Town Council
Monday, June 3, 2024
4:00 PM
130 Kearns Road
Town Council Chambers
Snowmass Village, CO 81615
You can watch the meeting live online on our website at tosv.com.
Agenda

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **PROCLAMATIONS AND PRESENTATIONS**

4. **PUBLIC COMMENT**
This section is set aside for the Town Council to LISTEN to comments by the public regarding items that do not otherwise appear on this agenda. Generally, the Town Council will not discuss the issue and will not take an official action under this section of the agenda. (Five Minute Time Limit)

5. **CONSENT AGENDA**
These are items where all conditions or requirements have been agreed to or met prior to the time they come before the Council for final action. A Single Public Hearing will be opened for all items on the Consent Agenda. These items will be approved by a single motion of the Council. The Mayor will ask if there is anyone present who has objection to such procedure as to certain items. Members of the Council may also ask that an item be removed from the consent section and fully discussed. All items not removed from the consent section will then be approved. A member of the Council may vote no on specific items without asking that they be removed from the consent section for full discussion. Any item that is removed from the consent agenda will be placed on the regular agenda.

5.A. 2024 Town Council Agenda Overview
5A 2024 Agenda Overview.pdf

5.B. Minutes for Approval
5B 05-13-24 TC Minutes - DRAFT.pdf
5B 05-20-24 TC Minutes - DRAFT.pdf

5.C. Ordinance No. 09, 2024 - Amending the 2024 Budget - Second Reading
5C Ordinance 09, 2024 - 2nd Reading-Budget Revisions 2024 -Purchase Employee Hsg Unit.pdf

5.D. **Resolution No. 12, Series of 2024 - Approving a contract to buy & sell real estate: 1412 Brush Creek Lane**

5D Agenda Item Summary - RE Resolution to buy/sell 1412 Brush Creek Lane.pdf
5D Attachment A - Purchase Contract 1412 Brush Creek Lane.pdf
5D Attachment B - Reso 12, 2024 - Real Estate Contract - Purchase 1412 Brush Creek Lane.pdf

6. PUBLIC HEARINGS - QUASI-JUDICIAL HEARINGS

Public Hearings are the formal opportunity for the Town Council to LISTEN to the public regarding the issue at hand. For land use hearings the Council is required to act in a quasi-judicial capacity. When acting as a quasi-judicial body, the Council is acting in much the same capacity as a judge would act in a court of law. Under these circumstances, the judicial or quasi-judicial must limit its consideration to matters which are placed into evidence and are part of the public record. The Council must base their decision on the law and the evidence presented at the hearing.

7. POLICY/LEGISLATIVE PUBLIC HEARINGS

7.A. **Ordinance No. 10, 2024 - regarding ACCESSORY EMPLOYEE UNIT REPLACEMENT STANDARDS - First Reading**

7A Agenda Item Summary - AEU LUDC changes.pdf
7A 1 TC Ord 10, 2024 AEU Code Amdts - draft.pdf
7A 2 EXHIBIT 'A' PROPOSED REDLINED CODE CHANGES, 2024, MASTER draft 5-3-24.pdf
7A 3 PC RESO NO. 3 2024 w EX 'A' AEU code changes, SIGNED.pdf

8. ADMINISTRATIVE REPORTS

8.A. **Roaring Fork Safe Passage - Wildlife/Hwy 82 Project**

8A Agenda Item Summary - Wildlife Crossing Study funding request.pdf
8A 1 Mitigation Budget Memo.pdf
8A 2 Presentation - RFSP Snowmass Village Town Council Mtg 2024-06-03.pdf
8A 3 RFSP Prioritization Methods & Results Report - Final.pdf
8A 4 RFSP Prioritization Study Summary Reprt - FINAL-2.pdf
8A 5 Mitigation Plan - Airport to Woody Creek - Budget 02-20-24-2.pdf

9. TOWN COUNCIL REPORTS AND ACTIONS

Reports and Updates

10. EXECUTIVE SESSION

10.A. **Executive Session**

10 Agenda Item Summary - RE Exec Session - Performance Review of Town Manager.pdf

11. ADJOURNMENT

DRAFT 2024 Agenda Items

- Regular Meetings begin at 4:00 p.m. unless otherwise noted
- Work Sessions begin at 4:00 p.m. and aim to end at 6:00 p.m.
- The dates on which agenda items are listed are only a best approximation. Agenda items are added to this list as they arise. Agenda items may well be moved to different meeting dates. Agendas are generally not finalized until the Thursday prior to the meeting.
- In addition to agenda items, this document also lists expected absences of Town Council members. In compliance with section 2-49 of the municipal code, once the consent agenda is approved, the absences noted will be considered to have received the prior approval necessary of the majority of the Council for members to be absent from meetings.

Topic to incorporate:
- MJ signage regs / tax rate should they be revised?
- Lighting Code Discussion – May or June?
-

Monday May 20 – Regular Meeting
- Ord 9 RE Amendment to Budget – First Reading
- Owners Review of the Draw Site
- Town Center Discussion

Monday June 3 – Regular Meeting
- Wildlife/ Hwy 82 safety Presentation (Cecily Runge)?
- Ord No. 09, 2024 – Amend Budget – Second Reading
- **AEU** unit ordinance
- Exec Session; personnel

~~EOTC – Thursday June 6 – Town of Snowmass Village~~ CANCELED

Monday June 10 – Work Session
- November election topics

Monday June 17 – Regular Meeting
- ORD - Bs and Cs Update - Ord – First Reading
- Mall Transit station design review
- Lynn Britt Project review?
- Workforce Housing Master Plan
- Little Red Schoolhouse Update
- Owl / Brush Roundabout Update
-

Monday July 1 – Regular Meeting (Shenk Virtual)
- Election Reso auth to participate & IGA with Pitkin (or July 15th – has to be delivered to Cty 100 days prior to Election on 7/28/24)
-

Monday July 8 – Work Session (Shenk Virtual)
- B & C application & appointment procedure update
- **Rep. Velasco visit**

As Of: Thursday, May 30, 2024

DRAFT 2024 Agenda Items

- English in Action – update – Maja Decker (or July 1st)
- Snowmass Club Pre Sketch Meeting (joint with Planning Commission)
-

<u>Monday July 15 – Regular Meeting (Shenk Virtual)</u>

- Owl / Brush Roundabout Update
-

<u>Monday Aug 5 – Regular Meeting</u>

- Election – Reso Re Ballot Language or 8/19/24 (Ballot Language has to be to Cty by 9/6/24
-

<u>Monday Aug 12 – Work Session</u>

<u>Monday Aug 19 – Regular Meeting</u>

<u>EOTC – Thursday August 22 – Pitkin County</u>

<u>Tuesday Sept 3 – Regular Meeting</u>

- Review Leash Laws
-

<u>Monday Sept 9 – Work Session</u>

<u>Monday Sept 16 – Regular Meeting</u>

<u>Monday Oct 7 – Regular Meeting</u>

- Budget
-

<u>Monday Oct 14 – Work Session</u>

- Budget

<u>Monday Oct 21 – Regular Meeting</u>

- POST Grant – 1st reading?
- Budget

<u>EOTC – Thursday October 24 – City of Aspen</u>

<u>Wednesday Nov 6 – Regular Meeting</u>

- <u>GID Meeting</u> - Adopting the GID Budget
- Budget Adoption
- B & C Applications

<u>Tuesday Nov 12 – Work Session</u>

<u>Monday Nov 18 – Regular Meeting</u>

As Of: Thursday, May 30, 2024

- B & C Interviews
- POST Grant – 2nd reading
- New Council Members Oath of Office

Monday Dec 2 – Regular Meeting

- Reso RE 2024 Meeting Dates
- Reso on Delinquent Solid Waste / Trash
-

Monday Dec 9 – Special Meeting

- **GID Meeting – set Mill Levy**

Monday Dec 16 – Regular Meeting

- B & C Resolution appointing new Members

In 2025 - Town Attorney and Town Clerk provide an Ordinance to Review Town Ordinances – Required every five years since 1994 Re-codification Adoption per the Town Charter. See Ord 19, Series 2020 as example.

Topics for Work Sessions or Other Meetings Requested by Town Council Members

- Schedule Updates will all of the Town Boards to review priorities and current initiatives.
  - EAB
  - FAB
  - PTRAB
  - POSTR
  - Marketing
  - Grants – Recent Awards; Review of Criteria; Purpose, etc.
  - SAAB
  - Planning

Town Council
Town Council Meeting Minutes
Monday, May 13, 2024
4:00 PM
130 Kearns Road
Town Council Chambers
Snowmass Village, CO, 81615

Mayor Madsen called to order the Regular Meeting of the Snowmass Village Town Council on Monday May 13, 2024, at 4:00 pm.

A complete live recording of this meeting can be found at www.tosv.com under Town Council Meetings. This meeting will be archived indefinitely, allowing you to view it at anytime.

1) CALL TO ORDER

2) ROLL CALL

Council Members Present: Alyssa Shenk, Tom Fridstein, Britta Gustafson, Susan Marolt and Bill Madsen.

Council Members Absent: None.

Staff Present: Clint Kinney, Town Manager; Jeff Conklin, Town Attorney; Betsy Crum, Housing Director; Dave Heivly, Patrol Sergeant; Anne Martens, Public Works Director; Mike Horath, Town Engineer; Sam Guarino, Transportation Director; Greg LeBlanc, Assistant Town Manager; Brian McNellis, Senior Planner; and Megan Harris Boucher, Town Clerk.

Public Present: Jay Shumaker, Leslie Desmond, and Shashi Neerukonda.

3) PROCLAMATIONS AND PRESENTATIONS

4) [PUBLIC COMMENT]

None.

5) CONSENT AGENDA

6) PUBLIC HEARINGS - QUASI-JUDICIAL HEARINGS

7) POLICY/LEGISLATIVE PUBLIC HEARINGS

8) ADMINISTRATIVE REPORTS

8.A) Owl Creek & Brush Creek Roundabout Update

8A 1 Agenda Item - Owl/Brush Creek Roundabout Update
8A 2 Exhibit A - Brush Creek RB.pdf
8A 3 Exhibit B Brush Creek RB - O&F Memo.pdf
8A 4 Exhibit C - Brush Creek RB-Plans-30.pdf

Public Work Director Anne Martens introduced Town Engineer Mike Horvath, Patrol Sergeant Dave Heivly and Transportation Director Sam Guarino to help with details and questions.

Martens summarized the agenda item and gave a brief background on the history of the plan, highlighted some items from the materials in the packet and outlined next steps as we move towards budget and future plans for the roundabout.

Council asked for staff to come back with clearer more user friendly drawings so Council can better understand and visualize as well as give better feedback on the plans.

Discussions included traffic on Owl Creek Road, geometry of the roundabout, number of signs, trails and retention walls along Brush Creek Road, bus stop location, and plans for crosswalks.

Public Comment -
Leslie Desmond, resident. Desmond would like to maintain as much of the current landscaping as possible. It was designed by Ben Rawlins. Important to remember him and reintroduce or replant vegetation where possible. Not sure the roundabout is needed. Desmond also commented that the turn at Faraway and Brush Creek is dangerous.

Council will have another update in June.

8.B) Coordinate Draw & Town Center Workforce Housing Sites Discussion

8B 1 Agenda Item - Coordination of Draw & Center Housing Sites
8B 2 Housing Master Plan - Council Packet.pdf

Housing Director Betsy Crum summarized the agenda item, presented some ideas for discussion and some demographics for our community.

Council discussion included connectivity between the Draw site and potential Town Center Site, the idea of limiting the Draw site to studios and one bedrooms while having Town Center 2 and 3 bedroom units vs keeping a mix of all in both locations, idea to survey current renters asking if they want to live alongside a mix of units or similar type units, funding sources, and units designed with quality of life in mind.

Both Councilmember Shenk and Gustafson attended the NWCCOG Economic Summit recently where they heard Data Dissemination Specialist Kimberly Davis speak about Colorado and more specifically Pitkin County demographics. Davis highlighted that older community members may be aging out of full-time workforce, but not leaving housing.

Public Comment
Leslie Desmond- Comment emphasized that retired people contribution to the community in many ways. They have income limits and there is a long waiting list for Aspen's Whitcomb Terrace. Carbondale's Heritage Park Care Center is not as nice as Whitcomb Terrace but less expensive. Desmond requested that Council please think about the elderly community members when considering housing needs.

Jay Shumaker - Suggested Council look more at the numbered lots for additional housing development possibilities. Recommended steering away from the large buildings proposed at the Draw site and lean towards smaller complexes built on top of the numbered lots.

9) TOWN COUNCIL REPORTS AND ACTIONS

Councilmember Gustafson and Shenk attended the recent Sister Cities meeting where our student that went to Chamonix, France shared their experiences. The Queenstown, New Zealand representatives shared similar community issues that Aspen and SMV face, specifically with STR, Housing and resort community challenges.

Councilmember Fridstein had no updates.

Mayor Madsen has an upcoming Nordic Council meeting.

Councilmember Shenk attended the RFTA board meeting last week where they presented some findings from a housing study they have conducted. More will be presented at the upcoming RFTA retreat. Study focused on affordability, availability, and equity. They further discussed subsidized rent structure, length of stay, housing loan program, and other strategies to assist people with housing needs. Shenk sits on the

Covenant Enforcement Commission and they presented at the meeting. In general, their efforts are paying off with few new issues and many older infringements are resolving. RFTA ridership still not bounced back from 2019. City of Aspen ridership is down. With the upcoming construction in Snowmass Canyon, it is an opportunity for increased ridership. They also reported that 20% of RFTA drivers live in RFTA housing and staffing is looking strong.

Councilmember Marolt had no updates.

Town Clean-up Day coming up! Great community event and hopes many community members participate.

10) EXECUTIVE SESSION

10.A) Executive Session

10A Agenda Item - Exec Session.pdf

Mayor Madsen read the legal language for the Executive Session. A topic was added for the Executive Session regarding the negotiation with Timberline on their lease for their building above lot 13.

At 6:04pm Councilmember Fridstein motioned to go into Executive Session. Councilmember Marolt seconded. All in favor.

Councilmember Shenk left after discussion on the negotiation with Timberline. Shenk recused herself from discussion on purpose (a): related to the potential property purchase of land adjacent to the Snowmass Center.

At 7:08 pm, Councilmember Fridstein moved to adjourn the Executive Session and reconvene the Regular Meeting, Councilmember Marolt seconded. All in favor. Shenk absent.

11) ADJOURNMENT

Councilmember Fridstein moved to adjourn the Regular Meeting. Councilmember Marolt seconded. All in favor. Shenk absent.

Adjourned at 7:08 pm.

The Snowmass Village Town Council approved this set of meeting minutes at their Regular Meeting on Monday, June 3, 2024.

Submitted By,

____

Megan Harris Boucher, Town Clerk

Town Council
Town Council Meeting Minutes
Monday, May 20, 2024
4:00 PM
130 Kearns Road
Town Council Chambers
Snowmass Village, CO, 81615

Mayor Madsen called to order the Regular Meeting of the Snowmass Village Town Council on Monday May 20, 2024, at 4:00 pm.

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1) CALL TO ORDER

2) ROLL CALL

Council Members Present: Alyssa Shenk, Tom Fridstein, Britta Gustafson, Susan Marolt and Bill Madsen.

Council Members Absent: None.

Staff Present: Clint Kinney, Town Manager; Jeff Conklin, Town Attorney; Betsy Crum, Housing Director; Anne Martens, Public Works Director; Greg LeBlanc, Assistant Town Manager; Brian McNellis, Senior Planner; and Megan Harris Boucher, Town Clerk.

Public Present: Leslie Desmond, Ellen Dube, Andrew Dube, Toni Kronberg, Patrick Rawley, Erica Golden, Molly Somes, Sara Duffin, and Jordan Arick.

3) PROCLAMATIONS AND PRESENTATIONS

4) PUBLIC COMMENT

Leslie Desmond – SMV resident. Commented on the Ben Rawlins Garden and how lovely it looks.

Andrew Dube – Middle-schooler at Aspen Middle School and SMV resident. Spoke about climate change, the warming of temperatures and changes in our environment. Andrew interviewed a representative with the Global Warming Mitigation Project and shared some of what he learned. Emphasized the idea of community specific solutions.

Toni Kronberg – Kronberg is planning to run for Pitkin County Commissioner and wanted to re-introduce herself. She is concerned about Highway 82 and safety along the corridor between Aspen and Glenwood Springs. Kronberg pointed out several issues she has championed over the past 50 years and areas of concern now. Hopes to further serve our communities as a future County Commissioner.

5) CONSENT AGENDA

5.A) 2024 Agenda Overview

5A 2024 Agenda Overview.pdf

5.B) Minutes for Approval

5B 04-15-24 TC Minutes - DRAFT.pdf
5B 05-06-24 TC Minutes - DRAFT.pdf

Staff updated Council that the Executive Session was not needed tonight and asked for it to be canceled.

Councilmember Shenk sent Town Clerk Boucher some small corrections to the minutes.

Councilmember Shenk motioned to approve the consent agenda. Councilmember Marolt seconded. All in favor.

6) PUBLIC HEARINGS - QUASI-JUDICIAL HEARINGS

7) POLICY/LEGISLATIVE PUBLIC HEARINGS

7.A) Ordinance No0. 09, 2024 - Amending the 2024 Budget - RE Housing - First Reading

7A Agenda Item Summary - Ordinance No. 09 2024- 1st Reading-Employee Housing Unit.pdf
7A Attachment A - Ordinance 09, 2024 - 1st Reading-Budget Revisions 2024 -Purchase Employee Hsg Unit - First Reading.pdf

Housing Director Betsy Crum gave a brief summary of the agenda item on Ordinance No. 9, series of 2024. This is the first reading of Ordinance No. 9, Series of 2024 that revises the 2024 General Fund budget to include additional revenues of $250,000 for the purchase and eventual sale of the employee housing unit known as Creekside 1412.

This two-bedroom condominium has been the subject of a compliance action for a number of years. The property is owned by an individual who has not met the work requirements. The Town worked with this individual for several years in an effort to bring him back into compliance without success. While initially indicating a willingness to sell the property voluntarily in 2022, the owner withdrew his consent and the town was forced to take this action through a court proceeding. That process has taken more than 2 years, but the recent final judgement was in the Town’s favor. The judgment requires the owner to vacate the property. Crum believes he will voluntarily vacate the property. This will protect the next buyer when the Housing Department sells it after the purchase.

Councilmember Shenk motioned to approve of the first reading. Councilmember Marolt seconded. All in favor.

Staff requested that this be added to the Consent Agenda for second reading on June 3, 2024.

8) ADMINISTRATIVE REPORTS

8.A) Owner’s Review of the Draw Site

8A Agenda Item Summary - Owners’ Review of Draw Site Housing 5-20-2024.pdf
8A Attachment A - Site Access Plan.pdf
8A Attachment B - Architectural Materials, Floorplans and Elevation Options.pdf
8A Attachment C - Proforma- Town Hall Draw 2025 FMR.pdf

Housing Director Betsy Crum reintroduced Erica Golden and Patrick Rawley. Crum summarized the agenda item briefly, set up the discussion with Council and asked for feedback on their presented materials of the project.

Presentation and discussion included site access, delivery access, emergency access, trash collections area, EV parking location outside the garage, potential design materials; the building will be a “type 2 modified high rise” for fire code, floor plans of the units; roof line; and budget.

Council feedback included that the roofline and shape looked good, concern if there is enough space on the bus/delivery/trash/EV parking platform, liked the natural color palate option and material choices, and some members (2) still expressed strong concern that it is too many units. Staff will have additional input for the design team for functional aspects of the project as it progresses.

Public Comment -
Leslie Desmond, SMV Resident – Asked for Council to consider how the Draw site and Town Center site relate. She further asked Council to consider limiting how many “commercial areas” they were planning.

Toni Kronberg - Suggested Council get more community input for this project. She also joked that there should be hot tubs included in the project..

Councilmember Shenk found merit in all opinions and feels in the middle. Ultimately, Shenk stressed the need to move forward and to go with the two buildings at max of 80 units.
Three Councilmembers are supportive if the two building design - Madsen, Marolt & Shenk.
Two Councilmembers asking for designs for 1 building - Fridstein and Gustafson.

Crum then presented some funds and budget outlines for the project, highlighting several line items and potential funding solutions.

Staff will be back in a month or so with additional details and ask for more feedback.

10-minute Break

Councilmember Shenk recused herself from discussion regarding purchase of Town Center residential parcel and left the meeting.

8.B) Discussion regarding Purchase of Town Center Residential Parcels

8B Agenda Item Summary - Snowmass Center Contract to Purchase Residential Parcels.pdf

Town Attorney Jeff Conklin summarized the agenda item and gave a brief history, highlighting some specifics from the real estate contract, previous commercial parcel approvals, the conceptual plan presented at the last Council meeting, and provisions of the contract.

Conklin’s drafted a letter which outlines Town Council’s response to the conceptual plan and Council expectations in a future development application:

1. Design of building will include a community development piece, i.e. a town center.
2. Phasing of the project and the goal of protecting existing tenants
3. Parking and infrastructure – Upper Kearns Road infrastructure improvement such as a roundabout or intersection that functions well. Plans for Rim Road & Rim Count.
4. Cost sharing – Parties will work in good faith through the development application process as it is early in the stages of the agreement.

Next phase of the contract which would allow for a development application to be put together. Council will have the power to approve or not that development application.

Staff is asking for direction: have we articulated the Council's expectations for a development application, are there deal killer points, have we missed something?

If Council agrees, then we will execute an amendment to the contract to incorporate the conceptual plan, the letter prepared by Town Attorney Jeff Conklin and the amendments to the addendum.

Council emphasized the following: the community space aspect of the plan and its importance to incorporate that in the development application; the preservation of local businesses and protecting existing tenants; outlined some suggestions for parking and a one-way street for flow; and Conklin noted a few minor word changes pointed out by members.

Eastwood's Jordan Sarick appeared virtually. Sarick thanked all for the clarifications and input. Focus will be on feasibility not finality. They will look at all these options and hopes to incorporate many aspects of their comments.

No motion needed. Council agrees.

9) TOWN COUNCIL REPORTS AND ACTIONS

Councilmember Marolt attended Nordic Council last week where they are in discussions with the Meadowood HOA and their meadow. HOA is concerned about the meadow with the high traffic area and the effect of grooming on soil compaction. Meadowood HOA is asking for Nordic Council to contribute to maintenance of that meadow.

Councilmember Fridstein had no updates.

Councilmember Gustafson was going to bring up the letter the Council had received regarding the Collective and its cost and accessibility to the community.
Concerned about the reflection from the new bleachers. She has heard complaints from some residents, specifically in Two Creeks. Any ideas for solutions?

Staff reminded Council of the upcoming Community Celebration and Ribbon Cutting for the Rodeo - June 26th. Staff will follow up with Council with additional details.

10) EXECUTIVE SESSION

10.A) Executive Session

10 Agenda Item Summary - Exec Session.pdf

Canceled.

11) ADJOURNMENT

Councilmember Fridstein motioned to adjourn. Councilmember Gustafson seconded. All in favor. Councilmember Shenk absent from vote.
Adjourned at 7:20p,

The Snowmass Village Town Council approved this set of meeting minutes at their Regular Meeting on Monday, June 3, 2024.

Submitted By,

____
Megan Harris Boucher, Town Clerk

SNOWMASS VILLAGE
TOWN COUNCIL

ORDINANCE NO. 09
SERIES OF 2024

AN ORDINANCE AMENDING THE 2024 BUDGET FOR THE GENERAL FUND FOR THE TOWN OF SNOWMASS VILLAGE.

WHEREAS, Clint Kinney, Town Manager, has submitted changes to the 2024 Adopted Budget; and

WHEREAS, the 2024 amendments include changes to the General Fund; and

WHEREAS, the General Fund is revised to include an increase in expenditures to purchase an employee housing unit and an increase in revenues to account for the sale of this employee housing unit; and

WHEREAS, the Town of Snowmass Village Home Rule Charter requires adjustments to the budget when circumstances change relating to the budget.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Snowmass Village, Colorado:

Section One: Revised Budget
That the Town of Snowmass Village 2024 budget for the General Fund be adjusted to include the below amendments.

Section Two: Appropriation
That the below 2024 revised revenues and expenditures are hereby appropriated for expenditure during the 2024 budget year.

Section Three: Effective Date
This Ordinance shall become effective upon adoption in accordance with Article X, Section 9.11 (e) of the Home Rule Charter.

Town of Snowmass Village
Budget Changes – 2024

	2024 Revenues	2024 Expenditures
General Fund	$ 250,000	$ 250,000
TOTAL	**$ 250,000**	**$ 250,000**

INTRODUCED, READ AND ADOPTED on first reading by the Town Council of Snowmass Village, Colorado on the 20th day of May, 2024 with a motion made by Councilmember Shenk and seconded by Councilmember Marolt and by a vote of 5 in favor to 0 opposed.

INTRODUCED, READ AND ADOPTED on second reading by the Town Council of Snowmass Village, Colorado on the 3rd day of June, 2024 with a motion made by __________ and seconded by ______________, and by a vote of __ in favor to __ opposed. A roll call was taken, those in favor were_________________________, those opposed were _____________________.

TOWN OF SNOWMASS VILLAGE

____
Bill Madsen, Mayor

ATTEST:

____
Megan Harris Boucher, Town Clerk

Town of Snowmass Village

Agenda Item Summary

DATE OF MEETING:

June 3, 2024

AGENDA ITEM:

Resolution approving Purchase and Sale of 1412 Brush Creek Lane

PRESENTED BY:

Betsy Crum, Housing Director
Jeff Conklin, Town Attorney

BACKGROUND:

Ordinance 9, Series of 2024 was presented at the last Town Council meeting for first reading to amend the 2024 budget to include additional revenues of $250,000 for the purchase and eventual sale of the employee housing unit known as Creekside 1412. As was done for previous properties, we also need to execute a Purchase Contract to acquire the unit to expedite it being put back out for lottery.

To that end, the attached Purchase Contract represents the purchase price for this unit, based on the calculation per the Permanent Moderate Housing Regulations. The title companies will require a Resolution by the Town Council that ratifies the contract and authorizes the resale of the property. The Resolution is also attached for your consideration.

As a reminder, this two-bedroom condominium has been the subject of a compliance action for several years. The property is owned by an individual who has not met the work requirements. The Town worked with this individual for several years to bring him back into compliance without success. While initially indicating a willingness to sell the property voluntarily in 2022, the owner withdrew his consent, and the town was forced to take this action through a court proceeding. That process has taken more than 2 years, but the recent final judgement was in the Town's favor. The owner has indicated that he is now willing to sign the contract and move voluntarily.

.

FINANCIAL IMPACT:

The property will be purchased and put back out for sale through the lottery process in the Permanent Moderate Housing Regulations. There will be no net impact other than internal administrative costs associated with the transaction.

APPLICABILITY TO COUNCIL GOALS & OBJECTIVES:

In 2021 the Town Council established the following short-term housing goals:

> *Creating and providing affordable workforce housing continues to be a top priority for the Town Council. Providing a variety of affordable workforce housing options, that serves diverse ages, within the Village not only enables community members to contribute to the local economy, it also helps to build a strong, well connected, and engaged community with a viable workforce. The Council remains committed to a near-term strategy that will actively identify opportunities, creative approaches, and partnerships to address housing needs, and incentivize the development of an additional 185 units. The Town Council will work collaboratively to create solutions and will diligently commit the time, money, and political will to implement a successful strategy. The Council is committed to clarifying this strategy to ensure it is innovative, quantified, and meets the needs of the community.*

STAFF RECOMMENDATION:

It is the recommendation of Town Staff, that the Council, make and approve a motion: approving both the Resolution and Ratifying the Purchase Contract for the sale of 1412 Brush Creek Lane.

ATTACHMENTS:

Attachment A: Purchase Contract for 1412 Brush Creek Lane

Attachment B: Resolution regarding purchase and sale of 1412 Brush Creek Lane

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

CONTRACT TO BUY AND SELL REAL ESTATE (RESIDENTIAL)

Date: May 21, 2024

AGREEMENT

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

2. PARTIES AND PROPERTY.

2.1. Buyer. Town of Snowmass Village, Colorado, a Colorado home-rule municipality (Buyer) will take title to the Property described below as ☐ **Joint Tenants** ☐ **Tenants In Common** ☒ **Other** in severalty.

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

2.3. Seller. Robert Bryan Kemp (Seller) is the current owner of the Property described below.

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

Unit H-12 Creekside Condominiums, in Building H, as shown on the CREEKSIDE CONDOMINIUM Map filed in the records of the Clerk and Recorder of Pitkin County, Colorado, on May 12, 1980 in Play Book 9 at Page 48, and as defined and described in the Condominium Declaration for the Creekside Condominiums, Snowmass Village Colorado, appearing in such records, filed May 12, 1980 in Book 388 at Page 749 and the First Amendment thereto recorded August 24, 1993 in Book 722 at Page 115 as Reception No. 360364.

known as: 1412 Brush Creek Lane, Snowmass Village, CO 81615,
Street Address City State Zip

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

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

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

2.5.2. Inclusions – Not Attached. If on the Property, whether attached or not, on the date of this Contract, the following items are included unless excluded under **Exclusions**: storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings and treatments, curtain rods, drapery rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, carbon monoxide alarms, smoke/fire detectors and all keys.

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

N/A

☐ If the box is checked, Buyer and Seller have concurrently entered into a separate agreement for additional personal property outside of this Contract.

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

N/A

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

2.5.6. Parking and Storage Facilities. The use or ownership of the following parking facilities: any and all appurtenant to property; and the use or ownership of the following storage facilities: any and all appurtenant to property. Note to Buyer: If exact rights to the parking and storage facilities is a concern to Buyer, Buyer should investigate.

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

N/A

2.6. Exclusions. The following items are excluded (Exclusions):

N/A

2.7. Water Rights/Well Rights.

☐ **2.7.1. Deeded Water Rights.** The following legally described water rights:

N/A

Any deeded water rights will be conveyed by a good and sufficient ____________ deed at Closing.

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

N/A

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

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

N/A

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

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

3. DATES, DEADLINES AND APPLICABILITY.

3.1. Dates and Deadlines.

Item No.	Reference	Event	Date or Deadline
1	§ 3	Time of Day Deadline	11:59 PM
2	§ 4	Alternative Earnest Money Deadline	7 days after MEC
		Title	
3	§ 8	Record Title Deadline (and Tax Certificate)	14 days after MEC

4	§ 8	Record Title Objection Deadline	21 days after MEC
5	§ 8	Off-Record Title Deadline	14 days after MEC
6	§ 8	Off-Record Title Objection Deadline	21 days after MEC
7	§ 8	Title Resolution Deadline	28 days after MEC
8	§ 8	Third Party Right to Purchase/Approve Deadline	21 days after MEC
		Owners' Association	
9	§ 7	Association Documents Deadline	14 days after MEC
10	§ 7	Association Documents Termination Deadline	21 days after MEC
		Seller's Disclosures	
11	§ 10	Seller's Property Disclosure Deadline	14 days after MEC
12	§ 10	Lead-Based Paint Disclosure Deadline	14 days after MEC
		Loan and Credit	
13	§ 5	New Loan Application Deadline	N/A
14	§ 5	New Loan Terms Deadline	N/A
15	§ 5	New Loan Availability Deadline	N/A
16	§ 5	Buyer's Credit Information Deadline	N/A
17	§ 5	Disapproval of Buyer's Credit Information Deadline	N/A
18	§ 5	Existing Loan Deadline	N/A
19	§ 5	Existing Loan Termination Deadline	N/A
20	§ 5	Loan Transfer Approval Deadline	N/A
21	§ 4	Seller or Private Financing Deadline	N/A
		Appraisal	
22	§ 6	Appraisal Deadline	N/A
23	§ 6	Appraisal Objection Deadline	N/A
24	§ 6	Appraisal Resolution Deadline	N/A
		Survey	
25	§ 9	New ILC or New Survey Deadline	N/A
26	§ 9	New ILC or New Survey Objection Deadline	N/A
27	§ 9	New ILC or New Survey Resolution Deadline	N/A
		Inspection and Due Diligence	
28	§ 2	Water Rights Examination Deadline	
29	§ 8	Mineral Rights Examination Deadline	
30	§ 10	Inspection Termination Deadline	21 days after MEC
31	§ 10	Inspection Objection Deadline	21 days after MEC
32	§ 10	Inspection Resolution Deadline	28 days after MEC
33	§ 10	Property Insurance Termination Deadline	21 days after MEC
34	§ 10	Due Diligence Documents Delivery Deadline	14 days after MEC
35	§ 10	Due Diligence Documents Objection Deadline	21 days after MEC
36	§ 10	Due Diligence Documents Resolution Deadline	28 days after MEC
37	§ 10	Conditional Sale Deadline	N/A
38	§ 10	Lead-Based Paint Termination Deadline	21 days after MEC
		Closing and Possession	
39	§ 12	Closing Date	56 days after MEC
40	§ 17	Possession Date	Upon Closing
41	§ 17	Possession Time	Upon Closing
42	§ 27	**Acceptance Deadline Date**	May 29, 2024
43	§ 27	**Acceptance Deadline Time**	11:59PM

Note: If **FHA** or **VA** loan boxes are checked in § 4.5.3. (Loan Limitations), the **Appraisal** deadlines **DO NOT** apply to **FHA** insured or **VA** guaranteed loans.

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

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

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

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

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

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

4. PURCHASE PRICE AND TERMS.

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

Item No.	Reference	Item	Amount	Amount
1	§ 4.1.	Purchase Price	$ 207,591.93	
2	§ 4.3.	Earnest Money		$
3	§ 4.5.	New Loan		$
4	§ 4.6.	Assumption Balance		$
5	§ 4.7.	Private Financing		$
6	§ 4.7.	Seller Financing		$
7				
8				
9	§ 4.4.	Cash at Closing		$ 207,591.93
10		**TOTAL**	$ 207,591.93	$ 207,591.93

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

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

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

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

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

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

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

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

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

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

~~**4.5. New Loan.**~~

~~**4.5.1. Buyer to Pay Loan Costs.** Buyer, except as otherwise permitted in § 4.2. (Seller Concession), if applicable, must timely pay Buyer's loan costs, loan discount points, prepaid items and loan origination fees as required by lender.~~

~~**4.5.2. Buyer May Select Financing.** Buyer may pay in cash or select financing appropriate and acceptable to Buyer, including a different loan than initially sought, except as restricted in § 4.5.3. (Loan Limitations) or § 29 (Additional Provisions).~~

~~**4.5.3. Loan Limitations.** Buyer may purchase the Property using any of the following types of loans: ☐ **Conventional** ☐ **FHA** ☐ **VA** ☐ **Bond** ☐ **Other** ____________________.~~

~~If either or both of the FHA or VA boxes are checked, and Buyer closes the transaction using one of those loan types, Seller agrees to pay those closing costs and fees that Buyer is not allowed by law to pay not to exceed $____________.~~

~~**4.5.4. Loan Estimate – Monthly Payment and Loan Costs.** Buyer is advised to review the terms, conditions and costs of Buyer's New Loan carefully. If Buyer is applying for a residential loan, the lender generally must provide Buyer with a Loan Estimate within three days after Buyer completes a loan application. Buyer also should obtain an estimate of the amount of Buyer's monthly mortgage payment.~~

~~**4.6. Assumption.** Buyer agrees to assume and pay an existing loan in the approximate amount of the Assumption Balance set forth in § 4.1. (Price and Terms), presently payable at $__________ per __________ including principal and interest presently at the rate of ______% per annum and also including escrow for the following as indicated: ☐ **Real Estate Taxes** ☐ **Property Insurance Premium** ☐ **Mortgage Insurance Premium** and ☐ ____________________.~~

~~Buyer agrees to pay a loan transfer fee not to exceed $__________. At the time of assumption, the new interest rate will not exceed ______% per annum and the new payment will not exceed $__________ per __________ principal and interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption Balance, which causes the amount of cash required from Buyer at Closing to be increased by more than $__________, or if any other terms or provisions of the loan change, Buyer has the Right to Terminate under § 24.1. on or before **Closing Date**.~~

~~Seller ☐ **Will** ☐ **Will Not** be released from liability on said loan. If applicable, compliance with the requirements for release from liability will be evidenced by delivery ☐ on or before **Loan Transfer Approval Deadline** ☐ at **Closing** of an appropriate letter of commitment from lender. Any cost payable for release of liability will be paid by ____________ in an amount not to exceed $__________.~~

~~**4.7. Seller or Private Financing.**~~

~~**WARNING:** Unless the transaction is exempt, federal and state laws impose licensing, other requirements and restrictions on sellers and private financiers. Contract provisions on financing and financing documents, unless exempt, should be prepared by a licensed Colorado attorney or licensed mortgage loan originator. Brokers should not prepare or advise the parties on the specifics of financing, including whether or not a party is exempt from the law.~~

~~**4.7.1. Seller Financing.** If Buyer is to pay all or any portion of the Purchase Price with Seller financing, ☐ **Buyer** ☐ **Seller** will deliver the proposed Seller financing documents to the other party on or before ______ days before **Seller or Private Financing Deadline**.~~

~~**4.7.1.1. Seller May Terminate.** If Seller is to provide Seller financing, this Contract is conditional upon Seller determining whether such financing is satisfactory to the Seller, including its payments, interest rate, terms, conditions, cost, and compliance with the law. Seller has the Right to Terminate under § 24.1., on or before **Seller or Private Financing Deadline**, if such Seller financing is not satisfactory to Seller, in Seller's sole subjective discretion.~~

~~**4.7.2. Buyer May Terminate.** If Buyer is to pay all or any portion of the Purchase Price with Seller or private financing, this Contract is conditional upon Buyer determining whether such financing is satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions, and cost. Buyer has the Right to Terminate under § 24.1, on or before **Seller or Private Financing Deadline**, if such Seller or private financing is not satisfactory to Buyer, in Buyer's sole subjective discretion.~~

TRANSACTION PROVISIONS

~~**5. FINANCING CONDITIONS AND OBLIGATIONS.**~~

~~**5.1. New Loan Application.** If Buyer is to pay all or part of the Purchase Price by obtaining one or more new loans (New Loan), or if an existing loan is not to be released at Closing, Buyer, if required by such lender, must make an application verifiable by such lender, on or before **New Loan Application Deadline** and exercise reasonable efforts to obtain such loan or approval.~~

~~**5.2. New Loan Terms; New Loan Availability.**~~

~~**5.2.1. New Loan Terms.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer determining, in Buyer's sole subjective discretion, whether the proposed New Loan's payments, interest rate, conditions and costs or any other loan terms (New Loan Terms) are satisfactory to Buyer. This condition is for the sole benefit of Buyer. Buyer has the Right to Terminate under § 24.1., on or before **New Loan Terms Deadline**, if the New Loan Terms are not satisfactory to Buyer, in Buyer's sole subjective discretion.~~

~~**5.2.2. New Loan Availability.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer's satisfaction with the availability of the New Loan based on the lender's review and underwriting of Buyer's New Loan Application (New Loan Availability). Buyer has the Right to Terminate under § 24.1., on or before the **New Loan Availability Deadline** if the New Loan Availability is not satisfactory to Buyer. Buyer does not have a Right to Terminate based on the New Loan Availability if the termination is based on the New Loan Terms, Appraised Value (defined below), the Lender Property Requirements (defined below), Insurability (§ 10.5. below) or the Conditional Upon Sale of Property (§ 10.7. below). **IF SELLER IS NOT IN DEFAULT AND DOES NOT TIMELY RECEIVE BUYER'S WRITTEN NOTICE TO TERMINATE, BUYER'S EARNEST MONEY WILL BE NONREFUNDABLE**, except as otherwise provided in this Contract (e.g., Appraisal, Title, Survey).~~

~~**5.3. Credit Information.** If an existing loan is not to be released at Closing, this Contract is conditional (for the sole benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which approval will be in Seller's sole subjective discretion. Accordingly: (1) Buyer must supply to Seller by **Buyer's Credit Information Deadline**, at Buyer's expense, information and documents (including a current credit report) concerning Buyer's financial, employment and credit condition; (2) Buyer consents that Seller may verify Buyer's financial ability and creditworthiness; and (3) any such information and documents received by Seller must be held by Seller in confidence and not released to others except to protect Seller's interest in this transaction. If the Cash at Closing is less than as set forth in § 4.1. of this Contract, Seller has the Right to Terminate under § 24.1., on or before Closing. If Seller disapproves of Buyer's financial ability or creditworthiness, in Seller's sole subjective discretion, Seller has the Right to Terminate under § 24.1., on or before **Disapproval of Buyer's Credit Information Deadline**.~~

~~**5.4. Existing Loan Review.** If an existing loan is not to be released at Closing, Seller must deliver copies of the loan documents (including note, deed of trust and any modifications) to Buyer by **Existing Loan Deadline**. For the sole benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the provisions of such loan documents. Buyer has the Right to Terminate under § 24.1., on or before **Existing Loan Termination Deadline**, based on any unsatisfactory provision of such loan documents, in Buyer's sole subjective discretion. If the lender's approval of a transfer of the Property is required, this Contract is conditional upon Buyer obtaining such approval without change in the terms of such loan, except as set forth in § 4.6. If lender's approval is not obtained by **Loan Transfer Approval Deadline**, this Contract will terminate on such deadline. Seller has the Right to Terminate under § 24.1., on or before Closing, in Seller's sole subjective discretion, if Seller is to be released from liability under such existing loan and Buyer does not obtain such compliance as set forth in § 4.6.~~

~~**6. APPRAISAL PROVISIONS.**~~

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

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

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

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

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

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

~~6.2.2. **FHA.** It is expressly agreed that, notwithstanding any other provisions of this Contract, the purchaser (Buyer) shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of Earnest Money deposits or otherwise unless the purchaser (Buyer) has been given, in accordance with HUD/FHA or VA requirements, a written statement issued by the Federal Housing Commissioner, Department of Veterans Affairs, or a Direct Endorsement lender, setting forth the appraised value of the Property of not less than $_____________. The purchaser (Buyer) shall have the privilege and option of proceeding with the consummation of this Contract without regard to the amount of the appraised valuation. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value nor the condition of the Property. The purchaser (Buyer) should satisfy himself/herself/themselves that the price and condition of the Property are acceptable.~~

~~6.2.3. **VA.** It is expressly agreed that, notwithstanding any other provisions of this Contract, the purchaser (Buyer) shall not incur any penalty by forfeiture of Earnest Money or otherwise or be obligated to complete the purchase of the Property described herein, if the Contract Purchase Price or cost exceeds the reasonable value of the Property established by the Department of Veterans Affairs. The purchaser (Buyer) shall, however, have the privilege and option of proceeding with the consummation of this Contract without regard to the amount of the reasonable value established by the Department of Veterans Affairs.~~

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

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

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

7.1. Common Interest Community Disclosure. THE PROPERTY IS LOCATED WITHIN A COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY. THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS' ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.

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

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

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

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

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

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

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

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

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

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

8.1. Evidence of Record Title.

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

☐ **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline**, Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price.

If neither box in § 8.1.1. or § 8.1.2. is checked, § 8.1.1. applies.

8.1.3. Owner's Extended Coverage (OEC). The Title Commitment ☒ **Will** ☐ **Will Not** contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by ☐ **Buyer** ☒ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** ☐ **Other** ________________.

Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.7. (Right to Object to Title, Resolution).

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

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

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

8.2. Record Title. Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the Title Documents as set forth in § 8.7. (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title

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

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

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

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

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

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

8.7.1. Title Objection, Resolution. If Seller receives Buyer's written notice objecting to any title matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on the expiration of **Title Resolution Deadline**, unless Seller receives

Buyer's written withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2. (Record Title) or § 8.3. (Off-Record Title) the Title Resolution Deadline also will be automatically extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or

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

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

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

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

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

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

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

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

~~**9. NEW ILC, NEW SURVEY.**~~

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

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

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

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

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

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

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

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

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

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

DISCLOSURE, INSPECTION AND DUE DILIGENCE

10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE AND SOURCE OF WATER.

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

10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition. Seller must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract. Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an adverse material fact after the date of this Contract, Seller must timely disclose such adverse fact to Buyer. Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges that Seller is conveying the Property to Buyer in an **"As Is"** condition, **"Where Is"** and **"With All Faults."**

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

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

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

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

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

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

10.6. Due Diligence.

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

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

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

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

10.6.1.4. Other Documents. Other documents and information:

N/A

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

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

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

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

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

10.8. Source of Potable Water (Residential Land and Residential Improvements Only). Buyer ☐ **Does** ☒ **Does Not** acknowledge receipt of a copy of Seller's Property Disclosure or Source of Water Addendum disclosing the source of potable water for the Property. ☒ There is **No Well**. Buyer ☐ **Does** ☐ **Does Not** acknowledge receipt of a copy of the current well permit.

Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED SOURCE) TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.

10.9. Existing Leases; Modification of Existing Leases; New Leases. [Intentionally Deleted]

10.10. Lead-Based Paint.

10.10.1. Lead-Based Paint Disclosure. Unless exempt, if the Property includes one or more residential dwellings constructed or a building permit was issued prior to January 1, 1978, for the benefit of Buyer, Seller and all required real estate licensees must sign and deliver to Buyer a completed Lead-Based Paint Disclosure (Sales) form on or before the **Lead-Based Paint Disclosure Deadline**. If Buyer does not timely receive the Lead-Based Paint Disclosure, Buyer may waive the failure to timely receive the Lead-Based Paint Disclosure, or Buyer may exercise Buyer's Right to Terminate under § 24.1. by Seller's receipt of Buyer's Notice to Terminate on or before the expiration of the **Lead-Based Paint Termination Deadline.**

10.10.2. Lead-Based Paint Assessment. If Buyer elects to conduct or obtain a risk assessment or inspection of the Property for the presence of Lead-Based Paint or Lead-Based Paint hazards, Buyer has a Right to Terminate under § 24.1. by Seller's receipt of Buyer's Notice to Terminate on or before the expiration of the **Lead-Based Paint Termination Deadline.** Buyer may elect to waive Buyer's right to conduct or obtain a risk assessment or inspection of the Property for the presence of Lead-Based Paint or Lead-Based Paint hazards. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the condition of the Property relative to any Lead-Based Paint as satisfactory and Buyer waives any Right to Terminate under this provision.

10.11. Carbon Monoxide Alarms. Note: If the improvements on the Property have a fuel-fired heater or appliance, a fireplace, or an attached garage and include one or more rooms lawfully used for sleeping purposes (Bedroom), the parties acknowledge that Colorado law requires that Seller assure the Property has an operational carbon monoxide alarm installed within fifteen feet of the entrance to each Bedroom or in a location as required by the applicable building code.

10.12. Methamphetamine Disclosure. If Seller knows that methamphetamine was ever manufactured, processed, cooked, disposed of, used or stored at the Property, Seller is required to disclose such fact. No disclosure is required if the Property was remediated in accordance with state standards and other requirements are fulfilled pursuant to § 25-18.5-102, C.R.S., Buyer further acknowledges that Buyer has the right to engage a certified hygienist or industrial hygienist to test whether the Property has ever been used as a methamphetamine laboratory. Buyer has the Right to Terminate under § 24.1., upon Seller's receipt of Buyer's written Notice to Terminate, notwithstanding any other provision of this Contract, based on Buyer's test results that indicate the Property has been contaminated with methamphetamine, but has not been remediated to meet the standards established by rules of the State Board of Health promulgated pursuant to § 25-18.5-102, C.R.S. Buyer must promptly give written notice to Seller of the results of the test.

10.13. Radon Disclosure. THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT STRONGLY RECOMMENDS THAT <u>ALL</u> HOME BUYERS HAVE AN INDOOR RADON TEST PERFORMED BEFORE PURCHASING RESIDENTIAL REAL PROPERTY AND RECOMMENDS HAVING THE RADON LEVELS MITIGATED IF ELEVATED RADON CONCENTRATIONS ARE FOUND. ELEVATED RADON CONCENTRATIONS CAN BE REDUCED BY A RADON MITIGATION PROFESSIONAL.

RESIDENTAL REAL PROPERTY MAY PRESENT EXPOSURE TO DANGEROUS LEVELS OF INDOOR RADON GAS THAT MAY PLACE THE OCCUPANTS AT RISK OF DEVELOPING RADON-INDUCED LUNG CANCER. RADON, A CLASS A HUMAN CARCINOGEN, IS THE LEADING CAUSE OF LUNG CANCER IN NONSMOKERS AND THE SECOND LEADING CAUSE OF LUNG CANCER OVERALL. THE SELLER OF RESIDENTAL REAL PROPERTY IS REQUIRED TO PROVIDE THE BUYER WITH ANY KNOWN INFORMATION ON RADON TEST RESULTS OF THE RESIDENTIAL REAL PROPERTY.

AN ELECTRONIC COPY OF THE MOST RECENT BROCHURE PUBLISHED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT IN ACCORDANCE WITH C.R.S. §25-11-114(2)(A) THAT PROVIDES ADVICE ABOUT "RADON AND REAL ESTATE TRANSACTIONS IN COLORADO" IS AVAILABLE AT: HTTPS://CDPHE.COLORADO.GOV/RADON-AND-REAL-ESTATE.

11. TENANT ESTOPPEL STATEMENTS. [Intentionally Deleted]

CLOSING PROVISIONS

12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.

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

12.2. Closing Instructions. Colorado Real Estate Commission's Closing Instructions ☐ **Are** ☒ **Are Not** executed with this Contract.

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

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

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

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

Unless otherwise specified in § 29 (Additional Provisions), if title will be conveyed using a special warranty deed or a general warranty deed, title will be conveyed "subject to statutory exceptions" as defined in §38-30-113(5)(a), C.R.S.

14. PAYMENT OF LIENS AND ENCUMBRANCES. Unless agreed to by Buyer in writing, any amounts owed on any liens or encumbrances securing a monetary sum against the Property and Inclusions, including any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not, and previous years' taxes, will be paid at or before Closing by Seller from the proceeds of this transaction or from any other source.

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

15.1. Closing Costs. Buyer and Seller must pay, in Good Funds, their respective closing costs and all other items required to be paid at Closing, except as otherwise provided herein. However, if Buyer's loan specified in §4.5.3. (Loan Limitations) prohibits Buyer from paying for any of the fees contained in this Section, the fees will be paid for by Seller.

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

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

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

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

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

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

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

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

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

15.7. Water Transfer Fees. Water Transfer Fees can change. The fees, as of the date of this Contract, do not exceed $__________ for:

☐ Water Stock/Certificates ☐ Water District
☐ Augmentation Membership ☐ Small Domestic Water Company ☐ ______________

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

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

15.9. FIRPTA and Colorado Withholding.

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

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

16. PRORATIONS AND ASSOCIATION ASSESSMENTS.

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

16.1.1. Taxes. Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of Closing, based on ☐ **Taxes for the Calendar Year Immediately Preceding Closing** ☒ **Most Recent Mill Levy and Most Recent Assessed Valuation**, adjusted by any applicable qualifying seniors property tax exemption, qualifying disabled veteran exemption or ☐ **Other** ______________________________.

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

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

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

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

17. POSSESSION. Possession of the Property and Inclusions will be delivered to Buyer on **Possession Date** at **Possession Time**, subject to the Leases as set forth in § 10.6.1.1. and, if applicable, any Post-Closing Occupancy Agreement.

If Seller, after Closing occurs, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable to Buyer, notwithstanding § 20.2. (If Seller is in Default), for payment of $1,000 per day (or any part of a day notwithstanding § 3.3., Day) from **Possession Date** and **Possession Time** until possession is delivered.

Buyer represents that Buyer will occupy the Property as Buyer's principal residence unless the following box is checked, then Buyer ☒ **Does Not** represent that Buyer will occupy the Property as Buyer's principal residence.

☐ If the box is checked, Buyer and Seller agree to execute a Post-Closing Occupancy Agreement.

GENERAL PROVISIONS

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

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

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

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

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

18.5. Home Warranty. Seller and Buyer are aware of the existence of pre-owned home warranty programs that may be purchased and may cover the repair or replacement of such Inclusions.

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

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

20.1. If Buyer is in Default:

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

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

20.2. If Seller is in Default:

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

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

21. LEGAL FEES, COST AND EXPENSES. Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and expenses.

22. MEDIATION. If a dispute arises relating to this Contract (whether prior to or after Closing) and is not resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at that party's last known address (physical or electronic as provided in § 26). Nothing in this Section prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the date of written notice requesting mediation. This Section will not alter any date in this Contract, unless otherwise agreed.

23. EARNEST MONEY DISPUTE. Except as otherwise provided herein, Earnest Money Holder must release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to release the Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1) wait for any proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a court of competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable attorney and legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder is authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit and has not interpled the monies at the time of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of § 22 (Mediation). This Section will survive cancellation or termination of this Contract.

24. TERMINATION.

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

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

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

26. NOTICE, DELIVERY AND CHOICE OF LAW.

26.1. Physical Delivery and Notice. Any document or notice to Buyer or Seller must be in writing, except as provided in § 26.2. and is effective when physically received by such party, any individual named in this Contract to receive documents or notices for such party, Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm).

26.2. Electronic Notice. As an alternative to physical delivery, any notice may be delivered in electronic form to Buyer or Seller, any individual named in this Contract to receive documents or notices for such party, Broker or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing, cancellation or Termination must be received by the party, not Broker or Brokerage Firm) at the electronic address of the recipient by facsimile, email or N/A.

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

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

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

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

ADDITIONAL PROVISIONS AND ATTACHMENTS

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

29.1. Town Council Approval: This Contract requires and is contingent upon the approval and ratification of the Contract by Town Council of the Town of Snowmass Village in accordance with the Town Charter.

29.2. Seller Authority. Seller has taken all necessary action to authorize the execution, delivery and performance of this Contract and has the power and authority to execute, deliver and perform this contract and consummate the transaction contemplated hereby. The person signing this contract on behalf of Seller is authorized to do so. Assuming this Contract has been duly authorized, executed and delivered by the other party to this Contract, this Contract and all obligations of Seller hereunder are the legal, valid and binding obligations of Seller, enforceable in accordance with the terms of this Contract.

29.3. No Brokers: Each party represents to the other that they have incurred no obligation to a realtor or real estate broker for services rendered in connection with this Contract or the Property and that no brokers or other intermediaries are entitled to receive brokerage commission or fees or other compensation out of or with respect to the sale of the Property.

29.4. Notices to Buyer under this Contract should be sent to crum@tosv.com

29.5. Taxes. Buyer is a tax-exempt governmental entity, and thus is exempt from the payment of taxes, including but not limited to sales, excise, real estate transfer, and property taxes, and with respect to any applicable as a result of Sections 15.4, 15.5, and 16.1.1 of the Contract.

29.6. Seller Financial Obligations to Buyer.

29.6.1. Seller is obligated to pay Buyer $1000 fee for the sale of the property pursuant to the Town of Snowmass Village Permanent Moderate Housing Regulations. Seller previously paid Buyer $500 towards this fee and, thus, Seller shall provide Buyer a credit of $500 on the Purchase Price as payment of the remainder of the fee.

29.6.2. Seller is obligated to Buyer for attorney fees and costs in the amount of $9,175 arising from Case No. 2022CV30020. Upon Closing and delivery of the Premises pursuant to the Contract, Buyer agrees to waive and release any claim for these amounts.

29.7. Property Condition. Seller shall be obligated to remove all shelving installed by Seller in the Property not later than 28 days after MEC. Seller shall allow Buyer to inspect the Property to verify the condition. If the shelving has not been removed, Seller shall provide Buyer a credit on the Purchase Price of $2,000 for such removal upon Closing.

30. OTHER DOCUMENTS.

30.1. Documents Part of Contract. The following documents **are a part** of this Contract:

30.1.1. Post-Closing Occupancy Agreement. If the Post-Closing Occupancy Agreement box is checked in § 17 the Post-Closing Occupancy Agreement is a part of this Contract.

N/A

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

N/A

SIGNATURES

Buyer's Name:	Town of Snowmass Village, Colorado	Buyer's Name:	ROBERT KEMP
May 22, 2024		05/29/2024	
Clint Kinney, Town Manager	Date	Buyer's Signature	Date
Address:	130 Kearns Road	Address:	1412 BrushCreek Lane Snowmass Village CO 81615
Phone No.:	970-923-3777	Phone No.:	970-379-0802
Fax No.:		Fax No.:	—
Email Address:	kinney@tosv.com	Email Address:	electron.effigy@gmail.com

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

Seller's Name: Robert Bryan Kemp
Seller's Signature Date
Address:
Phone No.:
Fax No.:
Email Address:

Seller's Name:
Seller's Signature Date
Address:
Phone No.:
Fax No.:
Email Address:

925

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

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

~~A. Broker Working With Buyer~~

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

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

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

~~Brokerage Firm's compensation or commission is to be paid by ☐ **Listing Brokerage Firm** ☐ **Buyer** ☐ **Other** ____________.~~

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

~~Brokerage Firm's Name:~~
~~Brokerage Firm's License #:~~
~~Broker's Name:~~
~~Broker's License #:~~

~~Broker's Signature~~ ~~Date~~

~~Address:~~

~~Phone No.:~~
~~Fax No.:~~
~~Email Address:~~

~~B. Broker Working with Seller~~

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

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

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

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

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

~~Brokerage Firm's Name:~~ ______________________
~~Brokerage Firm's License #:~~ ______________________
~~Broker's Name:~~ ______________________
~~Broker's License #:~~ ______________________

____
~~Broker's Signature~~ ~~Date~~

~~Address:~~ ______________________

~~Phone No.:~~ ______________________
~~Fax No.:~~ ______________________
~~Email Address:~~ ______________________

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20240521 CBS1-6-23 Contract to Buy and Sell - Residential - Kemp

Final Audit Report 2024-05-22

Created:	2024-05-22
By:	Barb Peckler (bpeckler@tosv.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAmBkPA9A4eQ96aF-wYoMqy-N0kCVwPqsE

"20240521 CBS1-6-23 Contract to Buy and Sell - Residential - Kemp" History

Document created by Barb Peckler (bpeckler@tosv.com)
2024-05-22 - 4:49:52 PM GMT

Document emailed to Clint Kinney (Ckinney@tosv.com) for signature
2024-05-22 - 4:51:18 PM GMT

Email viewed by Clint Kinney (Ckinney@tosv.com)
2024-05-22 - 5:43:06 PM GMT

Document e-signed by Clint Kinney (Ckinney@tosv.com)
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TOWN OF SNOWMASS VILLAGE
TOWN COUNCIL

RESOLUTION NO. 12
SERIES OF 2024

A RESOLUTION APPROVING A CONTRACT TO BUY AND SALE REAL ESTATE FOR THE TOWN'S PURCHASE OF PROPERTY LOCATED AT 1412 BRUSH CREEK LANE

RECITALS

A. The Town of Snowmass Village, Colorado ("TOSV" or the "Town") is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Town of Snowmass Village Home Rule Charter (the "Charter").

B. Sections 1.2 and 1.4 of the Charter authorize the Town Council to purchase real property.

C. Unit H-12 of the Creekside Condominiums, located at 1412 Brush Creek Lane in the Town of Snowmass Village, (the "Property") is part of TOSV's affordable housing program inventory.

D. The current owner of the Property is no longer qualified to own the Property under TOSV Permanent Moderate Housing Regulations and is required to sell the Property pursuant to the District Court's Order in Case No. 2022CV30020.

E. Accordingly, TOSV wishes to purchase the Property, as set forth in the Contract to Buy and Sell Real Estate dated May 21, 2024, attached hereto as **Exhibit A** (the "Real Estate Contract"). The Property will continue to be part of TOSV affordable housing program and will be resold to a qualified owner pursuant to the Permanent Moderate Housing Regulations.

F. The Town Council finds and determines that it is in the best interests of the Town to approve this Resolution and purchase the Property as set forth in the Real Estate Contract. The Town Council finds and determines that this Resolution is reasonable and necessary to promote the legitimate public purposes of public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Snowmass Village, Colorado, that:

1. Recitals. The foregoing recitals are incorporated herein as findings of the Town Council.

2. Real Estate Contract – 1412 Brush Creek Lane. The Town Council hereby approves the Real Estate Contract for the purchase of the Property, attached hereto as **Exhibit A**, and ratifies the Town Manager's execution thereof and any amendments thereto. The Town Council hereby approves the purchase of the Property pursuant to the Real Estate Contract approved by this Resolution and authorizes the Town Manager to take all actions pursuant to the Real Estate Contract, to sign all documents necessary to effectuate the purchase of the Property, including any documents required by a title company, and to take other required actions related to the purchase of the Property. The Town Council further authorizes the Town Manager, upon recommendation by the Town Attorney, to make any amendments to the Contract that are reasonably necessary for the purchase of the Property or to terminate to the Contract, without further approval of the Town Council.

3. Ratification of Actions. All actions heretofore taken, not inconsistent with the provisions of this Resolution, by the Town Council and the officers, agents, and employees of the Town relating to the subject matter of this Resolution, are hereby ratified, approved, and confirmed.

4. Severability. If any provision of this Resolution is found to be unconstitutional or unlawful, such finding shall only invalidate that part or portion found to violate the law. All other provisions shall be deemed severable and shall continue in full force and effect.

INTRODUCED, READ AND ADOPTED by the Town Council of the Town of Snowmass Village, Colorado on the 3rd day of June, 2024, by a motion made by Council Member ____ seconded by Council Member ___ , and by a vote of ___ in favor and ___ opposed.

TOWN OF SNOWMASS VILLAGE

____
Bill Madsen, Mayor

ATTEST:

____
Megan Harris Boucher, Town Clerk

APPROVED AS TO FORM:

____
Jeff Conklin, Town Attorney

Town of Snowmass Village

Agenda Item Summary

DATE OF MEETING:

June 3, 2024

AGENDA ITEM:

PUBLIC HEARING AND FIRST READING: Ordinance No. 10, Series of 2024, an ordinance regarding certain Snowmass Village Municipal Code amendments involving revisions creating new Accessory Employee Unit replacement standards in the land use and development code (LUDC).

PRESENTED BY:

Jim Wahlstrom, Senior Planner, AICP, Community Development Department; and
David Shinneman, Director, AICP, Community Development Department

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BACKGROUND:

During the incremental reviews and ideas shared among and with the Planning Commission since the spring of 2023, the Town's Community Development staff, Town Housing office, and the Town Attorney's office have worked collaboratively to create in draft Accessory Employee Unit amendments that in summary would combine Accessory Caretaker (ACU's) and Accessory Employee Units (AEU's) and include the following recommended code changes:

1. <u>Definitions</u>:
   - **Modifying the definitions in Chapters 1 and 16A** for consistency and compatibility with the proposed draft edits and with each chapter.

2. <u>Combining the current ACU and AEU code language in Chapter 16A</u>:
   - Address **pre-existing ACUs and AEUs** as legal nonconforming uses.
   - Address **vulnerability of abuse**: Initial registration, restricted deed / covenant, restricted housing agreement, and recordation thereof to run with the land.
   - **Increase penalty for removal** to be three times that of a FAET calculation result.
   - Maintain the allowance for a **town inspection**.

3. <u>Modified use and locational parameters for AEU placement on property:</u>
   - **Uses**: Allowance for attached AEUs to a principal home, or detached AEUs including ones attached to a detached garage subject to design/development parameters.
   - **Standalone accessory units**: New and modified standards for acceptable locational placement on a lot.
   - **Special review**: Removing special review requirement for detached AEUs.

4. Standards for Accessory Employee Units:
   - **Occupancy standards**: Allowance for qualified employees, seniors (> 65), caretakers, caregivers, or disabled persons in a new AEU, plus adding new definitions for caretakers, caregivers, and disabled persons.
   - **Incentives**: Up to 1,000 square foot floor area bonus beyond a property's maximum floor area without Floor Area Excise Tax; Restrictions to obtain.
   - **Prohibiting restricted sales or condominiumized AEUs** for conveyance purposes.
   - Allowing for **rental of AEUs by employers to lease back to employees**.

5. Miscellaneous updates:
   - Clarify the allowance of an AEU in **Table 3-1, Schedule of Uses**.
   - Clarify the allowance of an AEU in the **code's floor area measurement standards**.
   - Modify the AEU **completion and registration code** for consistency with the draft modified standards.

FINANCIAL IMPACT:

With the bonus floor area up to 1,000 square feet for an Accessory Employee Unit without Floor Area Excise Tax, there could be a loss in that tax revenue with every affected building permit application requesting the bonus floor area. With a reassessment of added floor area there would be future increases in property tax revenue. Added accessory employee units with the opportunity to house additional occupants would add to the sustainability and economic viability of the community.

APPLICABILITY TO COUNCIL GOALS & OBJECTIVES:

The 2018 adopted Comprehensive Plan, as amended in 2022, incorporates the following Strategic Initiatives and policy statements:

E.3 Incentivize Accessory Dwelling Units -
"Modifying the current Accessory Caretaker and Accessory Employee Unit programs into a single Accessory Dwelling Unit (ADU) program to allow maximum flexibility while creating units that are more likely to be rented, could increase the private sector contributions toward meeting our employee housing demand as well as providing some much needed senior housing. Stand-alone units or units above, below or beside a garage would reduce the mass and scale of a residence (by breaking up the floor area), and may also be more easily rented out."

Next Steps:
"*Modify the Land Use & Development Code to combine the Accessory Employee Unit (AEU) and Accessory Caretaker Unit (ACU) programs into one Accessory Dwelling Unit (ADU) program that would give owners more incentive to create these units."*

APPLICABLE REGULATIONS:

The current accessory unit provisions can be found in Section 16A-3-230 of the Town's Land Use and Development Code. The black font in the draft edited attachment Exhibit 'A' of the ordinance represents the current code language proposed to remain. The red font represents the deletion or addition of language.

The procedures to amend the text of the development code is outlined in Section 16A-5-210. The section provides a means by which the Town Council may, from time to time, amend, supplement, or repeal the text of the land use and development code.

The review standards for considering amendments to the text of the development code are:

1) *Consistent with the purposes of the Development Code, which includes:*

    a. *To establish a clear, consistent predictable and efficient development review process;*
    b. *Provide participation and involvement in the development review process by all parties;*
    c. *Protect and enhance the quality of life to promote the general health, safety, and welfare of the present and future residents of, and visitors to, the Town.*
    d. *Provide for orderly development of the Town, so that the range of uses provided is necessary to sustain residents of the community and to maintain a healthy resort economy accommodated in a compatible manner; and*
    e. *To implement the principles and policies of the Town's Comprehensive Plan.*

2) *Not conflict with other provisions of the Development Code.*

3) *Consistency with the Comprehensive Plan; and*

4) *Preserving the public health, safety, general welfare, and environment, and contributing to the orderly development of the Town.*

COUNCIL OPTIONS:

Open the public hearing to hear and consider comments from the public.
Approve, approve with amendments, or deny the first reading of the ordinance.
If approved, continue the public hearing to June 17 or another date certain for the second reading of the ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of the first reading of the ordinance.

ATTACHMENTS:

1. Ordinance No. 10, Series of 2024;
2. Exhibit 'A' to ordinance of the edited language regarding the new Accessory Employee Unit replacement code standards;
3. Planning Commission Resolution No. 3, Series of 2024.

TOWNOF SNOWMASS VILLAGE
TOWN COUNCIL
ORDINANCE NO. 10,
SERIES OF 2024

AN ORDINANCE REGARDING CODE TEXT AMENDMENTS TO CHAPTER 1, ARTICLE II DEFINITIONS, AND CHAPTER 16A, ARTICLE II DEFINITIONS, ARTICLE III ZONE DISTRICTS, MEASUREMENT OF DIMENSIONAL LIMITATIONS, AND ACCESSORY UNITS, INVOLVING THE COMBINATION AND CREATION OF NEW ACCESSORY EMPLOYEE UNIT REPLACEMENT STANDARDS.

WHEREAS, the Town Council approved Ordinance No. 9, Series of 2018 on December 17, 2018, thereby adopting the 2018 Town of Snowmass Village Comprehensive Plan (the "Comprehensive Plan"); and

WHEREAS, Town Council Ordinance No. 1, Series of 2022, adopted Amendments to the Comprehensive Plan pursuant to the Code mandated Periodic Review's 'State of the Comprehensive Plan' processed in 2021; and

WHEREAS, the 2018 Comprehensive Plan and the 2022 Amendment incorporated Goals, Policies, and Next Steps relative to Accessory Units; and

WHEREAS, the Comprehensive Plan's Goal E, "***Expand Housing Choice, Affordability and Redevelopment***," and its policy and next step state:

Policy E.3, '***Incentivize Accessory Dwelling Units,***'(page 41 of Comp Plan). *"Modifying the current Accessory Caretaker and Accessory Employee Unit programs into a single Accessory Dwelling Unit (ADU) program to allow maximum flexibility while creating units that are more likely to be rented, could increase the private sector contributions toward meeting our employee housing demand as well as providing some much needed senior housing. Stand-alone units or units above, below or beside a garage would reduce the mass and scale of a residence (by breaking up the floor area), and may also be more easily rented out."*

Next Step 7: ***"****Modify the Land Use & Development Code to combine the Accessory Employee Unit (AEU) and Accessory Caretaker Unit (ACU) programs into one Accessory Dwelling Unit (ADU) program that would give owners more incentive to create these units."*

WHEREAS, the Appendix section of the Comprehensive Plan under *"Accessory Dwelling Units (ADUs)"* include as stated:

a. "Prior to WWII, most single-family homes in urban areas had separate 'in-law' *units where young families got their start or where elderly parents could live."*

b. *"Multi-generational housing is becoming more of the norm again as families accommodate aging parents."*

c. *"As mentioned above, they (ADUs) present a great opportunity to provide lower cost housing for in-town employees and seniors alike, as well as a potential source of revenue for homeowners."*

d. *"ADUs for seniors can be built on their home property or that of their adult children. This is an excellent way to provide senior housing that is personalized, gives them security and privacy, and is accessible for future needs."*

e. *"Flexibility is the key to a successful ADU program."*

WHEREAS, amendments to Chapter 1 and Chapter 16A of the Snowmass Village Municipal Code ("Municipal Code") are necessary to implement certain action steps identified within the Comprehensive Plan; and

WHEREAS, The Code provides the authority for the Planning Commission or Town Council to initiate an amendment to the text of the development code pursuant to Section 16A-5-210 of the Land Use and Development Code; and

WHEREAS, on April 19 and November 15, 2023 and on February 21 and April 3, 2024, the Planning Commission reviewed and heard the findings and recommendations of town staff, considered public comments, made its findings and recommendations, and directed the draft code amendments be referred for review by Town departments, referral agencies, districts and affected homeowners' associations which occurred on March 7, 2024, and approved Resolution No. 3, Series of 2024, on April 3, 2024; and

WHEREAS, a public hearing notice was published in the Aspen Times Snowmass Sun edition on May 15, 2024 for the Town Council meeting on June 3, 2024; and

WHEREAS, the draft code amendments contained in this Resolution are being processed under the provisions of Section 16A-5-210, '*Amendments to text of Development Code'* of the Municipal Code; and

WHEREAS, the Town Council has determined that the revisions to the Municipal Code, as hereinafter set forth, are necessary for the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED, by the Town Council of the Town of Snowmass Village:

<u>**Section One:**</u> **Findings.** Based upon the information provided and the staff reports, analyses and testimony given during the meetings and public hearing, the Town Council finds as follows:

1. The procedural requirements set forth in Section 16A-5-210, '*Amendments to the Text of the of the Development Code*' of the Municipal Code have been satisfied.

2. The proposed amendments comply with the applicable review standards specified within Section 16A-5-210(e) of the Municipal Code, specifically:

    a. Consistency with the Comprehensive Plan Strategic Initiatives, goals, policies, and next steps;

    b. Protects and enhance the quality of life to promote the general health, safety, and welfare of the present and future residents of, and visitors to, the Town;

    c. Provide for orderly development of the Town, so that the range of uses provided is necessary to sustain residents of the community and to maintain a healthy resort economy accommodated in a compatible manner; and

    d. To implement the principles and policies of the Town's Comprehensive Plan.

<u>**Section Two:**</u> **Action.** The Town Council hereby adopts the amendments to Chapters 1 and 16A of the Municipal Code updating Chapter 1, Article II, Section 1-21, "<u>*Definitions*</u>," and Chapter 16A, Land Use and Development Code, Article II & Section 16A-2-20, "<u>*Definitions*</u>," Article III, Section 16A-3-50, "<u>*Zone district use schedule*</u>," (Footnote 1 therein), Section 16A 3-210, "<u>*Measurement of dimensional limitations*</u>," and Section 16A-3-230, "<u>*Accessory Units*</u>," of the Snowmass Village municipal code to address proposed modifications to create and combine new replacement Accessory Employee Unit standards, as further described in Exhibit 'A' attached hereto and incorporated herein.

INTRODUCED, READ, AND APPROVED, on first reading, by the Town Council of the Town of Snowmass Village on June 3, 2024, upon a motion by Council Member ______________, the second of Council Member ______________, and upon a vote of __ in favor and __ against.

READ, APPROVED, AND ADOPTED, on second reading, by the Town Council of the Town of Snowmass Village on June 17, 2024, upon a motion by Council Member ______________, the second of Council Member ______________, and upon a vote of __ in favor and __ against.

TOWN OF SNOWMASS VILLAGE

____
Bill Madsen, Mayor

ATTEST:

____
Megan Harris Boucher, Town Clerk

APPROVED AS TO FORM:

____
Jeff Conklin, Town Attorney

Attachments:

Exhibit "A" – Town Council's Edited Versions of code text amendments to Chapter 1, Article II Definitions, and Chapter 16A, Article II Definitions, Article III Zone Districts, Measurement of dimensional limitations, and Accessory units, involving the combination and creation of new, replacement accessory employee unit standards.

CHAPTER 1 – General Provisions.

ARTICLE II - Definitions and Usage

Sec. 1-21. - Definitions.

The following words and phrases, whenever used in the ordinances of the Town of Snowmass Village, and/or any codification of the same, shall be construed as defined in this Section, unless a different meaning is intended from the context or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

Accessory building means a subordinate building, the use of which is customarily incidental to that of the principal building or to the principal use of the land and which is located on the same lot or parcel with the principal building or use. Accessory buildings shall not be provided with a kitchen or bath facilities sufficient to render them suitable for permanent residential occupancy. An *accessory building* may include facilities such as a pool facility, greenhouse, garage, carport or storage facility.

Accessory employee unit (AEU) means a~~n~~ residential building area attached to or within a single-family dwelling unit, or above or below an accessory garage, and on a lot zoned for a one-family dwelling that meets the following requirements and those set forth in Section 16A-3-230. ~~The AEU shall be occupied by an AEU employee and shall be subject to the provisions contained in this Code. An AEU shall have a separate exterior entrance and shall contain a kitchen, a bathroomand sleeping facilities.~~

Accessory use is one that is naturally and normally incidental to, subordinate to and devoted exclusively to the principal use of the premises and does not change the basic character thereof, as determined by the principal use. *Accessory uses* may include accessory employee units (AEUs), a manager's unit, and parking.

~~*Caretaker unit* means an area attached to or within a one-family dwelling unit, or above or below an accessory garage, and on a lot zoned for one-family dwellings. It should be occupied by qualified employees, as defined within the Housing Department guidelines, senior citizens or disabled individuals, as defined by the rules and regulations of the Town, which may be adopted from time to time by the Town Council, and subject to the provisions contained in this Code. A caretaker unit shall contain a kitchen with refrigerator and sink, and cooking, sanitation and sleeping facilities. Cooking facilities shall not include only a hot plate and/or microwave oven. Sanitation facilities shall include a bath and/or shower.~~

Caretaker, for the purposes of determining occupancy of an AEU, shall mean a person or a caregiver employed to look after a residential building, people, including a child or a sick, elderly, or disabled person.

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Caregiver, for the purpose of determining occupancy of an AEU, is someone who assists another individual with personal care or household tasks that are necessary for everyday life.

Disabled person, is one having a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on the person's ability to carry our normal day-to-day activities.

Employee, qualified for an AEU, for the purposes of determining occupancy of an AEU, shall mean an ~~person~~ employe~~d~~e as defined in the Permanent Moderate Housing Regulations as adopted in Chapter 17, Article I of the Code. ~~within the County for a minimum of six (6) months a year.~~

Kitchen, AEU means an area designated for cooking, which minimally contains a twelve-cubic-foot refrigerator, a six-gallon capacity sink, a stove with four (4) cooking surface burners or elements and an oven, and an area for food storage.

Manager's unit means a dwelling unit which may include a one-family dwelling or a dwelling unit provided within a structure containing multiple-family dwelling units, single-family attached dwelling units, dormitories, or hotel or lodge rooms specifically intended for occupancy by a resident manager of the principal use~~.~~. A manager's unit may be considered as an accessory employee unit (AEU).

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CHAPTER 16A – Land Use and Development Code

Art. II, Definitions.

Sec. 16A-2-20. Definitions.

Accessory building means a subordinate building, the use of which is customarily incidental to that of the principal use of the land and which is located on the same lot or parcel with the principal building or use. *Accessory buildings* shall not be provided with a kitchen or bath facilities sufficient to render them suitable for permanent residential occupancy (except to permit the installation of an accessory employee unit). An *accessory building* may include facilities such as a pool facility, greenhouse, garage, carport or storage facility.

~~*Accessory caretaker unit (ACU)* means an area attached to or within a single-family detached dwelling, or above or below a detached garage that is located on a lot zoned for a single-family dwelling. The ACU shall be subject to the provisions of Section 16A-3-230(1), Standards for an Accessory Caretaker Unit. An ACU shall have a separate exterior entrance and shall contain an ACU kitchen, a bathroom and sleeping facilities.~~

Accessory employee unit (AEU) means a~~n~~ residential building area attached to or within a single-family detached dwelling, or above or below a detached garage, that is located on a lot zoned for a single-family dwelling that meets the following requirements and those set forth in Section 16A-3-230.~~The AEU shall be subject to the provisions of Section 16A-3-230(2), Standards for an Accessory Employee Unit. An AEU shall have a separate exterior entrance and shall contain an AEU k*itchen,* a bathroomand sleeping facilities.~~

Accessory use means a use that is naturally and normally incidental to, subordinate to and devoted exclusively to the principal use of the premises and does not change the basic character thereof, as determined by the principal use. *Accessory uses* may include accessory employee units (AEUs), a manager's unit and parking~~, but shall not include any use that is prohibited in the underlying zone district~~.

~~*Caretaker unit* means a dwelling unit that is attached to or is within a detached single-family dwelling unit that is located on a lot zoned for a single-family dwelling, approved by the Town prior to December 10, 1997. The unit should be occupied by employees, senior citizens or disabled individuals. A *caretaker unit* shall contain a kitchen with refrigerator and sink, and cooking, sanitation and sleeping facilities. Cooking facilities shall not be limited to just a hot plate and/or microwave oven. Sanitation facilities shall include a bath and/or shower.~~

Caretaker, for the purposes of determining occupancy of an AEU, shall mean a person or a caregiver employed to look after a residential building, people, including a child or a

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sick, elderly, or disabled person.

Caregiver, for the purpose of determining occupancy of an AEU, is someone who assists another individual with personal care or household tasks that are necessary for everyday life.

Disabled person, is one having a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on the person's ability to carry our normal day-to-day activities.

Employee, qualified for an AEU, for the purposes of determining occupancy of an AEU, shall mean an ~~person employed within the Town at the time of initial tenancy and who shall remain employed within the Town or County for a minimum of eight (8) months of any calendar year~~employee as defined in the Permanent Moderate housing regulations as adopted in Chapter 17, Article I of the Code.

Kitchen, AEU means an area designated for cooking that contains, at a minimum, a twelve-cubic-foot refrigerator, a six-gallon capacity sink, a stove with four (4) cooking surface burners or elements and an oven, and an area for food storage.

Manager's unit means a dwelling unit, which may be a single-family detached dwelling unit, or a dwelling unit provided within a structure containing multi-family dwelling units, single-family attached dwelling units, dormitories, hotel or lodge rooms, or commercial uses and services, specifically intended for occupancy by a resident manager of the principal use. A manager's unit may be considered as an accessory employee unit (AEU).

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CHAPTER 16A – Land Use and Development Code

Art. III, Zone Districts.

Sec. 16A-3-50. - Zone district use schedule.

TABLE 3-1
SCHEDULE OF USES

Uses: A = Allowed; S = Special Review; P = Prohibited	SF 4	SF 6	SF 15	SF 30	SF 150	EST	DU	MF	MF PUD	MU	MU PUD	MU 1	MU 2	CC	CC PUD	PUB	CON	OS	REC
Residential and Accommodation Uses																			
Single-Family Detached Dwelling [1]	A	A	A	A	A	A	A	A	A	P	A	P	P	P	P	P	P	P	P

Notes:

1. An accessory caretaker unit (ACU) or accessory employee unit (AEU) may be permitted in conjunction with any single-family detached dwelling, pursuant to Section 16A-3-230, Accessory Units. See Section 16A-3-230~~(4)~~, Accessory Employee Units~~ Special Review Standards~~, for standards applicable to this particular use.

Sec. 16A-3-210. Measurement of dimensional limitations.

(b) Measuring Floor Area.

(1) Areas included in calculations. The total square footage of all levels of a building, as measured at the outside face of the primary structural component of the exterior walls. In the case of adjoining units, measurements shall be taken from the center line of walls separating adjoining units of a building.

(2) Exclusions, inclusions and adjustments to the gross calculations of Paragraph (1) above.

b. Exclusions and adjustments specifically for single-family and two-family dwelling units.

2. Accessory Caretaker Unit (ACU); Accessory Employee ~~u~~Unit (AEU). The floor area for a~~n~~ pre-existing accessory caretaker unit (ACU) ~~shall be included in floor area calculations. The~~and the floor area for an accessory employee unit, shall be included in the floor area calculations pursuant to the requirements for such units found in Subparagraph 16A-3-230(2)e, Maximum Floor Area.

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Sec. 16A-3-230. Accessory employee units.

~~One (1) accessory caretaker unit (ACU) or o~~One (1) accessory employee unit (AEU) may be installed ~~in~~on a single-family detached dwelling~~,~~ lot ~~or one (1) accessory caretaker unit (ACU) may be~~ following these standards:

~~(1)~~a. constructed as part of a single-family detached dwelling;

~~(2)~~b. located above~~, or~~ below, and/or attached to a detached garage, limited at 16 to18 feet in height, depending on zone district, and not expand the garage building footprint by more than fifty percent (50%). Heights shall be measured pursuant to Section 16A-3-210(a), '*Measuring Height*,' of the municipal code;

~~(3)~~c. constructed as a separate detached unit, limited at 16 to 18 feet in height, depending on zone district; or

~~(34)~~d. permitted as a pre-existing dwelling unit within a single-family detached or two-family dwelling, subject to compliance with the provisions of this Section. ~~An ACU or AEU located above or below a detached garage shall require special review approval pursuant to Section 16A-5-230, Special Review.~~

(1) **Standards for a pre-existing accessory caretaker unit**~~.~~. A~~n~~ pre-existing accessory caretaker unit (ACU) as of the effective date of Ordinance No. 10, Series of , shall continue to comply with the following standards, unless modified to comply with the accessory employee unit standards in Section 16A-3-230(2):

a. Size. The size of the ACU shall be not less than three hundred fifty (350) square feet or greater than seven hundred fifty (750) square feet~~,~~ and shall be built within the maximum allowable floor area for the lot unless the additional floor area was acquired under the Limited Excise Tax provisions as set forth in Article VI, Chapter 4 of the Municipal Code.

b. Variance. The only variance that may be granted to accommodate the ACU is a setback or height variance.

c. Exterior entrance. The ACU shall have a separate exterior entrance from the single-family detached dwelling that is practically accessible as the primary means of access to the ACU.

d. Parking. There shall be provided at least one (1) on-site parking space per bedroom in the ACU in addition to those parking spaces required for the single-family detached dwelling.

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e. No short-term rental. An ACU shall not be rented on a short-term basis or for vacation-type rentals. All rentals shall be for a minimum term of six (6) months.

f. ~~Pre-existing~~Unapproved ~~dwelling~~accessory units. With Town Council approval, one (1) ~~ACU~~accessory unit created prior to April 16, 1985, in a single-family detached dwelling or one (1) ~~ACU~~accessory unit created prior to September 21, 1977, in a two-family dwelling within the DU zone district may be permitted to remain as an ACU, provided that:

1. The lot owner has submitted architectural drawings reflecting the "As-Built" condition defining the ACU.

2. The lot owner has submitted a report from a private building inspection consultant, whose qualifications are acceptable to the Town, containing his or her findings with regard to consistency with Chapter 18 of this Code as found within the ACU and recommendations as to whether modifications should occur in order for the unit to be occupied in a safe manner.

3. Based upon the review of the inspector's report and recommendations of the Building Official, who may inspect said ACU prior to any approval being granted, the lot owner agrees to obtain the necessary permits and perform the recommended modifications that need to occur prior to any registration, rental or conveyance of the ACU.

4. The lot owner has successfully demonstrated that the subject unit existed within the principal structure on or before the applicable date specified above and that no other ACUs exist on the lot.

5. The existing ACU unit is in conformity with Subsection (1) above, except that the subject ACU may be acceptable for registration if, at the sole discretion of the Town ~~Council~~ and following presentation of evidence thereon, it is satisfactorily demonstrated that such nonconformity may be determined to be minor in nature or that compliance would be impractical and would cause an unreasonable hardship upon the lot owner. In cases such as this, the Town ~~Council~~ may impose conditions reasonably necessary to mitigate impacts upon surrounding property owners or to specify a timeframe within which the ACU or nonconformity must be brought into compliance with Subsection (1) above.

g. Comply with its initial registration with the Town.

(2) **Standards for an accessory employee unit (AEU)**. An AEU, which may include a modification to a previously approved accessory caretaker unit (ACU), shall comply with the following standards:

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a. Size. The size of the AEU shall be not less than three hundred ~~fifty~~ (3~~5~~00) square feet or greater than one thousand (1,000) square feet. ~~Special review approval pursuant to Section 16A-5-230, Special Review, shall be required for an AEU greater than seven hundred fifty (750) square feet in size.~~

b. Variance. The only development variance that may be granted to accommodate the AEU is a setback or height variance.

c. Contents. An AEU shall contain a~~n~~ "*Kitchen, (AEU)*," sanitation and sleeping facilities. Sanitation facilities shall include at minimum a sink, shower, a toilet, and washer and dryer hookups for efficiency or stackable units. Sleeping facilities shall be provided up to a maximum of two bedrooms.

~~c~~d.Exterior entrance. The AEU shall have a separate exterior entrance from the single-family detached dwelling that is practically accessible as the primary means of access to the AEU or may be accessed from a shared, enclosed vestibule entrance.

~~d~~e. Parking. There shall be provided at least one (1) on-site parking space per bedroom in the AEU, which may be tandemly arranged, in addition to those parking spaces required for the single-family detached dwelling.

~~e~~f. Maximum floor area. The AEU shall not cause the resulting floor area of all improvements to exceed the maximum floor area for the lot; except, however, the maximum floor area for the lot may be exceeded by an amount ~~greater than~~not to exceed ~~ten percent (10%) without special review approval pursuant to Section 16A-5-230, Special Review~~one thousand (1,000) square feet and not be subject to the Floor Area Excise Tax provisions in Chapter 4, Article VI for the floor area of an AEU, provided the Applicant/Owner for the AEU shall:

i. comply with all provisions of the Code applicable to AEUs;

ii. complete an AEU initial registration (if under the floor area cap for the lot); **or**

iii. record a deed / covenant restriction for the AEU in a form to be prepared by the Town containing the material terms of this Section regarding occupancy, and following subsection (3)c2 below, and submit to the Town (if over the maximum floor area of the lot up to a limit of 1,000 square feet); and

iv. enter into a Restricted Housing Agreement with the Town, and the maximum rents for the AEU, which rents shall be established by the Town, and subsection (3)c2 below. Rental rates may be adjusted annually based on the inflation index used by the Town. A restricted housing agreement may otherwise be reviewed and updated not more frequently than every 5 years.

~~f~~g. No short-term rental. An AEU shall not be rented on a short-term basis or for

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vacation-type rentals. All rentals shall be for a minimum term of six (6) months. This restriction shall be incorporated by the Restricted Housing Agreement with the owner if over the maximum floor area limit.

~~g~~h. Occupancy. ~~Occupancy of an AEU shall be by a person or persons employed within the Town at the time of initial tenancy and who shall remain employed within the Town or County for a minimum of eight (8) months of any calendar year.~~ The AEU must be occupied by qualified employees, caretakers, caregivers, senior citizen (> age 65), or disabled individuals, as defined by this Code or the rules and regulations of the Town. Occupancy of an AEU shall not exceed 2 persons per bedroom and shall otherwise be subject to the provisions of this Code.

i. No Restricted sale. A property cannot be condominiumized to create a separately conveyable unit for the AEU.

j. Rental by Employer. The Owner may allow employers within the Town of Snowmass Village to rent and/or sublease accessory employee units to qualified employees, pursuant to a deed / covenant restriction and the restricted housing agreement if above the maximum floor area limit.

(3) **Accessory employee unit completion and registration**.

a. Completion. A new accessory unit shall be completed within the period prescribed by the building permit issued for its construction. All modifications to a pre-existing ACU shall be completed within the period prescribed by Chapter 18 of this Code or other permits required by the Town Council for it to be registered.

~~b. ACU notice of registration. Upon issuance of a certificate of occupancy for a new ACU or certificate of completion for a pre-existing ACU and payment of the processing fee established by the Community Development Department's fee schedule, a notice of registration of the ACU shall be issued by the Planning Director, and a true and accurate copy shall be filed for record, at the applicant's expense, in the Office of the Clerk and Recorder of the County. Such registration shall be valid for the existence of the new ACU or, in the case of pre-existing units, may be subject to the terms and conditions imposed by the Town Council.~~

~~c~~b. AEU notice of initial registration and deed / covenant restriction.

1. If the floor area on the lot remains within the maximum limit for the lot. ~~Upon~~ After issuance of a certificate of occupancy or completion for an AEU and payment of the processing fee established by the Community Development Department's fee schedule, a notice of registration of the AEU shall be issued by the Planning Director, and a true and accurate copy shall be filed for recording, at the applicant's expense, in the Office of the Clerk and Recorder of the County;

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2. If the floor area on the lot exceeds the maximum limit for the lot. The Community Development Department shall provide a deed / covenant restriction, which shall identify the size of unit, and the penalty provisions in subsection (5) below for the AEU and contain the material terms of this Section regarding occupancy standards under subsection (2)g above for recording, at the applicant's expense, in the Office of the Clerk and Recorder of the County. The applicant shall also enter into a Restricted Housing Agreement with the Town defining at minimum the maximum rent, the size of unit, the prioritization of occupants, and the occupancy standards under subsection (2)g above. A restricted housing agreement may otherwise be reviewed and updated not more frequently than every 5 years. ~~The initial registration shall be effective until December 31 of the year in which it is issued, unless the unit is initially registered after November 15, in which case the registration shall be effective until December 31 of the year after it is issued.~~

~~d. AEU registration renewal. On a yearly basis, the registration of an AEU shall be renewed by filing an application for renewal, accompanied by the applicable processing fee established by the Community Development Department's fee schedule, with the Community Development Department on or before November 15. To qualify for a registration renewal, the owner of the AEU must verify that the AEU complies with the conditions set forth in Subsection (2), Standards for an Accessory Employee Unit, and that the AEU has been occupied by an AEU employee for at least eight (8) months during the previous registration period. Thereupon, the Planning Director shall renew the registration of the AEU until December 31 of the year following the expiration of the current registration~~.

~~e. AEU conditional registration renewal. In the event that the owner of an AEU cannot meet the conditions for renewal set forth in Subsection (3)d, AEU Registration Renewal, then a conditional registration renewal may be issued, if the owner agrees to correct the noncomplying conditions prior to March 1 during the conditional registration renewal. The date for compliance may be extended to May 1 if the AEU was initially registered after May 1 of the previous year provided that the AEU can be occupied by an AEU employee for eight (8) of the twelve (12) months following initial registration. The conditional renewal registration of the AEU shall be automatically extended to December 31 upon timely correction of the noncomplying conditions.~~

~~f~~c. Inspection. The ~~Community Development Department~~Town of Snowmass Village shall have a right to inspect the AEU ~~prior to registration renewal or~~ to verify compliance with this Section. At least forty-eight (48) hours' written or verbal notice will be provided to the owner or his or her authorized agent. The owner of the AEU shall also notify the department of any impending sale of the subject property and permit an inspection prior to closing~~.~~

~~g~~d. Failure to register, deed / covenant restrict, or correct noncomplying conditions. If the owner:

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1. Fails to timely complete the construction of an AEU in accordance with the provisions of Subsection (3)a, Completion;

2. Fails to timely comply with the provisions of Subsection (3)~~d~~c, AEU Notice of Initial Registration ~~Renewal~~and Deed / Covenant Restriction, and the recordation thereof; or

3. ~~Has not met the conditions for renewal set forth in Subsection (3)d, AEU Registration Renewal, at the end of the AEU conditional registration renewal~~ Failure to register, deed / covenant restrict, including the recordation thereof, or correct non-complying conditions~~, within thirty (30) days of the existence of the event of noncompliance, or February 1 of the year following the lapse of the current registration, whichever shall first occur~~, shall require the owner ~~shall~~to remove the kitchen from the AEU; and ~~either~~comply with the following:

~~4~~i. Remove floor area. Remove from the single-family detached dwelling or detached garage structure all floor area being part of the AEU, unless the floor area legally existed prior to the creation of the new AEU code provisions; or

~~5~~ii. was acquired under the Limited Excise Tax provisions~~; or~~; and

iii. Modify with the Town's permission the Restricted Housing Agreement and to release the registration and/or deed / covenant restriction.

~~5.~~4. ~~Mitigation~~ Penalty ~~fee~~. Pay to the Town a ~~mitigation~~penalty ~~fee~~ for elimination of the AEU as an employee housing unit. The amount of the fee shall be calculated by the Planning Director ~~by~~ as described below:

a) multiplying the square footage of the AEU, minus that portion of AEU floor area that legally existed prior to the creation of the AEU or was acquired under the Limited Excise Tax provisions.~~, by:~~ The penalty in this case would be calculated pursuant to the provisions and formulae in Chapter 4, Article VI, 'Floor Area Excise Tax,' of the Code, only if the floor area square footage was previously granted or allowed up to 10 percent beyond the maximum floor area without the acquisition through the 'Floor Area Excise Tax' of the Code.

b) If under this Ordinance No. 10, Series of 2024, an AEU was approved up to the limit of 1,000 square feet beyond the maximum floor area standard established by the zoning or PUD for the lot without any prior acquisition of a 'Floor Area Excise Tax,' and the employee unit is subsequently removed, then the amount of penalty fee shall be the calculated per the formulae in Chapter 4, Article VI, 'Floor Area Excise Tax,' of the Code and tripling the resulting fee.

~~a) The actual value of the lot including the single-family detached dwelling unit, any accessory building and the land as calculated from the records of the County~~

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~~Assessor, divided by the floor area square footage of the single-family detached dwelling and any accessory building, not including the AEU, as calculated in accordance with the provisions of Section 16A-3-210(b), Measuring Floor Area; or~~

~~b) In the event that the actual value of the lot including the single-family detached dwelling, any accessory building and land is not available from the records of the County Assessor, then one hundred twenty-five percent (125%) of the numeric average of the actual value of all lots including a single-family detached dwelling and land for the subdivision or PUD in which the lot exists as calculated from the records of the County Assessor shall be divided by the floor area square footage of the single-family detached dwelling and any accessory building, not including the AEU; and~~

~~c) Multiplying the amount determined above by a factor of 1.5.~~

~~Provided, however, that if a change in the actual value of the lot including the principal dwelling unit, any accessory building and land according to the records of the County Assessor occurs within one (1) year from the date of payment of the mitigation fee, then the amount of the mitigation fee shall be recalculated by the Planning Director. The Planning Director shall notify the owner of the amount of the additional mitigation fee, which shall be paid by the owner within thirty (30) days. If the owner paid a mitigation fee in excess of the recalculated mitigation fee, then the Planning Director shall cause the overpayment to be refunded to the owner.~~

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~~(4) Accessory unit special review standards. Any AEU requiring special review shall comply with the following standards:~~

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~~a. Community need. The applicant has demonstrated that the proposed accessory unit helps to promote the public policy purpose and community need to create affordable employee housing.~~

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~~b. Mass and scale. The accessory unit will not contain roof configurations, internal ceiling heights or areas open to the floor below which unnecessarily contribute to the mass and scale of the proposed addition.~~

~~c. Special circumstances exist. The applicant shall satisfactorily demonstrate that special circumstances exist or practical difficulties would occur such that a lesser sized caretaker unit should not be created within or utilize portions of the existing structure.~~

~~d. Location. The accessory unit shall be carefully situated within the lot so as to be appropriate at its proposed location and compatible with the character of surrounding residences in the area.~~

~~e. Visibility. The design of the accessory unit shall be sensitive to its visual impact~~

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~~on neighboring properties. The accessory unit design shall include, but not be limited to, sensitive choice in placement, screening with landscaping, sub-grade placement, architectural design, use of materials and colors or any other effective means that minimize or soften its appearance and visibility on the site. The proposed unit may be denied if it is determined that the visibility has not been sufficiently reduced.~~

~~f. Not adversely affect neighborhood. The approval of the accessory unit shall not, in a substantially adverse manner, change the neighborhood character. Nor should it create excessive traffic impacts. It should not have a substantially adverse impact on the land abutting upon or across the street from the property being approved for an AEU. It should not prevent an adequate supply of light or air from reaching adjacent properties, nor should the construction of the unit increase the fire danger or otherwise endanger the public safety.~~ (Ord. 4-1998 §1; Ord. 5-1999 §3; Ord. 19-2000, §1; Ord. 10-2001, §1; Ord. 10-2024, §1)

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TOWNOF SNOWMASS VILLAGE
PLANNING COMMISSION
RESOLUTION NO. 3,
SERIES OF 2024

A RESOLUTION RECOMMENDING CODE TEXT AMENDMENTS TO CHAPTER 1, ARTICLE II DEFINITIONS, AND CHAPTER 16A, ARTICLE II DEFINITIONS, ARTICLE III ZONE DISTRICTS, MEASUREMENT OF DIMENSIONAL LIMITATIONS, AND ACCESSORY UNITS, INVOLVING THE COMBINATION AND CREATION OF NEW, REPLACEMENT ACCESSORY EMPLOYEE UNIT STANDARDS.

WHEREAS, the Town Council approved Ordinance No. 9, Series of 2018 on December 17, 2018, thereby adopting the 2018 Town of Snowmass Village Comprehensive Plan (the "Comprehensive Plan"); and

WHEREAS, Town Council Ordinance No. 1, Series of 2022, adopted Amendments to the Comprehensive Plan pursuant to the Code mandated Periodic Review's 'State of the Comprehensive Plan' processed in 2021; and

WHEREAS, the 2018 Comprehensive Plan and the 2022 Amendment incorporated Goals, Policies, and Next Steps relative to Accessory Units; and

WHEREAS, the Comprehensive Plan's Goal E, "***Expand Housing Choice, Affordability and Redevelopment***," and its policy and next step state:

Policy E.3, '***Incentivize Accessory Dwelling Units,***'(page 41 of Comp Plan).
"Modifying the current Accessory Caretaker and Accessory Employee Unit programs into a single Accessory Dwelling Unit (ADU) program to allow maximum flexibility while creating units that are more likely to be rented, could increase the private sector contributions toward meeting our employee housing demand, as well as providing some much needed senior housing. Stand-alone units or units above, below or beside a garage would reduce the mass and scale of a residence (by breaking up the floor area), and may also be more easily rented out."

Next Step 7: *"Modify the Land Use & Development Code to combine the Accessory Employee Unit (AEU) and Accessory Caretaker Unit (ACU) programs into one Accessory Dwelling Unit (ADU) program that would give owners more incentive to create these units."*

WHEREAS, the Appendix section of the Comprehensive Plan under *"Accessory Dwelling Units (ADUs)"* include as stated:

a. "Prior to WWII, most single-family homes in urban areas had separate 'in-law' units *where young families got their start or where elderly parents could live."*

b. *"Multi-generational housing is becoming more of the norm again as families accommodate aging parents."*

c. *"As mentioned above, they (ADUs) present a great opportunity to provide lower cost housing for in-town employees and seniors alike, as well as a potential source of revenue for homeowners."*

d. *"ADUs for seniors can be built on their home property or that of their adult children. This is an excellent way to provide senior housing that is personalized, gives them security and privacy, and is accessible for future needs."*

e. *"Flexibility is the key to a successful ADU program."*

WHEREAS, amendments to Chapter 1 and Chapter 16A of the Snowmass Village Municipal Code ("Municipal Code") are necessary to implement certain action steps identified within the Comprehensive Plan; and

WHEREAS, The Code provides the authority for the Planning Commission to initiate an amendment to the text of the development code pursuant to Section 16A-5-210 of the Land Use and Development Code; and

WHEREAS, on April 19 and November 15, 2023 and on February 21 and April 3, 2024, the Planning Commission reviewed and heard the findings and recommendations of town staff, considered public comments, made its findings and recommendations, and directed the draft code amendments be referred for review by Town departments, referral agencies, districts and affected homeowners' associations which occurred on March 7, 2024, and to prepare a resolution for consideration and action; and

WHEREAS, the draft code amendments contained in this Resolution are being processed under the provisions of Section 16A-5-210, *'Amendments to text of Development Code'* of the Municipal Code; and

WHEREAS, the Planning Commission has determined that the revisions to the Municipal Code, as hereinafter set forth, are necessary for the public health, safety and welfare.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the Town of Snowmass Village:

<u>Section One:</u> General Findings. Based upon the information provided and the staff reports, analyses and testimony given during the meetings, the Planning Commission generally finds as follows:

1. The procedural requirements set forth in Section 16A-5-210, '*Amendments to the Text of the of the Development Code*' of the Municipal Code have been satisfied.

2. The proposed amendments comply with the applicable review standards specified within Section 16A-5-210(e) of the Municipal Code.

Section Two: Recommendation to the Town Council. The Planning Commission recommends that the Town Council adopt the amendments to Chapters 1 and 16A of the Municipal Code updating Chapter 1, Article II, Section 1-21, "*Definitions*," and Chapter 16A, Land Use and Development Code, Article II & Section 16A-2-20, "*Definitions*," Article III, Section 16A-3-50, "*Zone district use schedule*," (Footnote 1 therein), Section 16A 3-210, "*Measurement of dimensional limitations*," and Section 16A-3-230, "*Accessory Units*," of the Snowmass Village municipal code to address proposed modifications to create and combine new replacement Accessory Employee Unit standards, as further described in Exhibit 'A' attached hereto and incorporated herein.

INTRODUCED, READ, AND APPROVED, as amended, by the Planning Commission of the Town of Snowmass Village on April 3, 2024, upon a motion by Commission Member Gustafson, the second of Commission Member Denis, and upon a vote of 6 in favor and 0 against. (Commission Member Dube absent)

TOWN OF SNOWMASS VILLAGE
PLANNING COMMISSION

Brian Marshack, Chairperson

ATTEST:

Ashleigh Huff

Ashleigh Huff, Planning Commission Secretary

Attachments:
Exhibit "A" – Planning Commission's Edited Versions of code text amendments to Chapter 1, Article II Definitions, and Chapter 16A, Article II Definitions, Article III Zone Districts, Measurement of dimensional limitations, and Accessory units, involving the combination and creation of new, replacement accessory employee unit standards.

CHAPTER 1 – General Provisions.

ARTICLE II - Definitions and Usage

Sec. 1-21. - Definitions.

The following words and phrases, whenever used in the ordinances of the Town of Snowmass Village, and/or any codification of the same, shall be construed as defined in this Section, unless a different meaning is intended from the context or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

Accessory building means a subordinate building, the use of which is customarily incidental to that of the principal building or to the principal use of the land and which is located on the same lot or parcel with the principal building or use. Accessory buildings shall not be provided with a kitchen or bath facilities sufficient to render them suitable for permanent residential occupancy. An *accessory building* may include facilities such as a pool facility, greenhouse, garage, carport or storage facility.

Accessory employee unit (AEU) means a~~n~~ residential building area attached to or within a single-family dwelling unit, or above or below an accessory garage, and on a lot zoned for a one-family dwelling that meets the following requirements and those set forth in Section 16A-3-230. ~~The AEU shall be occupied by an AEU employee and shall be subject to the provisions contained in this Code. An AEU shall have a separate exterior entrance and shall contain a *kitchen*, a bathroomand sleeping facilities.~~

Accessory use is one that is naturally and normally incidental to, subordinate to and devoted exclusively to the principal use of the premises and does not change the basic character thereof, as determined by the principal use. *Accessory uses* may include accessory employee units (AEUs), a manager's unit, and parking.

~~*Caretaker unit* means an area attached to or within a one-family dwelling unit, or above or below an accessory garage, and on a lot zoned for one-family dwellings. It should be occupied by qualified employees, as defined within the Housing Department guidelines, senior citizens or disabled individuals, as defined by the rules and regulations of the Town, which may be adopted from time to time by the Town Council, and subject to the provisions contained in this Code. A caretaker unit shall contain a kitchen with refrigerator and sink, and cooking, sanitation and sleeping facilities. Cooking facilities shall not include only a hot plate and/or microwave oven. Sanitation facilities shall include a bath and/or shower.~~

Caretaker, for the purposes of determining occupancy of an AEU, shall mean a person or a caregiver employed to look after a residential building, people, including a child or a sick, elderly, or disabled person.

Caregiver, for the purpose of determining occupancy of an AEU, is someone who assists

EXHIBIT "A"
Page 2 of 13

another individual with personal care or household tasks that are necessary for everyday life.

Disabled person, is one having a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on the person's ability to carry our normal day-to-day activities.

Employee, qualified for an AEU, for the purposes of determining occupancy of an AEU, shall mean an ~~person~~ employe~~d~~e as defined in the Permanent Moderate Housing Regulations as adopted in Chapter 17, Article I of the Code. ~~within the County for a minimum of six (6) months a year.~~

Kitchen, AEU means an area designated for cooking, which minimally contains a twelve-cubic-foot refrigerator, a six-gallon capacity sink, a stove with four (4) cooking surface burners or elements and an oven, and an area for food storage.

Manager's unit means a dwelling unit which may include a one-family dwelling or a dwelling unit provided within a structure containing multiple-family dwelling units, single-family attached dwelling units, dormitories, or hotel or lodge rooms specifically intended for occupancy by a resident manager of the principal use~~.~~. A manager's unit may be considered as an accessory employee unit (AEU).

CHAPTER 16A – Land Use and Development Code

Art. II, Definitions.

Sec. 16A-2-20. Definitions.

Accessory building means a subordinate building, the use of which is customarily incidental to that of the principal use of the land and which is located on the same lot or parcel with the principal building or use. *Accessory buildings* shall not be provided with a kitchen or bath facilities sufficient to render them suitable for permanent residential occupancy (except to permit the installation of an accessory employee unit). An *accessory building* may include facilities such as a pool facility, greenhouse, garage, carport or storage facility.

~~*Accessory caretaker unit (ACU)* means an area attached to or within a single-family detached dwelling, or above or below a detached garage that is located on a lot zoned for a single-family dwelling. The ACU shall be subject to the provisions of Section 16A-3-230(1), Standards for an Accessory Caretaker Unit. An ACU shall have a separate exterior entrance and shall contain an ACU kitchen, a bathroom and sleeping facilities.~~

Accessory employee unit (AEU) means a~~n~~ residential building area attached to or within a single-family detached dwelling, or above or below a detached garage, that is located on a lot zoned for a single-family dwelling that meets the following requirements and those set forth in Section 16A-3-230.~~The AEU shall be subject to the provisions of Section 16A-3-230(2), Standards for an Accessory Employee Unit. An AEU shall have a separate exterior entrance and shall contain an AEU *kitchen*, a bathroomand sleeping facilities.~~

Accessory use means a use that is naturally and normally incidental to, subordinate to and devoted exclusively to the principal use of the premises and does not change the basic character thereof, as determined by the principal use. *Accessory uses* may include accessory employee units (AEUs), a manager's unit and parking~~, but shall not include any use that is prohibited in the underlying zone district~~.

~~*Caretaker unit* means a dwelling unit that is attached to or is within a detached single-family dwelling unit that is located on a lot zoned for a single-family dwelling, approved by the Town prior to December 10, 1997. The unit should be occupied by employees, senior citizens or disabled individuals. A *caretaker unit* shall contain a kitchen with refrigerator and sink, and cooking, sanitation and sleeping facilities. Cooking facilities shall not be limited to just a hot plate and/or microwave oven. Sanitation facilities shall include a bath and/or shower.~~

Caretaker, for the purposes of determining occupancy of an AEU, shall mean a person or a caregiver employed to look after a residential building, people, including a child or a sick, elderly, or disabled person.

Caregiver, for the purpose of determining occupancy of an AEU, is someone who assists another individual with personal care or household tasks that are necessary for everyday life.

Disabled person, is one having a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on the person's ability to carry our normal day-to-day activities.

Employee, qualified for an AEU, for the purposes of determining occupancy of an AEU, shall mean a~~n person employed within the Town at the time of initial tenancy and who shall remain employed within the Town or County for a minimum of eight (8) months of any calendar year~~employee as defined in the Permanent Moderate housing regulations as adopted in Chapter 17, Article I of the Code.

Kitchen, AEU means an area designated for cooking that contains, at a minimum, a twelve-cubic-foot refrigerator, a six-gallon capacity sink, a stove with four (4) cooking surface burners or elements and an oven, and an area for food storage.

Manager's unit means a dwelling unit, which may be a single-family detached dwelling unit, or a dwelling unit provided within a structure containing multi-family dwelling units, single-family attached dwelling units, dormitories, hotel or lodge rooms, or commercial uses and services, specifically intended for occupancy by a resident manager of the principal use. A manager's unit may be considered as an accessory employee unit (AEU).

EXHIBIT "A"
Page 5 of 13

CHAPTER 16A – Land Use and Development Code

Art. III, Zone Districts.

Sec. 16A-3-50. - Zone district use schedule.

TABLE 3-1
SCHEDULE OF USES

Uses: A = Allowed: S = Special Review: P = Prohibited	SF 4	SF 6	SF 15	SF 30	SF 150	EST	DU	MF	MF PUD	MU	MU PUD	MU 1	MU 2	CC	CC PUD	PUB	CON	OS	REC
Residential and Accommodation Uses																			
Single-Family Detached Dwelling [1]	A	A	A	A	A	A	A	A	A	P	A	P	P	P	P	P	P	P	P

Notes:

1. An accessory caretaker unit (ACU) or accessory employee unit (AEU) may be permitted in conjunction with any single-family detached dwelling, pursuant to Section 16A-3-230, Accessory Units. See Section 16A-3-230~~(4)~~, Accessory Employee Units~~ Special Review Standards~~, for standards applicable to this particular use.

Sec. 16A-3-210. Measurement of dimensional limitations.

(b) Measuring Floor Area.

(1) Areas included in calculations. The total square footage of all levels of a building, as measured at the outside face of the primary structural component of the exterior walls. In the case of adjoining units, measurements shall be taken from the center line of walls separating adjoining units of a building.

(2) Exclusions, inclusions and adjustments to the gross calculations of Paragraph (1) above.

b. Exclusions and adjustments specifically for single-family and two-family dwelling units.

2. Accessory Caretaker Unit (ACU); Accessory Employee ~~u~~Unit (AEU). The floor area for a~~n~~ pre-existing accessory caretaker unit (ACU) ~~shall be included in floor area calculations. The~~and the floor area for an accessory employee unit, shall be included in the floor area calculations pursuant to the requirements for such units found in Subparagraph 16A-3-230(2)e, Maximum Floor Area.

Sec. 16A-3-230. Accessory employee units.

~~One (1) accessory caretaker unit (ACU) or o~~One (1) accessory employee unit (AEU) may be installed ~~in~~on a single-family detached dwelling~~,~~ lot ~~or one (1) accessory caretaker unit (ACU) may be~~ following these standards:

~~(1)~~a. constructed as part of a single-family detached dwelling;

~~(2)~~b. located above~~, or~~ below, and/or attached to a detached garage, limited at 16 to18 feet in height, depending on zone district, and not expand the garage building footprint by more than fifty percent (50%). Heights shall be measured pursuant to Section 16A-3-210(a), '*Measuring Height*,' of the municipal code;

~~(3)~~c. constructed as a separate detached unit, limited at 16 to 18 feet in height, depending on zone district; or

~~(34)~~d. permitted as a pre-existing dwelling unit within a single-family detached or two-family dwelling, subject to compliance with the provisions of this Section. ~~An ACU or AEU located above or below a detached garage shall require special review approval pursuant to Section 16A-5-230, Special Review.~~

(1) **Standards for a pre-existing accessory caretaker unit~~.~~.** A~~n~~ pre-existing accessory caretaker unit (ACU) as of the effective date of Ordinance No. , Series of , shall continue to comply with the following standards, unless modified to comply with the accessory employee unit standards in Section 16A-3-230(2):

a. Size. The size of the ACU shall be not less than three hundred fifty (350) square feet or greater than seven hundred fifty (750) square feet~~,~~ and shall be built within the maximum allowable floor area for the lot unless the additional floor area was acquired under the Limited Excise Tax provisions as set forth in Article VI, Chapter 4 of the Municipal Code.

b. Variance. The only variance that may be granted to accommodate the ACU is a setback or height variance.

c. Exterior entrance. The ACU shall have a separate exterior entrance from the single-family detached dwelling that is practically accessible as the primary means of access to the ACU.

d. Parking. There shall be provided at least one (1) on-site parking space per bedroom in the ACU in addition to those parking spaces required for the single-family detached dwelling.

e. No short-term rental. An ACU shall not be rented on a short-term basis or for vacation-type rentals. All rentals shall be for a minimum term of six (6) months.

f. ~~Pre-existing~~Unapproved ~~dwelling~~accessory units. With Town Council approval, one (1) ~~ACU~~accessory unit created prior to April 16, 1985, in a single-family detached dwelling or one (1) ~~ACU~~accessory unit created prior to September 21, 1977, in a two-family dwelling within the DU zone district may be permitted to remain as an ACU, provided that:

1. The lot owner has submitted architectural drawings reflecting the "As-Built" condition defining the ACU.

2. The lot owner has submitted a report from a private building inspection consultant, whose qualifications are acceptable to the Town, containing his or her findings with regard to consistency with Chapter 18 of this Code as found within the ACU and recommendations as to whether modifications should occur in order for the unit to be occupied in a safe manner.

3. Based upon the review of the inspector's report and recommendations of the Building Official, who may inspect said ACU prior to any approval being granted, the lot owner agrees to obtain the necessary permits and perform the recommended modifications that need to occur prior to any registration, rental or conveyance of the ACU.

4. The lot owner has successfully demonstrated that the subject unit existed within the principal structure on or before the applicable date specified above and that no other ACUs exist on the lot.

5. The existing ACU unit is in conformity with Subsection (1) above, except that the subject ACU may be acceptable for registration if, at the sole discretion of the Town ~~Council~~ and following presentation of evidence thereon, it is satisfactorily demonstrated that such nonconformity may be determined to be minor in nature or that compliance would be impractical and would cause an unreasonable hardship upon the lot owner. In cases such as this, the Town ~~Council~~ may impose conditions reasonably necessary to mitigate impacts upon surrounding property owners or to specify a timeframe within which the ACU or nonconformity must be brought into compliance with Subsection (1) above.

g. Comply with its initial registration with the Town.

(2) **Standards for an accessory employee unit (AEU)**. An AEU, which may include a modification to a previously approved accessory caretaker unit (ACU), shall comply with the following ~~-~~standards:

a. Size. The size of the AEU shall be not less than three hundred ~~fifty~~ (3~~5~~00) square feet or greater than one thousand (1,000) square feet. ~~Special review approval pursuant to~~

~~Section 16A-5-230, Special Review, shall be required for an AEU greater than seven hundred fifty (750) square feet in size.~~

b. Variance. The only development variance that may be granted to accommodate the AEU is a setback or height variance.

c. Contents. An AEU shall contain a~~n~~ "*Kitchen, (AEU)*," sanitation and sleeping facilities. Sanitation facilities shall include at minimum a sink, shower, a toilet, and washer and dryer hookups for efficiency or stackable units. Sleeping facilities shall be provided up to a maximum of two bedrooms.

~~c~~d.Exterior entrance. The AEU shall have a separate exterior entrance from the single-family detached dwelling that is practically accessible as the primary means of access to the AEU or may be accessed from a shared, enclosed vestibule entrance.

~~d~~e. Parking. There shall be provided at least one (1) on-site parking space per bedroom in the AEU, which may be tandemly arranged, in addition to those parking spaces required for the single-family detached dwelling.

~~e~~f. Maximum floor area. The AEU shall not cause the resulting floor area of all improvements to exceed the maximum floor area for the lot; except, however, the maximum floor area for the lot may be exceeded by an amount ~~greater than~~not to exceed ~~ten percent (10%) without special review approval pursuant to Section 16A-5-230, Special Review~~one thousand (1,000) square feet and not be subject to the Floor Area Excise Tax provisions in Chapter 4, Article VI for the floor area of an AEU, provided the Applicant/Owner for the AEU shall:

i. comply with all provisions of the Code applicable to AEUs;

ii. complete an AEU initial registration (if under the floor area cap for the lot); **or**

iii. record a deed / covenant restriction for the AEU in a form to be prepared by the Town containing the material terms of this Section regarding occupancy, and following subsection (3)c2 below, and submit to the Town (if over the maximum floor area of the lot up to a limit of 1,000 square feet); and

iv. enter into a Restricted Housing Agreement with the Town, and the maximum rents for the AEU, which rents shall be established by the Town, and subsection (3)c2 below. Rental rates may be adjusted annually based on the inflation index used by the Town. A restricted housing agreement may otherwise be reviewed and updated not more frequently than every 5 years.

~~f~~g. No short-term rental. An AEU shall not be rented on a short-term basis or for vacation-type rentals. All rentals shall be for a minimum term of six (6) months. This restriction shall be incorporated by the Restricted Housing Agreement with the owner if over the maximum floor area limit.

~~g~~h. Occupancy. ~~Occupancy of an AEU shall be by a person or persons employed within the Town at the time of initial tenancy and who shall remain employed within the Town or County for a minimum of eight (8) months of any calendar year.~~ The AEU must be occupied by qualified employees, caretakers, caregivers, senior citizen (> age 65), or disabled individuals, as defined by this Code or the rules and regulations of the Town. Occupancy of an AEU shall not exceed 2 persons per bedroom and shall otherwise be subject to the provisions of this Code.

i. No Restricted sale. A property cannot be condominiumized to create a separately conveyable unit for the AEU.

j. Rental by Employer. The Owner may allow employers within the Town of Snowmass Village to rent and/or sublease accessory employee units to qualified employees, pursuant to a deed / covenant restriction and the restricted housing agreement if above the maximum floor area limit.

(3) **Accessory employee unit completion and registration.**

a. Completion. A new accessory unit shall be completed within the period prescribed by the building permit issued for its construction. All modifications to a pre-existing ACU shall be completed within the period prescribed by Chapter 18 of this Code or other permits required by the Town Council for it to be registered.

~~b. ACU notice of registration. Upon issuance of a certificate of occupancy for a new ACU or certificate of completion for a pre-existing ACU and payment of the processing fee established by the Community Development Department's fee schedule, a notice of registration of the ACU shall be issued by the Planning Director, and a true and accurate copy shall be filed for record, at the applicant's expense, in the Office of the Clerk and Recorder of the County. Such registration shall be valid for the existence of the new ACU or, in the case of pre-existing units, may be subject to the terms and conditions imposed by the Town Council.~~

~~c~~b.AEU notice of initial registration and deed / covenant restriction.

1. If the floor area on the lot remains within the maximum limit for the lot.~~Upon~~ After issuance of a certificate of occupancy or completion for an AEU and payment of the processing fee established by the Community Development Department's fee schedule, a notice of registration of the AEU shall be issued by the Planning Director, and a true and accurate copy shall be filed for recording, at the applicant's expense, in the Office of the Clerk and Recorder of the County;

2. If the floor area on the lot exceeds the maximum limit for the lot. The Community Development Department shall provide a deed / covenant restriction, which shall identify the size of unit, and the penalty provisions in subsection (5) below for the AEU and contain the material terms of this Section regarding occupancy standards under subsection (2)g above for recording, at the applicant's expense, in the Office of the Clerk

and Recorder of the County. The applicant shall also enter into a Restricted Housing Agreement with the Town defining at minimum the maximum rent, the size of unit, the prioritization of occupants, and the occupancy standards under subsection (2)g above. A restricted housing agreement may otherwise be reviewed and updated not more frequently than every 5 years. ~~The initial registration shall be effective until December 31 of the year in which it is issued, unless the unit is initially registered after November 15, in which case the registration shall be effective until December 31 of the year after it is issued.~~

~~d. AEU registration renewal. On a yearly basis, the registration of an AEU shall be renewed by filing an application for renewal, accompanied by the applicable processing fee established by the Community Development Department's fee schedule, with the Community Development Department on or before November 15. To qualify for a registration renewal, the owner of the AEU must verify that the AEU complies with the conditions set forth in Subsection (2), Standards for an Accessory Employee Unit, and that the AEU has been occupied by an AEU employee for at least eight (8) months during the previous registration period. Thereupon, the Planning Director shall renew the registration of the AEU until December 31 of the year following the expiration of the current registration~~.

~~e. AEU conditional registration renewal. In the event that the owner of an AEU cannot meet the conditions for renewal set forth in Subsection (3)d, AEU Registration Renewal, then a conditional registration renewal may be issued, if the owner agrees to correct the noncomplying conditions prior to March 1 during the conditional registration renewal. The date for compliance may be extended to May 1 if the AEU was initially registered after May 1 of the previous year provided that the AEU can be occupied by an AEU employee for eight (8) of the twelve (12) months following initial registration. The conditional renewal registration of the AEU shall be automatically extended to December 31 upon timely correction of the noncomplying conditions.~~

~~f~~c. Inspection. The ~~Community Development Department~~Town of Snowmass Village shall have a right to inspect the AEU ~~prior to registration renewal or~~ to verify compliance with this Section. At least forty-eight (48) hours' written or verbal notice will be provided to the owner or his or her authorized agent. The owner of the AEU shall also notify the department of any impending sale of the subject property and permit an inspection prior to closing~~.~~

~~g~~d. Failure to register, deed / covenant restrict, or correct noncomplying conditions. If the owner:

1. Fails to timely complete the construction of an AEU in accordance with the provisions of Subsection (3)a, Completion;

2. Fails to timely comply with the provisions of Subsection (3)~~d~~c, AEU Notice of Initial Registration ~~Renewal~~and Deed / Covenant Restriction, and the recordation thereof; or

3. ~~Has not met the conditions for renewal set forth in Subsection (3)d, AEU~~

~~Registration Renewal, at the end of the AEU conditional registration renewal~~ Failure to register, deed / covenant restrict, including the recordation thereof, or correct non-complying conditions~~, within thirty (30) days of the existence of the event of noncompliance, or February 1 of the year following the lapse of the current registration, whichever shall first occur~~, shall require the owner ~~shall~~to remove the kitchen from the AEU; and ~~either~~comply with the following:

~~4~~i. Remove floor area. Remove from the single-family detached dwelling or detached garage structure all floor area being part of the AEU, unless the floor area legally existed prior to the creation of the new AEU code provisions; or

~~5~~ii. was acquired under the Limited Excise Tax provisions~~; or~~; and

iii. Modify with the Town's permission the Restricted Housing Agreement and to release the registration and/or deed / covenant restriction.

~~5.~~4. ~~Mitigation~~ Penalty ~~fee~~. Pay to the Town a ~~mitigation~~penalty ~~fee~~ for elimination of the AEU as an employee housing unit. The amount of the fee shall be calculated by the Planning Director ~~by~~ as described below:

a) multiplying the square footage of the AEU, minus that portion of AEU floor area that legally existed prior to the creation of the AEU or was acquired under the Limited Excise Tax provisions.~~, by:~~ The penalty in this case would be calculated pursuant to the provisions and formulae in Chapter 4, Article VI, 'Floor Area Excise Tax,' of the Code, only if the floor area square footage was previously granted or allowed up to 10 percent beyond the maximum floor area without the acquisition through the 'Floor Area Excise Tax' of the Code.

b) If under this Ordinance No. , Series of 2024, an AEU was approved up to the limit of 1,000 square feet beyond the maximum floor area standard established by the zoning or PUD for the lot without any prior acquisition of a 'Floor Area Excise Tax,' and the employee unit is subsequently removed, then the amount of penalty fee shall be the calculated per the formulae in Chapter 4, Article VI, 'Floor Area Excise Tax,' of the Code and tripling the resulting fee.

~~a) The actual value of the lot including the single-family detached dwelling unit, any accessory building and the land as calculated from the records of the County Assessor, divided by the floor area square footage of the single-family detached dwelling and any accessory building, not including the AEU, as calculated in accordance with the provisions of Section 16A-3-210(b), Measuring Floor Area; or~~

~~b) In the event that the actual value of the lot including the single-family detached dwelling, any accessory building and land is not available from the records of the County Assessor, then one hundred twenty-five percent (125%) of the numeric average of the actual value of all lots including a single-family detached dwelling and land for the subdivision or PUD in which the lot exists as calculated from the records~~

~~of the County Assessor shall be divided by the floor area square footage of the single-family detached dwelling and any accessory building, not including the AEU; and~~

~~c) Multiplying the amount determined above by a factor of 1.5.~~

~~Provided, however, that if a change in the actual value of the lot including the principal dwelling unit, any accessory building and land according to the records of the County Assessor occurs within one (1) year from the date of payment of the mitigation fee, then the amount of the mitigation fee shall be recalculated by the Planning Director. The Planning Director shall notify the owner of the amount of the additional mitigation fee, which shall be paid by the owner within thirty (30) days. If the owner paid a mitigation fee in excess of the recalculated mitigation fee, then the Planning Director shall cause the overpayment to be refunded to the owner.~~

~~(4) Accessory unit special review standards. Any AEU requiring special review shall comply with the following standards:~~

~~a. Community need. The applicant has demonstrated that the proposed accessory unit helps to promote the public policy purpose and community need to create affordable employee housing.~~

~~b. Mass and scale. The accessory unit will not contain roof configurations, internal ceiling heights or areas open to the floor below which unnecessarily contribute to the mass and scale of the proposed addition.~~

~~c. Special circumstances exist. The applicant shall satisfactorily demonstrate that special circumstances exist or practical difficulties would occur such that a lesser sized caretaker unit should not be created within or utilize portions of the existing structure.~~

~~d. Location. The accessory unit shall be carefully situated within the lot so as to be appropriate at its proposed location and compatible with the character of surrounding residences in the area.~~

~~e. Visibility. The design of the accessory unit shall be sensitive to its visual impact on neighboring properties. The accessory unit design shall include, but not be limited to, sensitive choice in placement, screening with landscaping, sub-grade placement, architectural design, use of materials and colors or any other effective means that minimize or soften its appearance and visibility on the site. The proposed unit may be denied if it is determined that the visibility has not been sufficiently reduced.~~

~~f. Not adversely affect neighborhood. The approval of the accessory unit shall not, in a substantially adverse manner, change the neighborhood character. Nor should it create excessive traffic impacts. It should not have a substantially adverse impact on the land abutting upon or across the street from the property being approved for an AEU. It should not prevent an adequate supply of light or air from~~

~~reaching adjacent properties, nor should the construction of the unit increase the fire danger or otherwise endanger the public safety.~~ (Ord. 4-1998 §1; Ord. 5-1999 §3; Ord. 19-2000, §1; Ord. 10-2001, §1; Ord.   -2024, §1)

Town of Snowmass Village

Agenda Item Summary

DATE OF MEETING:

June 3, 2024

AGENDA ITEM:

A Request to Participate in Funding the Roaring Fork Safe Passage Mitigation Plan for a Portion of Highway 82.

PRESENTED BY:

Cecily DeAngelo, Roaring Fork Safe Passages
Julia Kintch, Roaring Fork Safe Passages

BACKGROUND:

Attached you will find the results from the valley-wide prioritization study that Roaring Fork Safe Passages (RFSP) funded and completed in 2023. They have included both the summary and full study.

They also included the budget memo for the next phase which is the mitigation plan for the stretch of Highway 82 from the Airport to Woody Creek (which commenced a few weeks ago). The mitigation plan is something (RFSP) would like to include the Town of Snowmass Village as both a stakeholder and a funding partner, they are seeking $10,000. RFSP feels that involving Snowmass Village is beneficial because it strengthens the stakeholder group and Snowmass Village is impacted by both the health of the elk herds that pass over highway 82 and the drivers who live here and commute to work in the village.

They feel that waiting to ask for funding until 2025 is a stretch for this project; as such they are asking for an additional appropriation process with the Town of Snowmass Village for 2024.

FINANCIAL IMPACT:

If approved, a $10,000 allocation/ appropriation will need to be made.

APPLICABILITY TO COUNCIL GOALS & OBJECTIVES:

While not in Snowmass Village, this project could help to preserve and protect the natural environment to ensure that nature is and remains the dominant feature of the landscape.

COUNCIL OPTIONS:

If the Council decides to fund this project, we will need to determine when the funding should occur and from what sources.

STAFF RECOMMENDATION:

It is the recommendation of Town Staff, that the Council,

Consider funding this study in the 2025 Budget.

ATTACHMENTS:

1. Mitigation Budget Memo
2. Presentation - RFSP Snowmass Village Town Council Mtg
3. RFSP Prioritization Methods & Results Report
4. RFSP Prioritization Study Summary Report
5. Mitigation Plan - Airport to Woody Creek - Budget

MEMORANDUM

To:	Snowmass Village Town Council
From:	Roaring Fork Safe Passages
Date:	June 3, 2024
Subject:	Airport to Woody Creek Priority Area Update and Funding Request

ROARING FORK SAFE PASSAGES

The following narrative outlines steps and estimated budget for developing a Mitigation Plan and Conceptual Designs for the State Highway 82 Airport to Woody Creek priority area. This area is one of six priority areas identified in the Roaring Fork Safe Passages Prioritization Study. This study involved a comprehensive analysis of wildlife-highway interactions on Highways 82 and 133 to identify areas where highway mitigation investments combined with habitat protection will bring the greatest benefits for reconnecting wildlife corridors and reducing wildlife-vehicle collisions. Funding for the prioritization study was provided by Aspen Ski Company Environment Foundation, City of Aspen Parks and Open Space, Pitkin County Open Space the Alpenglow Foundation, the ABC Foundation and other private donations.

The purpose of the SH 82 Airport to Woody Creek Mitigation Plan and Conceptual Design process is to develop science-based and stakeholder-informed strategies for mitigating wildlife-vehicle conflict and improving connectivity for wildlife in the Airport to Woody Creek priority area. Priority locations for wildlife crossing structures and other types of mitigation strategies will be determined based on wildlife movement patterns, wildlife-vehicle collision hotspots, protected lands, terrain, and land use context. We propose that the planning process be conducted in three stages, as presented below. A detailed budget for each planning stage is provided in the budget spreadsheet accompanying this memo.

The Airport to Woody Creek stretch of SH 82 is a vital corridor for Snowmass Village residents and visitors. Investments in wildlife mitigation here will benefit both wildlife and motorists.

STAGE 1: MITIGATION STRATEGY DEVELOPMENT –
Funding Status: Fully funded by Pitkin County Open Space and Aspen Parks and Open Space

Stage 1 work tasks include: project coordination, resource review and site-specific data compilation, two site visits (initial site assessments and a follow-up site visit with partners), partner and stakeholder engagement (including in person and virtual meetings), development and evaluation of mitigation alternatives, preparation of a final mitigation strategy report, and a final presentation to the Board of County Commissioners.

The total cost for Stage 1, including labor and expenses is $52,685.

Stage 1 Timeline:

The below timeline outlines the Stage 1 work tasks. This stage of the planning process is expected to commence in April 2024 and be completed in February 2025.

	2024								2025	
Work Tasks	APR	MAY	JUN	JUL	AUG	SEP	NOV	DEC	JAN	FEB
1 – Project Coordination	X	X	X	X	X	X	X	X	X	X
2 – Resource Review	X	X	X							
3 – Site Visits			X		X					
4 – Partner & Stakeholder Engagement	X	X	X	X	X	X	X	X	X	X
5 – Mitigation Alternatives Evaluation & Plan Development				X	X	X	X			
7 – Mitigation Report						X	X	X	X	X
8 – Final Presentation										X

Stage 2: Concept Development

<u>Funding Status:</u> Anticipated funding from Pitkin County, City of Aspen, grants, and private donors. **Requested contribution from Snowmass Village: $10,000**

Stage 2 builds on the mitigation strategy that was developed in Stage 1. In this stage the project team will develop models and visualizations of the mitigation strategies proposed in Stage 1. Models and renderings may be developed for 1-3 of the top locations identified for potential structures in Stage 1. Photo visualizations of other recommended strategies for mitigating wildlife-vehicle conflict and improving connectivity for wildlife in the priority area will also be developed.

Drone photogrammetry, high-precision 3D terrain modeling, and renderings

This includes drone photogrammetry, high-precision 3D terrain modeling, and crossing structure renderings at up to 3 identified structure locations. The development of conceptual designs is an iterative process and allows the consultant team and project partners to explore design options and dimensions together in real-time. The 3D models developed from this task can be directly used by an engineering design team on future phases to progress the structure designs.

Stage 2 includes the development of 3D models, final still renderings and animated video renderings and the total cost is $38,659.

Stage 2 Timeline

The drone photogrammetry and aerial imagery should be conducted during the snow-free months. To provide project continuity, the project team recommends initiating the drone work in fall 2024, prior to snowfall. This timing will ensure that the drone data collection and modeling is targeted to the top 1-3 sites identified for potential wildlife crossing structures in Stage 1 while allowing Stage 2 work to continue during the winter months instead of waiting until spring 2025.

Note, the Stage 2 Timeline overlaps with Stage 1 and feeds back into the Stage 1 final work tasks.

Work Tasks	SEP	NOV	DEC	JAN
3 – Site Visits (drone data and imagery collection)	X			
5 – Mitigation Alternatives Evaluation (3D modelling and renderings)	X	X	X	X

STAGE 3: OUTREACH AND COMMUNICATION MATERIALS

Funding Status: Committed funding from Roaring Fork Safe Passages private donors and grants

Develop outreach and communication materials may in include a video, brochure, and ArcGIS Online StoryMap. Outreach materials will focus on the need for wildlife-highway mitigation, the proposed solutions, and the anticipated benefits of these mitigation investments for both wildlife and people. These outreach and communication materials will be useful for engaging with stakeholders, the public, and potential funders.

- Brochure – tri-fold double-sided brochure
- Video – edited video
- ArcGIS Online StoryMap – the story map will guide users through a narrative covering the proposed wildlife mitigation system

The total cost for Stage 1, including labor and expenses is $22,360.

Stage 3 Timeline:

The timeline for this stage is contingent upon the completion of Stage 2 and which types of outreach materials are requested and is expected to take 2-3 months.

Roaring Fork Safe Passages

Snowmass Village Town Council Meeting

June 3, 2024

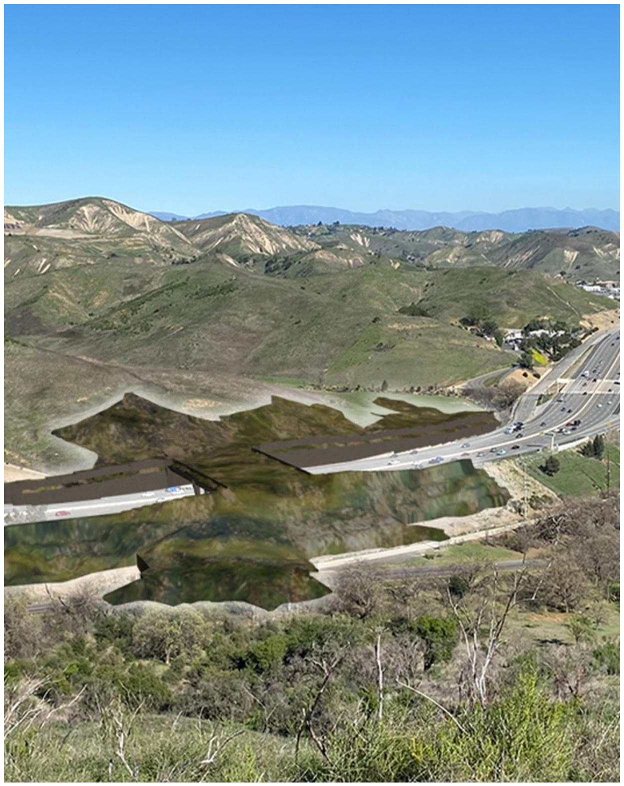
From 2012 – 2021 in the Roaring Fork Valley,

- Wildlife-vehicle collisions were the leading cause of crashes reported to law enforcement, *accounting for 30% of all crashes*
- As many as *2-4 more* collisions with wildlife are never recorded

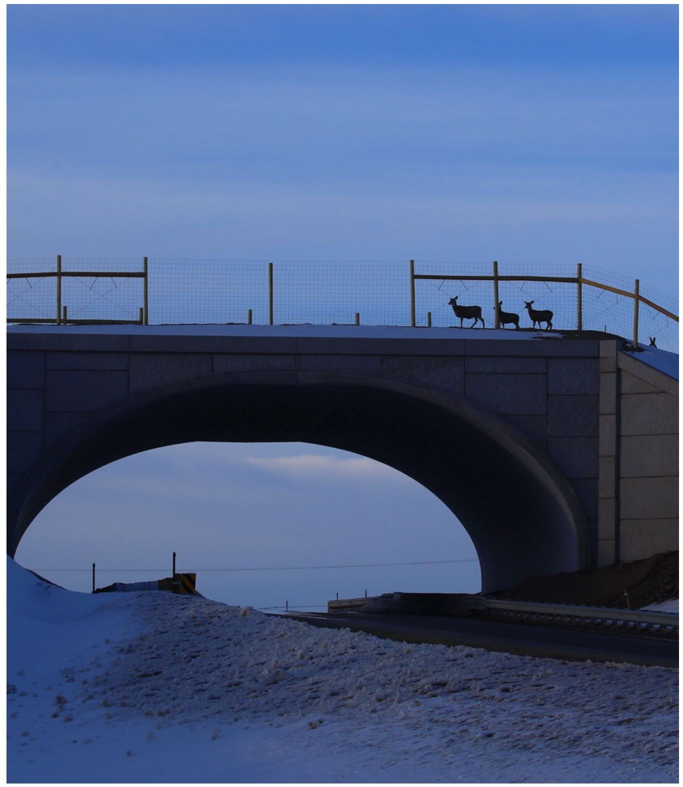
Credit: Mark Gocke

Credit: Mark Gocke

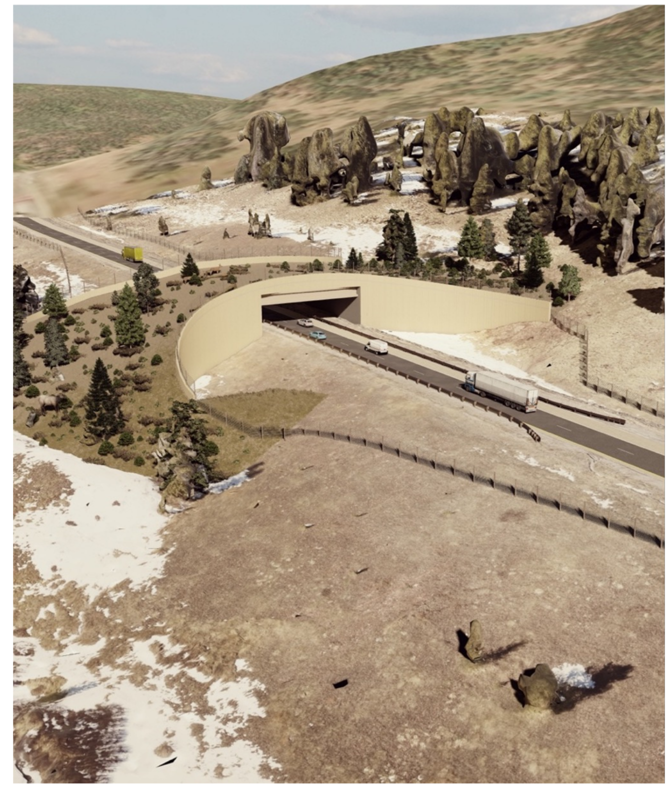
Examples of local partnerships



Annenberg Wallis Wildlife Crossing – Los Angeles, CA



SH 9, Grand County Colorado



I-70 East Vail Pass

Roaring Fork Safe Passages: prioritization study

2023

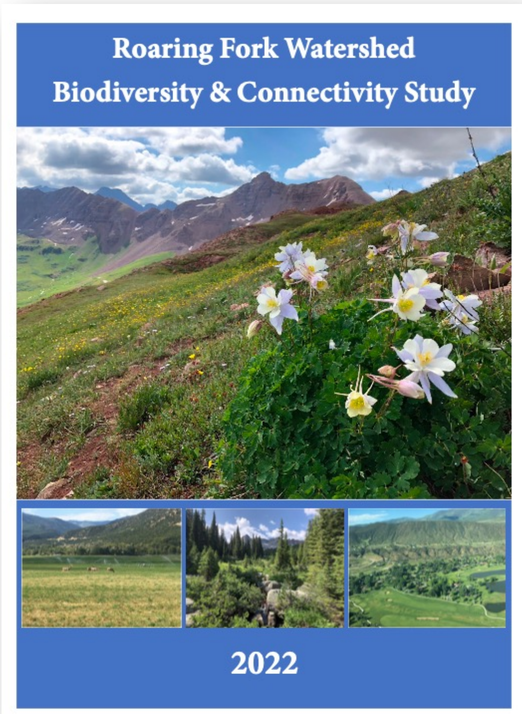
<u>Prioritization Study Goals:</u>

- Conduct a systematic analysis to identify the highest priority highway segments for mitigation investments that:
  - Reduce wildlife-vehicle conflict

    and
  - Improve permeability for wildlife across highways
- Engage key partners and stakeholders

Credit: CDOT, CPW, ECO-resolutions

Roaring Fork Watershed biodiversity study (2022)

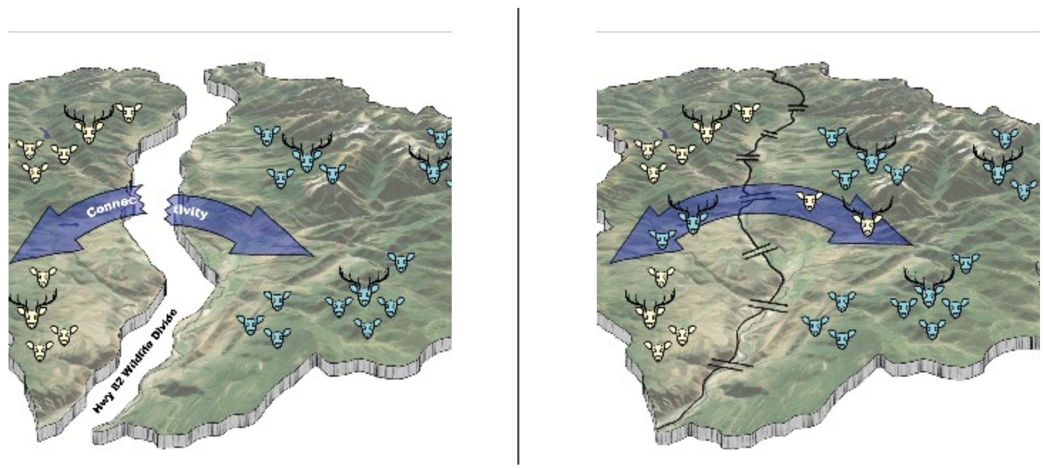


Colorado Natural Heritage Program

Watershed Biodiversity Initiative

Recommendation:

"Stitch it back together"



Priority areas

Tier 1: may be feasible for wildlife crossing systems

SH 82: Airport to Woody Creek

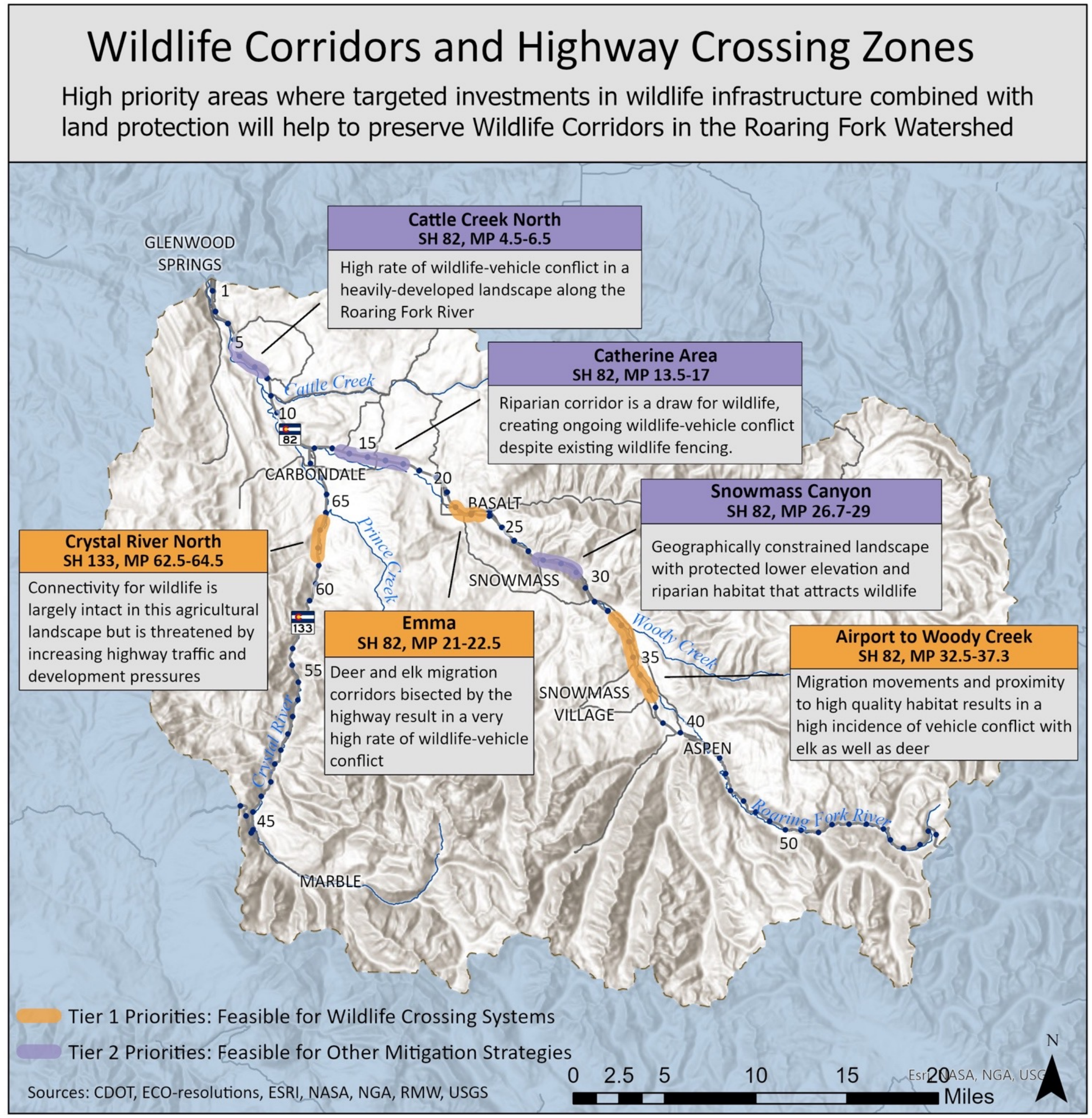
- Mileposts 32.5 – 37.3

SH 82: Emma

- Mileposts 21 – 22.5

SH 133: Crystal River North

- Mileposts 62 – 64.5



Potential mitigation strategies

Wildlife crossing structures and diversion fencing

- Most effective strategy for increasing connectivity across roads and decreasing WVC
- May include improving existing bridges and culverts
- May be implemented in combination with other mitigation strategies

→ Coordinate wildlife crossing priorities with land protection efforts

Credit: Jerry Neal, CPW

Priority areas

Tier 2: feasible for other mitigation strategies:

SH 82: Cattle Creek North

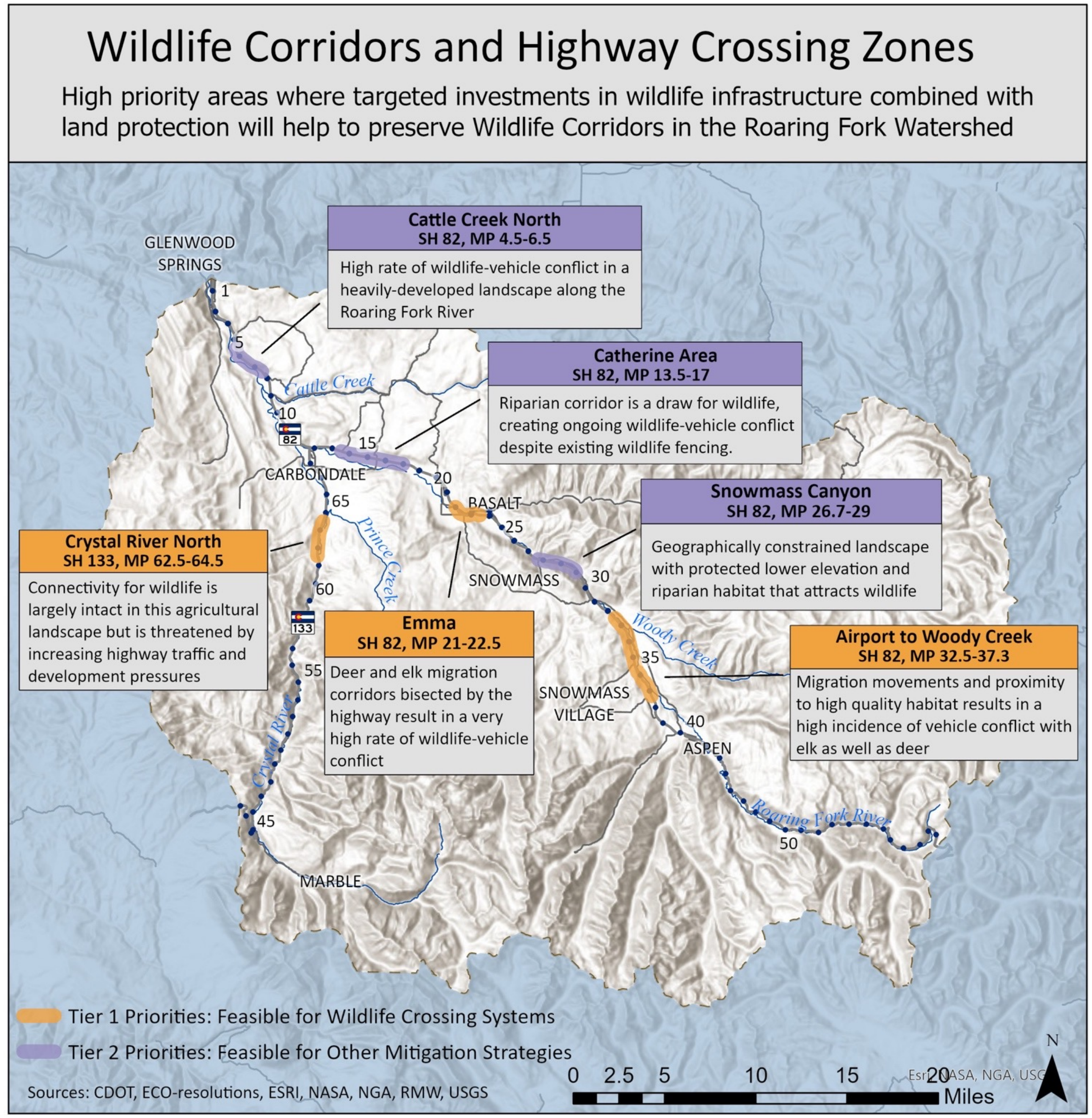
- Mileposts 4.5 – 6.5

SH 82: Catherine Area

- Mileposts 13 - 17

SH 82: Snowmass Canyon

- Mileposts 26.7 - 29



SH 82, Airport to Woody Creek priority area

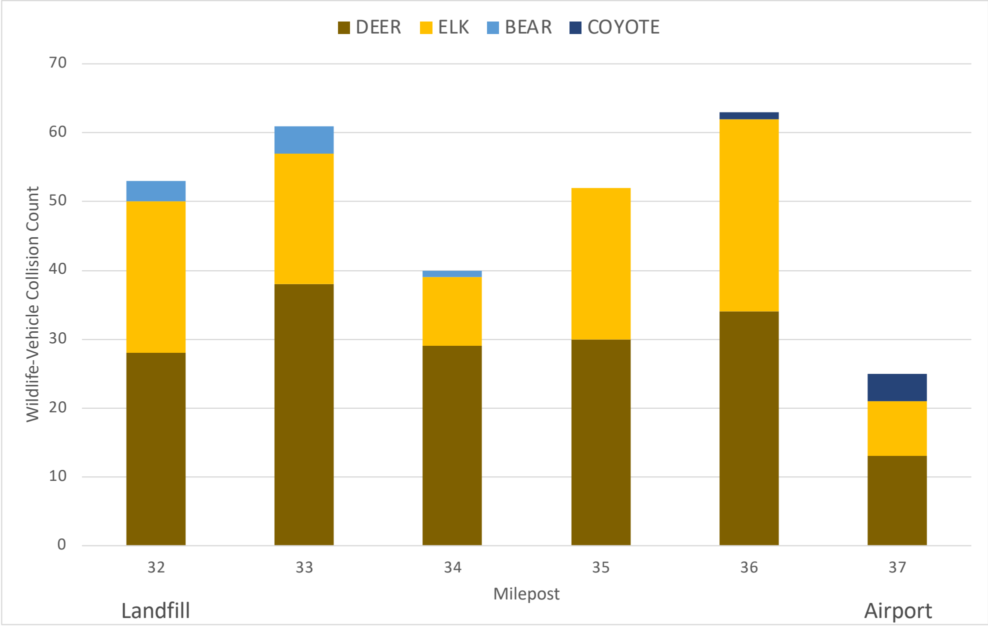
Credit: EcoFlight

SH 82, Airport to Woody Creek priority area

Conflict in this segment:

- 5.2 reported wildlife-vehicle collisions per mile, per year
  - *Actual number of collisions may be ~10-20 per mile, per year*
- Includes nearly 3 elk collisions per mile, per year
  - *Actual number of elk collisions may be ~6-12 per mile, per year*

2012 – 2022 WILDLIFE-VEHICLE COLLISIONS

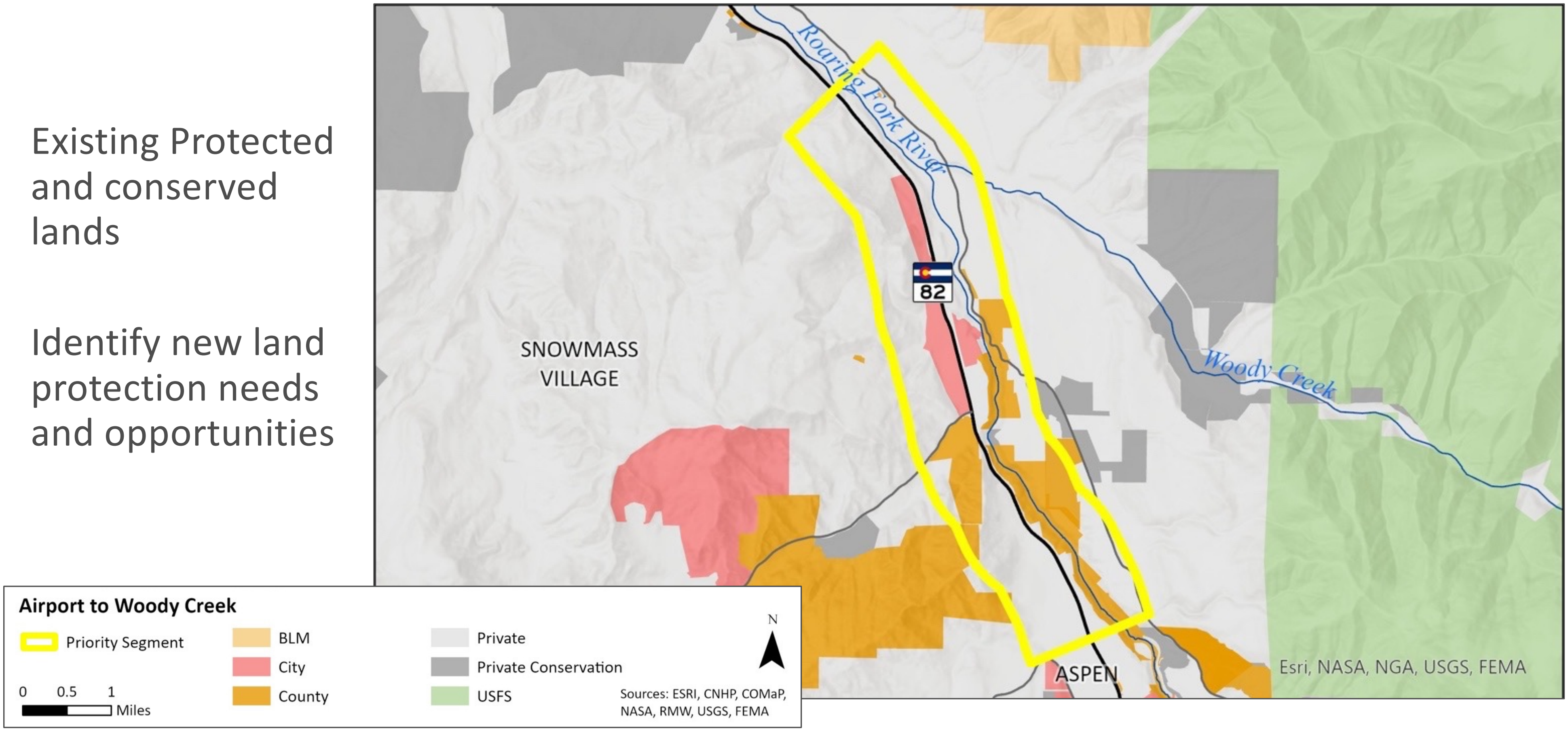


The cost of an elk-vehicle collision is $73,196 including the value of the wildlife (Huijser et al. 2022)

SH 82, Airport to Woody Creek priority area

Existing Protected and conserved lands

Identify new land protection needs and opportunities



SH 82, Airport to Woody Creek priority area

Value of wildlife mitigation:

- This segment is the gateway to Snowmass Village – for commuters, residents, and visitors
- Area around SH 82 / Brush Creek Road interchange is a key piece of the puzzle
- Snowmass Village has long recognized the significance of these elk herds

SH 82, Airport to Woody Creek mitigation planning

Stage 1 –

Mitigation Strategy Development

- Outcome: Milepost-specific mitigation strategy and recommendations
- Timeline: April – December 2024

SH 82, Airport to Woody Creek mitigation planning

Stage 1 –

Mitigation Strategy Development

- Outcome: Milepost-specific mitigation strategy and recommendations
- Timeline: April – December 2024

Stage 2 –

Mitigation Concept Development

- Outcome: Site-specific models and visualizations of proposed mitigation features at key locations
- Timeline: September – December 2024

SH 82, Airport to Woody Creek mitigation planning

Stage 1 –

Mitigation Strategy Development

- Outcome: Milepost-specific mitigation strategy and recommendations
- Timeline: April – December 2024

Stage 2 –

Mitigation Concept Development

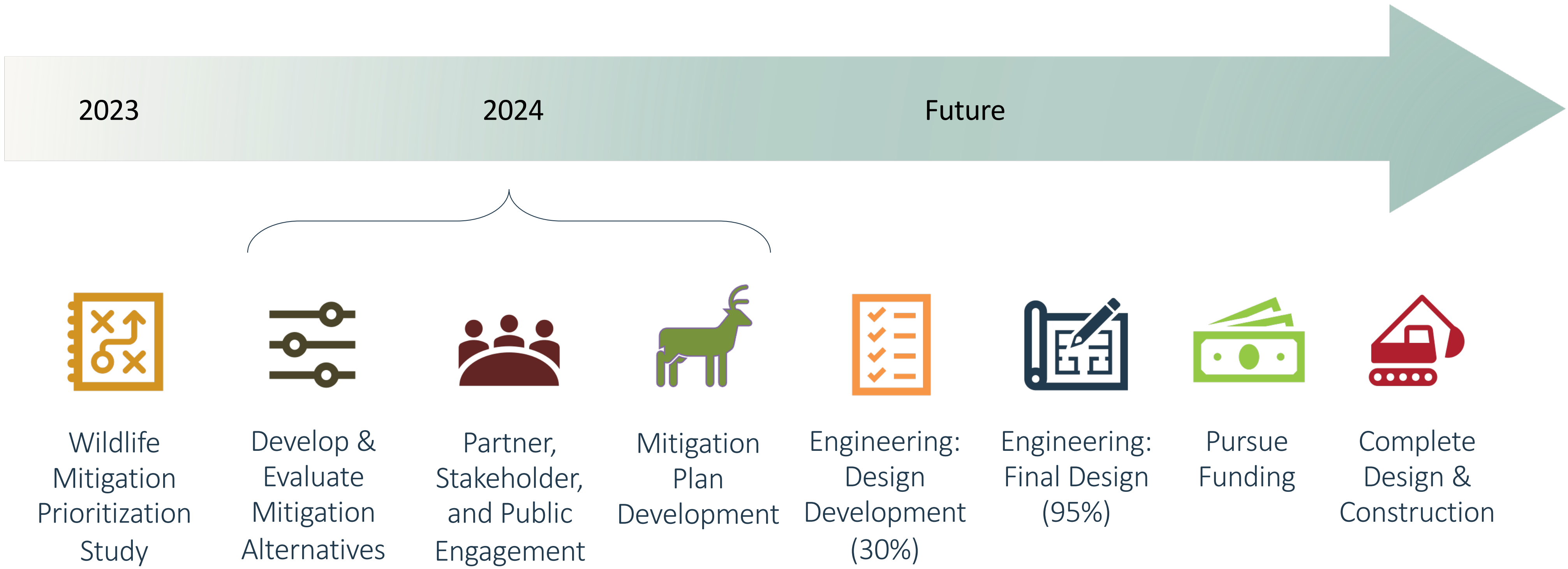
- Outcome: Site-specific models and visualizations of proposed mitigation features at key locations
- Timeline: September – December 2024

Stage 3 –

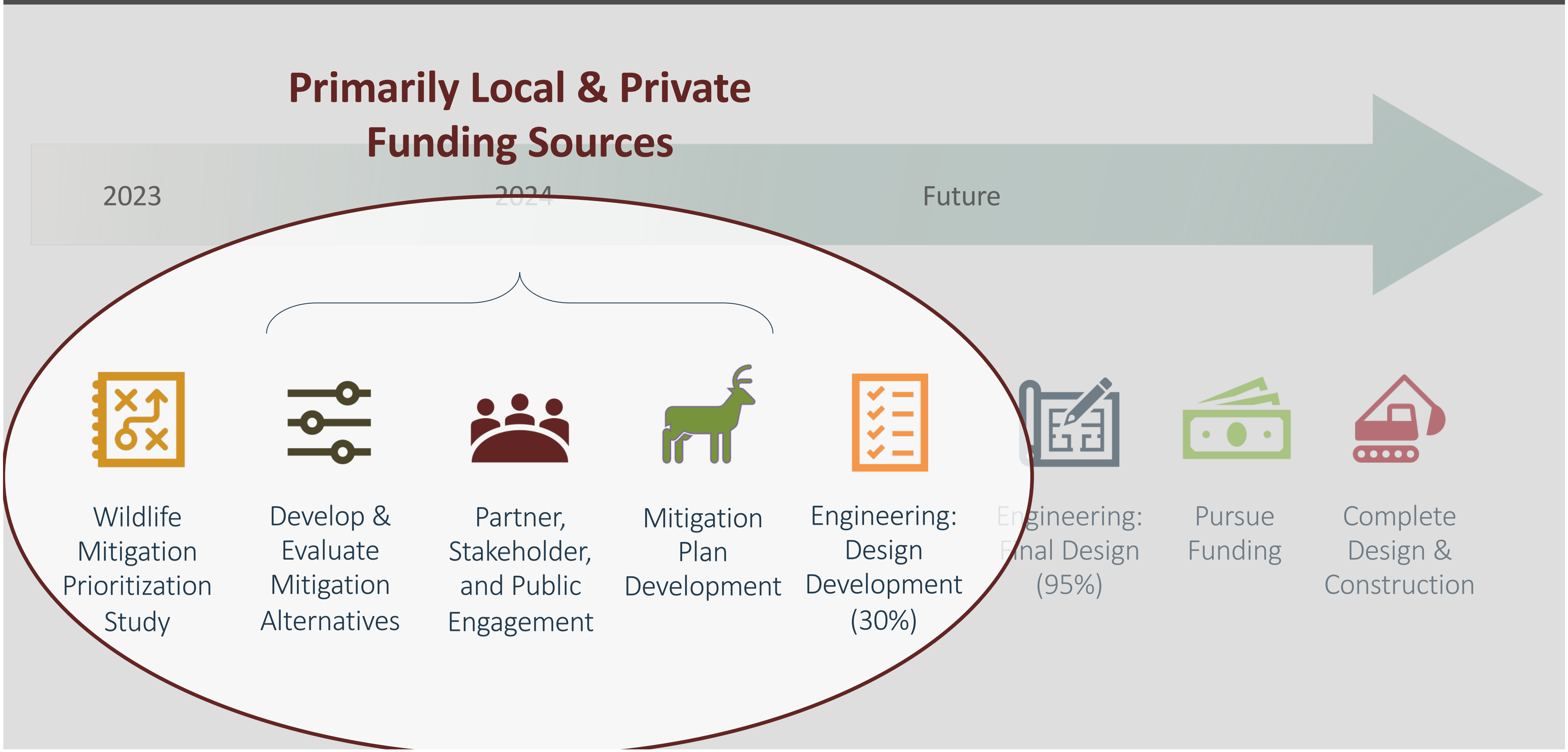
Outreach Materials

- Outcome: Targeted outreach materials for engaging with stakeholders, the public and potential funders
- Timeline: December 2024 – February 2025

Mitigation planning and implementation



Funding projects through private-public partnerships



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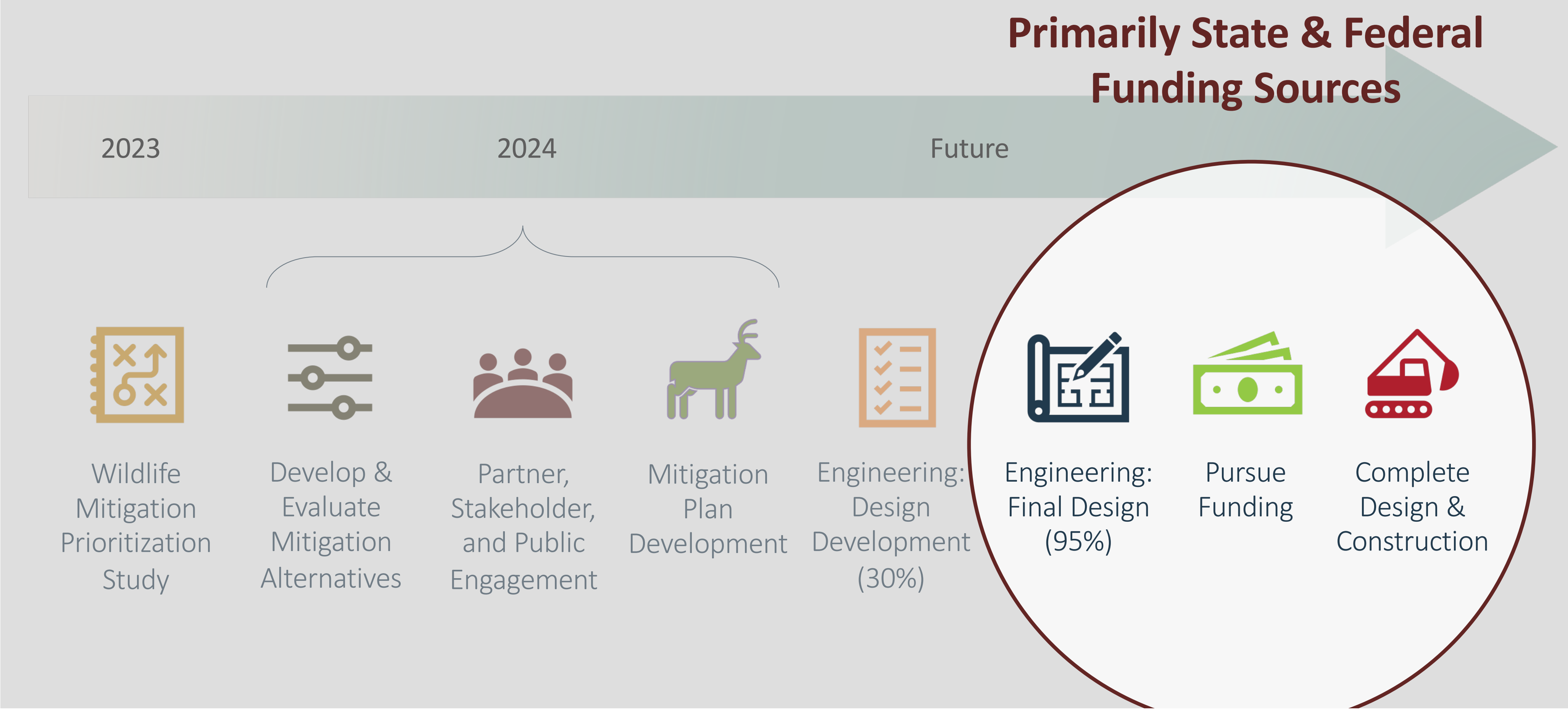

Airport to Woody Creek mitigation planning

Budget

	STAGE	COST
1	Mitigation Strategy Development *Timeline: April – December 2024*	$52,685
2	Concept Development *Timeline: 2-3 months, recommended start: September 2024*	$35,659
3	Outreach and Communication Materials *Timeline: 1.5-3 months, following the completion of Stage 2*	$22,360
	TOTAL	$110,704

Airport to Woody Creek mitigation planning

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Airport to Woody Creek mitigation planning

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	TOTAL	$110,704	

Funding Request:

- $10,000 from Snowmass Village to support Stage 2 of the mitigation planning process


ROARING FORK
SAFE
PASSAGES
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Roaring Fork Safe Passages: Prioritization Study Methods and Results Report

January 2024

Authors:
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Report Prepared for: Roaring Fork Safe Passages, Aspen, Colorado

Introduction and Study Objectives

Wildlife is an essential element of the Roaring Fork Watershed, contributing both to the ecological health of this landscape and to our quality of life. Yet wildlife populations in the watershed – elk herds in particular – are facing increasing pressure from development, recreation activities, and transportation (Mao et al. 2020; Millhouser 2019). Specifically, vehicle-induced mortality and transportation-related habitat fragmentation are major stressors affecting wildlife and population resilience. According to Colorado Parks and Wildlife (CPW), two percent of collared doe mule deer are killed each year in vehicle collisions (A. Holland, pers. comm.) – this suggests that the roadkill rate is higher than the annual hunter harvest but without the economic and social benefits that hunting provides.

The Roaring Fork Watershed Biodiversity and Connectivity Study, completed in 2022, identified and mapped areas for the protection and restoration of natural biodiversity and habitat connectivity on a landscape scale (Rondeau et al. 2022). The study found that *significant opportunities exist to restore degraded habitats and improve connectivity, especially along major transportation corridors and near developed areas*. The Watershed Biodiversity Study generally highlighted areas where improved connectivity is needed but did not specifically identify priorities for creating safe passages between habitat on either side of Highways 82 and 133.

The Roaring Fork Safe Passages Prioritization Study directly addresses this question – one of four 'Big Ideas' recommended by the Watershed Study to help improve habitat quality and connectivity for deer, elk, and other wildlife. Preserving wildlife corridors – across major roads and, more broadly, across the landscape – is particularly important in the context of climate change, which amplifies human-wildlife conflict by exacerbating resource scarcity, altering human and animal behaviors and distributions, and increasing human-wildlife encounters (Abrahms et al. 2023).

The objective of the Roaring Fork Safe Passages Prioritization Study was to undertake a systematic and inclusive process to support informed decision-making about wildlife-highway mitigation priorities in the Roaring Fork Watershed. The study involved a comprehensive analysis of wildlife-highway interactions on Highways 82 and 133, building on existing data and analyses. The study also engaged key agencies and stakeholders in the development of the prioritization process and decision-making framework. The resulting prioritization identifies highway segments where mitigation investments combined with habitat protection will bring the greatest benefits for reconnecting wildlife corridors and reducing wildlife-vehicle collisions.

The results of this prioritization study, combined with the mapping of significant conservation and restoration opportunities identified by the Watershed Biodiversity and Connectivity Study, provides a roadmap for highway mitigation and complementary habitat conservation actions in the watershed. It will be incumbent upon the communities, agencies, and other partners to combine efforts to achieve the vision for a connected and resilient landscape.

This Methods and Results Report details the prioritization inputs and analysis methodology used to define wildlife-highway mitigation priorities on Highways 82 and 133 in the Roaring Fork Watershed.

Prioritization Methods

The analysis of highway segments for mitigation investments focused on State Highway 82 between Glenwood Springs and Aspen and State Highway 133 between Carbondale and McClure Pass. Two recently completed studies provided the foundation for the prioritization analysis: 1) the Roaring Fork Watershed Biodiversity and Connectivity Study 2) the Western Slope Wildlife Prioritization Study, a joint initiative by the Colorado Department of Transportation (CDOT) and CPW. The prioritization also integrated mapped elk and mule deer migration corridors data from CPW. Combined, these analyses resulted in a primary prioritization score highlighting sections of highway with the greatest risk of wildlife-vehicle conflict and with the greatest potential for restoring wildlife corridors that are bisected by a highway.

The target species for the prioritization analysis were elk and mule deer. These are species whose habitat use and movement patterns result in frequent interactions with roads. They are also species for which suitable data is available across the watershed. Other potential target species, such as bighorn sheep, black bear, moose, and mountain lion, have more limited distributions in the watershed, often further from these highways, and were not included in this prioritization. Considerations for all these species should be included, where appropriate, in the development of specific mitigations strategies within a prioritized highway segment during the next phase of this.

Figure 1 provides a flowchart of the prioritization process including inputs and analyses for conducting the primary prioritization and the supplementary secondary considerations that comprise this decision support framework.

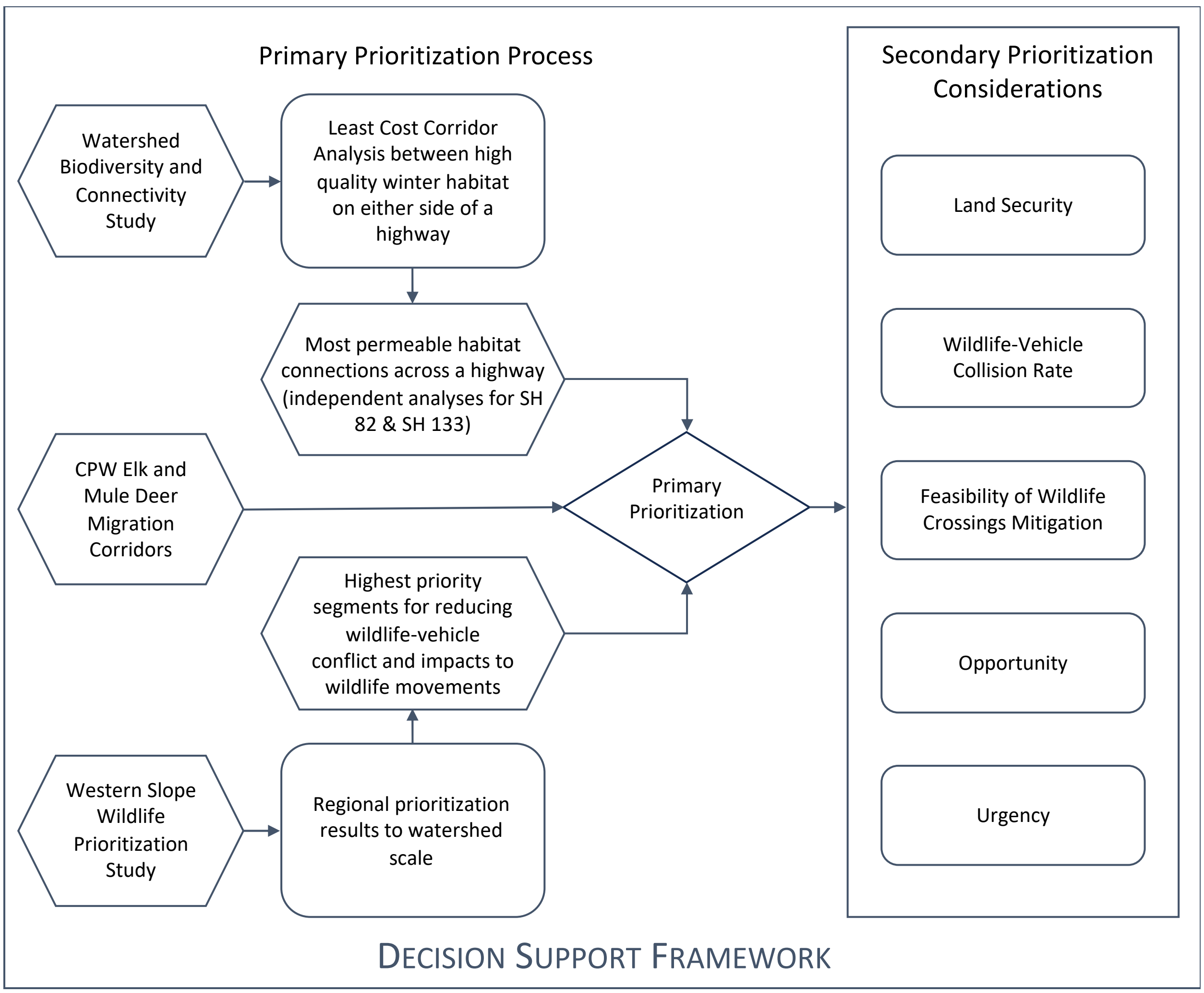


Figure 1. Decision support framework, including the primary prioritization process and secondary prioritization considerations.

Throughout this process, the project team engaged with key agency partners and other stakeholders, including CPW, the CDOT, Pitkin County, the City of Aspen, and nongovernmental organizations. A complete list of participating stakeholders is available in Appendix A. The project team conducted targeted interviews and periodic stakeholder meetings to compile expert and local input on observed conflict areas, wildlife movement patterns, challenges to and opportunities for wildlife-highway mitigation, and to receive feedback on the prioritization process and decision-support framework.

Primary Prioritization

Three inputs informed the primary prioritization:

1) A least cost corridor analysis identifying the most permeable areas for mule deer and elk to cross Highways 82 and 133 (ie, incur the least cost, or resistance) based on data from the Roaring Fork Watershed Biodiversity and Connectivity Study (Rondeau et al 2022);
2) The Western Slope Wildlife Prioritization Study (WSWPS) (Kintsch et al 2019); and
3) Colorado Parks and Wildlife Species Activity Mapping data for mule deer and elk migration corridors (CPW 2022).

The Watershed Biodiversity and Connectivity Study is the most comprehensive analysis of conservation needs and challenges in the Roaring Fork Watershed to date. The Western Slope Wildlife Prioritization was a joint effort with CDOT and CPW to identify, map, and prioritize highway segments across the region based on the risk of a wildlife-vehicle collisions and the need for mule deer and elk to make cross-highway movements, particularly during migration or within winter range. The maps and spatial data layers produced by both of these previous studies provided an important launchpad for a more focused analysis of wildlife-highway mitigation priorities in the Roaring Fork Valley.

Wildlife-vehicle collision (WVC) data were not independently included in the prioritization because these data were already captured in the WSWPS, which used CDOT's wild animal accident pattern recognition data layer as a primary input. The pattern recognition layer is a hotspot analysis conducted by CDOT's Traffic and Safety Engineering Branch that calculates the percentage of WVC accidents per volume of traffic per road type as compared with the relative norm.

The project team also considered including protected or secured lands as an additional input into the primary prioritization but, with input from participating stakeholders, determined that these data would be better to include as a secondary prioritization consideration for informing decision-making.

The geospatial analysis methods for the primary prioritization are summarized below. Detailed methods are provided in Appendix B.

Analysis Inputs & Process

1. Least Cost Corridor Analysis

Least cost corridor analysis is a spatial analysis technique that seeks to define a pathway between two areas using a resistance surface. The resistance surface provides a quantitative measure of how difficult it is for an individual to move across the landscape based on habitat suitability. The least cost corridor minimizes the 'effective distance' or accumulated cost of movement between these two geographical endpoints (Rudnick et al. 2012). For this study, the least cost corridor analysis focused on finding the most permeable connections between high quality deer and elk habitat on either side a highway barrier. Research has demonstrated that wildlife do not cross roads randomly. Instead, crossing areas tend to be spatially and temporally clustered, influenced by habitat, terrain, or the characteristics of the roadway itself (Barnum 2003; Neumann et al. 2012). These focused least cost corridors are not intended to represent actual landscape-scale wildlife movements but, instead, highlight areas with the most permeable habitat connections on either side of a highway.

The least cost corridor analysis involved three primary steps: 1) create a resistance layer, 2) define the core habitat areas on either side of the two highways between which the least cost corridor analysis would be run, and 3) run a least cost corridor analysis using the products from Steps 1 and 2. The resistance layer was based on the modeled landscape permeability layer from the Roaring Fork Watershed Biodiversity and Connectivity Study. To develop this layer, CNHP compiled and scored layers for land cover types, roads and trails, fences, topography, and oil and gas layers for elk, mule deer, and bighorn sheep (Rondeau et al. 2022). To perform the least cost corridor analysis, the project team converted this permeability layer into a resistance layer using a raster calculator in ArcGIS Pro. Core areas were also defined based on data from the Roaring Fork Watershed Biodiversity and Connectivity Study, specifically, high value winter habitat from the Elk & Deer Winter Habitat Quality dataset. Individual core areas were defined north and south of Highway 82, and east and west of Highway 133. The analysis was conducted using the Least Cost Corridor tool in ArcGIS Pro to determine the least cost corridor between each high-quality winter habitat core separated by either Highway 82 or Highway 133. Accumulative costs were used to set the threshold for the analyses. When a threshold is specified, all cells with accumulative cost equal to or less than the specified threshold are selected to create the corridor. The threshold was based on a percentage of the maximum accumulative cost for each highway, resulting in a threshold of one percent (1%) for Highway 82, and a half percent (0.5%) for Highway 133. High quality winter habitat west of Aspen on Independence Pass was omitted from the analysis because this stretch of Highway 82 is already highly permeable for wildlife due to a combination of contiguous high-quality habitat on either side of the highway and low traffic speeds and volumes. The resulting least cost corridors across Highways 82 and 133 are displayed in Figure 2.

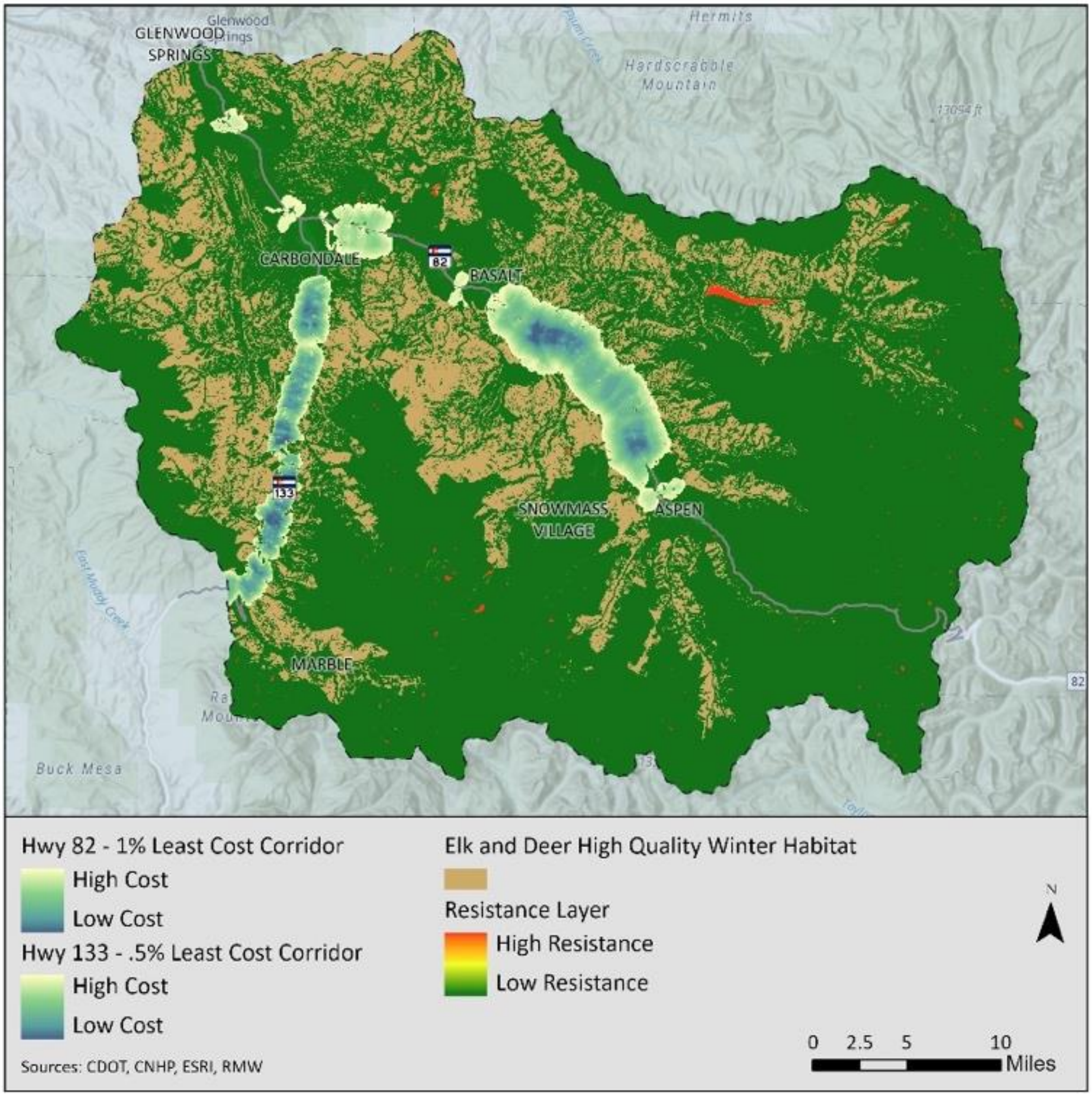


Figure 2. Least Cost Corridors across Highways 82 and 133 between high quality deer and elk habitat.

2. Western Slope Prioritization Study

The Western Slope Wildlife Prioritization Study (WSWPS) scored highway segments (analysis units) based on wildlife and safety criteria. Analysis units that ranked in the 95th percentile were combined into longer high priority segments to identify the top priorities within each CDOT region. For the Roaring Fork Safe Passages Prioritization Study, the WSWPS prioritization dataset was clipped to the watershed boundary and the regional percentile ranks were used to score the dataset at the watershed scale.

3. Elk and Mule Deer Migration Corridors

The final input data layer was mapped mule deer and elk migration corridors (CPW 2022). Any analysis units that intersected with a mapped migration polygon was marked with a '1', and all those that didn't were marked as '0'.

Scoring the Datasets

Each dataset had to be scored using a normalized scale in order to combine them for the primary prioritization. We first created a half-mile buffer layer around the highways matching the analysis units from the WSWPS. The Least Cost Corridor data layers were clipped and unioned to the buffered analysis units with the corresponding least cost corridor values assigned to each analysis unit. We then calculated the mean least cost corridor value for each analysis unit using the dissolve tool. From there, the attribute table was exported into Excel in order to calculate percentile ranks for each analysis unit. These data were then brought back into ArcGIS Pro for the final scoring. For the Least Cost Corridor data, lower percentile ranks received a higher score because the lower number indicates less resistance (ie, more permeable) for an animal traveling across the landscape (Table 1). Figure 3 displays the final Least Cost Corridor scores by analysis unit.

Table 1. Scoring of Least Cost Corridor analysis units in the Watershed.

Least Cost Corridor Percentile	Score
> 0 to < 20th percentile	5
≥ 20th to < 40th percentile	4
≥ 40th to < 60th percentile	3
≥ 60th to < 80th percentile	2
≥ 80th percentile	1
= 0	0

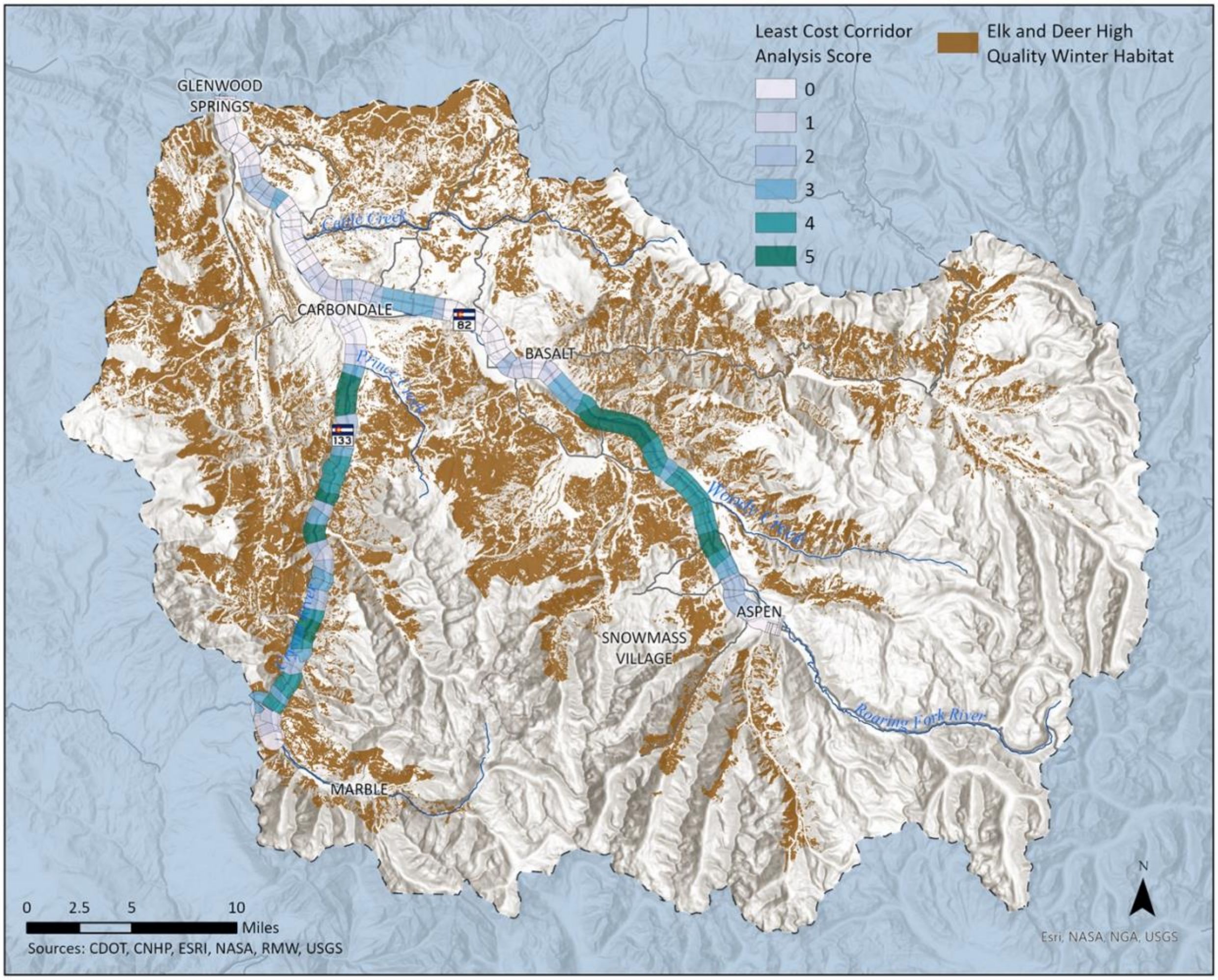


Figure 3. Least Cost Corridor scores by analysis unit.

Because the half-mile buffered analysis units derived from the WSWPS, no additional steps were needed to prepare the WSWPS input layer for final scoring. For the WSWPS, a higher percentile rank indicates a higher priority. Scores were assigned to each analysis unit based on percentile rank as described in Table 2. Analysis units ranking less than the 50th percentile were assigned a score of zero to filter out the lowest priority segments. Figure 4 displays the final scores by analysis unit for the WSWPS input layer.

Table 2. Scoring of WSWPS analysis units within the Watershed.

Watershed Percentile Rank	Score
<50th percentile	0
≥ 50th to < 60th percentile	1
≥ 60th to < 70th percentile	2
≥ 70th to < 80th percentile	3
≥ 80th to < 90th percentile	4
≥ 90th percentile	5

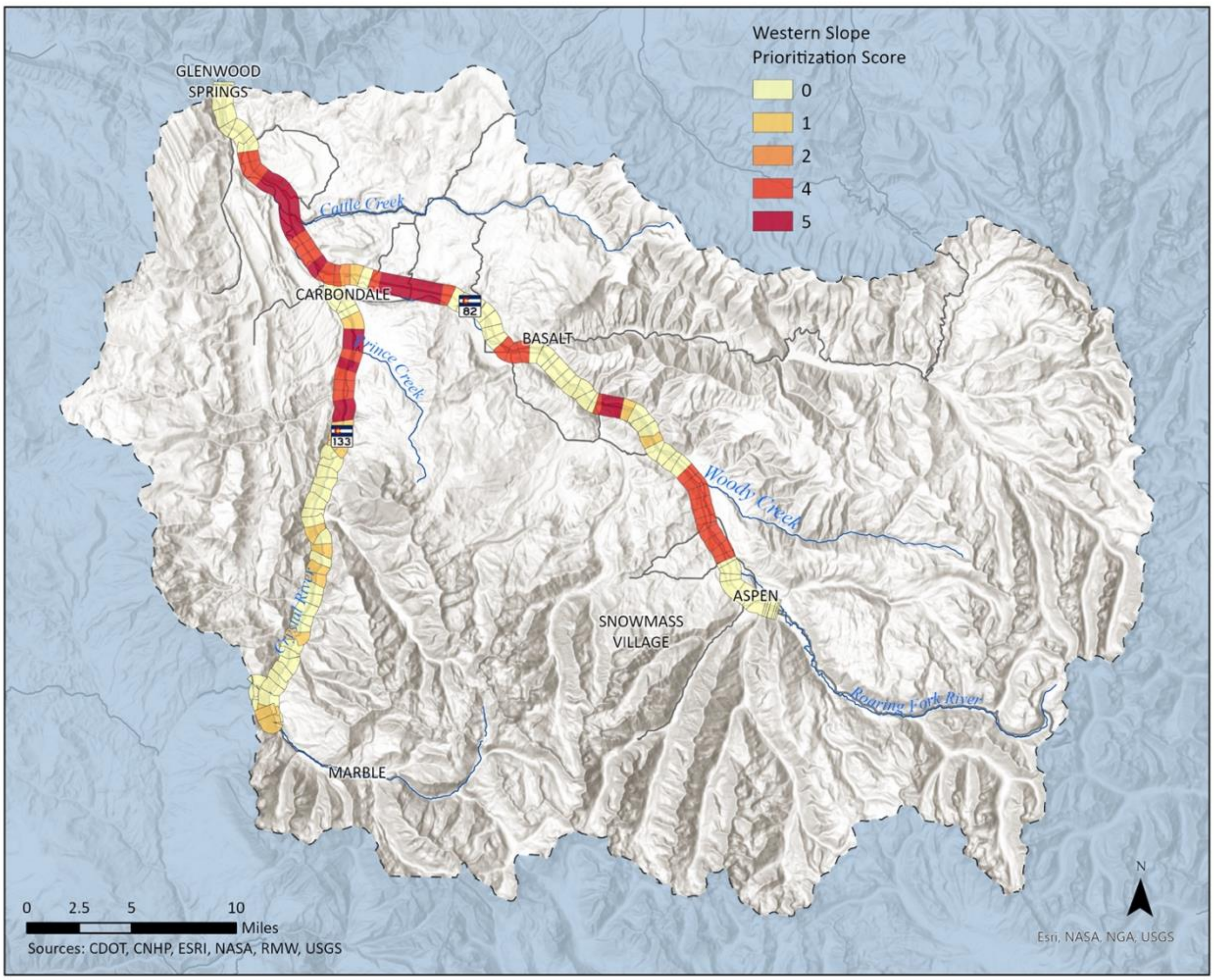


Figure 4. WSWPS scores by analysis unit.

For the elk and mule deer migration corridors, each analysis unit that intersected with the mapped corridors and was marked as '1' was given a score of 5. The highest possible score was 5 regardless of whether the analysis unit intersected with both mule deer and elk migration corridors. All other analysis units received a score of zero.

The final prioritization layer was calculated for each analysis unit as the sum of the three input scores. Final scores ranged from 0 to 14. Highway crossing zones were defined by the highest priority analysis units on each of the two highways. Adjacent high priority analysis units were combined into priority segments (Fig. 5). The priority segments on Highway 82 were determined to be those with a score equal to or higher than '6' while the priority segments on Highway 133 were determined to be those with a score equal to or higher than '8'.

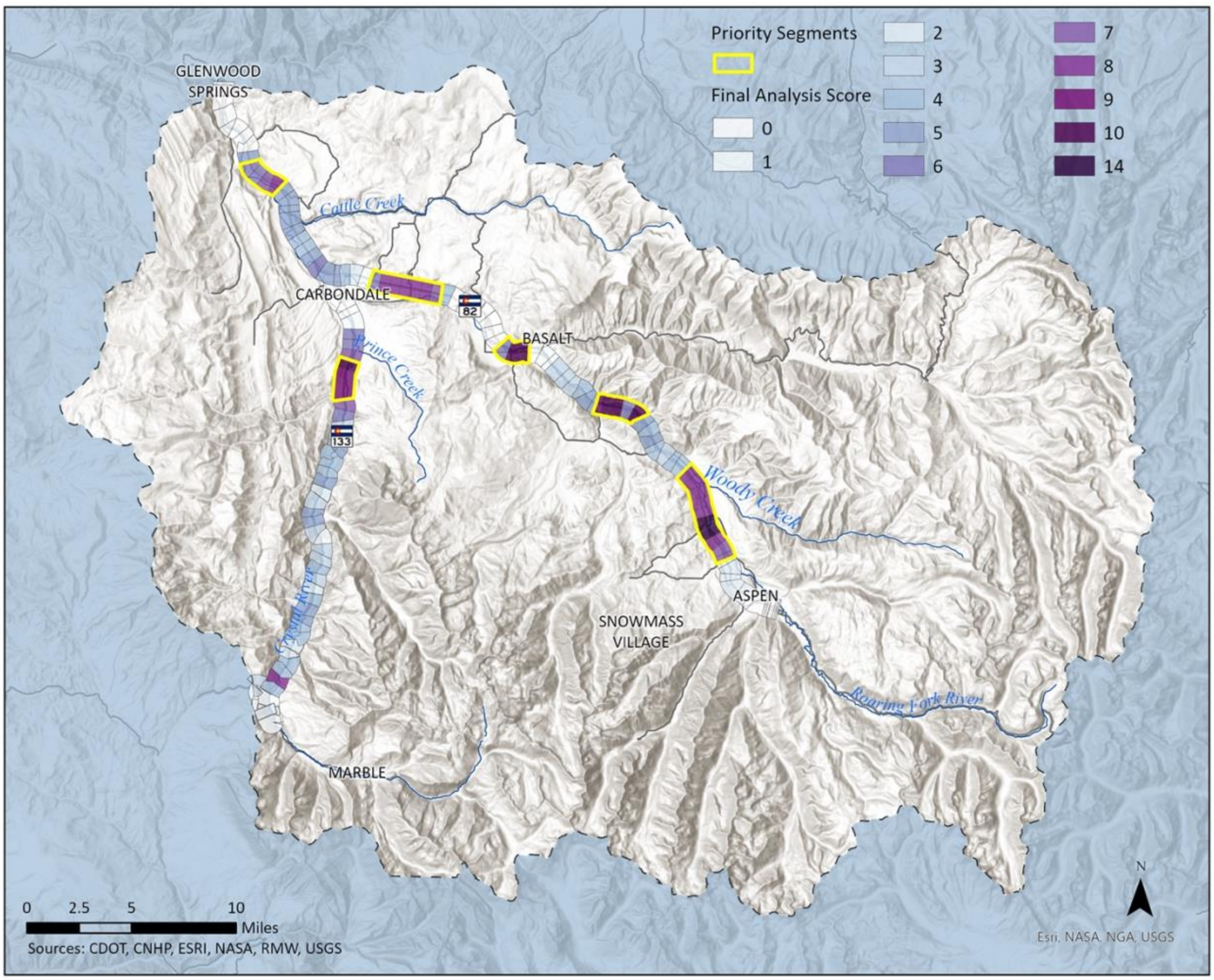


Figure 5. Final prioritization scores by analysis unit and priority segments (outlined in yellow).

Secondary Prioritization Considerations

Restoring wildlife corridors and reducing wildlife-vehicle conflict was the primary driver of the prioritization. However, other factors may also influence the likelihood of mitigation in each highway segment, including factors that affect the feasibility of mitigation. These secondary considerations were not scored as a part of the primary prioritization process but, instead, included as part of the decision-support framework for determining which of the prioritized highway segments offer the greatest opportunity for implementing wildlife crossing systems or other types of mitigation strategies. Secondary prioritization considerations include:

- The security of adjacent lands, specifically the presence of lands managed by a public agency or private conservation lands or easements within a priority segment. Percent Secured Lands was calculated as a percentage of the total area of the priority segment.
- The feasibility and constructability of wildlife crossing structures and associated fencing was based on a preliminary assessment of the roadway situation relative to the surrounding terrain and land uses. Wildlife Crossings Feasibility may also depend on opportunities for additional land protection and/or landowner support. This high-level evaluation of feasibility is subjective relative to conditions and available information at a given point in time and may be re-evaluated and revised.
- Alignment with upcoming transportation improvements identified in CDOT's short-term Statewide Transportation Improvement Program (STIP; CDOT 2023a) or 10-Year Plan Project Pipeline (CDOT 2022). Currently, none of the priority segments align with planned CDOT projects.
- Average WVCs crashes and collisions per mile per year (based on data from 2012-2021; CDOT 2023b) to provide a standardized comparison across highway segments.
- Opportunities to improve existing infrastructure, for example, by retrofitting existing bridges or culverts to function as wildlife crossings or by making improvements to existing wildlife fencing.
- Urgency or threat to wildlife habitat and movement (e.g., from increasing traffic; residential, commercial, or industrial development; recreation activity).

These secondary prioritization considerations may be used to highlight opportunities, partnerships or alignment with other efforts, or challenges to implementing wildlife crossing systems or other mitigation strategies. For the purposes of this prioritization study, a high-level review of the secondary prioritization considerations was used to categorize the identified priority segments as Tier 1 or Tier 2 priorities. Tier 1 priorities indicate areas where wildlife crossing systems may be feasible, based on terrain and existing or potential land security. Tier 2 priorities are areas where other types of mitigation strategies are most feasible, such as improving or extending existing wildlife fencing; removing or replacing barriers along the highway; roadside vegetation management; or other strategies.

Results

The prioritization process identified six wildlife corridors and highway crossing zones, which are described below. Figure 6 displays the three Tier 1 priorities and three Tier 2 priority areas. Table 3 provides a summary of the primary prioritization scores and secondary considerations for each Tier 1 & Tier 2 priority highway segment.

These six segments represent the best opportunities in the watershed for reducing wildlife-vehicle conflict and lessening the impacts of highway infrastructure and traffic on wildlife movements and mortality. Although other sections of these two highways also see wildlife-vehicle conflict and the entire reach of both highways contribute to habitat fragmentation, a prioritization process such as this creates cutoffs to focus mitigation and coordinated land protection efforts in the areas with the greatest opportunity and need. Notably, all six of these prioritized wildlife corridors and highway crossing zones have been identified as areas with high driver safety concerns due to wildlife-vehicle collisions by CDOT.

The Roaring Fork Valley is within the first gray wolf reintroduction area (CPW 2023). Regardless of the specific release locations, over time, wolves are likely to disperse into areas with a suitable prey base, including the Roaring Fork Valley. The presence of wolves will encourage more movement among ungulate populations, which may result in increased WVC conflict where these movements cross roads, emphasizing the need for connectivity and safe passages.

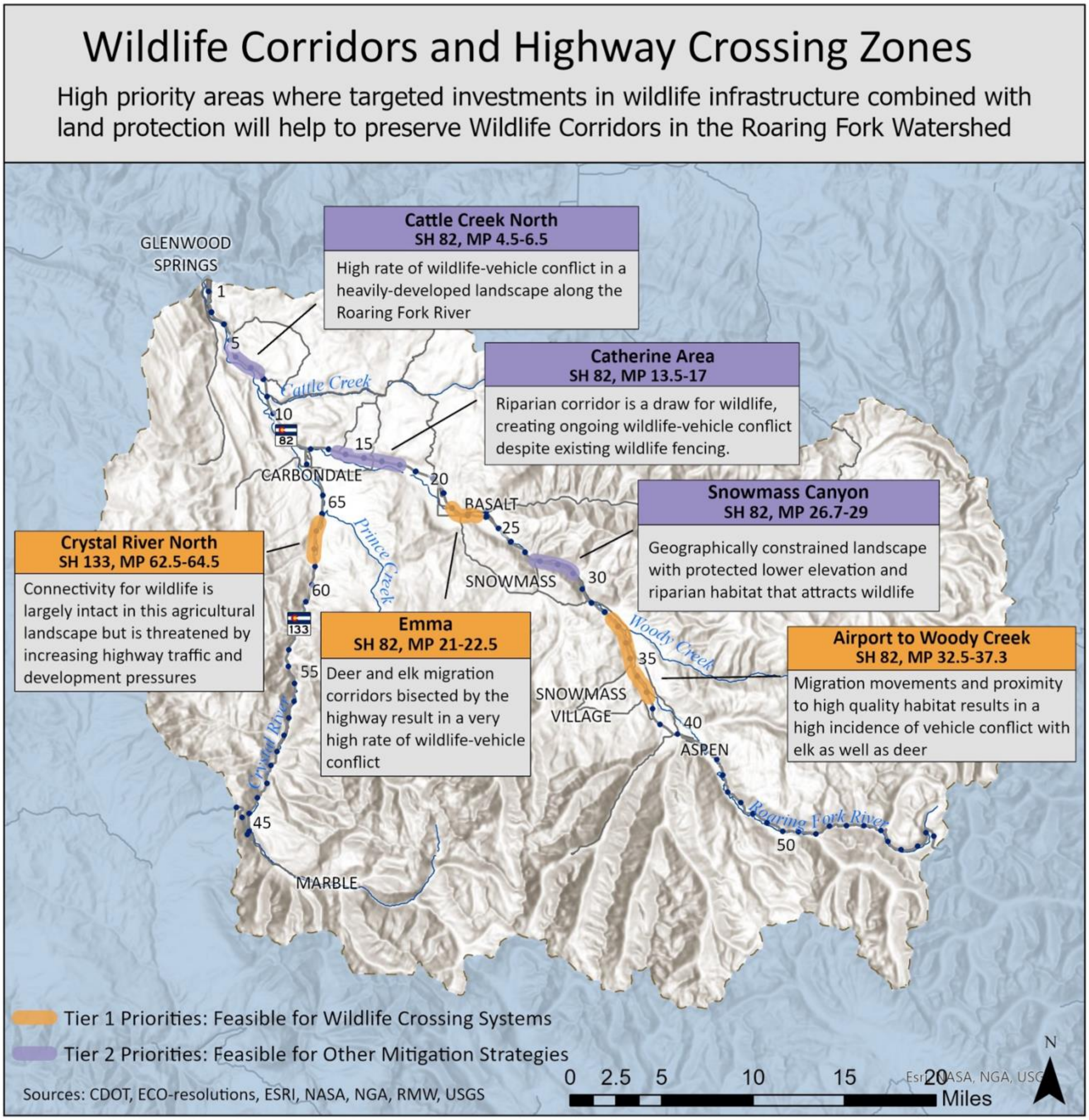


Figure 6. Tier 1 and Tier 2 priority wildlife corridors and highway crossing zones in the Roaring Fork Watershed.

Table 3. Primary prioritization scores and secondary considerations for each Tier 1 & Tier 2 priority highway segment. Within each Tier, highway segments are listed in milepost order.

		PRIMARY PRIORITIZATION				SECONDARY CONSIDERATIONS				
		Least Cost Corridor Score	Western Slope Study Score	CPW Migration Corridor	Total Prioritization Score†	Percent Secured Land ‡	Wildlife Crossings Feasibility§	WVC/ Mile/ Year	Improve Existing Infrastructure	Threat Urgency††
TIER 1 PRIORITIES	Hwy 82 – Emma	1	4	Deer & Elk	9	61%	High	6.1	Yes	Medium
	Hwy 82 – Airport to Woody Creek	4	4	Elk	9	31%	Moderate	5.2	Yes	Medium
	Hwy 133 – Crystal River North*	5	4	no	9	66%	Moderate	0.9	No	Medium
TIER 2 PRIORITIES	Hwy 82 – North Cattle Creek	2	5	no	7	14%	Low	5.7	No	High
	Hwy 82 – Catherine	3	5	no	8	10%	Low	3.3	Yes	High
	Hwy 82 – Snowmass	5	3	Deer	9	60%	Low	2.6	Yes	Medium-Low

*Prioritization scores for Hwy 133 not directly comparable to Hwy 82 because separates analyses conducted for each highway
†Average score across the analysis units that comprise each segment. Maximum possible score is 15
‡Percent public and private conservation lands within a half-mile buffer
§Preliminary assessment. Feasibility may depend on opportunities for land protection and/or landowner support
††High-level assessment of relative threat urgency to target species movements. For descriptions of threat types within each area refer to the priority highway segment descriptions.

Prioritized Highway Segments

Tier 1 Wildlife Corridors and Highway Crossing Zones

Tier 1 priorities are where wildlife crossing systems may be feasible, based on terrain and existing or potential land security.

Hwy 82, Emma (mp 21-22.5)

Figure 7. Aerial perspective of the Emma wildlife corridor. Credit: EcoFlight

The Emma wildlife corridor is situated between El Jebel and Basalt in a historically important wildlife corridors, where the Frying Pan drainage meets the Roaring Fork Valley (Fig. 7). This wildlife corridor is considered a pinch point between high quality habitat areas to the north and south of Hwy 82 (T. Cardamon, pers. comm.). Specifically, the wildlife corridor is constrained by high levels of residential and commercial development. Wildlife habitat quality is impacted by human activities and land uses. Still, herds of elk and mule deer continue to move across the highway through the adjacent fields to access protected, lower elevation winter range habitat. This segment was also identified as a priority in the Eagle County Safe Passage Plan (Kintsch and Singer 2017).

There are, on average, 6.1 wildlife-vehicle collisions per mile per year in the Emma segment – the highest rates of any of the segments. There is a medium-sized box culvert in this segment (mp 22.1) that provides limited passage for deer. Existing wildlife fencing is not continuous through the segment on both sides of the highway, which exacerbates wildlife-vehicle conflict when animals become trapped inside of the fenced highway right-of-way.

The Watershed Biodiversity Study identified areas with the highest or high conservation values as well as significant restoration opportunities within this wildlife corridor (Fig. 8). In some areas, these opportunities overlap with permanently protected lands, including County, City, State, Bureau of Land Management (BLM), and private conservation lands (Fig. 9).

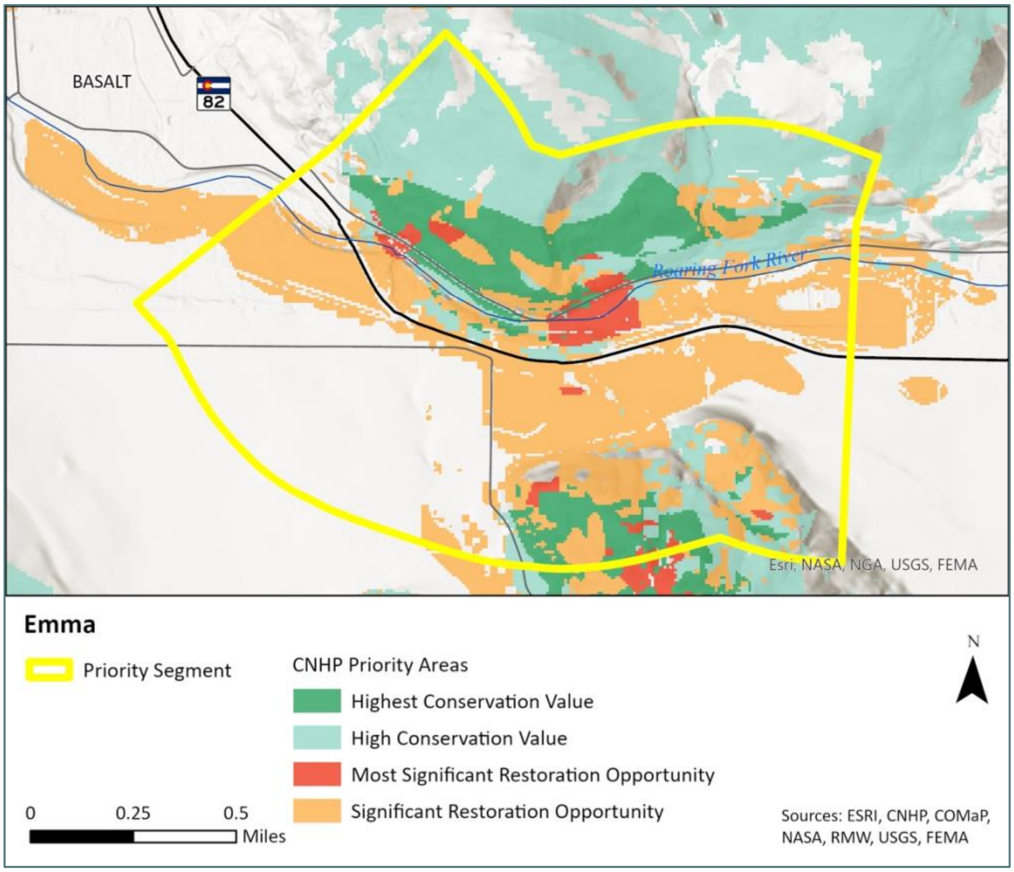


Figure 8. Identified Conservation Values and Restoration Opportunities in the Emma Wildlife Corridor and Highway Crossing Zone.

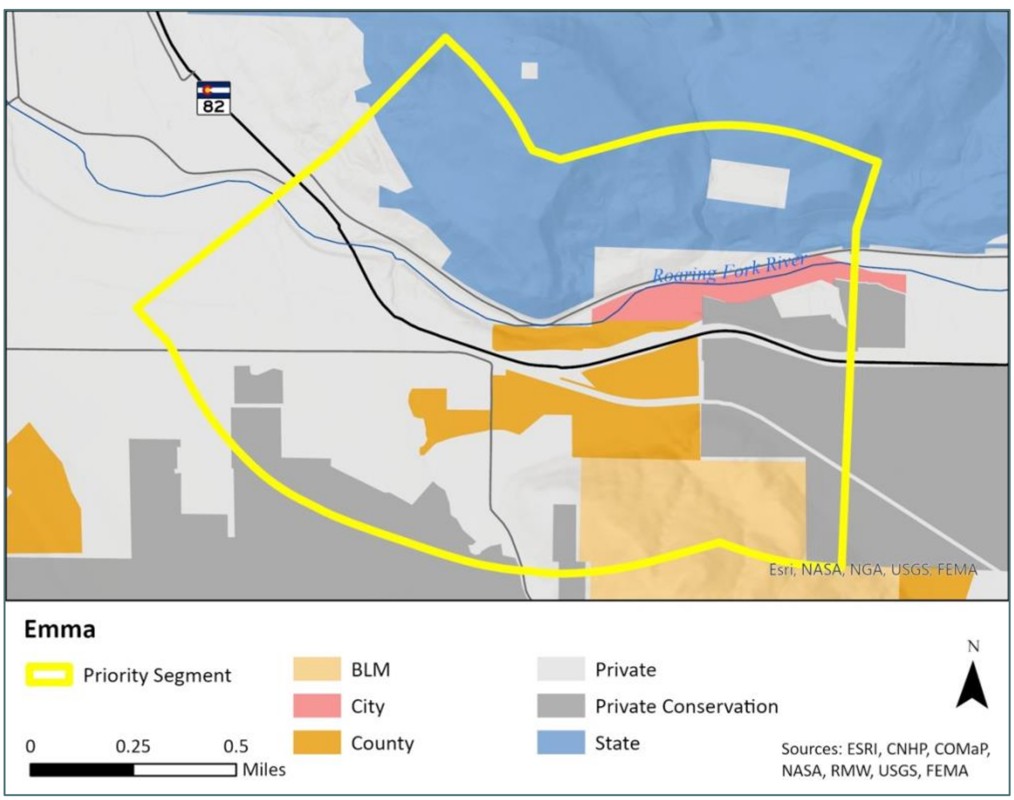


Figure 9. Protected and conserved lands in the Emma Wildlife Corridor and Highway Crossing Zone.

Hwy 82, Airport to Woody Creek (mp 32.5 -37.3)

The Airport to Wood Creek wildlife corridor extends from the Aspen Airport to the Pitkin County Landfill north of Woody Creek. This segment averages 5.2 wildlife-vehicle collisions per mile per year – including 95 reported collisions with elk over 10 years (2 collisions/mile/year).

Pitkin County Open Space and the City of Aspen have protected portions of this landscape adjacent to the highway and along the river corridor, although much of the greater landscape is in private ownership. South-facing slopes above the river corridor offer more accessible winter forage and early spring green-up. Both lower elevation agricultural lands along the river and the adjacent mesas and hillsides are under increasing pressure from residential development.

The far southern end of the segment has wildlife fencing on both sides of the highway, extending from the bridge at the south end of the bluffs (mp 35.8) and tying into the airport fencing at milepost 36.4. A wildlife crossing culvert (mp 36.2) built in 2000 offers a safe passage opportunity primarily for deer and carnivores, and wildlife-vehicle collisions are lower in this area than around Brush Creek Road and farther north (Fig. 10).

The Watershed Biodiversity Study identified significant restoration opportunities throughout much of this wildlife corridor (Fig. 11), although expanding residential development may limit these opportunities without additional habitat protections. There are both County and City protected lands along the highway and the Roaring Fork River (Fig. 12).

Figure 10. Elk tracks in the snow at the intersection of Hwy 82 and Brush Creek Road. Credit: EcoFlight.

Figure 11. Identified Conservation Values and Restoration Opportunities in the Airport to Woody Creek Wildlife Corridor and Highway Crossing Zone.

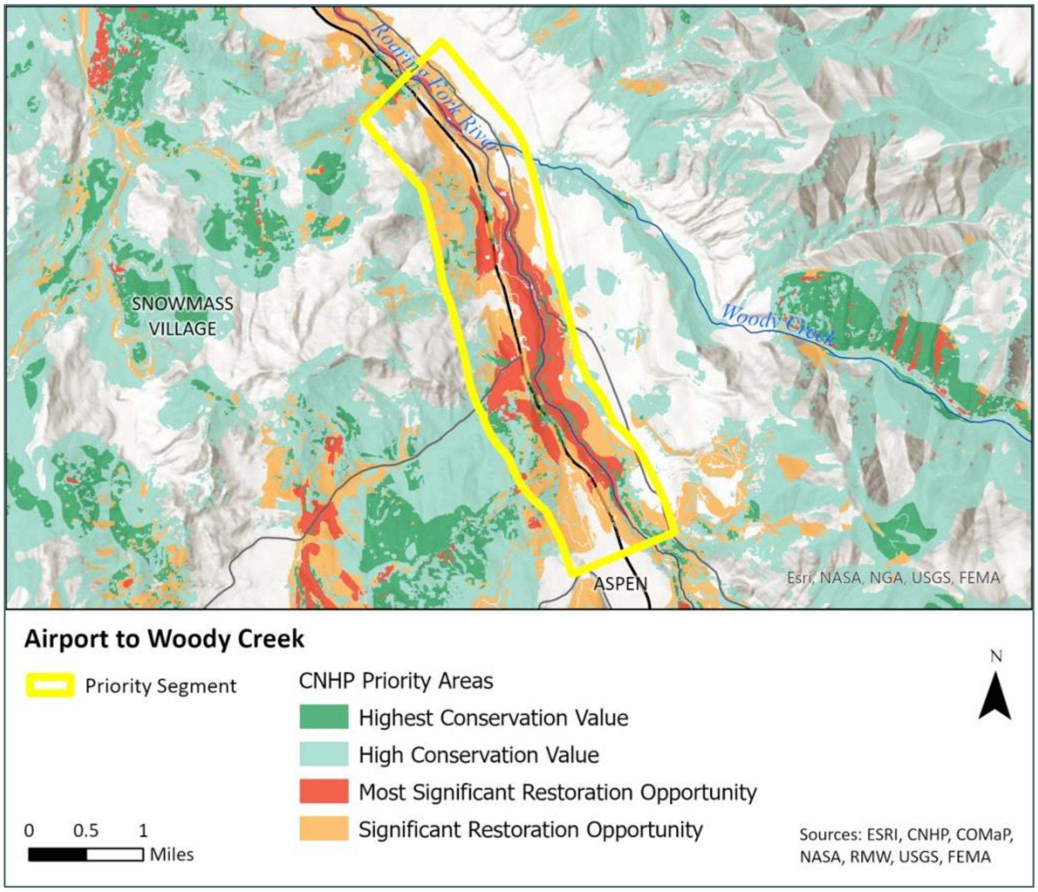
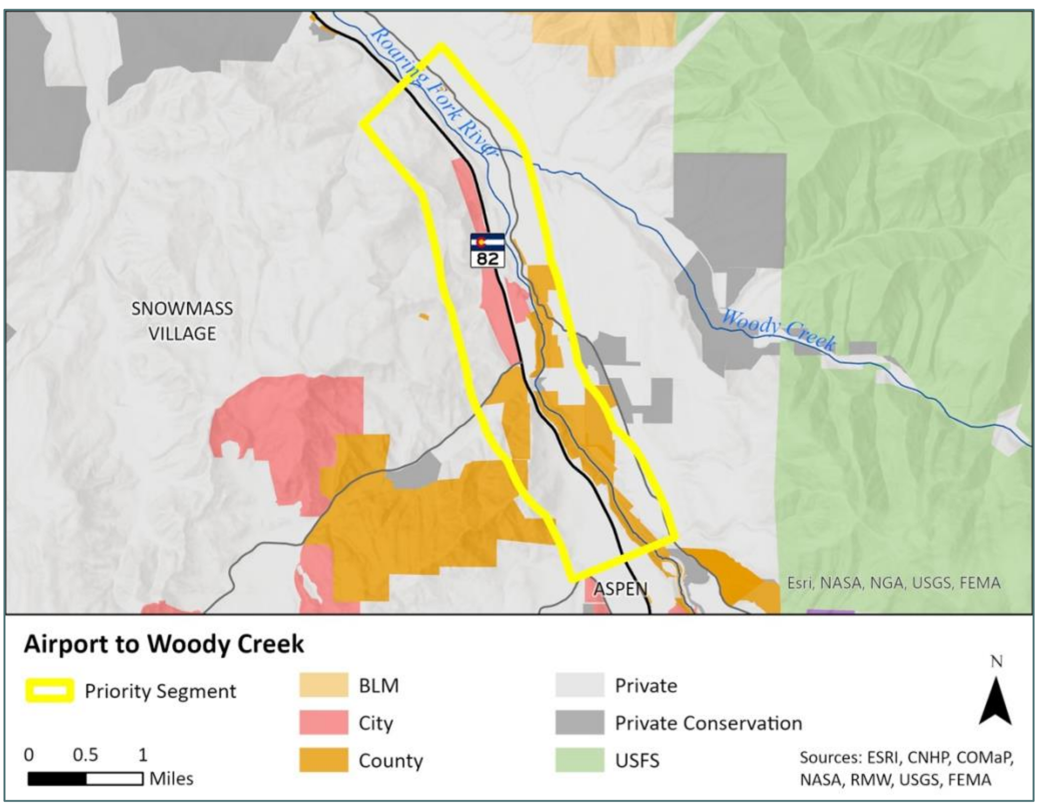


Figure 12. Protected and conserved lands in the Airport to Woody Creek Wildlife Corridor and Highway Crossing Zone.



Hwy 133, Crystal River North (mp 62-64.5)

This wildlife corridor extends through the lower elevation agricultural landscape along the Crystal River south of Carbondale. Under current conditions, wildlife continues to be able to cross the highway and wildlife-vehicle conflict is low (0.9 wildlife-vehicle collisions per mile per year). However, with increasing traffic volumes and development pressures, wildlife movements are expected to become more constrained and cross-highway movements riskier, likely resulting in increased wildlife-vehicle conflict. The Watershed Biodiversity Study identified significant restoration opportunities within this wildlife corridor (Fig. 13).

Pitkin County has protected lands between the Crystal River and Highway 133 through a portion of the corridor with BLM lands further west (Fig. 14). Large, private ranches – including some with conservation easements – comprise much of this area and provide important wildlife habitat. Coordination with landowners is an essential component of any strategy for ensuring the long-term connectivity and habitat values of this landscape.

Figure 13. Identified Conservation Values and Restoration Opportunities in the Crystal River North Wildlife Corridor and Highway Crossing Zone.

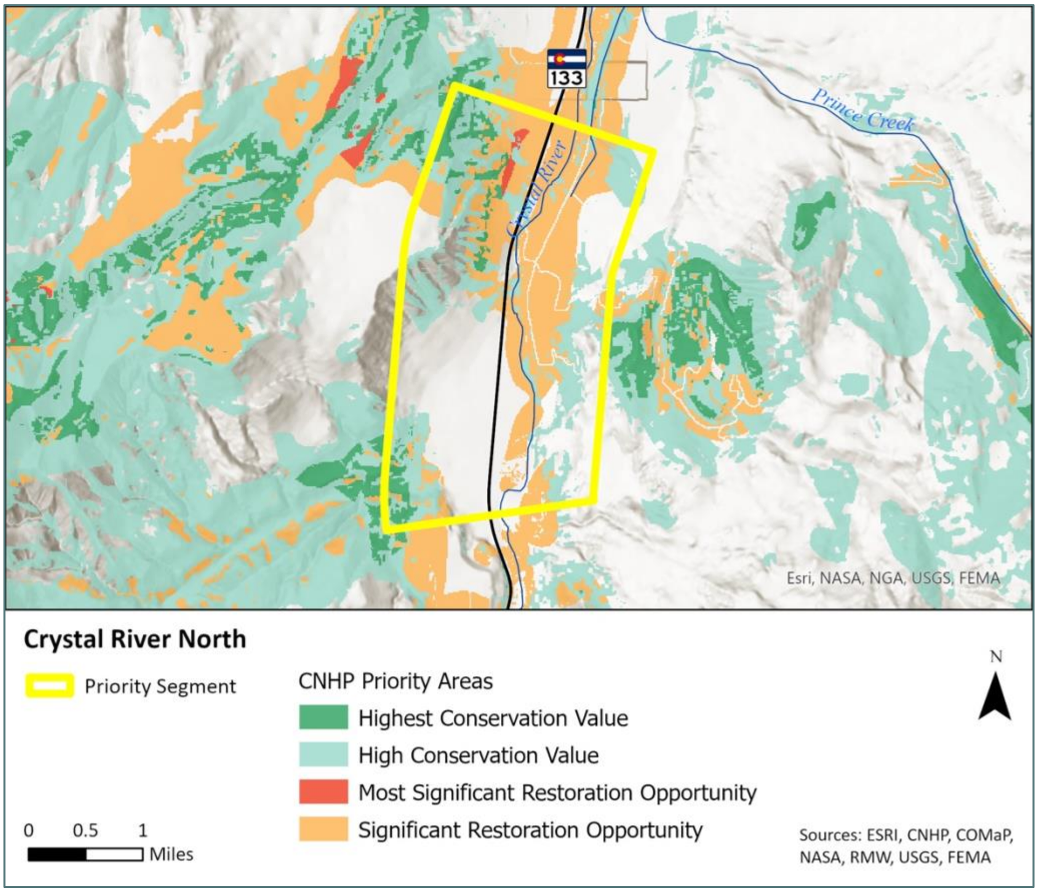
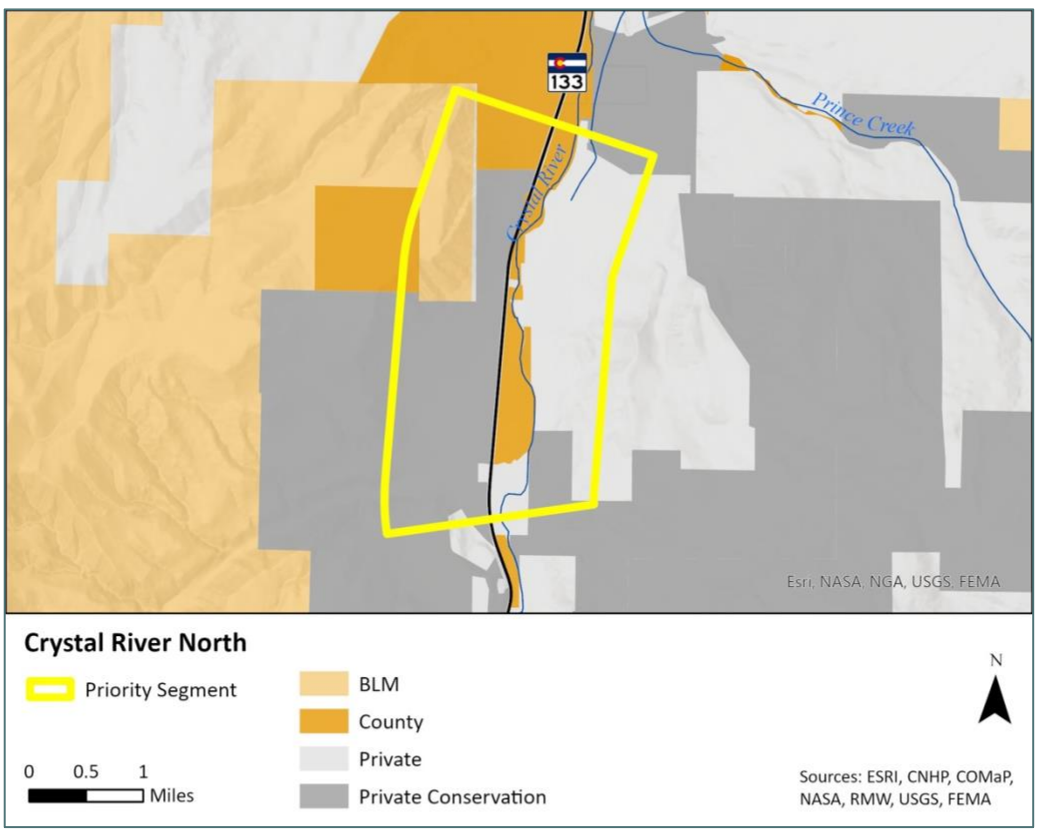


Figure 14. Protected and conserved lands in the Crystal River North Wildlife Corridor and Highway Crossing Zone.



Tier 2 Wildlife Corridors and Highway Crossing Zones

Tier 2 priorities are areas where other types of mitigation strategies are most feasible, such as improving or extending existing wildlife fencing; removing or replacing barriers along the highway with more wildlife perm; roadside vegetation management; or other strategies.

Hwy 82, Cattle Creek North (mp 4.5-6.5)

The Cattle Creek North wildlife corridor south of Glenwood Springs is sandwiched between the steep slopes coming off the mesa to the north and the Roaring Fork River to the south. Many of the lands along this stretch of the Roaring Fork River are developed. Yet wildlife continues to attempt accessing the remaining undeveloped areas along the riparian corridor. This segment averages 5.7 wildlife-vehicle collisions per mile per year – the second highest rate among the priority segments.

The Watershed Biodiversity Study identified significant restoration opportunities within this wildlife corridor (Fig. 15). However, the high threat of additional development may limit potential restoration opportunities. Almost all of this wildlife corridor is in private ownership (Fig. 16). The small Roaring Fork State Wildlife Area (West Bank Lease) has a boat ramp and provides public access to the river.

Figure 15. Identified Conservation Values and Restoration Opportunities in the Cattle Creek North Wildlife Corridor and Highway Crossing Zone.

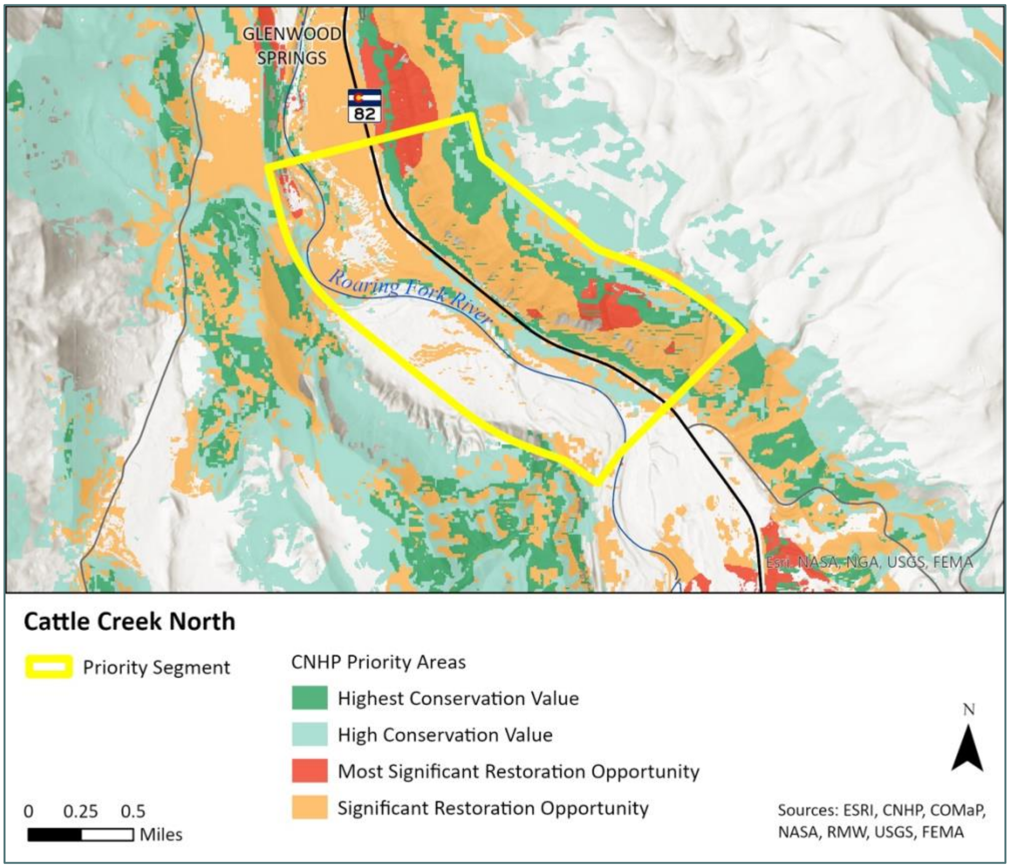
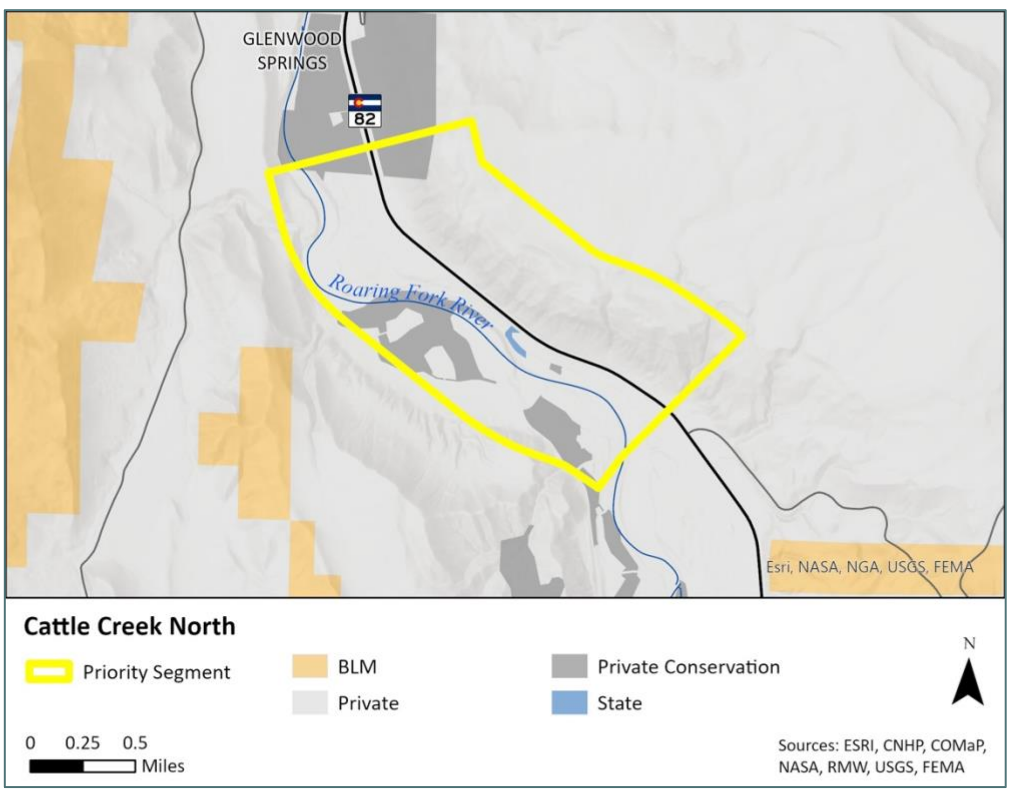


Figure 16. Protected and conserved lands in the Cattle Creek North Wildlife Corridor and Highway Crossing Zone.



Hwy 82, Catherine Area (mp 13.5-17)

This stretch of Highway 82 between Carbondale and El Jebel runs along the north side of the Roaring Fork River and associated floodplain. The landscape in this wildlife corridor is characterized by the Roaring Fork River and associate wetland complexes, agricultural lands, pinyon-juniper habitat along the hills north of the highway. The Watershed Biodiversity Study identifies much of this wildlife corridor as having most significant restoration opportunities (Fig. 17). However, most of the wildlife corridor is in private ownership and under increasing pressure from residential development, particularly on the north side of the highway (Fig. 18).

Despite the presence of wildlife fencing on both sides of the highway throughout this segment, wildlife-vehicle collisions continue to occur at a rate of 3.3 per mile per year. Observers note that the existing wildlife fence is in poor condition and many collisions with wildlife occur in areas where there are gaps in the fence.

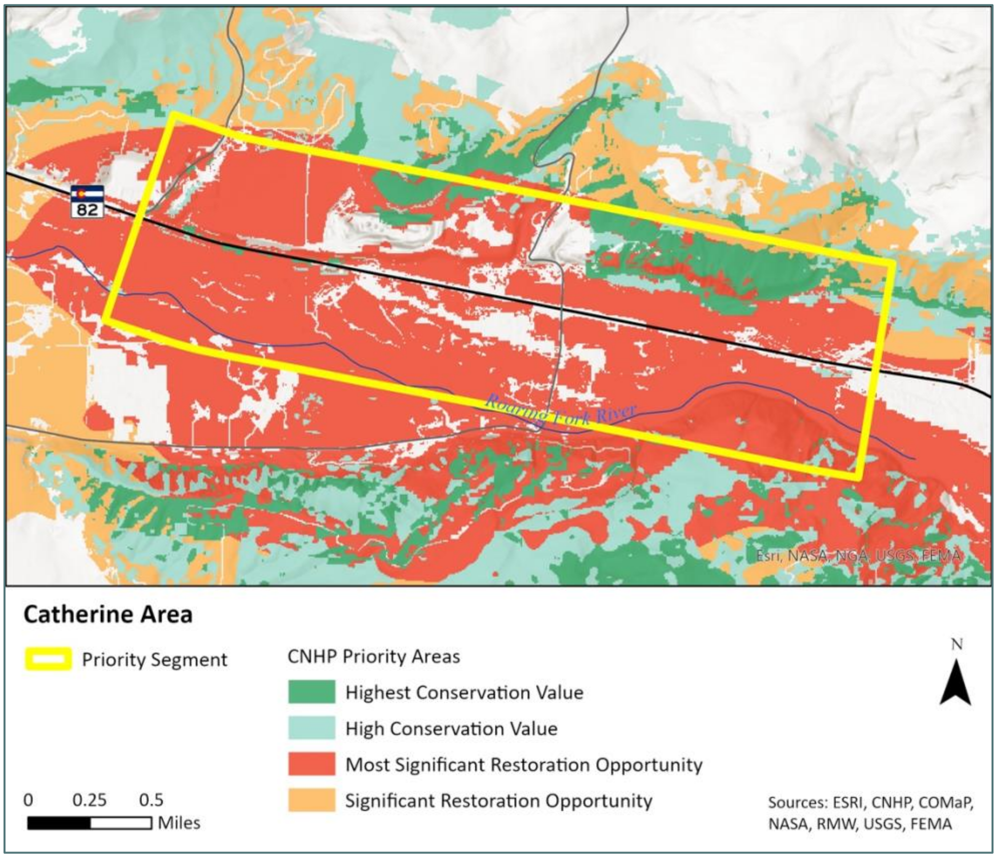


Figure 17. Identified Conservation Values and Restoration Opportunities in the Catherine Area Wildlife Corridor and Highway Crossing Zone.

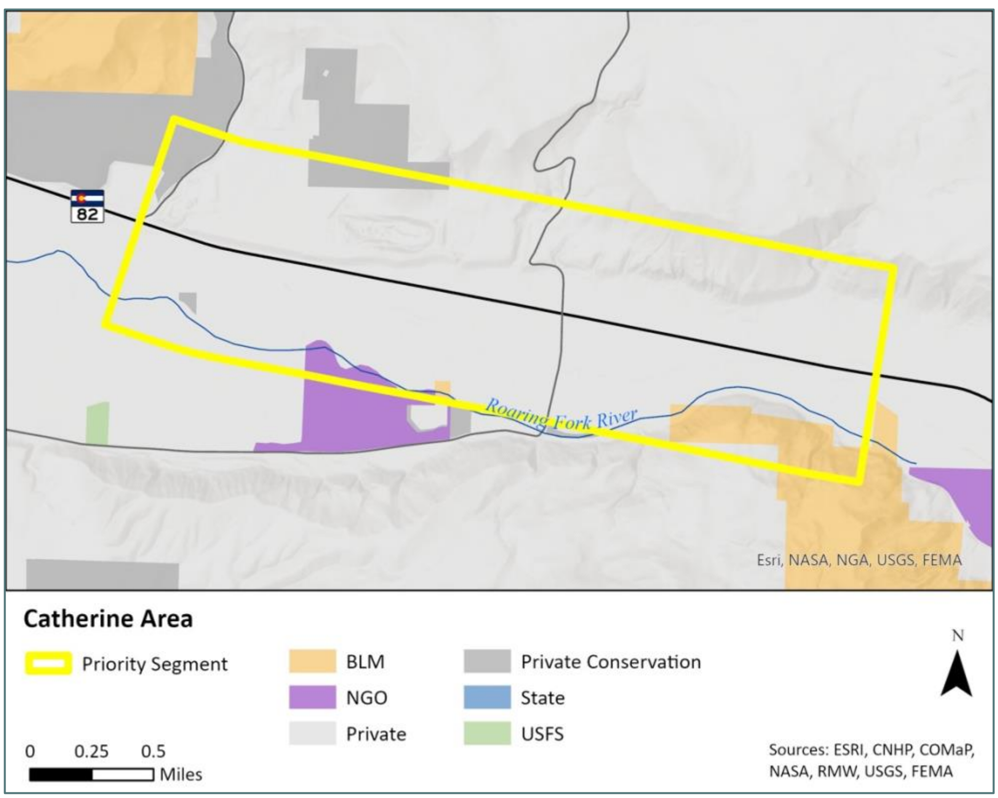


Figure 18. Protected and conserved lands in the Catherine Area Wildlife Corridor and Highway Crossing Zone.

Hwy 82, Snowmass Canyon (mp 26.7-29)

The Snowmass Canyon wildlife corridor extends from Snowmass Creek Road (mp 26.7) south into Snowmass Canyon. Highway 82 through this segment has grade-separated eastbound and westbound lanes hugging the south side of the canyon (Fig. 19). While wildlife fencing is present through much of this segment – including paired bridges suitable for wildlife passage at milepost 28.5 – wildlife-vehicle collisions continue to occur at a rate of 2.6 reported collisions per mile per year, indicating that wildlife is still able to access the highway through gaps in the fencing or at the fence ends.

The Watershed Biodiversity Study identified areas with the highest or high conservation values as well as significant restoration opportunities within this wildlife corridor (Fig. 20). Over half of the landscape within and around this wildlife corridor is protected (Fig. 21). Steep terrain and the river running immediately adjacent to the highway limit the opportunity to construct safe passages for wildlife.

Figure 19. Highway 82 through the Snowmass Canyon wildlife corridor.

Figure 20. Identified Conservation Values and Restoration Opportunities in the Snowmass Canyon Wildlife Corridor and Highway Crossing Zone.

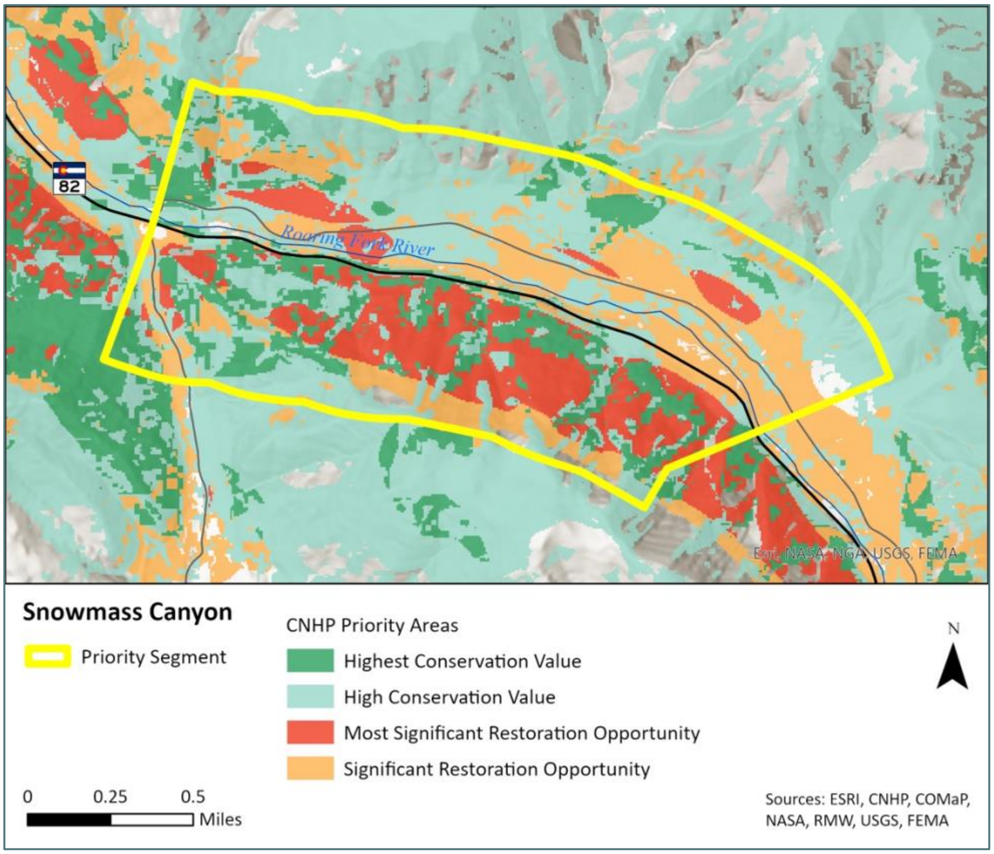
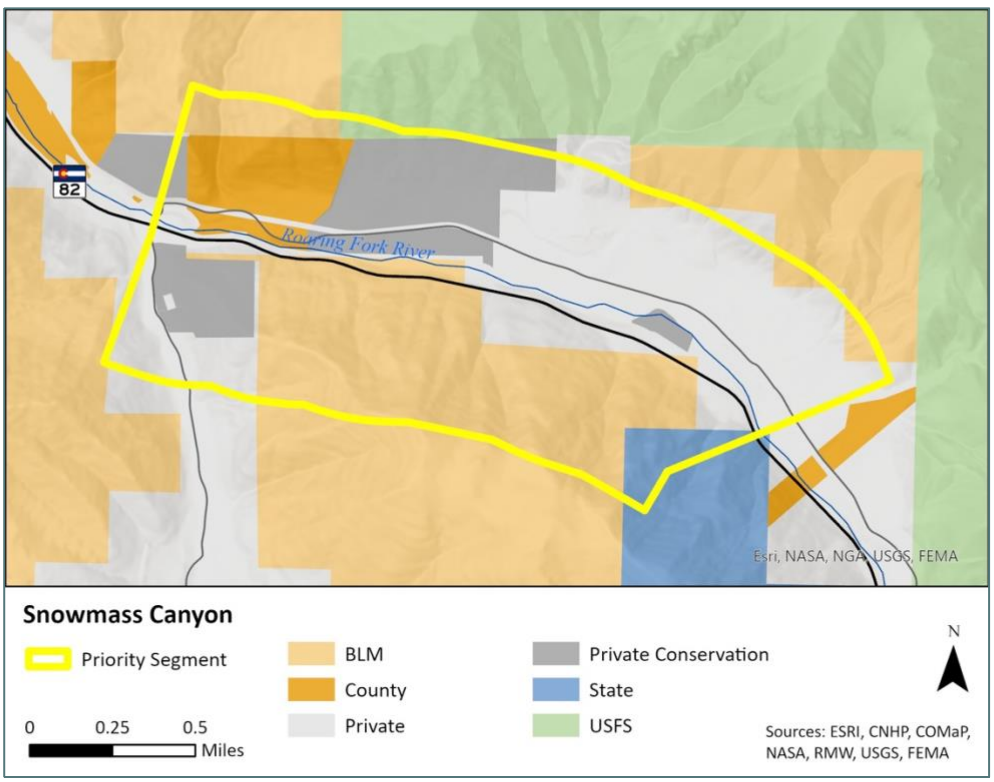


Figure 21. Protected and conserved lands in the Snowmass Canyon Wildlife Corridor and Highway Crossing Zone.



Next Steps

The next phase of this work will focus on developing and evaluating alternative strategies for improving safe passages for wildlife and reducing wildlife-vehicle conflict within these sections of roadway; weighing the benefits and costs of the different options; and making recommendations for highway mitigation and associated conservation actions. Wildlife crossing structures combined with wildlife diversion fencing are known to be an effective mitigation strategy, resulting in 80-90% reductions of collisions with wildlife while allowing deer, elk, and other species to move safely under or over a roadway (e.g., Huijser et al. 2016; Kintsch et al. 2021; Sawyer et al. 2012). Where wildlife crossings are not feasible due to terrain constraints, cost, land use and land management considerations, other types of mitigation strategies may be warranted, alone, or in combination. The development of mitigation strategies for prioritized highway segments will include a complete evaluation of the range of wildlife-highway mitigation options.

Compatible land use and land management to maintain or restore high quality wildlife habitat is integral to the long-term success of wildlife crossings system in providing same passages and reducing conflict. Accordingly, the next phases of this work will also seek to work in tandem with partners to pursue additional habitat protections and compatible land use or management within wildlife corridors. The Watershed Biodiversity and Connectivity Study highlighted the value of private lands for elk and mule deer habitat, as well as the vulnerability of these lands to habitat loss. The study noted that even small patches of high-quality habitat benefit wildlife's ability to move through the landscape; creating safe passages for wildlife across highways would increase the value of these habitats (Rondeau et al. 2022). Combined, the Watershed Biodiversity and Connectivity Study and this Safe Passages Prioritization Study offer a roadmap for improving landscape connectivity and wildlife's access high quality habitat and forage. Specifically, we recommend that the results of the prioritization study be used in conjunction with the Conservation and Restoration Priorities Map produced by the Biodiversity Study to align conservation and restoration actions with strategic investments in wildlife-highway mitigation. Partnership and collaboration with private landowners, open space departments, land trusts, and other public land managers will be essential to realizing wildlife conservation, habitat restoration, and connectivity goals in this landscape.

Acknowledgements

The Roaring Fork Safe Passages Prioritization Study was the result of a collaborative partnership between Roaring Fork Safe Passages, Pitkin County Open Space, the City of Aspen Parks and Open Space, an EcoFlight. Other contributing stakeholders included Colorado Parks and Wildlife, the Colorado Department of Transportation, the Watershed Biodiversity Initiative, Wilderness Workshop, and Aspen Valley Land Trust. Funding for this study was provided by Aspen Ski Company Environment Foundation, City of Aspen Parks and Open Space, the Alpenglow Foundation, the McBride Foundation and many others.

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Appendix A: Participating Stakeholders

Name	Affiliation
Tom Cardamon	Roaring Fork Watershed Biodiversity Initiative
Taylor Elm	Colorado Parks and Wildlife
Patrick King	Roaring Fork Safe Passages
Andrew Knapp	Pitkin County
Matt Kuhn	City of Aspen
Cinnamon-Levi Flinn	Colorado Department of Transportation
Julie Mao	Colorado Parks and Wildlife
Rebecca Mirsky	Roaring Fork Safe Passages
Liza Mitchell	Pitkin County Open Space and Trails
Brian Pettet	Pitkin County
Nathaniel Rayl	Colorado Parks and Wildlife
Jonathan Rose	Aspen Valley Land Trust
Will Roush	Wilderness Workshop
Charles Simon	Roaring Fork Safe Passages
Suzanne Stephens	Aspen Valley Land Trust
Gary Tennenbaum	Pitkin County Open Space and Trails
Kurtis Tesch	Colorado Parks and Wildlife
Tucker Vest Burton	Roaring Fork Safe Passages
Matt Yamashita	Colorado Parks and Wildlife

Appendix B: Primary Prioritization Geospatial Analysis Methods

Prioritization Methods

This prioritization process builds off two recently completed reports, the Roaring Fork Watershed Biodiversity and Connectivity Study (Rondeau et al 2022) and the Western Slope Wildlife Prioritization Study (Kintsch et al 2019). Data from both of these studies were used throughout this prioritization process as outlined below. In order to prioritize highway segments along Highway 82 and 133 in the Roaring Fork Valley, we used data from the Biodiversity and Connectivity Study to perform a least cost corridor analysis, which was used to determine where wildlife will have the easiest time (or incur the least cost) traveling across the landscape. To further the analysis, we used the Prioritization Results dataset from the Western Slope Wildlife Prioritization Study as well as Colorado Parks and Wildlife Species Activity Mapping data for mule deer and elk migration corridors. We considered using protected or secured lands as a third dataset in the prioritization but based on feedback from the Roaring Fork Safe Passages stakeholder group, decided this dataset would be better used as a secondary criterion at a later stage. The following outlines the prioritization process we followed using these datasets.

Prioritization Inputs

1. *Least Cost Corridor Analysis*

For the least cost corridor analysis, we competed the following three steps: 1) create a resistance layer, 2) determine the areas we wanted to connect across the highway corridor and 3) run a least cost corridor analysis using the products from 1 and 2.

To create the resistance layer, we began with the modeled landscape permeability layer from the Roaring Fork Watershed Biodiversity and Connectivity Study. To develop this layer, CNHP compiled and scored layers for land cover types, roads and trails, fences, topography, and oil and gas layers for elk, mule deer, and bighorn sheep (Rondeau et al 2022). Based on feedback from the team who created the permeability layer, we first filled in any gaps in permeability layer using pixel editor to ensure all values along the highways were 3 (the value highways were given by the original data creators).

Once all the gaps were filled, we then converted this permeability layer into a resistance layer using the formula “cost = (perm / 10) ** -3”. This was done using the Raster Calculator tool in ArcGIS Pro (Fig. 1). The resistance layer was then clipped to the watershed boundary.

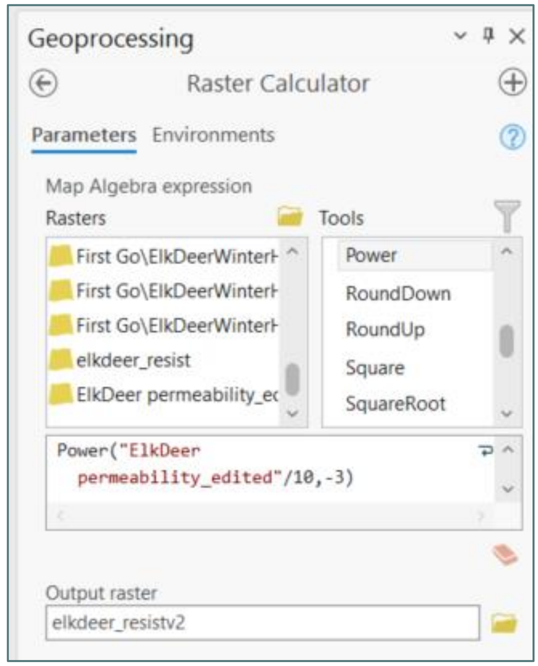


Figure 1. Converting permeability to resistance using the Raster Calculator

To determine the areas we wanted to connect across the highway corridor, we again used data from the Roaring Fork Watershed Biodiversity and Connectivity Study. This time, however, we used the ElkDeer Winter Habitat Quality raster dataset. This dataset includes values for low, medium, and high-quality winter elk and deer habitat, and we determined that using just the high quality would be best for this analysis. We used the ‘Extract by Attributes’ tool to export only the high value (Value = 2) winter habitat from the ElkDeer Winter Habitat Quality dataset. Once the high-quality data was exported, we created separate habitat areas north and south of Highway 82 and east and west of Highway 133 to use in the least cost corridor analysis. To do this, we created four polygons – one that encompasses north of Highway 82, one south of Highway 82, one west of Highway 133 and south of Highway 82, and one east of Highway 133 and south of Highway 82. This was done by buffering the highway and then using the ‘Reshape Feature’ tool to expand each polygon to the edge of the Roaring Fork Watershed boundary. These polygons were then used to clip (Data Management/Raster/Clip) the High Value Habitat raster dataset to each of the four polygons, resulting in separate habitat segments that could be used in the least cost corridor analysis as the areas we are trying to connect across each highway corridor. After running the least cost corridor analysis once, we determined that we needed to omit the high-quality winter habitat west of Aspen on Independence Pass from the analysis.

To perform the least cost corridor analysis, we used the Least Cost Corridor tool in ArcGIS Pro. With this tool we were able to determine the least cost corridor between each high-quality winter habitat area separated by either Highway 82 or Highway 133. The first step of this process is to use the ‘Distance Accumulation’ tool to create a ‘distance accumulation’ raster and a ‘back-direction’ raster for each separate habitat area. Each cell in the ‘distance accumulation’ raster contains the measured distance from that cell to the closest high-quality habitat cell and considers information from the cost surface or resistance layer. Similarly, each cell in the ‘back-direction’ raster contains the direction (in degrees) that is necessary to go when leaving a given cell in order to get back to the closest high-quality habitat cell. Again, the direction depicted incorporates the resistance layer by staying along the least cost path back to the closest and easiest to travel to high-quality habitat cell (Fig. 2).

Once a 'distance accumulation' raster and a 'back-direction' raster was created for each of the four habitat areas (west of 133/south of 82, east of 133/south of 82, north of 82 and south of 82), these raster layers were inputted into the 'Least Cost Corridor' tool. Each time we ran the 'Least Cost Corridor' tool, we inputted the 'distance accumulation' raster and the 'back-direction' raster for two areas we wanted to analyze the least cost corridor between (i.e. east and west of the Highway 133 corridor). In addition, we used the accumulative cost to set the threshold for the least cost corridor analysis. When an accumulative cost threshold is specified, all cells with accumulative cost equal to or less than the specified threshold will be selected to create the corridor. We set the threshold based on a percentage of the maximum accumulative cost for each highway. This was calculated by first running the least cost corridor analysis with no threshold and figuring out an appropriate percentage of the largest value to use for the threshold value. For Highway 82, the largest value was 778944 and we used a 1 percent threshold, or 7789 (778944 x .01 = 7789), for the accumulative cost threshold value. For Highway 133, the largest value was 875468 and we used a .5 percent threshold, or 4377 (875468 x .005 = 4377), for the accumulative cost threshold value (Fig. 3).

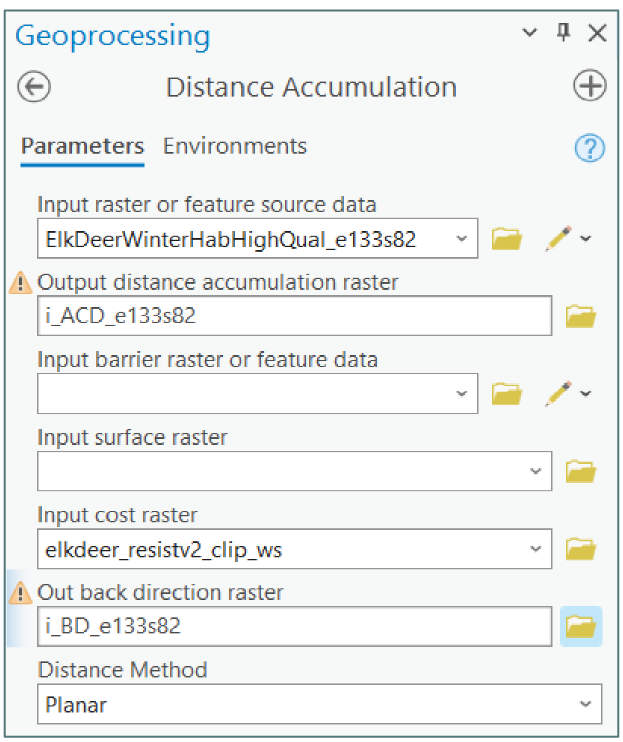


Figure 2. Distance Accumulation tool.

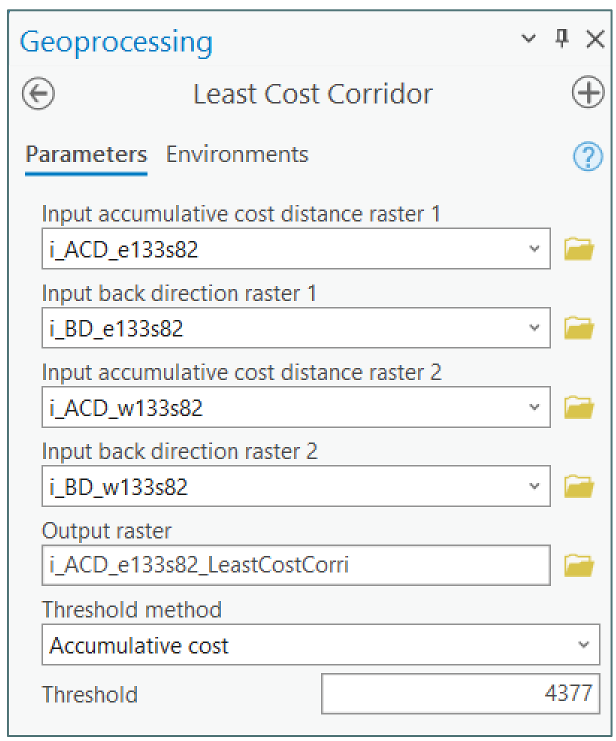


Figure 3. Least Cost Corridor tool.

2. Western Slope Wildlife Prioritization Study Data

To incorporate the Western Slope Wildlife Prioritization Study data, we first clipped the Prioritization Results polyline dataset from the Western Slope Wildlife Prioritization Study to the Roaring Fork Watershed boundary layer. From there, we used the original regional percentile ranks to score the data set for this analysis.

3. Colorado Parks and Wildlife Mule Deer and Elk Migration Corridors

To incorporate Colorado Parks and Wildlife Species Activity Mapping Data for mule deer and elk migration corridors, we downloaded the most recent datasets (December 2022) from the Colorado Parks and Wildlife ArcGIS website. Any analysis units that intersected with a mapped migration polygon was marked with a '1', and all those that didn't were marked as '0'.

Scoring the Datasets

In order to compile and score these datasets, we first created a half mile buffer layer for both Highway 82 and 133 based on the highway segments from the Western Slope Prioritization data. This was done by using the 'Buffer' tool to create a .5-mile buffer around the Western Slope Prioritization polyline feature layer. To create a cleaner buffer on the curving highway layer, the 'Buffer' tool was run for each side of each highway (north of 82, south of 82, west of 133 and east of 133), using a 'Flat' end type and no dissolve in order to preserve the individual highway segments. The different sides of each highway were then merged and dissolved to create fully buffered segments around each individual highway segment. A few of the buffered areas were missing because the area was too small for the tool to create the geometry, so a few sections were added by hand based on the Western Slope Prioritization Study road segments (Fig. 4 and Fig. 5). These buffered highway segments became the analysis units for this study. Each analysis unit was given a unique segment number to facilitate identifying various units in future steps.

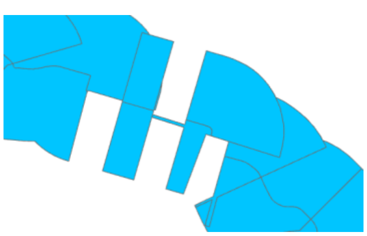


Figure 4. Example of areas missing due to too small geometry

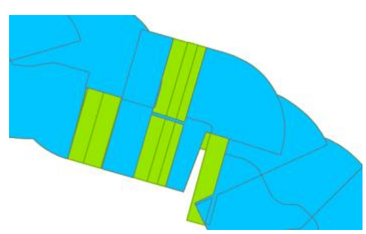


Figure 5 – Example of areas filled in by hand

In order to incorporate the Least Cost Corridor data with the analysis units, we had to convert the raster datasets to polygons. Because the least cost corridor analysis resulted in a floating point raster, we first had to convert it to a integer raster by using the ‘Raster Calculator’ tool. We used the formula int(“raster”+0.5) to insure the integer was rounded up or down correctly based on the original cell value which contained decimals. Once we had an integer raster, we clipped the raster to the analysis unit file, and then used the ‘Raster to Polygon’ tool to convert the raster dataset into a polygon. We then used the ‘Union’ tool to union the clipped least cost corridor polygon data to the analysis unit file so the least cost corridor values were associated with the appropriate half mile buffer analysis unit. We then ran the ‘Dissolve’ tool on the new union layer, dissolving on the Route, Miles, ORIG_FID and SegNum, and calculating the mean least cost corridor value (attribute = Gridcode) for analysis unit (Fig. 6).

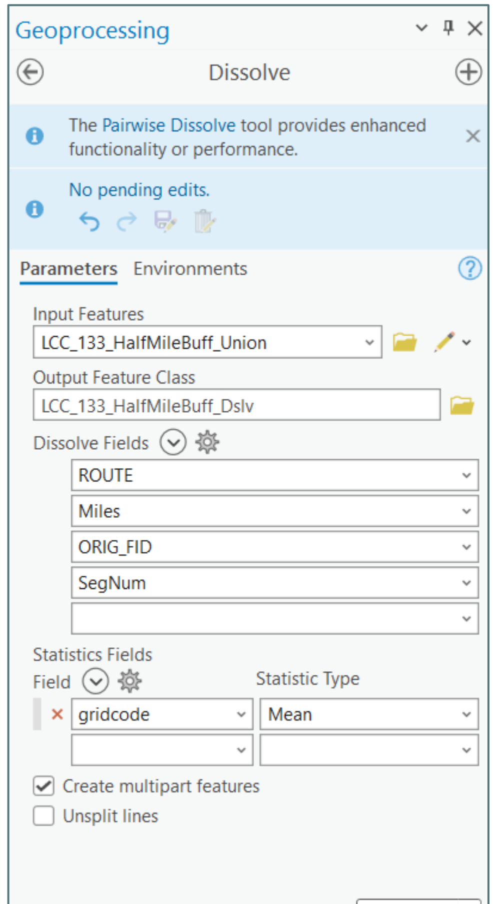


Figure 6. Dissolve tool.

The next step was to calculate the percentiles based on the mean least cost corridor value (attribute = GRIDCODE_MEAN). This was done by first selecting all values that were not equal to 0 and exporting them into a new shapefile to ensure no analysis units that did not intersect with the least cost corridor data were included in the percentile calculation. From there, the attribute table of the new shapefile was exported into Excel in order to calculate the percentiles of each analysis unit. In Excel, the percentiles were calculated based on the GRIDCODE_MEAN attribute using the PERCENTRANK.EXC formula. The table with the newly calculated percentiles was then brought back into ArcGIS Pro and joined to the Least Cost Corridor attribute table using the Orig_FID field. A new attribute field was created in the Least Cost Corridor attribute table, and the ‘calculate field’ tool was used to bring the new percentile information into the original feature attribute table.

Because the analysis unit file was created using the Western Slope Prioritization data, the original percentiles were already associated with the appropriate buffered unit. These percentiles were used for the scoring the Western Slope Prioritization data.

The next step was to score each dataset. The least cost corridor and Western Slope Prioritization datasets were each divided into six categories with scores from 0-5. For the least cost corridor data, lower percentiles were given a higher score because the lower number indicated the least amount of resistance to travel across the landscape. Thus, anything greater than 0 and less than or equal to the 20th percentile was given a score of five, between the 20th and 40th percentiles were given a score of 4, between the 40th and 60th percentiles a score of 3, between the 60th and 80th percentiles a score of 2 and anything greater than 80th percentile was given a score of 1 (Table 1).

For the Western Slope Prioritization data, higher percentiles were given higher scores because they indicated a higher priority ranking through the Western Slope Prioritization process. Thus, anything less than the 50th percentile was given a score of 0, between the 50th and 60th percentiles were given a score of 1, between the 60th and 70th a score of 2, between the 70th and 80th a score of 3, between the 80th and 90th a score of 4, and anything greater than the 90th percentile was given a score of 5 (Table 1).

Table 1. Least Cost Corridor and Western Slope Prioritization Scoring

Least Cost Corridor Scoring		Western Slope Prioritization Scoring	
Percentile	**Score**	**Percentile**	**Score**
MEAN gridcode = 0	0	< 50	0
> 0 and <20	5	≥ 50 and < 60	1
≥ 20 and <40	4	≥ 60 and < 70	2
≥ 40 and <60	3	≥ 70 and < 80	3
≥ 60 and <80	2	≥ 80 and < 90	4
≥ 80 and <100	1	≥ 90 and < 100	5

For the Colorado Parks and Wildlife migration corridor data, each analysis unit that intersected with the mapped corridors and was marked as '1' was given a score of 5. The highest possible score was 5 regardless of whether the unit intersected with both mule deer and elk migration corridors.

We then created the final layer based on the half mile buffer layer, in which we created fields for each score, joined the final layer with each of the scored layers and transferred over their scores to the final layer. These scores were then combined to calculate final overall score for each analysis unit.

Final Priority Segments

The final priority segments were determined based on the total sum of the least cost corridor score, the Western Slope Prioritization Study score, and migration corridor score for each analysis unit. Final scores ranged from 0 to 14, depending on the location of the segment. The priority segments on Highway 82 were determined to be those with a score equal to or higher than ‘6’ while the priority segments on Highway 133 were determined to be those with a score equal to or higher than ‘8’. Priority segments were further delineated into Tier 1 and Tier 2 priorities. Tier 1 priorities are those where wildlife crossing systems are feasible while Tier 2 priorities are those where other mitigation strategies are feasible.

PRIORITIZATION STUDY – SUMMARY REPORT

Roaring Fork Safe Passages

December 2023

Photo: EcoFlight

Background and Objectives

Wildlife is an essential element of the Roaring Fork Watershed, contributing both to the ecological health of this landscape and to our quality of life. Yet wildlife populations in the watershed – elk herds in particular[1] – are facing increasing pressure from development, recreation activities, and transportation. Specifically, vehicle-induced mortality and transportation-related habitat fragmentation are major stressors affecting wildlife and population resilience. According to Colorado Parks and Wildlife (CPW), two percent of collared doe mule deer are killed each year in vehicle collisions[2] – this suggests that the roadkill rate is higher than the annual hunter harvest but without the economic and social benefits that hunting provides.

WILDLIFE-VEHICLE CONFLICT IN THE ROARING FORK WATERSHED STUDY AREA

Wildlife-vehicle collisions were the leading cause of crashes reported to law enforcement, accounting for 30% of all crashes.[3]

The annual cost of reported wildlife-vehicle collisions, including the value of the wildlife killed, is estimated at $5.2M.[4]

As many as 2-4 times more collisions with wildlife are never recorded, for example when an animal is hit but dies away from the road.[5]

The objective of the Roaring Fork Safe Passages Prioritization Study was to undertake a systematic and inclusive process to support informed decision-making about wildlife-highway mitigation priorities in the Roaring Fork Watershed. The study involved a comprehensive analysis of wildlife-highway interactions on Highways 82 and 133, building on existing data and analyses. The study also engaged key agencies and stakeholders in the development of the prioritization process and decision-making framework. The resulting prioritization identifies highway segments where mitigation investments combined with habitat protection will bring the greatest benefits for reconnecting wildlife corridors and reducing wildlife-vehicle collisions.

Prioritization Process

The analysis of highway segments for mitigation investments focused on State Highway 82 between Glenwood Springs and Aspen and State Highway 133 between Carbondale and McClure Pass. Two recently completed studies provided the foundation for the prioritization analysis: 1) the Roaring Fork Watershed Biodiversity and Connectivity Study[6] 2) the Western Slope Wildlife Prioritization Study,[7] a joint initiative by the Colorado Department of Transportation (CDOT) and CPW. The prioritization also integrated mapped elk and mule deer migration corridors data from CPW.

Combined, these analyses resulted in a primary prioritization score highlighting sections of highway with the greatest risk of wildlife-vehicle conflict and with the greatest potential for restoring wildlife corridors that are bisected by a highway. Figure 1 provides a flowchart of the prioritization process including inputs and analyses for conducting the primary prioritization and the supplementary secondary considerations that comprise this decision support framework.

A complete description of the analysis methods may be found in the *Roaring Fork Safe Passages Prioritization Methods and Results Report* accompanying this summary report.

Secondary Prioritization Considerations

Restoring wildlife corridors and reducing wildlife-vehicle conflict was the primary driver of the prioritization. However, other factors may also influence the likelihood of mitigation in each highway segment, including factors that affect the feasibility of mitigation. These secondary considerations were not scored as a part of the primary prioritization process but, instead, included as part of the decision-support framework for determining which of the prioritized highway segments offer the greatest opportunity for implementing wildlife crossing systems or other types of mitigation strategies.

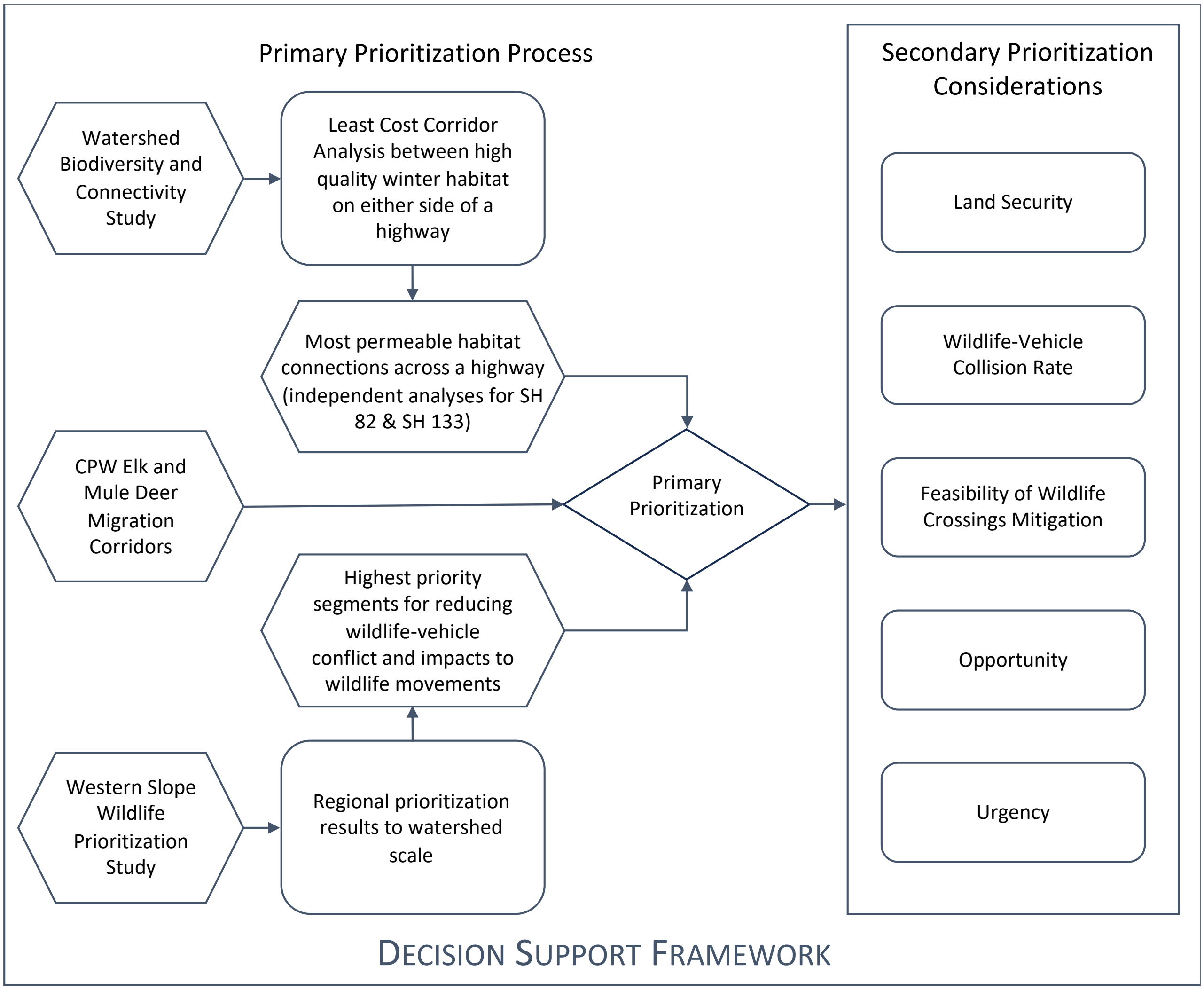
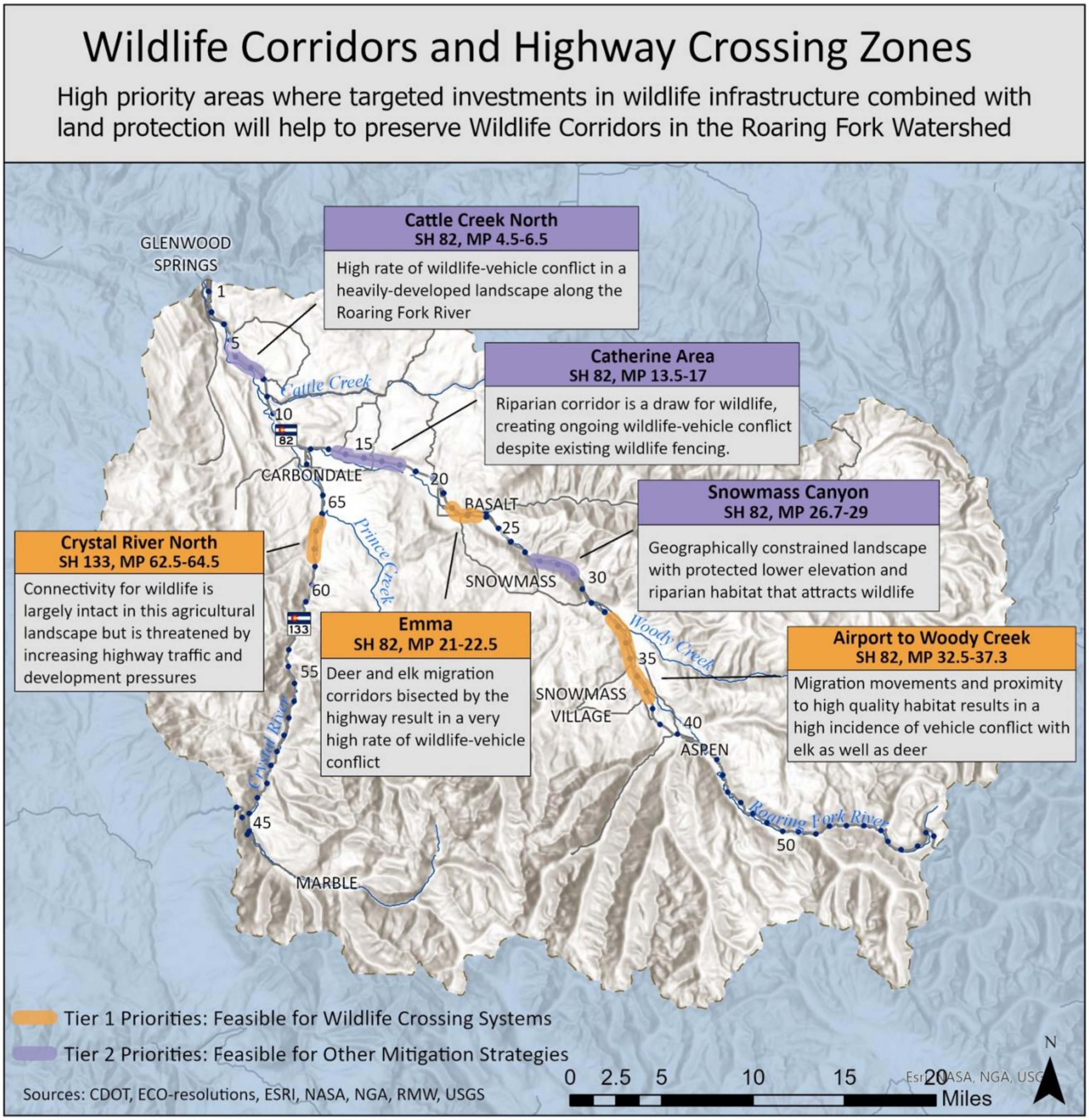


Figure 1. Decision support framework, including the primary prioritization process and secondary prioritization considerations.

Prioritized Highway Segments

The prioritization process identified six wildlife corridors and highway crossing zones, which are described below. These six segments represent the best opportunities in the watershed for reducing wildlife-vehicle conflict and lessening the impacts of highway infrastructure and traffic on wildlife movements and mortality. Although other sections of these two highways also see wildlife-vehicle conflict and the entire reach of both highways contribute to habitat fragmentation, a prioritization process such as this inevitably creates cutoffs to focus mitigation and coordinated land protection efforts in the areas with the greatest opportunity and need. Notably, all six of these prioritized wildlife corridors and highway crossing zones have been identified as areas with high driver safety concerns due to wildlife-vehicle collisions by CDOT[8].

These prioritized wildlife corridors and highway crossing zones were then separated into Tier 1 and Tier 2 priorities based on the secondary prioritization considerations. Tier 1 priorities are where wildlife crossing systems may be feasible, based on terrain and existing or potential land security. Tier 2 priorities are areas where other types of mitigation strategies are most feasible, such as improving or extending existing wildlife fencing; removing or replacing barriers along the highway; roadside vegetation management; or other strategies.



Tier 1 and Tier 2 priority wildlife corridors and highway crossing zones in the Roaring Fork Watershed.

The table below provides a summary of the primary prioritization scores and secondary considerations for each Tier 1 & Tier 2 priority highway segment.

		PRIMARY PRIORITIZATION				SECONDARY CONSIDERATIONS	
		Least Cost Corridor Score	Western Slope Study Score	CPW Migration Corridor	Total Prioritization Score†	Percent Secured Land ‡	Wildlife Crossings Feasibility§
TIER 1 PRIORITIES	Hwy 82 – Emma	1	4	Deer & Elk	9	61%	High
	Hwy 82 – Airport to Woody Creek	4	4	Elk	9	31%	Moderate
	Hwy 133 – Crystal River North*	5	4	-	9	66%	Moderate
TIER 2 PRIORITIES	Hwy 82 – North Cattle Creek	2	5	-	7	14%	Low
	Hwy 82 – Catherine	3	5	-	8	10%	Low
	Hwy 82 – Snowmass	5	3	Deer	9	60%	Low

*Prioritization scores for Hwy 133 not directly comparable to Hwy 82 because separates analyses conducted
†Average score across the analysis units that comprise each segment. Maximum possible score is 15
‡Percent public and private conservation lands within a half-mile buffer
§Preliminary assessment. Feasibility may depend on opportunities for land protection and/or landowner support


Photo: John Fielder

Tier 1 Wildlife Corridors and Highway Crossing Zones

Hwy 82, Emma (mp 21-22.5)

The Emma wildlife corridor is situated between El Jebel and Basalt. This wildlife corridor has become constricted by high levels of residential and commercial development and the habitat quality is impacted by human activities and land uses. Still, herds of elk and mule deer continue to move across the highway through the adjacent fields to access protected public and private, lower elevation winter range habitat.

This segment averages 6.1 wildlife-vehicle collisions per mile per year – the highest rates of any of the segments. There is a medium-sized box culvert in this segment (mp 22.1) that provides limited passage for deer. Existing wildlife fencing is not continuous through the segment on both sides of the highway, which exacerbates wildlife-vehicle conflict when animals become trapped inside of the fenced highway right-of-way. The Watershed Biodiversity Study identifies significant restoration opportunities within this wildlife corridor.[6]

This segment was also identified as a priority in the Eagle County Safe Passage Plan.[9]

Hwy 82, Airport to Woody Creek (mp 32.5 -37.3)

The Airport to Wood Creek wildlife corridor extends from the Aspen Airport to the Pitkin County Landfill north of Woody Creek. This segment averages 5.2 wildlife-vehicle collisions per mile per year – including 95 reported collisions with elk over 10 years.

Pitkin County Open Space and the City of Aspen have protected portions of this landscape adjacent to the highway and along the river corridor, although much of the greater landscape is in private ownership. Both lower elevation agricultural lands along the river and the adjacent mesas and hillsides are under increasing pressure from residential development, which would limit habitat restoration opportunities in the wildlife corridor.

The far southern end of the segment has wildlife fencing on both sides of the highway, extending from the bridge at the south end of the bluffs (mp 35.8) and tying into the airport fencing at milepost 36.4. A wildlife crossing culvert built in 2000 (mp 36.2) offers a safe passage opportunity primarily for deer and carnivores, and wildlife-vehicle collisions are lower in this area than north of Brush Creek Road.

Hwy 133, Crystal River North (mp 62-64.5)

This wildlife corridor extends through the lower elevation agricultural landscape along the Crystal River south of Carbondale. Under current conditions, wildlife continues to be able to cross the highway and wildlife-vehicle conflict is low (0.9 wildlife-vehicle collisions per mile per year). However, with increasing traffic volumes and development pressures, wildlife movements are expected to become more constrained and cross-highway movements riskier, likely resulting in increased in wildlife-vehicle conflict.

While some of these lands have habitat protections in place, landowner coordination is an essential component for ensuring the long-term connectivity and habitat values of this landscape. The Watershed Biodiversity Study identifies significant restoration opportunities within this wildlife corridor.[6]

Tier 2 Wildlife Corridors and Highway Crossing Zones

Hwy 82, Cattle Creek North (mp 4.5-6.5)

The Cattle Creek North wildlife corridor south of Glenwood Springs is sandwiched between the steep slopes coming off the mesa to the north and the Roaring Fork River to the south. Many of the lands along this stretch of the Roaring Fork River are developed. Yet wildlife continues to attempt accessing the remaining undeveloped areas along the riparian corridor. The high threat of additional development limits potential restoration opportunities. There is no wildlife fencing in this segment, which averages 5.7 wildlife-vehicle collisions per mile per year – the second highest rate among the priority segments.

Hwy 82, Catherine Area (mp 13.5-17)

This stretch of Highway 82 between Carbondale and El Jebel runs along the north side of the Roaring Fork River and associated floodplain. Beyond the riparian corridor, agricultural lands are increasingly being converted to residential development. The Watershed Biodiversity Study identifies this portion of the Roaring Fork riparian corridor as having most significant restoration opportunities.[6] Despite the presence of wildlife fencing on both sides of the highway throughout this segment, there are gaps in the fencing and wildlife-vehicle collisions continue to occur at a rate of 3.3 per mile per year.

Hwy 82, Snowmass Canyon (mp 26.7-29)

The Snowmass wildlife corridor extends from Snowmass Creek Road (mp 26.7) south into Snowmass Canyon. Highway 82 through this segment has grade-separated eastbound and westbound lanes hugging the south side of the canyon. While wildlife fencing is present through much of this segment – including paired bridges suitable for wildlife passage at milepost 28.5 – wildlife-vehicle collisions

continue to occur at a rate of 2.6 reported collisions per mile per year, indicating that wildlife is still able to access the highway through gaps in the fencing or at the fence ends.

Much of the landscape within and around this wildlife corridor is protected. Steep terrain and the river running immediately adjacent to the highway limit the opportunity to construct safe passages for wildlife.

Next Steps

The next phase of this work will focus on developing and evaluating the benefits and costs of strategies for improving safe passages for wildlife and reducing wildlife-vehicle conflict within these sections of roadway. Wildlife crossing structures combined with wildlife diversion fencing are known to be an effective mitigation strategy, resulting in 80-90% reductions of collisions with wildlife while allowing deer, elk, and other species to move safely under or over a roadway.[10] Where wildlife crossings are not feasible due to terrain constraints, cost, land use and land management considerations, other types of mitigation strategies may be warranted, alone, or in combination. The development of mitigation strategies for prioritized highway segments will include a complete evaluation of the full range of wildlife-highway mitigation methods.

Compatible land use and land management to maintain or restore high quality wildlife habitat is integral to the long-term success of wildlife crossings system in providing same passages and reducing conflict. Accordingly, the next phases of this work will also seek to work in tandem with partners to pursue habitat protections within wildlife corridors. The results of this prioritization study may be used in conjunction with the Conservation and Restoration Priorities Map produced by the Biodiversity Study to algin conservation and restoration actions with highway mitigation investments.

Authors and Acknowledgements

Authors:

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Cecily DeAngelo, Roaring Fork Safe Passages

The Roaring Fork Safe Passages Prioritization Study was the result of a collaborative partnership between Roaring Fork Safe Passages, Pitkin County Open Space, the City of Aspen Parks and Open

Space, an EcoFlight. Other contributing stakeholders included Colorado Parks and Wildlife, the Colorado Department of Transportation, the Watershed Biodiversity Initiative, Wilderness Workshop, and Aspen Valley Land Trust. Funding for this study was provided by Aspen Ski Company Environment Foundation, City of Aspen Parks and Open Space, the Alpenglow Foundation, the McBride Foundation and many others.

Endnotes

[1] Colorado Parks and Wildlife 2023, in Summit Daily 11/27/2023

[2] A. Holland, Colorado Parks and Wildlife, personal communication.

[3] Colorado Department of Transportation (CDOT). 2023. *Wildlife-vehicle Collision Crash and Carcass Datasets, 2012-2021*. Traffic and Safety Engineering Branch (crash data), Environmental Programs Branch (carcass data), Denver, Colorado.

[4] Cost calculations based on per animal costs of a wildlife-vehicle collision (WVC) with deer, elk, moose, and grizzly bear (Huijser et al. 2022). As many WVCs go unreported and collisions costs or conservation values have not been calculated for other species involved in WVCs (eg, smaller fauna and birds), these calculations underestimate the actual cost of WVCs to society. Reference: Huijser, M.P., J.W. Duffield, C. Neher, A.P. Clevenger, and T. McGuire. 2022. *Cost-Benefit Analysis of Mitigation Measures Along Highways for Large Animal Species: An Update and Expansions of the 2009 Model*. Report No. 701-18-803 TO1 Part 3. Nevada Department of Transportation, Carson City, Nevada.

[5] Bissonette, J.A., and D. Olson. 2013. *The Olson-Bissonette Report for vehicle related mortality of mule deer in Utah*. UTCFWRU 2014 (5): 1–152.

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[6] Rondeau, R., M. Fink, A. Schuhmann, and L. Grunau. 2022. Roaring Fork Watershed Biodiversity and Connectivity Study. Colorado Natural Heritage Program, Colorado State University, Fort Collins, Colorado, and Watershed Biodiversity Initiative, Basalt, Colorado.

[7] Kintsch, J., P. Basting, M. McClure, J. O. Clarke. 2019. *Western Slope Wildlife Prioritization Study*. Report No. CDOT-2019-01. Colorado Department of Transportation, Denver, Colorado.

[8] Colorado Department of Transportation (CDOT). 2013. *Wildlife-Vehicle Collisions Pattern Recognition Analysis*. Traffic and Safety Engineering Branch, Colorado Department of Transportation, Denver, Colorado.

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MITIGATION PLAN & CONCEPTUAL DESIGN BUDGET ESTIMATE: AIRPORT TO WOODY CREEK PRIORITY SEGMENT (~5 miles)

Option A

	TOTAL COST
Stage 1 - Mitigation Strategy Development	**$52,685**
Stage 2 - Concept Development *(Option A)*	**$23,601**
Stage 3 - Outreach & Communication Materials	**$22,360**
COMBINED TOTAL	**$98,646**

Option B

	TOTAL COST
Stage 1 - Mitigation Strategy Development	**$52,685**
Stage 2 - Concept Development *(Option B)*	**$35,659**
Stage 3 - Outreach & Communication Materials	**$22,360**
COMBINED TOTAL	**$110,704**

MITIGATION PLAN & CONCEPTUAL DESIGN BUDGET ESTIMATE: AIRPORT TO WOODY CREEK PRIORITY SEGMENT (~5 miles)

Stage 1 - Mitigation Strategy Development

Task	Description	Kintsch	Singer	Total Hours per Task	Assumptions
1	Project Coordination	20	5	25	
2	Resource Review	15	20	35	WVC data analysis; spp habitat data; expert input; previous studies, structures
3	Site Visits (2: initial site assessment + partner site visit)	50	25	75	2 trips (20 hrs/trip including 7 hrs RT travel) + site visit prep & synthesis; Paige initial site visit only. Incorporate meetings with site visits where possible.
4	Partner & Stakeholder Engagement (2 in person; up to 4 virtual meetings)	70		70	20 hrs/in-person meeting + prep, follow-up; other partner and stakeholder meetings, misc. communications. Combine travel w/ partner site visit
5	Mitigation Plan Development & Alternatives Evaluation	35	20	55	
6	Outreach & Communications Materials				
7	Final Mitigation Report	35	20	55	
8	Final presentation to BOCC & partners	30		30	1 trip for final presentation
	Total Hours	255	90	345	
	Rate	$165	$75		
	Labor Subtotal	**$42,075**	**$6,750**		
			TOTAL LABOR	**$48,825**	

	Expenses	Quantity	Unit Cost	Total Cost	Assumptions
ECO-resolution	Mileage (4 trips @ 380 miles/RT)	1,520	$0.60	$912.00	1 trip PS
	Lodging	8	$250	$2,000.00	PS & JK GSA rate is $235 in summer/$375 March/$188 Fall
	Per Diem	12	$79	$948.00	PS & JK
			TOTAL EXPENSES	**$3,860.00**	

STAGE 1 COST $52,685.00

MITIGATION PLAN & CONCEPTUAL DESIGN BUDGET ESTIMATE: AIRPORT TO WOODY CREEK PRIORITY SEGMENT (~5 miles)

Stage 2: Concept Development

Option A - Preliminary modeling and visualizations using non-drone data

Task	Description	Kintsch	Chinook	Total Hours per Task	Assumptions
1	Project Coordination	6	6	12	
2	Resource Review				
3	Site Visits		52		Drone imagery collection (photo & video). This task supports Task 5 below (mitigation plan development & alternatives evalutation) and Stage 3 - development of outrech materials.
4	Partner & Stakeholder Engagement				
5	Mitigation Plan Development & Alternatives Evaluation	15	52	67	3D modeling and rendering for 1 wildlife crossing location. Includes 1 set of revisions. Base data will be publicly available data and task includes preparation of data for 3D modeling. ***Due to resolution of publicly available data, these models will likely be significantly updated using high-rpecision site data to continue concept development and preliminary design***
6	Outreach & Communications Materials				
7	Final Mitigation Report				
8	Final presentation & Outreach Support				
	Total Hours	21	110	131	
	Rate	$165	$150		
	Labor Subtotal	**$3,465**	**$16,500**		
			TOTAL LABOR	**$19,965**	

	Expenses	Quantity	Unit Cost	Total Cost	Assumptions
Chinook	Mileage	380	$0.60	$228.00	
	Lodging	1	$250	$250.00	
	Per Diem	2	$79	$158.00	
	Drone Fee (1 days)	2	$1,500	$3,000	
			TOTAL EXPENSES	**$3,636.00**	

STAGE 2 COST (Option A) $23,601.00

Option B - Drone photogrammetry, high-precision 3D terrain modeling, and renderings

Task	Description	Kintsch	Chinook	Total Hours per Task	Assumptions
1	Project Coordination	6	6	12	
2	Resource Review				
3	Site Visits		80	80	Drone mapping and aerial imagery collection for up to 5 locations within a segment ~5 miles long. Includes photogrammetry processing of 5 mapped locations. *For drone photogrammetry of just one (1) location, hours can be reduced to 20 hrs .*
4	Partner & Stakeholder Engagement				
5	Mitigation Plan Development & Alternatives Evaluation	15	100	115	3D modeling and rendering for up to 3 crossing locations (3 locations selected from 5 mapped in Task 3). Includes revisions and working with the team to develop these models and options for design. *For 3D modeling and rendering at just one (1) location, hours can be reduced to 40 hrs. Note there is some loss of efficiency for modeling 1 location.*
6	Outreach & Communications Materials				
7	Final Mitigation Report				
8	Final presentation & Outreach Support (1 in person)				
	Total Hours	21	186	207	*Total Chinook hours for mapping, modeling and creating rendering at 1 location = 66 hrs ($9,900)*
	Rate	$165	$150		
	Labor Subtotal	**$3,465**	**$27,900**		
			TOTAL LABOR	**$31,365**	*Total Cost for Option B Labor assuming mapping, modeling and rendering at just 1 location = $13,365*

	Expenses	Quantity	Unit Cost	Total Cost	Assumptions
Chinook	Mileage	380	$0.60	$228.00	
	Lodging	3	$250	$750.00	Assumes drone mapping of 5 locations
	Per Diem	4	$79	$316.00	Assumes drone mapping of 5 locations
	Drone Fee (2 days)	2	$1,500	$3,000	Assumes drone mapping of 5 locations
			TOTAL EXPENSES	**$4,294.00**	

STAGE 2 COST (Option B) $35,659.00

MITIGATION PLAN & CONCEPTUAL DESIGN BUDGET ESTIMATE: AIRPORT TO WOODY CREEK PRIORITY SEGMENT (~5 miles)

Stage 3: Outreach & Communication Materials

Task	Description	Kintsch	Chinook	Total Hours per Task	Assumptions
1	Project Coordination	4	4	8	
2	Resource Review				
3	Site Visits				
4	Partner & Stakeholder Engagement				
5	Mitigation Plan Development & Alternatives Evaluation				
6	Outreach & Communications Materials:				
	Brochure	5	32	37	
	Video	5	36	41	
	ArcGIS Online StoryMap	5	36	41	Depending on the complexity of the StoryMap (assumes no unusual requests)
7	Final Mitigation Report				
8	Outreach Support	15		15	
	Total Hours	34	108	142	
	Rate	$165	$150		
	Labor Subtotal	**$5,610**	**$16,200**		
			TOTAL LABOR	**$21,810**	

	Expenses	Quantity	Unit Cost	Total Cost	Assumptions
	Printing (brochures)	600	-	$550	
			TOTAL EXPENSES	**$550.00**	

STAGE 3 COST $22,360.00

Town of Snowmass Village

Agenda Item Summary

DATE OF MEETING:

June 3, 2024

AGENDA ITEM:

Executive Session

PRESENTED BY:

Jeff Conklin, Town Attorney

BACKGROUND:

The Town Council has reason to convene in Executive Session. To convene in executive session, the Colorado Open Meetings Law requires that the Town announce the topics for discussion with specific statutory citation and to the identify the particular matter(s) to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized. A motion to enter executive session for the announced purposes must be passed by 2/3 of the quorum voting in the affirmative for said motion.

FINANCIAL IMPACT:

N/A

APPLICABILITY TO COUNCIL GOALS & OBJECTIVES:

N/A

COUNCIL OPTIONS:

Convene in Executive Session
Choose not to convene in Executive Session

STAFF RECOMMENDATION:

Town Council will now meet in Executive Session pursuant to C.R.S. 24-6-402(4) and Snowmass Village Municipal Code Section 2-45(c) for the following purpose:

a) To discuss personnel matters, except if the employee who is the subject of the session has requested an open meeting, pursuant to C.R.S. 24-6-402(4)(f)(I) and Snowmass Village Municipal Code Section 2-45(c)(6), more specifically related to: Performance Review of the Town Manager

Provided, there is an affirmative vote of two-thirds of the quorum present at this meeting to hold an Executive Session and for the purposes of considering items (a) above. Provided that no adoption of any proposed policy, position, resolution, regulation, or formal action shall occur at this Executive Session.

ATTACHMENTS:

N/A