Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Larry Dempsey

For serving a three-year term on the Parks, Open Space, Trails, and Recreation Board and contributing with intelligent solutions and insight to help make Snowmass Village a better place to live, work and play.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Kris Kaplinski

For serving a three-year term on the Parks, Open Space, Trails, and Recreation Board and contributing with intelligent solutions and insight to help make Snowmass Village a better place to live, work and play.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Rick Sussman

For serving a three-year term on the Parks, Open Space, Trails, and Recreation Board and contributing with intelligent solutions and insight to help make Snowmass Village a better place to live, work and play.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Nicholas Valentino

For serving a three-year term on the Environmental Advisory Board and contributing to the Town of Snowmass Village by advocating for sustainability and energy efficiency projects that have positively impacted the natural environment in Snowmass Village.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Darlene Fridstein

For serving three terms on the Snowmass Arts Advisory Board and contributing to the Town of Snowmass Village by helping to bring more art into the community.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Robert R. Fike

For serving a decade on the Part-Time Residents Advisory Board; for his years of dedication, leadership, and knowledge; and for helping to represent the Town of Snowmass Village and its part-time residents.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Cindy Lamar

For serving two terms on the Citizen Grant Review Board and contributing to the Town of Snowmass Village by helping to distribute hundreds of thousands of dollars to deserving non-profits and initiatives dedicated to improving the quality of life in Snowmass Village.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Christy MacLear

For serving a three-year term on the Planning Commission; for her years of dedication, leadership, and knowledge; and for helping to represent the Town of Snowmass Village.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Kelly Peters

For serving a two term on the Snowmass Arts Advisory Board and contributing to the Town of Snowmass Village by helping to bring more art into the community.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Heather Quinn

For serving a two-year term on the Snowmass Arts Advisory Board and contributing to the Town of Snowmass Village by helping to bring more art into the community.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Steve Skylar

For serving two terms on the Snowmass Arts Advisory Board and contributing to the Town of Snowmass Village by helping to bring more art into the community.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Greg C. Smith

For serving a decade on the Financial Advisory Board; for his years of dedication, leadership, and knowledge; and for helping to guide to the Town of Snowmass Village through many complex financial issues and the annual development of the Town budget.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Sally Sparhawk

For serving a three-year term on the Citizen Grant Review Board and contributing to the Town of Snowmass Village by helping to distribute hundreds of thousands of dollars to deserving non-profits and initiatives dedicated to improving the quality of life in Snowmass Village.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

DRAFT 2023 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.

Monday February 13th Special Meeting (9-11 am)

- Council goal setting

Mon. Feb. 13th – Work Session

- Discussion regarding $50 sales tax rebate
- Wildlife crossing on Hwy 82
- Aspen SkiCo Update – (no materials for packet will be sent)
- Chris Lane, Aces presentation on wolf reintroduction

Tue. Feb. 21st – Regular Meeting

- Cert of Appreciation for B & C retirements
- Resolution 08 on Certifications and Assurances – Trans
- Rodeo lease?
- 2nd reading Ord 2 contractor license and classification fees
- Exec Session

Mon. Mar. 6th – Regular Meeting

- Willows land use
- Draw site owners review
- Mall transit station

Mon. Mar. 13th – Work Session(Boucher Out)

- Update on rodeo lights and cell tower placement
-

Mon. Mar. 20th – Regular Meeting (Shenk & Boucher Out)

- Mall Transit station
- CGRB recommendations (or March 20th)
- EOTC Prep for meeting on 4/6/23 at Pitkin – Linda DuPriest

Mon. Apr. 3rd –Regular Meeting (Shenk Out)

- Ord removing Board of Appeals
- Ice Age Discovery Project Update

Thur. Apr. 6th - EOTC Meeting – Pitkin County Hosts

Mon. Apr. 10th – Work Session (Kinney out)

As Of: Thursday, February 16, 2023

DRAFT 2023 Agenda Items

Mon. Apr. 17th – Regular Meeting

Mon. May 1st – Regular Meeting

Mon. May 8th – Work Session

Mon. May 15th – Regular Meeting

- Pitkin County Hazard Mitigation Plan Adoption

Mon. Jun. 5th – Regular Meeting (Conklin Out)

Mon. Jun. 12th – Work Session

Tues. Jun. 20th – Regular Meeting

Thur. June 29th – EOTC Meeting – Snowmass Village Hosts

Mon. Jul 3rd – Regular Meeting

Mon. Jul. 10th – Work Session

Mon. Jul. 17th – Regular Meeting

Mon. Aug. 7th – Regular Meeting

Mon. Aug. 14th – Work Session

Mon. Aug. 21st – Regular Meeting

Thur. Aug. 31st - EOTC Meeting – Pitkin County Hosts

Tue. Sep. 5th – Regular Meeting

Mon. Sep. 11th – Work Session

Mon. Sep 18th – Regular Meeting

Mon Oct. 2nd – Regular Meeting

Mon. Oct. 9th – Work Session

Mon. Oct. 16th – Regular Meeting

Thurs. Oct. 26th – EOTC – City of Aspen Hosts

Mon. Nov. 6th – Regular Meeting

As Of: Thursday, February 16, 2023

- **GID**
- **B & C Applications**

Mon. Nov. 13th – Work Session

Mon. Nov. 20th – Regular Meeting

- B & C Interviews

Mon. Dec 4th – Regular Meeting

- B & C Interviews

Mon. Dec. 11th – Special Meeting

- **GID**

Mon. Dec. 18th – Regular Meeting

- B & C Resolution appointing new Members

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

SNOWMASS VILLAGE TOWN COUNCIL
REGULAR MEETING MINUTES
FEBRUARY 6, 2023

CALL TO ORDER

ROLL CALL

COUNCIL MEMBERS PRESENT: Bill Madsen, Alyssa Shenk, Tom Fridstein, Britta Gustafson, and Susan Marolt.

COUNCIL MEMBERS ABSENT: All council members were present.

STAFF PRESENT: Anne Martens, Public Works Director; Mike Metheny, Chief Building Official; Sara Nester, Business Code Compliance Manager; Clint Kinney, Town Manager; Greg Leblanc, Asst. Town Manager; Jeff Conklin, Town Attorney; Barbara Peckler, Office Manager.

PUBLIC PRESENT: Dan Detwiler, Jay Shumaker, Debbie Cote, Tom Hills, Mary Blankenau, Bob Wolfe, Reed Lewis.

PROCLAMATIONS AND PRESENTATIONS

PUBLIC COMMENT

Jay Shumaker, a resident, and architect, commented on the current Transit Station proposal and asked if Council would look at an original study. He suggested a Regional RFTA analysis, and Jay recommended his friend in California, an expert in Regional Transportation.

Tom Hills, a long-time resident, raised concerns with the Post office. Tom's box was locked due to non-payment and then was issued to someone else. Tom was unaware of the box renewal date and did not receive notices from the Post Office. Tom wanted others to know so this would not happen to them.
Clint Kinney, Town Manager, mentioned CAST is considering filing a lawsuit against USPS for the lack of adequate service in small resort towns. Clint also recommends that if anyone has concerns about the Snowmass Post Office, please contact Senator Lauren Boebert's office.

Reed Lewis, resident, and Snowmass Mall business owner, asks that Council look at affordable retail and restaurant space in the newly rezoned numbered lots. Reed would encourage Council to converse with the different businesses to understand the larger picture better. Potentially a main street in parking lots with affordable retail and restaurant space.

CONSENT AGENDA

5. A. 2023 Draft Agendas

5. B. Minutes for Approval
01-17-23 Regular Meeting Minutes- Draft

5. C. Resolution No. 06 and 07, Series 2023 - RE Resolutions approving sales of 20 Maverick Circle and 1333 Brush Creek Lane

Pages 14-15 Agenda Item Summary RE Resolutions for Sale 20 Maverick and 1333 Brush Creek Lane

Pages 16-17 Reso No. 6, 2023 - Real Estate Contract RE 20 Maverick Circle

Pages 18-36 20 Maverick Circle contract to Buy and Sell Real Estate - 20 Maverick Circle - MEC 12.5

Pages 37-38 Reso No. 7, 2023 - Real Estate Contract RE 1333 Brush Creek Lane

Pages 39-61 1333 Brush Creek Lane Snowmass Village CONTRACT TO BUY AND SELL REAL ESTATE

Councilmember Shenk sent changes to Megan for the 1-17-23 TC minutes. Mayor Madsen would like a correction made to line 230. He met with April Long, not Ashley Pearl.

Betsy Crum, Housing Director, explained that it is unusual for the Town to be in the middle of employee housing sales. These two cases resulted from legal actions, and for the Title Companies to close the contracts, they are required to have a Resolution authorizing the Town Manager to sign the sale contracts. Resolutions 6 and 7 approve the sale of these units.
Due to the circumstances of these units, Council inquired about the status of any improvements and repairs. Betsy reported that the Creekside unit has been remodeled and is ready for the new owner. The Town made several improvements on 20 Maverick

Circle and ran a radon test. Test results showed high radon levels, so radon mitigation is installed. Hope is to go under contract in March with this unit.

Councilmember Shenk motioned to approve the consent Agenda. Council Member Marolt seconded the motion. All in favor.

PUBLIC HEARINGS - QUASI-JUDICIAL HEARINGS

6. A. Mall Transit Center Special Review

Pages 62-63 Agenda Item Summary RE Transit Center Special Review

Mayor Madsen opened the public hearing for public comment.
Clint Kinney, Town Manager, informed Council this item is on the Planning Commission agenda for the 15th, 2023. Staff will provide a complete presentation with the planning commission comments at the March 6th Regular Town Council meeting. It was advertised in the paper that this discussion would be at tonight's meeting, so any public comment on this issue is welcome.
Reed Lewis, a mall business owner, does not feel there has been enough communication on the final plan for the Transit Center. Construction will significantly affect his business, and he needs time to plan for the changes. Reed feels the Town needs to do a better job at keeping the webpage updated with accurate information.
Clint Kinney, Town Manager, confirmed construction is not starting this spring, and multiple options are being reviewed to ensure the business can still operate.

There was no further public comment on the Transit Center Special Review.

Councilmember Fridstein motioned to continue the Public Hearing to the March 6th, 2023, Regular Town Council Meeting. Councilmember Gustafson seconded the motion. All in Favor

6. B. Ordinance No. 02, Series 2023 - Set rates & fees for building reviews

Pages 64-65 Agenda Item Summary RE Contractors License and Classification Fees ORD 2

Pages 66-67 ORD 2, 2023 - Contractor Classifications and Fees - DRAFT 1st Reading

Mike Metheny, Chief Building Official, and Sara Nester, Business Code Compliance Manager, provided Council with an explanation of why the Community Development Department is proposing this Ordinance. It cleans up the code and makes it more efficient to process contractors licensing. Sara has contacted other municipalities, and with this change, Snowmass will be in line with Aspen and Pitkin County.

Councilmember Fridstein pointed out this only applies to Contractors' licensing and not building rates.

Councilmember Shenk motioned to approve First Reading, Ordinance No. 02, Series 2023-Set rates & fees for building reviews. Councilmember Fridstein seconded the motion. All in favor

Council agreed to have the Second Reading of Ord. No. 2, 2023, on the consent agenda for a roll call vote.

POLICY/LEGISLATIVE PUBLIC HEARINGS

ADMINISTRATIVE REPORTS

8.A. Brush Creek Culvert Update

Pages 68-70 Agenda Item Summary RE 2023 Infrastructure Project Update

Pages 71-72 Exhibit A Culvert Project 30% Design

Pages 73 Exhibit B 2023gaslineconstructionarea

Pages 74-79 Exhibit C Structure Type Summary

Anne Martens, Public works director, and Dan Detwiler (via Teams video) presented Council with an update on the Brush Creek culvert and Highline Road- Gas, Fiber, and multi-modal project. She explained that when the Brush Creek culvert failed during the summer of 2022, it became essential for it to be replaced. Anne has been working with SGM and Gould construction to find the best design and construction time frame. Due to the complexity of constructing a new culvert, Brush Creek Road will need to be closed from June to November 1st.

With the eventual closure of Brush Creek Road, all traffic, busses, delivery trucks, construction trucks, and passenger cars will all be diverted to Highline Road. For the safety of bike riders and vehicles, staff recommends completing the Highline Road improvements before Brush Creek Road is closed. Anne noted in her presentation the Highline Road project is a partnership between Black Hills Energy and the Town to accomplish several project elements in an expedited manner. These projects meet the goals of Safety, Connectivity, and Transit and Regionalism. Each project has elements of these goals.

Both projects were discussed during the 2023 Budget Process and funded in the Capital Improvement Fund.

- Brush Creek Culvert Project - $4,400,000
- Highline Road Project – Utility and Multi-modal and Paving Improvements $650,000

Staff is aware these two projects will impact traffic circulation throughout the summer. Coordination with events, businesses, and residents will be critical. While a tremendous amount of design and coordination remains to be completed, Anne wanted to ensure that the Council knows these initial project concepts. As details and facts are developed, staff will share them quickly with Council.
After the presentation Council voiced their concerns with the two projects. A primary concern is the reaction from the community to having Brush Creek Road closed for the entire summer. Council stressed communication would be critical in all phases of the project. Another issue was the short window for the culvert replacement. What happens if things get delayed? Council also discussed whether they wanted to do both projects or just the culvert replacement.
Anne acknowledged all of the Council's concerns and addressed their questions. She realizes this will impact residents and visitors but is working to make it as minimal as possible.
Design and construction planning are only in the initial phases; as more information becomes available, it will be presented to Council.

8.B. IGA consideration RE overnight homeless shelter support

Pages 80-82 Agenda Item Summary RE Homeless Shelter IGA

Pages 83-87 Homeless Services IGA

Clint Kinney, Town Manager, presented to the Council background on the regional IGA supporting the Emergency Winter Overnight Shelter. This regional partnership between Aspen Valley Hospital, the City of Aspen, and the Town of Snowmass Village, is considered financially how best to support the critical services going forward. The Town of Snowmass is being asked to contribute $20,000 utilizing revenues from the marijuana and tobacco taxes for this contribution.
Lindsey Maisc explained how the overnight residential shelter services coordinate with Recovery Resources Resiliency Center, providing the best care possible for the homeless population. This is a much-needed service for our community by providing shelter and social services to help build skills and healthy coping strategies individuals need to thrive beyond adversity.
Jeff Conklin, Town Attorney, reviewed the IGA and has approved it.
After Lindsey and Clint answered all questions by Council and confirmed continuing support is sustainable within the Towns budget, Council unanimously approved the IGA. Currently, the dates of operation are December 1st to April 30th, but they are looking into the possibility of keeping it open year-round.

Councilmember Fridstein made the motion to approve the Intergovernmental Agreement between the Pitkin County Board of County Commissioners and the City of Aspen ("COA"), Aspen Valley Hospital ("AVH"), and Town of Snowmass Village ("TOSV") to support the emergency winter overnight shelter at the Schultz Health and Human Services building. Councilmember Marolt seconded the motion. All in Favor

TOWN COUNCIL REPORTS AND ACTIONS

Councilmember Gustafson had nothing to report at this time.

Councilmember Fridstein attended a CORE meeting where there they discussed the Coal Basin project update and CORE will be goal-setting in the next few weeks.

Councilmember Marolt attended a Nordic Council meeting. A topic that keeps coming up is the enforcement of dogs off leashes in the Village. The presence of a Nordic Center in the Village would help reinforce and continue the message. The Nordic Council is interested in working with the Town to have something in place for next winter. Clint Kinney stated if the Council is interested in moving forward, they need to act sooner than later. The Town has looked into purchasing leftover inventory from Ute Mountaineering, which could be managed out of the Town Park Station. The cost to acquire the gear is less than $10,000.
If the opportunity is available to purchase the equipment, Council unanimously approves moving forward.
Council Member Marolt noted that the Council had a goal of reaching out to the community, and she would like this to occur sooner rather than later.

Councilmember Shenk is busy with RFTA meetings, Sister Cities (the middle school Italian students arrived yesterday), and NWCOG. Two things she would like to bring up with COG are; 1. A new position was created- Regional Grants Navigator. This position is funded by the State and was formed to create opportunities for communities to maximize and align grants they could use. A list of grants will be available soon. 2. NWCOG is looking into Elected Officials' training. They are proposing a Mental Health and
Well-being training in Breckenridge in late May. Councilmember Shenk will email Council the retreat information and would like Council feedback. At the next NWCOG meeting, they will discuss if it is appropriate if a COG member should conduct the training through his own business.
For clarification, as EDE's voting member, Britta Gustafson does need to be at the meeting if there is no other Piktin County representative present. Three people represent Pikin County, and one of the three need to be present.
Residents have been more vocal about the leash laws and enforcement.
Councilmember Shenk feels this is something Council needs to make a priority and look at more closely and consider the options. Clint suggested this be brought up with the POSTR board. Staff will advise the POSTR board to look at this issue and have suggestions before the summer season begins.
And for exciting news, Alyssa reported the Aspen High School Dance Team won Nationals in Florida! Congratulations go out to the girls; quite an accomplishment.

Mayor Madsen has RFTA and RWAPA meetings this week and will provide the update at the next meeting.

ADJOURNMENT

Councilmember Marolt motioned to adjourn the Town Council Meeting of February 6th, 2023. Councilmember Fridstein seconded the motion. All in Favor

Adjourned at 6:58 pm

The Snowmass Village Town Council approved these meeting minutes with amendments at their Regular meeting on Monday, February 21, 2023.

Submitted By,

_____

Barbara Peckler, Office Manager

Town of Snowmass Village

Agenda Item Summary

DATE OF MEETING:

February 21, 2023

AGENDA ITEM:

The Second Reading of Ordinance No. 2, Series of 2023 An Ordinance Amending the Municipal Code To Allow Contractor License Classifications and Contractor License Fees to be Amended Administratively.

PRESENTED BY:

Mike Metheny, Chief Building Official

BACKGROUND:

This Ordinance is primarily desiged to streamline the contractor licensing and registration process for customers and staff. This will involve a minimal increase to contractor licensing fees and will allow contractors to align renewals with expiration of certifications.

Existing Fees:

Classification	*1st Year*	*Annual Renewal*
General Class AA	$250.00	$125.00
General Class A	225.00	105.00
General Class B	125.00	55.00
General Class C	115.00	50.00
Specialty	115.00	50.00
Electrical	NO CHARGE (PER STATE LAW)	
Plumbing	65.00	25.00

Proposed Fees:

3 Year Fee	License Classification	Monthly Pro-Rated Fee
$450	General Class AA - Unlimited Construction	$ 12.50
$450	General Class A - Commercial	$ 12.50
$450	General Class B - Light Commercial	$ 12.50
$450	General Class C - Homebuilder	$ 12.50
$142	Specialty	$ 3.94
$0	Electrical	$ -
$195	Plumbing	$ 5.42

In addition, this ordinance is proposing to remove the fees from the Municipal Code and allow changes to be made in the future by the Community Development Director upon approval of the Town Manager.

This ordinance was prepared by the previous Town Attorney and has been reviewed by the current Town Attorney.

FINANCIAL IMPACT:

The change in fees would align with other local jurisdictions and would become effective upon approval by Council.

APPLICABILITY TO COUNCIL GOALS & OBJECTIVES:

The new fee structure will create a more user friendly experience for our customers and allow us to provide a higher level of customer service.

COUNCIL OPTIONS:

Council can approve, approve with conditions, or deny Ordinance No. 2, Series 2023.

STAFF RECOMMENDATION:

Staff recommends the Council approve Ordinance No. 2, Series of 2023 on second reading.

ATTACHMENTS:

A. Ord. No. 2, Series 2023

TOWN OF SNOWMASS VILLAGE
TOWN COUNCIL

ORDINANCE NO. 2
SERIES OF 2023

AN ORDINANCE AMENDING THE TOWN OF SNOWMASS VILLAGE MUNICIPAL CODE BY DELETING SECTION 18-23 AND AMENDING SECTION 18-24 IN ARTICLE II OF CHAPTER 18 TO ALLOW CONTRACTOR LICENSE CLASSIFICATIONS AND CONTRACTOR LICENSE FEES TO BE AMENDED IN THE FUTURE BY THE COMMUNITY DEVELOPMENT DIRECTOR UPON THE APPROVAL OF THE TOWN MANAGER

WHEREAS, The Town of Snowmass Village ("TOSV") has not revised the Contractor License Classifications or the Fees for Contractor Licenses since 1994 and 1992, respectively; and

WHEREAS, TOSV has since adopted a new standardized Building Code, Electrical Code, Mechanical Code, Plumbing Code and Fire Code, with local amendments, and

WHEREAS, Town Council desires to similarly update the Contractor Licenses and Fees provisions of the Code to ensure consistency with the above referenced standardized Codes, and

WHEREAS, Town Council finds that the adoption of this Ordinance is necessary for the preservation of the public health, safety and welfare.

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

1. That **Sec. 18-23** be deleted in its entirety.
2. That **Sec. 18-24** be deleted in its entirety and replaced with the following.

Sec. 18-24. License Classifications and Fees.

(a) The Community Development Director may amend the Classifications and set the fees for contractor license/ registration applications from time to time upon the approval of the Town Manager.

DRAFT

3. Severability. If any provision of this Ordinance or application hereof to any person or circumstance is held invalid, the invalidity shall not affect any other provision or application of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are severable.

READ, APPROVED AND ADOPTED by the Town Council of the Town of Snowmass Village on First Reading on February 6, 2023, upon a motion by Council Member Shenk, the second of Council Member Fridstein, and upon a vote of 5 in favor and 0 against.

READ, APPROVED AND ADOPTED as amended, by the Town Council of the Town of Snowmass Village on Second Reading on February 21, 2023, upon a motion by Council Member _____, seconded by 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:

_____
Town Attorney

DRAFT

Town of Snowmass Village

Agenda Item Summary

DATE OF MEETING:

February 21, 2023

AGENDA ITEM:

Resolution No. 08, Series of 2023 - Approving the 2023 Federal Transit Administration Grant Master Agreement's Certifications and Assurances

PRESENTED BY:

Sam Guarino, Transportation Director

BACKGROUND:

Staff requests Council's approval of the Certifications and Assurances ("C&A") that are Appendix A in the Federal Transit Administration's Master Agreement. It is a requirement to comply with the C&A to accept Section 5339 and Section 5311 grants from the Federal Transit Administration (FTA). This resolution accepts the terms of the C&A for the current grants that are funding transit services admin/operating, new buses, and capital projects. It also authorizes the Transportation Director to certify the affirmation of the annual C&A for these projects. The Town has been approving the Master Agreement's C&A over the last fifteen years.

The C&A apply to the Federal funds used for the specified grants' purpose which covers administration and operating activities and capital acquisition. The C&A covers compliance including:

1. Authority to enter into an agreement with the FTA; and
2. Lobbying Compliance; and
3. Procurement Compliance; and
4. Safety and Asset Management Plans; and
5. Protections for Private Transportation Providers; and
6. Public Hearing; and
7. Acquisition of Rolling Stock Guidelines; and
8. Charter Service and School Transportation Agreement; and
9. Americans With Disabilities Act; and
10. Alcohol Misuse and Prohibited Drug Use;
11. Asset Management; and
12. Safety and Security; and
13. Title VI Civil Rights Act; and

14. Labor Standards.

To review the complete 2023 Certifications and Assurances, please see attached.

FINANCIAL IMPACT:

For use in 2023 the Town has been awarded the following Federal Grants:

- A Section 5311 Rural Areas grant of $458,530 in support of admin and operating expenditures in the provision of transit service.
- A Section 5311 Rural Areas Facility/Capital Equipment grant of $2,762,280 for the Snowmass Mall Transit Station Project.
- A Section 5339 Bus and Bus Facilities grant of $13.5 million for the Snowmass Mall Transit Station project.
- A Section 5339 Bus and Bus Facility grant of $83,384 for the purchase of a transit vehicle.

APPLICABILITY TO COUNCIL GOALS & OBJECTIVES:

The grant funding is in support of our transit services that protect the environment and help sustain the quality of life within the community.

COUNCIL OPTIONS:

1. Approve the Resolution
2. Deny the Resolution

STAFF RECOMMENDATION:

Approve Resolution No. 08, Series of 2023 to comply with the requirements of the grant(s).

ATTACHMENTS:

1. Resolution No. 08, Series of 2023
2. FTA Fiscal Year 2023 Certifications & Assurances.

TOWN OF SNOWMASS VILLAGE
TOWN COUNCIL

RESOLUTION NO. 08
SERIES OF 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SNOWMASS VILLAGE, COLORADO, AUTHORIZING THE FILING OF APPLICATIONS WITH THE FEDERAL TRANSIT ADMINISTRATION, AN OPERATING ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FOR FEDERAL TRANSPORTATION ASSISTANCE AUTHORIZED BY 49 U.S.C. CHAPTER 53, TITLE 23 UNITED STATES CODE, AND OTHER FEDERAL STATUTES ADMINISTERED BY THE FEDERAL TRANSIT ADMINISTRATION.

WHEREAS, the Town of Snowmass Village ("TOSV") has the power to enter into agreements with the Colorado Department of Transportation ("CDOT") and the Federal Transit Administration ("FTA"); and,

WHEREAS, CDOT and the FTA have been delegated authority to award Federal financial assistance for transportation projects; and,

WHEREAS, the grant or cooperative agreement for Federal financial assistance will impose certain obligations upon the TOSV, and may require the TOSV to provide the local share of the project's costs; and,

WHEREAS, the TOSV has or will comply with all annual Certifications and Assurances in the FTA required for the project(s), and,

WHEREAS, the TOSV is desirous of obtaining said funds for the purchase of transit vehicles, construction of a capital project, and/or the operation of transportation services, and has filed applications (under Sections 5339 and 5311) with the FTA and/or CDOT for the purchase of transit vehicles, funding for operating transportation services and construction of a capital project, and,

WHEREAS, the TOSV desires to accept the funds for such projects pursuant to the conditions of the 2023 Master Agreement's Certifications and Assurances in Appendix A of that agreement, and,

WHEREAS, the TOSV desires to work together with the FTA and CDOT to effect said projects as provided in the agreement, and,

WHEREAS, the TOSV finds that the adoption of this Resolution is necessary for the immediate preservation of the public health, safety and welfare.

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

1. That the Transportation Director is authorized to execute and file an application for, and administer, grants for Federal assistance on behalf of the TOSV with the Federal Transit Administration and the Colorado Department of Transportation for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration.

2. That the TOSV agrees to the conditions of the Master Agreement's Certifications and Assurances as they pertain to these projects that the FTA requires for the assistance agreements and authorizes the Transportation Director to certify the Certifications and Assurances to the FTA through the "COTRAMS" web site.

CERTIFICATION

READ, APPROVED AND ADOPTED by the Town Council of the Town of Snowmass Village on the 21st of February 2023 upon a motion made by Council Member _____, the second of Council Member _____, and upon a vote of __in favor and __ opposed.

TOWN OF SNOWMASS VILLAGE

_____
Bill Madsen, Mayor

ATTEST:

_____
Megan Harris Boucher, Town Clerk

APPROVED AS TO FORM

_____
Jeffrey Conklin, Town Attorney

Not every provision of every certification will apply to every applicant or award. If a provision of a certification does not apply to the applicant or its award, FTA will not enforce that provision.

Text in italic is guidance to the public. It does not have the force and effect of law, and is not meant to bind the public in any way. It is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

CATEGORY 1. CERTIFICATIONS AND ASSURANCES REQUIRED OF EVERY APPLICANT.

All applicants must make the certifications in this category.

1.1. Standard Assurances.

The certifications in this subcategory appear as part of the applicant's registration or annual registration renewal in the System for Award Management (SAM.gov) and on the Office of Management and Budget's standard form 424B "Assurances—Non-Construction Programs". This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.

As the duly authorized representative of the applicant, you certify that the applicant:

(a) Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

(b) Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

(c) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

(d) Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

(e) Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

(f) Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:

(1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin, as effectuated by U.S. DOT regulation 49 CFR Part 21;

(2) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex, as effectuated by U.S. DOT regulation 49 CFR Part 25;

(3) Section 5332 of the Federal Transit Law (49 U.S.C. § 5332), which prohibits any person being excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance from FTA because of race, color, religion, national origin, sex, disability, or age.

(4) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps, as effectuated by U.S. DOT regulation 49 CFR Part 27;

(5) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;

(6) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;

(7) The comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

(8) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;

(9) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;

(10) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,

(11) the requirements of any other nondiscrimination statute(s) which may apply to the application.

(g) Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Act") (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. The requirements of the Uniform Act are effectuated by U.S. DOT regulation 49 CFR Part 24.

(h) Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

(i) Will comply, as applicable, with the provisions of the Davis–Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

(j) Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

(k) Will comply with environmental standards which may be prescribed pursuant to the following:

(1) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;

(2) Notification of violating facilities pursuant to EO 11738;

(3) Protection of wetlands pursuant to EO 11990;

(4) Evaluation of flood hazards in floodplains in accordance with EO 11988;

(5) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.);

(6) Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.);

(7) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and

(8) Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).

(l) Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

(m) Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a-1 et seq.).

(n) Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

(o) Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded

animals held for research, teaching, or other activities supported by this award of assistance.

(p) Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

(q) Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR Part 200, Subpart F, "Audit Requirements", as adopted and implemented by U.S. DOT at 2 CFR Part 1201.

(r) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the program under which it is applying for assistance.

(s) Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a subrecipient from:

(1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect;

(2) Procuring a commercial sex act during the period of time that the award is in effect; or

(3) Using forced labor in the performance of the award or subawards under the award.

1.2. Standard Assurances: Additional Assurances for Construction Projects.

This certification appears on the Office of Management and Budget's standard form 424D "Assurances—Construction Programs" and applies specifically to federally assisted projects for construction. This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.

As the duly authorized representative of the applicant, you certify that the applicant:

(a) Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency; will record the Federal awarding agency directives; and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.

(b) Will comply with the requirements of the assistance awarding agency with regard to the drafting, review, and approval of construction plans and specifications.

(c) Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work confirms with the approved plans and specifications, and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

1.3. Procurement.

The Uniform Administrative Requirements, 2 CFR § 200.325, allow a recipient to self-certify that its procurement system complies with Federal requirements, in lieu of submitting to certain pre-procurement reviews.

The applicant certifies that its procurement system complies with:

(a) U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR Part 200, particularly 2 CFR §§ 200.317–200.327 "Procurement Standards;
(b) Federal laws, regulations, and requirements applicable to FTA procurements; and
(c) The latest edition of FTA Circular 4220.1 and other applicable Federal guidance.

1.4. Suspension and Debarment.

Pursuant to Executive Order 12549, as implemented at 2 CFR Parts 180 and 1200, prior to entering into a covered transaction with an applicant, FTA must determine whether the applicant is excluded from participating in covered non-procurement transactions. For this purpose, FTA is authorized to collect a certification from each applicant regarding the applicant's exclusion status. 2 CFR § 180.300. Additionally, each applicant must disclose any information required by 2 CFR § 180.335 about the applicant and the applicant's principals prior to entering into an award agreement with FTA. This certification serves both purposes.

The applicant certifies, to the best of its knowledge and belief, that the applicant and each of its principals:

(a) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any Federal department or agency;
(b) Has not, within the preceding three years, been convicted of or had a civil judgment rendered against him or her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;

(c) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any offense described in paragraph (b) of this certification;

(d) Has not, within the preceding three years, had one or more public transactions (Federal, State, or local) terminated for cause or default.

1.5. Coronavirus Response and Relief Supplemental Appropriations Act, 2021, and CARES Act Funding.

The applicant certifies:

(a) To the maximum extent possible, funds made available under title IV of division M of the Consolidated Appropriations Act, 2021 (Public Law 116–260), and in title XII of division B of the CARES Act (Public Law 116–136; 134 Stat. 599) shall be directed to payroll and operations of public transit (including payroll and expenses of private providers of public transportation); or

(b) The applicant certifies that the applicant has not furloughed any employees.

1.6. American Rescue Plan Act Funding.

The applicant certifies:

(a) Funds made available by Section 3401(a)(2)(A) of the American Rescue Plan Act of 2021 (Public Law 117-2) shall be directed to payroll and operations of public transportation (including payroll and expenses of private providers of public transportation); or

(b) The applicant certifies that the applicant has not furloughed any employees.

CATEGORY 2. PUBLIC TRANSPORTATION AGENCY SAFETY PLANS

This certification is required of each applicant under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), each rail operator that is subject to FTA's state safety oversight programs, and each State that is required to draft and certify a Public Transportation Agency Safety Plan on behalf of a Small Public Transportation Provider (as that term is defined at 49 CFR § 673.5) pursuant to 49 CFR § 673.11(d).

This certification is required by 49 U.S.C. § 5307(c)(1)(L), 49 U.S.C. § 5329(d)(1), and 49 CFR § 673.13. This certification is a condition of receipt of Urbanized Area Formula Grants Program (49 U.S.C. § 5307) funding.

This certification does not apply to any applicant that only receives financial assistance from FTA under the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C.

§ 5310), the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or combination of these two programs, unless it operates a rail fixed guideway public transportation system.

If the applicant is an operator, the applicant certifies that it has established a Public Transportation Agency Safety Plan meeting the requirements of 49 U.S.C. § 5329(d)(1) and 49 CFR Part 673; including, specifically, that the board of directors (or equivalent entity) of the applicant has approved, or, in the case of an applicant that will apply for assistance under 49 U.S.C. § 5307 that is serving an urbanized area with a population of 200,000 or more, the safety committee of the entity established under 49 U.S.C. § 5329(d)(5), followed by the board of directors (or equivalent entity) of the applicant has approved, the Public Transportation Agency Safety Plan or any updates thereto; and, for each recipient serving an urbanized area with a population of fewer than 200,000, that the Public Transportation Agency Safety Plan has been developed in cooperation with frontline employee representatives.

If the applicant is a State that drafts and certifies a Public Transportation Agency Safety Plan on behalf of a public transportation operator, the applicant certifies that:

(a) It has drafted and certified a Public Transportation Agency Safety Plan meeting the requirements of 49 U.S.C. § 5329(d)(1) and 49 CFR Part 673 for each Small Public Transportation Provider (as that term is defined at 49 CFR § 673.5) in the State, unless the Small Public Transportation Provider provided notification to the State that it was opting out of the State-drafted plan and drafting its own Public Transportation Agency Safety Plan; and

(b) Each Small Public Transportation Provider within the State that opts to use a State-drafted Public Transportation Agency Safety Plan has a plan that has been approved by the provider's Accountable Executive (as that term is defined at 49 CFR § 673.5), Board of Directors or Equivalent Authority (as that term is defined at 49 CFR § 673.5), and, if the Small Public Transportation Provider serves an urbanized area with a population of 200,000 or more, the safety committee of the Small Public Transportation Provider established under 49 U.S.C. § 5329(d)(5).

CATEGORY 3. TAX LIABILITY AND FELONY CONVICTIONS.

If the applicant is a business association (regardless of for-profit, not for-profit, or tax exempt status), it must make this certification. Federal appropriations acts since at least 2014 have prohibited FTA from using funds to enter into an agreement with any corporation that has unpaid Federal tax liabilities or recent felony convictions without first considering the corporation for debarment. E.g., Consolidated Appropriations Act, 2023, Pub. L. 117-328, div. E, tit. VII, §§ 744–745. U.S. DOT Order 4200.6 defines a "corporation" as "any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association", and applies the restriction to all tiers of subawards. As prescribed by U.S. DOT

Order 4200.6, FTA requires each business association applicant to certify as to its tax and felony status.

If the applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the applicant certifies that:

(a) It has no unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(b) It has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

CATEGORY 4. LOBBYING.

If the applicant will apply for a grant or cooperative agreement exceeding $100,000, or a loan, line of credit, loan guarantee, or loan insurance exceeding $150,000, it must make the following certification and, if applicable, make a disclosure regarding the applicant's lobbying activities. This certification is required by 49 CFR § 20.110 and app. A to that part.

This certification does not apply to an applicant that is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 49 CFR Part 20.

4.1. Certification for Contracts, Grants, Loans, and Cooperative Agreements.

The undersigned certifies, to the best of his or her knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and

contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

4.2. Statement for Loan Guarantees and Loan Insurance.

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

CATEGORY 5. PRIVATE SECTOR PROTECTIONS.

If the applicant will apply for funds that it will use to acquire or operate public transportation facilities or equipment, the applicant must make the following certification regarding protections for the private sector.

5.1. Charter Service Agreement.

To enforce the provisions of 49 U.S.C. § 5323(d), FTA's charter service regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following Charter Service Agreement. 49 CFR § 604.4.

The applicant agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 CFR Part 604, the terms and conditions of which are incorporated herein by reference.

5.2. School Bus Agreement.

To enforce the provisions of 49 U.S.C. § 5323(f), FTA's school bus regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following agreement regarding the provision of school bus services. 49 CFR § 605.15.

(a) If the applicant is not authorized by the FTA Administrator under 49 CFR § 605.11 to engage in school bus operations, the applicant agrees and certifies as follows:
   (1) The applicant and any operator of project equipment agrees that it will not engage in school bus operations in competition with private school bus operators.
   (2) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Mass Transit Regulations, or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).

(b) If the applicant is authorized or obtains authorization from the FTA Administrator to engage in school bus operations under 49 CFR § 605.11, the applicant agrees as follows:
   (1) The applicant agrees that neither it nor any operator of project equipment will engage in school bus operations in competition with private school bus operators except as provided herein.
   (2) The applicant, or any operator of project equipment, agrees to promptly notify the FTA Administrator of any changes in its operations which might jeopardize the continuation of an exemption under § 605.11.
   (3) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Transit Administration regulations or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
   (4) The applicant agrees that the project facilities and equipment shall be used for the provision of mass transportation services within its urban area and that any other use of project facilities and equipment will be incidental to and shall not interfere with the use of such facilities and equipment in mass transportation service to the public.

CATEGORY 6. TRANSIT ASSET MANAGEMENT PLAN.

If the applicant owns, operates, or manages capital assets used to provide public transportation, the following certification is required by 49 U.S.C. § 5326(a).

The applicant certifies that it is in compliance with 49 CFR Part 625.

CATEGORY 7. ROLLING STOCK BUY AMERICA REVIEWS AND BUS TESTING.

7.1. Rolling Stock Buy America Reviews.

If the applicant will apply for an award to acquire rolling stock for use in revenue service, it must make this certification. This certification is required by 49 CFR § 663.7.

The applicant certifies that it will conduct or cause to be conducted the pre-award and post-delivery audits prescribed by 49 CFR Part 663 and will maintain on file the certifications required by Subparts B, C, and D of 49 CFR Part 663.

7.2. Bus Testing.

If the applicant will apply for funds for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the applicant must make this certification. This certification is required by 49 CFR § 665.7.

The applicant certifies that the bus was tested at the Bus Testing Facility and that the bus received a passing test score as required by 49 CFR Part 665. The applicant has received or will receive the appropriate full Bus Testing Report and any applicable partial testing reports before final acceptance of the first vehicle.

CATEGORY 8. URBANIZED AREA FORMULA GRANTS PROGRAM.

If the applicant will apply for an award under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), or any other program or award that is subject to the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310); "flex funds" from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)); projects that will receive an award authorized by the Transportation Infrastructure Finance and Innovation Act ("TIFIA") (23 U.S.C. §§ 601–609) or State Infrastructure Bank Program (23 U.S.C. § 610) (see 49 U.S.C. § 5323(o)); formula awards or competitive awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(a) and (b)); or low or no emission awards to any area under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(c)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5307(c)(1).

The applicant certifies that it:

(a) Has or will have the legal, financial, and technical capacity to carry out the program of projects (developed pursuant 49 U.S.C. § 5307(b)), including safety and security aspects of the program;

(b) Has or will have satisfactory continuing control over the use of equipment and facilities;

(c) Will maintain equipment and facilities in accordance with the applicant's transit asset management plan;

(d) Will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—

(1) Senior;

(2) Individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and

(3) Individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. §§ 401 et seq., and 1395 et seq.);

(e) In carrying out a procurement under 49 U.S.C. § 5307, will comply with 49 U.S.C. §§ 5323 (general provisions) and 5325 (contract requirements);

(f) Has complied with 49 U.S.C. § 5307(b) (program of projects requirements);

(g) Has available and will provide the required amounts as provided by 49 U.S.C. § 5307(d) (cost sharing);

(h) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning);

(i) Has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;

(j) Either—

(1) Will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under 49 U.S.C. § 5336; or

(2) Has decided that the expenditure for security projects is not necessary;

(k) In the case of an applicant for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census, will submit an annual report listing projects carried out in the preceding fiscal year under 49 U.S.C. § 5307 for associated transit improvements as defined in 49 U.S.C. § 5302; and

(l) Will comply with 49 U.S.C. § 5329(d) (public transportation agency safety plan).

CATEGORY 9. FORMULA GRANTS FOR RURAL AREAS.

If the applicant will apply for funds made available to it under the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), it must make this certification. Paragraph (a) of this certification helps FTA make the determinations required by 49 U.S.C. § 5310(b)(2)(C). Paragraph (b) of this certification is required by 49 U.S.C. § 5311(f)(2). Paragraph (c) of this certification, which applies to funds apportioned for the Appalachian Development Public Transportation Assistance Program, is necessary to enforce the conditions of 49 U.S.C. § 5311(c)(2)(D).

(a) The applicant certifies that its State program for public transportation service projects, including agreements with private providers for public transportation service—
   (1) Provides a fair distribution of amounts in the State, including Indian reservations; and
   (2) Provides the maximum feasible coordination of public transportation service assisted under 49 U.S.C. § 5311 with transportation service assisted by other Federal sources; and

(b) If the applicant will in any fiscal year expend less than 15% of the total amount made available to it under 49 U.S.C. § 5311 to carry out a program to develop and support intercity bus transportation, the applicant certifies that it has consulted with affected intercity bus service providers, and the intercity bus service needs of the State are being met adequately.

(c) If the applicant will use for a highway project amounts that cannot be used for operating expenses authorized under 49 U.S.C. § 5311(c)(2) (Appalachian Development Public Transportation Assistance Program), the applicant certifies that—
   (1) It has approved the use in writing only after providing appropriate notice and an opportunity for comment and appeal to affected public transportation providers; and
   (2) It has determined that otherwise eligible local transit needs are being addressed.

CATEGORY 10. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS AND THE EXPEDITED PROJECT DELIVERY FOR CAPITAL INVESTMENT GRANTS PILOT PROGRAM.

If the applicant will apply for an award under any subsection of the Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), including an award made pursuant to the FAST Act's Expedited Project Delivery for Capital Investment Grants Pilot Program (Pub. L. 114-94, div. A, title III, § 3005(b)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5309(c)(2) and Pub. L. 114-94, div. A, title III, § 3005(b)(3)(B).

The applicant certifies that it:

(a) Has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
(b) Has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
(c) Will maintain equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan; and
(d) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning).

CATEGORY 11. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS.

If the applicant is in an urbanized area and will apply for an award under subsection (a) (formula grants), subsection (b) (buses and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 8 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5339(a)(3), (b)(6), and (c)(3), respectively.

If the applicant is in a rural area and will apply for an award under subsection (a) (formula grants), subsection (b) (bus and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 9 for Formula Grants for Rural Areas (49 U.S.C. § 5311). This certification is required by 49 U.S.C. § 5339(a)(3), (b)(6), and (c)(3), respectively.

Making this certification will incorporate by reference the applicable certifications in Category 8 or Category 9.

If the applicant will receive a competitive award under subsection (b) (buses and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) related to zero emissions vehicles or related infrastructure, it must make the following certification. This certification is required by 49 U.S.C. § 5339(d).

The applicant will use 5 percent of grants related to zero emissions vehicles (as defined in subsection (c)(1)) or related infrastructure under subsection (b) or (c) to fund workforce development training as described in section 49 U.S.C. § 5314(b)(2) (including registered apprenticeships and other labor-management training programs) under the recipient's plan to address the impact of the transition to zero emission vehicles on the applicant's current workforce; or the applicant certifies a smaller percentage is necessary to carry out that plan.

CATEGORY 12. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.

If the applicant will apply for an award under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C. § 5310), it must make the certification in Category 8 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5310(e)(1). Making this certification will incorporate by reference the certification in Category 8, except that FTA has determined that (d), (f), (i), (j), and (k) of Category 8 do not apply to awards made under 49 U.S.C. § 5310 and will not be enforced.

In addition to the certification in Category 8, the applicant must make the following certification that is specific to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program. This certification is required by 49 U.S.C. § 5310(e)(2).

The applicant certifies that:

(a) The projects selected by the applicant are included in a locally developed, coordinated public transit-human services transportation plan;
(b) The plan described in clause (a) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public;
(c) To the maximum extent feasible, the services funded under 49 U.S.C. § 5310 will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services; and
(d) If the applicant will allocate funds received under 49 U.S.C. § 5310 to subrecipients, it will do so on a fair and equitable basis.

CATEGORY 13. STATE OF GOOD REPAIR GRANTS.

If the applicant will apply for an award under FTA's State of Good Repair Grants Program (49 U.S.C. § 5337), it must make the following certification. Because FTA generally does not review the transit asset management plans of public transportation providers, the asset management certification is necessary to enforce the provisions of 49 U.S.C. § 5337(a)(4). The certification with regard to acquiring restricted rail rolling stock is required by 49 U.S.C. § 5323(u)(4). Note that this certification is not limited to the use of Federal funds.

The applicant certifies that the projects it will carry out using assistance authorized by the State of Good Repair Grants Program, 49 U.S.C. § 5337, are aligned with the applicant's most recent transit asset management plan and are identified in the investment and prioritization section of such plan, consistent with the requirements of 49 CFR Part 625.

If the applicant operates a rail fixed guideway service, the applicant certifies that, in the fiscal year for which an award is available to the applicant under the State of Good Repair Grants Program, 49 U.S.C. § 5337, the applicant will not award any contract or subcontract for the procurement of rail rolling stock for use in public transportation with a rail rolling stock manufacturer described in 49 U.S.C. § 5323(u)(1).

CATEGORY 14. INFRASTRUCTURE FINANCE PROGRAMS.

If the applicant will apply for an award for a project that will include assistance under the Transportation Infrastructure Finance and Innovation Act ("TIFIA") Program (23 U.S.C. §§ 601–609) or the State Infrastructure Banks ("SIB") Program (23 U.S.C. § 610), it must make the certifications in Category 8 for the Urbanized Area Formula Grants Program, Category 10 for the Fixed Guideway Capital Investment Grants program, and Category 13 for the State of Good Repair Grants program. These certifications are required by 49 U.S.C. § 5323(o).

Making this certification will incorporate the certifications in Categories 8, 10, and 13 by reference.

CATEGORY 15. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

If the applicant will apply for an award under FTA's Urbanized Area Formula Grants Program (49 U.S.C. § 5307), Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) programs, the applicant must make the following certification. The applicant must make this certification on its own behalf and on behalf of its subrecipients and contractors. This certification is required by 49 CFR § 655.83.

The applicant certifies that it, its subrecipients, and its contractors are compliant with FTA's regulation for the Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, 49 CFR Part 655.

CATEGORY 16. RAIL SAFETY TRAINING AND OVERSIGHT.

If the applicant is a State with at least one rail fixed guideway system, or is a State Safety Oversight Agency, or operates a rail fixed guideway system, it must make the following certification. The elements of this certification are required by 49 CFR §§ 672.31 and 674.39.

The applicant certifies that the rail fixed guideway public transportation system and the State Safety Oversight Agency for the State are:

(a) Compliant with the requirements of 49 CFR Part 672, "Public Transportation Safety Certification Training Program"; and
(b) Compliant with the requirements of 49 CFR Part 674, "Sate Safety Oversight".

CATEGORY 17. DEMAND RESPONSIVE SERVICE.

If the applicant operates demand responsive service and will apply for an award to purchase a non-rail vehicle that is not accessible within the meaning of 49 CFR Part 37, it must make the following certification. This certification is required by 49 CFR § 37.77.

The applicant certifies that the service it provides to individuals with disabilities is equivalent to that provided to other persons. A demand responsive system, when viewed in its entirety, is deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

(a) Response time;
(b) Fares;
(c) Geographic area of service;
(d) Hours and days of service;
(e) Restrictions or priorities based on trip purpose;
(f) Availability of information and reservation capability; and
(g) Any constraints on capacity or service availability.

CATEGORY 18. INTEREST AND FINANCING COSTS.

*If the applicant will pay for interest or other financing costs of a project using assistance awarded under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), the Fixed Guideway Capital Investment Grants Program (49 U.S.C. § 5309), or any program that must comply with the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310), "flex funds" from infrastructure programs administered by the Federal Highways Administration (*see *49 U.S.C. § 5334(i)), or awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the following certification. This certification is required by 49 U.S.C. §§ 5307(e)(3) and 5309(k)(2)(D).*

The applicant certifies that:

(a) Its application includes the cost of interest earned and payable on bonds issued by the applicant only to the extent proceeds of the bonds were or will be expended in carrying out the project identified in its application; and
(b) The applicant has shown or will show reasonable diligence in seeking the most favorable financing terms available to the project at the time of borrowing.

CATEGORY 19. CYBERSECURITY CERTIFICATION FOR RAIL ROLLING STOCK AND OPERATIONS.

If the applicant operates a rail fixed guideway public transportation system, it must make this certification. This certification is required by 49 U.S.C. § 5323(v). For information about standards or practices that may apply to a rail fixed guideway public transportation system, visit https://www.nist.gov/cyberframework *and* https://www.cisa.gov/.

The applicant certifies that it has established a process to develop, maintain, and execute a written plan for identifying and reducing cybersecurity risks that complies with the requirements of 49 U.S.C. § 5323(v)(2).

CATEGORY 20. PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS FORMULA AND DISCRETIONARY PROGRAM (TRIBAL TRANSIT PROGRAMS).

Before FTA may provide Federal assistance for an Award financed under either the Public Transportation on Indian Reservations Formula or Discretionary Program authorized under 49 U.S.C. § 5311(c)(1), as amended by the FAST Act, (Tribal Transit Programs), the applicant must select the Certifications in Category 21, except as FTA determines otherwise in writing. Tribal Transit Program applicants may certify to this Category and Category 1 (Certifications and Assurances Required of Every Applicant) and need not make any other certification, to meet Tribal Transit Program certification requirements. If an applicant will apply for any program in addition to the Tribal Transit Program, additional certifications may be required.

FTA has established terms and conditions for Tribal Transit Program grants financed with Federal assistance appropriated or made available under 49 U.S.C. § 5311(c)(1). The applicant certifies that:

(a) It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.

(b) It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

(c) It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR Part 625. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.

(d) With respect to its procurement system:

  (1) It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost

Principles, and Audit Requirements for Federal Awards," 2 CFR Part 200, for Awards made on or after December 26, 2014,

(2) It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR Part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or

(3) It will inform FTA promptly if its procurement system does not comply with either of those U.S. DOT regulations.

(e) It will comply with the Certifications, Assurances, and Agreements in:

(1) Category 05.1 and 05.2 (Charter Service Agreement and School Bus Agreement),

(2) Category 06 (Transit Asset Management Plan),

(3) Category 07.1 and 07.2 (Rolling Stock Buy America Reviews and Bus Testing),

(4) Category 09 (Formula Grants for Rural Areas),

(5) Category 15 (Alcohol and Controlled Substances Testing), and

(6) Category 17 (Demand Responsive Service).

CATEGORY 21. EMERGENCY RELIEF PROGRAM.

An applicant to the Public Transportation Emergency Relief Program, 49 U.S.C. § 5324, must make the following certification. The certification is required by 49 U.S.C. § 5324(f) and must be made before the applicant can receive a grant under the Emergency Relief program.

The applicant certifies that the applicant has insurance required under State law for all structures related to the emergency relief program grant application.

FEDERAL FISCAL YEAR 2023 CERTIFICATIONS AND ASSURANCES FOR FTA ASSISTANCE PROGRAMS

(Signature pages alternate to providing Certifications and Assurances in TrAMS.)

Name of Applicant:_____

The Applicant certifies to the applicable provisions of all categories: (*check here*) _____.

Or,

The Applicant certifies to the applicable provisions of the categories it has selected:

Category		Certification
01	Certifications and Assurances Required of Every Applicant	_____
02	Public Transportation Agency Safety Plans	_____
03	Tax Liability and Felony Convictions	_____
04	Lobbying	_____
05	Private Sector Protections	_____
06	Transit Asset Management Plan	_____
07	Rolling Stock Buy America Reviews and Bus Testing	_____
08	Urbanized Area Formula Grants Program	_____
09	Formula Grants for Rural Areas	_____
10	Fixed Guideway Capital Investment Grants and the Expedited Project Delivery for Capital Investment Grants Pilot Program	_____
11	Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs	_____

12	Enhanced Mobility of Seniors and Individuals with Disabilities Programs	_____
13	State of Good Repair Grants	_____
14	Infrastructure Finance Programs	_____
15	Alcohol and Controlled Substances Testing	_____
16	Rail Safety Training and Oversight	_____
17	Demand Responsive Service	_____
18	Interest and Financing Costs	_____
19	Cybersecurity Certification for Rail Rolling Stock and Operations	_____
20	Tribal Transit Programs	_____
21	Emergency Relief Program	_____

CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE

AFFIRMATION OF APPLICANT

Name of the Applicant: _____

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in the federal fiscal year, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

The Certifications and Assurances the Applicant selects apply to each Award for which it now seeks, or may later seek federal assistance to be awarded by FTA during the federal fiscal year.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq*., and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature_____ Date: _____

Name_____ Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): _____

As the undersigned Attorney for the above-named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

Signature_____ Date: _____

Name_____ Attorney for Applicant

Each Applicant for federal assistance to be awarded by FTA must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within TrAMS, provided the Applicant has on file and uploaded to TrAMS this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.

Town of Snowmass Village
Agenda Item Summary

DATE OF MEETING:
February 22, 2023

AGENDA ITEM:
Discussion and Consideration of Resolution NO. 9 Series of 2023 Approving a 5 Year Lease with the Snowmass Western Heritage Association for the Rodeo Grounds

PRESENTED BY:
Andy Worline, Parks, Recreation & Trails Director

BACKGROUND:
Snowmass Western Heritage Association (SWHA) has requested to renew the lease for the rodeo arena starting in the summer of 2023. The previous lease was granted for three years ending September 2022. SWHA has leased the rodeo grounds from the Town for at least 20 years.

The Town and SWHA have worked together to develop the draft lease before the Council.

This new lease will cover the next five years and will be re-evaluated after the 2027 summer season. The conditions of the proposed lease are relatively the same as previously leases. This draft lease does provide clarity on:

- SWHA's responsibilities for any maintenance and repair of the Rodeo Grounds and Rodeo Facilities
- Parking
- A continued requirement to apply for a special event permit.

Compensation from SWHA to the Town is (likely) the largest proposed change to the lease. Currently there is no compensation from SWHA to the Town for the use of the facilities. This draft lease proposes compensation to the Town will be in the form of a rental fee per year of $17,000. In the event a rodeo is cancelled due to a cause outside of the control of SWHA, TOSV agrees to waive and reduce the Annual Lease Amount on a pro-rata basis by the number of rodeos cancelled (due to a cause outside SWHA control) as a fraction of the total number of schedule rodeos. In addition, SWHA has proposed to contribute a one-time payment of $115,000 for rodeo facility improvements.

The Council has discussed these contributions in previous meetings but has not agreed to them. Council discussion and consideration on these amounts is warranted.

With the Town ready to proceed with a $5 million investment in Town Park, over $400,000 of which is for improvements to the grandstands, Staff would continue to ask that this one-time capital contribution from SWHA be increased if their financial capacity allows. The timing of this contribution is also important and should be made before construction on the facility commences.

Outside of the compensation issues, it is Staff's understanding that both SWHA and TOSV have agreed to the other changes and modifications in this lease.

FINANCIAL IMPACT:

Snowmass Western Heritage Association (SWHA) has utilized this facility for many years with no direct financial contribution. This lease calls for both an annual rent and one-time contributions. These amounts need to be finalized.

APPLICABILITY TO COUNCIL GOALS & OBJECTIVES:

The Town Council has made the Town Park improvement a priority and this lease contributes to the ongoing creation of community-oriented spaces.

COUNCIL OPTIONS:

1) Agree to the terms of the lease and approve the Resolution.
2) Modify the proposed lease and then approve the Resolution.
3) Choose not to approve the Resolution or lease at this time.

STAFF RECOMMENDATION:

Once the one-time contribution and annual lease amount are agreed to by the Council, Staff recommends that the Council make the following motion: Approving Resolution No. 9 Series of 2023 approving the lease with the Snowmass Western Heritage Association.

ATTACHMENTS:

Resolution No. 09, Series 2023
Draft Rodeo Lease 2023-2027 with Exhibit A & B
Under Sperate Cover – SWHA Balance Sheet & Profit and loss statement

TOWN OF SNOWMASS VILLAGE
TOWN COUNCIL

RESOLUTION NO. 9
SERIES OF 2023

A RESOLUTION APPROVING THE RODEO GROUNDS ARENA LEASE AGREEMENT WITH SNOWMASS WESTERN HERITAGE ASSOCIATION

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. Section 1.4 of the Charter authorizes the Town Council to lease real property.

C. TOSV owns real property in Snowmass Village located at 2753 Brush Creek Road (the "Property").

D. A portion of the Property is developed with rodeo grounds (the "Rodeo Grounds") and related rodeo facilities (the "Rodeo Facilities") owned by TOSV.

E. Snowmass Western Heritage Association (SWHA) wishes to lease the Rodeo Grounds and Rodeo Facilities for up to a 5-year term, as set forth in the Rodeo Grounds Lease Agreement enclosed as **Exhibit A** (the "Rodeo Lease"). Further, SWHA has agreed to make a capital contribution towards the improvements on the Rodeo Grounds, as set forth in the Rodeo Lease.

F. The Town Council finds and determines that it is in the best interests of the Town to approve the Rodeo Lease as set forth in this Resolution. 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. Rodeo Lease. The Town Council hereby approves the Rodeo Lease in substantially the same form as set forth in **Exhibit A**, as determined to be satisfactory to the Town Attorney, and authorizes the Town Manager to execute the same.

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 15th day of February, 2023, 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

Rodeo Grounds Arena Lease Agreement - 2023-2027
Town of Snowmass Village, Colorado - Snowmass Western Heritage Association (SWHA)

This Lease Agreement ("Agreement") is made and entered into this ____ day of _____, 2023, by and between the Town of Snowmass Village, a Colorado home rule municipal corporation, hereinafter referred to as "TOSV" or the "Town," and Snowmass Western Heritage Association, a Colorado nonprofit corporation, hereinafter referred to as "SWHA." TOSV and SWHA are collectively referred to as the "Parties."

Recitals

A. TOSV is the owner of the Town Park property, located at 2753 Brush Creek Road, Snowmass Village, Colorado. A rodeo riding arena and appurtenant facilities are located within Town Park, defined below as "Rodeo Grounds" and "Rodeo Facilities."

B. SWHA's purpose is to preserve and enhance Snowmass Village and Roaring Fork Valley western heritage, culture and spirit through education and charity.

C. SWHA provides activities and events to educate and entertain the general public. SWHA wishes to operate a nonprofessional rodeo series on the Rodeo Grounds and using Rodeo Facilities from June 1st – August 31st, 2023-2027.

D. The Town owns all of the permanent fixtures, structures and equipment in Town Park, including fixtures, structures and equipment needed for the rodeo (the "Rodeo Facilities"), except for the rodeo sound system, picnic tables, food, roping chutes, and bar tents.

E. SWHA desires to utilize the Rodeo Grounds and Rodeo Facilities for conducting the above-referenced western heritage activities and events on the terms set forth below and detailed in the Special Event Application on file with the Town.

For and in consideration of the mutual promises and covenants set forth below, TOSV and SWHA agree as follows:

1. Recitals. The foregoing recitals are incorporated herein.

2. Leased Premises; Site and Facilities. In consideration of the payment of Rent (defined below) and the performance of the promises by SWHA herein, TOSV hereby leases to SWHA the rodeo grounds within the boundaries of the Town Park identified on **Exhibit A** for the 2023 lease year and that identified on **Exhibit B**[1] for the 2024-2027 lease years (the "Rodeo Grounds") and the Rodeo Facilities for the following, limited rodeo and related western heritage, equestrian, and rodeo support activities:

[1] Exhibit B reflects the Rodeo Grounds upon completion of the planned rodeo construction project.

a. SWHA may hold regularly scheduled rodeos each Wednesday from the third week of June through the third week of August from approximately 5:00 pm to 10:00 pm.

b. SWHA may hold other rodeo and related western heritage, equestrian, and rodeo support activities on the Rodeo Grounds upon approval of the TOSV. Such additional activities and the dates thereof shall be requested by SWHA at least 14 days in advance the activity date for TOSV approval, which shall not be unreasonably withheld (e.g. TOSV previously scheduled event).

c. TOSV reserves the right to use the Rodeo Grounds for special events and other uses except TOSV will not schedule an event that could interfere with SWHA's ability to conduct a rodeo on Wednesday nights, or other approved activities that have been previously approved by the TOSV. TOSV shall provide at least 7 days advance notice to SWHA of TOSV's intent to use the Rodeo Grounds.

3. Site Preparation

a. The Parties acknowledge that the ability to safely and effectively utilize any area of the Rodeo Grounds and Rodeo Facilities for a rodeo or other events will depend upon weather, surface conditions, and other factors, which are beyond the control of TOSV.

b. SWHA assumes full and complete responsibility for the preparation and maintenance of the Rodeo Grounds and Rodeo Facilities and for the determination, on a continuing daily basis, of the condition or suitability of any area for the rodeo or any other operations, uses or activities by SWHA.

c. TOSV shall have the right to prohibit the selection of any use area of the Rodeo Grounds or portion of the Rodeo Facilities if it determines, in its discretion, that the proposed use of the Town Park property poses an unacceptable risk to the safety of TOSV employees, guests, and facilities or unreasonably interferes with other operations by TOSV.

d. TOSV has made no warranty, expressed or implied, as to the suitability of the Rodeo Grounds and Rodeo Facilities for the conduct of any activity by SWHA.

e. If TOSV schedules any activity or event at the Rodeo Grounds, TOSV will ensure that the Rodeo Grounds is returned to the same useable condition after said use. After such use by TOSV and prior to subsequent use by SWHA, SWHA assumes full and complete responsibility for the preparation and maintenance of such areas and facilities and for the determination, on a continuing daily basis, of the condition or suitability of any area for the rodeo or any other operations, uses or activities by SWHA.

f. SWHA accepts the Rodeo Grounds and Rodeo Facilities "as is" from TOSV before each use and TOSV shall have no responsibility to ensure the safe and good condition of the Rodeo Grounds and Rodeo Facilities.

g. To a reasonable extent, TOSV agrees to help facilitate any needed repairs caused by other users of the Rodeo Grounds

4. Term. TOSV leases the Rodeo Grounds and Rodeo Facilities to SWHA, subject to the conditions in this Agreement, from June 1, 2023 to and through August 31, 2027, subject to the rights of termination set forth below and unless sooner terminated pursuant to such right.

5. Compensation to TOSV

a. In consideration of the rights granted herein, SWHA agrees to pay TOSV $_____ per year for up to 10 rodeo events per year (the "Annual Lease Amount"). The Annual Lease Amount shall be paid not later than 14 days after the last rodeo event of each year. In the event a rodeo is cancelled due to a cause outside of the control of SWHA, TOSV agrees to waive and reduce the Annual Lease Amount on a pro-rata basis by the number of rodeos cancelled (due to a cause outside SWHA control) as a fraction of the total number of schedule rodeos. By way of example, for the 9 rodeos scheduled for 2023, if 1 rodeo is cancelled due to a cause outside SWHA control, TOSV will waive 1/9th of the Annual Lease Amount. In the event TOSV cancels this Agreement pursuant to paragraph 19.d of this Agreement, SWHA will not be obligated to pay the Annual Lease Amount.

b. SWHA also will contribute a one-time payment of $_____ for capital expenditures for Rodeo Grounds and Rodeo Facilities improvements (the "Capital Contribution") once construction is initiated, but not later than 14 days after mutual execution of this Agreement. In the event the TOSV cancels this Agreement pursuant to paragraph 19.d of this Agreement, the Town will reimburse SWHA a pro-rata amount of the Capital Contribution based on the number of years remaining on the lease term as a fraction of the total lease term. By way of example, if the Agreement was terminated after 3 years, TOSV would reimburse SWHA for 2/5ths of the Capital Contribution. Lastly, in the event the Rodeo Grounds and Rodeo Facilities Improvements are not completed, TOSV will reimburse SWHA for the full Capital Contribution.

c. SWHA is committed to use net revenues from SWHA's operation of the summer rodeo series for the upkeep and capital improvements of the Rodeo Grounds and Rodeo Facilities. All improvements by SWHA to the property must be approved by TOSV before commencement.

d. The sound system will be provided and maintained by SWHA including all wiring and connections.

e. SWHA shall maintain the Rodeo Grounds and Rodeo Facilities in a good, safe, and clean condition. SWHA shall be solely responsible for any maintenance and repair of the Rodeo Grounds and Rodeo Facilities at its sole expense. TOSV shall be indemnified and held harmless by SWHA for any and all losses, claims, or liabilities of any kind arising from or relate to use of the Rodeo Grounds and Rodeo Facilities.

f. At the end of each rodeo season, SWHA will provide, as historically provided, its auditor's profit and loss statement and balance sheet reports detailing the SWHA's operations pursuant to this Agreement.

g. SWHA shall keep a complete set of accurate financial records of its operations, in a manner consistent with ordinary accounting methods and procedures. SWHA shall maintain accurate records of all receipts, invoices, payments, income, accounts, documents, and other relevant information in its offices in Snowmass, which shall be open for inspection, review, examination, audit, and copying by TOSV during normal business hours upon TOSV's reasonable request.

h. Significant improvements at the Rodeo Grounds shall be planned before the season and required the advance approval from TOSV on all improvements in its sole discretion.

6. <u>Arena and Corral Maintenance</u>

a. SWHA will be responsible for all labor and costs necessary to repair and maintain any and all arena and corrals.

b. Prior to the commencement of the first SWHA event, SWHA will be responsible for and shall make any necessary (as determined by the Town) repairs to the Rodeo Facilities, including but not limited to:
   - The arena, including additional infield mix
   - Outbuildings
   - Bleachers
   - Exterior security fencing
   - Irrigation and water system
   - Weed Control
   - Rodent Control

c. SWHA will be solely responsible for paying all labor and material costs for installing and removing all food and beverage tents.

d. SWHA will be solely responsible for all labor and materials necessary to repair the Rodeo Facilities including but not limited to said pens, corrals, and fencing.

e. SWHA may construct, with TOSV approval, other small temporary booths within the Rodeo Grounds for displays or children's activities, including a teepee, or improve/upgrade the existing structures.

f. Trailer parking – No SWHA Trailers or other equipment parking is allowed at the Town Park site or Rodeo arena except for the 10 rodeo events per season. Exception: SWHA Business Trailer will be allowed during the entire rodeo season.

7. Manure Removal. SWHA will thoroughly remove manure from the areas of its operation on a daily basis and dispose of all manure at such locations that are designated by TOSV. SWHA shall contract with TOSV for solid waste removal services. All manure removal and disposal shall be at SWHA's sole cost. TOSV will consider alternate methods of disposal as proposed by SWHA. – No dumping Manure into the pond, wetland areas or any other native areas on the Town Park site.

   Areas of operation include:

   a. Areas including the road(s):
      i. Brush Creek Rd.
      ii. Horse Ranch Dr.
      iii. Check Point Charlie (Overflow Parking)
   b. Trails;
      i. Brush Creek Paved Trail
      ii. Horse Ranch Paved Trail

8. Parking at Town Park
   a. All spaces in front of the Recreation Center are reserved for center guests and shall not be used by SWHA.

   b. Access through the parking lot must be available for drop-off and pick up from the Recreation Center.

9. Governmental Approvals
   a. TOSV and SWHA shall reasonably cooperate to obtain all governmental approvals and permits necessary for the conduct of SWHA's operations hereunder.

   b. SWHA agrees that it will, at all times, conduct all of its operations in compliance with all conditions and requirements of the special event application, approvals, laws, and regulations.

   c. TOSV makes no warranty hereunder that TOSV and SWHA will be successful in obtaining and maintaining any and all permits and approvals necessary for the conduct of Operator's activities during the term of this Agreement. In the event that any permit or

approval necessary therefore is not obtained after all reasonable efforts, then this Agreement shall terminate at the time that the governmental body having authority to issue such permit finally determines to deny such permit.

d. SWHA agrees to complete and submit for TOSV approval, a Special Event Application, and TOSV agrees to review and issue, if appropriate in its reasonable discretion, a Special Event Permit for the rodeo/barbecue and other activities.

e. The Special Event Permit will not give SWHA exclusive use of the Rodeo Grounds; the Town reserves the right to use the property for other uses as long as they do not interfere with the rodeo and other proposed SWHA activities, as set forth herein.

f. If SWHA needs to use private property to pasture animals, SWHA must secure the approval of the property owner.

g. SWHA may not move rodeo stock through the Town Park for any reason.

10. Assignment
    a. Provided that SWHA is in full compliance with all of its obligations and covenants hereunder, this Agreement and SWHA hereunder may assign its rights only upon the prior written consent of TOSV which may be withheld in TOSV's reasonable discretion.

    b. Sub-leases are prohibited.

11. Participant Waivers. SWHA shall require every participant entering onto the Rodeo Grounds under this Agreement to have first been advised regarding and shall thereafter have fully executed a "Waiver and Release of Liability" in a form acceptable to TOSV.

12. No Partnership. Under the terms of this Agreement, SWHA shall not be considered an employee, agent, partner, joint venture or contractor of TOSV. Operator's status shall be solely that of an independent contractor. Nothing in this Agreement is intended to confer any benefit upon any third party.

13. Exclusivity
    a. During the term of this Agreement, TOSV will not enter into any other contracts authorizing production of rodeos on the Rodeo Grounds.

    b. This Agreement shall not preclude any other activity whatsoever at the Rodeo Grounds by TOSV, its employees, agents or invitees so long as such activities do not interfere with scheduled and approved events or activities of SWHA, subject to the terms of this Agreement. Further, TOSV acknowledges and agrees that SWHA intends to cooperate and partner with other local nonprofits and entities to jointly host and market certain activities and events at the Rodeo Grounds.

14. Indemnification. SWHA agrees, for itself, its successors and assignees, to indemnify, defend, and hold harmless TOSV, its Council, employees, agents, and officers, from and against any and all claims of any sort whatsoever, including negligence, arising out of or related to any action or failure to act by SWHA or its customers, agents, and employees. This obligation of indemnity shall include the payment of reasonable attorney's fees incurred in the investigation or defense of any claim, regardless of whether the claim is subsequently determined to lack merit. In furtherance of the obligation of indemnity and defense hereunder; SWHA shall at all times during the term of this Agreement, obtain and maintain in full force and effect a policy of comprehensive general liability insurance with policy limits of not less than $1,000,000 per occurrence and $2,000,000 aggregate. TOSV shall be named as additional insured on such policy and SWHA shall deliver a certificate evidencing such coverage to TOSV prior to the commencement of any activity hereunder. In the event TOSV allows other uses or events of the Rodeo premises that are not undertaken by SWHA, including but not limited to seasonal horseback trail rides, parking operations and annual holiday tree sales , TOSV shall require indemnity or Certificates of Insurance, acceptable to TOSV, from the operator(s) of such uses or events.

15. Site Inspection; Damages.
    a. In consideration of being permitted to enter the Rodeo Grounds and use the Rodeo Facilities for any purpose, SWHA, herein defined as including, but not limited to the arena, chutes, pens, areas reserved and intended for participants or restricted to the general public, all walkways, concessions, bleachers, or areas appurtenant to any areas where activity related to any event shall take place, or being permitted to compete, officiate, observe, work for, or for any purpose participate in any way in any event, the user, for their self, their personal representative and heirs, acknowledges, agrees, and represents that they have or will, immediately upon entering any such areas, and will continuously thereafter, inspect such areas and all portions thereof which he enters and with which they come in contact, and they do further warrant that their entry upon such areas and their participation, if any, constitutes an acknowledgement that they have inspected said area and that they find and accept the same as being safe and reasonably suited for the purposes of their use, and they further agree that if they feel anything to be unsafe, they will immediately advise the officials of TOSV of such and will leave said area.

    b. SWHA shall be responsible for any damages caused during the Term by SWHA's employees, contractors, agents, invitees, licensees, guests, or invitees, to the Rodeo Grounds and Rodeo Facilities.

16. Acceptance of Risk
    a. SWHA hereby assumes full responsibility for any risk of bodily injury, death or property damage, due to the negligence of SWHA or otherwise while in or upon the premises while competing, officiating, observing, or working in any event or otherwise using the Rodeo Grounds.

b. SWHA hereby agrees that the activities of an event may be dangerous and involve the risk of serious injury and or death and property damage. SWHA further expressly agrees that the foregoing Release and Waiver of Liability and Indemnity Agreement is intended to be as broad and inclusive as is permitted by the law of the State of Colorado and that if any portion hereof is held invalid. It is agreed that the balance shall continue in full force and effect.

c. SWHA acknowledges that the use, handling, and riding of a horse, bull, or other rodeo animal involves a risk of physical injury to any individual undertaking such activities; and that a horse, bull, or other rodeo animal, regardless of its training and usual past behavior characteristics, may act or react unpredictably at times based upon instinct or fright which, likewise, is an inherent risk assumed by a participant. Under Colorado law, an equine activity sponsor is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to section 13-21-119, Colorado Revised Statutes.

17. Signs

a. TOSV will allow SWHA to display one sign describing SWHA's programs at such location as may be mutually agreeable. In the event of any failure to agree, the location and design of any signs at the Rodeo Grounds shall be determined by TOSV in its sole discretion. Any additional signs must be approved in advance by TOSV and may be rejected in TOSV's sole discretion.

18. Animal Care

a. SWHA agrees: No Livestock will be stored at the Town Park or Rodeo Grounds overnight.

b. SWHA agrees to provide proof of vaccination for all stock animals.

c. SWHA agrees to allow the TOSV to inspect the stock animals for compliance with reasonable standards of care.

d. SWHA will comply with any directives issued by TOSV Staff.

e. SWHA and participants will provide only certified weed-free hay for all of its animals.

19. Entire Agreement and Termination

a. This Agreement states the entire Agreement and is intended to be a complete and integrated contract.

b. No amendment or change to this Agreement shall be binding or effective unless in writing and executed by both parties hereto.

c. In the event SWHA wishes to terminate this agreement, it will give TOSV at least (1) one month advance written notice.

d. TOSV has the right to terminate this Agreement by providing SWHA written notice thereof prior to January 1 of each year.

e. If SWHA "abandons" the Rodeo Grounds and does not plan to host the summer rodeo series the TOSV has the right to take over the Rodeo and notify SWHA in writing of termination of this Agreement. In the event such notification is received by SWHA and SWHA disagrees with TOSV's determination of abandonment, then SWHA shall have 30 days to cure any alleged breaches of this agreement and satisfy TOSV that SWHA is proceeding according to its proposal referenced above.

20. Governmental Immunity Act. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq.

21. Agreement Subject to Appropriation. To the extent this Agreement constitutes a multiple fiscal year debt or financial obligation of TOSV, it shall be subject to annual appropriation pursuant to the Town of Snowmass Village Municipal Code and Article X, Section 20 of the Colorado Constitution. The Town shall have no obligation to continue this Agreement in any fiscal year in which no such appropriation is made.

TOWN OF SNOWMASS VILLAGE, COLORADO

By: _____

Title: _____

Date: _____

SNOWMASS WESTERN HERITAGE ASSOCIATION

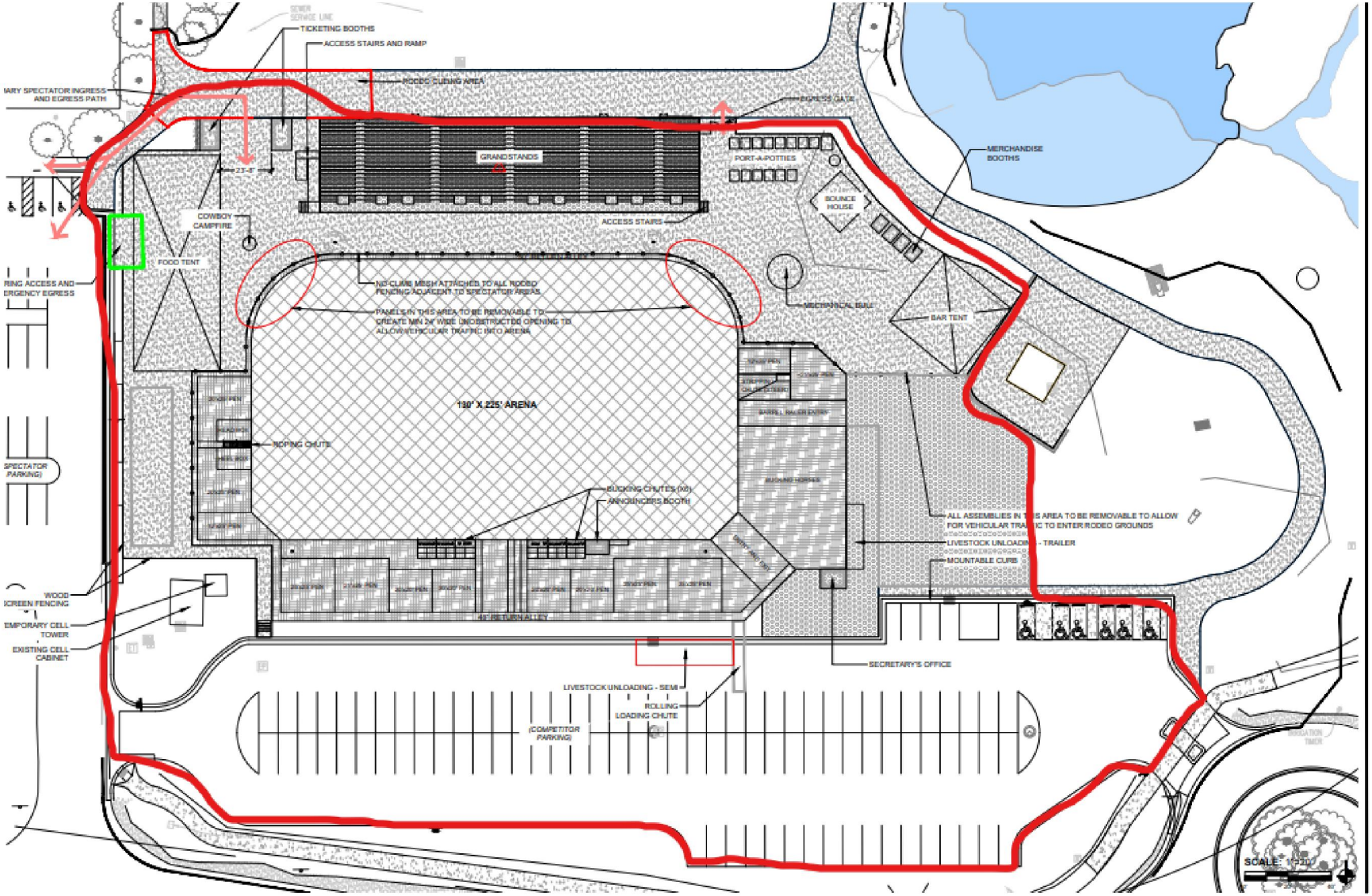
By: _____

Title: _____

Date: _____

Exhibit A

Exhibit B


TICKETING BOOTHS
ACCESS STAIRS AND RAMP
RODEO SUBING AREA
EGRESS GATE
GRANDSTANDS
PORT-A-POTTIES
MERCHANDISE BOOTHS
BOUNCE HOUSE
ACCESS STAIRS
COWBOY CAMPFIRE
FOOD TENT
NO-CLIMB MESH ATTACHED TO ALL RODEO FENCING ADJACENT TO SPECTATOR AREAS
PANELS IN THIS AREA TO BE REMOVABLE TO CREATE MIN 24' WIDE UNOBSTRUCTED OPENING TO ALLOW VEHICULAR TRAFFIC INTO ARENA
MECHANICAL BULL
BAR TENT
130' X 225' ARENA
ROPING CHUTE
BUCKING CHUTES (X2)
ANNOUNCERS BOOTH
ALL ASSEMBLIES IN THIS AREA TO BE REMOVABLE TO ALLOW FOR VEHICULAR TRAFFIC TO ENTER RODEO GROUNDS
LIVESTOCK UNLOADING - TRAILER
MOUNTABLE CURB
WOOD SCREEN FENCING
TEMPORARY CELL TOWER
EXISTING CELL CABINET
40' RETURN ALLEY
SECRETARY'S OFFICE
LIVESTOCK UNLOADING - SEMI
ROLLING LOADING CHUTE
(COMPETITOR PARKING)
SPECTATOR PARKING)

Town of Snowmass Village

Agenda Item Summary

DATE OF MEETING:

February 21, 2023

AGENDA ITEM:

Executive Session

PRESENTED BY:

Clint Kinney, Town Manager

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 move to enter Executive Session pursuant to C.R.S. 24-6-402(4) and Snowmass Village Municipal Code Section 2-45(c), for the following purposes:

a) For determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators pursuant to C.R.S. 24-6-402(4)(e) and Snowmass Village Municipal Code Section 2-45(c)(5), more specifically related to: **Timberline Ground Lease.**

ATTACHMENTS:

N/A

Town of Snowmass Village

Agenda Item Summary

DATE OF MEETING:
February 21, 2023

AGENDA ITEM:
Certificates of Appreciation for various Boards and Commission members who retired or termed recently.

PRESENTED BY:
Megan Harris Boucher, Town Clerk

BACKGROUND:

The list below is an overview of the Board and Commission members that have concluded their terms recently – due to various reasons. The attached certificates of appreciation have been drafted for the Town Council to formally thank these individuals for their dedication and service to the community.

Board member	Board	Years of Service
Larry Dempsey	POSTR	1/1/2019-12/31/2022
Kris Kaplinski	POSTR	1/1/2019-12/31/2022
Rick Sussman	POSTR	1/1/2019-12/31/2022
Nicholas Valentino	EAB	1/1/2019-12/31/2022
Darlene Fridstein	SAAB	1/1/2016-9/24/2020 & 1/1/2021–12/31/2022
Kelly Peters	SAAB	1/1/2021-12/31/2022
Heather Quinn	SAAB	1/1/2021-12/31/2022
Steve Skylar	SAAB	1/1/2019-12/31/2022
Robert R. Fike	PTRAB	1/1/2013-12/31/2022
Cindy Lamer	CGRB	1/1/2017-12/31/2022
Sally Sparhawk	CGRB	1/1/2019-12/31/2022
Greg C. Smith	FAB	1/1/2013-12/31/2022
Christy MacLear	Planning Commission	1/1/2021-12/31/2022

ATTACHMENTS:
Certificates of Appreciation

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Larry Dempsey

For serving a three-year term on the Parks, Open Space, Trails, and Recreation Board and contributing with intelligent solutions and insight to help make Snowmass Village a better place to live, work and play.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Kris Kaplinski

For serving a three-year term on the Parks, Open Space, Trails, and Recreation Board and contributing with intelligent solutions and insight to help make Snowmass Village a better place to live, work and play.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Rick Sussman

For serving a three-year term on the Parks, Open Space, Trails, and Recreation Board and contributing with intelligent solutions and insight to help make Snowmass Village a better place to live, work and play.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Nicholas Valentino

For serving a three-year term on the Environmental Advisory Board and contributing to the Town of Snowmass Village by advocating for sustainability and energy efficiency projects that have positively impacted the natural environment in Snowmass Village.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Darlene Fridstein

For serving three terms on the Snowmass Arts Advisory Board and contributing to the Town of Snowmass Village by helping to bring more art into the community.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Robert R. Fike

For serving a decade on the Part-Time Residents Advisory Board; for his years of dedication, leadership, and knowledge; and for helping to represent the Town of Snowmass Village and its part-time residents.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Cindy Lamar

For serving two terms on the Citizen Grant Review Board and contributing to the Town of Snowmass Village by helping to distribute hundreds of thousands of dollars to deserving non-profits and initiatives dedicated to improving the quality of life in Snowmass Village.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Christy MacLear

For serving a three-year term on the Planning Commission; for her years of dedication, leadership, and knowledge; and for helping to represent the Town of Snowmass Village.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Kelly Peters

For serving a two term on the Snowmass Arts Advisory Board and contributing to the Town of Snowmass Village by helping to bring more art into the community.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Heather Quinn

For serving a two-year term on the Snowmass Arts Advisory Board and contributing to the Town of Snowmass Village by helping to bring more art into the community.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Steve Skylar

For serving two terms on the Snowmass Arts Advisory Board and contributing to the Town of Snowmass Village by helping to bring more art into the community.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Greg C. Smith

For serving a decade on the Financial Advisory Board; for his years of dedication, leadership, and knowledge; and for helping to guide to the Town of Snowmass Village through many complex financial issues and the annual development of the Town budget.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

Town of
SNOWMASS Village

Certificate of Appreciation

This certificate is awarded to:

Sally Sparhawk

For serving a three-year term on the Citizen Grant Review Board and contributing to the Town of Snowmass Village by helping to distribute hundreds of thousands of dollars to deserving non-profits and initiatives dedicated to improving the quality of life in Snowmass Village.

Bill Madsen, Mayor

Megan Harris Boucher, Town Clerk

DRAFT 2023 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.

Monday February 13th Special Meeting (9-11 am)

- Council goal setting

Mon. Feb. 13th – Work Session

- Discussion regarding $50 sales tax rebate
- Wildlife crossing on Hwy 82
- Aspen SkiCo Update – (no materials for packet will be sent)
- Chris Lane, Aces presentation on wolf reintroduction

Tue. Feb. 21st – Regular Meeting

- Cert of Appreciation for B & C retirements
- Resolution 08 on Certifications and Assurances – Trans
- Rodeo lease?
- 2nd reading Ord 2 contractor license and classification fees
- Exec Session

Mon. Mar. 6th – Regular Meeting

- Willows land use
- Draw site owners review
- Mall transit station

Mon. Mar. 13th – Work Session(Boucher Out)

- Update on rodeo lights and cell tower placement
-

Mon. Mar. 20th – Regular Meeting (Shenk & Boucher Out)

- Mall Transit station
- CGRB recommendations (or March 20th)
- EOTC Prep for meeting on 4/6/23 at Pitkin – Linda DuPriest

Mon. Apr. 3rd –Regular Meeting (Shenk Out)

- Ord removing Board of Appeals
- Ice Age Discovery Project Update

Thur. Apr. 6th - EOTC Meeting – Pitkin County Hosts

Mon. Apr. 10th – Work Session (Kinney out)

As Of: Thursday, February 16, 2023

DRAFT 2023 Agenda Items

Mon. Apr. 17th – Regular Meeting

Mon. May 1st – Regular Meeting

Mon. May 8th – Work Session

Mon. May 15th – Regular Meeting

- Pitkin County Hazard Mitigation Plan Adoption

Mon. Jun. 5th – Regular Meeting (Conklin Out)

Mon. Jun. 12th – Work Session

Tues. Jun. 20th – Regular Meeting

Thur. June 29th – EOTC Meeting – Snowmass Village Hosts

Mon. Jul 3rd – Regular Meeting

Mon. Jul. 10th – Work Session

Mon. Jul. 17th – Regular Meeting

Mon. Aug. 7th – Regular Meeting

Mon. Aug. 14th – Work Session

Mon. Aug. 21st – Regular Meeting

Thur. Aug. 31st - EOTC Meeting – Pitkin County Hosts

Tue. Sep. 5th – Regular Meeting

Mon. Sep. 11th – Work Session

Mon. Sep 18th – Regular Meeting

Mon Oct. 2nd – Regular Meeting

Mon. Oct. 9th – Work Session

Mon. Oct. 16th – Regular Meeting

Thurs. Oct. 26th – EOTC – City of Aspen Hosts

Mon. Nov. 6th – Regular Meeting

As Of: Thursday, February 16, 2023

- **GID**
- **B & C Applications**

Mon. Nov. 13th – Work Session

Mon. Nov. 20th – Regular Meeting

- B & C Interviews

Mon. Dec 4th – Regular Meeting

- B & C Interviews

Mon. Dec. 11th – Special Meeting

- **GID**

Mon. Dec. 18th – Regular Meeting

- B & C Resolution appointing new Members

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

SNOWMASS VILLAGE TOWN COUNCIL
REGULAR MEETING MINUTES
FEBRUARY 6, 2023

CALL TO ORDER

ROLL CALL

COUNCIL MEMBERS PRESENT: Bill Madsen, Alyssa Shenk, Tom Fridstein, Britta Gustafson, and Susan Marolt.

COUNCIL MEMBERS ABSENT: All council members were present.

STAFF PRESENT: Anne Martens, Public Works Director; Mike Metheny, Chief Building Official; Sara Nester, Business Code Compliance Manager; Clint Kinney, Town Manager; Greg Leblanc, Asst. Town Manager; Jeff Conklin, Town Attorney; Barbara Peckler, Office Manager.

PUBLIC PRESENT: Dan Detwiler, Jay Shumaker, Debbie Cote, Tom Hills, Mary Blankenau, Bob Wolfe, Reed Lewis.

PROCLAMATIONS AND PRESENTATIONS

PUBLIC COMMENT

Jay Shumaker, a resident, and architect, commented on the current Transit Station proposal and asked if Council would look at an original study. He suggested a Regional RFTA analysis, and Jay recommended his friend in California, an expert in Regional Transportation.

Tom Hills, a long-time resident, raised concerns with the Post office. Tom's box was locked due to non-payment and then was issued to someone else. Tom was unaware of the box renewal date and did not receive notices from the Post Office. Tom wanted others to know so this would not happen to them.
Clint Kinney, Town Manager, mentioned CAST is considering filing a lawsuit against USPS for the lack of adequate service in small resort towns. Clint also recommends that if anyone has concerns about the Snowmass Post Office, please contact Senator Lauren Boebert's office.

Reed Lewis, resident, and Snowmass Mall business owner, asks that Council look at affordable retail and restaurant space in the newly rezoned numbered lots. Reed would encourage Council to converse with the different businesses to understand the larger picture better. Potentially a main street in parking lots with affordable retail and restaurant space.

CONSENT AGENDA

5. A. 2023 Draft Agendas

5. B. Minutes for Approval
01-17-23 Regular Meeting Minutes- Draft

5. C. Resolution No. 06 and 07, Series 2023 - RE Resolutions approving sales of 20 Maverick Circle and 1333 Brush Creek Lane

Pages 14-15 Agenda Item Summary RE Resolutions for Sale 20 Maverick and 1333 Brush Creek Lane

Pages 16-17 Reso No. 6, 2023 - Real Estate Contract RE 20 Maverick Circle

Pages 18-36 20 Maverick Circle contract to Buy and Sell Real Estate - 20 Maverick Circle - MEC 12.5

Pages 37-38 Reso No. 7, 2023 - Real Estate Contract RE 1333 Brush Creek Lane

Pages 39-61 1333 Brush Creek Lane Snowmass Village CONTRACT TO BUY AND SELL REAL ESTATE

Councilmember Shenk sent changes to Megan for the 1-17-23 TC minutes. Mayor Madsen would like a correction made to line 230. He met with April Long, not Ashley Pearl.

Betsy Crum, Housing Director, explained that it is unusual for the Town to be in the middle of employee housing sales. These two cases resulted from legal actions, and for the Title Companies to close the contracts, they are required to have a Resolution authorizing the Town Manager to sign the sale contracts. Resolutions 6 and 7 approve the sale of these units.
Due to the circumstances of these units, Council inquired about the status of any improvements and repairs. Betsy reported that the Creekside unit has been remodeled and is ready for the new owner. The Town made several improvements on 20 Maverick

Circle and ran a radon test. Test results showed high radon levels, so radon mitigation is installed. Hope is to go under contract in March with this unit.

Councilmember Shenk motioned to approve the consent Agenda. Council Member Marolt seconded the motion. All in favor.

PUBLIC HEARINGS - QUASI-JUDICIAL HEARINGS

6. A. Mall Transit Center Special Review

Pages 62-63 Agenda Item Summary RE Transit Center Special Review

Mayor Madsen opened the public hearing for public comment.
Clint Kinney, Town Manager, informed Council this item is on the Planning Commission agenda for the 15th, 2023. Staff will provide a complete presentation with the planning commission comments at the March 6th Regular Town Council meeting. It was advertised in the paper that this discussion would be at tonight's meeting, so any public comment on this issue is welcome.
Reed Lewis, a mall business owner, does not feel there has been enough communication on the final plan for the Transit Center. Construction will significantly affect his business, and he needs time to plan for the changes. Reed feels the Town needs to do a better job at keeping the webpage updated with accurate information.
Clint Kinney, Town Manager, confirmed construction is not starting this spring, and multiple options are being reviewed to ensure the business can still operate.

There was no further public comment on the Transit Center Special Review.

Councilmember Fridstein motioned to continue the Public Hearing to the March 6th, 2023, Regular Town Council Meeting. Councilmember Gustafson seconded the motion. All in Favor

6. B. Ordinance No. 02, Series 2023 - Set rates & fees for building reviews

Pages 64-65 Agenda Item Summary RE Contractors License and Classification Fees ORD 2

Pages 66-67 ORD 2, 2023 - Contractor Classifications and Fees - DRAFT 1st Reading

Mike Metheny, Chief Building Official, and Sara Nester, Business Code Compliance Manager, provided Council with an explanation of why the Community Development Department is proposing this Ordinance. It cleans up the code and makes it more efficient to process contractors licensing. Sara has contacted other municipalities, and with this change, Snowmass will be in line with Aspen and Pitkin County.

Councilmember Fridstein pointed out this only applies to Contractors' licensing and not building rates.

Councilmember Shenk motioned to approve First Reading, Ordinance No. 02, Series 2023-Set rates & fees for building reviews. Councilmember Fridstein seconded the motion. All in favor

Council agreed to have the Second Reading of Ord. No. 2, 2023, on the consent agenda for a roll call vote.

POLICY/LEGISLATIVE PUBLIC HEARINGS

ADMINISTRATIVE REPORTS

8.A. Brush Creek Culvert Update

Pages 68-70 Agenda Item Summary RE 2023 Infrastructure Project Update

Pages 71-72 Exhibit A Culvert Project 30% Design

Pages 73 Exhibit B 2023gaslineconstructionarea

Pages 74-79 Exhibit C Structure Type Summary

Anne Martens, Public works director, and Dan Detwiler (via Teams video) presented Council with an update on the Brush Creek culvert and Highline Road- Gas, Fiber, and multi-modal project. She explained that when the Brush Creek culvert failed during the summer of 2022, it became essential for it to be replaced. Anne has been working with SGM and Gould construction to find the best design and construction time frame. Due to the complexity of constructing a new culvert, Brush Creek Road will need to be closed from June to November 1st.

With the eventual closure of Brush Creek Road, all traffic, busses, delivery trucks, construction trucks, and passenger cars will all be diverted to Highline Road. For the safety of bike riders and vehicles, staff recommends completing the Highline Road improvements before Brush Creek Road is closed. Anne noted in her presentation the Highline Road project is a partnership between Black Hills Energy and the Town to accomplish several project elements in an expedited manner. These projects meet the goals of Safety, Connectivity, and Transit and Regionalism. Each project has elements of these goals.

Both projects were discussed during the 2023 Budget Process and funded in the Capital Improvement Fund.

- Brush Creek Culvert Project - $4,400,000
- Highline Road Project – Utility and Multi-modal and Paving Improvements $650,000

Staff is aware these two projects will impact traffic circulation throughout the summer. Coordination with events, businesses, and residents will be critical. While a tremendous amount of design and coordination remains to be completed, Anne wanted to ensure that the Council knows these initial project concepts. As details and facts are developed, staff will share them quickly with Council.
After the presentation Council voiced their concerns with the two projects. A primary concern is the reaction from the community to having Brush Creek Road closed for the entire summer. Council stressed communication would be critical in all phases of the project. Another issue was the short window for the culvert replacement. What happens if things get delayed? Council also discussed whether they wanted to do both projects or just the culvert replacement.
Anne acknowledged all of the Council's concerns and addressed their questions. She realizes this will impact residents and visitors but is working to make it as minimal as possible.
Design and construction planning are only in the initial phases; as more information becomes available, it will be presented to Council.

8.B. IGA consideration RE overnight homeless shelter support

Pages 80-82 Agenda Item Summary RE Homeless Shelter IGA

Pages 83-87 Homeless Services IGA

Clint Kinney, Town Manager, presented to the Council background on the regional IGA supporting the Emergency Winter Overnight Shelter. This regional partnership between Aspen Valley Hospital, the City of Aspen, and the Town of Snowmass Village, is considered financially how best to support the critical services going forward. The Town of Snowmass is being asked to contribute $20,000 utilizing revenues from the marijuana and tobacco taxes for this contribution.
Lindsey Maisc explained how the overnight residential shelter services coordinate with Recovery Resources Resiliency Center, providing the best care possible for the homeless population. This is a much-needed service for our community by providing shelter and social services to help build skills and healthy coping strategies individuals need to thrive beyond adversity.
Jeff Conklin, Town Attorney, reviewed the IGA and has approved it.
After Lindsey and Clint answered all questions by Council and confirmed continuing support is sustainable within the Towns budget, Council unanimously approved the IGA. Currently, the dates of operation are December 1st to April 30th, but they are looking into the possibility of keeping it open year-round.

Councilmember Fridstein made the motion to approve the Intergovernmental Agreement between the Pitkin County Board of County Commissioners and the City of Aspen ("COA"), Aspen Valley Hospital ("AVH"), and Town of Snowmass Village ("TOSV") to support the emergency winter overnight shelter at the Schultz Health and Human Services building. Councilmember Marolt seconded the motion. All in Favor

TOWN COUNCIL REPORTS AND ACTIONS

Councilmember Gustafson had nothing to report at this time.

Councilmember Fridstein attended a CORE meeting where there they discussed the Coal Basin project update and CORE will be goal-setting in the next few weeks.

Councilmember Marolt attended a Nordic Council meeting. A topic that keeps coming up is the enforcement of dogs off leashes in the Village. The presence of a Nordic Center in the Village would help reinforce and continue the message. The Nordic Council is interested in working with the Town to have something in place for next winter. Clint Kinney stated if the Council is interested in moving forward, they need to act sooner than later. The Town has looked into purchasing leftover inventory from Ute Mountaineering, which could be managed out of the Town Park Station. The cost to acquire the gear is less than $10,000.
If the opportunity is available to purchase the equipment, Council unanimously approves moving forward.
Council Member Marolt noted that the Council had a goal of reaching out to the community, and she would like this to occur sooner rather than later.

Councilmember Shenk is busy with RFTA meetings, Sister Cities (the middle school Italian students arrived yesterday), and NWCOG. Two things she would like to bring up with COG are; 1. A new position was created- Regional Grants Navigator. This position is funded by the State and was formed to create opportunities for communities to maximize and align grants they could use. A list of grants will be available soon. 2. NWCOG is looking into Elected Officials' training. They are proposing a Mental Health and
Well-being training in Breckenridge in late May. Councilmember Shenk will email Council the retreat information and would like Council feedback. At the next NWCOG meeting, they will discuss if it is appropriate if a COG member should conduct the training through his own business.
For clarification, as EDE's voting member, Britta Gustafson does need to be at the meeting if there is no other Piktin County representative present. Three people represent Pikin County, and one of the three need to be present.
Residents have been more vocal about the leash laws and enforcement.
Councilmember Shenk feels this is something Council needs to make a priority and look at more closely and consider the options. Clint suggested this be brought up with the POSTR board. Staff will advise the POSTR board to look at this issue and have suggestions before the summer season begins.
And for exciting news, Alyssa reported the Aspen High School Dance Team won Nationals in Florida! Congratulations go out to the girls; quite an accomplishment.

Mayor Madsen has RFTA and RWAPA meetings this week and will provide the update at the next meeting.

ADJOURNMENT

Councilmember Marolt motioned to adjourn the Town Council Meeting of February 6th, 2023. Councilmember Fridstein seconded the motion. All in Favor

Adjourned at 6:58 pm

The Snowmass Village Town Council approved these meeting minutes with amendments at their Regular meeting on Monday, February 21, 2023.

Submitted By,

_____

Barbara Peckler, Office Manager

Town of Snowmass Village

Agenda Item Summary

DATE OF MEETING:

February 21, 2023

AGENDA ITEM:

The Second Reading of Ordinance No. 2, Series of 2023 An Ordinance Amending the Municipal Code To Allow Contractor License Classifications and Contractor License Fees to be Amended Administratively.

PRESENTED BY:

Mike Metheny, Chief Building Official

BACKGROUND:

This Ordinance is primarily desiged to streamline the contractor licensing and registration process for customers and staff. This will involve a minimal increase to contractor licensing fees and will allow contractors to align renewals with expiration of certifications.

Existing Fees:

Classification	*1st Year*	*Annual Renewal*
General Class AA	$250.00	$125.00
General Class A	225.00	105.00
General Class B	125.00	55.00
General Class C	115.00	50.00
Specialty	115.00	50.00
Electrical	NO CHARGE (PER STATE LAW)	
Plumbing	65.00	25.00

Proposed Fees:

3 Year Fee	License Classification	Monthly Pro-Rated Fee
$450	General Class AA - Unlimited Construction	$ 12.50
$450	General Class A - Commercial	$ 12.50
$450	General Class B - Light Commercial	$ 12.50
$450	General Class C - Homebuilder	$ 12.50
$142	Specialty	$ 3.94
$0	Electrical	$ -
$195	Plumbing	$ 5.42

In addition, this ordinance is proposing to remove the fees from the Municipal Code and allow changes to be made in the future by the Community Development Director upon approval of the Town Manager.

This ordinance was prepared by the previous Town Attorney and has been reviewed by the current Town Attorney.

FINANCIAL IMPACT:

The change in fees would align with other local jurisdictions and would become effective upon approval by Council.

APPLICABILITY TO COUNCIL GOALS & OBJECTIVES:

The new fee structure will create a more user friendly experience for our customers and allow us to provide a higher level of customer service.

COUNCIL OPTIONS:

Council can approve, approve with conditions, or deny Ordinance No. 2, Series 2023.

STAFF RECOMMENDATION:

Staff recommends the Council approve Ordinance No. 2, Series of 2023 on second reading.

ATTACHMENTS:

A. Ord. No. 2, Series 2023

TOWN OF SNOWMASS VILLAGE
TOWN COUNCIL

ORDINANCE NO. 2
SERIES OF 2023

AN ORDINANCE AMENDING THE TOWN OF SNOWMASS VILLAGE MUNICIPAL CODE BY DELETING SECTION 18-23 AND AMENDING SECTION 18-24 IN ARTICLE II OF CHAPTER 18 TO ALLOW CONTRACTOR LICENSE CLASSIFICATIONS AND CONTRACTOR LICENSE FEES TO BE AMENDED IN THE FUTURE BY THE COMMUNITY DEVELOPMENT DIRECTOR UPON THE APPROVAL OF THE TOWN MANAGER

WHEREAS, The Town of Snowmass Village ("TOSV") has not revised the Contractor License Classifications or the Fees for Contractor Licenses since 1994 and 1992, respectively; and

WHEREAS, TOSV has since adopted a new standardized Building Code, Electrical Code, Mechanical Code, Plumbing Code and Fire Code, with local amendments, and

WHEREAS, Town Council desires to similarly update the Contractor Licenses and Fees provisions of the Code to ensure consistency with the above referenced standardized Codes, and

WHEREAS, Town Council finds that the adoption of this Ordinance is necessary for the preservation of the public health, safety and welfare.

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

1. That **Sec. 18-23** be deleted in its entirety.
2. That **Sec. 18-24** be deleted in its entirety and replaced with the following.

Sec. 18-24. License Classifications and Fees.

(a) The Community Development Director may amend the Classifications and set the fees for contractor license/ registration applications from time to time upon the approval of the Town Manager.

DRAFT

3. Severability. If any provision of this Ordinance or application hereof to any person or circumstance is held invalid, the invalidity shall not affect any other provision or application of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are severable.

READ, APPROVED AND ADOPTED by the Town Council of the Town of Snowmass Village on First Reading on February 6, 2023, upon a motion by Council Member Shenk, the second of Council Member Fridstein, and upon a vote of 5 in favor and 0 against.

READ, APPROVED AND ADOPTED as amended, by the Town Council of the Town of Snowmass Village on Second Reading on February 21, 2023, upon a motion by Council Member _____, seconded by 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:

_____
Town Attorney

DRAFT

Town of Snowmass Village

Agenda Item Summary

DATE OF MEETING:

February 21, 2023

AGENDA ITEM:

Resolution No. 08, Series of 2023 - Approving the 2023 Federal Transit Administration Grant Master Agreement's Certifications and Assurances

PRESENTED BY:

Sam Guarino, Transportation Director

BACKGROUND:

Staff requests Council's approval of the Certifications and Assurances ("C&A") that are Appendix A in the Federal Transit Administration's Master Agreement. It is a requirement to comply with the C&A to accept Section 5339 and Section 5311 grants from the Federal Transit Administration (FTA). This resolution accepts the terms of the C&A for the current grants that are funding transit services admin/operating, new buses, and capital projects. It also authorizes the Transportation Director to certify the affirmation of the annual C&A for these projects. The Town has been approving the Master Agreement's C&A over the last fifteen years.

The C&A apply to the Federal funds used for the specified grants' purpose which covers administration and operating activities and capital acquisition. The C&A covers compliance including:

1. Authority to enter into an agreement with the FTA; and
2. Lobbying Compliance; and
3. Procurement Compliance; and
4. Safety and Asset Management Plans; and
5. Protections for Private Transportation Providers; and
6. Public Hearing; and
7. Acquisition of Rolling Stock Guidelines; and
8. Charter Service and School Transportation Agreement; and
9. Americans With Disabilities Act; and
10. Alcohol Misuse and Prohibited Drug Use;
11. Asset Management; and
12. Safety and Security; and
13. Title VI Civil Rights Act; and

14. Labor Standards.

To review the complete 2023 Certifications and Assurances, please see attached.

FINANCIAL IMPACT:

For use in 2023 the Town has been awarded the following Federal Grants:

- A Section 5311 Rural Areas grant of $458,530 in support of admin and operating expenditures in the provision of transit service.
- A Section 5311 Rural Areas Facility/Capital Equipment grant of $2,762,280 for the Snowmass Mall Transit Station Project.
- A Section 5339 Bus and Bus Facilities grant of $13.5 million for the Snowmass Mall Transit Station project.
- A Section 5339 Bus and Bus Facility grant of $83,384 for the purchase of a transit vehicle.

APPLICABILITY TO COUNCIL GOALS & OBJECTIVES:

The grant funding is in support of our transit services that protect the environment and help sustain the quality of life within the community.

COUNCIL OPTIONS:

1. Approve the Resolution
2. Deny the Resolution

STAFF RECOMMENDATION:

Approve Resolution No. 08, Series of 2023 to comply with the requirements of the grant(s).

ATTACHMENTS:

1. Resolution No. 08, Series of 2023
2. FTA Fiscal Year 2023 Certifications & Assurances.

TOWN OF SNOWMASS VILLAGE
TOWN COUNCIL

RESOLUTION NO. 08
SERIES OF 2023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SNOWMASS VILLAGE, COLORADO, AUTHORIZING THE FILING OF APPLICATIONS WITH THE FEDERAL TRANSIT ADMINISTRATION, AN OPERATING ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FOR FEDERAL TRANSPORTATION ASSISTANCE AUTHORIZED BY 49 U.S.C. CHAPTER 53, TITLE 23 UNITED STATES CODE, AND OTHER FEDERAL STATUTES ADMINISTERED BY THE FEDERAL TRANSIT ADMINISTRATION.

WHEREAS, the Town of Snowmass Village ("TOSV") has the power to enter into agreements with the Colorado Department of Transportation ("CDOT") and the Federal Transit Administration ("FTA"); and,

WHEREAS, CDOT and the FTA have been delegated authority to award Federal financial assistance for transportation projects; and,

WHEREAS, the grant or cooperative agreement for Federal financial assistance will impose certain obligations upon the TOSV, and may require the TOSV to provide the local share of the project's costs; and,

WHEREAS, the TOSV has or will comply with all annual Certifications and Assurances in the FTA required for the project(s), and,

WHEREAS, the TOSV is desirous of obtaining said funds for the purchase of transit vehicles, construction of a capital project, and/or the operation of transportation services, and has filed applications (under Sections 5339 and 5311) with the FTA and/or CDOT for the purchase of transit vehicles, funding for operating transportation services and construction of a capital project, and,

WHEREAS, the TOSV desires to accept the funds for such projects pursuant to the conditions of the 2023 Master Agreement's Certifications and Assurances in Appendix A of that agreement, and,

WHEREAS, the TOSV desires to work together with the FTA and CDOT to effect said projects as provided in the agreement, and,

WHEREAS, the TOSV finds that the adoption of this Resolution is necessary for the immediate preservation of the public health, safety and welfare.

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

1. That the Transportation Director is authorized to execute and file an application for, and administer, grants for Federal assistance on behalf of the TOSV with the Federal Transit Administration and the Colorado Department of Transportation for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration.

2. That the TOSV agrees to the conditions of the Master Agreement's Certifications and Assurances as they pertain to these projects that the FTA requires for the assistance agreements and authorizes the Transportation Director to certify the Certifications and Assurances to the FTA through the "COTRAMS" web site.

CERTIFICATION

READ, APPROVED AND ADOPTED by the Town Council of the Town of Snowmass Village on the 21st of February 2023 upon a motion made by Council Member _____, the second of Council Member _____, and upon a vote of __in favor and __ opposed.

TOWN OF SNOWMASS VILLAGE

_____
Bill Madsen, Mayor

ATTEST:

_____
Megan Harris Boucher, Town Clerk

APPROVED AS TO FORM

_____
Jeffrey Conklin, Town Attorney

Not every provision of every certification will apply to every applicant or award. If a provision of a certification does not apply to the applicant or its award, FTA will not enforce that provision.

Text in italic is guidance to the public. It does not have the force and effect of law, and is not meant to bind the public in any way. It is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

CATEGORY 1. CERTIFICATIONS AND ASSURANCES REQUIRED OF EVERY APPLICANT.

All applicants must make the certifications in this category.

1.1. Standard Assurances.

The certifications in this subcategory appear as part of the applicant's registration or annual registration renewal in the System for Award Management (SAM.gov) and on the Office of Management and Budget's standard form 424B "Assurances—Non-Construction Programs". This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.

As the duly authorized representative of the applicant, you certify that the applicant:

(a) Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

(b) Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

(c) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

(d) Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

(e) Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

(f) Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:

(1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin, as effectuated by U.S. DOT regulation 49 CFR Part 21;

(2) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex, as effectuated by U.S. DOT regulation 49 CFR Part 25;

(3) Section 5332 of the Federal Transit Law (49 U.S.C. § 5332), which prohibits any person being excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance from FTA because of race, color, religion, national origin, sex, disability, or age.

(4) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps, as effectuated by U.S. DOT regulation 49 CFR Part 27;

(5) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;

(6) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;

(7) The comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

(8) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;

(9) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;

(10) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,

(11) the requirements of any other nondiscrimination statute(s) which may apply to the application.

(g) Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Act") (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. The requirements of the Uniform Act are effectuated by U.S. DOT regulation 49 CFR Part 24.

(h) Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

(i) Will comply, as applicable, with the provisions of the Davis–Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

(j) Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

(k) Will comply with environmental standards which may be prescribed pursuant to the following:

(1) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;

(2) Notification of violating facilities pursuant to EO 11738;

(3) Protection of wetlands pursuant to EO 11990;

(4) Evaluation of flood hazards in floodplains in accordance with EO 11988;

(5) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.);

(6) Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.);

(7) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and

(8) Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).

(l) Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

(m) Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a-1 et seq.).

(n) Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

(o) Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded

animals held for research, teaching, or other activities supported by this award of assistance.

(p) Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

(q) Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR Part 200, Subpart F, "Audit Requirements", as adopted and implemented by U.S. DOT at 2 CFR Part 1201.

(r) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the program under which it is applying for assistance.

(s) Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a subrecipient from:

(1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect;

(2) Procuring a commercial sex act during the period of time that the award is in effect; or

(3) Using forced labor in the performance of the award or subawards under the award.

1.2. Standard Assurances: Additional Assurances for Construction Projects.

This certification appears on the Office of Management and Budget's standard form 424D "Assurances—Construction Programs" and applies specifically to federally assisted projects for construction. This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.

As the duly authorized representative of the applicant, you certify that the applicant:

(a) Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency; will record the Federal awarding agency directives; and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.

(b) Will comply with the requirements of the assistance awarding agency with regard to the drafting, review, and approval of construction plans and specifications.

(c) Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work confirms with the approved plans and specifications, and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

1.3. Procurement.

The Uniform Administrative Requirements, 2 CFR § 200.325, allow a recipient to self-certify that its procurement system complies with Federal requirements, in lieu of submitting to certain pre-procurement reviews.

The applicant certifies that its procurement system complies with:

(a) U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR Part 200, particularly 2 CFR §§ 200.317–200.327 "Procurement Standards;
(b) Federal laws, regulations, and requirements applicable to FTA procurements; and
(c) The latest edition of FTA Circular 4220.1 and other applicable Federal guidance.

1.4. Suspension and Debarment.

Pursuant to Executive Order 12549, as implemented at 2 CFR Parts 180 and 1200, prior to entering into a covered transaction with an applicant, FTA must determine whether the applicant is excluded from participating in covered non-procurement transactions. For this purpose, FTA is authorized to collect a certification from each applicant regarding the applicant's exclusion status. 2 CFR § 180.300. Additionally, each applicant must disclose any information required by 2 CFR § 180.335 about the applicant and the applicant's principals prior to entering into an award agreement with FTA. This certification serves both purposes.

The applicant certifies, to the best of its knowledge and belief, that the applicant and each of its principals:

(a) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any Federal department or agency;
(b) Has not, within the preceding three years, been convicted of or had a civil judgment rendered against him or her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;

(c) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any offense described in paragraph (b) of this certification;

(d) Has not, within the preceding three years, had one or more public transactions (Federal, State, or local) terminated for cause or default.

1.5. Coronavirus Response and Relief Supplemental Appropriations Act, 2021, and CARES Act Funding.

The applicant certifies:

(a) To the maximum extent possible, funds made available under title IV of division M of the Consolidated Appropriations Act, 2021 (Public Law 116–260), and in title XII of division B of the CARES Act (Public Law 116–136; 134 Stat. 599) shall be directed to payroll and operations of public transit (including payroll and expenses of private providers of public transportation); or

(b) The applicant certifies that the applicant has not furloughed any employees.

1.6. American Rescue Plan Act Funding.

The applicant certifies:

(a) Funds made available by Section 3401(a)(2)(A) of the American Rescue Plan Act of 2021 (Public Law 117-2) shall be directed to payroll and operations of public transportation (including payroll and expenses of private providers of public transportation); or

(b) The applicant certifies that the applicant has not furloughed any employees.

CATEGORY 2. PUBLIC TRANSPORTATION AGENCY SAFETY PLANS

This certification is required of each applicant under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), each rail operator that is subject to FTA's state safety oversight programs, and each State that is required to draft and certify a Public Transportation Agency Safety Plan on behalf of a Small Public Transportation Provider (as that term is defined at 49 CFR § 673.5) pursuant to 49 CFR § 673.11(d).

This certification is required by 49 U.S.C. § 5307(c)(1)(L), 49 U.S.C. § 5329(d)(1), and 49 CFR § 673.13. This certification is a condition of receipt of Urbanized Area Formula Grants Program (49 U.S.C. § 5307) funding.

This certification does not apply to any applicant that only receives financial assistance from FTA under the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C.

§ 5310), the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or combination of these two programs, unless it operates a rail fixed guideway public transportation system.

If the applicant is an operator, the applicant certifies that it has established a Public Transportation Agency Safety Plan meeting the requirements of 49 U.S.C. § 5329(d)(1) and 49 CFR Part 673; including, specifically, that the board of directors (or equivalent entity) of the applicant has approved, or, in the case of an applicant that will apply for assistance under 49 U.S.C. § 5307 that is serving an urbanized area with a population of 200,000 or more, the safety committee of the entity established under 49 U.S.C. § 5329(d)(5), followed by the board of directors (or equivalent entity) of the applicant has approved, the Public Transportation Agency Safety Plan or any updates thereto; and, for each recipient serving an urbanized area with a population of fewer than 200,000, that the Public Transportation Agency Safety Plan has been developed in cooperation with frontline employee representatives.

If the applicant is a State that drafts and certifies a Public Transportation Agency Safety Plan on behalf of a public transportation operator, the applicant certifies that:

(a) It has drafted and certified a Public Transportation Agency Safety Plan meeting the requirements of 49 U.S.C. § 5329(d)(1) and 49 CFR Part 673 for each Small Public Transportation Provider (as that term is defined at 49 CFR § 673.5) in the State, unless the Small Public Transportation Provider provided notification to the State that it was opting out of the State-drafted plan and drafting its own Public Transportation Agency Safety Plan; and

(b) Each Small Public Transportation Provider within the State that opts to use a State-drafted Public Transportation Agency Safety Plan has a plan that has been approved by the provider's Accountable Executive (as that term is defined at 49 CFR § 673.5), Board of Directors or Equivalent Authority (as that term is defined at 49 CFR § 673.5), and, if the Small Public Transportation Provider serves an urbanized area with a population of 200,000 or more, the safety committee of the Small Public Transportation Provider established under 49 U.S.C. § 5329(d)(5).

CATEGORY 3. TAX LIABILITY AND FELONY CONVICTIONS.

If the applicant is a business association (regardless of for-profit, not for-profit, or tax exempt status), it must make this certification. Federal appropriations acts since at least 2014 have prohibited FTA from using funds to enter into an agreement with any corporation that has unpaid Federal tax liabilities or recent felony convictions without first considering the corporation for debarment. E.g., Consolidated Appropriations Act, 2023, Pub. L. 117-328, div. E, tit. VII, §§ 744–745. U.S. DOT Order 4200.6 defines a "corporation" as "any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association", and applies the restriction to all tiers of subawards. As prescribed by U.S. DOT

Order 4200.6, FTA requires each business association applicant to certify as to its tax and felony status.

If the applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the applicant certifies that:

(a) It has no unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(b) It has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

CATEGORY 4. LOBBYING.

If the applicant will apply for a grant or cooperative agreement exceeding $100,000, or a loan, line of credit, loan guarantee, or loan insurance exceeding $150,000, it must make the following certification and, if applicable, make a disclosure regarding the applicant's lobbying activities. This certification is required by 49 CFR § 20.110 and app. A to that part.

This certification does not apply to an applicant that is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 49 CFR Part 20.

4.1. Certification for Contracts, Grants, Loans, and Cooperative Agreements.

The undersigned certifies, to the best of his or her knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and

contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

4.2. Statement for Loan Guarantees and Loan Insurance.

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

CATEGORY 5. PRIVATE SECTOR PROTECTIONS.

If the applicant will apply for funds that it will use to acquire or operate public transportation facilities or equipment, the applicant must make the following certification regarding protections for the private sector.

5.1. Charter Service Agreement.

To enforce the provisions of 49 U.S.C. § 5323(d), FTA's charter service regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following Charter Service Agreement. 49 CFR § 604.4.

The applicant agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 CFR Part 604, the terms and conditions of which are incorporated herein by reference.

5.2. School Bus Agreement.

To enforce the provisions of 49 U.S.C. § 5323(f), FTA's school bus regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following agreement regarding the provision of school bus services. 49 CFR § 605.15.

(a) If the applicant is not authorized by the FTA Administrator under 49 CFR § 605.11 to engage in school bus operations, the applicant agrees and certifies as follows:
   (1) The applicant and any operator of project equipment agrees that it will not engage in school bus operations in competition with private school bus operators.
   (2) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Mass Transit Regulations, or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).

(b) If the applicant is authorized or obtains authorization from the FTA Administrator to engage in school bus operations under 49 CFR § 605.11, the applicant agrees as follows:
   (1) The applicant agrees that neither it nor any operator of project equipment will engage in school bus operations in competition with private school bus operators except as provided herein.
   (2) The applicant, or any operator of project equipment, agrees to promptly notify the FTA Administrator of any changes in its operations which might jeopardize the continuation of an exemption under § 605.11.
   (3) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Transit Administration regulations or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
   (4) The applicant agrees that the project facilities and equipment shall be used for the provision of mass transportation services within its urban area and that any other use of project facilities and equipment will be incidental to and shall not interfere with the use of such facilities and equipment in mass transportation service to the public.

CATEGORY 6. TRANSIT ASSET MANAGEMENT PLAN.

If the applicant owns, operates, or manages capital assets used to provide public transportation, the following certification is required by 49 U.S.C. § 5326(a).

The applicant certifies that it is in compliance with 49 CFR Part 625.

CATEGORY 7. ROLLING STOCK BUY AMERICA REVIEWS AND BUS TESTING.

7.1. Rolling Stock Buy America Reviews.

If the applicant will apply for an award to acquire rolling stock for use in revenue service, it must make this certification. This certification is required by 49 CFR § 663.7.

The applicant certifies that it will conduct or cause to be conducted the pre-award and post-delivery audits prescribed by 49 CFR Part 663 and will maintain on file the certifications required by Subparts B, C, and D of 49 CFR Part 663.

7.2. Bus Testing.

If the applicant will apply for funds for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the applicant must make this certification. This certification is required by 49 CFR § 665.7.

The applicant certifies that the bus was tested at the Bus Testing Facility and that the bus received a passing test score as required by 49 CFR Part 665. The applicant has received or will receive the appropriate full Bus Testing Report and any applicable partial testing reports before final acceptance of the first vehicle.

CATEGORY 8. URBANIZED AREA FORMULA GRANTS PROGRAM.

If the applicant will apply for an award under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), or any other program or award that is subject to the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310); "flex funds" from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)); projects that will receive an award authorized by the Transportation Infrastructure Finance and Innovation Act ("TIFIA") (23 U.S.C. §§ 601–609) or State Infrastructure Bank Program (23 U.S.C. § 610) (see 49 U.S.C. § 5323(o)); formula awards or competitive awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(a) and (b)); or low or no emission awards to any area under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(c)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5307(c)(1).

The applicant certifies that it:

(a) Has or will have the legal, financial, and technical capacity to carry out the program of projects (developed pursuant 49 U.S.C. § 5307(b)), including safety and security aspects of the program;

(b) Has or will have satisfactory continuing control over the use of equipment and facilities;

(c) Will maintain equipment and facilities in accordance with the applicant's transit asset management plan;

(d) Will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—

(1) Senior;

(2) Individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and

(3) Individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. §§ 401 et seq., and 1395 et seq.);

(e) In carrying out a procurement under 49 U.S.C. § 5307, will comply with 49 U.S.C. §§ 5323 (general provisions) and 5325 (contract requirements);

(f) Has complied with 49 U.S.C. § 5307(b) (program of projects requirements);

(g) Has available and will provide the required amounts as provided by 49 U.S.C. § 5307(d) (cost sharing);

(h) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning);

(i) Has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;

(j) Either—

(1) Will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under 49 U.S.C. § 5336; or

(2) Has decided that the expenditure for security projects is not necessary;

(k) In the case of an applicant for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census, will submit an annual report listing projects carried out in the preceding fiscal year under 49 U.S.C. § 5307 for associated transit improvements as defined in 49 U.S.C. § 5302; and

(l) Will comply with 49 U.S.C. § 5329(d) (public transportation agency safety plan).

CATEGORY 9. FORMULA GRANTS FOR RURAL AREAS.

If the applicant will apply for funds made available to it under the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), it must make this certification. Paragraph (a) of this certification helps FTA make the determinations required by 49 U.S.C. § 5310(b)(2)(C). Paragraph (b) of this certification is required by 49 U.S.C. § 5311(f)(2). Paragraph (c) of this certification, which applies to funds apportioned for the Appalachian Development Public Transportation Assistance Program, is necessary to enforce the conditions of 49 U.S.C. § 5311(c)(2)(D).

(a) The applicant certifies that its State program for public transportation service projects, including agreements with private providers for public transportation service—
   (1) Provides a fair distribution of amounts in the State, including Indian reservations; and
   (2) Provides the maximum feasible coordination of public transportation service assisted under 49 U.S.C. § 5311 with transportation service assisted by other Federal sources; and

(b) If the applicant will in any fiscal year expend less than 15% of the total amount made available to it under 49 U.S.C. § 5311 to carry out a program to develop and support intercity bus transportation, the applicant certifies that it has consulted with affected intercity bus service providers, and the intercity bus service needs of the State are being met adequately.

(c) If the applicant will use for a highway project amounts that cannot be used for operating expenses authorized under 49 U.S.C. § 5311(c)(2) (Appalachian Development Public Transportation Assistance Program), the applicant certifies that—
   (1) It has approved the use in writing only after providing appropriate notice and an opportunity for comment and appeal to affected public transportation providers; and
   (2) It has determined that otherwise eligible local transit needs are being addressed.

CATEGORY 10. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS AND THE EXPEDITED PROJECT DELIVERY FOR CAPITAL INVESTMENT GRANTS PILOT PROGRAM.

If the applicant will apply for an award under any subsection of the Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), including an award made pursuant to the FAST Act's Expedited Project Delivery for Capital Investment Grants Pilot Program (Pub. L. 114-94, div. A, title III, § 3005(b)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5309(c)(2) and Pub. L. 114-94, div. A, title III, § 3005(b)(3)(B).

The applicant certifies that it:

(a) Has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
(b) Has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
(c) Will maintain equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan; and
(d) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning).

CATEGORY 11. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS.

If the applicant is in an urbanized area and will apply for an award under subsection (a) (formula grants), subsection (b) (buses and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 8 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5339(a)(3), (b)(6), and (c)(3), respectively.

If the applicant is in a rural area and will apply for an award under subsection (a) (formula grants), subsection (b) (bus and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 9 for Formula Grants for Rural Areas (49 U.S.C. § 5311). This certification is required by 49 U.S.C. § 5339(a)(3), (b)(6), and (c)(3), respectively.

Making this certification will incorporate by reference the applicable certifications in Category 8 or Category 9.

If the applicant will receive a competitive award under subsection (b) (buses and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) related to zero emissions vehicles or related infrastructure, it must make the following certification. This certification is required by 49 U.S.C. § 5339(d).

The applicant will use 5 percent of grants related to zero emissions vehicles (as defined in subsection (c)(1)) or related infrastructure under subsection (b) or (c) to fund workforce development training as described in section 49 U.S.C. § 5314(b)(2) (including registered apprenticeships and other labor-management training programs) under the recipient's plan to address the impact of the transition to zero emission vehicles on the applicant's current workforce; or the applicant certifies a smaller percentage is necessary to carry out that plan.

CATEGORY 12. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.

If the applicant will apply for an award under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C. § 5310), it must make the certification in Category 8 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5310(e)(1). Making this certification will incorporate by reference the certification in Category 8, except that FTA has determined that (d), (f), (i), (j), and (k) of Category 8 do not apply to awards made under 49 U.S.C. § 5310 and will not be enforced.

In addition to the certification in Category 8, the applicant must make the following certification that is specific to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program. This certification is required by 49 U.S.C. § 5310(e)(2).

The applicant certifies that:

(a) The projects selected by the applicant are included in a locally developed, coordinated public transit-human services transportation plan;
(b) The plan described in clause (a) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public;
(c) To the maximum extent feasible, the services funded under 49 U.S.C. § 5310 will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services; and
(d) If the applicant will allocate funds received under 49 U.S.C. § 5310 to subrecipients, it will do so on a fair and equitable basis.

CATEGORY 13. STATE OF GOOD REPAIR GRANTS.

If the applicant will apply for an award under FTA's State of Good Repair Grants Program (49 U.S.C. § 5337), it must make the following certification. Because FTA generally does not review the transit asset management plans of public transportation providers, the asset management certification is necessary to enforce the provisions of 49 U.S.C. § 5337(a)(4). The certification with regard to acquiring restricted rail rolling stock is required by 49 U.S.C. § 5323(u)(4). Note that this certification is not limited to the use of Federal funds.

The applicant certifies that the projects it will carry out using assistance authorized by the State of Good Repair Grants Program, 49 U.S.C. § 5337, are aligned with the applicant's most recent transit asset management plan and are identified in the investment and prioritization section of such plan, consistent with the requirements of 49 CFR Part 625.

If the applicant operates a rail fixed guideway service, the applicant certifies that, in the fiscal year for which an award is available to the applicant under the State of Good Repair Grants Program, 49 U.S.C. § 5337, the applicant will not award any contract or subcontract for the procurement of rail rolling stock for use in public transportation with a rail rolling stock manufacturer described in 49 U.S.C. § 5323(u)(1).

CATEGORY 14. INFRASTRUCTURE FINANCE PROGRAMS.

If the applicant will apply for an award for a project that will include assistance under the Transportation Infrastructure Finance and Innovation Act ("TIFIA") Program (23 U.S.C. §§ 601–609) or the State Infrastructure Banks ("SIB") Program (23 U.S.C. § 610), it must make the certifications in Category 8 for the Urbanized Area Formula Grants Program, Category 10 for the Fixed Guideway Capital Investment Grants program, and Category 13 for the State of Good Repair Grants program. These certifications are required by 49 U.S.C. § 5323(o).

Making this certification will incorporate the certifications in Categories 8, 10, and 13 by reference.

CATEGORY 15. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

If the applicant will apply for an award under FTA's Urbanized Area Formula Grants Program (49 U.S.C. § 5307), Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) programs, the applicant must make the following certification. The applicant must make this certification on its own behalf and on behalf of its subrecipients and contractors. This certification is required by 49 CFR § 655.83.

The applicant certifies that it, its subrecipients, and its contractors are compliant with FTA's regulation for the Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, 49 CFR Part 655.

CATEGORY 16. RAIL SAFETY TRAINING AND OVERSIGHT.

If the applicant is a State with at least one rail fixed guideway system, or is a State Safety Oversight Agency, or operates a rail fixed guideway system, it must make the following certification. The elements of this certification are required by 49 CFR §§ 672.31 and 674.39.

The applicant certifies that the rail fixed guideway public transportation system and the State Safety Oversight Agency for the State are:

(a) Compliant with the requirements of 49 CFR Part 672, "Public Transportation Safety Certification Training Program"; and
(b) Compliant with the requirements of 49 CFR Part 674, "Sate Safety Oversight".

CATEGORY 17. DEMAND RESPONSIVE SERVICE.

If the applicant operates demand responsive service and will apply for an award to purchase a non-rail vehicle that is not accessible within the meaning of 49 CFR Part 37, it must make the following certification. This certification is required by 49 CFR § 37.77.

The applicant certifies that the service it provides to individuals with disabilities is equivalent to that provided to other persons. A demand responsive system, when viewed in its entirety, is deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

(a) Response time;
(b) Fares;
(c) Geographic area of service;
(d) Hours and days of service;
(e) Restrictions or priorities based on trip purpose;
(f) Availability of information and reservation capability; and
(g) Any constraints on capacity or service availability.

CATEGORY 18. INTEREST AND FINANCING COSTS.

*If the applicant will pay for interest or other financing costs of a project using assistance awarded under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), the Fixed Guideway Capital Investment Grants Program (49 U.S.C. § 5309), or any program that must comply with the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310), "flex funds" from infrastructure programs administered by the Federal Highways Administration (*see *49 U.S.C. § 5334(i)), or awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the following certification. This certification is required by 49 U.S.C. §§ 5307(e)(3) and 5309(k)(2)(D).*

The applicant certifies that:

(a) Its application includes the cost of interest earned and payable on bonds issued by the applicant only to the extent proceeds of the bonds were or will be expended in carrying out the project identified in its application; and
(b) The applicant has shown or will show reasonable diligence in seeking the most favorable financing terms available to the project at the time of borrowing.

CATEGORY 19. CYBERSECURITY CERTIFICATION FOR RAIL ROLLING STOCK AND OPERATIONS.

If the applicant operates a rail fixed guideway public transportation system, it must make this certification. This certification is required by 49 U.S.C. § 5323(v). For information about standards or practices that may apply to a rail fixed guideway public transportation system, visit https://www.nist.gov/cyberframework *and* https://www.cisa.gov/.

The applicant certifies that it has established a process to develop, maintain, and execute a written plan for identifying and reducing cybersecurity risks that complies with the requirements of 49 U.S.C. § 5323(v)(2).

CATEGORY 20. PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS FORMULA AND DISCRETIONARY PROGRAM (TRIBAL TRANSIT PROGRAMS).

Before FTA may provide Federal assistance for an Award financed under either the Public Transportation on Indian Reservations Formula or Discretionary Program authorized under 49 U.S.C. § 5311(c)(1), as amended by the FAST Act, (Tribal Transit Programs), the applicant must select the Certifications in Category 21, except as FTA determines otherwise in writing. Tribal Transit Program applicants may certify to this Category and Category 1 (Certifications and Assurances Required of Every Applicant) and need not make any other certification, to meet Tribal Transit Program certification requirements. If an applicant will apply for any program in addition to the Tribal Transit Program, additional certifications may be required.

FTA has established terms and conditions for Tribal Transit Program grants financed with Federal assistance appropriated or made available under 49 U.S.C. § 5311(c)(1). The applicant certifies that:

(a) It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.

(b) It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.

(c) It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, "Transit Asset Management," 49 CFR Part 625. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.

(d) With respect to its procurement system:

  (1) It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost

Principles, and Audit Requirements for Federal Awards," 2 CFR Part 200, for Awards made on or after December 26, 2014,

(2) It will have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR Part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or

(3) It will inform FTA promptly if its procurement system does not comply with either of those U.S. DOT regulations.

(e) It will comply with the Certifications, Assurances, and Agreements in:

(1) Category 05.1 and 05.2 (Charter Service Agreement and School Bus Agreement),

(2) Category 06 (Transit Asset Management Plan),

(3) Category 07.1 and 07.2 (Rolling Stock Buy America Reviews and Bus Testing),

(4) Category 09 (Formula Grants for Rural Areas),

(5) Category 15 (Alcohol and Controlled Substances Testing), and

(6) Category 17 (Demand Responsive Service).

CATEGORY 21. EMERGENCY RELIEF PROGRAM.

An applicant to the Public Transportation Emergency Relief Program, 49 U.S.C. § 5324, must make the following certification. The certification is required by 49 U.S.C. § 5324(f) and must be made before the applicant can receive a grant under the Emergency Relief program.

The applicant certifies that the applicant has insurance required under State law for all structures related to the emergency relief program grant application.

FEDERAL FISCAL YEAR 2023 CERTIFICATIONS AND ASSURANCES FOR FTA ASSISTANCE PROGRAMS

(Signature pages alternate to providing Certifications and Assurances in TrAMS.)

Name of Applicant:_____

The Applicant certifies to the applicable provisions of all categories: (*check here*) _____.

Or,

The Applicant certifies to the applicable provisions of the categories it has selected:

Category		Certification
01	Certifications and Assurances Required of Every Applicant	_____
02	Public Transportation Agency Safety Plans	_____
03	Tax Liability and Felony Convictions	_____
04	Lobbying	_____
05	Private Sector Protections	_____
06	Transit Asset Management Plan	_____
07	Rolling Stock Buy America Reviews and Bus Testing	_____
08	Urbanized Area Formula Grants Program	_____
09	Formula Grants for Rural Areas	_____
10	Fixed Guideway Capital Investment Grants and the Expedited Project Delivery for Capital Investment Grants Pilot Program	_____
11	Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs	_____

12	Enhanced Mobility of Seniors and Individuals with Disabilities Programs	_____
13	State of Good Repair Grants	_____
14	Infrastructure Finance Programs	_____
15	Alcohol and Controlled Substances Testing	_____
16	Rail Safety Training and Oversight	_____
17	Demand Responsive Service	_____
18	Interest and Financing Costs	_____
19	Cybersecurity Certification for Rail Rolling Stock and Operations	_____
20	Tribal Transit Programs	_____
21	Emergency Relief Program	_____

CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE

AFFIRMATION OF APPLICANT

Name of the Applicant: _____

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in the federal fiscal year, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

The Certifications and Assurances the Applicant selects apply to each Award for which it now seeks, or may later seek federal assistance to be awarded by FTA during the federal fiscal year.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq*., and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature_____ Date: _____

Name_____ Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): _____

As the undersigned Attorney for the above-named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

Signature_____ Date: _____

Name_____ Attorney for Applicant

Each Applicant for federal assistance to be awarded by FTA must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within TrAMS, provided the Applicant has on file and uploaded to TrAMS this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.

Town of Snowmass Village

Agenda Item Summary

DATE OF MEETING:
February 22, 2023

AGENDA ITEM:
Discussion and Consideration of Resolution NO. 9 Series of 2023 Approving a 5 Year Lease with the Snowmass Western Heritage Association for the Rodeo Grounds

PRESENTED BY:
Andy Worline, Parks, Recreation & Trails Director

BACKGROUND:
Snowmass Western Heritage Association (SWHA) has requested to renew the lease for the rodeo arena starting in the summer of 2023. The previous lease was granted for three years ending September 2022. SWHA has leased the rodeo grounds from the Town for at least 20 years.

The Town and SWHA have worked together to develop the draft lease before the Council.

This new lease will cover the next five years and will be re-evaluated after the 2027 summer season. The conditions of the proposed lease are relatively the same as previously leases. This draft lease does provide clarity on:

- SWHA's responsibilities for any maintenance and repair of the Rodeo Grounds and Rodeo Facilities
- Parking
- A continued requirement to apply for a special event permit.

Compensation from SWHA to the Town is (likely) the largest proposed change to the lease. Currently there is no compensation from SWHA to the Town for the use of the facilities. This draft lease proposes compensation to the Town will be in the form of a rental fee per year of $17,000. In the event a rodeo is cancelled due to a cause outside of the control of SWHA, TOSV agrees to waive and reduce the Annual Lease Amount on a pro-rata basis by the number of rodeos cancelled (due to a cause outside SWHA control) as a fraction of the total number of schedule rodeos. In addition, SWHA has proposed to contribute a one-time payment of $115,000 for rodeo facility improvements.

The Council has discussed these contributions in previous meetings but has not agreed to them. Council discussion and consideration on these amounts is warranted.

With the Town ready to proceed with a $5 million investment in Town Park, over $400,000 of which is for improvements to the grandstands, Staff would continue to ask that this one-time capital contribution from SWHA be increased if their financial capacity allows. The timing of this contribution is also important and should be made before construction on the facility commences.

Outside of the compensation issues, it is Staff's understanding that both SWHA and TOSV have agreed to the other changes and modifications in this lease.

FINANCIAL IMPACT:

Snowmass Western Heritage Association (SWHA) has utilized this facility for many years with no direct financial contribution. This lease calls for both an annual rent and one-time contributions. These amounts need to be finalized.

APPLICABILITY TO COUNCIL GOALS & OBJECTIVES:

The Town Council has made the Town Park improvement a priority and this lease contributes to the ongoing creation of community-oriented spaces.

COUNCIL OPTIONS:

1) Agree to the terms of the lease and approve the Resolution.
2) Modify the proposed lease and then approve the Resolution.
3) Choose not to approve the Resolution or lease at this time.

STAFF RECOMMENDATION:

Once the one-time contribution and annual lease amount are agreed to by the Council, Staff recommends that the Council make the following motion: Approving Resolution No. 9 Series of 2023 approving the lease with the Snowmass Western Heritage Association.

ATTACHMENTS:

Resolution No. 09, Series 2023
Draft Rodeo Lease 2023-2027 with Exhibit A & B
Under Sperate Cover – SWHA Balance Sheet & Profit and loss statement

TOWN OF SNOWMASS VILLAGE
TOWN COUNCIL

RESOLUTION NO. 9
SERIES OF 2023

A RESOLUTION APPROVING THE RODEO GROUNDS ARENA LEASE AGREEMENT WITH SNOWMASS WESTERN HERITAGE ASSOCIATION

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. Section 1.4 of the Charter authorizes the Town Council to lease real property.

C. TOSV owns real property in Snowmass Village located at 2753 Brush Creek Road (the "Property").

D. A portion of the Property is developed with rodeo grounds (the "Rodeo Grounds") and related rodeo facilities (the "Rodeo Facilities") owned by TOSV.

E. Snowmass Western Heritage Association (SWHA) wishes to lease the Rodeo Grounds and Rodeo Facilities for up to a 5-year term, as set forth in the Rodeo Grounds Lease Agreement enclosed as **Exhibit A** (the "Rodeo Lease"). Further, SWHA has agreed to make a capital contribution towards the improvements on the Rodeo Grounds, as set forth in the Rodeo Lease.

F. The Town Council finds and determines that it is in the best interests of the Town to approve the Rodeo Lease as set forth in this Resolution. 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. Rodeo Lease. The Town Council hereby approves the Rodeo Lease in substantially the same form as set forth in **Exhibit A**, as determined to be satisfactory to the Town Attorney, and authorizes the Town Manager to execute the same.

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 15th day of February, 2023, 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

Rodeo Grounds Arena Lease Agreement - 2023-2027
Town of Snowmass Village, Colorado - Snowmass Western Heritage Association (SWHA)

This Lease Agreement ("Agreement") is made and entered into this ____ day of _____, 2023, by and between the Town of Snowmass Village, a Colorado home rule municipal corporation, hereinafter referred to as "TOSV" or the "Town," and Snowmass Western Heritage Association, a Colorado nonprofit corporation, hereinafter referred to as "SWHA." TOSV and SWHA are collectively referred to as the "Parties."

Recitals

A. TOSV is the owner of the Town Park property, located at 2753 Brush Creek Road, Snowmass Village, Colorado. A rodeo riding arena and appurtenant facilities are located within Town Park, defined below as "Rodeo Grounds" and "Rodeo Facilities."

B. SWHA's purpose is to preserve and enhance Snowmass Village and Roaring Fork Valley western heritage, culture and spirit through education and charity.

C. SWHA provides activities and events to educate and entertain the general public. SWHA wishes to operate a nonprofessional rodeo series on the Rodeo Grounds and using Rodeo Facilities from June 1st – August 31st, 2023-2027.

D. The Town owns all of the permanent fixtures, structures and equipment in Town Park, including fixtures, structures and equipment needed for the rodeo (the "Rodeo Facilities"), except for the rodeo sound system, picnic tables, food, roping chutes, and bar tents.

E. SWHA desires to utilize the Rodeo Grounds and Rodeo Facilities for conducting the above-referenced western heritage activities and events on the terms set forth below and detailed in the Special Event Application on file with the Town.

For and in consideration of the mutual promises and covenants set forth below, TOSV and SWHA agree as follows:

1. Recitals. The foregoing recitals are incorporated herein.

2. Leased Premises; Site and Facilities. In consideration of the payment of Rent (defined below) and the performance of the promises by SWHA herein, TOSV hereby leases to SWHA the rodeo grounds within the boundaries of the Town Park identified on **Exhibit A** for the 2023 lease year and that identified on **Exhibit B**[1] for the 2024-2027 lease years (the "Rodeo Grounds") and the Rodeo Facilities for the following, limited rodeo and related western heritage, equestrian, and rodeo support activities:

[1] Exhibit B reflects the Rodeo Grounds upon completion of the planned rodeo construction project.

a. SWHA may hold regularly scheduled rodeos each Wednesday from the third week of June through the third week of August from approximately 5:00 pm to 10:00 pm.

b. SWHA may hold other rodeo and related western heritage, equestrian, and rodeo support activities on the Rodeo Grounds upon approval of the TOSV. Such additional activities and the dates thereof shall be requested by SWHA at least 14 days in advance the activity date for TOSV approval, which shall not be unreasonably withheld (e.g. TOSV previously scheduled event).

c. TOSV reserves the right to use the Rodeo Grounds for special events and other uses except TOSV will not schedule an event that could interfere with SWHA's ability to conduct a rodeo on Wednesday nights, or other approved activities that have been previously approved by the TOSV. TOSV shall provide at least 7 days advance notice to SWHA of TOSV's intent to use the Rodeo Grounds.

3. Site Preparation

a. The Parties acknowledge that the ability to safely and effectively utilize any area of the Rodeo Grounds and Rodeo Facilities for a rodeo or other events will depend upon weather, surface conditions, and other factors, which are beyond the control of TOSV.

b. SWHA assumes full and complete responsibility for the preparation and maintenance of the Rodeo Grounds and Rodeo Facilities and for the determination, on a continuing daily basis, of the condition or suitability of any area for the rodeo or any other operations, uses or activities by SWHA.

c. TOSV shall have the right to prohibit the selection of any use area of the Rodeo Grounds or portion of the Rodeo Facilities if it determines, in its discretion, that the proposed use of the Town Park property poses an unacceptable risk to the safety of TOSV employees, guests, and facilities or unreasonably interferes with other operations by TOSV.

d. TOSV has made no warranty, expressed or implied, as to the suitability of the Rodeo Grounds and Rodeo Facilities for the conduct of any activity by SWHA.

e. If TOSV schedules any activity or event at the Rodeo Grounds, TOSV will ensure that the Rodeo Grounds is returned to the same useable condition after said use. After such use by TOSV and prior to subsequent use by SWHA, SWHA assumes full and complete responsibility for the preparation and maintenance of such areas and facilities and for the determination, on a continuing daily basis, of the condition or suitability of any area for the rodeo or any other operations, uses or activities by SWHA.

f. SWHA accepts the Rodeo Grounds and Rodeo Facilities "as is" from TOSV before each use and TOSV shall have no responsibility to ensure the safe and good condition of the Rodeo Grounds and Rodeo Facilities.

g. To a reasonable extent, TOSV agrees to help facilitate any needed repairs caused by other users of the Rodeo Grounds

4. Term. TOSV leases the Rodeo Grounds and Rodeo Facilities to SWHA, subject to the conditions in this Agreement, from June 1, 2023 to and through August 31, 2027, subject to the rights of termination set forth below and unless sooner terminated pursuant to such right.

5. Compensation to TOSV

a. In consideration of the rights granted herein, SWHA agrees to pay TOSV $_____ per year for up to 10 rodeo events per year (the "Annual Lease Amount"). The Annual Lease Amount shall be paid not later than 14 days after the last rodeo event of each year. In the event a rodeo is cancelled due to a cause outside of the control of SWHA, TOSV agrees to waive and reduce the Annual Lease Amount on a pro-rata basis by the number of rodeos cancelled (due to a cause outside SWHA control) as a fraction of the total number of schedule rodeos. By way of example, for the 9 rodeos scheduled for 2023, if 1 rodeo is cancelled due to a cause outside SWHA control, TOSV will waive 1/9th of the Annual Lease Amount. In the event TOSV cancels this Agreement pursuant to paragraph 19.d of this Agreement, SWHA will not be obligated to pay the Annual Lease Amount.

b. SWHA also will contribute a one-time payment of $_____ for capital expenditures for Rodeo Grounds and Rodeo Facilities improvements (the "Capital Contribution") once construction is initiated, but not later than 14 days after mutual execution of this Agreement. In the event the TOSV cancels this Agreement pursuant to paragraph 19.d of this Agreement, the Town will reimburse SWHA a pro-rata amount of the Capital Contribution based on the number of years remaining on the lease term as a fraction of the total lease term. By way of example, if the Agreement was terminated after 3 years, TOSV would reimburse SWHA for 2/5ths of the Capital Contribution. Lastly, in the event the Rodeo Grounds and Rodeo Facilities Improvements are not completed, TOSV will reimburse SWHA for the full Capital Contribution.

c. SWHA is committed to use net revenues from SWHA's operation of the summer rodeo series for the upkeep and capital improvements of the Rodeo Grounds and Rodeo Facilities. All improvements by SWHA to the property must be approved by TOSV before commencement.

d. The sound system will be provided and maintained by SWHA including all wiring and connections.

e. SWHA shall maintain the Rodeo Grounds and Rodeo Facilities in a good, safe, and clean condition. SWHA shall be solely responsible for any maintenance and repair of the Rodeo Grounds and Rodeo Facilities at its sole expense. TOSV shall be indemnified and held harmless by SWHA for any and all losses, claims, or liabilities of any kind arising from or relate to use of the Rodeo Grounds and Rodeo Facilities.

f. At the end of each rodeo season, SWHA will provide, as historically provided, its auditor's profit and loss statement and balance sheet reports detailing the SWHA's operations pursuant to this Agreement.

g. SWHA shall keep a complete set of accurate financial records of its operations, in a manner consistent with ordinary accounting methods and procedures. SWHA shall maintain accurate records of all receipts, invoices, payments, income, accounts, documents, and other relevant information in its offices in Snowmass, which shall be open for inspection, review, examination, audit, and copying by TOSV during normal business hours upon TOSV's reasonable request.

h. Significant improvements at the Rodeo Grounds shall be planned before the season and required the advance approval from TOSV on all improvements in its sole discretion.

6. <u>Arena and Corral Maintenance</u>

a. SWHA will be responsible for all labor and costs necessary to repair and maintain any and all arena and corrals.

b. Prior to the commencement of the first SWHA event, SWHA will be responsible for and shall make any necessary (as determined by the Town) repairs to the Rodeo Facilities, including but not limited to:
   - The arena, including additional infield mix
   - Outbuildings
   - Bleachers
   - Exterior security fencing
   - Irrigation and water system
   - Weed Control
   - Rodent Control

c. SWHA will be solely responsible for paying all labor and material costs for installing and removing all food and beverage tents.

d. SWHA will be solely responsible for all labor and materials necessary to repair the Rodeo Facilities including but not limited to said pens, corrals, and fencing.

e. SWHA may construct, with TOSV approval, other small temporary booths within the Rodeo Grounds for displays or children's activities, including a teepee, or improve/upgrade the existing structures.

f. Trailer parking – No SWHA Trailers or other equipment parking is allowed at the Town Park site or Rodeo arena except for the 10 rodeo events per season. Exception: SWHA Business Trailer will be allowed during the entire rodeo season.

7. Manure Removal. SWHA will thoroughly remove manure from the areas of its operation on a daily basis and dispose of all manure at such locations that are designated by TOSV. SWHA shall contract with TOSV for solid waste removal services. All manure removal and disposal shall be at SWHA's sole cost. TOSV will consider alternate methods of disposal as proposed by SWHA. – No dumping Manure into the pond, wetland areas or any other native areas on the Town Park site.

   Areas of operation include:

   a. Areas including the road(s):
      i. Brush Creek Rd.
      ii. Horse Ranch Dr.
      iii. Check Point Charlie (Overflow Parking)
   b. Trails;
      i. Brush Creek Paved Trail
      ii. Horse Ranch Paved Trail

8. Parking at Town Park
   a. All spaces in front of the Recreation Center are reserved for center guests and shall not be used by SWHA.

   b. Access through the parking lot must be available for drop-off and pick up from the Recreation Center.

9. Governmental Approvals
   a. TOSV and SWHA shall reasonably cooperate to obtain all governmental approvals and permits necessary for the conduct of SWHA's operations hereunder.

   b. SWHA agrees that it will, at all times, conduct all of its operations in compliance with all conditions and requirements of the special event application, approvals, laws, and regulations.

   c. TOSV makes no warranty hereunder that TOSV and SWHA will be successful in obtaining and maintaining any and all permits and approvals necessary for the conduct of Operator's activities during the term of this Agreement. In the event that any permit or

approval necessary therefore is not obtained after all reasonable efforts, then this Agreement shall terminate at the time that the governmental body having authority to issue such permit finally determines to deny such permit.

d. SWHA agrees to complete and submit for TOSV approval, a Special Event Application, and TOSV agrees to review and issue, if appropriate in its reasonable discretion, a Special Event Permit for the rodeo/barbecue and other activities.

e. The Special Event Permit will not give SWHA exclusive use of the Rodeo Grounds; the Town reserves the right to use the property for other uses as long as they do not interfere with the rodeo and other proposed SWHA activities, as set forth herein.

f. If SWHA needs to use private property to pasture animals, SWHA must secure the approval of the property owner.

g. SWHA may not move rodeo stock through the Town Park for any reason.

10. Assignment
    a. Provided that SWHA is in full compliance with all of its obligations and covenants hereunder, this Agreement and SWHA hereunder may assign its rights only upon the prior written consent of TOSV which may be withheld in TOSV's reasonable discretion.

    b. Sub-leases are prohibited.

11. Participant Waivers. SWHA shall require every participant entering onto the Rodeo Grounds under this Agreement to have first been advised regarding and shall thereafter have fully executed a "Waiver and Release of Liability" in a form acceptable to TOSV.

12. No Partnership. Under the terms of this Agreement, SWHA shall not be considered an employee, agent, partner, joint venture or contractor of TOSV. Operator's status shall be solely that of an independent contractor. Nothing in this Agreement is intended to confer any benefit upon any third party.

13. Exclusivity
    a. During the term of this Agreement, TOSV will not enter into any other contracts authorizing production of rodeos on the Rodeo Grounds.

    b. This Agreement shall not preclude any other activity whatsoever at the Rodeo Grounds by TOSV, its employees, agents or invitees so long as such activities do not interfere with scheduled and approved events or activities of SWHA, subject to the terms of this Agreement. Further, TOSV acknowledges and agrees that SWHA intends to cooperate and partner with other local nonprofits and entities to jointly host and market certain activities and events at the Rodeo Grounds.

14. Indemnification. SWHA agrees, for itself, its successors and assignees, to indemnify, defend, and hold harmless TOSV, its Council, employees, agents, and officers, from and against any and all claims of any sort whatsoever, including negligence, arising out of or related to any action or failure to act by SWHA or its customers, agents, and employees. This obligation of indemnity shall include the payment of reasonable attorney's fees incurred in the investigation or defense of any claim, regardless of whether the claim is subsequently determined to lack merit. In furtherance of the obligation of indemnity and defense hereunder; SWHA shall at all times during the term of this Agreement, obtain and maintain in full force and effect a policy of comprehensive general liability insurance with policy limits of not less than $1,000,000 per occurrence and $2,000,000 aggregate. TOSV shall be named as additional insured on such policy and SWHA shall deliver a certificate evidencing such coverage to TOSV prior to the commencement of any activity hereunder. In the event TOSV allows other uses or events of the Rodeo premises that are not undertaken by SWHA, including but not limited to seasonal horseback trail rides, parking operations and annual holiday tree sales , TOSV shall require indemnity or Certificates of Insurance, acceptable to TOSV, from the operator(s) of such uses or events.

15. Site Inspection; Damages.
    a. In consideration of being permitted to enter the Rodeo Grounds and use the Rodeo Facilities for any purpose, SWHA, herein defined as including, but not limited to the arena, chutes, pens, areas reserved and intended for participants or restricted to the general public, all walkways, concessions, bleachers, or areas appurtenant to any areas where activity related to any event shall take place, or being permitted to compete, officiate, observe, work for, or for any purpose participate in any way in any event, the user, for their self, their personal representative and heirs, acknowledges, agrees, and represents that they have or will, immediately upon entering any such areas, and will continuously thereafter, inspect such areas and all portions thereof which he enters and with which they come in contact, and they do further warrant that their entry upon such areas and their participation, if any, constitutes an acknowledgement that they have inspected said area and that they find and accept the same as being safe and reasonably suited for the purposes of their use, and they further agree that if they feel anything to be unsafe, they will immediately advise the officials of TOSV of such and will leave said area.

    b. SWHA shall be responsible for any damages caused during the Term by SWHA's employees, contractors, agents, invitees, licensees, guests, or invitees, to the Rodeo Grounds and Rodeo Facilities.

16. Acceptance of Risk
    a. SWHA hereby assumes full responsibility for any risk of bodily injury, death or property damage, due to the negligence of SWHA or otherwise while in or upon the premises while competing, officiating, observing, or working in any event or otherwise using the Rodeo Grounds.

b. SWHA hereby agrees that the activities of an event may be dangerous and involve the risk of serious injury and or death and property damage. SWHA further expressly agrees that the foregoing Release and Waiver of Liability and Indemnity Agreement is intended to be as broad and inclusive as is permitted by the law of the State of Colorado and that if any portion hereof is held invalid. It is agreed that the balance shall continue in full force and effect.

c. SWHA acknowledges that the use, handling, and riding of a horse, bull, or other rodeo animal involves a risk of physical injury to any individual undertaking such activities; and that a horse, bull, or other rodeo animal, regardless of its training and usual past behavior characteristics, may act or react unpredictably at times based upon instinct or fright which, likewise, is an inherent risk assumed by a participant. Under Colorado law, an equine activity sponsor is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to section 13-21-119, Colorado Revised Statutes.

17. Signs

a. TOSV will allow SWHA to display one sign describing SWHA's programs at such location as may be mutually agreeable. In the event of any failure to agree, the location and design of any signs at the Rodeo Grounds shall be determined by TOSV in its sole discretion. Any additional signs must be approved in advance by TOSV and may be rejected in TOSV's sole discretion.

18. Animal Care

a. SWHA agrees: No Livestock will be stored at the Town Park or Rodeo Grounds overnight.

b. SWHA agrees to provide proof of vaccination for all stock animals.

c. SWHA agrees to allow the TOSV to inspect the stock animals for compliance with reasonable standards of care.

d. SWHA will comply with any directives issued by TOSV Staff.

e. SWHA and participants will provide only certified weed-free hay for all of its animals.

19. Entire Agreement and Termination

a. This Agreement states the entire Agreement and is intended to be a complete and integrated contract.

b. No amendment or change to this Agreement shall be binding or effective unless in writing and executed by both parties hereto.

c. In the event SWHA wishes to terminate this agreement, it will give TOSV at least (1) one month advance written notice.

d. TOSV has the right to terminate this Agreement by providing SWHA written notice thereof prior to January 1 of each year.

e. If SWHA "abandons" the Rodeo Grounds and does not plan to host the summer rodeo series the TOSV has the right to take over the Rodeo and notify SWHA in writing of termination of this Agreement. In the event such notification is received by SWHA and SWHA disagrees with TOSV's determination of abandonment, then SWHA shall have 30 days to cure any alleged breaches of this agreement and satisfy TOSV that SWHA is proceeding according to its proposal referenced above.

20. Governmental Immunity Act. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq.

21. Agreement Subject to Appropriation. To the extent this Agreement constitutes a multiple fiscal year debt or financial obligation of TOSV, it shall be subject to annual appropriation pursuant to the Town of Snowmass Village Municipal Code and Article X, Section 20 of the Colorado Constitution. The Town shall have no obligation to continue this Agreement in any fiscal year in which no such appropriation is made.

TOWN OF SNOWMASS VILLAGE, COLORADO

By: _____

Title: _____

Date: _____

SNOWMASS WESTERN HERITAGE ASSOCIATION

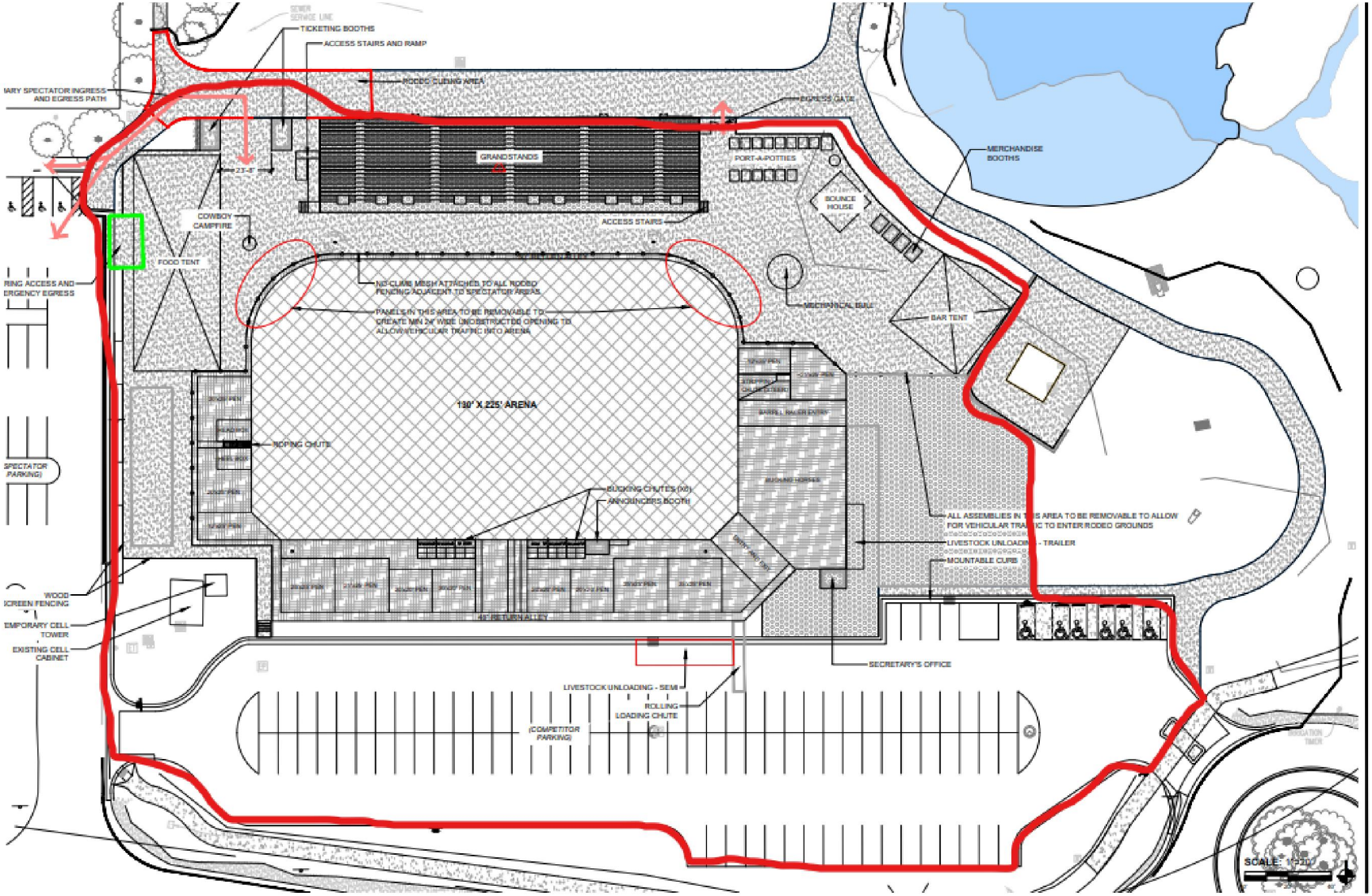
By: _____

Title: _____

Date: _____

Exhibit A

Exhibit B


TICKETING BOOTHS
ACCESS STAIRS AND RAMP
RODEO SLEEPING AREA
EGRESS GATE
GRANDSTANDS
PORT-A-POTTIES
MERCHANDISE BOOTHS
BOUNCE HOUSE
ACCESS STAIRS
COWBOY CAMPFIRE
FOOD TENT
MECHANICAL BULL
BAR TENT
130' X 225' ARENA
ROPING CHUTE
BUCKING CHUTES (X2)
ANNOUNCERS BOOTH
LIVESTOCK UNLOADING - TRAILER
MOUNTABLE CURB
WOOD SCREEN FENCING
TEMPORARY CELL TOWER
EXISTING CELL CABINET
40' RETURN ALLEY
SECRETARY'S OFFICE
LIVESTOCK UNLOADING - SEMI
ROLLING LOADING CHUTE
(COMPETITOR PARKING)

Town of Snowmass Village

Agenda Item Summary

DATE OF MEETING:

February 21, 2023

AGENDA ITEM:

Executive Session

PRESENTED BY:

Clint Kinney, Town Manager

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 move to enter Executive Session pursuant to C.R.S. 24-6-402(4) and Snowmass Village Municipal Code Section 2-45(c), for the following purposes:

a) For determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators pursuant to C.R.S. 24-6-402(4)(e) and Snowmass Village Municipal Code Section 2-45(c)(5), more specifically related to: **Timberline Ground Lease.**

ATTACHMENTS:

N/A