COPs, excluding the 2024 bullet payment, is \$1.2 million in fiscal 2021, representing a somewhat high annual lease burden of approximately 9.4% of the town's 2013 general fund revenues. Positively, moneys in the Capital Projects Fund is also available for repayment. At the end of fiscal 2013, the Capital Projects Fund held \$3.6 million in reserves.

The town's overall net direct debt burden is low at 1.0% of full value and 1.16 times operating revenues (general fund plus debt service fund revenues). In addition to the COPs, the town has \$1.5 million in outstanding general obligation bonds (unrated by Moody's). The town also has a moral obligation pledge to replenish the debt service reserve fund for \$6.8 million in outstanding tax increment revenue bonds issued by the Avon Urban Renewal Authority in 2013. The debt service reserve fund is approximately \$628,000.

In addition the current issuance and the Series 2014B COPs, the town is considering seeking voter approval within the next two years for a \$10 million bond authorization to build a recreation center. A vote put before voters last summer failed by 34 votes.

EXHIBIT 6

The town offers its employees a defined contribution retirement plan and has no unfunded pension liability.

WHAT COULD MOVE THE RATING-UP

- Continued trend of strong financial performance with high reserve levels
- Resumption of growth and sustained assessed values
- Reduction in the annual debt burden and overall debt profile of the town

WHAT COULD MOVE THE RATING-DOWN

- Deterioration in the town's financial position
- Rapid increase in debt burden
- Substantial decline in tax base size

KEY STATISTICS

Population: 6,434

2013 full valuation: \$1.6 billion

2013 full value per capita: \$244,925

Median family income: 81.8% of U.S.

Available fund balance as % of revenues: 74.32%

5-year dollar change in fund balance as % of revenues: -4.47%

Cash balance as % of revenues: 36.27%

5-year dollar change in cash balance as % of revenues: -9.39%

Institutional framework: Aa

5-year average of operating revenues / operating expenditures (x): 0.98x

Net direct debt burden / full value (%): 0.97%

Net direct debt / operating revenues (x): 1.16x

3-year average of Moody's adjusted net pension liability / full value (%): 0%

3-year average of Moody's adjusted net pension liability / operating revenues (x): 0.00x

Peak general fund burden of COPs: 9.4% of 2013 revenues (2021)

TABLE 1**SALES TAX COLLECTIONS RELATED TO BUILDING MATERIALS
2010 - 2015**

Building Materials NAICS Category	2010		2011		2012		2013		2014		2015	
	Amount	# of Filers	Amount	# of Filers	Amount	# of Filers	Amount	# of Filers	Amount	# of Filers	Amount	# of Filers
Other Foundation, Structure, and Building Exterior Contractors	\$ 2,273.07	3	\$ 2,294.76	4	\$ 8,398.86	4	\$ 9,979.07	4	\$ 3,379.96	4	\$ 32,451.13	8
Other Building Equipment Contractors	14,209.32	15	10,237.09	16	21,712.16	21	19,251.09	33	22,227.27	33	45,839.52	31
Other Building Finishing Contractors	1,818.96	1	2,166.79	1	2,769.98	2	3,348.02	5	46,031.75	7	37,766.96	10
All Other Specialty Trade Contractors	6,340.97	19	10,234.98	17	9,769.90	15	8,709.09	22	92,789.42	33	123,600.94	49
Lumber Merchant Wholesalers	10,393.80	1	21,542.15	2	17,054.55	2	18,983.05	4	30,510.01	4	17,517.59	4
Plumbing & Heating Equip & Supplies Merchant Wholesalers	96,715.12	4	111,142.41	3	122,178.23	3	132,259.19	5	175,269.12	6	174,362.76	5
Floor Covering Stores	-	2	-	0	-	0	-	2	49,140.77	9	73,515.17	10
Window Treatment Stores	-	1	-	1	-	1	1,483.69	3	1,074.50	3	-	2
Household Appliance Stores	-	1	2,064.67	3	57,691.60	3	28,660.05	4	15,958.72	4	18,895.68	4
Home Centers	-	2	-	2	-	2	-	2	63,902.97	3	78,357.71	4
Paint and Wallpaper Stores	-	0	-	0	-	0	-	2	-	1	-	1
Other Building Material Dealers	78,621.58	12	78,444.13	16	91,737.20	14	115,155.11	17	101,512.48	14	40,803.39	11
Total Sales Tax on Building Materials	\$ 210,372.82	61	\$ 238,126.98	65	\$ 331,312.48	67	\$ 337,828.36	103	\$ 601,796.97	121	\$ 643,110.85	139

In Town vs. Out-of-Town Building Materials

In-Town	\$ 166,153.97	14	\$ 180,253.80	14	\$ 258,564.76	15	\$ 237,766.41	18	\$ 282,975.73	16	\$ 331,502.90	21
Out-of-Town	44,218.85	47	57,873.18	51	72,747.72	52	100,061.95	85	318,821.24	105	311,607.95	118
Total	\$ 210,372.82	61	\$ 238,126.98	65	\$ 331,312.48	67	\$ 337,828.36	103	\$ 601,796.97	121	\$ 643,110.85	139

In Town vs. Out-of-Town - All Categories

In-Town	\$4,897,186.29	90.59%	\$4,838,603.47	88.87%	\$5,003,178.47	89.58%	\$5,698,370.34	89.58%	\$6,091,583.92	86.19%	\$6,533,511.26	86.56%
Out-of-Town	508,767.08	9.41%	606,209.76	11.13%	582,045.10	10.42%	662,697.53	10.42%	976,175.54	13.81%	1,014,359.53	13.44%
Total	\$5,405,953.37	100.00%	\$5,444,813.23	100.00%	\$5,585,223.57	100.00%	\$6,361,067.87	100.00%	\$7,067,759.46	100.00%	\$7,547,870.79	100.00%

Notes:

(1) In those instances where there is less than 3 filers in a category, the sales tax amounts have been added to the category titled "Other Building Material Dealers" in order to maintain confidentiality.

TABLE 2**COMMERCIAL AND RESIDENTIAL CONSTRUCTION
LAST TEN FISCAL YEARS**

Year	Total Permits Issued	Commercial Construction		Residential Construction		Total Building Construction Value
		Square Footage	Value	No. of Units	Value	
2006	146	26,639	\$ 114,860,200	12	\$ 13,980,955	\$ 128,841,155
2007	166	19,242	25,248,538	93	10,970,648	36,219,186
2008	145	11,416	2,525,749	15	11,165,780	13,691,529
2009	91	-	725,000	3	8,683,371	9,408,371
2010	112	16,517	3,215,036	7	9,806,550	13,021,586
2011	125	2,210	922,600	9	8,412,190	9,334,790
2012	126	54,250	11,400,000	8	2,448,500	13,848,500
2013	159	217,293	27,121,876	12	9,027,760	36,149,636
2014	156	-	1,500,000	10	13,735,900	15,235,900
2015	163	179,149	16,207,000	25	18,792,261	34,999,261

Source: Town of Avon Community Development Department



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Justin Hildreth, Town Engineer
Meeting Date: February 9, 2016
Agenda Topic: Fourth Amendment to Intergovernmental Agreement for a Joint Fire-Police Station Facility between the Town of Avon and the Eagle River Fire Protection District for Review and Action on Fee Waiver Request by Eagle River Fire Protection District

ACTION BEFORE COUNCIL

To review and approve, approve with changes or deny the Fourth Amendment to the Intergovernmental Agreement to waive Building Permit fees and planning review fees, allocate Town of Avon Water Tap Fee to the project, and delay the decision to waive the Exterior Energy Offset Program fee until the geothermal feasibility study is completed for the proposed Public Safety Facility (PSF).

PROPOSED MOTION

I move to approve the Fourth Amendment to the Intergovernmental Agreement for a Joint Fire-Police Station Facility between the Town of Avon and the Eagle River Fire Protection District, which waives Building Permit fees and planning review fees, and allocates the payment of the Town of Avon Water Tap Fee to offset the actual water infrastructure costs for the project. Action on the request to waive the Exterior Energy Offset Program fee will be delayed until the results of the geothermal feasibility study is completed.

DISCUSSION

The Eagle River Fire Protection District (ERFPD) is requesting that each entity waive respective development fees for the Public Safety Facility since this is a joint public facility that provides important benefits to the community. Below is a listing of each fee, what it is used for, how it is calculated, and a recommendation if it should be waived.

The final land area needed for the Police Station building and associated parking was finalized with the development of the Schematic Design. Based upon the methodology approved in the Second Amendment to the IGA, the final calculation resulted in less land needed, and, as such, a lower purchase amount. This final calculation is provided below.

ERFPD Fees

The ERFPD charges three types of development fees that can be waived for the project:

- Fire Sprinkler Permit and Plan Check Fee cover ERFPD's expenses in reviewing, permitting and inspecting fire sprinkler systems. The fee is based on building square footage and the split will be based on each entities square footage use of the building.

- Fire Alarm Permit and Plan Check Fee cover ERFPD's expenses in reviewing, permitting and inspecting fire alarm systems. The fee is based on building square footage and the split will be based on each entities square footage use of the building.
- ERFPD Impact Fee, which is included in the Avon Municipal Code and is based on the water meter size, covers the impact of new development on providing fire protection services. The fee will be split 50/50 since the water services infrastructure will be split 50%50% as agreed upon in the existing IGA.

Town of Avon Fees

The Town of Avon Building Permit fee and planning fees are split 45% Avon and 55% ERFPD based on the valuation of the project. The following is a brief description of the fees the Town charges for this type of development:

- The Building Permit fee is based on the valuation of the project using formulas in the International Building Code and is intended to cover all Town cost to review and inspect the building. This fee can be waived by Town Council since the project provides a benefit to the community. If the fee is not waived, it should be adjusted based on the actual construction costs of each entity.
- The planning review fees, as outlined in the Avon Municipal Code, cover the Town's expenses to provide planning review and approval. This fee can be waived by Town Council since the project provides a benefit to the community.
- The Town of Avon Water Tap Fee is \$4,000 per Single Family Equivalent (SFE) as outlined in the Avon Municipal Code and must be used to cover water infrastructure costs. The PSF will have a 2" water meter, which corresponds to 10.30 SFEs, and an Avon Water Tap Fee of \$41,200. The fee would be split evenly between Avon and the ERFPD since it is an infrastructure cost, which are split evenly in the existing IGA. This fee can be waived or allocated to cover water infrastructure costs of the project, including the water service line and piping the Nottingham Puder Ditch.
- The Exterior Energy Offset Program was recently adopted by Town Council. The program charges \$16/SF fee on exterior snowmelt systems. Monies are contributed to a fund, which is then contributed to other residential projects to lower nonrenewable energy use. The fund is administered by Eagle County.

The fee and can be reduced when onsite renewable power generation (i.e. geothermal) is developed and equal to 50% of the energy needs of snowmelt. A feasibility study is underway for the site and the results should be known and presented at the March 1, 2016, Town Council meeting. Any geothermal benefit would be useable only by the building, as geothermal cannot be used to melt snow. If geothermal is feasible for the building, the energy use can be quantified and applied to the exterior snowmelt. If the study does not result in the nonrenewable offset meeting the code requirements, staff recommends the fee be paid by both the Town and ERFPD.

Avon Land Cost Reconciliation

As part of the Second IGA Amendment, the final land cost for the Town's Police Department was updated to match the revised program. The updated programs, based upon the methodology used to compute land costs, calculated that the Town's land cost should be \$835,847 versus a previous estimate of \$852,042, a \$16,195 reduction. Town Council representatives Jennie Fancher and Buz

Reynolds found the amount to be non-substantive, for the purposes of finalizing the Second IGA Amendment, allowing the continuation of building design to proceed. The Town Council should make a final determination on how to address the final land cost.

TABLE 1
Summary of Fees Recommended to be Waived

Town of Avon Fees	Total Fee	Avon Portion	ERFPD Portion
Building Permit	\$ 91,809	\$ 41,314	\$ 50,495
Planning Review Fee	\$ 1,400	\$ 630	\$ 770
Total Avon Fees Waived	\$ 93,209	\$ 41,944	\$ 51,265
ERFPD Fees			
Fire Sprinkler Permit	\$ 2,829	\$ 1,316	\$ 1,513
Fire Alarm Permit	\$ 1,918	\$ 892	\$ 1,026
Fire Impact Fee	\$ 8,857	\$ 4,429	\$ 4,429
Total ERFPD Fees Waived	\$ 13,604	\$ 6,637	\$ 6,968
TOTAL WAIVED FEES	\$ 106,813	\$ 48,580	\$ 58,233

Note: Avon is waiving \$79,605 more in fees than the ERFPD.

TABLE 2
Summary of Fees Not Recommended to be Waived

Fees	Total Fee	Avon Portion	ERFPD Portion
Avon Water Tap Fee	\$ 41,200	\$ 20,600	\$ 20,600
PENDING STUDY: Exterior Energy Off-Set Program	\$ 125,360	\$ 15,096	\$ 110,264
TOTAL FEES	\$ 166,560	\$ 35,696	\$ 130,864

Attachment A: Fourth Amendment to Intergovernmental Agreement for a Joint Fire-Police Station Facility Between the Town of Avon and the Eagle River Fire Protection District

ATTACHMENT A

FOURTH AMENDMENT TO INTERGOVERNMENTAL AGREEMENT FOR A JOINT FIRE-POLICE STATION FACILITY BETWEEN THE TOWN OF AVON AND THE EAGLE RIVER FIRE PROTECTION DISTRICT

THIS FOURTH AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT (“**Fourth Amendment**”) is made and entered into on February 2, 2016, (“**Effective Date**”) by the Town of Avon, a home rule municipal corporation of the State of Colorado (“**Avon**”) and the Eagle River Fire Protection District, a quasi-municipal corporation and political subdivision of the State of Colorado organized under Title 32 of the Colorado Revised Statutes (“**Fire District**”) (collectively, the “**Parties,**” and each individually a “**Party**”).

RECITALS

WHEREAS, the Parties have entered into an Intergovernmental Agreement for a Joint Fire-Police Station Facility Between the Town of Avon and the Eagle River Fire Protection District (“**IGA**”), dated April 28, 2015; and the Parties have entered into a MEMORANDUM OF AGREEMENT REGARDING COST SHARING FOR PROGRAMMING, DESIGN AND PRE-CONSTRUCTION MANAGEMENT OF A JOINT FIRE-POLICE STATION FACILITY BETWEEN THE TOWN OF AVON AND THE EAGLE RIVER FIRE PROTECTION DISTRICT dated June 9, 2015 (“**MOA**”); and the Parties have entered into a SECOND AMENDMENT TO INTERGOVERNMENTAL AGREEMENT FOR A JOINT FIRE-POLICE STATION FACILITY BETWEEN THE TOWN OF AVON AND THE EAGLE RIVER FIRE PROTECTION DISTRICT, dated January 11, 2015 (“**2nd Amendment to IGA**”); and the Parties have entered into a THIRD AMENDMENT TO INTERGOVERNMENTAL AGREEMENT FOR A JOINT FIRE-POLICE STATION FACILITY BETWEEN THE TOWN OF AVON AND THE EAGLE RIVER FIRE PROTECTION DISTRICT, dated February 9, 2016; and,

WHEREAS, the Fire District has submitted a written request to Avon dated January 15, 2016, requesting, among other matters, Avon to waive water tap and building permit fees as may be applicable to the joint fire-police station facility project in order to reduce the cost of the project; and,

WHEREAS, the Fire District has agreed to waive its fire sprinkler permit fee, fire alarm permit fee, and fire impact fee as may be applicable to the joint fire-police station facility project in order to reduce the cost of the

WHEREAS, Avon desires to accommodate the request of the Fire District to reduce the cost of the regional fire station by waiving the cost of Avon’s building permit and planning review fees as may be applicable to the joint fire-police station facility; and,

WHEREAS, Paragraph 14 provides that Parties may amend the IGA; and,

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

ATTACHMENT A

NOW THEREFORE, in consideration of the covenants and mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties hereto agree as follows:

- 1. Effective Date.** This Fourth Amendment shall commence on the Effective Date.
- 2. Waiver of Fees.** As summarized in Exhibit 1, Avon agrees to waive building permit fees planning review fees in an amount not to exceed \$ 93,209 and the Fire District agrees to waive fire sprinkler fees, fire alarm fees and fire impact fees in an amount not to exceed \$13,604.4 related to the construction of the regional fire and police station facility on Lot 1B, Buckcreek Subdivision, Town of Avon, CO, subject to the following conditions:
 - a.** The Fire District voters approve a ballot question for financing the construction of the regional fire station facility on Lot 1B, Buckcreek subdivision, Avon, CO on May 3, 2016;
 - b.** The Avon voters approve a ballot question for financing the construction of a police station on Lot 1B, Buckcreek subdivision, Avon, CO on May 3, 2016; and,
 - c.** The Fire District submit a complete building permit application by August 1, 2017, that complies in all material respects with the Avon Municipal Code, including but not limited to, Avon’s building regulations as adopted in Title 15 of the Avon Municipal Code.
- 3. Other Terms in Full Force and Effect.** All other terms in the IGA, as amended by the MOU and the Second Amendment, shall remain in full force and effect.

EXECUTED as of the date first written above.

TOWN OF AVON, COLORADO

BY:

ATTEST:

Jenny Fancher, Mayor

Debbie Hoppe: Town Clerk

APPROVED AS TO FORM:

Eric J. Heil, Esq., Avon Town Attorney

ATTACHMENT A

EXECUTED as of the date first written above.

EAGLE RIVER FIRE PROTECTION DISTRICT

BY:

ATTEST:

Jennifer Cartmell Hays, Chairperson

Clark Shivley, Secretary

APPROVED AS TO FORM:

James P. Collins, Esq.

ATTACHMENT A

EXHIBIT 1

Town of Avon Fees	Total Fee	Avon Portion	ERFPD Portion
Building Permit	\$ 91,809	\$ 41,314	\$ 50,495
Planning Review Fee	\$ 1,400	\$ 630	\$ 770
Total Avon Fees Waived	\$ 93,209	\$ 41,944	\$ 51,265
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Fire Impact Fee	\$ 8,857	\$ 4,429	\$ 4,429
Total ERFPD Fees Waived	\$ 13,604	\$ 6,637	\$ 6,968
TOTAL WAIVED FEES	\$ 106,813	\$ 48,580	\$ 58,233



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Matt Pielsticker, Planning Director

Meeting Date: February 9, 2016

Agenda

Topic: Intergovernmental Agreement between Town of Avon and Eagle County for Plan4Health Project

ACTION BEFORE COUNCIL

Execution/approval of the Intergovernmental Agreement (IGA) between Town of Avon and Eagle County Government for the Plan4Health project.

PROPOSED MOTION

Approve IGA between Town of Avon and Eagle County for the Plan4Health project.

2016 BUDGET INFORMATION

In exchange for participation in the project, following completion of the policy scan component, the Town of Avon will receive \$5,000 (transfer of funds anticipated during summer, 2016). This project will require minimal staff time from Town of Avon Staff (Community Development Department).

BACKGROUND

The Healthy Communities Coalition of Eagle County, which is comprised of multidisciplinary professionals and community members and coordinated by Eagle County Government, received Plan4Health grant funds to support healthy eating and active living (HEAL) for all in Eagle County.

Through the Plan4Health project, the Coalition will:

- Gain a common understanding of HEAL attributes by examining the comprehensive plans of six Eagle River Valley Towns (Gypsum, Eagle, Avon, Minturn, Red Cliff, and Vail) and Eagle County.
- The review of comprehensive plans will inform future resolutions for passage by municipalities that outline their community's specific priorities related to HEAL in the built environment, and Towns will receive recommendations on how to better incorporate HEAL priorities in to future plans.
- Finally, given that community voice is critical to community planning processes, the Coalition will seek to understand each municipality's experience with community engagement and provide tools and resources to help municipalities with future outreach. In addition, a plan for more coordinated authentic community engagement efforts and information sharing will be explored.

Katie Haas, Healthy Communities Coordinator, Eagle County Public Health and Environment, will give a brief presentation to highlight the grant and expected outcomes for local communities.

EXHIBIT

IGA between Town of Avon and the County of Eagle

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE TOWN OF AVON
AND THE COUNTY OF EAGLE, COLORADO
FOR PLAN4HEALTH PROJECT**

This Intergovernmental Agreement (“Agreement”) by and between EAGLE COUNTY, a body politic and corporate of the State of Colorado (“County”) and Town of Avon, a Colorado municipal corporation (“Town”) (collectively the “Parties”) is effective this ____ day of _____, 2016.

WHEREAS §29-20-101 *et seq.*, C.R.S. enables the Parties to enter into Intergovernmental Agreements and authorizes each of the Parties to perform the functions described herein, as provided in §29-20-105 C.R.S.; and

WHEREAS, the American Planning Association (“APA”), in partnership with the American Public Health Association received an award from the Centers of Disease Control and Prevention (the “Sponsor”) as part of the National Dissemination and Implementation program within the Division of Community Health, Funding Opportunity Announcement #DP14-1418. These funds have allowed the APA to bring support to local coalitions in efforts to reduce chronic disease in communities across the United States through the APA’s Plan4Health project (the “Plan4Health Project”); and

WHEREAS, the Healthy Communities Coalition of Eagle County (the “Healthy Communities Coalition”), in conjunction with the Colorado Public Health Association and the Colorado Chapter of the APA (the “Colorado APA”), applied for funding under the Plan4Health Project; and,

WHEREAS, APA Colorado received an award of grant funds (the “Grant Award”) from the APA pursuant to the Plan4Health Project Grant Agreement (the “Grant Agreement”); and,

WHEREAS, Eagle County is the subgrantee of such Grant Award and is working collaboratively with the Healthy Communities Coalition to implement the Plan4Health Project in Eagle County; and

WHEREAS, the Plan4Health project will enable the Healthy Communities Coalition to further its mission to increase opportunities for healthy eating and active living (HEAL) for all in Eagle County by 1) enabling a policy scan of municipal comprehensive plans for components that support or deter HEAL, 2) supporting municipalities to pass resolutions prioritizing HEAL and 3) providing resources to municipalities to support community engagement; and

WHEREAS the Town has determined that it is in the best interest of the Town and its inhabitants to contribute to the efforts of Eagle County and the Health Communities Coalition in support of and implementation of Plan4Health Project; and

WHEREAS the Plan4Health Grant Award allows for payment of an administrative fee to the Town in exchange for the Town’s commitment to and participation in the Plan4Health Project; and

WHEREAS, the Parties desire to enter into this Intergovernmental Agreement to define the manner in which the Town will participate in the Plan4Health Project.

NOW THEREFORE, in consideration of the mutual rights and obligations as set forth below, the parties agree to the following:

A. SCOPE OF PROJECT.

1. The County will collaborate with the Town to conduct a policy scan of the Town's comprehensive plan to determine existing policies that support and/or prohibit healthy living in the context of the built environment. The policy scan will be facilitated by a subcontractor engaged with Plan4Health Grant Funds and managed by the County. The County will additionally collaborate with and support the Town in consideration and adoption of a resolution to prioritize goals relating to healthy living. The Town will also be encouraged to consider amendments, modifications and additions to existing local government health related policies to prioritize healthy living goals.

2. The Town agrees to work with County Representatives, as well as subcontractors engaged with Plan4Health Funds and managed by the County, to facilitate the Plan4Health Project. The Town's participation may entail attending occasional meetings, providing access to requested policy documents (e.g. comprehensive plan), and answering questions relating to those documents. Total staff time to be devoted by the Town to the Plan4Health Project is anticipated to be minimal.

3. The Town may participate in additional Project Strategies that may include: working with County and Plan4Health Grant Project subcontractors to develop a framework and system for community engagement, participating in learning opportunities about authentic community engagement, and receiving materials to support municipal community outreach efforts.

B. TOWN COMMITMENTS. The Town has determined that it is in the best interest of the Town and its inhabitants to contribute to the efforts of Eagle County and the Healthy Communities Coalition in support of and implementation of Plan4Health Project. The Town is committed to participating in the Scope of Project outlined and to collaborate with and support Eagle County and the Healthy Communities Coalition in implementation of the Plan4Health Project. To the extent applicable, the Town shall be subject to the terms and conditions of the Plan4Health Grant Agreement between the APA and the Colorado APA.

C. AUTHORIZED REPRESENTATIVES. The County designates Katie Haas, of the Eagle County Public Health and Environment and Kris Valdez, Eagle County Planner, as its Representatives for the Agreement. The County's Representatives are its liaison officers to the Town for all purposes in carrying out the Agreement. The Town designates _____ as its Representative for the Agreement. The Town's Representative is its liaison officer to the County for all purposes in carrying out the Agreement.

D. FUNDING. In exchange for the Town's commitment to and participation in the Plan4Health Project and the Scope of Project outlined above, the Town will receive funding from the Grant Award in an amount not to exceed \$5,000.00 (the "Project Funds"). The Project

Funds should be used in support of the Town's participation in this Agreement and the Plan4Health Project. Disbursement of the Project Funds will be made to the Town upon completion of the Project Strategy 1 policy scan, referenced in Section A above. Additional funds from the Grant Award may be disbursed to the Town for additional projects deemed necessary by the Plan4Health Project. In such case, the Town will submit an invoice and supporting documentation to the County identifying the additional tasks or projects performed. Disbursement of additional funds from the Grant Award will be made in accordance with the Plan4Health financial requirements and guidelines. The Town acknowledges that the County is not responsible for any payments which may become due to the Town under the Plan4Health Project or this Agreement. Plan4Health Funding is regulated under Code 45 of the Federal Regulations (CFR) Part 75, Uniform Administrative Requirements, Cost Principles and Audit Requirements for HHS Awards. As specified in this Code, Project Funds may not be used for lobbying purposes.

E. PERSONNEL. Every Town officer and employee engaged in performing under this Agreement shall remain an officer or employee of the Town while performing the same. The relationship of the Town to Eagle County under this Agreement is that of independent political bodies. This Agreement does not change the status of any employee, contractor or officer of the Town or County. The Town shall have no authority to bind or commit the County to any agreement or other obligations.

F. LIABILITY. The County, its officers and employees, shall not be deemed to assume any liability for intentional or negligent acts, errors, or omissions of the Town or of any officer or employee thereof. Likewise, the Town, its officers and employees, shall not be deemed to assume any liability for intentional or negligent acts, errors or omissions of the County or by any officer or employee thereof.

G. INSURANCE. The County and the Town shall respectively provide its own public liability, property damage, and errors and omissions insurance coverage as each party may deem adequate and necessary for any potential liability arising from this Agreement. The County and the Town, respectively, shall name, subject to the approval of each respective party's insurance carriers, the other respective party as a co-insured under such insurance policies to the extent of any potential liability arising under this Agreement and, upon reasonable written request, shall furnish evidence of the same to the other respective party. The Parties further agree, without waiving any governmental immunity protection to which they and their officials and employees are entitled under CRS 24-10-101 et seq., to procure and maintain current valid workers compensation insurance coverage for all subject workers throughout the period of this Agreement.

H. NO WAIVER OF GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the Town or to the County and their respective officials, employees, contractors, or agents, or any other person acting on behalf of the Town or the County, and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.

I. TERM. This Agreement will be effective as of the effective date stated above and subject to the provisions set forth herein, shall continue in full force and effect through the 30th day of September 2016.

J. TERMINATION.

1. Termination Due to Unavailability of Funding: The Town understands that the availability of Project Funds is contingent on appropriations made by the Sponsor. If at any time the Colorado APA determines that funds are insufficient to sustain existing or anticipated spending levels, the Town understands that the Colorado APA may reduce, suspend or terminate any reimbursement, other payments or allocations of funds provided by the Colorado APA for the Plan4Health Project.

2. Termination by Mutual Consent: This Agreement may be terminated in whole or in part when both Parties agree that continuation is not feasible or would not produce beneficial results commensurate with the further expenditure of the Project Funds. The parties must agree on the termination conditions, including effective date and the portion of the Agreement to be terminated.

3. Termination for Cause: In the event of a default or violation of the terms of this Agreement by the Town or its failure to use the Project Funds for only the purposes set in this Agreement, the County may take the following action:

i. **Suspension:** After notice to the Town, suspend this Agreement and withhold any further disbursement or prohibit the Town from incurring additional obligations of Project Funds, pending corrective action by the Town.

ii. **Termination:** Terminate this Agreement in whole or in part, at any time before the date of completion, whenever it is determined that the Town has failed to comply with the terms and conditions of this Agreement. The County shall promptly notify the Town in writing of the determination and the reasons for the termination together with the effective date. Disbursements made to the Town or recoveries by the County shall be in accordance with the legal rights and liabilities of the parties. Disbursements and recoveries may include, but are not limited to, payments allowed for costs determined to be not in compliance with the terms of this Agreement. The Town shall return to the County all unencumbered Project Funds. Further, any costs previously paid by the Plan4Health Project which are subsequently determined to be unallowable through audit and close-out procedures may be recovered pursuant to the closeout procedures set forth in the Grant Agreement or as designated by APA Colorado or Sponsor.

iii. **Recovery of Funds:** In the event of default, failure to perform under this Agreement or violation of the terms of this Agreement, the Town understands that APA Colorado or the Sponsor may institute such action as necessary to reduce, withdraw or recover all or part of the Project Funds from the Town.

K. FINANCIAL RESPONSIBILITY OF TOWN. The Town assumes sole responsibility for reimbursement to the Colorado APA or the Sponsor of a sum of money equivalent to the amount of any expenditures disallowed should the Sponsor or an authorized agency rule through audit exception or some other appropriate means that expenditures from Grant Funds allocated to

the Town for were not made in compliance with the regulations of the granting or funding agency or the provisions of this Agreement.

L. NOTICES AND PAYMENTS. All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills, payments sent by mail should be address as follows:

Town of Avon

Avon, Colorado
Attn: Matt Pielsticker
PO Box 975
Avon, CO 81620
Telephone: 970-748-4413
E-mail: Mpielsticker@avon.org

Eagle County

Eagle County, Colorado
Attention: Katie Haas
500 Broadway
Post Office Box 850
Eagle, CO 81631
Telephone: 970-328-8855
E-Mail: Katie.haas@eaglecounty.us

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

M. MODIFICATION. This Agreement contains the entire agreement between the parties, and no agreement shall be effective to change, modify, or terminate in whole or in part unless such agreement is in writing and duly signed by the party against whom enforcement of such change, modification, or termination is sought. The Parties agree that any amendments to laws or regulations pursuant to which the Grant Award was made shall result in the correlative modification of this Agreement without the necessity for executing written amendments. Any written amendment shall be prospective in nature.

N. NO THIRD PARTY BENEFICIARIES. Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, sub-consultant or sub-contractor of Town or County. Absolutely no third party beneficiaries are intended by this Agreement. Any third-party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.

O. VENUE, JURISDICTION AND APPLICABLE LAW. Any and all claims, disputes or controversies related to this Agreement, or breach thereof, shall be litigated in the District Court for Eagle County, Colorado, which shall be the sole and exclusive forum for such

litigation. This Agreement shall be construed and interpreted under and shall be governed by the laws of the State of Colorado.

IN WITNESS WHEREOF, each party, by signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms and conditions.

EAGLE COUNTY,
by and through its Board of County
Commissioners

By: _____
Kathy Chandler-Henry, Chair

Attest: _____
Teak Simonton, Clerk to the Board

TOWN OF AVON
by and through its Town Council

By: _____
Jenny Fancher, Mayor

Attest: _____
Debbie Hoppe, Town Clerk

Plan4Health Grant Project

Katie Haas

Healthy Communities Coordinator

Eagle County Public Health and Environment

Kris Valdez

Planner

Eagle County

PLAN4Health

An American Planning Association Project

Grant Amount:

\$125,000

Grant Term:

January - September, 2016

Implementation:

Healthy Communities Coalition, Coordinated by Eagle County Government, in partnership with Eagle River Valley municipalities



**HEALTHY
COMMUNITIES
COALITION**
OF EAGLE COUNTY

LIVE PLAY EAT FEEL **HEALTHY** HERE

Plan4Health Communities Nationally

Red = cohort 1 Blue = cohort 2



Participating Communities: Towns of Avon, Eagle, Gypsum, Minturn, Red Cliff, Vail; unincorporated Eagle County communities via Eagle County Government

Plan4Health Primary Activities

Policy Scan

- Review comprehensive plans of all Eagle River Valley communities

HEAL Cities and Towns Campaign

- Support of Towns to adopt resolutions and/or policies that improve healthy living

Community Engagement Support

- Understand Town's community engagement efforts
- Provide tools and resources to support future engagement

Healthy Living/Built Environment *Examples*

- Access to healthy food - e.g. community gardens, local grocers
- Access to physical activity – e.g. parks, open space, recreation centers, sidewalks
- Creating a sense of place
- Access to transportation
- Connectivity



HEAL Cities and Towns Campaign

- <https://www.youtube.com/watch?v=pUDt6eNxEUw>

PLAN4Health

An American Planning Association Project



**HEALTHY
COMMUNITIES
COALITION**
OF EAGLE COUNTY
LIVE PLAY EAT FEEL **HEALTHY** HERE

Debbie Hoppe

From: Eric Heil <ericeillaw@gmail.com>
Sent: Wednesday, January 27, 2016 9:09 AM
To: Preston Neill; Matt Pielsticker
Cc: Virginia Egger
Subject: Plan4Health

Just to close the circle if it hasn't been closed already - Eagle County wants the IGA on the Plan4Health project approved sooner than March so they can get started. I have reviewed the IGA, it is acceptable and it could go on the February 9 agenda.

Suggested Agenda Item:

Approval of Intergovernmental Agreement between the Town of Avon and the County of Eagle, Colorado for Plan4Health Project.

This IGA provides up to \$5,000 to (each) Town to assist with cost of participation. Someone (Matt?) would need to prepare a memo explaining the project - which I have discussed with Matt seems a little fuzzy to me. Town's obligation is to "participate, collaborate and support" the County project.

As an FYI - the grant funding is from the national American Planning Association funneled through the Colorado Chapter. I serve on the Board of Directors of the Colorado Chapter. As the only attorney on the Board serving on a volunteer basis, I reviewed the agreement between APA Colorado and Eagle County to funnel the grant funds to Eagle County. The APA Colorado Board of Directors is scheduling to approve this grant funding agreement on Feb 5 and Eagle County BOCC is scheduling its approval on February 9.

As an aside, I don't think I have a conflict of interest, but I honestly haven't thought about it too much considering the nature of the project where the Town receives some funds for participation in a planning effort led by the County and consultants to be hired by the County. There is one quirk that the County desires to allow anonymous stakeholder input in the agreement between APA Colo and Eagle County (this term is not in the individual Town IGAs). And then the IGA states, "To the extent applicable, the Town shall be subject to the terms and conditions of the Plan4Health Grant Agreement between the APA and the Colorado APA."

So - I will ask APA Colo to allow me to forward the Grant Funding agreement to you and for inclusion in the Council packet. An agreement that references the terms of second agreement will then require the second agreement to be available for complete understanding.

Eric

Eric J. Heil, Esq., A.I.C.P.
Heil Law & Planning LLC
1022 Summit Drive
Dillon, CO 80435

Office: (970) 468-0635
Cell: (303) 518-4678

This communication may contain confidential attorney-client privileged information. Unauthorized receipt or use of this communication is not permitted. If you have received this message in error, please delete the message and contact Heil Law & Planning LLC immediately.

TO: Honorable Mayor Jennie Fancher and Town Council members
FROM: Eric J. Heil, Town Attorney
RE: Mountain Star Water Storage Tank Site Annexation Process
DATE: February 4, 2016

SUMMARY: The Upper Eagle River Water Authority has submitted an application to annex the 5 acre water storage tank site adjacent to the Mountain Star development into the Town of Avon. This water storage tank site has a long history that dates back to the original approvals of the Mountain Star development. The preferred water storage tank site was identified on Forest Service land to the north and uphill of the Mountain Star development (see the Town of Avon Land Exchange Map). The Upper Eagle River Water Authority acquired this site along with other water storage tank sites from the U.S. Forest Service as part of the multi-party land exchange that was completed several years ago. The use of the property is intended for the construction of a water storage tank to serve the Mountain Star development. It is generally the practice and preference to annex lands into a municipality that include public infrastructure serving development in the municipality.

INITIATING THE ANNEXATION PROCESS: The Town follows the annexation process in the Municipal Annexation Act of 1965. The process begins with the receipt of a complete annexation petition and the adoption of a resolution to initiate the process. Resolution No. 16-02 is attached. A complete overview of the entire annexation process is described below.

WAIVER OF FEES: Section 7.36.040(c) of the Avon Municipal Code states that the Town Council may waive fees for the review of annexation. Resolution No. 16-02 includes a waiver of fees for review of annexation. The property petitioning for annexation is for public infrastructure serving a portion of Avon and the anticipated review costs for the annexation are minimal.

PROPOSED MOTION: "I move to approve Resolution No. 16-02 INITIATING ANNEXATION OF THE MOUNTAIN STAR WATER TANK SITE PROPERTY, FINDING THE PETITION FOR ANNEXATION TO BE IN SUBSTANTIAL COMPLIANCE, AND SETTING A PUBLIC HEARING."

ANNEXATION PROCESS OVERVIEW:

The overall annexation process is simplified because this is a property that will only be used for construction of public infrastructure which was designed and planned several decades ago. Development is not planned for this property; therefore, the more complex and involved annexation review and analysis concerning impacts to infrastructure and community facilities are not applicable to this application.

1. UERWA creates annexation map of property to annex, signs Petition for annexation, and submits to the Town of Avon.
2. The Annexation Petition is referred to the Town Council. The Town Council then adopts a Resolution which does three things: (1) determines if the Petition meets the minimum requirements for allegations and signatures and is "valid", (2) formally "initiates" annexation proceedings, and (3) sets a public hearing. CRS §31-12-108.
3. The public hearing shall be held not less than 30 days nor more than 60 days after the date of the initiating Resolution. A notice of the public hearing must be published once a week for four (4) successive weeks in a newspaper of general circulation (Vail Daily). A copy of the published notice, resolution and petition shall be sent by registered mail to each of the following: (1) the clerk of the

Board of County Commissioners, (2) to the County Attorney, (3) to the school district, and (4) to any special district having territory within the area to be annexed. The notice must be sent at least 25 days prior to the date of the hearing. CRS §31-12-108.

4. An "Annexation Impact Report" is not required for this annexation because it is less than ten acres in total area. CRS §31-12-108.5.
5. The public hearing is held. The Town Council determines whether the Property is eligible for annexation (1/6 contiguity automatically establishes eligibility, therefore, this step is mostly a formality).
6. If the Town Council determines the property is eligible for annexation, the Town Council then adopts a second Resolution with formal findings that the property is eligible for annexation.
7. Town Council adopts an Ordinance actually annexing the property. First reading of the Ordinance can occur on the same evening as the public hearing.
8. Town Council adopts Ordinance that applies zoning. First reading of the Ordinance zoning the property can occur on the same evening but must be scheduled after the annexation ordinance on the agenda. By statute, the process of zoning land can begin once the Petition for Annexation is submitted and the actual zoning must occur within 90 days of the effective date of annexation. It is more convenient and efficient to run the annexation and zoning process concurrently. The expected zoning classification is PF – Public Facilities. An amendment or update to the Avon Comprehensive Plan may also be required, which can occur concurrently with the zoning application.
9. 30 days after adoption ordinances and annexation maps are recorded, and Property is then officially annexed.

SCHEDULE OF ACTIONS:

Town Council: Resolution Initiating Annexation process (Set Hearing for Mar. 22)	February 9, 2016
Publish Notice of Hearing (4 consecutive weeks)	Feb 16, Feb, 23, Mar 1 and Mar 8
Deadline for Notice of Public Hearing by Planning Commission on Zoning	Feb 19
Send Notice by Registered Mail to BOCC, County Attorney, Special Districts and School (25 days in advance)	Feb 26 (last date)
Planning Commission: Public Hearing - Review of Zoning	March 1
Deadline to Post Notice of Public Hearing on Zoning	March 11
Public Hearing: Resolution to Adopt Finding that Property is Eligible for Annexation Public Hearing: 1 st Reading of Ordinance to Annex Property Public Hearing: 1 st Reading of Ordinance to Zone Property	March 22
Public Hearing: 2 nd Reading of Ordinance to Annex Property Public Hearing: 2 nd Reading of Ordinance to Zone Property	April 12
Record Ordinances and Annexation Maps	May 12

Thank you, Eric

Attachments: Annexation Application
 Location Map
 Resolution No. 16-02



**UPPER EAGLE REGIONAL
WATER AUTHORITY**

GOVERNED BY:

The Metropolitan
Districts of:
Arrowhead
Beaver Creek
Berry Creek
EagleVail
Edwards

The Town of Avon

January 25, 2016

Debbie Hoppe, Town Clerk
Town of Avon
1 Lake Street
Avon, CO 81620

Dear Debbie,

I have enclosed separate Annexation Plats for Tract WT-1 and WT-2, together containing 5.00 acres, and, on behalf of the Upper Eagle Regional Water Authority ("Authority"), I hereby request serial annexation of both Tracts to the Town of Avon. I have also enclosed the executed Petition for Annexation from the Authority.

The Authority acquired Lot 16, Section 25, Township 4 South, Range 82 West, 6th Principal Meridian, Eagle County, Colorado by U.S. Patent in 2013, Reception No. 201309275, from the United States of America in the Eagle County Land Exchange for the specific purpose of constructing a water storage tank above the Mountain Star Subdivision in the Town of Avon. In order to complete the permitting process for this new tank, it is appropriate that this property first be annexed to the Town. I request that this property be zoned PF – Public Facilities to be consistent with the proposed use of the property. I also request that the Town waive any fees for review of this Petition for Annexation as it is being submitted by another governmental entity in which the Town is a Contracting Party.

The Authority plans to begin construction of this water storage tank in April 2016. I therefore request expedited consideration and approval of this Petition for Annexation so that this important project can proceed to completion as soon as possible.

Sincerely,

Jason Cowles, P.E.
Planner, Upper Eagle Regional Water Authority

Enclosures: Land Development Application
Annexation Petition
Annexation Plat
List of Property Owners within 300' of Annexation Parcel
Mailing Envelopes for Adjacent Property Owners

cc: Linn Brooks, General Manager
James P. Collins, General Counsel
Virginia Egger, Town Manager
Matt Pielsticker, Town Planner



Town of Avon Community Development Department

LAND DEVELOPMENT APPLICATION

Application Type (Check All That Apply):		
<input type="checkbox"/> Comprehensive Plan Amendment	<input type="checkbox"/> Administrative PUD Amendment	<input type="checkbox"/> Appeal
<input type="checkbox"/> Code Text Amendment	<input type="checkbox"/> Preliminary PUD	<input type="checkbox"/> Special Review Use
<input type="checkbox"/> Rezoning	<input type="checkbox"/> Final PUD	<input type="checkbox"/> Variance
<input type="checkbox"/> Administrative Subdivision	<input checked="" type="checkbox"/> Annexation	<input type="checkbox"/> Alt. Equivalent Compliance
<input type="checkbox"/> Minor Subdivision	<input type="checkbox"/> Minor Development Plan	<input type="checkbox"/> Right-of-Way Vacation
<input type="checkbox"/> Major Subdivision – Prelim Plan	<input type="checkbox"/> Major Development Plan	<input type="checkbox"/> Vested Property Right
<input type="checkbox"/> Major Subdivision – Final Plat	<input type="checkbox"/> Major Development Plan (TC)	<input type="checkbox"/> Sign Design
<input type="checkbox"/> Temporary Use Permit	<input type="checkbox"/> Minor PUD Amendment	<input type="checkbox"/> Master Sign Program/Amend.
	<input type="checkbox"/> Major PUD Amendment	<input type="checkbox"/> 1041 Regulation
Project Name:		
Mountain Star Water Storage Tank		
Project Location:		
Street Address:		
1875 Paintbrush		
Legal Description (Lot, Block, Subdivision):		Parcel Number(s):
Lot 16, Section 25, Township 4S, Range 82W		1943-254-00-001
Applicant:		
Name: Upper Eagle Regional Water Authority c/o Jason Cowles		
Mailing address: 846 Forest Road		
City: Vail	State: CO	ZIP Code: 81657
Phone: 970-476-7480	Email: jcowles@erwsd.org	Fax:
Property Owner:		
Name: Upper Eagle Regional Water Authority		
Mailing address: 846 Forest Road		
City: Vail	State: CO	Zip Code: 81657
Phone: 970-476-7480	Email: jcowles@erwsd.org	Fax:
Signature:		
		Date: 1/25/2010
FEE PAID _____	APPLICATION/CASE # _____	
DATE RECEIVED _____	CASE MANAGER _____	

ENSURE A COMPLETE SUBMITTAL BY INCLUDING THE REQUISITE FORMS – ASK FOR A SUBMITTAL CHECKLIST

**PETITION FOR ANNEXATION
UPPER EAGLE REGIONAL WATER AUTHORITY
MOUNTAIN STAR WATER TANK SITE PROPERTY**

TO THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO:

The undersigned (“**Petitioner**”), in accordance with the Municipal Annexation Act of 1965 as set forth in Article 12, Title 31, Colorado Revised Statutes (“**C.R.S.**”), as amended and as in effect on the submission date set forth below (“**Annexation Act**”), and in accordance with **Chapter 7.36 Annexation and Disconnection Procedures** of the Avon Municipal Code, hereby submits this Petition for Annexation (“**Petition**”) to the Town Council of the Town of Avon, Colorado (“**Town Council**”), to annex to the Town of Avon (“**Town**”) the unincorporated territory located in the County of Eagle, State of Colorado, which property is more particularly described in **Exhibit A: Legal Description of Mountain Star Tank Site Property** attached hereto and incorporated herein by reference (“**Property**”).

In support of this Petition, Petitioner alleges that:

1. Annexation of the Property into the Town of Avon is desirable and necessary.
2. The requirements of C.R.S. §31-12-104 and §31-12-105 have been met.
3. Not less than one-sixth (1/6) of the perimeter of the Property is contiguous with the Town’s current municipal boundaries.
4. A community of interest exists between the Property and the Town.
5. The Property is integrated with or is capable of being integrated with the Town.
6. The signer of this Petition comprises the landowner of more than fifty percent (50%) of the territory included in the area proposed to be annexed, exclusive of streets and alleys.
7. The signer of this Petition comprises the landowner of one hundred percent (100%) of the territory included in the area proposed to be annexed, exclusive of streets and alleys, as landownership is defined for the purposes of C.R.S. §31-12-107(1)(g).
8. This Petition is accompanied by four copies of an annexation map containing, among other things, the following information:
 - a. A written legal description of the boundaries of the Property;
 - b. A map showing the boundary of the Property;
 - c. Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or lots and blocks;
 - d. Next to the boundary of the Property, a drawing of the contiguous boundary of the City abutting the Property and the contiguous boundary of any other municipality abutting the Property.

9. Upon the annexation of the Property becoming effective, the Property shall become subject to all ordinances, resolutions, rules and regulations of the Town.
10. Except for the terms and conditions of this Petition, which terms and conditions the Petitioner expressly approves and therefore do not constitute an imposition of additional terms and conditions within the meaning of C.R.S. §31-12-107(1)(g), Petitioner requests that no additional terms and conditions be imposed upon annexation of the Property to the Town.

THEREFORE, Petitioner requests that the Town Council of the Town of Avon approve and complete the annexation of the Property pursuant to the provisions of the Municipal Annexation Act of 1965, as amended, and pursuant to Chapter 7.36 of the Avon Municipal Code.

Signature of Land Owner:



Linn Brooks, General Manager
Upper Eagle Regional Water Authority

Date: 1.20.16

**EXHIBIT A: LEGAL DESCRIPTION OF THE
MOUNTAIN STAR WATER TANK SITE PROPERTY**

The legal descriptions for Tracts WT-1 and WT-2, to be serially annexed by the Town of Avon, are as follows:

WT-1

That part of Lot 16, Section 25, Township 4 South, Range 82 West, of the Sixth Principal Meridian, Eagle County, Colorado, according to the Dependent Resurvey conducted 10/5/2012 through 12/10/2012, and accepted 1/31/2013, described as follows:

Beginning at the southeast corner of said Lot 16; thence along the southerly line of Lot 16 and the northerly line of the Amended Final Plat of Mountain Star recorded at Reception Number 521519 S89°36'36"W 120.00 feet; thence departing said line N00°21'12"W 240.00 feet; thence N89°36'36"E 120.00 feet to the easterly line of said Lot 16; thence along said easterly line S00°21'12"E 240.00 feet to the point of beginning, containing 0.6612 acres, more or less.

WT-2

That part of Lot 16, Section 25, Township 4 South, Range 82 West, of the Sixth Principal Meridian, Eagle County, Colorado, according to the Dependent Resurvey conducted 10/5/2012 through 12/10/2012, and accepted 1/31/2013, described as follows:

Beginning at a point whence the southeast corner of said Lot 16 bears N89°36'36"E 120.00 feet; thence along the southerly line of Lot 16 and the northerly line of the Amended Final Plat of Mountain Star recorded at Reception Number 521519 S89°36'36"W 82.16 feet to the southwest corner of Lot 16; thence departing said line and along the westerly line of Lot 16 N00°21'12"W 1077.97 feet to the northwest corner of Lot 16; thence along the north line of Lot 16 S89°59'24"E 202.16 feet to the northeast corner of Lot 16; thence along the easterly line of Lot 16 S00°21'12"E 836.53 feet to the northeast corner of Tract WT-1; thence along the north line of said Tract WT-1 S89°36'36"W 120.00 feet to the northwest corner of Tract WT-1; thence along the west line of Tract WT-1 S00°21'12"E 240.00 feet to the point of beginning, containing 4.338 acres, more or less.

Mailing addresses of all adjacent property owners within 300 feet of the Mountain Star Tank Parcel proposed for annexation:

- Legal: Mountain Star Lot 37 (1969 Paintbrush)
Owner: SUE C. RUSHMORE TRUST - MICHAEL H. RUSHMORE, JR TRUST
141 E MEADOW DR STE 1000
VAIL, CO 81657-5857
- Legal: Mountain Star Lot 36 (1931 Paintbrush)
Owner: VUKICH, JOHN & CAROLYN
35 BAYSIDE DR
MADISON, WI 53704-5901
- Legal: Mountain Star Tract M (1875 Paintbrush), Mountain Star Tract J, and Mountain Star Road Rights-Of-Way
Owner: MOUNTAIN STAR ASSOCIATION
C/O EAST WEST RESORTS
PO BOX 5480
AVON, CO 81620-5480
- Legal: Mountain Star Lot 35 (1855 Paintbrush)
Owner: GLASTEIN, DEBORAH
84 W RIVER RD
RUMSON, NJ 07760-1139
- Legal: Mountain Star Lot 34 (1827 Paintbrush)
Owner: POWER, JAMES P.
PO BOX 6010
AVON, CO 81620-6010

UPPER EAGLE REGIONAL WATER AUTHORITY

**RESOLUTION APPROVING INITIATION OF ANNEXATION OF
MOUNTAIN STAR SUBDIVISION AREA TANK SITE**

WHEREAS, the Upper Eagle Regional Water Authority (“Authority”) is a quasi-municipal corporation and political subdivision of the State of Colorado, with full and complete powers to own and operate domestic water supply systems; and, in fact, does now serve over 25,000 residents within Eagle County, Colorado; and

WHEREAS, the Authority has determined that in the interests of the health, safety, and welfare of its residents, and the citizens of the United States generally, through the substantial national and international visitation to the Vail Valley and Eagle River environs in which the Authority operates that the specific site (the “Water Tank Site”) acquired by the Authority in the 2013 Eagle County Land Exchange by U.S. Patent for lot 16, sec. 25, T4S, R82W, Eagle County, Colorado, as recorded on May 9, 2013 at Reception No. 201309275, is the only viable location for a finished water storage tank to provide service to the applicable service area and that such Water Tank Site should first be annexed to the Town of Avon and zoned PF – Public Facilities for future permitting and construction of this tank; and

NOW, THEREFORE, the Board of Directors of the Upper Eagle Regional Water Authority do hereby authorize staff to prepare and submit a Petition for Annexation to the Town of Avon, Colorado for the purposes referenced above and the property identified herein as the Water Tank Site.

APPROVED this 21st day of January, 2016, by a vote of 5 in favor and 0 opposed.

UPPER EAGLE REGIONAL WATER
AUTHORITY

By: 
George Gregory, Chairman

Attest:



Form 1860-8
(January 2001)
Colorado 74690

The United States of America

To all to whom these presents shall come, Greeting:

WHEREAS

Upper Eagle Regional Water Authority,
a Colorado quasi-municipal corporation,

is entitled to a patent pursuant to the General Exchange Act of March 20, 1922 (42 Stat. 465), as amended by the Act of February 28, 1925 (43 Stat. 1090); the Federal Land Policy and Management Act of October 21, 1976, as amended (90 Stat. 2743); and the Federal Land Exchange Facilitation Act of August 20, 1988 (102 Stat. 1086), for the following described lands:

Sixth Principal Meridian, Colorado
T. 4 S., R. 82 W.,
sec. 25, lot 16,
sec. 31, lots 6 and 7,

containing 10.00 acres.

NOW KNOW YE, that there is, therefore, granted by the UNITED STATES unto Upper Eagle Regional Water Authority, a Colorado quasi-municipal corporation, the lands described above; TO HAVE AND TO HOLD the said lands with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto Upper Eagle Regional Water Authority, a Colorado quasi-municipal corporation, its successors and assigns, forever, and

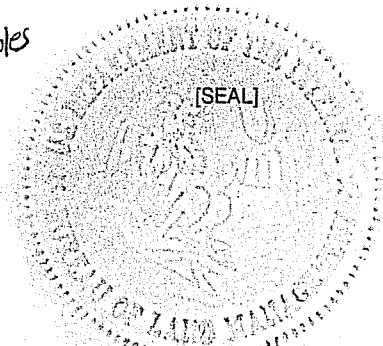
EXCEPTING AND RESERVING TO THE UNITED STATES a right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

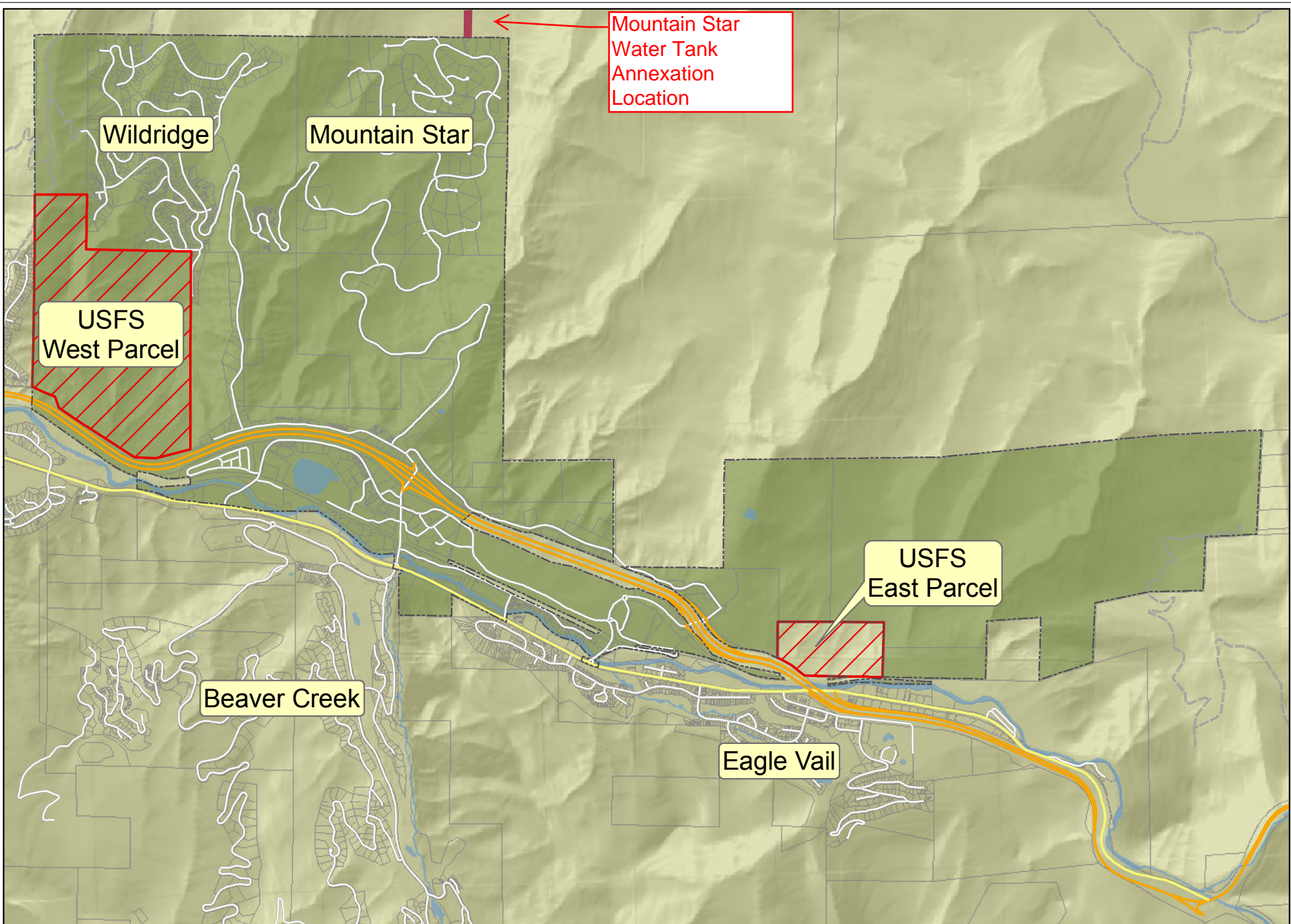
GIVEN under my hand, in LAKEWOOD, COLORADO
the ELEVENTH day of MARCH
in the year of our Lord two thousand and THIRTEEN
and the Independence of the
United States the two hundred and THIRTY-SEVENTH.

By Maryanne Kurtinaitis
Maryanne Kurtinaitis
Acting Chief, Branch of Lands and Realty

Return to:
ERW&SP
Attn: Jason Cowles
846 Forest Rd.
Vail, CO 81657



Patent Number 05-2013-0006



Mountain Star
Water Tank
Annexation
Location

Wildridge

Mountain Star

USFS
West Parcel









USFS
East Parcel

Beaver Creek

Eagle Vail



Town of Avon Land Trade

- | | | | |
|---|---|---|---|
|  Land Trade Parcels |  Roads |  I-70 |  Property Boundary |
|  Town of Avon Boundary |  Public Land Roads |  HWY 6 |  Lakes and Rivers |

This map was produced by the Community Development Department. Use of this map should be for general purposes only. Town of Avon does not warrant the accuracy of the data contained herein.

0 1,600 3,200 Feet

Author: JKoenig Date: 05/04/11

**TOWN OF AVON
RESOLUTION NO. 16-02**

**INITIATING ANNEXATION OF THE MOUNTAIN STAR WATER TANK SITE
PROPERTY, FINDING THE PETITION FOR ANNEXATION TO BE IN
SUBSTANTIAL COMPLIANCE, AND SETTING A PUBLIC HEARING**

WHEREAS, the Upper Eagle River Water Authority owns the Mountain Star Tank Site property described on the attached **Exhibit A: Legal Description of Mountain Star Tank Site Property** (“Property”);

WHEREAS, the Upper Eagle River Water Authority has submitted a Petition for Annexation and annexation map in accordance with C.R.S. §31-12-107;

WHEREAS, the Town Council of the Town of Avon finds that the Petition for Annexation is in substantial compliance with the requirements in C.R.S. §31-12-107(1);

WHEREAS, the Town Council of the Town of Avon desires to initiate annexation proceedings for the Property and set a public hearing in accordance with C.R.S. §31-12-108; and,

WHEREAS, the Town Council of the Town of Avon finds that the waiver of fees for the review of annexation in accordance with Section 7.36.040(c) is appropriate because the nature of the annexation is to provide public infrastructure and the actual cost of annexation review by the Town is minimal.

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

SECTION 1. The Town Council hereby finds that the Petition for Annexation of the Property is in substantial compliance with the requirements of C.R.S. §31-12-107(1).

SECTION 2. The Town Council hereby sets a public hearing in accordance with C.R.S. §31-12-108(1) to determine if the annexation complies with §31-12-104 and §31-12-105, such public hearing is scheduled to be held on March 22, 2016 at 5:00 p.m., or as soon thereafter as possible, at the Avon Town Hall, located at One Lake Street, Avon, Colorado.

SECTION 3. The Town Council hereby waives fees for the review of the annexation in accordance with Section 7.36.040(c) of the Avon Municipal Code.

SECTION 4. The Town Clerk is hereby directed to publish notice of the public hearing and send a copy of the notice of the public hearing by registered mail in accordance with C.R.S. §31-12-108(2).

ADOPTED on February 9, 2016.

AVON TOWN COUNCIL

By: _____
Jennie Fancher, Mayor

Attest: _____
Debbie Hoppe, Town Clerk



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, JANUARY 26, 2016
AVON TOWN HALL, ONE LAKE STREET

1. CALL TO ORDER & ROLL CALL

Mayor Fancher called the meeting to order at 5:22 p.m. A roll call was taken and Council members present were Buz Reynolds, Matt Gennett, Jake Wolf, Megan Burch, Scott Prince and Sarah Smith Hymes. Also present were Town Manager Virginia Egger, Town Attorney Eric Heil, Assistant Town Manager Scott Wright, Police Chief Bob Ticer, Recreation Director John Curutchet, Executive Assistant to the Town Manager Preston Neill and Town Clerk Debbie Hoppe.

2. APPROVAL OF AGENDA

There were no changes to the agenda.

3. PUBLIC COMMENT

Michael Cacioppo and Peter Buckley commented.

4. ACTION ITEMS

4.1. PUBLIC HEARING AMPLIFIED SOUND PERMIT APPLICATION FOR WINTERWONDERGRASS MUSIC & BREW FESTIVAL (DIRECTOR OF FESTIVALS & SPECIAL EVENTS DANITA DEMPSEY)

Mayor Pro Tem Wolf recused himself due to a conflict.

The application was presented by Scott Stoughton. Mayor Fancher opened the Public Hearing and no comments were made. Councilor Gennett moved to approve the Amplified Sound Permit application for WinterWonderGrass Music & Brew Festival 2016 striking the second sentence in paragraph three under background in the Town Council Report. Councilor Smith Hymes seconded the motion and it passed unanimously by those present. Mayor Pro Tem Wolf abstained from the vote.

4.2. UPDATE ON 2016 FESTIVALS AND SPECIAL EVENTS AT THE PAVILION, HARRY A. NOTTINGHAM PARK AND MAIN STREET MALL (DIRECTOR OF FESTIVALS & SPECIAL EVENTS DANITA DEMPSEY)

4.3. ACTION ON FUNDING REQUEST AND SETTING OF DATES FOR THE 2016 APRÈS AVON SPRING CONCERTS AT POSSIBILITY PLAZA (PRODUCER MIKE O'BRIEN)

Michael Cacioppo commented.

Councilor Reynolds moved to approve the dates of March 18 and March 25, 2016, and to appropriate \$37,000 from the 2016 General Fund Special Events Assigned Fund Balance, to Peak Performances, for the purpose of producing the 2016 *Après Avon Spring Concerts*. Mayor Pro Tem Wolf seconded the motion and it passed on a 5 to 2 vote. Councilor Prince and Councilor Gennett voted no.

4.4. ACTION ON FUNDING REQUEST AND SETTING OF DATES FOR THE AVON LIVE! SUMMER CONCERTS (PRODUCER MIKE O'BRIEN)

Councilor Smith Hymes moved to approve the dates of August 3, 10, 17 and 24, 2016, and appropriate \$66,000, from the 2016 General Fund Special Events Assigned Fund Balance, to Peak Performances, for



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, JANUARY 26, 2016
AVON TOWN HALL, ONE LAKE STREET

the purpose producing of *Avon Live! Summer Concert Series*. In addition, Councilor Smith Hymes moved to approve up to \$2,600 of in-kind services. Mayor Pro Tem Wolf seconded the motion and it passed on a 6 to 1 vote. Councilor Prince voted no.

4.5. ACTION ON FUNDING REQUEST AND SETTING OF DATES FOR THE OUTLAWS & LEGENDS MUSIC FESTIVAL (BACKPORCH PRODUCTIONS, LLC)
Michael Cacioppo commented.

Councilor Burch moved to approve the dates of July 28th through July 31st, 2016, and to appropriate \$72,000 from the General Fund Special Events Assigned Fund Balance to Backporch Productions to produce the *Outlaws & Legends Music Festival*. In addition, Councilor Burch moved to approve up to \$10,000 of in-kind services. Councilor Reynolds seconded the motion and it passed on a 4 to 3 vote. Councilor Prince, Councilor Gennett and Mayor Pro Tem Wolf voted no.

4.6. FIRST READING OF ORDINANCE 16-02 CONSIDERATION OF REQUEST BY EAGLE RIVER FIRE PROTECTION DISTRICT TO PROVIDE RELIEF FROM SALES TAX ON CONSTRUCTION MATERIALS FOR REGIONAL FIRE STATION AND CONSIDERATION OF THIRD AMENDMENT TO INTERGOVERNMENTAL AGREEMENT FOR A JOINT FIRE-POLICE STATION FACILITY BETWEEN THE TOWN OF AVON AND THE EAGLE RIVER FIRE PROTECTION DISTRICT (TOWN ATTORNEY ERIC HEIL)
Michael Cacioppo commented.

Councilor Prince moved to approve the Consideration of Request by Eagle River Fire Protection District to Provide Relief from Sales Tax on Construction Materials for Regional Fire Station and Consideration of Third Amendment to Intergovernmental Agreement for a Joint Fire-Police Station Facility between the Town of Avon and the Eagle River Fire Protection District. Councilor Gennett seconded the motion and it passed unanimously by those present.

4.7. **PUBLIC HEARING** SECOND READING OF ORDINANCE NO. 16-01, AN ORDINANCE AMENDING CHAPTER 3.30 UNCLAIMED PROPERTY OF THE AVON MUNICIPAL CODE (ASSISTANT TOWN MANAGER SCOTT WRIGHT)
Mayor Fancher opened the Public Hearing and no comments were made. Councilor Reynolds moved to approve the second and final reading of Ordinance No. 16-01, an Ordinance Amending the Town's Unclaimed Property Code Chapter 3.30. Councilor Gennett seconded the motion and it passed unanimously by those present.

4.8. FIRST READING OF ORDINANCE NO 15-11, AN ORDINANCE AMENDING THE AVON MUNICIPAL CODE TABLE 7.16-1 AND SECTION 7.16.060(H)(1) CONCERNING AMENDMENTS TO WILDRIDGE PUD APPLICATIONS **NOTE:** STAFF HAS REQUESTED CONTINUATION TO THE MARCH 8, 2016 REGULAR TOWN COUNCIL MEETING (PLANNING DIRECTOR MATT PIELSTICKER)



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, JANUARY 26, 2016
AVON TOWN HALL, ONE LAKE STREET

Councilor Smith Hymes moved to continue the First Reading of Ordinance No 15-11, to the March 8, 2016, Regular Town Council Meeting. Mayor Pro Tem Wolf seconded the motion and it passed unanimously by those present.

4.9. MINUTES FROM JANUARY 12, 2016 MEETING

(EXECUTIVE ASSISTANT TO THE TOWN MANAGER PRESTON NEILL)

Councilor Reynolds moved to approve the minutes from January 12, 2016 meeting. Mayor Pro Tem Wolf seconded the motion and it passed unanimously by those present.

5 WRITTEN REPORTS

5.1 MONTHLY FINANCIAL REPORT (BUDGET ANALYST KELLY HUITT)

6. COMMITTEE MEETING UPDATES: COUNCILORS AND MAYOR

6.1. CAST (COUNCILOR SARAH SMITH HYMES)

7. MAYOR & COUNCIL COMMENTS

8. EXECUTIVE SESSION - THIS SESSION IS NOT OPEN TO THE PUBLIC

8.1. DISCUSSION OF THE PURCHASE AND ACQUISITION OF A REAL PROPERTY INTEREST UNDER C.R.S. §24-6-402(2)(A) AND A CONFERENCE WITH THE TOWN ATTORNEY FOR THE PURPOSE OF RECEIVING LEGAL ADVICE UNDER C.R.S. §24-6-402(2)(B) RELATED TO SUCH REAL PROPERTY DISCUSSION AND FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND/OR INSTRUCTING NEGOTIATORS, UNDER C.R.S. §24-6-402(2)(E) RELATED TO SUCH REAL PROPERTY DISCUSSION

8.2. FOR A CONFERENCE WITH THE TOWN ATTORNEY FOR THE PURPOSE OF RECEIVING LEGAL ADVICE UNDER C.R.S. §24-6-402(2)(B) CONCERNING THE UPPER EAGLE RIVER WATER AUTHORITY.

Mayor Fancher moved to meet in Executive Session for the purpose of a Discussion of the Purchase and Acquisition of a Real Property Interest under C.R.S. §24-6-402(2)(A) and a Conference with the Town Attorney for the Purpose Of Receiving Legal Advice under C.R.S. §24-6-402(2)(B) related to such Real Property Discussion and for the Purpose of Determining Positions Relative to Matters that may be subject to Negotiations, Developing Strategy For Negotiations, and/or Instructing Negotiators, under C.R.S. §24-6-402(2)(E) related to such Real Property Discussion as well as a Conference with the Town Attorney for the purpose of receiving legal advice under C.R.S. §24-6-402(2)(b) concerning the Upper Eagle River Water Authority. Councilor Reynolds seconded the motion and it passed unanimously by those present. The time was 8:16 p.m.

Executive session ended at 10:28 p.m.

Council reconvened into regular session at 10:29 p.m.



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, JANUARY 26, 2016
AVON TOWN HALL, ONE LAKE STREET

9. ADJOURNMENT

There being no further business to come before the Council, the regular meeting adjourned at 10:30 p.m.

RESPECTFULLY SUBMITTED:

Debbie Hoppe, Town Clerk

APPROVED:

Jennie Fancher

Jake Wolf

Matt Gennett

Megan Burch

Albert "Buz" Reynolds

Scott Prince

Sarah Smith Hymes

