

**Town Board of Trustees  
Tuesday, August 23, 2016  
Public Meeting Room / Eagle Town Hall  
200 Broadway  
Eagle, CO**

*This agenda and the meetings can be viewed at [www.Townofeagle.org](http://www.Townofeagle.org).  
Meetings are also aired online at <https://vimeo.com/channels/Townofeagle/>.*

**6:00 PM – REGULAR MEETING CALLED TO ORDER**

**PUBLIC COMMENT**

*Citizens are invited to comment on any item not on the Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person per topic, unless arrangements have been made for a presentation with the Town Clerk.*

**PRESENTATION**

1. Markian Feduschek – Citizen Committee Eagle Riverfront Project
2. Ken Marchetti – Riverfront Project Bonds and Lower Basin Water Treatment Plant

**CONSENT AGENDA** *Consent agenda items are routine Town business, items which have received clear direction previously from the board, final land use file documents after the public hearing has been closed, or which do not require board deliberation.*

1. Minutes – August 9, 2016
2. Resolution 40, Series 2016 - A Resolution of the Board of Trustees of the Town of Eagle, Colorado, Appointing John Schneider to Serve as Town Representative On the Eagle Recreation Facility Advisory Corporation Board.
3. Resolution 41, Series 2016 - A Resolution of the Board of Trustees of the Town of Eagle, Colorado, Appointing Anne Mckibbin to Serve as Town Representative On the Northwest Colorado Council of Governments On Its Regional Council
4. Resolution 42, Series 2016 - A Resolution of the Board of Trustees of the Town of Eagle, Colorado, Appointing Andy Jessen to Serve as Town Representative on the Colorado Municipal League Advisory Committee.
5. Resolution No. 44 Series of 2016 A Resolution of the Board of Trustees of the Town of Eagle, Colorado, Granting A Special Use Permit for A Parcel of Land Located at 104 Capitol Street (Town of Eagle Plat, Block 19, Lots 1 Thru 4, North Half of Lot 5 and Lots 11 Thru 15, Block 19), Eagle, Colorado. *(Previously approved at the August 9, 2016 Town Board Meeting.)*
6. IGA with Eagle County Clerk and Recorder for Coordinated Election on November 8, 2016 *(Ballot text due September 9<sup>th</sup>)*

7. Ordinance 26-2016 An Ordinance Of The Town Of Eagle, Colorado Amending Certain Provisions Contained In Title 4 Of The Eagle Municipal Code Concerning Retail Marijuana Businesses And Medical Marijuana Businesses.

### **LAND USE**

1. Project: Creekside Lofts Development Plan  
File #: DR16-01  
Applicant: Rick Pylman (Eagle Ranch Creekside, LLC)  
Location: 718 Prince Alley  
Staff Contact: Tom Boni, Town Planner  
Request: Development Review for a project including 7 townhomes and one single family home on 1.27 acres.

Resolution No. 45 , Series Of 2016 A Resolution of the Board of Trustees Town of Eagle, Colorado Approving a Development Plan for the Construction of Eight (8) Dwelling Units Contained in Three (3) Buildings, A Four-Plex, A Three-Plex and a Single Family Dwelling and Appurtenances on Parcel B, Creekside Lofts Subdivision Within the Town of Eagle; Approving a Development Improvements Agreement, Dated August 23, 2016 Between the Town and ERLI, LLC.; Approving a Site Specific Development Plan Establishing a Vested Property Right Pursuant to Article 68 of Title 24, C.R.S. and Section 4.17.030 of the Eagle Municipal Code; and Authorizing the Issuance of A Major Development Permit For Said Property.

*See Staff Report*

2. Project: Boyz Toyz Snowmobile/ATV Store  
File #: SU97 (Proposed Amendment 2016)  
Applicant: Gary Ratkowski  
Location: 432 Grand Avenue  
Staff Contact: Tom Boni, Town Planner  
Request: Special Use Permit to allow continued operation of store/repair facility.

*Applicant is requesting continuance of this file to the September 27, 2016 Town Board Meeting.*

3. Project: Second Street Suites Hotel  
File #: DR15-05  
Applicant: Daniel Ritsch (Wall Street Family Partners, LLC)  
Location: 120 Second Street & 214 Wall Street  
Staff Contact: Tom Boni, Town Planner  
Request: Major Development Plan review of a 23-unit boutique hotel.

*Applicant is requesting continuance of this file to the September 13, 2016 Town Board Meeting.*

4. Project: Rocky Mountain School of Discovery  
File #: SU16-01  
Applicant: Anne Helene Garberg  
Location: 409 Brooks Lane  
Staff Contact: Tom Boni, Town Planner  
Request: Special Use Permit to allow operation of a pre-school and educational facility.

*Staff is requesting continuance of this file to the September 13, 2016 Town Board Meeting.*

5. Project: Highway Six Annexation  
File #: AN15-01  
Applicant: Town of Eagle  
Location: Highway Six

Staff Contact: Tom Boni, Town Planner  
Request: 3200 feet of Highway Six in Four Sequential Annexations

*(This item will need to be continued as it is an advertised Public Hearing. Date to be determined by Town Attorney and Staff.)*

#### **DECISIONS, DISCUSSION OR DIRECTION REQUESTED**

1. Resolution 43, Series 2016 A Resolution of the Board of Trustees Town of Eagle, Colorado Approving a Lease Agreement Between the Town of Eagle and Eagle River Youth Coalition D/B/A InteGreat! For Space in The Town of Eagle Old Town Hall; And Authorizing the Mayor to Execute Said Agreement
2. Mountain States Human Resources Generalist Proposal
3. Community Impact Award – *(Selection to be made from five nominations received. Board Members will vote by secret ballot, Clerk will tally and winner will be announced at Eagle 20/20 Event in October and kept confidential until then.)*
4. Re-appropriation of Funds Request *(Memo from Finance Director)*

**EXECUTIVE SESSION:** to consider personnel matters, pursuant to C.R.S. § 24-6-402 (4)(f) and to hold a conference with the Town’s attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402 (4)(b).

#### **STAFF UPDATES AND REQUESTS**

1. Manager’s Report
2. Eagle River Corridor Project Update *(Staff will answer questions and attempt to provide current updates on project goals, timelines and budget. Memo from Caroline Bradford.)*
3. Sales Tax Report through July 2016 *(Current collections are 13% above 2015 for same period. Of Special Note: These collections DO NOT include the .5% increase in Sales Tax. Collections received in August are though June 30, 2016, increase went into effect on July 1<sup>st</sup>.)*

#### **BOARD DISCUSSION AND FUTURE AGENDA ITEMS**

1. Mayor’s Update
2. Discussion of scheduling Work Sessions (Strategic Plan, Special Event Policies, etc.)

#### **ADJOURN**

I hereby certify that the above Notice of Meeting was posted by me in the designated location at least 24 hours prior to said meeting.



\_\_\_\_\_  
Jenny Rakow, CMC Town Clerk

## Memorandum

**TO:** Town Board of Trustees  
**FROM:** Jill Ewing, Finance Director  
**DATE:** August 19, 2016  
**RE:** Eagle River Park Bond Pricing and Information

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Ken Marchetti, with Marchetti & Weaver, LLC, will be here on Tuesday to facilitate a discussion on bond financing options. Attached you will find:

- Summary of three separate bond financing options
- Updated Schedule of Bond Events

On the Schedule of Events, please notice that August 29<sup>th</sup> from 10:00 am – 2:00 pm will be the order period for Town of Eagle residents to purchase Eagle River Park Bonds. The Town wants to make sure that we get this information out to our residents. We will do this through press release, news article, website, social media, and posting at Town Hall. Please also find attached the Town of Eagle Resident Flyer that will be posted.

**TOWN OF EAGLE  
SUMMARY OF FINANCING OPTIONS  
AUGUST 19, 2016**

	Scenario 1	Scenario 2	Scenario 3
<b>Bond Proceeds</b>	\$5,200,000 par <u>\$202,378 prem.</u> \$5,402,378 total	\$5,200,000 par <u>\$646,945 prem.</u> \$5,846,945 total	\$5,200,000 par <u>\$963,656 prem.</u> \$6,163,660 total
<b>Project Fund</b>	\$5,136,158	\$5,563,598	\$5,886,177
<b>True Interest Cost</b>	2.93%	3.09%	3.26%
<b>Debt Service Reserve Fund</b>	\$136,275	\$149,900	\$161,619
<b>Capitalized Interest Fund</b>	\$15,444	\$18,947	\$21,364
<b>Cost of Issuance</b>	\$114,500	\$114,500	\$114,500
<b>Total Debt Service</b>	\$8,279,470	\$9,131,578	\$9,840,160
<b>Average Annual Debt Service</b>	\$276,957	\$305,461	\$329,164

**TOWN OF EAGLE  
SCHEDULE OF EVENTS  
(AS OF AUGUST 19, 2016)**

July 2016						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

August 2016						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

September 2016						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

ACTIVITY	DATE/TIME
Town approves moving forward with refinancing	May 16, 2016
Disclosure counsel sends questionnaire	May 25, 2016
Town completes disclosure questionnaire	June 7, 2016
First draft bond documents distributed	June 13, 2016
First draft Preliminary Official Statement distributed	June 22, 2016
Town engages rating agency	July 22, 2016
Board Meeting to Approve Parameter Resolution	July 26, 2016
Town Approves 2015 Audit	July 26, 2016
Call with Rating Agency	July 28-August 2, 2016
Second draft of bond documents distributed	August 1, 2016
Submit insurance applications	August 2, 2016
Second draft POS	August 4, 2016
Receive rating	August 10-12, 2016
Receive Insurance Commitment	August 11, 2016
Post Preliminary Official Statement	August 18, 2016
Order Period for Town Residents (10:00am-2:00pm)	August 29, 2016
Bond Pricing	August 30, 2016
Post Official Statement	September 6, 2016
Distribute Closing Documents	September 7, 2016
Pre-Closing	September 8, 2016
Bond Closing	September 9, 2016

## TAX-EXEMPT MUNICIPAL BONDS

OFFERED EXCLUSIVELY TO EAGLE PROPERTY OWNERS AND RESIDENTS:

**AUGUST 29, 2016**

OFFERED TO THE GENERAL PUBLIC: **AUGUST 30, 2016**

Town of Eagle will be offering \$5,200,000 of its **Sales Tax Revenue Bonds Series 2016** in an exclusive offering to Eagle Property Owners and Residents on August 29, 2016 and then to the general public on August 30, 2016. A summary of the expected terms of the bonds is:

- serial bonds available in \$5,000 denominations;
- backed by the recently implemented 0.5% Town of Eagle sales tax. The Town is currently rated “A3” by Moody’s Investor Service;
- Proceeds from the bonds will be used for construction of the River Corridor Plan and Park;
- The bonds will pay interest semiannually on June 1 and December 1 of each year.
- The bonds will mature serially beginning on December 1, 2017 to December 1, 2046.
- Yields will float with the market until August 30 when they will be “locked”; however, based on today’s rates it is expected that the yields on the bonds will range from 0.83% for the 2017 maturity to 3.67 yield to call date (2.57 yield to maturity) on the 2046 maturities;
- If you are interested in more information on the bonds or on specific interest rates, please contact the underwriter representative:

David Freie  
D.A. Davidson & Co.  
Email [DFreie@dadco.com](mailto:DFreie@dadco.com)  
Phone 303-764-5779



**MINUTES**  
**Town Board of Trustees**  
**Tuesday, August 9, 2016**  
**6:00 P.M.**

**Public Meeting Room / Eagle Town Hall**  
**200 Broadway**  
**Eagle, CO**

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*This meeting is recorded and a CD will become part of the permanent record of the minutes. The following is a condensed version of the proceedings as written by Jenny Rakow.*

**PRESENT**

Anne McKibbin, Mayor  
Andy Jessen  
Mikel "Pappy" Kerst  
Matt Solomon  
Kevin Brubeck, Mayor Pro Tem  
Paul Witt

**ABSENT**

Doug Seabury

Alex Huck  
Kathy Chandler-Henry  
MaryJo Cianciaruso  
Mick Daly

**STAFF**

John Schneider, Town Manager  
Jenny Rakow, Town Clerk  
Ed Sands, Town Attorney  
Tom Boni, Town Planner  
Kevin Sharkey, Town Engineer  
Dusty Walls, Public Works Director  
Amy Cassidy, Marketing & Events

**PUBLIC SIGN IN**

Jeff Kennedy  
Agnes Harakal  
Sarah Kennedy

**MEETING CALLED TO ORDER**

**PUBLIC COMMENT**

*Citizens are invited to comment on any item not on the Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person per topic, unless arrangements have been made for a presentation with the Town Clerk.*

Jeff Kennedy – 1017 Sylvan Lake Road. Jeff informed the Board about the Marijuana Transporters Bill recently passed by Colorado State Senate for wholesale cannabis product. It is designed to address courier problems by adding new MED license for transporters for safety. There is a final hearing on September 2 and then can be signed by Governor at any time. This is for information purposes for Town of Eagle to consider for future regulation amendments for local ordinances.

## **PRESENTATIONS**

Take Aim Marketing - Amy Cassidy – Special Events and Marketing Update – Amy Cassidy gave presentation on event and marketing recaps through summer 2016.

Pickle Ball – Alex Huck request for use of tennis courts by Pool and Ice Rink owned by the Town of Eagle and managed by WECMRD.

Steve Russell Executive Director of WECMRD was present and agreed that costs could be split between Town and WECMRD to restripe one court and offered to store and check out nets for use. Estimated cost was around \$750.00. Usage will be monitored to determine if the second court should be striped to allow for more play. These will remain usable by tennis players and will be multi-use courts.

Jerry and Robin Santoro offered their ambassador support and provided information regarding the sport. John Schneiger offered to meet again with interested parties to affirm the direction of the board to move forward with restriping the courts. *Town Board agreed to move forward with Pickle Ball Courts at the Pool and Ice Rink.*

Agnes Harakal – Suicide Prevention – Agnes Harakal provided handouts to the Town Board regarding awareness campaign she would like them to have regarding mental health, suicide prevention and the crisis she believes Eagle County and surrounding areas are in with lack of resources. Currently services are extremely limited to two psychiatrists who can treat, prescribe medications and monitor. The closest facility for most residents in Grand Junction.

Kathy Chandler-Henry spoke to the Board about the County's Public Health Departments acknowledgement of these concerns and interest in working towards solutions. Involving more town's and entities to come up with support will be necessary to make changes to the current lack of resources for mental health.

Chief Joey Stauffer reiterated the lack of resources he finds as well. First responders need to contact law enforcement to ensure citizens are "safe" prior to responding, therefore his department sees first-hand the need for mental health support and resources. Issues of concerns are prevention in schools using school resource officer and with Castle Peak opening, the senior population may need assistance in this area as well. Mind Springs Health along with a coalition of concerned entities is currently working on funding for a 70 bed facility. Joey estimated Eagle could use 10 of those beds immediately.

Mayor McKibben stated the Town Board supports solutions in this area and is interested in knowing how the Town can assist in finding ways to solve this issue.

*Additional comments were allowed by Mayor McKibbin.*

Melvin () a licensed clinical social worker at Mountain Family Health Center in Edwards spoke about the lack of resources in this area for mental health counseling and funding. Expressed his desire to advocate for this issue and request the Town's support of their role in the context of public service and safety.

Kathy Tioka a nurse at the Mountain Family Health Center expressed her concerns regarding the lack of services and support and considers it a crisis. Outlined the critical role of psychiatrists in treating mental health and noted only two service Garfield and Eagle counties, which is not enough. Kathy answered questions regarding the funding of her facility through federal grants and their ability to serve those without insurance and on a sliding scale.

## **RECOMMENDATION OF AWARD**

Brush Creek Intake Structure (Deron Dirksen, Town Engineer) – Dusty Walls was present for this item and reported that staff is recommending approval of bid submitted by Ewing Construction as the low bidder at \$227,240.00.

MOTION: Trustee Brubeck motioned to approve the bid to Ewing Construction for the Brush Creek Intake Structure in the amount of \$227,240.00. Motion was seconded and PASSED unanimously.

Street Resurfacing Contract Approval (Dusty Walls, Public Works Director) – Dusty Walls was present for this item and reported that staff is recommending approval of bid submitted by Elam Construction as the low bidder at \$190,070.00.

MOTION: Trustee Solomon motioned to award the bid to Elam Construction in the amount of \$190,070.00 for the street resurfacing contract to replace Asphalt on Sixth Street and adjacent to the Town Park. Motion was seconded and PASSED unanimously.

Trustee Witt thanked Dusty Walls and Kevin Sharkey for their meetings and presentations on the water model regarding the Lower Basin Water Treatment Plant.

**CONSENT AGENDA** *Consent agenda items are routine Town business, items which have received clear direction previously from the board, final land use file documents after the public hearing has been closed, or which do not require board deliberation.*

Minutes – July 26, 2016

Bill Paying for July 2016 and Payroll

MOTION: Trustee Brubeck Motioned to approve the Consent Agenda. Motion was seconded and PASSED unanimously.

#### **LAND USE**

- 1. Project: Ping Apartments
- File #: SU13-08
- Applicant: Mike and Jim Mines
- Location: 104 Capitol Street
- Staff Contact: Tom Boni (Town Planner)
- Request: Special Use Permit Extension Request *(See Letter from Applicant in packets)*

Tom Boni opened this item and stated this Special Use Permit expires in February 2017, but applicant believes it is unlikely they will have a building permit by that time. The request is to extend until August 9, 2020.

Applicant representative Jim Mines was present and stated their request has been based on delays with change from wood to concrete structure and issues regarding CDOT access that will go away once the Town annexes Highway Six.

John Schneider asked if the Special Use Permit extension could include cleaning up the property and removing the buildings and trash. Jim Mines agreed that the buildings could be demolished and inquired about the demolition permit. Tom Boni stated the demolition permit can be easily applied for and issued.

Trustee Solomon asked that the Special Use Permit Extension request be contingent upon clearing the parcel of the buildings prior to the expiration of the current permit, which is February 11, 2017. Town Board Members agreed this was an acceptable requirement for extension. Ed Sand confirmed for the Board that existing ordinances in place already require that the owner keep the parcel free from trash and weeds.

Tom Boni answered questions regarding previous special use permit conditions of approval. Special Use Permits stay with the land; this would allow current owners to sell with the Permit in place. Further steps in the approval process for this project are still ahead that require Planning Commission and Town Board approvals. This would include the details of the project in the Development Improvements Agreement, which will outline the

architectural, parking and landscaping for both the Commissioners and Board Members to review, comment and consider for final approval.

*Town Board agreed to consider this extension in the form of a Resolution to be placed on the August 23, 2016 Consent Agenda.*

2. Project: Highway Six Annexation  
File #: AN15-01  
Applicant: Town of Eagle  
Location: Highway Six  
Staff Contact: Tom Boni (Town Planner)  
Request: 3200 feet of Highway Six in Four Sequential Annexations (*Staff requests continuance of this item to the August 23, 2016 Town Board Meeting*)

Kevin Sharkey stated he does not have much of an update, other than CDOT is working on their end to correct a typographical error in the land descriptions in order to move forward on their closing.

MOTION: Trustee Witt Motioned to continue File AN15-01 to the August 23, 2016 Town Board Meeting. Motion was seconded and PASSED unanimously.

#### **DECISIONS, DISCUSSION OR DIRECTION REQUESTED**

Attorney Ed Sands certified for the record that the following executive session will not be recorded because it will be subject to attorney client privilege.

MOTION: Mayor McKibbin motioned to enter into Executive Session to hold a conference with the Town's attorney to receive legal advice on specific legal questions and items pertaining to negotiations, pursuant to C.R.S. § 24-6-402(4)(b) with regard to Frost Creek PUD Amendment Water and Bike Path Discussion with attorney Mary Elizabeth Geiger by telephone. Motion was seconded and PASSED unanimously. (7:53 p.m.)

MOTION: Trustee Brubeck Motioned to adjourn the Executive Session and resume the regular meeting. Motion was seconded and PASSED unanimously.

#### **STAFF UPDATES AND REQUESTS**

Manager's Report and Staff Reports – John Schneider provided the Town Board with a consolidated staff report than included a consultant report on the River Front Project by Caroline Bradford.

Trustee Brubeck requested communication on progress of the River Front Project to our citizens. John Schneider stated he is working on that with our marketing staff and with Markian Feduschak on a citizens' committee to assist. This committee proposal is slated to be on the August 23, 2016 Town Board meeting for discussion.

Tom Boni highlighted his staff report regarding River Front Project progress, meetings and discussions. Caroline Bradford is preparing a strategic plan to structure our approach with GOCO and obtaining grants. Also updated regarding plan for the public process for creating the upland park with Eagle County.

John Schneider noted for the Board the DOLA Energy Impact Grants are open again and that may be another opportunity for the Town.

Anne McKibbin noted in her conversations with Eagle County Commissioner that the River Park and the County's interest to integrate it with the Fairgrounds plans.

John Schneider thanked the board for their participation in the water model meetings. Options to move forward will include engaging Ken Marchetti to assist with the process of an RFP for investment banking and an engineering study

for rates, tap fees and long term financial impacts. John will also contact Jason Cowles from our Planning Commission to discuss.

Trustee Jessen stated he felt another option was available regarding the current water situation is to consider not issuing any more development permits until a sustainable funding mechanism is found to start this project. Attorney Ed Sands cautioned on issuing moratoriums and noted that may open up legal issues for the Town. The Board discussed a way to keep a tally or have a way to measure new impacts to the water system. Enforcement of water restrictions and cutting back on irrigation during the summer months would seem the most logical as far as impact, but would require manpower. Other options included requiring non-potable water be used for irrigation.

John Schneiger noted the Chamber is interested in expanding the Christmas Lights in the round a bouts for this year. The sculptures have been donated and Batson's Corner has offered to supply the lights needed. Our Public Works currently stores the sculptures and puts them up. If the Board is interested, would like a consensus to give the Chamber permission to move forward on planning. *The Town Board gave their consensus for adding sculptures to the round a bout Christmas light display.*

John Schneiger stated he has been contacted by Recreation Committee members on Town Park improvements and wanted to know if the Board would like him to meet with the committee members first and provide the Board with an update. *The Town Board agreed that John Schneiger should meet with the committee members first and provide an update.*

John Schneiger asked for approval of an expenditure item to transfer \$5,000 from the Open Space Fund to the Eagle Valley Land Trust. The Town Board believed they already gave permission on this transaction. A brief discussion on purchasing policies and how it is a priority to address allowing budgeted purchases take place without bringing to the Board. The Board expressed interest in granting a certain dollar amount to staff discretion without Board approval. This should be considered at a future meeting to resolve.

#### **BOARD DISCUSSION AND FUTURE AGENDA ITEMS**

Mayor's Update –

Mayor McKibbin highlighted some meetings she has attended over the past two weeks. She met with Jeff McMahan from RED Development to discuss their vision for their property. The gist of the plans is medium to large format commercial with a mix of high and medium density residential.

USDOT Letter re: Greenhouse Gases – Mayor McKibbin asked if the Town Board was willing to support this letter to the US Department of Transportation. After a brief discussion the Board determined it was not willing to collectively sign the letter.

Appointment to NWCCOG – Anne McKibbin volunteered to serve on this board. A Resolution will be drafted for approval on the Consent Agenda for the next meeting.

Appointment to CML Policy Committee – Andy Jessen volunteered to serve on this board. A Resolution will be drafted for approval on the Consent Agenda for the next meeting.

Appointment of Board Member to serve as Town Representative on the Eagle Recreation Facility Advisory Corporation Board (WECMRD) – John Schneiger volunteered to serve on this board. A Resolution will be drafted for approval on the Consent Agenda for the next meeting.

Trustee Solomon requested the Marketing and Events updates be submitted as part of the packet and not a presentation.

Trustee Solomon noted a "movement" of sorts regarding residents using blue lights on their homes to honor first responders and show support. He would like that message placed on Town's FB to see if residents are interested in participating. This idea was given to Matt by Jon Jon Asper, former Eagle Fire Chief.

MOTION: Trustee McKibbin Motioned to enter into Executive Session –to Consider Personnel Matters, Pursuant to CRS § 24-6-402 (4)(f). Motion was seconded and PASSED unanimously. (9:18 p.m.)

MOTION: Trustee Witt Motioned to adjourn from Executive Session and resume the Regular Meeting. Motion was seconded and PASSED unanimously.

**ADJOURN (10:18 pm)**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Anne McKibbin, Mayor

\_\_\_\_\_  
Jenny Rakow, CMC Town Clerk

DRAFT

**RESOLUTION NO. 40**  
**(Series of 2016)**

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE,  
COLORADO, APPOINTING JOHN SCHNEIGER TO SERVE AS TOWN REPRESENTATIVE  
ON THE EAGLE RECREATION FACILITY ADVISORY CORPORATION BOARD.

WHEREAS, The Eagle Recreation Facility Advisory Corporation Board requires a Town of Eagle appointment to its Board pursuant to its Bylaws; and

WHEREAS, John Schneiger has agreed to serve on this board as a replacement for Yuri Kostick beginning immediately.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO:

Section 1. That John Schneiger is hereby appointed to the Eagle Recreation Facility Advisory Corporation Board as the Town of Eagle representative beginning immediately and expiring upon resignation or when his replacement is named.

INTRODUCED, READ, PASSED, AND ADOPTED at a regular meeting of the Board of Trustees of the Town of Eagle, Colorado held on August 23, 2016.

TOWN OF EAGLE, COLORADO

By: \_\_\_\_\_  
Anne McKibbin, Mayor

ATTEST:

\_\_\_\_\_  
Jenny Rakow, CMC  
Town Clerk

**RESOLUTION NO. 41  
(Series of 2016)**

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO, APPOINTING ANNE MCKIBBIN TO SERVE AS TOWN REPRESENTATIVE ON THE NORTHWEST COLORADO COUNCIL OF GOVERNMENTS ON ITS REGIONAL COUNCIL.

WHEREAS, The Northwest Colorado Council of Governments Regional Council allows a Town of Eagle appointment to its Board pursuant to its Bylaws; and

WHEREAS, Anne McKibbin has agreed to serve on this board immediately.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO:

Section 1. That Anne McKibbin is hereby appointed to the Northwest Colorado Council of Governments Regional Council as the Town of Eagle representative beginning immediately and expiring upon resignation or when her replacement is named.

INTRODUCED, READ, PASSED, AND ADOPTED at a regular meeting of the Board of Trustees of the Town of Eagle, Colorado held on August 23, 2016.

TOWN OF EAGLE, COLORADO

By: \_\_\_\_\_  
Anne McKibbin, Mayor

ATTEST:

\_\_\_\_\_  
Jenny Rakow, CMC  
Town Clerk

**RESOLUTION NO. 42**  
**(Series of 2016)**

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO, APPOINTING ANDY JESSEN TO SERVE AS TOWN REPRESENTATIVE ON THE COLORADO MUNICIPAL LEAGUE ADVISORY COMMITTEE.

WHEREAS, The Colorado Municipal League allows a Town of Eagle appointment to its Advisory Committee pursuant to its Bylaws; and

WHEREAS, Andy Jessen has agreed to serve on this board immediately.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO:

Section 1. That Andy Jessen is hereby appointed to the Colorado Municipal League Advisory Council as the Town of Eagle representative beginning immediately and expiring upon resignation or when his replacement is named.

INTRODUCED, READ, PASSED, AND ADOPTED at a regular meeting of the Board of Trustees of the Town of Eagle, Colorado held on August 23, 2016.

TOWN OF EAGLE, COLORADO

By: \_\_\_\_\_  
Anne McKibbin, Mayor

ATTEST:

\_\_\_\_\_  
Jenny Rakow, CMC  
Town Clerk

**RESOLUTION NO. 44**  
**(Series of 2016)**

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO, GRANTING A SPECIAL USE PERMIT FOR A PARCEL OF LAND LOCATED AT 104 CAPITOL STREET (TOWN OF EAGLE PLAT, BLOCK 19, LOTS 1 THRU 4, NORTH HALF OF LOT 5 AND LOTS 11 THRU 15, BLOCK 19), EAGLE, COLORADO.

WHEREAS, by Title 4 of the Eagle Municipal Code, the Town of Eagle enacted a comprehensive zoning ordinance for the Town; and

WHEREAS, the Board of Trustees of the Town of Eagle received an application on June 24, 2016, by Jim Mines for Michel J. Mines Trust (the "Applicant"), the owner of property, located at 104 Capitol Street more fully described as Town Of Eagle Plat, Block 19, Lots 1 Thru 4, North half of Lot 5 And Lots 11 Thru 15, Block 19, Town of Eagle, County of Eagle, State of Colorado, (the "Property") for an extension of a special use permit for High Density Multi-Family Dwellings in the Central Business Zone District (CBD), more particularly described in the application for the operation of Ping Apartments; and

WHEREAS, the Applicant originally received a special use permit for High Density Multi-Family Dwellings in the Central Business District (CBD) on February 11, 2014; and

WHEREAS, the Property is located in the Central Business District Zone District (CBD); and

WHEREAS, a public hearing was held before the Town of Eagle Planning and Zoning Commission and the Planning and Zoning Commission recommended approval of the application with conditions; and

WHEREAS, a public hearing on said application was held before the Board of Trustees on August 9, 2016, as required by Section 4.05.010(A)(5) of the Eagle Municipal Code; and

WHEREAS, public notice has been given as required by Section 4.03.060 of the Eagle Municipal Code; and

WHEREAS, the Board of Trustees finds and determines that the Applicant has provided sufficient evidence that the proposed extension of the special use permit complies with the Eagle Area Community Plan and is desirable, based on the criteria set forth in Section 4.05.010 of the Eagle Municipal Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO:

Section 1. That a special use permit for the operation of a High Density Multi-Family Dwellings is hereby extended for an additional three (3) years from the date of this Resolution subject to the following conditions:

A. Applicant shall comply with the Town's Local Employee Residency Program (LERP) if the apartments are converted to a for sale product in accordance with (LERP), Section 4.04.120 of the Eagle Municipal Code;

B. Applicant shall construct a public water main connecting the water main on Howard Street to a water main on Capitol Street;

C. Applicant shall submit a streetscape plan for that portion of Howard Street and Capitol Street adjacent to the structures to be constructed by the Applicant for review and approval as part of the application for a Major Development Permit;

D. Application for a Major Development Permit shall detail the architectural and landscape treatment of the Property;

E. Applicant shall provide a detailed plan regarding parking options as part of the Development Permit Application.

F. Applicant shall demolish all existing buildings on the Property on or before February 11, 2017, shall eliminate any dangerous conditions, and shall mitigate fugitive dust in a manner approved by the Town Engineer.

Section 2. Pursuant to Section 4.05.010(A)(1)(b) of the Eagle Municipal Code, the Board of Trustees defer street improvement fee required to be paid in accordance with Section 4.13.185 of the Eagle Municipal Code; and defer fire protection services impact fees required pursuant to Section 4.13.186 of the Eagle Municipal Code to the Development Permit of Building Permit as may be appropriate.

Section 3. Pursuant to Section 12.16.040 of the Eagle Municipal Code, the Board of Trustees hereby defers the pre-payment of water plant investment fees up to the time of approval of the first Subdivision Final Plat or Development Permit related to this project. . Such fees shall be due upon demand of the Town if needed prior to that time at the sole discretion of the Town.

INTRODUCED, READ, PASSED, AND ADOPTED at a regular meeting of the Board of Trustees of the Town of Eagle, Colorado held on August 23, 2016.

TOWN OF EAGLE, COLORADO

ATTEST:

By: \_\_\_\_\_  
Anne McKibbin, Mayor

\_\_\_\_\_  
Jenny Rakow, Town Clerk

July 6, 2016

Town of Eagle  
Attn: Jenny Rakow  
PO Box 609  
Eagle, CO 81631

Dear Jenny,

Attached please find two copies of your IGA and appendices A through D. Please sign and return both copies of the IGA along with appendix D verifying the correct streets in your boundaries by August 30<sup>th</sup>, 2016. Once we receive both signed copies, we will return one executed copy to you for your files.

Thank you and let me know if you have any questions.

Sincerely,

Stacey Jones  
Election Manager  
970-328-8726  
Stacey.Jones@eaglecounty.us

**Eagle County**  
**Intergovernmental Agreement**  
**November 8, 2016 General Mail Ballot Election**

This Agreement is made and entered into the \_\_\_\_ day of \_\_\_\_\_, 2016 between Eagle County and the Town of Eagle (hereinafter referred to as 'Political Subdivision'), concerning the administration and the conduct of the November 8, 2016 General Election (the "Election").

**Coordinated and Designated Election Officials**

Except as otherwise provided in this Section, the Eagle County Clerk and Recorder (the "County Clerk") shall act as the Coordinated Election Official for the conduct of the Election for the Political Subdivision for all matters in the Uniform Election Code which require action by the Coordinated Election Official. The Political Subdivision shall name a 'Designated Election Official' who shall act as the primary liaison between the Political Subdivision and the County Clerk and who will have responsibility for the conduct of the Election procedures to be handled by the Political Subdivision. Nothing herein shall be deemed or construed to relieve the County Clerk or the Governing Body of the Political Subdivision from their official responsibilities for the conduct of the Election.

**Jurisdictional Limitation**

This Agreement shall apply only to the portion of the Political Subdivision within the boundaries of Eagle County.

**County Clerk Responsibilities**

The County Clerk shall perform the following services and activities for the Political Subdivision's Election:

1. Adhere to all applicable provisions of C.R.S. Title One, Federal law related to elections and Colorado Secretary of State Rules.
2. Perform all services necessary for voting in Eagle County's elections, including but not limited to, pre and post-election testing of voting equipment, preparation of mail-in and voter ballot materials, receipt and processing of applications for voter registrations, receipt and processing of overseas and military voter applications for ballot delivery, timely mailing of ballots, tabulation of votes and certification of results.
3. Provide four locations for Voter Service and Polling Centers throughout the County during all Elections.
4. Provide the Political Subdivision an itemized statement of the costs for performing the tasks by the County Clerk hereunder no later than 60 working days following the Election. Exercise all reasonable diligence, care and control in providing these services to the Political Subdivision.

5. Give assistance and information to the Designated Election Official of the Political Subdivision on any matter to ensure the smooth and efficient operation of the Election (such information not to include legal advice).
6. Additional responsibilities related to certain Special Districts ( the "District") in which non-resident property owners may be eligible to vote:
  - a. Send property owner ballots to non-resident voters who have returned the self-affirming oath. (Oath will be included in the District Specific Tabor Notice mailing)
  - b. The self-affirming oath or affirmation is included as Appendix E.
  - c. Record on a spreadsheet each property owner mailed and returned.
  - d. Tabulate and certify results for these special elections.

### **Political Subdivision Responsibilities**

The Political Subdivision shall perform the following services and activities:

1. Identify a 'Designated Election Official' to act as liaison between the Political Subdivision and the County Clerk.
2. Determine the ballot issues to be voted upon at the Election.
3. Determine the ballot title and text. Ballot titles shall begin, "SHALL (DISTRICT) TAXES BE INCREASED (first, or if phased in, final, full fiscal year dollar increase) ANNUALLY?" or "SHALL (DISTRICT) DEBT BE INCREASED (principal amount), WITH A REPAYMENT COST OF (maximum total district cost)?"
4. Be solely responsible for the accuracy, grammar and spelling of all ballot titles and text.
5. Exercise all reasonable diligence, care and control in providing these services to the County Clerk.
6. Review district street locator list; Appendix C, and alert County Clerk to any necessary edits and certify the accuracy of the list on the Statement of Certification; Appendix D.
7. Give assistance and information to the County Clerk on any matter to ensure the smooth and efficient operation of the Election (such information not to include legal advice).
8. Adhere to all applicable provisions of the Colorado Revised Statutes which are necessary or appropriate to the performance of the above duties.
9. Assist with equipment logic and accuracy testing and post-election canvass and audit as requested.
10. Additional Responsibilities for Districts with Non-Resident Eligible Voters
  - Request district property owner list from county assessor's office and provide one spreadsheet with two worksheets. The first worksheet will include all property owners along with their residential and mailing addresses. The second worksheet will separate mailing addresses which are outside of Eagle County no later than September 19, 2016.

## **Call and Notice**

The County Clerk will publish one notice and sample composite ballot and Notice of Election as required by C.R.S. 1-5-205 of the Uniform Election Code in the Eagle Valley Enterprise and the Aspen Times Weekly no later than 20 days prior to the Election (Appendix B).

This notice and sample composite ballot will also be posted on the Eagle County website no later than 20 days prior to the Election.

## **Petitions: Preparation and Verification**

The Political Subdivision shall be responsible for the petition process in compliance with applicable Colorado statutes, ordinances, or charter provisions. This process includes, but is not limited to, providing petitions, approving the candidate or initiative petitions to be circulated within the Political Subdivision, and receiving the petitions.

The County Clerk shall be responsible for approving the form of petitions and verifying the eligibility of petition signatures.

## **Ballot Certification Format Requirements**

The Political Subdivision is responsible for furnishing the text of the ballot to the County Clerk at least 60 days before the Election in final written form using the format requirements specified in Appendix A. The Political Subdivision assumes all responsibility and cost for any judicial proceedings regarding whether or not issues legally belong on the ballot. The list of candidates/questions must be typed exactly as it is to appear on the ballot, including correct order. For candidates, specify titles of offices, the order of the names to appear for each office and the order of offices. For issues, specify the ballot title, and the order of the issues. Wording shall be in upper and lower case except as is dictated by law (e.g., TABOR Amendment). The Political Subdivision has the responsibility to proofread and edit the text of the official ballots before the County Clerk will authorize printing of the ballots. From the time of receipt of the ballot proof, the Political Subdivision has 24 hours to proofread, correct if necessary, sign and return the proof to the County Clerk and its failure to disapprove and correct errors within that time shall constitute an approval of the ballot proof. After final approval of the ballot text the Political Subdivision assumes all responsibility and cost for any judicial proceedings related to any errors within the text of their issue or race on the printed ballots.

Political subdivision will provide ballot language in English and is encouraged to also provide Spanish translations.

## **TABOR Notice**

Each Political Subdivision shall provide an opportunity for all comments concerning ballot issues to be summarized as required by Article X, Section 20 of the Colorado Constitution. The Designated Election Official shall transmit the summaries and any other required material to the County Clerk no later than 42 days before the Election in final written form in accordance with the specifications required in Appendix A. Submissions not meeting these requirements will be rejected by the County Clerk.

### Political Subdivision shall:

1. Include, within its Ballot Issue Notice (TABOR Notice; Article X, Section 20 of the State Constitution), ballot titles in this order of preference:
  - Citizen Petitions:
    - i. Notice of Election to Increase Taxes
    - ii. Notice of Election to Increase Debt
  - Referred Measures:
    - i. Notice of Election to Increase Taxes
    - ii. Notice of Election to Increase Debt
2. Title the Tabor Notice with “NOTICE OF ELECTION TO INCREASE TAXES / TO INCREASE DEBT / ON A CITIZEN PETITION / ON A REFERRED MEASURE” according to the type of Tabor question.
3. Provide the Political Subdivision’s completed TABOR Notice to Teak J. Simonton, County Clerk in the format described in Appendix A. This notice must be provided in English and it is recommended that a Spanish translation also be provided.

### The County Clerk shall:

1. The County Clerk shall be responsible for mailing the notice required by Article X, Section 20(3) (b) in the most cost effective manner feasible to all registered Eagle County voters.
2. Combine the text of the TABOR Notices produced by the Political Subdivision with those of other political subdivisions to produce the TABOR Notice packet.
3. Include in the TABOR Notices mailed to each household where one or more eligible electors reside, voter notification information which will include household address, precinct number, the specific election being noticed and other applicable information.
4. Include in the TABOR Notice the Self Affirming Oath with explanation to voters about who is eligible to apply for these property owner ballots.
5. Address the packet to ‘All Registered Voters’ at each address of one or more active registered electors within the Political Subdivision. Nothing herein shall preclude the County Clerk from sending the TABOR

Notice to persons other than active electors of the Political Subdivision if such sending arises from the County Clerk's efforts to mail the TABOR Notice packet at 'least cost'.

6. Be responsible for placing the TABOR Notices received from the various political subdivisions participating in the Election in the proper order in the TABOR Notice packet. As nearly as practicable, the notice shall be in the order the ballot issues will appear on the ballot.
7. Mail the TABOR Notice packet, addressed as required by law, at least 30 days before the Election.

## **Costs**

The County Clerk shall keep a careful and accurate accounting of all chargeable items to the Political Subdivision and shall submit to the Political Subdivision, a statement of charges (for costs incurred by the County and not billed directly to the Political Subdivision by an outside vendor) within sixty (60) work days following the date of the Election (Appendix B). Costs shall include but are not limited to: election judges and other associated personnel, ballots and related election forms, printing, election supplies, legal notices paid for the County, postage, rental charges, technical support, and TABOR Notice printing and mailing.

The County Clerk shall charge each Political Subdivision taking part in the General Election on a prorated basis based primarily on the number of ballot issues, active voters Property Owner Election supplemental fees and/or items to be included on the ballot for each Political Subdivision. In the event that additional costs are incurred, the Political Subdivision promulgating such costs will be charged accordingly.

The County Clerk shall charge each Political Subdivision for costs relating to the TABOR Notice on a prorated basis based on the number of ballot issues and/or items to be included in said notice for each Political Subdivision. In the event that additional costs are incurred, the Political Subdivision promulgating such costs will be charged accordingly.

There will be a surcharge for coordination and administration of non-resident, property owner ballot mailing of \$1000.00.

The minimum charge for coordinating the Election with the County Clerk shall be \$500.00.

The Political Subdivision shall remit all payments due to the County upon receipt of an itemized statement.

### **Street Locator List**

Appendix C to this Agreement is a copy of the Street Locator List for the Political Subdivision. It is the responsibility of the Political Subdivision to review the list and correct any errors. A Statement of Certification, Appendix D, must be signed by the Designated Election Official for the Political Subdivision and returned to the County Clerk along with any changes to the Street Locator List, accompanied by the signed Intergovernmental Agreement 70 days prior to the Election, **August 30, 2016**. (Appendix B)

### **Appointment and Training of Election Judges**

All Election Judges shall be appointed and trained by the County Clerk. In the event that additional Judges are needed, the Political Subdivision may be required to provide one individual to serve in that capacity.

### **Testing and Tabulation**

Processes relating to the tabulation of ballots shall be the responsibility of the County Clerk. An unofficial abstract of votes will be provided to the Political Subdivision upon completion of the counting of all ballots.

### **Canvass of Votes**

The canvass of votes will be conducted by the Board of Canvassers appointed by the County Clerk. Such canvass will be completed no later than seventeen (17) days after the Election (**November 25, 2016**) and official results of the canvass will be provided to all Political Subdivisions participating in the Election. Any additional Certificates of Election which are required by law to be forwarded to another division of government shall be the responsibility of the Political Subdivision.

### **Indemnification**

The Political Subdivision agrees to indemnify, defend and hold harmless the County, its officers and employees, from any and all losses, costs, demands or actions, arising out of or related to any actions, errors or omissions of the Political Subdivision in completing its responsibilities relating to the Election and related tasks.

## **Cancellation**

In the event that the Political Subdivision, after the signing of this Agreement and on or before the day of the Election, resolves not to hold the Election, notice of such resolution shall be provided to the County Clerk immediately. The Political Subdivision shall provide notice by publication (as defined in the Code) of the cancellation of the Election and a copy of the notice shall be posted in the Office of the County Clerk, in the office of the Designated Election Official (as defined in the Code), in the primary building of the Political Subdivision, and, if the Political Subdivision is a special district, in the office of the division of local government. The Political Subdivision shall not cancel the election after the 25<sup>th</sup> day prior to the Election (Appendix B).

The Political Subdivision shall be responsible for all expenses incurred on its behalf to the date that notice was received by the County Clerk together with all expenses incurred thereafter which could not be avoided by reasonable effort. All costs incurred or contracted for by the County Clerk to support the Political Subdivision's portion of the TABOR Notice shall be reimbursed by the Political Subdivision.

Upon receipt of the invoice the Political Subdivision shall promptly pay the County Clerk the full actual costs of the activities of the County Clerk relating to the Election incurred both before and after the County Clerk's receipt of such notice.

## **Reasonable Care**

The County and its employees, agents, representatives, or other persons acting under the direction or control of the County shall use reasonable care in carrying out their obligations under this Agreement.

## **Notices**

Any and all notices required to be given by this Agreement are deemed to have been received and to be effective:

- three days after they have been mailed by certified mail, return receipt requested to the address as set forth below;
- immediately upon hand delivery to Teak J. Simonton, County Clerk,; or
- immediately upon receipt of confirmation that a fax or e-mail was received;

To County Clerk: Teak J. Simonton  
Eagle County Clerk and Recorder  
500 Broadway  
P.O. Box 537  
Eagle, CO 81631  
Fax: 970-328-8716

Email: teak.simonton@eaglecounty.us

To Jurisdiction: Jenny Rakow  
Town of Eagle Clerk  
Town of Eagle  
PO Box 609  
Eagle, CO 81631-0609  
Fax: 970-328-5203  
Email: jenny.rakow@townofeagle.org

**Time is of the Essence**

Per C.R.S. 1-7-116(2) this Agreement must be signed and returned to Teak J. Simonton, Clerk and Recorder seventy (70) days prior to the Election, **August 30, 2016**.

The statutory time requirements of the Uniform Election Code and the time requirements set by the Secretary of State in the Rules and Regulations Governing Election Procedures shall apply to the completion of the tasks required by this Agreement.

In witness whereof, the Parties hereto have executed this Agreement to be effective as of the date first set forth above.

\_\_\_\_\_  
Designated Election Official  
For the Town of Eagle

Attest:

\_\_\_\_\_  
Chair, Jeanne McQueeney                      Date  
Eagle County Board of Commissioners

\_\_\_\_\_  
Teak Simonton                                      Date  
Clerk and Recorder

Please see enclosed CD for Street Locator List

**Appendix D**

**Eagle County  
Intergovernmental Agreement  
November 8, 2016  
General Mail Ballot Election**

**Statement of Certification – Street Locator List**

I, \_\_\_\_\_, as Designated Election Official for the Town of Eagle, (hereinafter “Political Subdivision”) do hereby certify that the Street Locator List provided to the Political Subdivision has been reviewed, corrections made, and to the best of my knowledge I believe it is a true and complete list of the addresses located within the Political Subdivision.

\_\_\_\_\_  
Designated Election Official

\_\_\_\_\_  
Date

for the Town of Eagle

**ORDINANCE NO. 26**  
**(Series of 2016)**

AN ORDINANCE OF THE TOWN OF EAGLE, COLORADO AMENDING CERTAIN PROVISIONS  
CONTAINED IN TITLE 4 OF THE EAGLE MUNICIPAL CODE CONCERNING RETAIL MARIJUANA  
BUSINESSES AND MEDICAL MARIJUANA BUSINESSES.

WHEREAS, the Town of Eagle initiated certain amendments to the Town of Eagle Land Use and Development Code, Title 4 of the Eagle Municipal Code, pursuant to Section 4.05.040(A) of the Eagle Municipal Code; and

WHEREAS, public notice of the Planning and Zoning Commission hearing, at which the Planning and Zoning Commission considered the proposed amendments, was given in accordance with the requirements of Section 4.05.030 of the Eagle Municipal Code; and

WHEREAS, following a public hearing before, the Planning and Zoning Commission recommended that the proposed amendments set forth below be adopted; and

WHEREAS, following public notice as required by Section 4.05.030 of the Eagle Municipal Code, the Board of Trustees of the Town of Eagle held a public hearing on the proposed amendments set forth below on July 26, 2016; and

WHEREAS, the Board of Trustees finds and determines the amendments set forth below are consistent with the Town's goals, policies and plans;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO:

Section 1. That Section 4.03.040 of the Eagle Municipal Code, concerning land use and development definitions, be amended to include the following terms in alphabetical order.

Licensed Marijuana Premise: The premises specified in an application for a license pursuant to the Colorado Medical Marijuana Code or Colorado Retail Marijuana Code that are owned or in possession of the Marijuana Licensee and within which the Marijuana Licensee is authorized to cultivate, manufacture, distribute, sell, or test Medical or Retail Marijuana in accordance with the provisions of the Town of Eagle Municipal Code, Colorado Medical Marijuana Code and/or Colorado Retail Marijuana Code.

Marijuana: Marijuana shall have the same meaning as set forth in Section 16(2)(f) of Article XVIII of the Colorado Constitution.

Marijuana Accessories: Marijuana Accessories shall have the same meaning as set forth in Section 16(2)(g) of Article XVIII of the Colorado Constitution.

Marijuana Licensee: Any person licensed or registered pursuant to the Colorado Medical Marijuana Code and/or Colorado Retail Marijuana Code.

Marijuana Testing Facility: A public or private laboratory licensed and certified, or approved by the State of Colorado Marijuana Enforcement Division, to conduct research and analyze Medical and/or Retail Marijuana, Medical and/or Retail Marijuana Infused Products, and Medical and/or Retail Marijuana Concentrate for contaminants and potency.

Medical Marijuana Business or Medical Marijuana Establishment: A medical marijuana center, an optional medical marijuana cultivation premises, a medical marijuana infused products manufacturer, or a medical marijuana testing facility.

For the purpose of this definition, a patient that cultivates, produces, possesses or transports medical marijuana, or a primary caregiver that cultivates, produces, sells, distributes, possesses, transports, or makes available marijuana in any form to one or more patients shall not be deemed a “Medical Marijuana Business”.

Section 2. Section 4.04.070 of the Eagle Municipal Code, the Schedule of Uses Permitted in Non-Residential Zone Districts is hereby amended to include the term Medical Marijuana Center as a special use in the Commercial General and Industrial Zone Districts, the term “Medical Marijuana Infused Products Manufacturer<sup>2</sup>” as a special use in the Commercial General Industrial Zone Districts, the term “Optional Medical Cultivation Premises<sup>2</sup>” in the Commercial General and Industrial Zone Districts, the term “Retail Marijuana Store<sup>4</sup>” as a special use in the Commercial General and Industrial Zone Districts, the term “Retail Marijuana Products Manufacturing Facility<sup>4</sup>” as a special use in the Commercial General and Industrial Zone Districts, the term “Retail Marijuana Cultivation Facility<sup>4</sup>” as a special use in the Commercial General and Industrial Zone Districts, the term “ Marijuana Testing Facility<sup>5</sup>” as a special use in the Commercial General and Industrial Zone Districts.

The footnotes contained on the Schedule of Uses Permitted in Non-Residential Zone Districts contained in Section 4.04.070 of the Eagle Municipal Code are hereby amended to read as follows:

KEY
<sup>2</sup> Medical Marijuana Centers and Optional Medical Marijuana Cultivation Premises Businesses allowed only on Commercial General and Industrial zoned properties East of Nogal Gulch. Please Refer to attached map at the end of this Section labeled Exhibit A.
Medical Marijuana Infused Products Manufacturer allowed only on Commercial General and Industrial zoned properties along Chambers Avenue, east of Eby Creek Road. Please Refer to attached map at the end of this Section labeled Exhibit B.
Refer to Section 4.04.100 (P) concerning supplementary regulations and standards for Medical Marijuana

Businesses.
<p><sup>4</sup> Retail Marijuana Stores and Retail Marijuana Cultivation Facilities Businesses allowed only on Commercial General and Industrial zoned properties east of Nogal Gulch. Refer to map at the end of this Section labeled Exhibit A.</p> <p>Retail Marijuana Products Manufacturing Facility allowed only on Commercial General and Industrial zoned properties along Chambers Avenue, east of Eby Creek Road. Refer to map at the end of this Section labeled Exhibit B.</p> <p>Refer to Section 4.04.100 (U) for supplementary regulations and standards for Retail Marijuana Businesses.</p>
<p><sup>5</sup> Marijuana Testing Facilities allowed only on Commercial General and Industrial zoned properties along Chambers Avenue, east of Eby Creek Road. Refer to map at the end of this Section labeled Exhibit B</p> <p>Refer to Section 4.04.100 (V) for supplementary regulations and standards for Marijuana Testing Facilities.</p>

Section 3. That subsection (P) of Section 4.04.100 of the Eagle Municipal Code, concerning Supplemental Regulations and Standards governing the use of land and buildings, is hereby amended to read as follows:

P. Medical Marijuana Businesses

1. Limitation on the Number of Medical Marijuana Centers within the Town.

The number of Medical Marijuana Centers permitted within the Town is based on population. A maximum of one (1) Medical Marijuana Center shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer’s Office.

In the event more than one (1) Land Use Application for a Medical Marijuana Center of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter and the Colorado Medical Marijuana Code, but the Town is not permitted to approve all of the

applications because of the limitations set forth in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

2. Limitation on the Number of Optional Medical Marijuana Cultivation Premises within the Town.

The number of Optional Medical Marijuana Cultivation Premises permitted within the Town is based on population. A maximum of one (1) Optional Medical Marijuana Cultivation Premises shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer's Office.

In the event more than one (1) Land Use Application for an Optional Medical Marijuana Cultivation Premises of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter and the Colorado Medical Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

3. Limitation on the Number of Medical Marijuana Infused Products Manufacturers within the Town.

The number of Medical Marijuana Infused Products Manufacturers permitted within the Town is based on population. A maximum of two (2) Medical Marijuana Infused Products Manufacturers shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer's Office.

In the event more than one (1) Land Use Application for a Medical Marijuana Infused Products Manufacturer of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter and the Colorado Medical Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

4. Permitted Locations.

Medical Marijuana Centers and Optional Medical Marijuana Cultivation Premises shall only be located in the Commercial General (CG) and Industrial (I) Zone Districts east of Nogal Gulch pursuant to

a Special Use Permit. Refer to map at the end of this Section labeled Exhibit A.

Medical Marijuana Infused Products Manufacturer shall only be located on properties along Chambers Avenue that are within the Commercial General (CG) and Industrial (I) Zone Districts and are located a minimum of one thousand seven hundred and fifty feet (1,750') from the centerline of Eby Creek Road pursuant to a Special Use Permit. If any portion of such property is within the required minimum distance from Eby Creek Road, no Medical Marijuana Infused Products Manufacturer shall be permitted on that property. Refer to map at the end of this Section labeled Exhibit B.

5. Distance from Schools, Licensed Childcare Facilities, Alcohol or Drug Treatment Facilities and College Campus.

All Medical Marijuana Businesses shall be located a minimum of one thousand feet (1000') from schools, as defined in the Colorado Medical Marijuana Code, licensed childcare facilities, alcohol or drug treatment facilities, and the campus of a college or university.

6. Distance from Residential Zone District.

All Medical Marijuana Businesses shall be located a minimum of one hundred feet (100') from any residential zone district which shall be measured from the zone district boundary line to the subject property line.

7. Restrictions on Mobile Facilities and Delivery of Marijuana Products.

No Medical Marijuana Business shall be located in a movable or mobile vehicle or structure and no Medical Marijuana products shall be delivered in the Town unless such delivery is specifically permitted by the Colorado Medical Marijuana Code.

8. Hours of Operation.

Medical Marijuana Businesses shall limit their hours of operation to 8:00 a.m. to 12:00 a.m., Monday - Sunday,-or as otherwise provided in the Special Use Permit.

9. Operation of Multiple Businesses at a Single Location.

A person may operate any Medical Marijuana Business and any Retail Marijuana Business permitted by this Section at the same location if in full compliance with the requirements of the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code.

10. Specific Requirements for a Medical Marijuana Center.

Small samples of Medical Marijuana products offered for sale may be displayed on shelves, counters and display cases. All bulk marijuana products shall be locked within a separate vault or safe (no other

items in this safe), securely fastened to a wall or floor, as approved by the Police Department.

A Medical Marijuana Center may sell “marijuana paraphernalia” as that term is defined in Chapter 9.15 of the Eagle Municipal Code to Patients only and shall be exempt from the prohibitions contained in said Chapter.

11. Specific Requirements for an Optional Medical Marijuana Cultivation Premises.

If co-located with an Optional Medical Marijuana Cultivation Premises, the area of the proposed Licensed Marijuana Premises utilized for cultivation shall be physically separated from the area of the premises open to the public or to patients. Walls, barriers, locks, signage and other means shall be employed to prevent the public or patients from entering the area of the Licensed Marijuana Premises utilized for cultivation of marijuana.

12. No Products to be Visible from Public Places.

Marijuana plants, products, accessories, and associated paraphernalia contained in any Medical Marijuana Business shall not be visible from a public sidewalk, public street or right-of-way, or any other public place.

13. No Beer or Alcohol on Premises.

No fermented malt beverages and no alcohol beverages, as defined in the Colorado Beer Code and the Colorado Liquor Code, respectively, shall be kept, served or consumed on the premises of a Medical Marijuana Business.

14. Storage of Products.

All products and accessories shall be stored completely indoors and on-site.

15. Consumption of Marijuana Prohibited.

No consumption or smoking of any Medical Marijuana products shall be allowed or permitted on the premises or adjacent grounds of a Medical Marijuana Business.

16. Storage of Currency.

All currency over \$1,000.00 shall be stored within a separate vault or safe (no marijuana in safe), securely fastened to a wall or floor, as approved by the Police Department.

17. Prevention of Emissions and Disposal of Materials.

Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the business premises

shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.

Businesses shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with State regulations and Eagle County Landfill regulations.

As applicable, Medical Marijuana Businesses shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Building Official.

If carbon dioxide will be used in any cultivation area, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air, into other units in the same building or into an adjacent building in a concentration that would be harmful to any person, including persons with respiratory disease, and shall be inspected and approved by the Building Official and the Greater Eagle Fire Protection District.

All State regulations concerning ventilation systems shall be followed.

18. Compliance with Other Codes.

Any Medical Marijuana Business and the adjacent grounds of the Medical Marijuana Business shall comply with all zoning, health, building, fire, and other codes and ordinances of the Town as shown by completed inspections and approvals by the Town Planner, Building Department, Greater Eagle Fire Protection District, and the Eagle County Health Department, if applicable.

19. No Harm to Public Health, Safety or Welfare.

The Licensed Marijuana Premises and adjacent grounds of a Medical Marijuana Business shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.

20. Additional Requirements.

At the time a Special Use Permit is granted, amended, or the Board of Trustees approves a major change to a Medical Marijuana Business, the Board of Trustees may impose on the applicant any conditions related to the proposed use that is reasonably necessary

to protect the public health, safety or welfare, including but not limited to the following:

- a. Additional security requirements;
- b. Limits and requirements on parking and traffic flows;
- c. Requirements for walls, doors, windows, locks and fences on the Licensed Marijuana Premises and adjacent grounds;
- d. Limits on Medical Marijuana Products that may be sold;
- e. Requirements and limits on ventilation and lighting;
- f. Limits on noise inside the licensed premises or on the adjacent grounds;
- g. Prohibitions on certain conduct in the Medical Marijuana Business;
- h. Limits on hours of operation that are more restrictive than prescribed by subsection (9) above;
- i. A requirement that the Applicant temporarily close the Medical Marijuana Business to the public until certain changes, inspections or approvals are made; and
- j. A limitation on the square footage of the Medical Marijuana Business.

21. Penalty for Violation.

Any violation of the provisions of this subsection or the conditions of the Special Use Permit granted, by a Medical Marijuana Business shall be punishable by a civil fine of up to one thousand dollars (\$1,000.00). Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, any violation of the provisions of this subsection, or any conditions imposed by the Special Use Permit may result in the revocation of the Special Use Permit.

Section 4. That subsection (Q) of Section 4.04.100 of the Eagle Municipal Code concerning Supplemental Regulations and Standards governing the use of land and buildings, is hereby amended to read as follows:

- Q. Cultivation of Medical Marijuana by Patients and Primary Caregivers in Residential Dwelling Units

The cultivation, production, or possession of marijuana plants for medical use by a patient or primary caregiver, as such terms are defined by Article XVIII, Section 14 of the Colorado Constitution, shall be allowed in residential dwelling units subject to the following conditions:

1. The cultivation, production or possession of marijuana plants shall be in full compliance with all applicable provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, Sections 1243.3-101, et. seq., C.R.S., and the Medical Marijuana Program, Section 251.5-106, C.R.S.

2. Marijuana plants that are cultivated, produced or possessed shall not exceed the presumptive limits of no more than two (2) ounces of a useable form of marijuana unless otherwise permitted under Article XVIII, Section 14 of the Colorado Constitution and no more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants that are producing a useable form of marijuana shall be cultivated or permitted within a primary residence.

3. Such cultivation, production or possession of marijuana plants shall be limited to the following space limitations within a residential unit:

a. Within a single family dwelling unit (Group R-3 as defined by the International Building Code, as adopted in Chapter 22, Section 131); a secure defined, contiguous area not exceeding 150 square feet within the residence of the licensed patient or registered caregiver.

b. Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code, as adopted in Chapter 22, Section 131); a secure, defined, contiguous area not exceeding 100 square feet within the residence of the licensed patient or registered caregiver.

4. Marijuana plants shall not be grown in the common area of a multi-family residential structure.

5. If a licensed patient or primary caregiver elects to cultivate quantities of marijuana in excess of the amounts permitted under subsection (3) above, as permitted in Article XVIII, Section 14(4)(b) of the Colorado Constitution, such patient must be in full compliance with the Colorado Medical Marijuana Program as provided in Section 25-1.5-106(10), C.R.S. and may grow medical marijuana for personal use as a patient or as a primary caregiver for licensed patients as a use by right within the Industrial (I) Zone District only.

6. The cultivation of medical marijuana plants in a residential unit shall meet the requirements of all adopted Town building and safety codes.

Any licensed patient or registered primary caregiver cultivating medical marijuana in a primary residential unit shall have an initial building and safety inspection conducted by the Town, shall comply with any conditions of said inspection, and shall submit to an annual building and safety code inspection thereafter. The names and locations of patients and caregivers shall not be made available to the general public in accordance with Section 24-72-204(3)(a)(I), C.R.S., as contained in the Colorado Open Records Act.

7. The cultivation of medical marijuana plants shall not be permitted on the exterior portions of a residential lot. The cultivation, production or possession of marijuana plants in a residential unit must not be perceptible from the exterior of the residence and shall comply with the following:

a. Any form of signage shall be prohibited; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare, or brightness resulting from grow lamps that disturbs adjacent residents shall be prohibited; and excessive noise from ventilation fans shall be prohibited.

b. Marijuana plants shall be used exclusively by a licensed patient for the patient's personal use and solely to address a debilitating medical condition.

8. Any primary caregiver cultivating medical marijuana for licensed patients and providing said marijuana to patients for consideration such as a monetary sum shall obtain a business license from the Town pursuant to Chapter 5.02 of the Eagle Municipal Code. Any primary caregiver transferring medical marijuana to a licensed patient for consideration shall also obtain a sales tax license and shall comply with the requirements of Chapter 3.04 of the Eagle Municipal Code concerning collection and payment of municipal sales tax.

9. Cultivation of medical marijuana in a residential unit that is not a primary residence is not permitted.

10. For the purposes of this subsection, "primary residence" means the place that a person, by custom and practice, makes his or her principal domicile and address to which the person intends to return, following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking in meals, vehicle and voter registration, or credit, water and utility billing. A person may only have one (1) primary residence. A primary residence shall not include accessory buildings.

11. For the purpose of this subsection, a “secure” area means an area within the primary residence accessible only to the patient or primary caregiver. Secure premises shall be locked or partitioned off to prevent access by children, visitors, or anyone not licensed and authorized to possess medical marijuana.

Section 5. That subsection (U) of Section 4.04.100 of the Eagle Municipal Code concerning Supplemental Regulations and Standards governing the use of land and buildings, is hereby amended to read as follows:

U. Retail Marijuana Businesses (Amended ##/##/16)

1. Limitation on the Number of Retail Marijuana Stores within the Town.

The number of Retail Marijuana Stores permitted within the Town is based on population. A maximum of one (1) Retail Marijuana Store shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer’s Office.

In the event more than one (1) land use application for a Retail Marijuana Store of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter and the Colorado Retail Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

2. Retail Marijuana Cultivation Facilities within the Town.

The number of Retail Marijuana Cultivation Facilities permitted within the Town is based on population. A maximum of one (1) Retail Marijuana Cultivation Facility shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer’s Office.

In the event more than one (1) land use application for a Retail Marijuana Cultivation Facility of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter and the Colorado Retail Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

3. Limitation on the Number of Retail Marijuana Products Manufacturing Facilities within the Town.

The number of Retail Marijuana Products Manufacturing Facilities permitted within the Town is based on population. A maximum of two (2) Retail Marijuana Products Manufacturing shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer's Office.

In the event more than one (1) land use application for a Retail Marijuana Products Manufacturing Facility of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter and the Colorado Retail Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

4. Permitted Locations.

Retail Marijuana Stores and Retail Marijuana Cultivation Facilities shall only be located in the Commercial General (CG) and Industrial (I) Zone Districts east of Nogal Gulch pursuant to a Special Use Permit. Refer to map at the end of this Section labeled Exhibit A.

Retail Marijuana Products Manufacturing Facilities shall only be located on properties along Chambers Avenue that are within the Commercial General (CG) and Industrial (I) Zone Districts and are located a minimum of one thousand seven hundred and fifty feet (1,750') from the centerline of Eby Creek Road pursuant to a Special Use Permit. If any portion of such property is within the required minimum distance from Eby Creek Road, no Retail Marijuana Products Manufacturing Facility shall be permitted on that property. Refer to map at the end of this Section labeled Exhibit B.

5. Distance from Schools, Licensed Childcare Facilities, Alcohol or Drug Treatment Facilities and College Campus.

All Retail Marijuana Businesses shall be located a minimum of one thousand feet (1000') from schools, as defined in the Colorado Retail Marijuana Code, licensed childcare facilities, alcohol or drug treatment facilities, and the campus of a college or university.

6. Distance from Residential Zone District.

All Retail Marijuana Businesses shall be located a minimum of one hundred feet (100') from any residential zone district which shall be measured from the zone district boundary line to the subject property line.

7. Restrictions on Mobile Facilities and Delivery of Marijuana Products.  
No Retail Marijuana Business shall be located in a movable or mobile vehicle or structure and no Retail Marijuana products shall be delivered in the Town unless such delivery is specifically permitted by the Colorado Retail Marijuana Code.
8. Hours of Operation.  
Retail Marijuana Stores shall limit their hours of operation to 8:00 a.m. to 12:00 a.m., Monday - Sunday, or as otherwise provided in the Special Use Permit.
9. Operation of Multiple Businesses at Single Location.  
A person may operate any Medical Marijuana Business and any Retail Marijuana Business permitted by this at the same location if in full compliance with the requirements of the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code.
10. Specific Requirements for a Retail Marijuana Store.  
A Retail Marijuana Store may only sell Retail Marijuana, Retail Marijuana Products, Marijuana Accessories and non-consumable products such as apparel, and marijuana related products such as childproof packaging containers. Retail Marijuana Stores shall be prohibited from selling or giving away any consumable product, including but not limited to tobacco products or alcohol, or edible products that do not contain marijuana, including but not limited to sodas, candies or baked goods.
11. No Products to be Visible from Public Places.  
Marijuana plants, products, accessories, and associated paraphernalia contained in a Retail Marijuana Business shall not be visible from a public sidewalk, public street or right-of-way, or any other public place.
12. No Beer or Alcohol on Premises.  
No fermented malt beverages and no alcohol beverages, as defined in the Colorado Beer Code and Colorado Liquor Code, respectively, shall be kept, served or consumed on the premises of a Retail Marijuana Business.
13. Consumption of Marijuana Prohibited.  
No consumption or smoking of any Retail Marijuana Products shall be allowed or permitted on the premises or adjacent grounds of a Retail Marijuana Business.
14. Storage of Products.  
All products and accessories shall be stored completely indoors and on site.

15. Prevention of Emissions and Disposal of Materials.

Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the business premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.

Businesses shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with State regulations and Eagle County Landfill regulations.

As applicable, Retail Marijuana Businesses shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Building Official.

If carbon dioxide will be used in any cultivation area, sufficient physical barriers or a negative air pressure system shall be in place to prevent carbon dioxide from moving into the ambient air, into other units in the same building or into an adjacent building in a concentration that would be harmful to any person, including persons with respiratory disease, and shall be inspected and approved by the Building Official and the Greater Eagle Fire Protection District.

All State regulations concerning ventilation systems shall be followed.

16. Compliance with Other Codes.

Any Retail Marijuana Business and the adjacent grounds of the Retail Marijuana Business shall comply with all zoning, health, building, fire and other codes and ordinances of the Town as shown by completed inspections and approvals by the Town Planner, Building Department, Greater Eagle Fire Protection District, and the Eagle County Health Department, if applicable.

17. No Harm to Public Health, Safety or Welfare.

The Licensed Marijuana Premises and adjacent grounds of a Retail Marijuana Business shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.

18. Additional Requirements.

At the time a Special Use Permit is granted, amended or any time the Board of Trustees approves a major change to a Retail Marijuana Business, the Board of Trustees may impose on the Applicant any

conditions related to the proposed use that is reasonably necessary to protect the public health, safety or welfare, including but not limited to the following:

- a. Additional security requirements;
- b. Limits and requirements on parking and traffic flows;
- c. Requirements for walls, doors, windows, locks and fences on the Licensed Marijuana Premises and adjacent grounds;
- d. Limits on Retail Marijuana Products that may be sold;
- e. Requirements and limits on ventilation and lighting;
- f. Limits on noise inside the licensed premises or on the adjacent grounds;
- g. Prohibitions on certain conduct in the Retail Marijuana Business;
- h. Limits on hours of operation that are more restrictive than prescribed by subsection (8) above;
- i. A requirement that the Applicant temporarily close the Retail Marijuana Business to the public until certain changes, inspections or approvals are made; and
- j. A limitation on the square footage of the Retail Marijuana Business.

19. Penalty for Violation.

Any violation of the provisions of this subsection or the conditions of the Special Use Permit granted, by a Retail Marijuana Business shall be punishable by a civil fine of up to one thousand dollars (\$1,000.00). Each day that a violation is committed, exists or continues shall be deemed a separate and distinct offense. In addition, any violation of the provisions of this subsection, or any conditions imposed by the Special Use Permit may result in the revocation of the Special Use Permit.

Section 6. Section 4.04.100 of the Eagle Municipal Code, concerning Supplemental Regulations and Standards governing the use of land and buildings is hereby amended to include the following additional subsection (V):

- V. Marijuana Testing Facilities (Amended ##/##/16)

1. Limitation on the Number of Marijuana Testing Facilities within the Town.

The number of Marijuana Testing Facilities permitted within the Town is based on population. A maximum of one (1) Marijuana Testing Facility shall be permitted for every 5,000 people or fraction thereof. Population shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demographer's Office.

In the event more than one (1) land use application for a Marijuana Testing Facility of the same classification are submitted to the Town in close proximity to one another, the applications comply with all the requirements of this Chapter, the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code, but the Town is not permitted to approve all of the applications because of the limitations set forth in this subsection, the Board of Trustees shall first review for approval the application which was first submitted and determined to be complete by the Town Planner, or their designee.

2. Permitted Locations.

Marijuana Testing Facilities shall only be located on properties along Chambers Avenue that are within the Commercial General (CG) and Industrial (I) Zone Districts and are located a minimum of one thousand seven hundred and fifty feet (1,750') from the centerline of Eby Creek Road pursuant to a Special Use Permit. If any portion of such property is within the required minimum distance from Eby Creek Road, no Marijuana Testing Facility shall be permitted on that property. Refer to map at the end of this Section labeled Exhibit B.

3. Distance from Schools, Licensed Childcare Facilities, Alcohol or Drug Treatment Facilities and College Campus.

All Marijuana Testing Facilities shall be located a minimum of one thousand feet (1000') from schools, as defined in the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code, licensed childcare facilities, alcohol or drug treatment facilities, and the campus of a college or university.

4. Distance from Residential Zone District.

All Marijuana Testing Facilities shall be located a minimum of one hundred feet (100') from any residential zone district which shall be measured from the zone district boundary line to the subject property line.

5. Restrictions on Mobile Facilities and Delivery of Marijuana Products.

No Marijuana Testing Facility shall be located in a movable or mobile vehicle or structure and no marijuana products shall be delivered in the Town unless such delivery is specifically permitted by the

Colorado Medical Marijuana Code or the Colorado Retail Marijuana Code.

6. Hours of Operation.

Marijuana Testing Facilities shall limit their hours of operation to 8:00 a.m. to 12:00 a.m., Monday - Sunday, or as otherwise provided in the Special Use Permit.

7. Operation of Multiple Businesses at Single Location.

A person may operate any Medical Marijuana Business and any Retail Marijuana Business permitted by this Section at the same location if in full compliance with the requirements of the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code.

8. No Products to be Visible from Public Places.

Marijuana plants, products, accessories, and associated paraphernalia contained in a Marijuana Testing Facility shall not be visible from a public sidewalk, public street or right-of-way, or any other public place.

9. No Beer or Alcohol on Premises.

No fermented malt beverages and no alcohol beverages, as defined in the Colorado Beer Code and Colorado Liquor Code, respectively, shall be kept, served or consumed on the premises of a Marijuana Testing Facility.

10. Consumption of Marijuana Prohibited.

No consumption or smoking of any marijuana products shall be allowed or permitted on the premises or adjacent grounds of a Marijuana Testing Facility.

11. Storage of Products.

All products and accessories shall be stored completely indoors and on site.

12. Prevention of Emissions and Disposal of Materials.

Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the business premises shall be provided at all times. In the event that any debris, dust, fluids or other substances shall exit the business premises, the property owner and operator shall be jointly and severally responsible for the full cleanup immediately.

Testing Facilities shall properly dispose of all materials and other substances in a safe and sanitary manner in accordance with State regulations and Eagle County Landfill regulations.

As applicable, Marijuana Testing Facilities shall be equipped with ventilation systems with carbon filters sufficient in type and capacity to eliminate marijuana odors emanating from the interior to the exterior of the premises discernible by reasonable persons. The ventilation system must be inspected and approved by the Building Official.

All State regulations concerning ventilation systems shall be followed.

13. Compliance with Other Codes.

Any Marijuana Testing Facility and the adjacent grounds of the Marijuana Testing Facility shall comply with all zoning, health, building, fire and other codes and ordinances of the Town as shown by completed inspections and approvals by the Town Planner, Building Department, Greater Eagle Fire Protection District, and the Eagle County Health Department, if applicable.

14. No Harm to Public Health, Safety or Welfare.

The Licensed Marijuana Premises and adjacent grounds of a Marijuana Testing Facility shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.

15. Additional Requirements.

At the time a Special Use Permit is granted, amended or any time the Board of Trustees approves a major change to a Marijuana Testing Facility, the Board of Trustees may impose on the applicant any conditions related to the proposed use that is reasonably necessary to protect the public health, safety or welfare, including but not limited to the following:

- a. Additional security requirements;
- b. Limits and requirements on parking and traffic flows;
- c. Requirements for walls, doors, windows, locks and fences on the Licensed Marijuana Premises and adjacent grounds;
- d. Requirements and limits on ventilation and lighting;
- e. Limits on noise inside the licensed premises or on the adjacent grounds;
- f. Prohibitions on certain conduct in the Marijuana Testing Facility;
- g. Limits on hours of operation that are more restrictive than prescribed by subsection (6) above;

- h. A requirement that the applicant temporarily close the Marijuana Testing Facility to the public until certain changes, inspections or approvals are made; and
- i. A limitation on the square footage of the Marijuana Testing Facility

Section 6. Any ordinance of the Town of Eagle expressly in conflict with the provisions of this ordinance is hereby repealed.

INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED at a regular meeting of the Board of Trustees of the Town of Eagle, Colorado, held on August 23, 2016.

TOWN OF EAGLE, COLORADO

By: \_\_\_\_\_  
Anne McKibbin, Mayor

ATTEST:

\_\_\_\_\_  
Jenny Rakow, Town Clerk

Publication Date:

\_\_\_\_\_

Trustee \_\_\_\_\_ introduced, read and moved the adoption of the ordinance titled

AN ORDINANCE OF THE TOWN OF EAGLE, COLORADO AMENDING CERTAIN PROVISIONS  
CONTAINED IN TITLE 4 OF THE EAGLE MUNICIPAL CODE CONCERNING RETAIL MARIJUANA  
BUSINESSES AND MEDICAL MARIJUANA BUSINESSES.

and upon adoption that it be published pursuant to law and recorded in the Book of Ordinances.

Trustee \_\_\_\_\_ seconded the motion. On roll call, the following Trustees  
voted "Aye":

_____	_____
_____	_____
_____	_____
_____	

Trustees voted "Nay":

\_\_\_\_\_ , \_\_\_\_\_  
\_\_\_\_\_ .

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## **CERTIFICATE OF RECOMMENDATION**

**TO:** Board of Trustees  
**FROM:** Department of Community Development  
**DATE:** Tuesday, August 23, 2015  
**PROJECT NAME:** Creekside Lofts Major Development Permit  
**FILE NUMBER:** DR16-01  
**APPLICANT:** Rick Pylman  
**STAFF CONTACT:** Tom Boni, Town Planner

**APPLICABLE SECTION(S) OF MUNICIPAL CODE:**

Section 4.06 (Development Review)  
Section 4.07 (Development Standards)

**EXHIBIT**

- A. Aerial Photo
- B. August 2, 2016 Planning & Zoning Commission Meeting Minutes
- C. Application Letter
- D. Fire District Approval
- E. Landscape Plan
- F. Architectural Drawings
- G. Engineering Drawings
- H. Development Improvements Agreement

**PUBLIC COMMENT:**None received to date

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**REQUEST:**

The applicant is requesting Development Plan review of a fourplex and a triplex facing south onto the Eagle Ranch Open Space/Brush Creek and a single family home located on the north side of the property facing west on a 1.27-acre parcel.

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**DISCUSSION:**

This property is the second lot that this applicant owns in this neighborhood. A fourplex was constructed on the easterly lot and it has sold out. There were two related zone variance requests associated with this Development Plan which the staff supported. (A side yard setback variance with conditions and front yard setback variance without conditions.) The Planning and Zoning Commission reviewed these requests at their meeting on August 2 and approved both without conditions. In regard to the requested side yard variance of 6.5 feet, Staff had requested that the buildings be shifted three feet to the west thereby minimizing the extent of the variance. The Planning and Zoning Commission believed that the three additional feet along Sylvan Lake Road was preferable than three more feet between the buildings. Commissioner Callicrate was the dissenting vote who agreed with Staff. Please see Exhibit B for minutes of the August 2 Planning and Zoning Commission Meeting.

There is also a Development Standard Variance request to allow for a curb cut along the south side of Prince Alley of approximately 50 feet. Our Development Standards section of the Land Use and Development Code (Section 4.07.050.L.1.a) limits access drives to a public street to a maximum of 35 feet and requires that parking lots serving more than a duplex be designed so that cars exit in a forward direction. While vehicles exiting the triplex will be in a forward direction, those exiting the fourplex will be backing onto the street. This development standard variance is a part of the Development Permit Application and is decided by the Board of Trustees in the case of a Major Development Permit. Due to the preferred southern orientation of these buildings and the fact that Prince Alley is a low volume, low speed, dead end roadway, staff and the Planning and Zoning Commission are recommending approval of this design standard variance.

Over the last year, staff has met with the applicant on several occasions to review concept plans, several of which contained more development. Staff is pleased with the ultimate configuration of the proposed development of seven multi-family units and one single family unit, which is significantly less than the maximum allowed by the Multi-Family Zone District (13 dwelling units in the form of an apartment building or three-story condominium building). The applicant has worked with staff to introduce roof elements to the elevations that mitigate the impact of these buildings on the surrounding neighborhood and when viewed from Sylvan Lake Road. We are also pleased with the detailing and window placement and roof materials.

There is a pedestrian loop that many people use along Castle Peak Drive that extends along Prince Alley and across this private property to connect with the multi-use path along the east side of Sylvan Lake Road. The landscape plan shows a direct westerly extension of this path with steps to make a connection with the Sylvan Lake Road Sidewalk. In reviewing these plans, staff believes that a five-foot wide gravel path could turn southerly and at a 10% - 12% grade, could avoid the proposed steps shown on the grading plan for this path extension and have minimum impact on the occupants of the triplex. The Planning Commission agrees with this staff suggestion and included it as a condition of their recommendation of approval.

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## **DEVELOPMENT REVIEW STANDARDS (SECTION 4.06)**

The general requirements for a Development Plan Review as described in Section 4.06.060.D of the Land Use and Development Code are:

1. Compliance with the Town's ordinances, regulations, goals, policies and plans.
2. Any adverse impacts resulting from the proposed development are reasonably and adequately mitigated by the applicant to minimize such impacts.

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## **FINDINGS FOR DEVELOPMENT REVIEW STANDARDS**

### **Standard #1:**

This property is zoned Residential Multi-Family. The dimensional standards of this zone district are met with the exception of the two zoning variances related to setbacks and one design standard related to the length of curb cut and access requested. Planning and Zoning Commission have granted the two zoning variances.

The Town's goals, policies and plans relevant to this land use application are contained within the Eagle Area Community Plan (EACP).

The Land Use Designation provided for this property in the West Eagle Mixed Use is Residential which encourages additional residential development in this area of Town with easy pedestrian and bicycle access to Downtown. The Plan also encourages "strong movement, land use and character connections" between West Eagle and the Historic Town. On land adjacent to the Eagle Ranch Open Space, the Plan encourages buildings to complement rather than contrast with existing single family buildings and to integrate with the land form. Staff believes this proposal addresses these policies.

In the Housing Chapter of the EACP the first policy is "to support and contribute to efforts to address the needs for affordable housing." The second policy is "to promote the preservation and/or creation of a wide range of housing units..."

Chapter 6 of the EACP entitled Community Design and Appearance encourages high quality design standards, a pedestrian friendly community and the creation of a "sense of place."

It is staff's opinion that the proposed development is in general compliance with the above referenced policies of the EACP.

### **Standard #2:**

Any adverse impacts resulting from the proposed development are reasonably and adequately mitigated by the applicant to minimize such impacts.

In meeting with the Fire District, staff is recommending that the Town post no parking signs on the corner leading into this portion of Prince Alley to ensure convenient fire truck access. The Fire District is also recommending that the existing bollards at the "dead end" be replaced with a different type of system allowing keyed access by emergency vehicles.

Staff believes that this application with the condition noted above and through the architectural, landscape design and site design reasonably mitigates adverse impacts.

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**PLANNING & ZONING COMMISSION RECOMMENDATION**

Recommended approval with the following conditions:

1. The applicant will pursue design of a path connection from Sylvan Lake Road at grade and maybe to the north. Staff will approve final alignment of the path.
2. The file be referred to the Fire District to approve emergency vehicle access.
3. Staff will provide traffic counts and trip generation information to the Board of Trustees for consideration.

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**STAFF RECOMMENDATION:**

1. Staff recommends approval with condition that the pedestrian path provide a 10% - 12% grade to connect with the existing multi-use path along the east side of Sylvan Lake Road.
2. Post no parking at sharp corner in Price Alley per Fire District's comments.
3. Replace existing bollards with easy access bollard system per Fire District's comments.

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**BOARD OF TRUSTEES**

1. Questions of Staff/Applicant
2. Public Comment
3. Deliberations

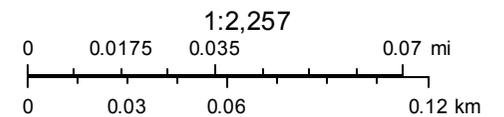
# Eagle County GIS Web Map



July 29, 2016

Parcels

Address Labels



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

***V16-04 Creekside Lofts Side Setback Variance***  
***V16-06 Creekside Lofts Front Setback Variance***  
***DR16-01 Creekside Lofts Development Plan***

Cowles opened files V16-04, V16-06 and DR16-01 for the Creekside Lofts Development; there are two variances, one side yard and one front yard setback; a development standard variance; and a development permit.

The applicant, Rick Pylman, explained the history of the parcel, originally known as the Ewing parcel, and the constraints on the property related to an existing property line, a previous right of way dedication, existing utility easements, and the shape of the property.

The first variance request (V16-06) is for a front yard setback on the proposed single family home. Due to the shape of the property, three sides of the home are considered “front yard” and require 25-foot setbacks from the right of way and must avoid a landscape easement on the Sylvan Lake Road side. The applicant is proposing a 20-foot setback on the north side of the property (from the garage to the existing hammerhead) and an 18-foot setback on the east side of the property (from the front of the house to the existing right of way line). Although the right of way line for Prince Alley is 18 feet from the front of the house, the edge of pavement is 35 feet.

The second variance request (V16-04) is for a side yard setback on the proposed fourplex. Due to the phasing of this development, a fourplex was built and has already been subdivided, creating a property line 15 feet from the building. Because of the site constraints the proposed fourplex is, at its narrowest, 9.5 feet from the existing property line; 6.5 feet shy of the minimum required setback (12.5 feet or half the height of the building (16 ft.), whichever is greater). Staff has recommended shifting the two proposed townhouses three feet toward Sylvan Lake Road in order to maximize the setback between the existing fourplex and the proposed fourplex. The applicant believes that the extra three feet is better served as a buffer between the property and Sylvan Lake Road.

The development standard variance is requested to accommodate the townhome parking area and to allow cars to exit by backing on to Prince Alley, rather than driving out forward.

The applicant also discussed the constraints when designing the pedestrian path that will connect with the existing multi-use path along Sylvan Lake Road. The design shows a shortened path with two small sets of stairs. The applicant chose this design due to existing landscape easements, utility easements and aesthetics.

Callicrate asked what the required street improvements would be for the development; she is concerned about increased traffic on Prince Alley. Boni responded that there are no required improvements and that Prince Alley is a very low volume road. Cowles noted that he lives on a similar style of street and there is no problem with traffic.

Perkins asked if there is any lighting proposed with the development. Sharkey responded that there is no proposed lighting and the roundabout is quite well lit and there will be additional lighting installed with a new pedestrian crossing as a requirement of the Sylvan Lake Circle development.

Cowles opened public comment.

Tegan Davis, 701 Prince Alley: Ms. Davis asked if staff could define “low volume.” Sharkey said that the average daily traffic will remain low even with the addition of eight units. He estimated 2.5 trips per day per unit. Ms. Davis said there is not a lot of room on Prince Alley and there is heavy pedestrian traffic. It is already difficult to exit onto 6<sup>th</sup> Street. She disagrees with the design

for steps on the pedestrian connector path but agrees that the side variance should be approved and additional landscaping maintained on the west side of the property.

Bruce Norring, 702 Prince Alley: Mr. Norring said that what helps control the traffic now is having a narrow street and that if the streets were wider traffic would be faster. He also agreed on a path without steps and would like additional landscaping. He asked if a unit could be removed to gain 20 feet; Pylman said they already did that to fit within the waterline easements. Mr. Norring also asked if there were not windows on the facing walls of the proposed townhomes if they could be built closer to each other.

Mike Stevens, 713 Prince Alley: Mr. Stevens doesn't want any street lights installed on Prince Alley. He said having stairs on the path would be hard and asked who would be responsible for maintaining them in the winter.

Kyle Hoiland, 19 Prince Alley: Mr. Hoiland is against the single family home being built across from his driveway and asked if the variance were denied if that meant the house would not be built. However, he is glad to see more housing built in Eagle and in the Valley.

Cowles closed public comment.

Spinelli asked what the price points are for the townhomes and the single family home. Eric Eves, the project developer, said he doesn't know yet but the last townhomes sold well. Spinelli asked about the marketability of the single family home due to its size and location. Eves said they had tried a lot of different designs and wanted to accommodate a master on the main with added space in the basement. They wanted to design the most livable home given the constraints of the property and build to improve the area rather than maximize use by right.

Perkins asked about the location of the guest parking spaces and whether they are meant to support the townhomes or the single family home. Pylman said they were requested by staff and were placed to take advantage of the available right of way.

Callicrate reiterated her concern about the narrow roadway and increased traffic. She thinks it is a big mistake to not improve the road and also thinks the stairs on the path are a bad idea.

Perkins asked if there might be a problem for emergency vehicles to respond given the width of Prince Alley and also asked who is responsible to maintain the road. Cowles said he is confident that the road is adequate to support the traffic and was designed to allow emergency response vehicles. The Town is responsible to maintain the road; even though it is called an "alley" it is a town street. Cowles asked Staff if the Fire District will be reviewing this application; Boni responded that it will go to the Fire District for approval before going to the Board of Trustees.

Cowles made a motion to approve file V16-04 with the side yard setback as shown on the plans at 9.5 feet. Richards seconded. The motion carried with Callicrate dissenting.

Cowles made a motion to approve file V16-06 with the front yard setbacks as shown on the plans. Perkins seconded. The motion was unanimously approved.

Cowles made a motion to approve file DR16-01 with the following conditions:

1. The applicant will pursue design of a path connection from Sylvan Lake Road at grade and maybe to the north. Staff will approve final alignment of the path.
2. The file be referred to the Fire District to approve emergency vehicle access.

3. Staff will provide traffic counts and trip generation information to the Board of Trustees for consideration.

Perkins seconded. The motion was unanimously approved. Cowles closed files V16-04, V16-06 and DR16-01.

CREEKSIDE LOFTS

Application for  
Major Development Permit  
&  
Setback Variance

July 2016

## **Introduction**

The purpose of this report is to provide information relative to application for a Major Development Permit to allow for the development of eight dwelling units on Lot B of the Creekside Lofts Subdivision. The proposed plan includes seven townhouse units and one single family home. Lot B is 1.27 acres in size and is zoned Residential Multi Family (RMF). This lot size would allow for up to thirteen multi-family units or nine single-family homes by zoning. A Major Development Permit approval is required as the proposed use includes an extension of a public sanitary sewer line. The specific application information requirements for a Major Development Permit are provided within the body of this narrative.

The Major Development Permit application includes a request for setback variances from the Town of Eagle development standards. The variances are requested for specific design provisions located in Section 4.04.080, Schedule of Requirements in Residential Zone Districts, of the Town of Eagle Land Use Regulations. The schedule of requirements states that the RMF Zone District shall meet a 12.5-foot side setback and a 25-foot front setback. Further detail on the variances is provided in a later section of this report. The application also includes a request for a variation from the Town of Eagle design standards with regard to driveway curb cut width.

A Final Plat application will be submitted subsequent to this request in order to amend the existing lot lines to create the single-family lot.

## **Description of the proposed plan**

Creekside Lofts is located along and accessed from Prince Alley. There is currently one four-plex building that has been constructed, subdivided and sold to individual homeowners. These units have established a separate homeowners association and will not be a part of this proposed Lot B development permit. Lot B of Creekside Lofts represents the remaining development parcel.

The final plan for Parcel B includes one four-plex building, one tri-plex building and one single family home. The townhomes buildings consist of three level three-bedroom units of approximately 2,200 square feet. The grade falls away from the street so the floor plan has been designed to include the garage and public living spaces on the street/main level with bedrooms on the lower walkout level and on the upper floor. The lower level will include an on-grade back patio and the main level will include an above ground balcony.

The buildings have been designed by Turnipseed Architects and the design is consistent with the general direction given in Section 4.07.020 General Architectural Standards of the Town Land Use Code and in the West Eagle Area Plan. The design is in full compliance with the specific requirements for architectural design detailed in the Land Use Regulation Sub-section 4.07.020 B. 1 through 9. The architecture is also consistent with the West Eagle Area Plan statement that "*new housing stock is*

*encouraged to integrate into the fabric of the community and add to the architectural character of the neighborhood".* Primary building materials include stucco and horizontal lap siding with asphalt and metal roofing.

The seven townhome units are located along the prominent bend in Prince Alley as it turns back to the north. The four-plex building will access directly off of the street while the three-plex building will enter on a short driveway section and park in a small lot directly in front of the building.

The single family home will access from the north end of Prince Alley and will utilize the existing hammerhead turnaround as the driveway entrance.

The Town of Eagle parking requirement for the seven townhouse units is a total of twenty parking spaces. Each townhome will include a one-car garage and there are fourteen exterior parking spaces, for a total of twenty-one spaces. The single family home will have garage and driveway capacity to exceed the single family parking requirement of three spaces. The townhomes will utilize individual trash receptacles so there will be no dumpster enclosure on site.

The single family lot is encumbered by a landscape easement that benefits the Eagle Ranch Homeowners Association. The purpose of the easement is to allow the Eagle Ranch Association to create and maintain a landscape area at the Sylvan Lake Road entrance to Eagle Ranch. The applicant and the Eagle Ranch HOA have recently worked together to adjust the boundaries of this easement slightly to match the actual landscape area and to accommodate existing irrigation system components that were outside of the easement. The future subdivision plat for the property will detail the revised landscape easement area.

A preliminary landscape plan with a planting list and an irrigated area measurement has been included in the accompanying drawing package. The permanently irrigated area totals 2,890 square feet.

An area along Prince Alley between the townhome units and the single family home will be widened for to accommodate three parallel guest parking spaces.

Over the past few years an informal path has been created as people "shortcut" across this private property to access the Sylvan Lake Road trail. In order to allow for a continuation of this use a gravel walkway with several stair steps will be constructed north of the townhomes to provide public pedestrian access from Prince Alley to the pedestrian trail along Sylvan Lake Road. The subdivision plat will detail this area as a public pedestrian easement.

Water, wastewater and shallow utilities are all available and adequate in capacity to serve the use. The property has been zoned Residential Multiple Family (RMF) for some time and is covered for water service by the existing Town of Eagle water rights. Conversation with town staff indicates that there is existing water plant

production and storage tank capacity to serve the proposed eight units. A 12-inch diameter water main cuts across the property and will provide physical access to the water system. While designing the site plan it was determined that this water main is located outside of the actual easement. The follow up subdivision plat will create an amended easement area for the water main. The location of this main line outside of the easement has created some hardship in the site plan design and is a factor in the requested side setback variance. There is also a 6-inch diameter line in Prince Alley in front of townhouse units one and two.

Prince Alley is a two-lane dead end road that serves approximately sixteen existing homes. Prince Alley connects to Castle Drive and King Road to provide direct access to US Highway 6. These local two-lane streets have the capacity to handle the approved density.

The applicant intends to phase construction of the project with the four-plex building and perhaps the single-family home anticipated as the first phase. The triplex building construction will follow after the four-plex. Ultimately, timing of construction will be dependent upon the sales pace of the townhome units.

Alpine Engineering, Inc. has prepared a full set of major development permit plans that include a site plan, deep utility extensions and layout, shallow utility connections, drainage and grading. A landscape plan, and conceptual architectural graphic plans are also included with this application.

A Development Impact Report checklist has been completed and is included as an attachment to this application.

Upon review and approval of the site design and utility improvements the applicant will provide an Engineer's Estimate of Costs for the public improvements so that the town staff may develop a Development Improvement Agreement/Subdivision Improvement Agreement. At the time of execution of the DIA/SIA the applicant will submit the required Street Improvement and Fire Department Impact Fees as well as any other required pass-through fees assessed by the town.

### **Town of Eagle Goals & Policies**

A Major Development Permit should be compatible with the Town's goals and policies. Those goals and policies are articulated in the Eagle Area Community Plan and the West Eagle Sub-Area Plan of 2011 and are spread throughout the various chapters and sections of those plans. Many of these goals and policies found in the Land Use, Transportation, Open Space, Housing and Economic sections of the Eagle Area community plan are broad based and are not particularly applicable towards individual buildings. The initial subdivision of this land and the application of the RMF zoning may have been reviewed against these goals and policies at the time of the original approval.

The Eagle Area Community Plan Community Design Policy 1.1 states *“New development should build upon and add value to Eagle’s unique community character through adherence to high quality standards of design and construction.”* The Creekside Lofts townhomes and the single-family lot have been designed to meet the standards of the Town of Eagle and the West Eagle Sub-Area Plan. The building sizes and scale are appropriate for the location and the architecture and building materials are compatible with the immediate neighborhood.

Goal #2 of the West Eagle Sub-Area Plan is to: *“Integrate the West Eagle Neighborhood into the surrounding community”*. The caption under the photo labeled Figure 17 states: *“New housing stock is encouraged to integrate into the fabric of the community and add to the architectural character of the neighborhood.”*

The site planning, design and architecture of the townhomes and the single family home are in full compliance with this goal.

The property is located along the west edge of the residential zone designation of the sub-area plan and is in full compliance with the description of the desired land use.

### **Setback Variances & Design Standard Variances**

The Town of Eagle Land Use Code requires certain setback distances and allows for a variance procedure for situations that do not or cannot meet these setbacks.

The Town Code permits the Planning Commission to grant a variance provided it finds both items 1 and 2 and either item 3 or 4 are applicable.

1. *That the variance granted is without substantial detriment to the public good and does not impair the intent and purposes of the Town's regulations, goals, policies and plan, including the specific regulation in question; and*
2. *That the variance granted is the minimum necessary to alleviate the hardship; and*
3. *That there exists on the property in question exceptional topography, shape, size or other extraordinary and exceptional situation or condition peculiar to the site, existing buildings, or lot configuration such that strict application of the zone district requirements from which the variance is requested would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property in question; or*
4. *That such exceptional situation or condition was not induced by any action of the applicant and is not a general condition throughout the zone district.*

Due to the subdivision process utilized to phase the project there is a property line that has been created between the existing initial four-plex building and the proposed new four-plex building that will not meet the side setback standard of 12.5 feet. The distance from the property line to the face of the new building will

range from 10 to 13 feet. The distance from the existing townhouse unit to the property line is over 15 feet, so the overall distance between buildings is equal to or greater than the overall combined setback of 25 feet. This side setback requirement is generally not meant to apply to the area between buildings in a multi-family townhouse project, however, as stated above, the process used to create the initial townhome lots did create a formal property line.

The water line that runs along the west side of the property was apparently constructed out of the designated easement. Relocating this water line into the correct easement is not an option and additional easement area will be granted to maintain the water line in its existing location. This has resulted in an unexpected design constraint to the property and creates a hardship to the applicant. However, through careful site planning and by utilizing a relatively narrow unit footprint the applicant has minimized the degree of variance to the greatest degree possible.

The applicant believes that this variance request is in compliance with all four of the above stated variance criteria.

The single-family house has a front setback requirement of 25 feet. Due to the constraints of the existing landscape easement and the excessive width of the Prince Alley road right of way the functional building envelope is very narrow. This application proposes a setback of 18 feet from the front property line for the side of the house along Prince Alley and a setback of 20 feet for the garage door facing north. Due to the width of the Prince Alley right of way and the location of the paved road within that right of way the building distance along the side of the house to the edge of asphalt is just over 35 feet. Due to the peculiar jog in the property line at the north end of the single family lot in order to accommodate the hammerhead turnaround for Prince Alley the distance from the property line to the garage doors is 19.75 feet, however the distance to the street is perceived as much greater.

This variance request is also without substantial detriment to the public good, the design represents the minimum variance relief necessary and the request also meets the description of both of the above stated criteria #3 and #4.

The submitted engineering plans include an exhibit that details the building siting, dimensions the setbacks and indicates the areas where variance is required.

#### Design Standard Variance Request

Chapter 4.07 of the Town of Eagle Land Use Regulations details various development standards for the design of improvements such as parking lots and access drives. Specifically, Section 4.07.050 L 1 (a) states that access drives shall be not less than 15 feet wide and not more than 35 feet wide at the intersection of the public street. The following Section 4.07.050 L 1 (b) states that any parking area serving more than a single family or duplex should be designed to allow cars to exit while driving in a forward direction.

The proposed four-plex building is located along Prince Alley in an area relatively proximate to Brush Creek. In order to respect the 50-foot stream setback it is necessary to design the parking with direct access onto Prince Alley. This creates a conflict with both the width and back up movement design standards. This design is consistent with the adjacent existing four-plex building.

Section 4.07.060 of the Land Use Regulations recognizes that these design standards may not always be achievable and grants the body authorizing the development permit to approve a variance from the standards where *“a finding is made that there exists on the property in question exceptional topography, soil, or other subsurface conditions, or other extraordinary conditions peculiar to the site.....would result in peculiar or exceptional practical difficulties to or exceptional hardship upon the applicant; or that the public good would be better served by granting the variance.”*

In this particular case the limited area between the public way and Brush Creek creates a design constraint that is best addressed by the proposed parking design. This allows the property to achieve a density close to that provided by zoning and to provide an appropriate mix of residential home types. As Prince Alley serves only about six homes beyond this driveway there should be no practical impact upon the public good.

### **Summary**

This application includes all of the material necessary to adequately review the Major Development Permit and Variance application requests and meets the goals, objectives and policies of the Town of Eagle.



# Greater Eagle Fire Protection District

PO Box 961 • Eagle, Colorado 81631

Office: 970.328.7244 Fax: 970.328.7280

Email: [info@gefpd.org](mailto:info@gefpd.org)

TO: Tom Boni  
Town Planner  
Town of Eagle  
200 Broadway St.  
Eagle, CO 81631

8/18/16

RE: Creekside Lofts

Mr. Boni,

The Greater Eagle Fire Protection District has reviewed the preliminary and civil plans for the expansion of the Creekside Lofts. The fire district has also performed a site visit to the proposed site. The fire district has concerns for the proposed expansion in regards to emergency vehicle access on Prince Alley. Upon review of the plans and after conducting a site visit, the fire district requests the following:

- 1) The developer remove existing bollards and install new collapsible bollards that are approved by the fire district.
- 2) Bollards to be installed by the developer shall be of the type that can be operated with a fire district hydrant wrench and shall have the release mechanism located at the top of the bollard
- 3) Discontinue on street parking on Prince Alley from the beginning of Prince Alley to 708 Prince Alley
- 4) Prince Alley be widened to allow emergency vehicle to pass each other while operating on the roadway

We are in support of this housing project and welcome discussion on any topic that may help the fire district, the Town of Eagle, and the developer continue in growing the Town of Eagle.

Respectfully,

Randel Q. Cohen  
Interim Fire Marshal  
Greater Eagle Fire Protection District



# CREEKSIDE LOFTS

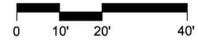
## PRELIMINARY LANDSCAPE PLAN

05-28-2016

IRRIGATED AREA 7-18-2016



NORTH



SCALE: 1" = 20' - 0"  
(on a 24 x 36" sheet)

### PLANTING LIST

KEY	QTY	BOTANICAL NAME	COMMON NAME	SIZE
	11	Malus spp. 6 Radiant and 5 Dolgo	Flowering Crabapple	3" caliper
	16	Picea pungens	Colorado Spruce	8-12' High
	27	Populus tremuloides	Aspen	2.5" Caliper, 50% Clump
	100	<b>SHRUBS</b>		
		Cornus alba 'Argenteomarginata'	Variiegated Dogwood	#7 Containers
		Cornus stolonifera	Red Twig Dogwood	#7 Containers
		Cornus stolonifera 'Isanti'	Isanti Dogwood	#7 Containers
		Potentilla fruticosa 'Jackmannii'	Jackmans Potentilla	#5 Containers
		Prunus x cistena	Purple Leaf Plum	#5 Containers
		Ribes alpinum	Alpine Currant	#5 Containers
		Rosa glauca	Red-Leaved Rose	#5 Containers
		Rosa woodsii	Woods Rose	#5 Containers
		Spiraea japonica 'Froebeli'	Froebel Spirea	#5 Containers
		Spiraea nipponica 'Snowmound'	Snowmound Spirea	#5 Containers
		Salix purpurea 'Nana'	Dwarf Blue Arctic Willow	#5 Containers
		Syringa vulgaris	Common Purple Lilac	5' B&B
	250	<b>PERENNIALS, GROUNDCOVERS and ORNAMENTAL GRASSES</b>		

### LANDSCAPE BOULDERS

NATIVE FROM SITE

### EXISTING TREE LEGEND

- EXISTING ASPEN ( or Shubert Chokecherry) TO REMAIN
- EXISTING SPRUCE (or Pinion Pine) TO REMAIN
- 2 EXISTING ASPEN TO BE TRANSPLANTED OR REMOVED
- 5 EXISTING SPRUCE (or Pinion Pine) BE TRANSPLANTED OR REMOVED



### IRRIGATED AREA TAKE-OFF

DOES NOT INCLUDE ANY NEW LANDSCAPING IN THE EAGLE RANCH LANDSCAPE HOA EASEMENT

IRRIGATION SYSTEMS to be a design-build system by the Landscape Contractor. Provide 1/2" pop-up Rainbird spray heads for perennial & groundcover beds and drip emitters to all new trees and shrubs. Provide a below-ground temporary spray heads, zoned separately for all seeded revegetated areas. Provide a rain-sensor to override system in the event of rain.

DRIP IRRIGATION	SQUARE FEET
EVERGREEN TREES	
8 TREES @ 1 SQ. FT. / TREE	8
DECIDUOUS TREES	
14 TREES @ 7 SQ. FT. / TREE	98
SHRUBS	
100 SHRUBS @ 3 SQ. FT. / SHRUB	300
SOD LAWN	1,885
GROUND COVERS & PERENNIALS	500

**TOTAL IRRIGATED AREA 2,890 SQ. FT. (permanent)**

\*Does not include the temporary irrigation system for the native grass revegetation area.



# CREEKSIDE LOFTS - EAGLE, CO.



## 3 PLEX

### OWNER

**Creekside Lofts**  
Eagle Ranch Loft LLC

Red Mountain Land  
232 W. Meadow Dr. Vail, Co. 81657  
Eeves@hotmail.com  
970.331.8617

### ARCHITECT

SCOTT S. TURNIPSEED AIA  
ARCHITECTURE, CONSTRUCTION,  
& INTERIOR DESIGN  
1143 CAPITOL STREET, SUITE 211  
P.O. BOX 3388  
EAGLE, COLORADO 81631  
(970) 328-3900

### GENERAL CONTRACTOR/ INTERIOR DESIGN

#### DAVE DANTAS

DW Dantas Construction, LLC  
Phone 970.376.6111

www.DWDantas.com

### CIVIL ENGINEERING

ALPINE ENGINEERING INC.

EDWARDS BUSINESS CENTER  
P.O. BOX 97  
EDWARDS, COLORADO 81632  
970-926-3373

### LANDSCAPE ARCHITECT

DENNIS ANDERSON  
PO BOX 1387  
Edwards, Co. 81632  
970-390-3745

### SURVEYOR

ARCHIBEQUE LAND CONSULTING, LLC  
PO BOX 3893  
EAGLE, CO. 81631  
970-328-6020  
ted@prolandsurvey.com

### STRUCTURAL ENGINEER

ANDERSON STRUCTURAL  
ENGINEERING INC.  
LONDON ANDERSON  
970-984-0320

### DESIGN REVIEW BOARD

NA

### TOWN OF EAGLE BUILDING DEPARTMENT

Building Department  
Bob Kohrmann, Building Official  
inspector@townofeagle.org  
970-328-9657

### DRAWING INDEX

ARCHITECTURAL  
A0.0 COVER SHEET  
A2.1 LOWER LEVEL FLOOR PLAN  
A2.2 MAIN LEVEL FLOOR PLAN  
A2.3 UPPER LEVEL FLOOR PLAN  
A2.4 ROOF PLAN  
A3.1 BUILDING ELEVATIONS  
A3.2 BUILDING ELEVATIONS  
A4.1 BUILDING SECTIONS  
A4.2 BUILDING SECTIONS  
A5.1 BUILDING DETAILS ARCHITECTURAL

STRUCTURALS  
S1.0 GENERAL NOTES  
S1.1 FOUNDATION LOWER LEVEL PLAN  
S1.2 FRAMING PLAN MAIN LEVEL  
S1.3 FRAMING PLAN ROOF  
S5.1 SECTIONS AND DETAILS  
S5.2 SECTIONS AND DETAILS  
S5.3 SECTIONS AND DETAILS  
S5.4 SECTIONS AND DETAILS

### EXTERIOR DOWNLIGHT

**\* FINAL FIXTURE PER OWNER**

GUIDELINES PER TOWN OF EAGLE  
DEVELOPMENT PLAN

### GROSS FLOOR AREAS SUMMARY:

OVERALL SQUARE FOOTAGE	
<b>LOWER LEVEL</b>	<b>2,327 FIN. S.F.</b>
UNFIN, MECH. & STORAGE AREAS	577 UNFIN S.F.
<b>MAIN LEVEL</b>	<b>2,244 FIN. S.F.</b>
EXT. DECK	506 S.F.
GARAGE UNFIN.	666 UNFIN. S.F.
<b>UPPER LEVEL</b>	<b>1,640 FIN. S.F.</b>
<b>FINISHED S.F. TOTAL</b>	<b>6,211 FIN. S.F.</b>
UNFINISHED S.F. TOTAL	1,243 UNFIN S.F.
EXTERIOR DECK S.F. TOTAL	506 S.F.

**\* INDIVIDUAL UNIT S.F. ARE ON SHEETS A2.1-2.3**

### PROJECT SUMMARY:

NEW BUILDING : MULTI-FAMILY RESIDENTIAL, TOWNHOMES  
OCCUPANCY GROUP: R-3  
CONSTRUCTION TYPE : V, 1 HR SEPERATION  
NUMBER OF STORIES : THREE  
BUILDING HEIGHT : 35'-0" MAX  
ZONING : RESIDENTIAL  
LOT AREA : 0.535 ACRES  
SETBACKS: BUILDING ENVELOPE SHOWN  
PARKING : 1 CAR GARAGE PER UNIT

TURNIPSEED

ARCHITECTURE  
CONSTRUCTION  
INTERIOR DESIGN

SINCE 1995

CREEKSIDE LOFTS  
3 PLEX BUILDING  
UNITS 722, 723, & 724 PRINCE ALLEY  
EAGLE, COLORADO 81631

ISSUE:	DATE:
CLIENT REVIEW	2.15.2016
CLIENT REVIEW	3.4.2016

PRE-ENGINEERING SET: JUNE 2016

SCOTT S. TURNIPSEED AIA  
ARCHITECTURE  
& CONSTRUCTION INC.  
P.O. BOX 3388  
1143 CAPITOL STREET, SUITE 211  
EAGLE, COLORADO 81631  
970.328.3900 WWW.SSTAA.COM

A0.0

3 PLEX  
COVER SHEET

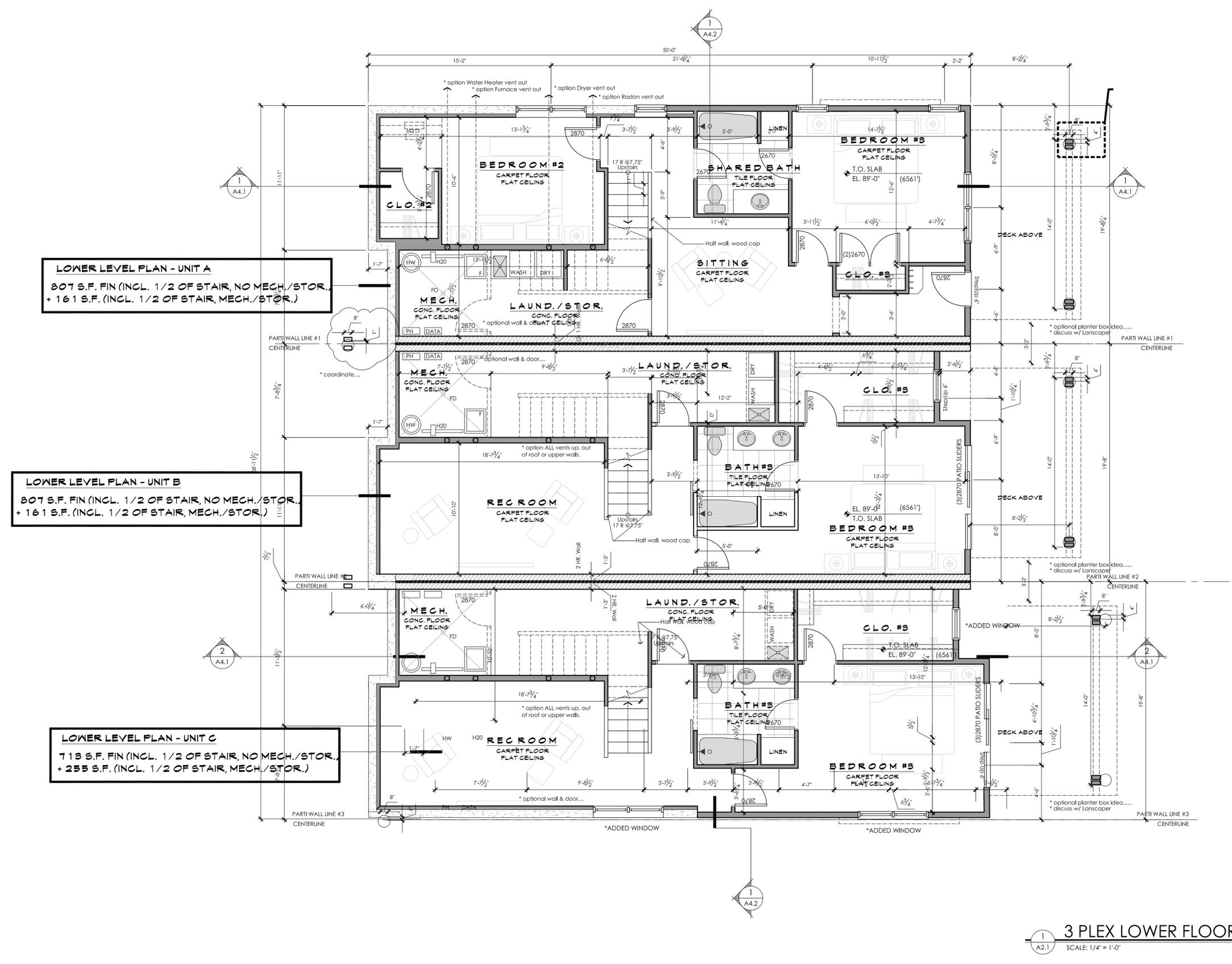
**CREEKSIDE LOFTS**  
3 PLEX BUILDING  
UNITS 722, 723, & 724 PRINCE ALLEY  
EAGLE, COLORADO 81631

ISSUE:	DATE:
CLIENT REVIEW	2.15.2016
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SCOTT S. TURNPISEED AIA  
ARCHITECTURE  
& CONSTRUCTION INC.  
P.O. BOX 3388  
1145 GARFIELD STREET, SUITE 211  
EAGLE, COLORADO 81631  
970.328.3900 WWW.SSTAIK.COM

**A2.1**  
3 PLEX LOWER  
FLOOR PLAN

PRE-ENGINEERING SET: JUNE 2016



**LOWER LEVEL PLAN - UNIT A**  
807 S.F. FIN (INCL. 1/2 OF STAIR, NO MECH./STOR.)  
+ 161 S.F. (INCL. 1/2 OF STAIR, MECH./STOR.)

**LOWER LEVEL PLAN - UNIT B**  
807 S.F. FIN (INCL. 1/2 OF STAIR, NO MECH./STOR.)  
+ 161 S.F. (INCL. 1/2 OF STAIR, MECH./STOR.)

**LOWER LEVEL PLAN - UNIT C**  
713 S.F. FIN (INCL. 1/2 OF STAIR, NO MECH./STOR.)  
+ 255 S.F. (INCL. 1/2 OF STAIR, MECH./STOR.)

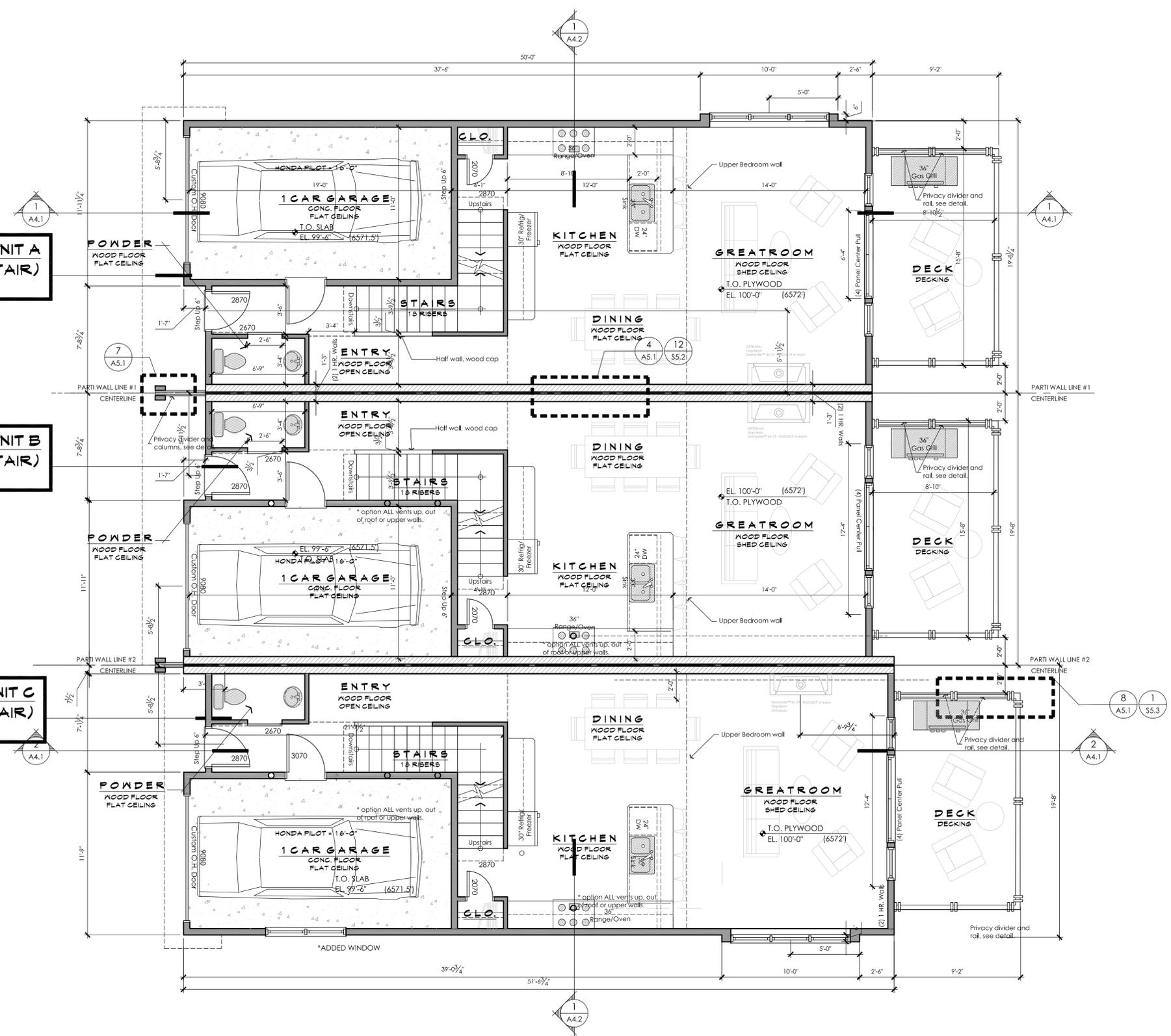
**3 PLEX LOWER FLOOR PLAN**  
SCALE: 1/4" = 1'-0"  
NORTH

**CREEKSIDE LOFTS**  
3 PLEX BUILDING  
UNITS 722, 723, & 724 PRINCE ALLEY  
EAGLE, COLORADO 81631

**MAIN LEVEL PLAN - UNIT A**  
748 S.F. FIN (INCL. STAIR)  
222 S.F. (GARAGE)

**MAIN LEVEL PLAN - UNIT B**  
748 S.F. FIN (INCL. STAIR)  
222 S.F. (GARAGE)

**MAIN LEVEL PLAN - UNIT C**  
748 S.F. FIN (INCL. STAIR)  
222 S.F. (GARAGE)



**3 PLEX MAIN FLOOR PLAN**  
SCALE: 1/4" = 1'-0"  
NORTH

PRE-ENGINEERING SET: JUNE 2016

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SCOTT S. TURNPISEED AIA  
ARCHITECTURE  
& CONSTRUCTION INC.  
P.O. BOX 3388  
1145 GARFIELD STREET, SUITE 211  
EAGLE, COLORADO 81631  
970.328.3000 WWW.SSTAK.COM

**A2.2**  
3 PLEX MAIN  
FLOOR PLAN

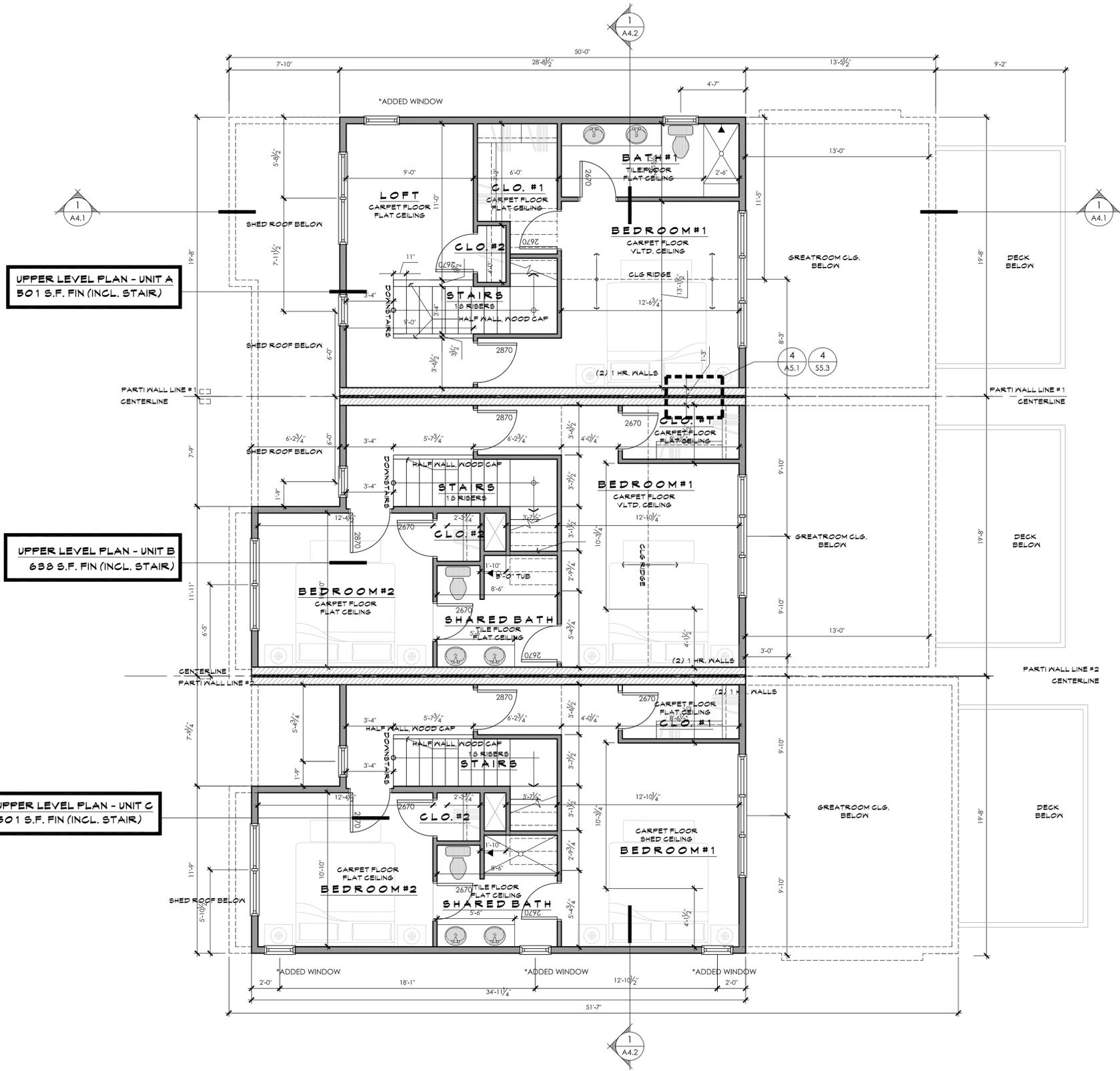
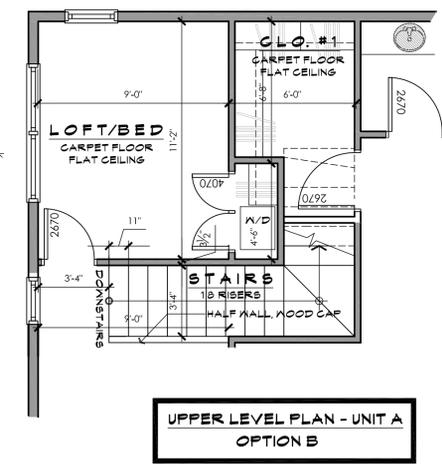
**CREEKSIDE LOFTS**  
 3 PLEX BUILDING  
 UNITS 722, 723, & 724 PRINCE ALLEY  
 EAGLE, COLORADO 81631

ISSUE:	DATE:
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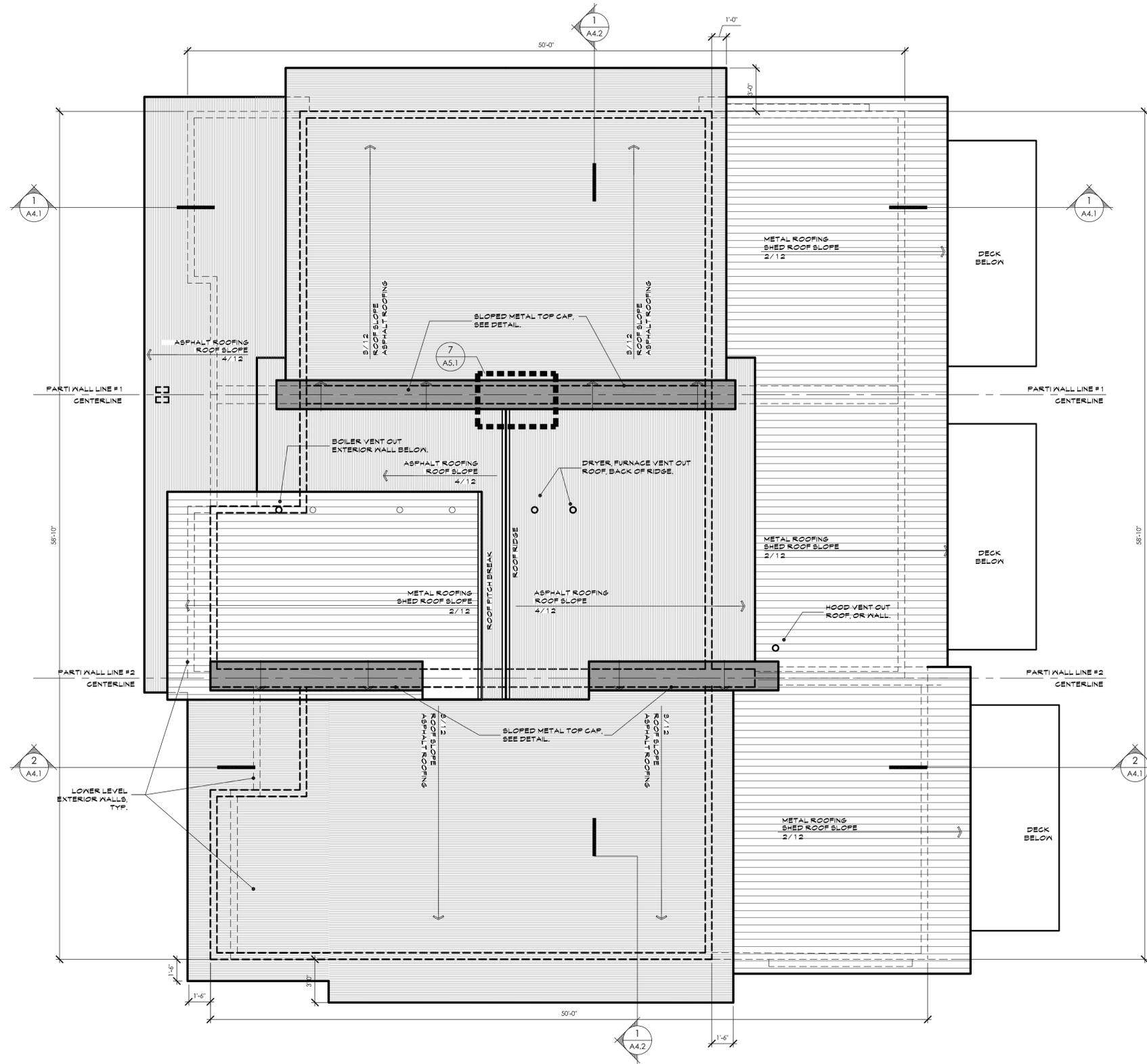
SCOTT S. TURNPISEED AIA  
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 & CONSTRUCTION INC.  
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 1145 GARFIELD STREET, SUITE 211  
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 970.328.3000 WWW.SSTAK.COM

**A2.3**  
 3 PLEX UPPER  
 FLOOR PLAN

PRE-ENGINEERING SET: JUNE 2016



**3 PLEX UPPER FLOOR PLAN**  
 SCALE: 1/4" = 1'-0"  
 NORTH



1  
A2.4  
3 PLEX ROOF PLAN  
SCALE: 1/4" = 1'-0"



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A2.4  
3 PLEX ROOF  
FLOOR PLAN

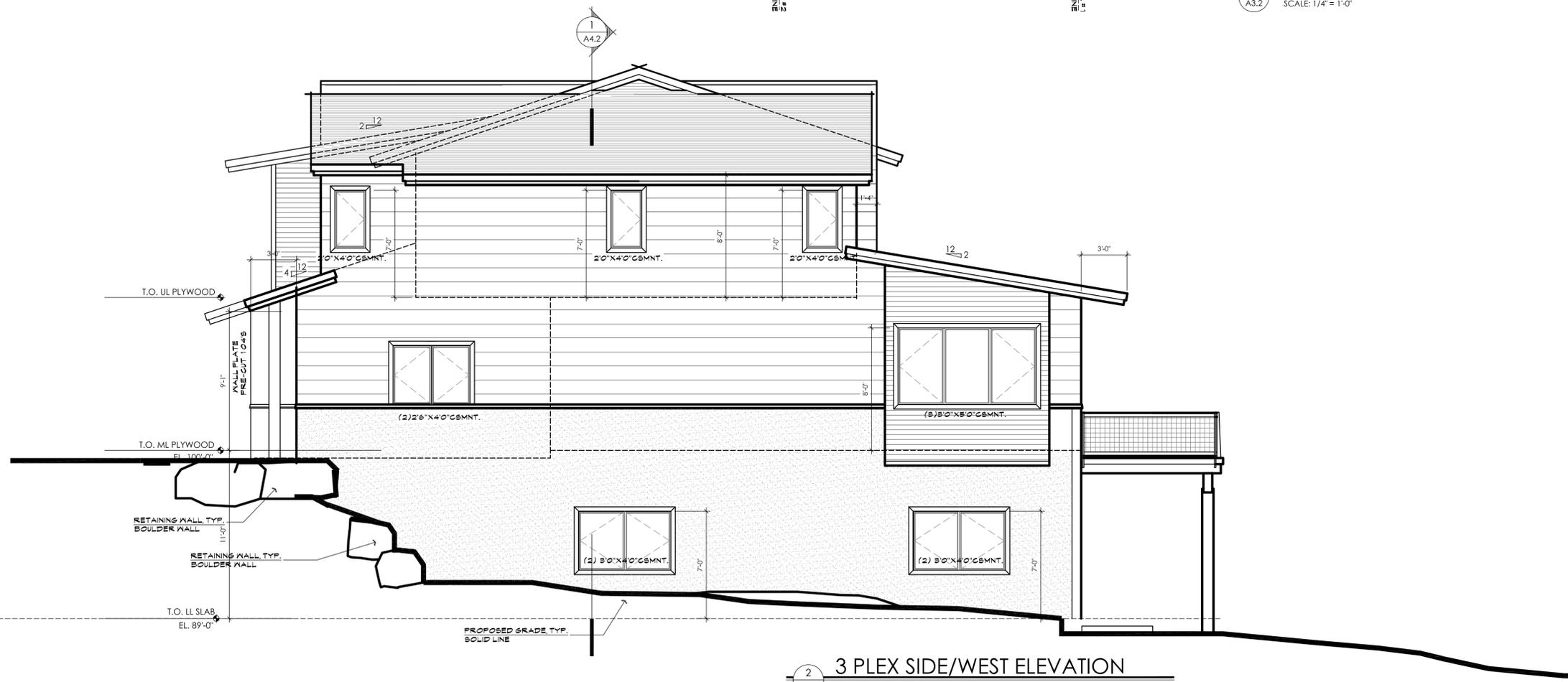


CREEKSIDE LOFTS  
3 PLEX BUILDING  
UNITS 722, 723, & 724 PRINCE ALLEY  
EAGLE, COLORADO 81631





1  
A3.2 3 PLEX BACK/SOUTH ELEVATION  
SCALE: 1/4" = 1'-0"

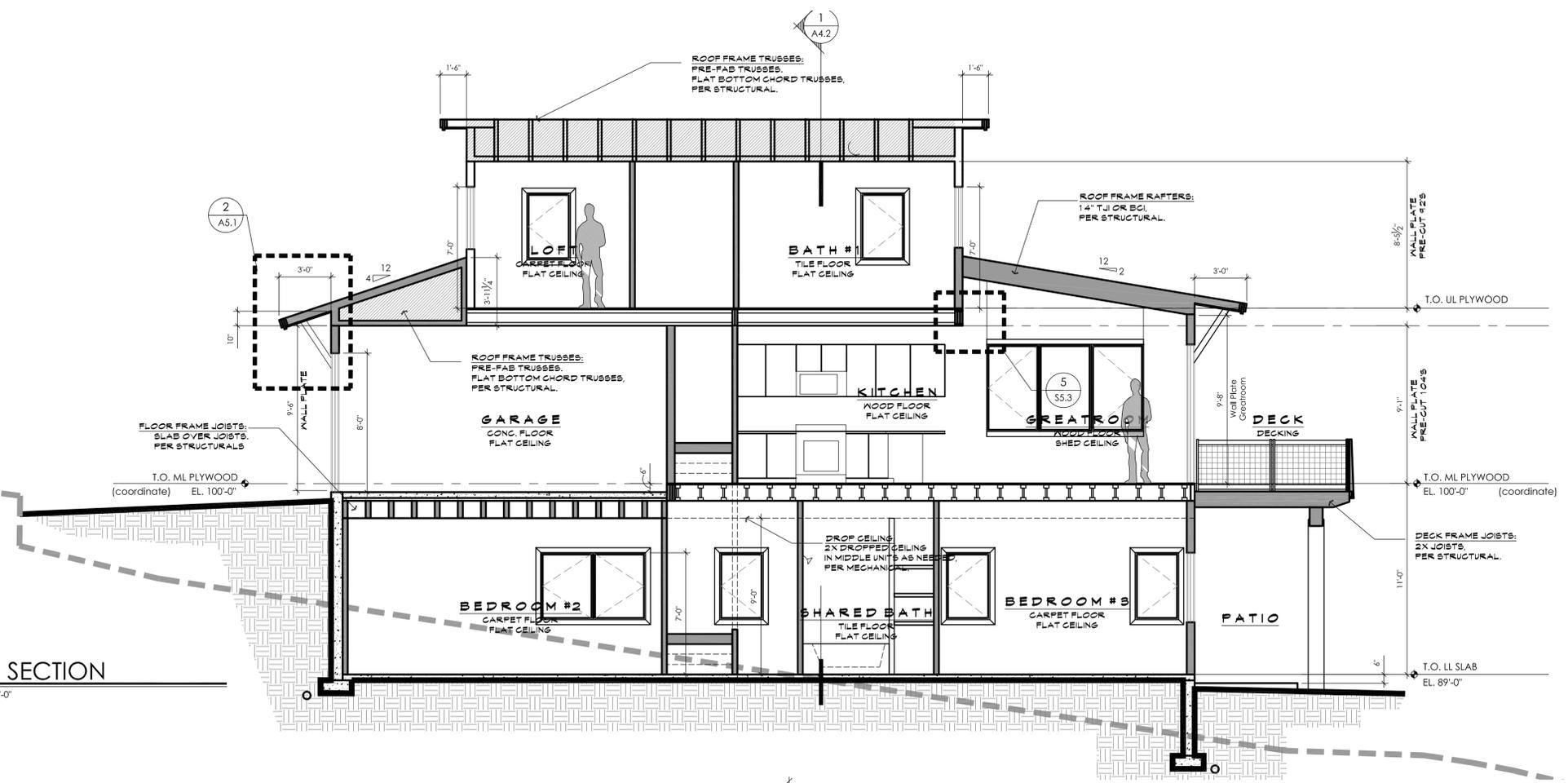


2  
A3.2 3 PLEX SIDE/WEST ELEVATION  
SCALE: 1/4" = 1'-0"

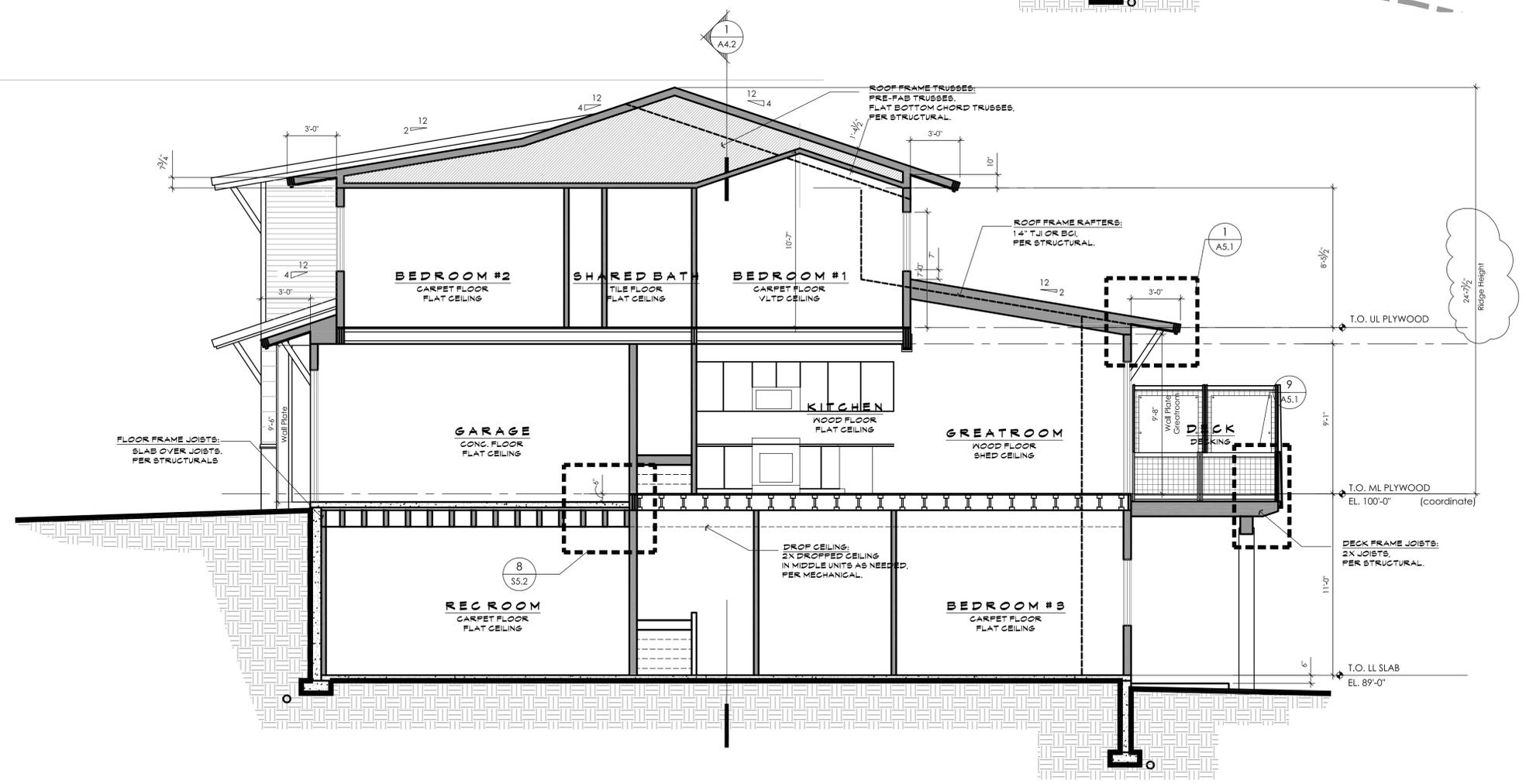
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**1 BLDG. SECTION**  
 A4.1 SCALE: 1/4" = 1'-0"



**2 BLDG. SECTION**  
 A4.1 SCALE: 1/4" = 1'-0"



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CREEKSIDE LOFTS  
3 PLEX BUILDING  
UNITS 722, 723, & 724 PRINCE ALLEY  
EAGLE, COLORADO 81631



1 BLDG. SECTION  
A4.2 SCALE: 1/4" = 1'-0"

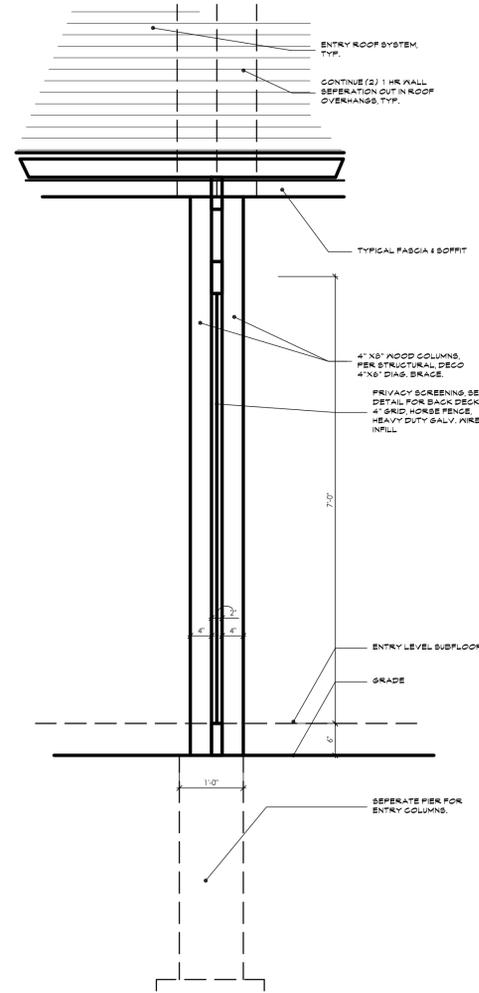
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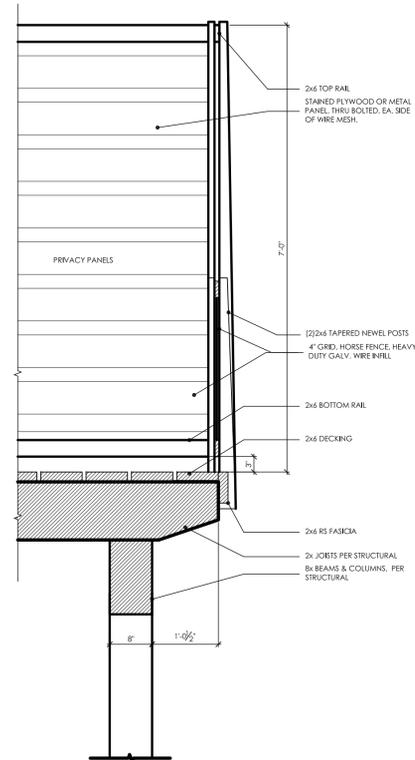
SCOTT S. TURNIPSEED AIA  
ARCHITECTURE  
& CONSTRUCTION INC.  
P.O. BOX 338  
1143 CAPITOL STREET, SUITE 211  
EAGLE, COLORADO 81631  
970.328.3000 WWW.SSTFAM.COM

A4.2

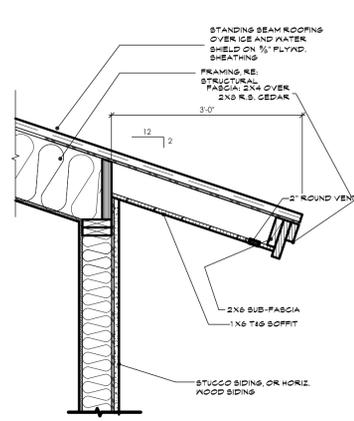
3 PLEX  
SECTIONS



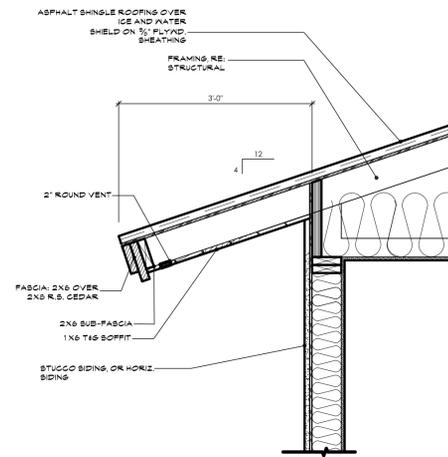
**7 BUILDING DETAIL**  
A5.1 SCALE: 3/4" = 1'-0"



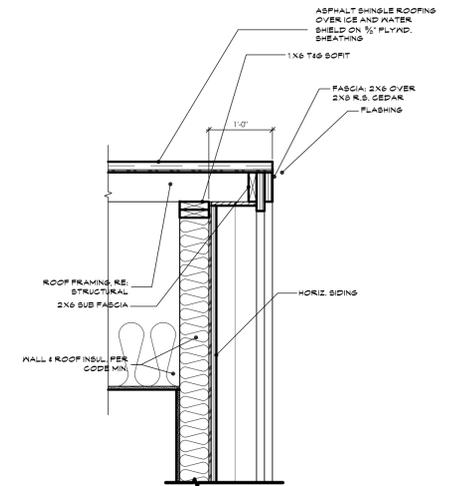
**8 BUILDING DETAIL**  
A5.1 SCALE: 3/4" = 1'-0"



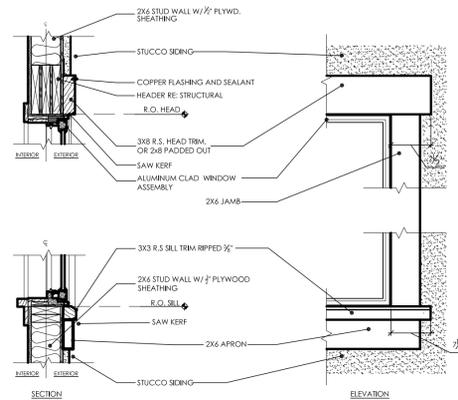
**1 BUILDING DETAIL**  
A5.1 SCALE: 3/4" = 1'-0"



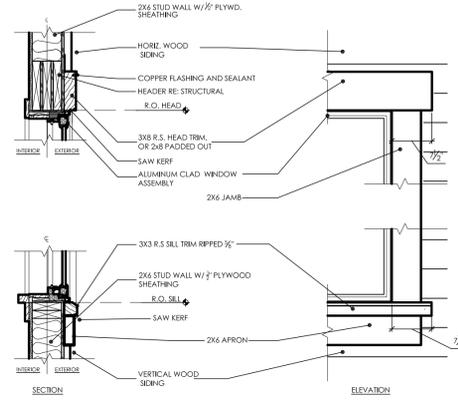
**2 BUILDING DETAIL**  
A5.1 SCALE: 3/4" = 1'-0"



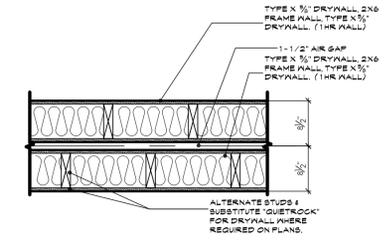
**3 BUILDING DETAIL**  
A5.1 SCALE: 3/4" = 1'-0"



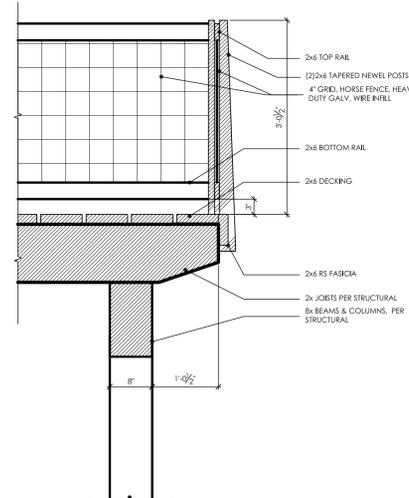
**6 BUILDING DETAIL**  
A5.1 SCALE: 3/4" = 1'-0"



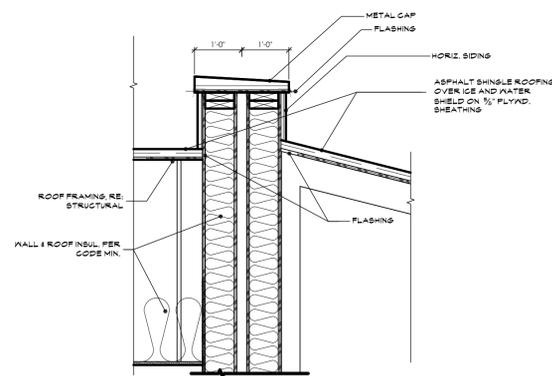
**5 BUILDING DETAIL**  
A5.1 SCALE: 3/4" = 1'-0"



**4 BUILDING DETAIL**  
A5.1 SCALE: 3/4" = 1'-0"



**9 BUILDING DETAIL**  
A5.1 SCALE: 3/4" = 1'-0"



**10 BUILDING DETAIL**  
A5.1 SCALE: 3/4" = 1'-0"

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# CREEKSIDE LOFTS - EAGLE, CO.



## 4 PLEX

### OWNER

**Creekside Lofts**  
Eagle Ranch Loft LLC

Red Mountain Land  
232 W. Meadow Dr. Vail, Co. 81657  
Eeves@hotmail.com  
970.331.8617

### ARCHITECT

SCOTT S. TURNIPSEED AIA  
ARCHITECTURE, CONSTRUCTION,  
& INTERIOR DESIGN  
1143 CAPITOL STREET, SUITE 211  
P.O. BOX 3388  
EAGLE, COLORADO 81631  
(970) 328-3900

### GENERAL CONTRACTOR/ INTERIOR DESIGN

#### DAVE DANTAS

DW Dantas Construction, LLC  
Phone 970.376.6111  
www.DWDantas.com

### CIVIL ENGINEERING

ALPINE ENGINEERING INC.

EDWARDS BUSINESS CENTER  
P.O. BOX 97  
EDWARDS, COLORADO 81632  
970-926-3373

### LANDSCAPE ARCHITECT

DENNIS ANDERSON  
PO BOX 1387  
Edwards, Co. 81632  
970-390-3745

### SURVEYOR

ARCHIBEQUE LAND CONSULTING, LLC  
PO BOX 3893  
EAGLE, CO. 81631  
970-328-6020  
ted@prolandsurvey.com

### STRUCTURAL ENGINEER

ANDERSON STRUCTURAL  
ENGINEERING INC.  
LONDON ANDERSON  
970-984-0320

### DESIGN REVIEW BOARD

NA

### TOWN OF EAGLE BUILDING DEPARTMENT

Building Department  
Bob Kohrmann, Building Official  
inspector@townofeagle.org  
970-328-9657

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A0.0 COVER SHEET  
A2.1 LOWER LEVEL FLOOR PLAN  
A2.2 MAIN LEVEL FLOOR PLAN  
A2.3 UPPER LEVEL FLOOR PLAN  
A2.4 ROOF PLAN  
A3.1 BUILDING ELEVATIONS  
A3.2 BUILDING ELEVATIONS  
A4.1 BUILDING SECTIONS  
A4.2 BUILDING SECTIONS  
A5.1 BUILDING DETAILS ARCHITECTURAL

STRUCTURALS  
S1.0 GENERAL NOTES  
S1.1 FOUNDATION LOWER LEVEL PLAN  
S1.2 FRAMING PLAN MAIN LEVEL  
S1.3 FRAMING PLAN ROOF  
S5.1 SECTIONS AND DETAILS  
S5.2 SECTIONS AND DETAILS  
S5.3 SECTIONS AND DETAILS  
S5.4 SECTIONS AND DETAILS

### GROSS FLOOR AREAS SUMMARY:

<b>OVERALL SQUARE FOOTAGE</b>	
<b>LOWER LEVEL</b>	<b>3,228 FIN. S.F.</b>
UNFIN, MECH. & STORAGE AREAS	644 UNFIN S.F.
<b>MAIN LEVEL</b>	<b>2,992 FIN. S.F.</b>
EXT. DECK	675 S.F.
GARAGE UNFIN.	1,110 UNFIN. S.F.
<b>UPPER LEVEL</b>	<b>2,278 FIN. S.F.</b>
<b>FINISHED S.F. TOTAL 8,498 FIN. S.F.</b>	
UNFINISHED S.F. TOTAL	1,754 UNFIN S.F.
EXTERIOR DECK S.F. TOTAL	675 S.F.

\* INDIVIDUAL UNIT S.F. ARE ON SHEETS A2.1-2.3

### EXTERIOR DOWNLIGHT

**\* FINAL FIXTURE PER OWNER**

GUIDELINES PER TOWN OF EAGLE  
DEVELOPMENT PLAN

### PROJECT SUMMARY:

NEW BUILDING : MULTI-FAMILY RESIDENTIAL, TOWNHOMES  
OCCUPANCY GROUP: R-3  
CONSTRUCTION TYPE : V, 1 HR SEPERATION  
NUMBER OF STORIES : THREE  
BUILDING HEIGHT : 35'-0" MAX  
ZONING : RESIDENTIAL  
LOT AREA : 0.535 ACRES  
SETBACKS: BUILDING ENVELOPE SHOWN  
PARKING : 1 CAR GARAGE PER UNIT

TURNIPSEED

ARCHITECTURE  
CONSTRUCTION  
INTERIOR DESIGN

SINCE 1995

CREEKSIDE LOFTS  
4 PLEX BUILDING  
UNITS 718, 719, 720 & 721 PRINCE ALLEY  
EAGLE, COLORADO 81631

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1143 CAPITOL STREET, SUITE 211  
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A0.0

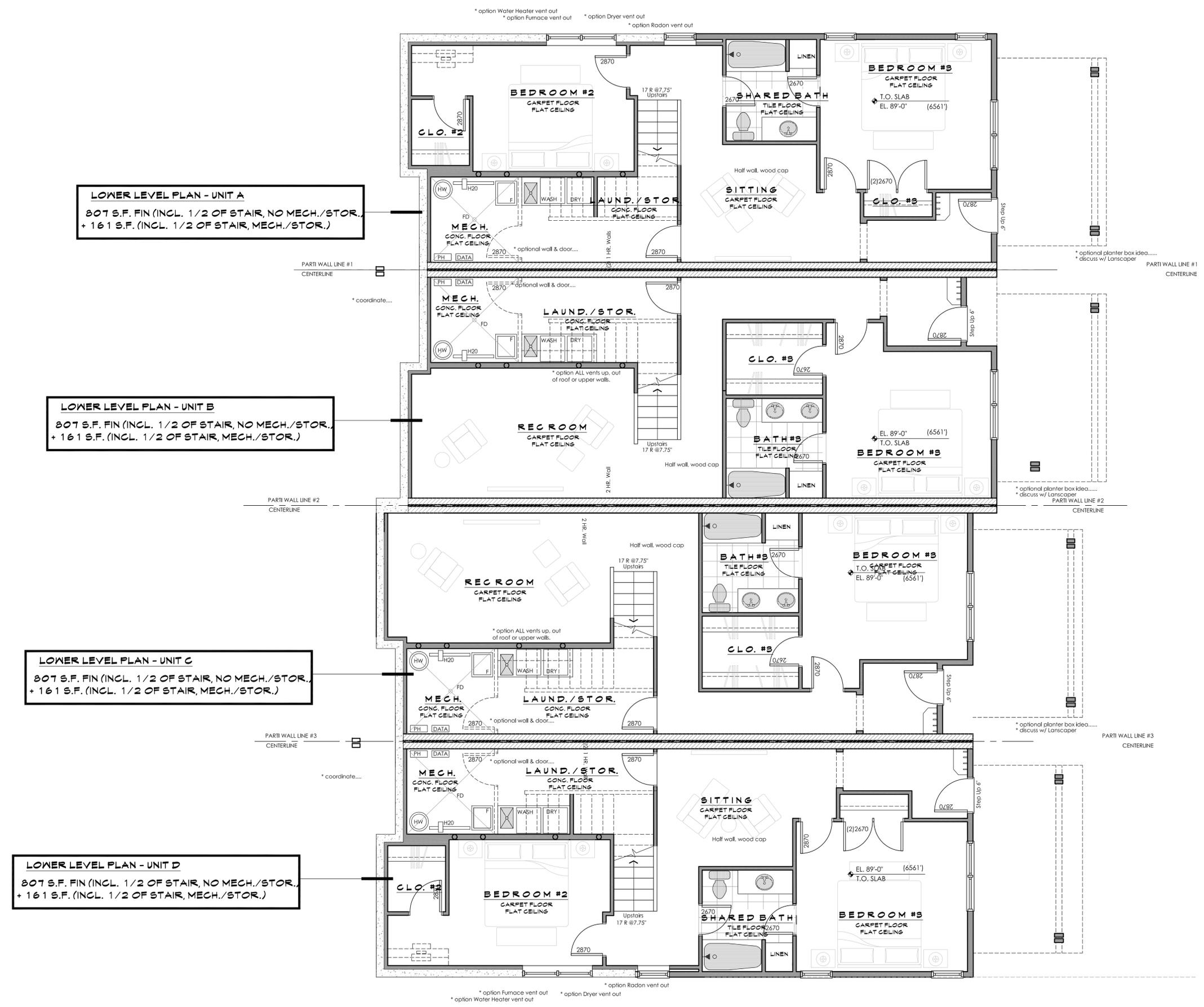
BLDG. B  
COVER SHEET

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**LOWER LEVEL PLAN - UNIT A**  
807 S.F. FIN (INCL. 1/2 OF STAIR, NO MECH./STOR.,  
+ 161 S.F. (INCL. 1/2 OF STAIR, MECH./STOR.))

**LOWER LEVEL PLAN - UNIT B**  
807 S.F. FIN (INCL. 1/2 OF STAIR, NO MECH./STOR.,  
+ 161 S.F. (INCL. 1/2 OF STAIR, MECH./STOR.))

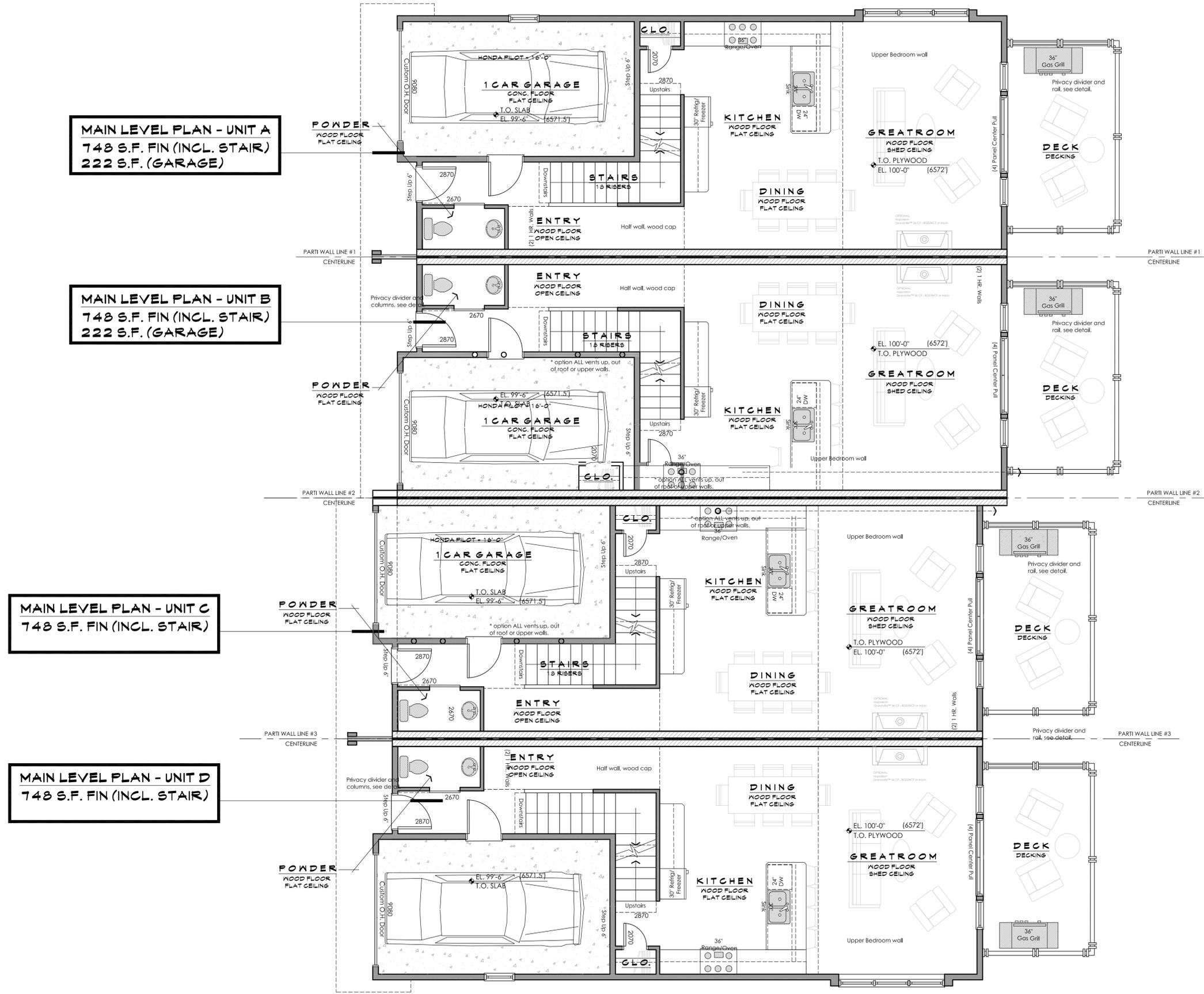
**LOWER LEVEL PLAN - UNIT C**  
807 S.F. FIN (INCL. 1/2 OF STAIR, NO MECH./STOR.,  
+ 161 S.F. (INCL. 1/2 OF STAIR, MECH./STOR.))

**LOWER LEVEL PLAN - UNIT D**  
807 S.F. FIN (INCL. 1/2 OF STAIR, NO MECH./STOR.,  
+ 161 S.F. (INCL. 1/2 OF STAIR, MECH./STOR.))

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EAGLE, COLORADO 81611  
970.328.3900 WWW.SSTAA.COM



**MAIN LEVEL PLAN - UNIT A**  
748 S.F. FIN (INCL. STAIR)  
222 S.F. (GARAGE)

**MAIN LEVEL PLAN - UNIT B**  
748 S.F. FIN (INCL. STAIR)  
222 S.F. (GARAGE)

**MAIN LEVEL PLAN - UNIT C**  
748 S.F. FIN (INCL. STAIR)

**MAIN LEVEL PLAN - UNIT D**  
748 S.F. FIN (INCL. STAIR)

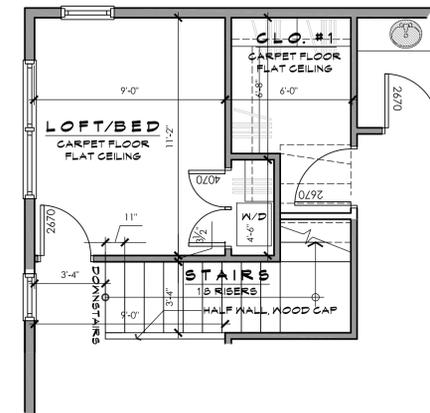
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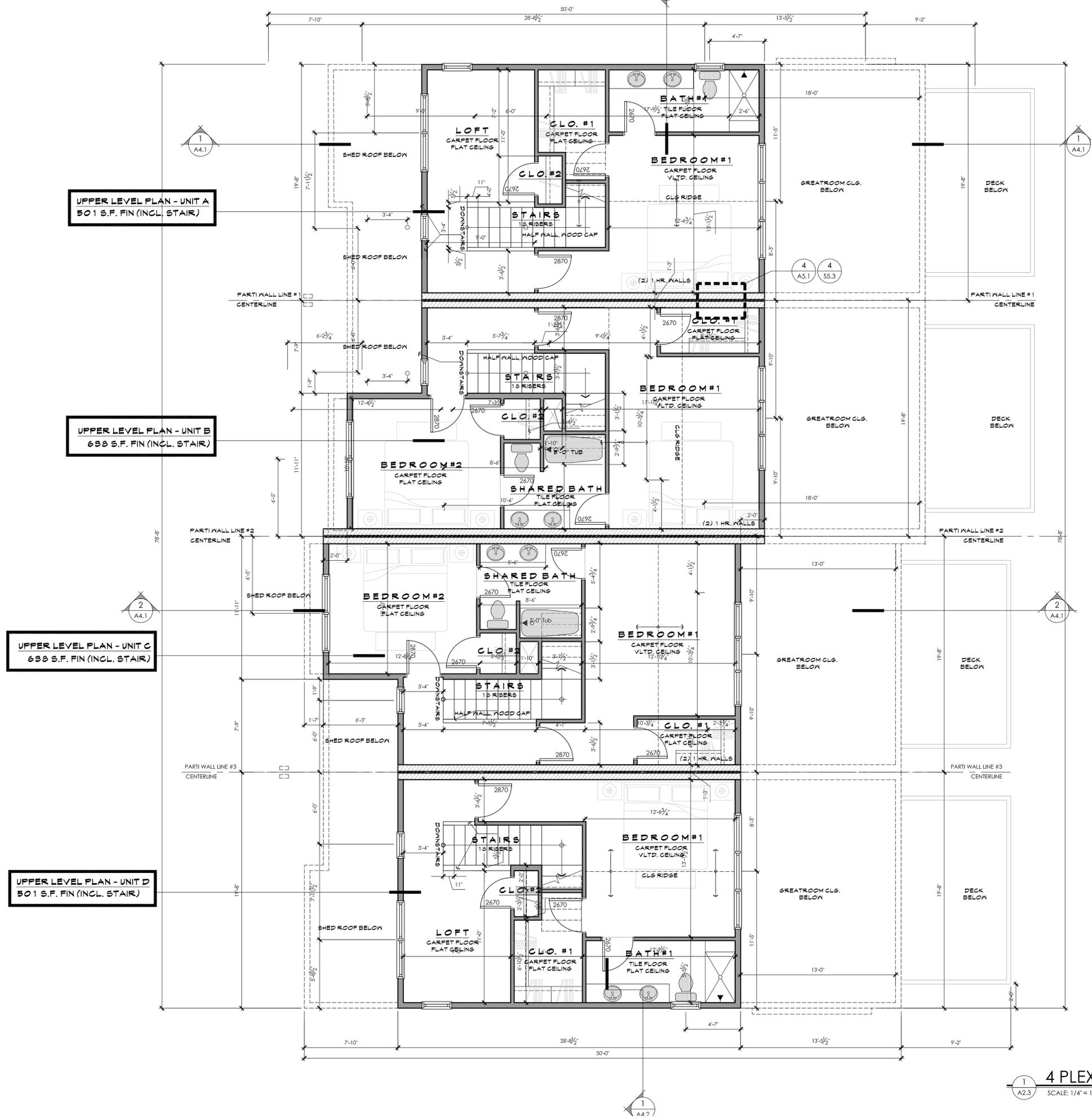
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A2.3

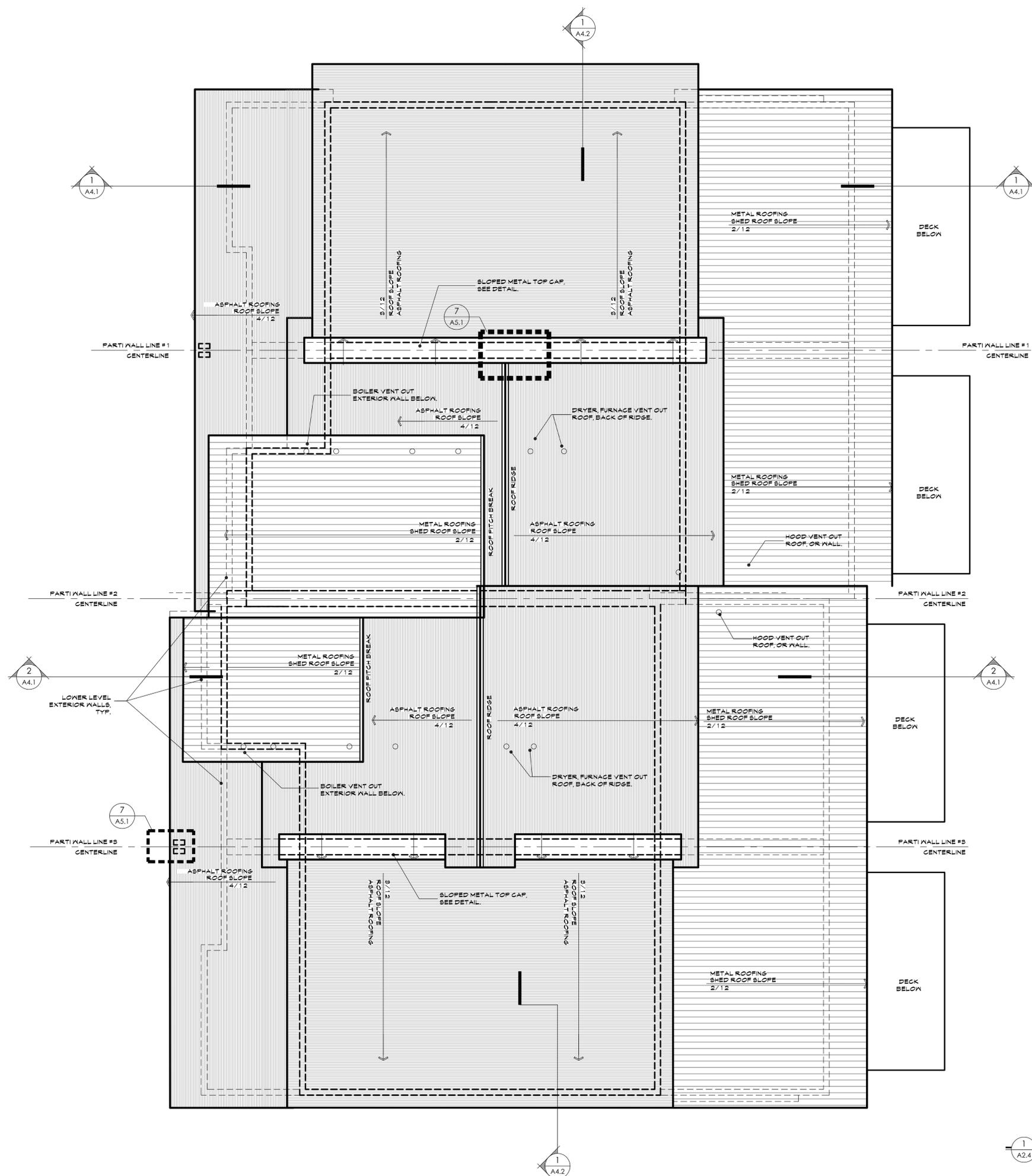
4 PLEX UPPER FLOOR PLAN



2  
A2.3 LOFT OPTIONAL  
SCALE: 1/4" = 1'-0"



1  
A2.3 4 PLEX UPPER FLOOR PLAN  
SCALE: 1/4" = 1'-0"



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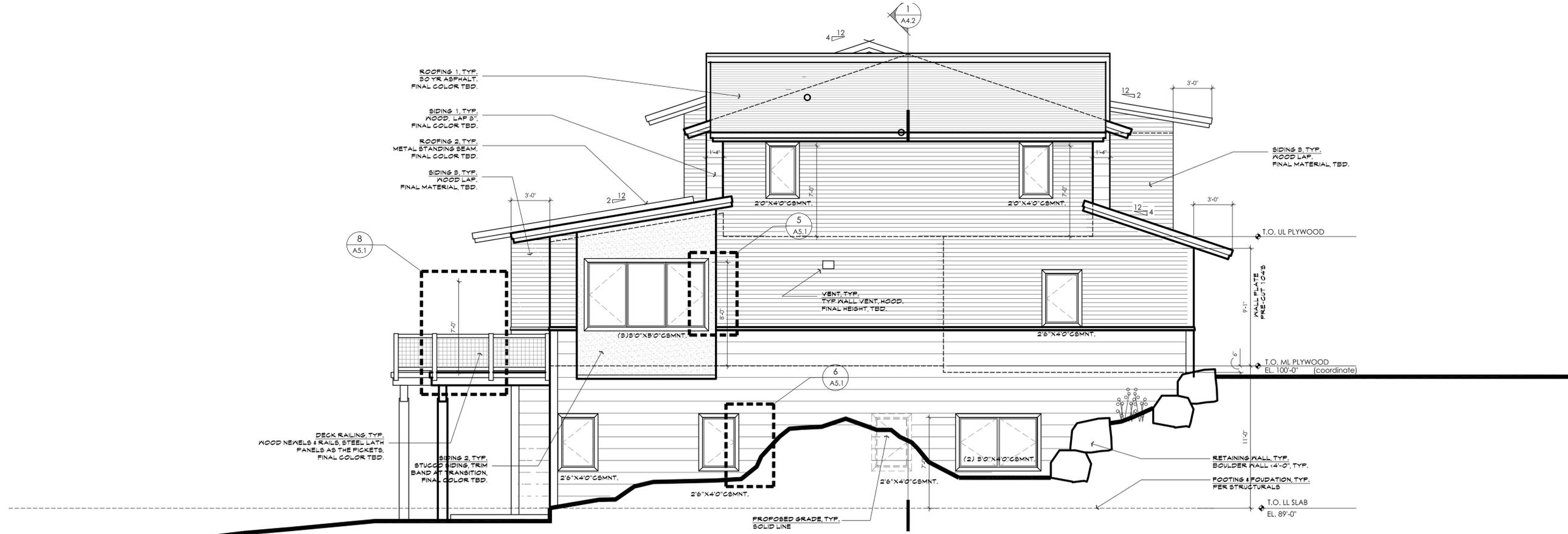
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 970.328.3900 WWW.SSTAA.COM

1  
 A2.4  
 4 PLEX ROOF PLAN  
 SCALE: 1/4" = 1'-0"  
 NORTH

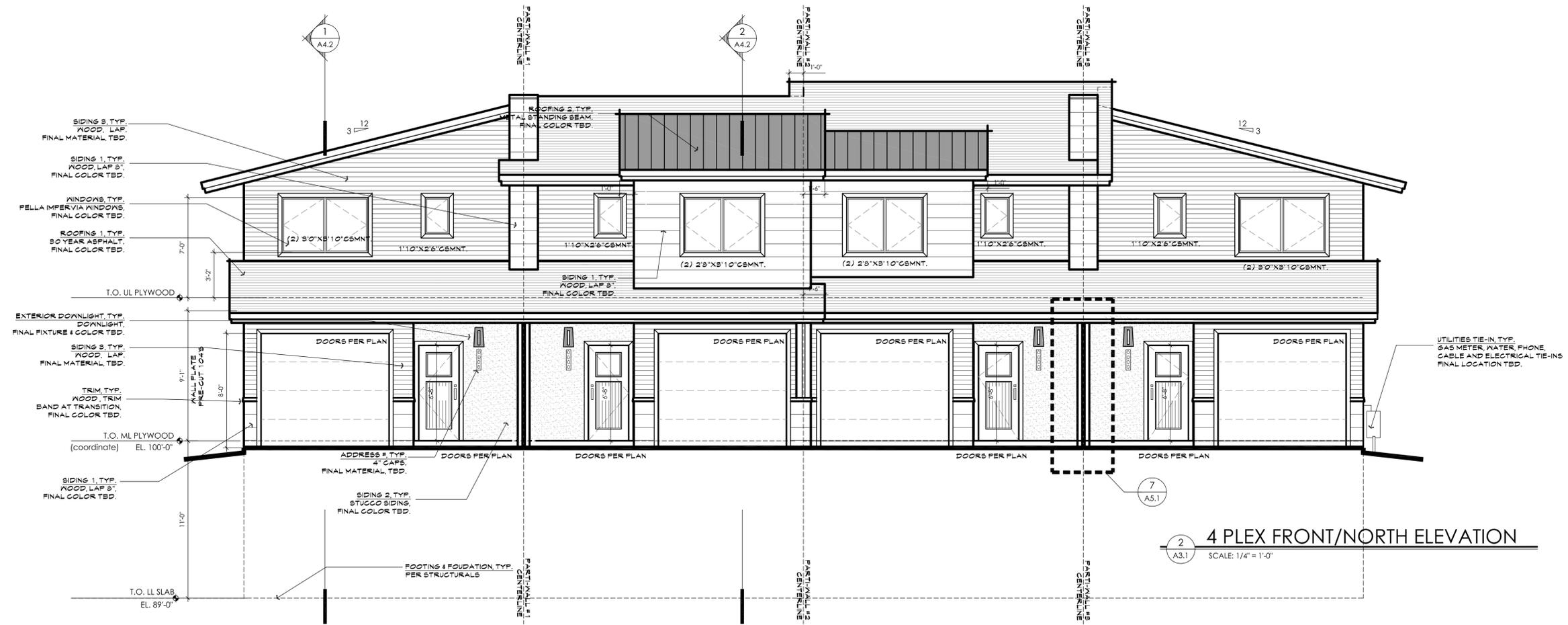
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1  
A3.1  
4 PLEX EAST ELEVATION  
SCALE: 1/4" = 1'-0"



2  
A3.1  
4 PLEX FRONT/NORTH ELEVATION  
SCALE: 1/4" = 1'-0"

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1  
A3.2  
4 PLEX BACK/SOUTH ELEVATION  
SCALE: 1/4" = 1'-0"



2  
A3.2  
4 PLEX WEST ELEVATION  
SCALE: 1/4" = 1'-0"



CREEKSIDE LOFTS  
4 PLEX BUILDING  
UNITS 718, 719, 720 & 721 PRINCE ALLEY  
EAGLE, COLORADO 81631

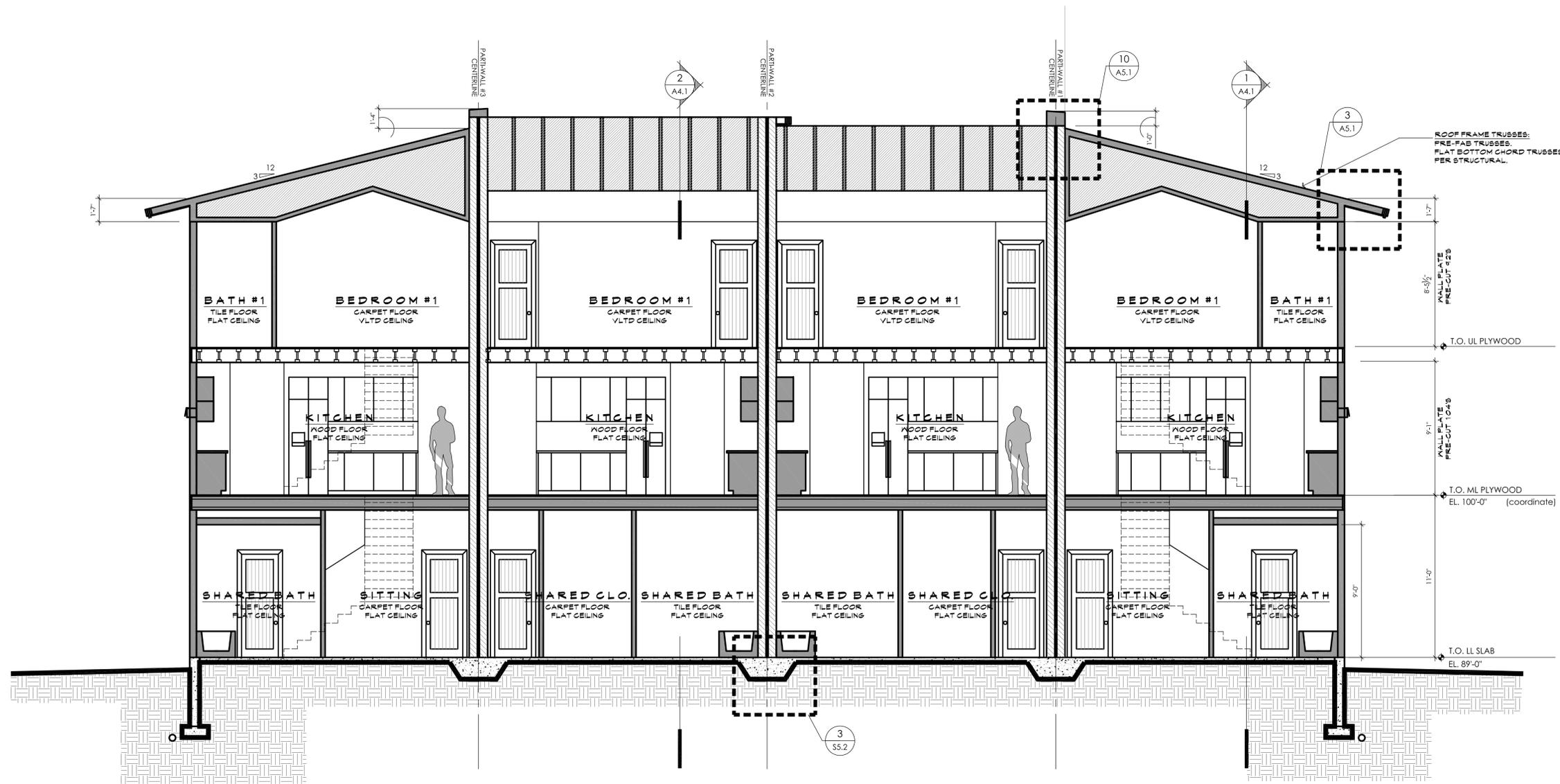
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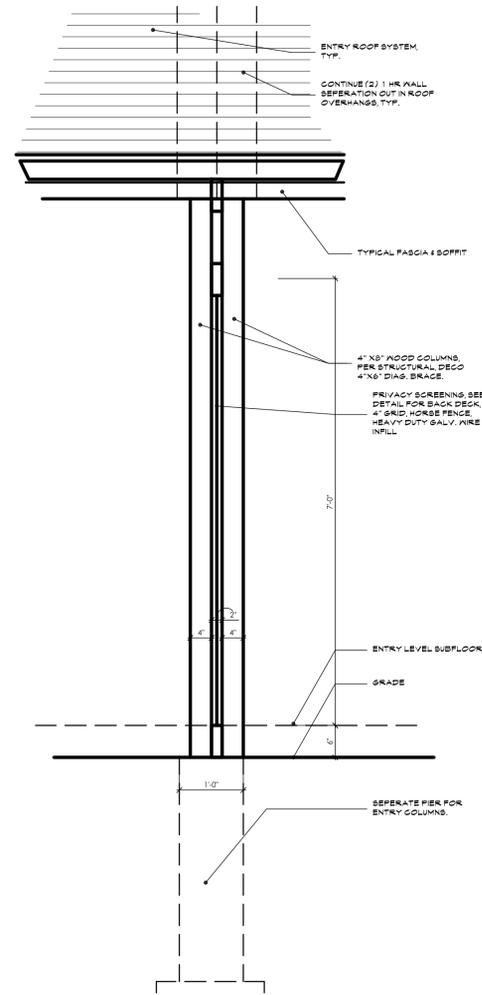
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970.328.3900 WWW.SSTAAK.COM

A4.2

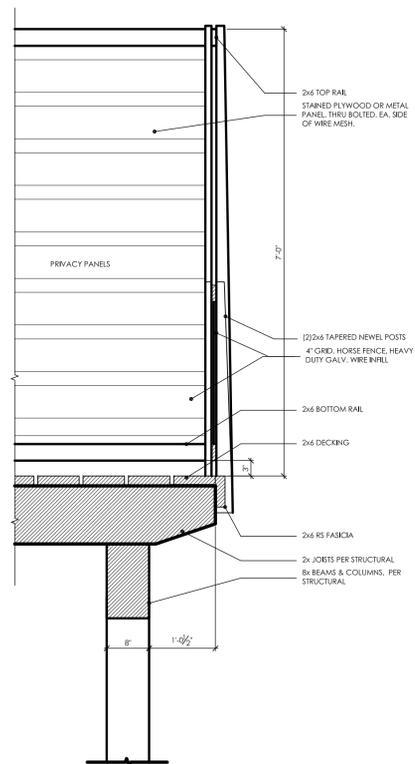
4 PLEX  
SECTIONS



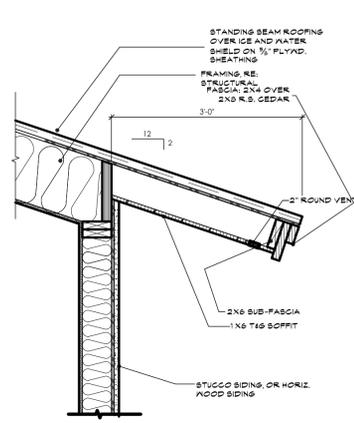
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A4.1 SCALE: 1/4" = 1'-0"



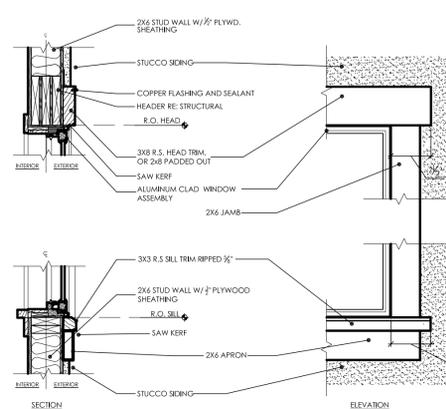
7 BUILDING DETAIL  
A5.1 SCALE: 3/4" = 1'-0"



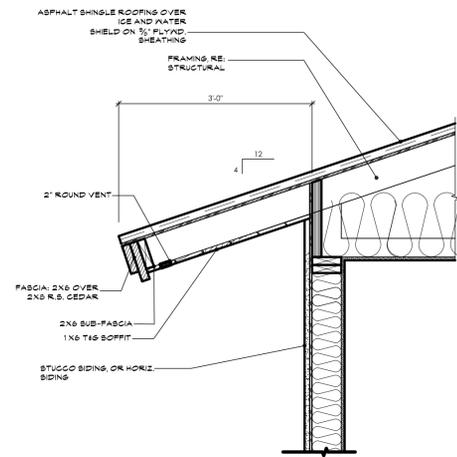
8 BUILDING DETAIL  
A5.1 SCALE: 3/4" = 1'-0"



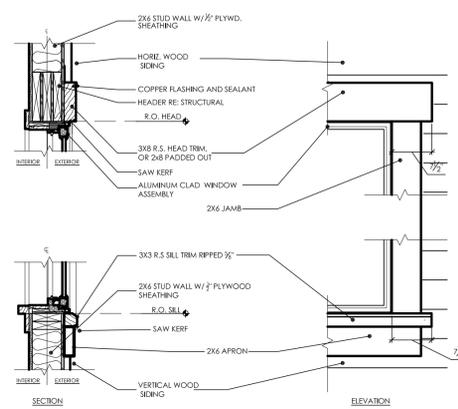
1 BUILDING DETAIL  
A5.1 SCALE: 3/4" = 1'-0"



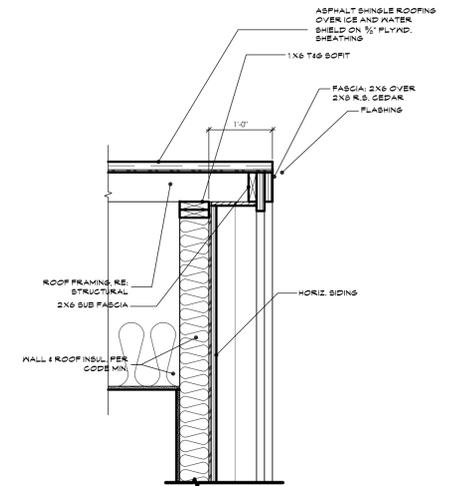
6 BUILDING DETAIL  
A5.1 SCALE: 3/4" = 1'-0"



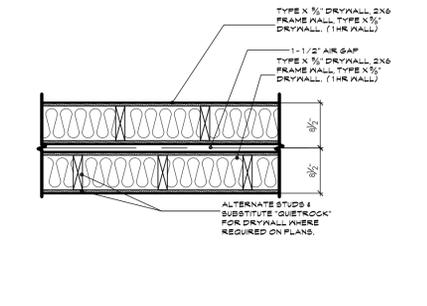
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A5.1 SCALE: 3/4" = 1'-0"



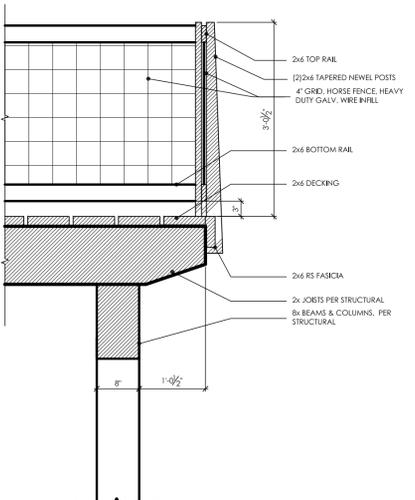
5 BUILDING DETAIL  
A5.1 SCALE: 3/4" = 1'-0"



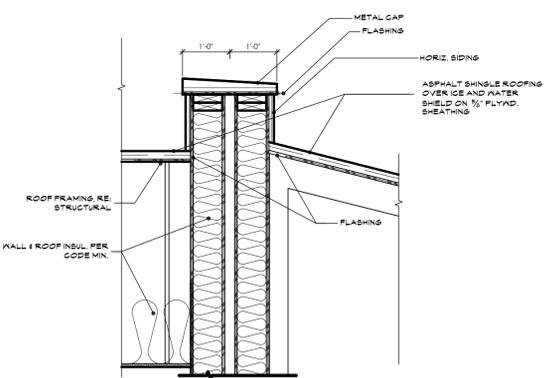
3 BUILDING DETAIL  
A5.1 SCALE: 3/4" = 1'-0"



4 BUILDING DETAIL  
A5.1 SCALE: 3/4" = 1'-0"



9 BUILDING DETAIL  
A5.1 SCALE: 3/4" = 1'-0"



10 BUILDING DETAIL  
A5.1 SCALE: 3/4" = 1'-0"

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# CREEKSIDE LOFTS - EAGLE, CO.



SINGLE FAMILY RESIDENCE

## OWNER

**Crekside Lofts**  
Eagle Ranch Loft LLC

Red Mountain Land  
232 W. Meadow Dr. Vail, Co. 81657  
Eeves@hotmail.com  
970.331.8617

## ARCHITECT

SCOTT S. TURNIPSEED AIA  
ARCHITECTURE, CONSTRUCTION,  
& INTERIOR DESIGN  
1143 CAPITOL STREET, SUITE 211  
P.O. BOX 3388  
EAGLE, COLORADO 81631  
(970) 328-3900

## GENERAL CONTRACTOR/ INTERIOR DESIGN

### DAVE DANTAS

DW Dantas Construction, LLC  
Phone 970.376.6111

www.DWDantas.com

## CIVIL ENGINEERING

ALPINE ENGINEERING INC.

EDWARDS BUSINESS CENTER  
P.O. BOX 97  
EDWARDS, COLORADO 81632  
970-926-3373

## LANDSCAPE ARCHITECT

DENNIS ANDERSON  
PO BOX 1387  
Edwards, Co. 81632  
970-390-3745

## SURVEYOR

ARCHIBEQUE LAND CONSULTING, LLC  
PO BOX 3893  
EAGLE, CO. 81631  
970-328-6020  
ted@prolandsurvey.com

## STRUCTURAL ENGINEER

ANDERSON STRUCTURAL  
ENGINEERING INC.  
LONDON ANDERSON  
970-984-0320

## DESIGN REVIEW BOARD

NA

## TOWN OF EAGLE BUILDING DEPARTMENT

Building Department  
Bob Kohrmann, Building Official  
inspector@townofeagle.org  
970-328-9657

## DRAWING INDEX

ARCHITECTURAL  
A0.0 COVER SHEET  
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A2.2 MAIN LEVEL FLOOR PLAN  
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A4.2 BUILDING SECTIONS  
A5.1 BUILDING DETAILS ARCHITECTURAL

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S1.1 FOUNDATION LOWER LEVEL PLAN  
S1.2 FRAMING PLAN MAIN LEVEL  
S1.3 FRAMING PLAN ROOF  
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S5.3 SECTIONS AND DETAILS  
S5.4 SECTIONS AND DETAILS

## GROSS FLOOR AREAS SUMMARY:

OVERALL SQUARE FOOTAGE	
LOWER LEVEL	1,047 FIN. S.F.
MAIN LEVEL	1,110 FIN. S.F.
EXT. DECK	278 S.F.
GARAGE UNFIN.	509 UNFIN. S.F.
UPPER LEVEL	886 FIN. S.F.
<b>FINISHED S.F. TOTAL</b>	<b>3,043 FIN. S.F.</b>
UNFINISHED S.F. TOTAL	509 UNFIN. S.F.
EXTERIOR DECK S.F. TOTAL	278 S.F.

## EXTERIOR DOWNLIGHT

**\* FINAL FIXTURE PER OWNER**

GUIDELINES PER TOWN OF EAGLE  
DEVELOPMENT PLAN

## PROJECT SUMMARY:

NEW BUILDING : SINGLE FAMILY RESIDENTIAL  
OCCUPANCY GROUP: R-3  
CONSTRUCTION TYPE : V  
NUMBER OF STORIES : TWO  
BUILDING HEIGHT : 35'-0" MAX  
ZONING : RESIDENTIAL  
LOT AREA : 0.535 ACRES  
SETBACKS: BUILDING ENVELOPE SHOWN  
PARKING : 2 INSIDE, 2 OUTSIDE

TURNIPSEED

ARCHITECTURE  
CONSTRUCTION  
INTERIOR DESIGN

SINCE 1995

CREEKSIDE LOFTS  
SINGLE FAMILY RESIDENCE  
725 PRINCE ALLEY  
EAGLE, COLORADO 81631

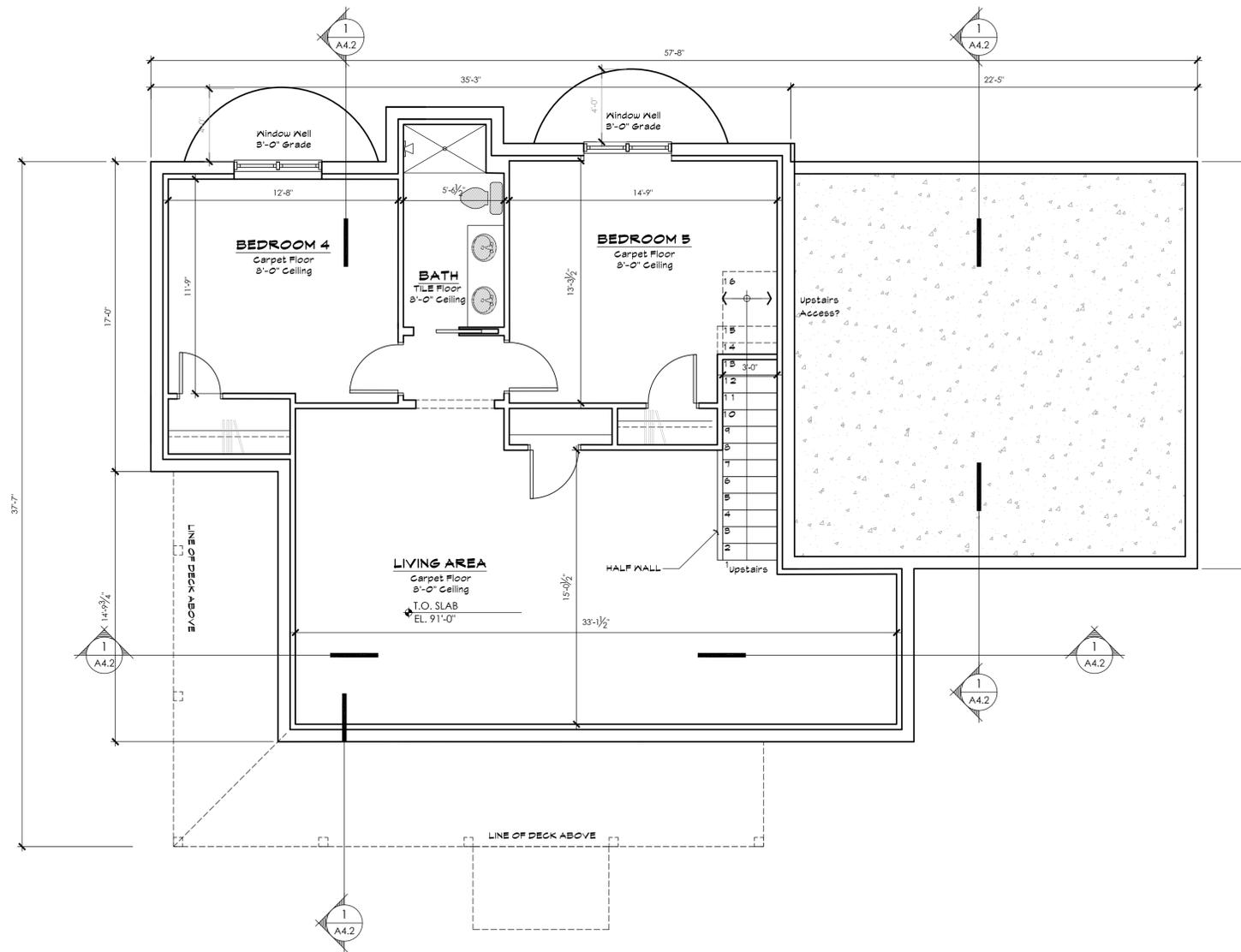
ISSUE:	DATE:
CLIENT REVIEW	2.15.2016
CLIENT REVIEW	3.4.2016
CLIENT REVIEW	3.28.2016

PRE-ENGINEERING SET: JUNE 2016

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A0.0

SINGLE FAMILY  
COVER SHEET



1  
A2.1

**LOWER FLOOR PLAN**

SCALE: 1/4" = 1'-0"

NORTH

SQUARE FOOTAGE CALC.:  
1,047 S.F. FINISHED



**CREEKSIDE LOFTS**  
SINGLE FAMILY RESIDENCE  
725 PRINCE ALLEY  
EAGLE, COLORADO 81631

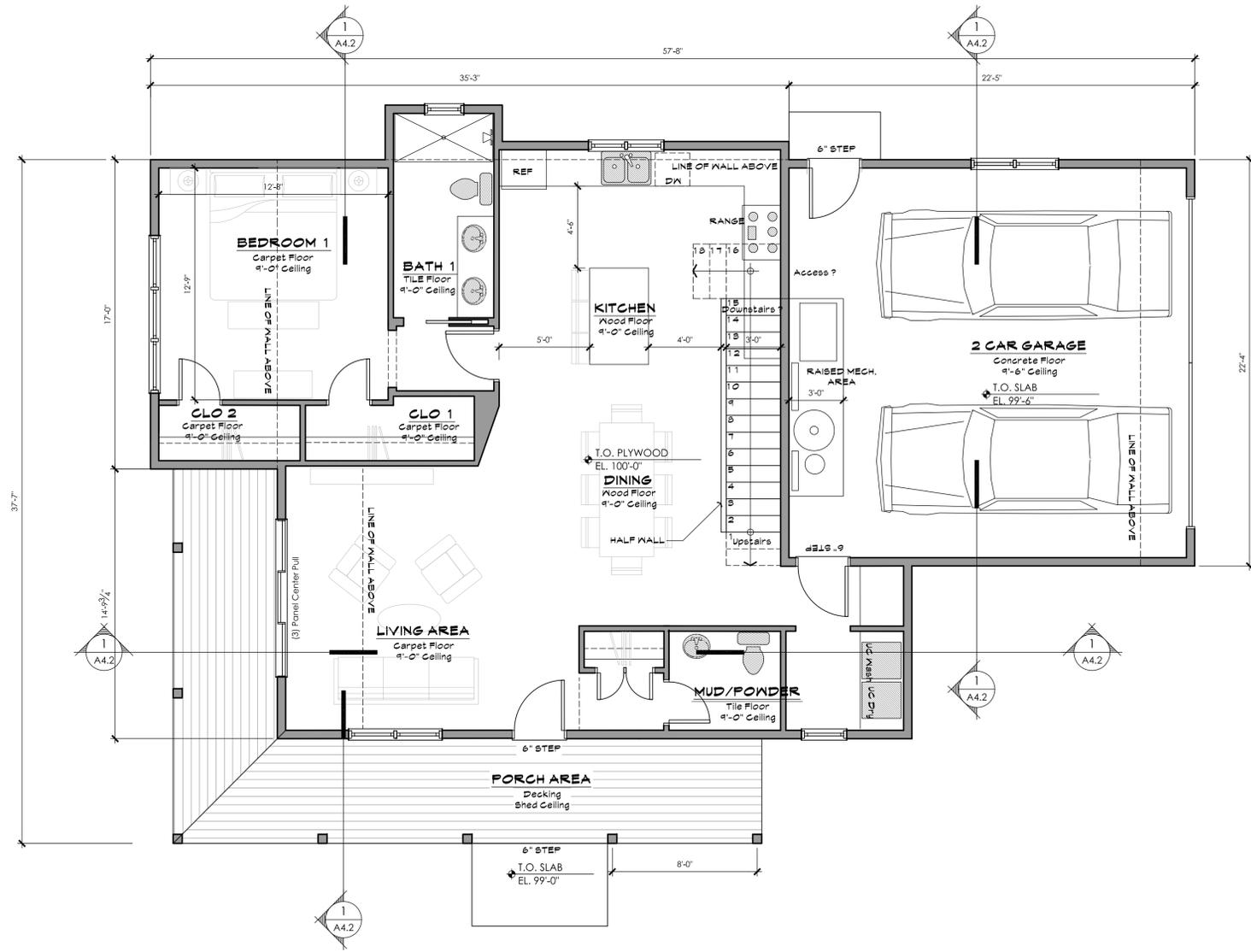
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**A2.1**  
LOWER  
FLOOR PLAN

CREEKSIDE LOFTS  
SINGLE FAMILY RESIDENCE  
725 PRINCE ALLEY  
EAGLE, COLORADO 81631



PRE-ENGINEERING SET: JUNE 2016

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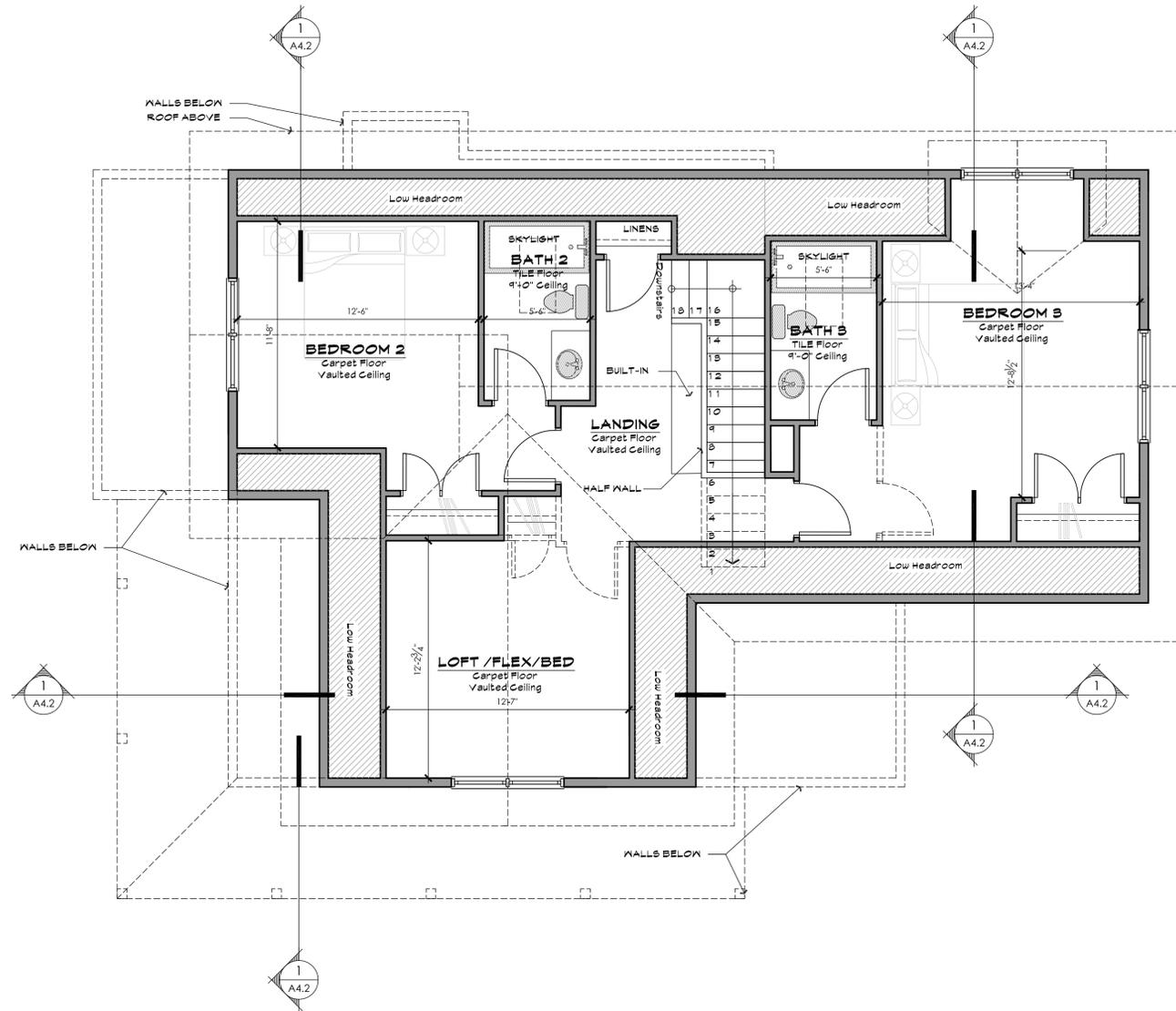
**1**  
A2.2 **MAIN FLOOR PLAN**  
SCALE: 1/4" = 1'-0"  
NORTH

SQUARE FOOTAGE CALC.:  
1,110 S.F. FINISHED  
509 S.F. UN-FIN GARAGE

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**A2.2**  
MAIN  
FLOOR PLAN

CREEKSIDE LOFTS  
SINGLE FAMILY RESIDENCE  
725 PRINCE ALLEY  
EAGLE, COLORADO 81631



1  
A2.3

UPPER FLOOR PLAN

SCALE: 1/4" = 1'-0"

NORTH

SQUARE FOOTAGE CALC.:  
886 S.F. FINISHED

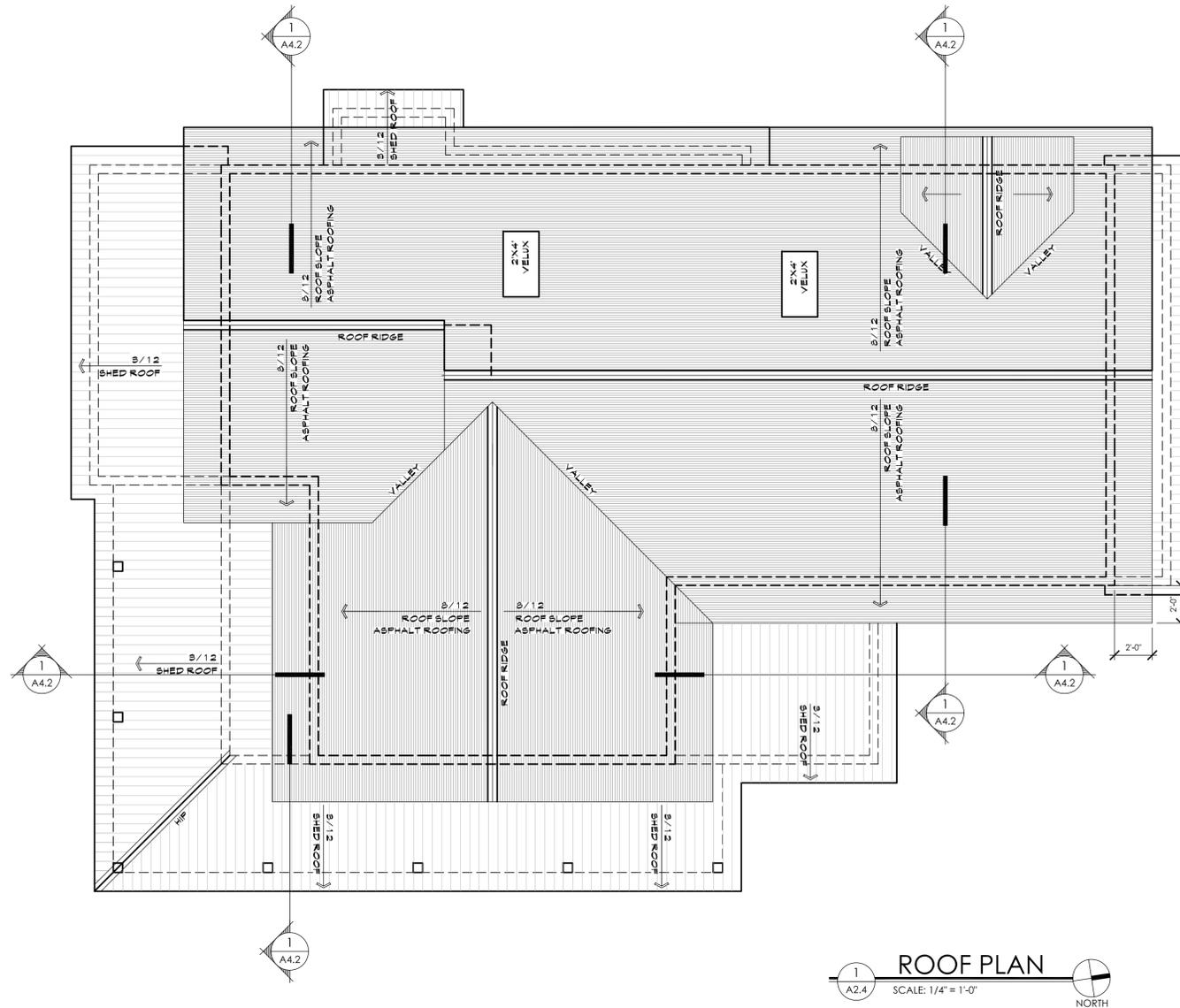
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A2.3

UPPER  
FLOOR PLAN



1  
A2.4 ROOF PLAN  
SCALE: 1/4" = 1'-0"  
NORTH

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A2.4  
ROOF  
PLAN



1  
A3.1 FRONT/EAST ELEVATION  
SCALE: 1/4" = 1'-0"



2  
A3.1 SIDE/SOUTH ELEVATION  
SCALE: 1/4" = 1'-0"

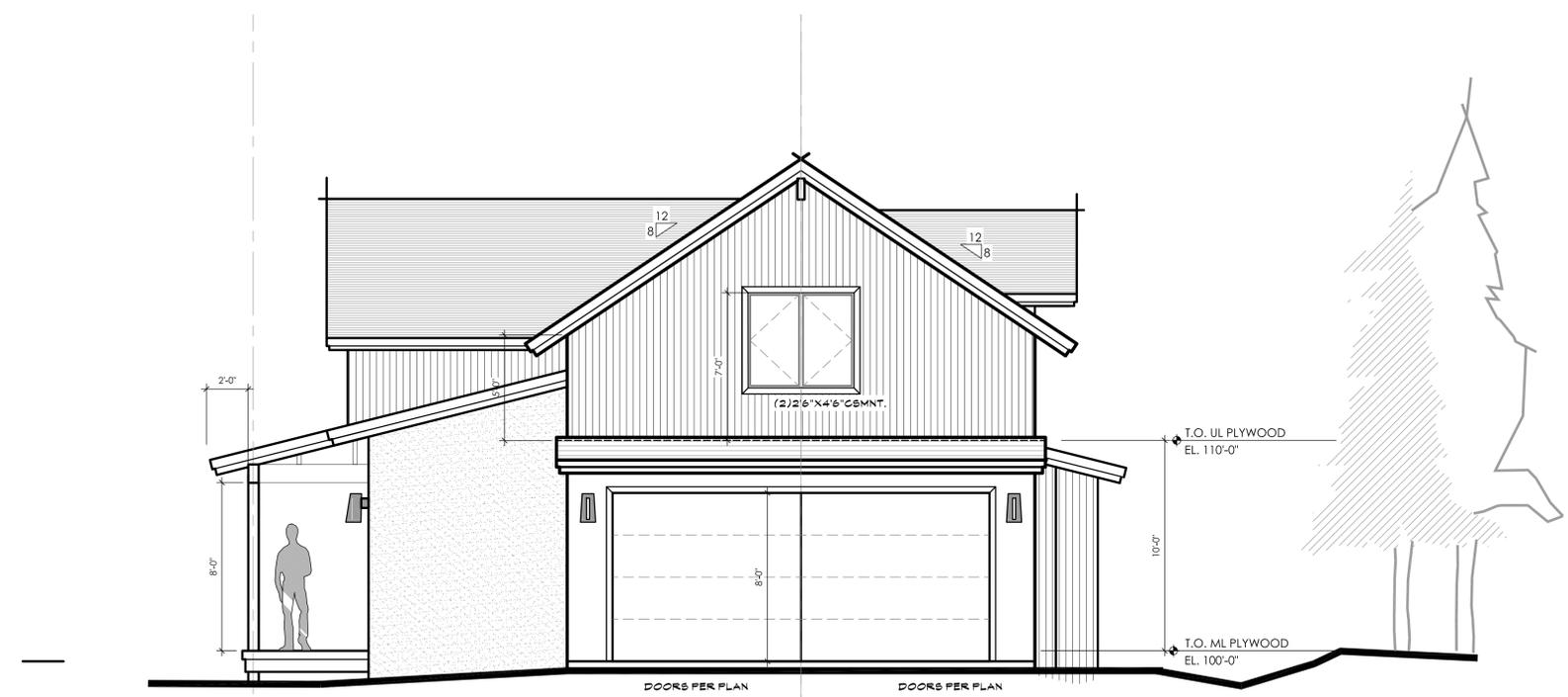
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1  
A3.2 BACK/WEST ELEVATION  
SCALE: 1/4" = 1'-0"

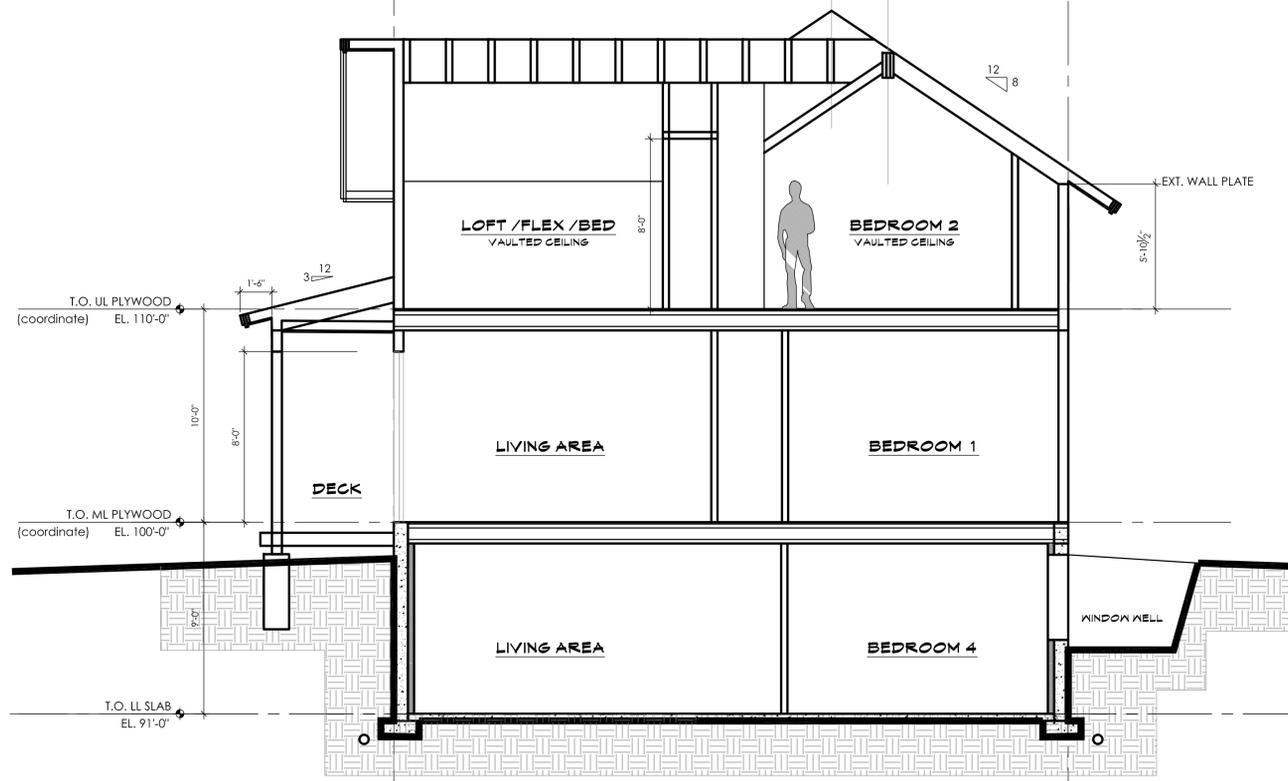


2  
A3.2 SIDE/NORTH ELEVATION  
SCALE: 1/4" = 1'-0"

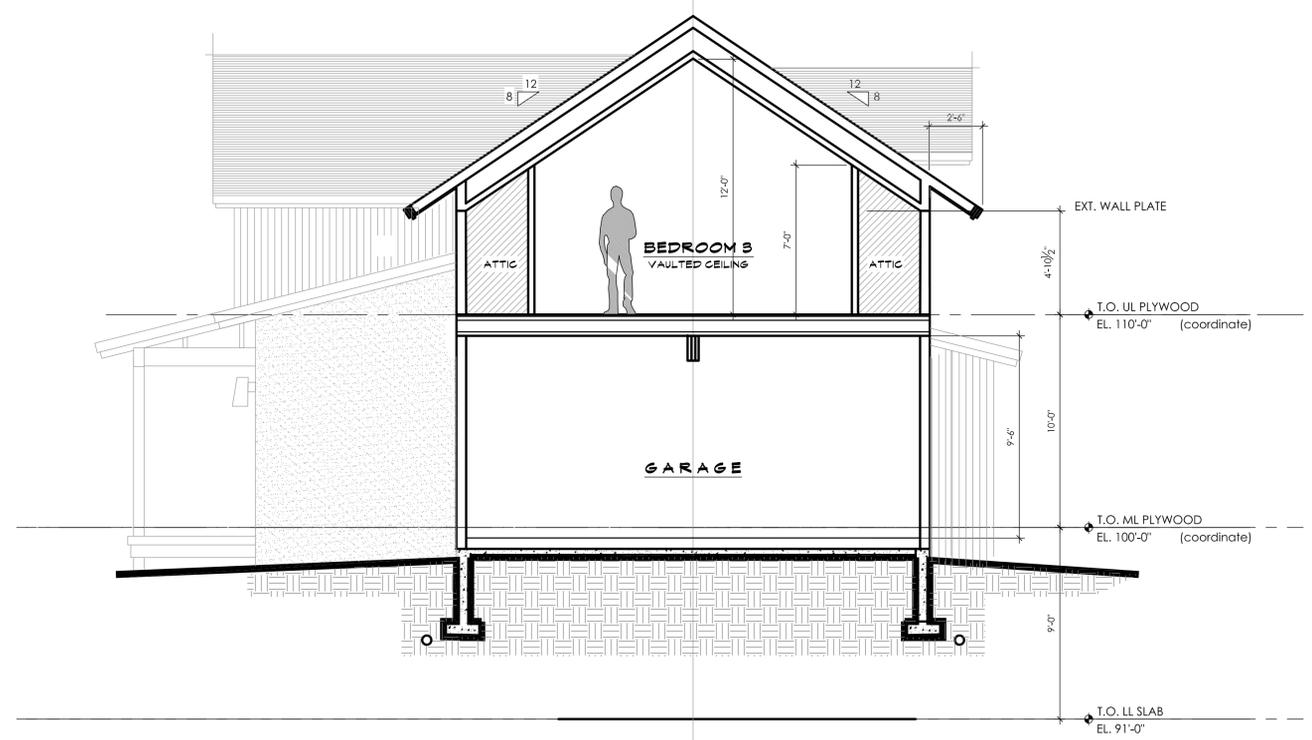
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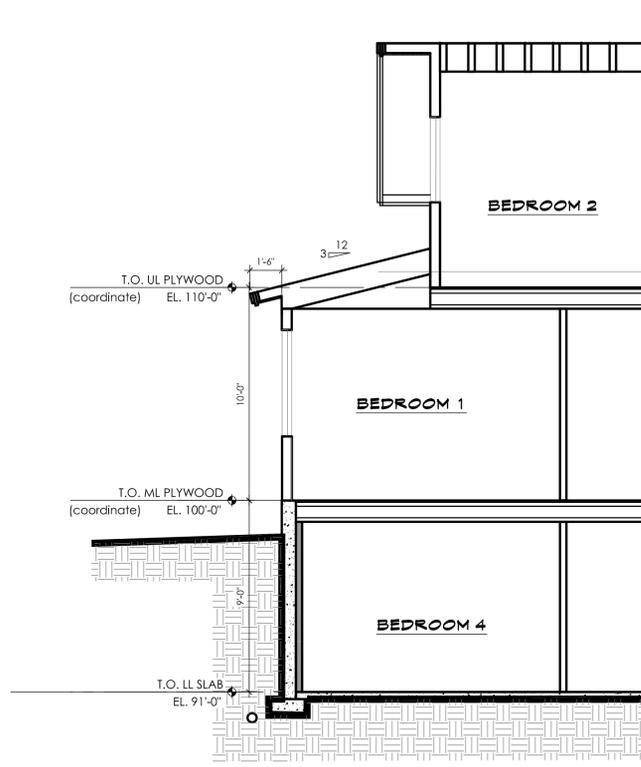




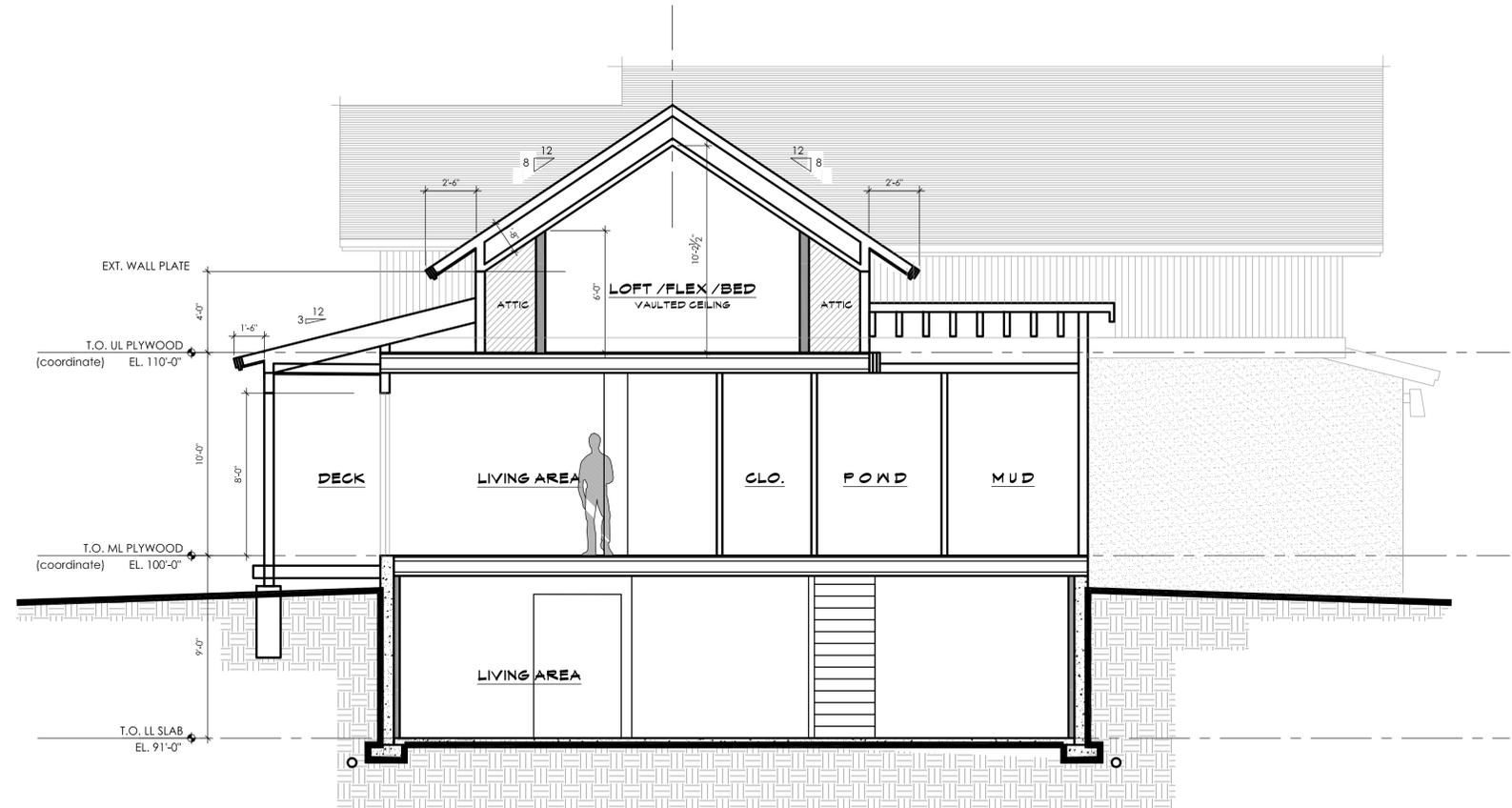
**1**  
A4.1 **BUILDING SECTION 1**  
SCALE: 1/4" = 1'-0"



**2**  
A4.1 **BUILDING SECTION 2**  
SCALE: 1/4" = 1'-0"



**4**  
A4.1 **BUILDING SECTION 4**  
SCALE: 1/4" = 1'-0"



**3**  
A4.1 **BUILDING SECTION 3**  
SCALE: 1/4" = 1'-0"



**CREEKSIDE LOFTS**  
SINGLE FAMILY RESIDENCE  
725 PRINCE ALLEY  
EAGLE, COLORADO 81631

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**A4.1**  
SINGLE FAMILY  
SECTIONS

# CREEKSIDE EAGLE, COLORADO DEVELOPMENT PERMIT JULY 2016

PRELIMINARY PLAN  
July 21, 2016  
NOT FOR CONSTRUCTION

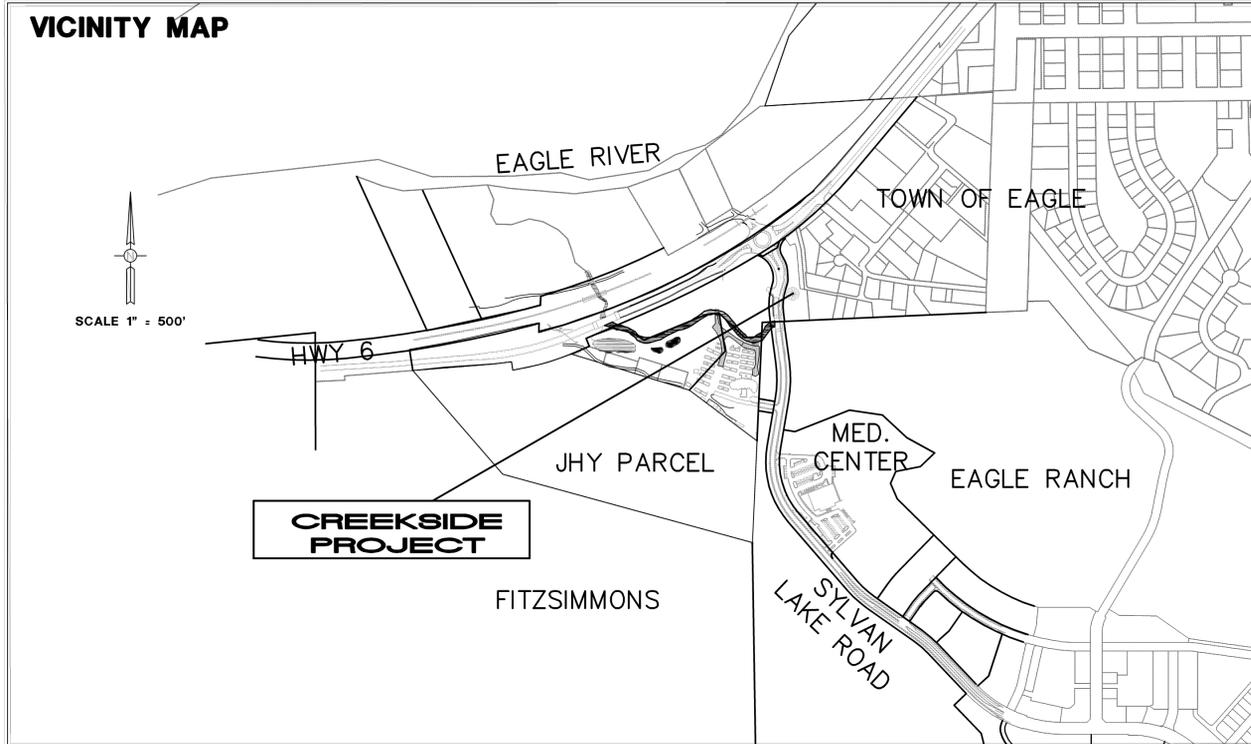
## GENERAL NOTES

- The Contractor shall notify Alpine Engineering, Inc., Owner and Town of Eagle Engineering Dept. at least 48 hours prior to any construction. The Contractor shall coordinate all work with Alpine Engineering, Inc. and Owner.
- Alpine Engineering, Inc., assumes no responsibility for utility locations. It is the Contractor's responsibility to field verify the location of all utilities prior to commencement of any construction.
- The Contractor shall conform to all Town of Eagle rules, regulations and stipulations while accessing through or working in the Town.
- The Contractor shall take all appropriate precautions to significantly reduce any potential pollution caused by his activities, including vehicle fueling, storage of fertilizers or chemicals, etc. The Contractor shall have identified procedures for handling potential pollutants and have identified spill prevention and response procedures prior to any activities at the project site.
- The Contractor shall keep 2 sets of contract drawings marked up to fully indicate as-built conditions. The drawings shall be provided to the Owner and Alpine Engineering, Inc. upon completion of this work. Contractor is to provide at least three ties from physical monuments to all fittings, valves, hydrants, curb stops, air vac valves, pvs, manholes, and services. The Town regulations require a description of all materials and appurtenances to be included in the asbuilts.
- The Contractor shall maintain traffic at all times to the satisfaction of the Owner and the Town of Eagle. The Contractor shall minimize traffic disruptions and provide adequate safety precautions to ensure public safety.
- Safety is the responsibility of the Contractor. The Engineer is not responsible for safety in, on, or about the project site, nor for compliance by the appropriate party with any regulations relating hereto.
- It is the Contractor's responsibility to obtain (and conform to) all proper construction permits including a road cut permit for work within the public right of way.
- The Owner will designate staging areas.
- The Contractor shall minimize all off site tracking. All soil tracked off site shall be immediately cleaned up to the satisfaction of the Town of Eagle, CDOT and The Owner.
- If any groundwater is encountered the Contractor shall contact Owner, Alpine Engineering, Inc., and the Project Geotechnical Engineer immediately.
- The Contractor shall protect and preserve all trees, bushes, shrubs, and ground cover in a manner acceptable to the Owner.
- Observations of the work in progress and on-site visits are not to be construed as a guarantee or warranty by the Engineer of the Contractor's contractual responsibilities.
- All materials and workmanship shall be subject to inspection by the Town and/or their representatives, and Alpine Engineering, Inc. The Town reserves the right to accept or reject any such materials and workmanship that do not conform to the approved drawings and/or district standards or specifications.
- All construction shall conform to town standards and specifications and be subject to construction observation by their representatives. Copies of town standards must be obtained by the Contractor. Contractor shall have one (1) copy of the plans and one (1) copy of the appropriate specifications on the job site at all times.
- Street closures shall be kept to a minimum length of time. There shall be no material storage on Town Streets or property.
- It is the Contractor's responsibility to prepare and submit a Traffic Control Plan, as a requirement of the Town of Eagle's Road Cut Permit, and submit to the Town's Engineer prior to construction. The plan shall show existing and proposed traffic signs, existing and proposed crosswalk striping, construction limits, fencing and access, and vehicle tracking control measures.
- No soils report was available for this Project. Alpine Engineering, Inc. assumes no responsibilities for any risks associated with not adhering to any recommendations that typically may be contained in a soils report. If a soils report is prepared these plans will be revised to reflect any recommendations that are contained therein.
- Topographic information was provided by Archibque Land Consultants. (original march 16, 2012, job #2113, additional surveys 2/10/16 and 3/30/16)

## UTILITY NOTES

- The Contractor is warned that conflicts with existing utility services may exist. Prior to beginning any construction, the Contractor shall contact all appropriate utility companies for line locations. The Contractor shall then locate all utilities (including depth). Any conflicts with the proposed construction shall be brought to the attention of the Engineer so that line or grade changes can be made to eliminate any conflicts with these existing utilities. All existing utilities shall be protected from damage by the Contractor. Damaged utilities shall be repaired by the Contractor at no expense to the Owner.
- All construction activities and excavating for utility trenches shall meet OSHA requirements.
- All Water System and Sanitary Sewer System construction shall conform to Town of Eagle standard specifications.
- All water mains and services shall have a minimum cover of 6 feet.
- Provide 10 feet minimum horizontal separation between water and sewer mains and services or encase per Colorado Department of Health requirements.
- The Contractor shall mark all service line ends as shown on the details.
- The Contractor shall provide thrust blocks and megagul restrains at all bends and tees. Angles of water line bends are shown only as a guideline; all bends have not been identified or dimensioned, and additional bends may be required during construction. Vertical bends are not shown but will be required to maintain minimum cover.
- Water service lines to be Type K Copper with size per plan, a curb stop shall be installed for each service at the property line or edge of easement or as shown on the plan.
- The Contractor shall verify existing pipe or manhole inverts at tie in points prior to construction.
- The Contractor shall lay 10 gauge insulated copper tracer wire along the water lines, (see detail sheet), and ductile iron water pipe shall be cast-welded charge size of CA-45. The Contractor shall test the pipe and the tracer wire to confirm conductivity prior to acceptance. The Contractor shall field install polyethylene wrap on all water lines (see detail sheet).
- The Contractor shall test all water mains in accordance with Town standard specifications, tests to include pressure test, chlorine test, bacteria test and leakage test.
- The Contractor shall attend a mandatory preconstruction meeting with the Town of Eagle Engineering Dept. and Alpine Engineering, Inc., prior to the start of construction.
- Sewer service lines to be 4" PVC unless otherwise indicated.
- All sewer lines shall have a minimum of 4.5 feet of cover.
- All sewer pipe dimensions noted are inside edge of manhole to inside edge of manhole.
- The Contractor shall test all sewer mains in accordance with Town standard specifications, tests to include low pressure air test, manhole vacuum test, and television test.
- The Contractor shall have water running in sewer lines during the t.v. recording process and cut sheet format shall conform to Town standard specifications.
- The Contractor is responsible for coordinating, conducting and scheduling for the testing of all utilities and obtaining approval and acceptance from all utilities.
- To maintain adequate skin friction on existing water mains during construction, the Contractor shall valve off stubs and deplete the pressure prior to excavation for extending water main stubs. The Contractor shall also go 10 feet minimum from the main cross tee before beginning the excavation trench. The excavation trench shall be a maximum of 1.5 : 1 slope.
- The Contractor may need to perform hydraulic testing and disinfection of existing waterlines as part of the testing and acceptance procedure for the proposed waterline.
- Compaction of all trenches and bedding must be attained as per specifications.
- PHONE/CATV: All phone and cable TV conduits, pedestals and appurtenances shall be installed in accordance with Century Link's design specifications and shall be reviewed and accepted by Century Tel.
- If Water Mains cross within 18" (vertical) of sewer services, or if water mains are beneath sewer services, the contractor shall use C900 pipe for the sewer services, and the water and pipe sticks shall be centered on each other.

## VICINITY MAP



## GRADING AND DRAINAGE NOTES

- All work performed for this project including storm drains and culverts shall be constructed in accordance with the Town of Eagle standards and the project Technical Specifications.
- All drain pipes shall be installed with the required bedding.
- Elevations shown are at pipe invert unless otherwise shown.
- All standard storm drain structures are subject to modification by the Engineer to meet field requirements.
- Where any part of the storm drain system is located in a fill section, provide fill material compacted to 95% AASHTO 199 density from the original undisturbed ground up to structure bottom slabs and pipe bedding.
- Inlet boxes to be oversized to accommodate pipe size where necessary. Provide traffic load rated inlet box and top slab to accommodate grate and frame for oversized boxes.
- All Reinforced Concrete Pipe Joints (RCP) shall utilize Type R-4 Rubber Gasket Joints which shall be in accordance with AASHTO M198 and ASTM C443 (standard specifications for joints for circular concrete pipe using rubber gaskets).
- Pipe lengths indicated are slope lengths measured along the centerline of pipe from inside face of box to inside face of box.
- Curb and Gutters shall be installed in such a manner as to insure positive drainage in all areas, as shown.
- Direct downspout drainage away from building foundation or to storm per Geotechnical Engineer.
- Ditch revegetation and ditch protective linings will require field adjustment during construction to account for varying soil conditions. Revegetation and linings will be evaluated after ditches are constructed.
- Grading adjacent to buildings shall be at a slope away from the building of 6" in 10' per the geotechnical report.
- The Contractor shall maintain existing drainage channels, culverts, and appurtenances during construction as necessary to protect roads and property.
- The Contractor shall remove all topsoil and man placed fill prior to commencement of construction.
- The ground surface surrounding the exterior of buildings shall be graded to slope away from the foundations in all directions.
- Proof roll all hardscape areas prior to installing basecourse and pavement, per Geotechnical Report.

## SHEET INDEX

COVER SHEET	C.1
GRADING PLAN	C.2.1-C.2.2
UTILITY PLAN	C.3.1
DETAILS	C.4.1-C.4.3

## PROJECT CONTACTS

DEVELOPER	ERIC EVES	(970) 331-8617
CONTRACTOR, DW DANTAS CONSTRUCTION	DAVE DANTAS	(970) 376-6111
TOWN OF EAGLE, ENGINEERING	KEVIN SHARKEY	(970) 328-8678
TOWN OF EAGLE, PUBLIC WORKS	DUSTY WALLS	(970) 328-8678
BLACK HILLS GAS	TODD ELLSWORTH	(970) 309-2722
HOLY CROSS ENERGY (ELECTRIC)	KEITH HERNANDEZ	(970) 947-5439
CENTURY LINK (PHONE/CATV)	JASON SHARPE	(970) 328-8288
CIVIL ENGINEER, ALPINE ENGINEERING INC.	GARY BROOKS	(970) 926-3373
LAND SURVEYOR, ARCHIBQUE LAND CONSULTING	TED ARCHIBQUE	(970) 328-6020

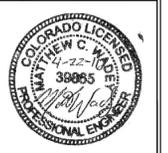
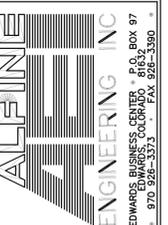
## HOLY CROSS ENERGY CONSTRUCTION SPECIFICATIONS

### I. TRENCH AND CONDUIT

- The developer or contractor will contact Holy Cross Energy before conduit and vault installation begins to schedule a pre-construction meeting with the project inspector.
- Changes in power facility construction from that shown on the project plans will not be made without advance approval from the Holy Cross Energy inspector.
- Holy Cross Energy material shall not be moved from the project to which it was assigned without the advance approval of the inspector and the completion of necessary paperwork. Holy Cross Energy material shall not be installed for any use other than construction of power facilities.
- All roads will be built to subgrade and all drainages will be constructed to grade before any vaults or conduits are installed.
- All trench will be excavated deep enough to ensure that the top of installed power facilities will be 48" below final grade. Special care must be taken to insure that the top of conduits will be 48" below the bottom of drainage ditches and all other low areas.
- Trench will be as straight as possible between vaults and shall have a smooth bottom free from low and high spots. Six inches of road base will be placed the entire length of the trench and well compacted prior to conduit installation. When placed in the trench, the conduit shall be in continuous contact with the compacted road base with no hold down weight added. Twelve inches of road base, as measured from the top of the conduit, will be placed on the conduit and well compacted prior to returning any native backfill to the trench. Large rocks shall not be placed directly on the road base layer. Care must be taken to avoid conduit damage during backfill and compaction; conduits found to be unusable at the time of power cable installation will be repaired by the developer or contractor before power can be made available.
- Power facilities to be placed parallel to deeper utilities will have a horizontal separation from the deeper utility greater than the depth of such utility below final grade less four feet (see attached drawing). When crossing a deeper utility is unavoidable, the crossing will be made as close to perpendicular as possible.
- Power line conduits will be installed with a minimum separation of 12" from all other new or existing underground utility lines. Wherever possible, this separation will be horizontal. The power line separation from plastic gas lines will be greater than this minimum wherever practicable. Power line conduits will be located deeper in the trench than the facilities of all other utilities unless the inspector grants a waiver prior to the start of construction.
- Backfill and compaction above the road base layer will be as required by the governmental entity or other party having jurisdiction.
- Conduit bell ends will not be allowed in the vaults. Holy Cross Energy will supply factory couplers, 90°, 45°, and 22 1/2° elbows as needed for job. Non-factory bends and heated bends will not be allowed. No more than two 90° elbows will be allowed in a conduit run of 500 feet. The conduit shall run straight between factory bends. Allowed bends must be further than 5' from a vault. Factory elbows supplied must be used intact; they cannot be cut to make a lesser bend. Bells will not be cut off conduit sticks to use as couplers. Holy Cross Energy elbows and pipe will be used only for the power facility installation.
- The conduit will not be backfilled without the Holy Cross Energy inspector seeing all joints unless the inspector gives prior permission. All joints shall be completely sealed to the line marked on the male end of the conduit after sufficient glue is applied to both conduits being joined, even in areas where the trench cannot be excavated completely straight. Glue in the joint shall be allowed to completely dry prior to any stress being applied to the conduit on either side of the joint. Trench backfilled without the inspector viewing each joint or giving prior permission to cover the conduit will be re-excavated to expose the conduit, or the contractor will put a camera through each conduit in the span which was prematurely backfilled to verify the joint seating and conduit condition. The camera verification will be witnessed by the Holy Cross Energy inspector.
- Individual conduits shall enter each vault at a consistent location. There is to be no crossing of conduits in the trench.
- Both ends of a conduit run shall be securely plugged at the time of installation with Holy Cross Energy supplied material. Conduit ending outside a vault shall be marked with a 4" x 4" post or other approved method.
- Red trench marking tape will be supplied by Holy Cross Energy and shall be installed 18" to 24" above the conduit during backfill.
- At completion of the job, the inspector will do a final inspection. If the job does not meet with Holy Cross Energy's specifications or the approval of inspector, service will not be provided until specifications are met.

### II. VAULTS

- Vaults shall be installed as follows:
  - Splice vaults shall be installed with the manhole lid grade being slightly above final grade of the surrounding area, except when the vault is in a roadway, the manhole lid grade shall match the grade of the finished roadway surface.
  - Splice vaults located in roads or other sloped areas will be installed so that the concrete base and lid are at the sloping area. Vaults placed in roads will not be located in areas normally traversed by vehicle wheels. The inspector must approve all vaults installed at a slope.
  - Transformer vaults and switchgear vaults will be installed with the bottom of the lid at final grade. The lid will be level.
  - Where transformer and switchgear vaults are set into hillsides or sloped cuts, the downhill side of the vault will be graded according to C above. The slope behind the vault will be laid back sufficiently to prohibit soil or rocks from sloughing onto the vault. If the slope cannot be laid back far enough, a retaining wall shall be constructed behind the vault at the direction of the inspector.
  - All vault pads will be placed on the vaults at the time of vault installation to protect the public and wildlife, unless otherwise instructed by the inspector. The holes through transformer and switchgear pads will be covered at the time of vault installation with concrete pieces supplied by Holy Cross Energy, unless otherwise instructed by the inspector.
  - Large vault pieces shall be jointed with a tar type sealant provided by Holy Cross Energy, with the exception of the vault lid, at the direction of the inspector.
- Holes knocked in vaults for conduit installation shall be as small as possible and shall be grouted closed on the outside of the vault prior to backfill.
- Conduit shall enter vaults perpendicular to the vault wall, at least 2" from any adjacent walls and at least 2" above the vault base. There shall be a minimum separation of 1" between conduits. See vault drawings.
- Conduit will extend 4" into the vault (measured from the inside wall of the vault) after backfilling is complete.
- Ground rods in vaults for underground cable installation shall be laid in the trench with the conduits. The end of the rod shall extend approximately 6" into the vault through the conduit knockout. The rod will have a 45° bend located approximately 3" from the vault end, with the bend going away from the conduits. The bent end of the rod must be far enough from the vault wall to allow crimping the grounding conductor onto the rod. The rod must be at least 2" from the conduit at its entrance into the vault. See vault drawings.
- After the vault has been set, pipes extended in and grouted and the ground rod is in place, vaults shall be swept out removing all dirt or rocks. Cleanup shall be completed to the satisfaction of the inspector prior to cable installation being scheduled.
- Pedestals for other utilities shall not be located closer than 10' to a vault on sides where transformers or switchgear will have access doors. Pedestals shall not be located closer than 5' to a vault on sides where the pad-mounted equipment will not have access doors.



**CREEKSIDE**  
EAGLE, COLORADO  
COVER

NO.	DATE	REVISIONS	BY	
			MCW	MCW
	6/28/2016	DEVELOPMENT PERMIT		
	7/20/2016	DEVELOPMENT PERMIT		

DESIGNED	GB, MW	DRAWN	GB, MW	CHECKED	MW, GB	JOB NO.	44072	DATE	3-1-2016
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**SHEET  
C.1.1**



SCALE: 1"=10'



EDWARDS BUSINESS CENTER • P.O. BOX 97  
EDWARDS, COLORADO • FAX 970.233.3990

CONTRACTOR SHALL DEVELOP A MEANS AND METHODS TO CONTROL SEDIMENT DURING CONSTRUCTION TO ASSURE THAT NO SEDIMENT IS DISCHARGED OFF-SITE.

NO SOILS REPORT PREPARED FOR THIS PROJECT. THIS INCLUDES PAVEMENT DESIGN, DRAINAGE RECOMMENDATIONS AND COMPACTION OF SOILS

GRADE TO DRAIN AWAY FROM BUILDINGS IN ALL AREAS

DIRECT DOWNSPOUTS AWAY FROM BUILDINGS AND DISCHARGE BEYOND LIMITS OF BACKFILL

GRADING SHOWN IS FINAL GRADE. CONTRACTOR TO LEAVE DIRT LOWER BY 4-6" TO ACCOMMODATE TOPSOIL PLACEMENT & LANDSCAPING.

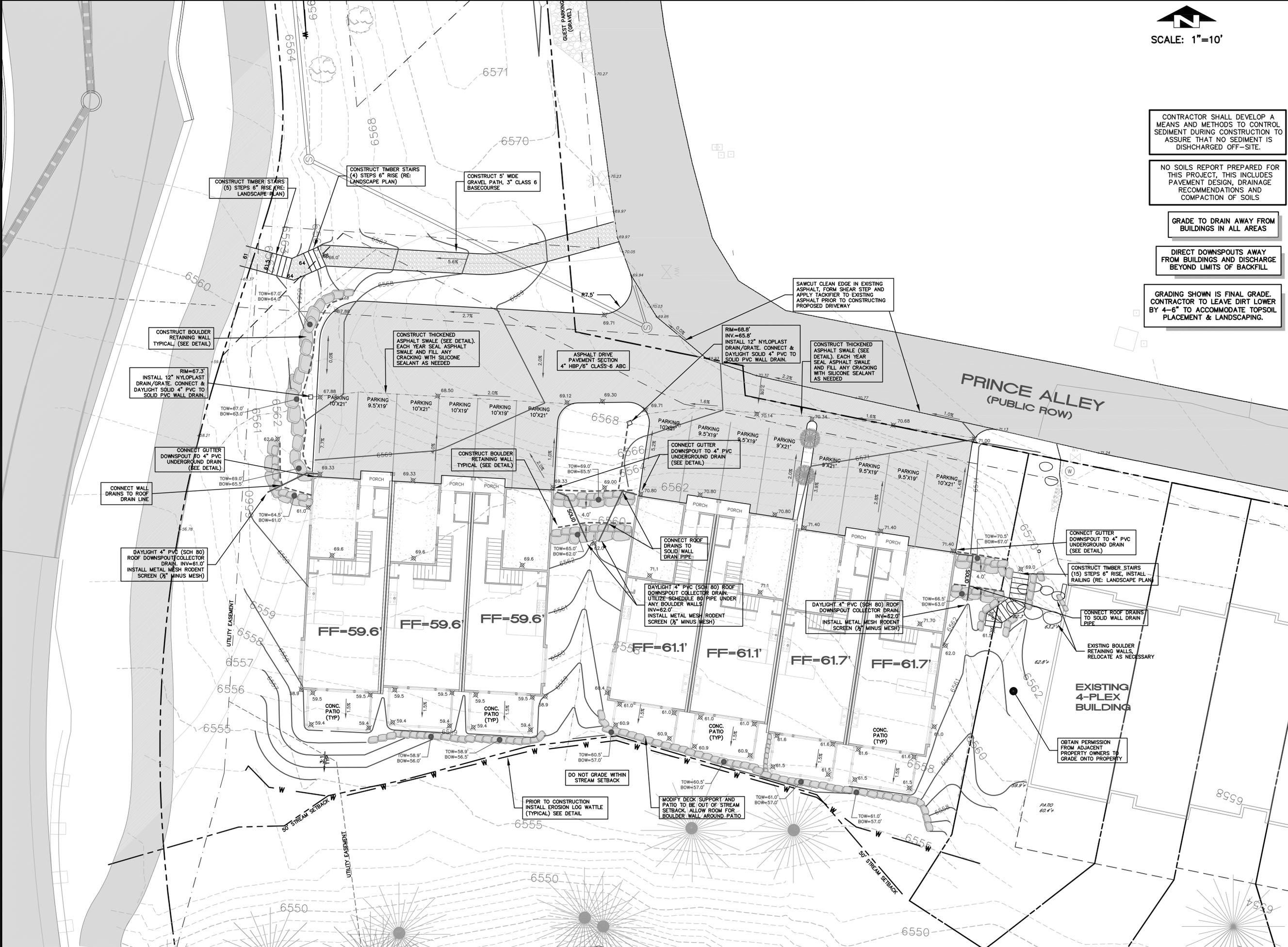
# CREEKSIDE EAGLE, COLORADO GRADING PLAN

NO.	DATE	REVISIONS	BY
	6/28/2016	DEVELOPMENT PERMIT	MCW
	7/20/2016	DEVELOPMENT PERMIT	MCW

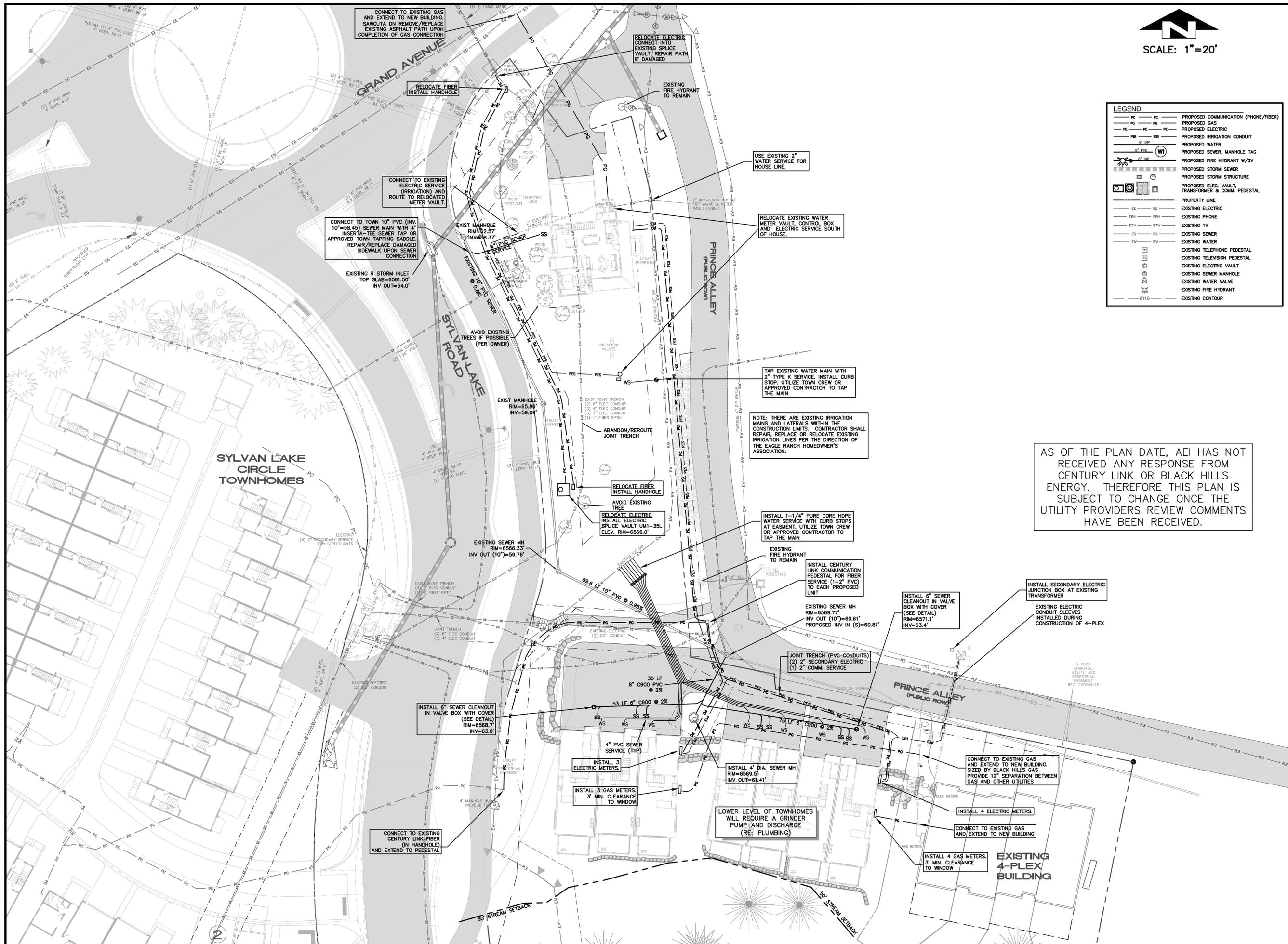
DESIGNED	MCW, GLB
DRAWN	MCW, GLB
CHECKED	KAK
JOB NO.	44072
DATE	09/18/2015

SHEET C2.1



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**LEGEND**

PC	PC	PROPOSED COMMUNICATION (PHONE/FIBER)
PG	PG	PROPOSED GAS
PE	PE	PROPOSED ELECTRIC
PW	PW	PROPOSED WATER
PIR	PIR	PROPOSED IRRIGATION CONDUIT
8" PVC	(W)	PROPOSED SEWER, MANHOLE TAG
6" PVC		PROPOSED FIRE HYDRANT W/GV
4" PVC		PROPOSED STORM SEWER
		PROPOSED STORM STRUCTURE
		PROPOSED ELEC. VAULT, TRANSFORMER & COMM. PEDESTAL
EE	EE	PROPERTY LINE
EPH	EPH	EXISTING ELECTRIC
ETV	ETV	EXISTING PHONE
ES	ES	EXISTING TV
EW	EW	EXISTING SEWER
		EXISTING WATER
		EXISTING TELEPHONE PEDESTAL
		EXISTING TELEVISION PEDESTAL
		EXISTING ELECTRIC VAULT
		EXISTING SEWER MANHOLE
		EXISTING WATER VALVE
		EXISTING FIRE HYDRANT
8110		EXISTING CONTOUR

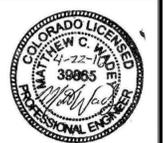
AS OF THE PLAN DATE, AEI HAS NOT RECEIVED ANY RESPONSE FROM CENTURY LINK OR BLACK HILLS ENERGY. THEREFORE THIS PLAN IS SUBJECT TO CHANGE ONCE THE UTILITY PROVIDERS REVIEW COMMENTS HAVE BEEN RECEIVED.

NOTE: THERE ARE EXISTING IRRIGATION MAINS AND LATERALS WITHIN THE CONSTRUCTION LIMITS. CONTRACTOR SHALL REPAIR, REPLACE OR RELOCATE EXISTING IRRIGATION LINES PER THE DIRECTION OF THE EAGLE RANCH HOMEOWNER'S ASSOCIATION.

NO.	DATE	REVISIONS	BY
	6/28/2016	DEVELOPMENT PERMIT	MCW
	7/20/2016	DEVELOPMENT PERMIT	MCW

DESIGNED	MCW, GLB
DRAWN	MCW, GLB
CHECKED	KAK
JOB NO.	44072
DATE	09/18/2015

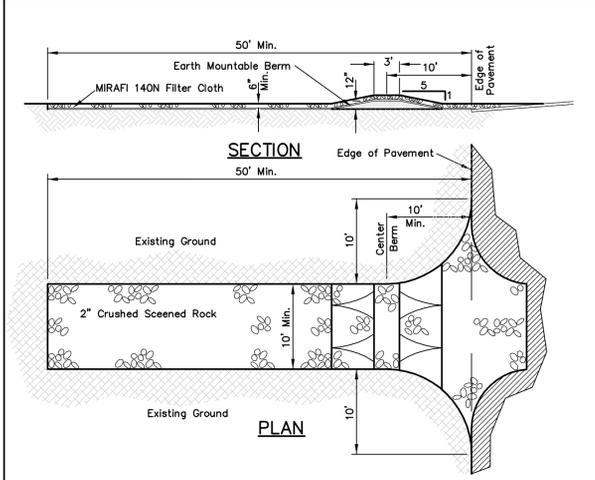
C:\Eagle\Creekside-44072\2015\dwg\MasterUtility.dwg, 7/20/2016 4:54:28 PM, Wsley



NO.	DATE	REVISIONS	BY
	6/28/2016	DEVELOPMENT PERMIT	MCW
	7/20/2016	DEVELOPMENT PERMIT	MCW

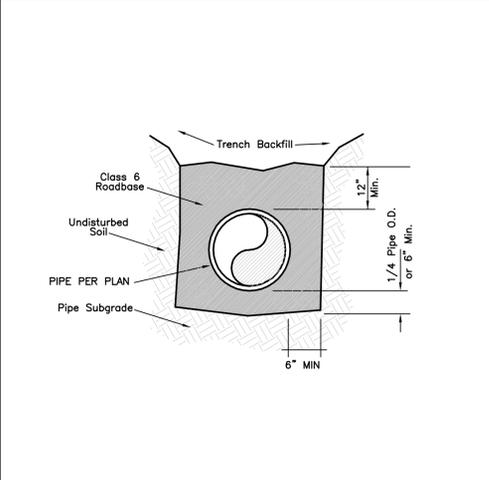
  

DESIGNED	MCW
DRAWN	MCW
CHECKED	GLB
JOB NO.	44072
DATE	3-4-2016

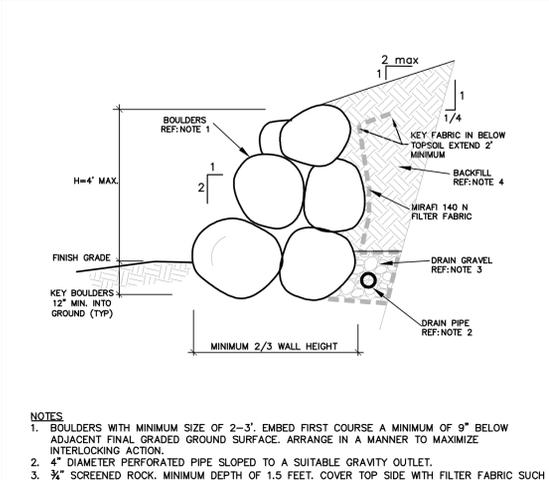


- CONSTRUCTION NOTES**
- STONE SIZE - USE 2" CRUSHED SCREENED ROCK.
  - LENGTH - AS REQUIRED, BUT NOT LESS THAN 50 FEET.
  - THICKNESS - NOT LESS THAN SIX (6) INCHES.
  - WIDTH - TEN (10) FOOT MINIMUM, BUT NOT LESS THAN THE FULL WIDTH AT POINTS WHERE INGRESS OR EGRESS OCCURS.
  - FILTER CLOTH - WILL BE PLACED OVER THE ENTIRE AREA PRIOR TO PLACING OF STONE.
  - SURFACE WATER - ALL SURFACE WATER FLOWING OR DIVERTED TOWARD CONSTRUCTION ENTRANCES SHALL BE PIPED ACROSS THE ENTRANCE. IF PIPING IS IMPRACTICAL, A MOUNTABLE BERM WITH 5:1 SLOPES WILL BE PERMITTED.
  - MAINTENANCE - THE ENTRANCE SHALL BE MAINTAINED IN A CONDITION WHICH WILL PREVENT TRACKING OR FLOWING OF SEDIMENT ONTO PUBLIC RIGHTS-OF-WAY. THIS MAY REQUIRE PERIODIC TOP DRESSING WITH ADDITIONAL STONE AS CONDITIONS DEMAND AND REPAIR AND/OR CLEANOUT OF ANY MEASURES USED TO TRAP SEDIMENT. ALL SEDIMENT SPILLED, DROPPED, WASHED OR TRACKED ONTO PUBLIC RIGHT-OF-WAY MUST BE REMOVED IMMEDIATELY. SEE SHALL REMAIN IN PLACE UNTIL PAVING OF ENTRANCE COMMENCES.
  - WASHING - WHEELS SHALL BE CLEANED TO REMOVE SEDIMENT PRIOR TO ENTRANCE ONTO PUBLIC RIGHTS-OF-WAY. WHEN WASHING IS REQUIRED, IT SHALL BE DONE ON AN AREA STABILIZED WITH STONE AND WHICH DRAINS INTO AN APPROVED SEDIMENT TRAPPING DEVICE.
  - PERIODIC INSPECTION AND NEEDED MAINTENANCE SHALL BE PROVIDED AFTER EACH RAIN.

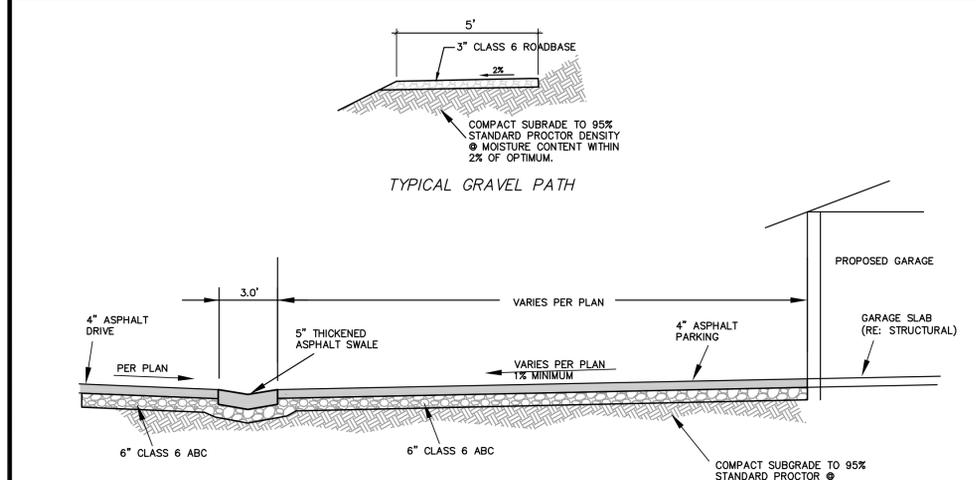
**D STABILIZED CONSTRUCTION ENTRANCE**



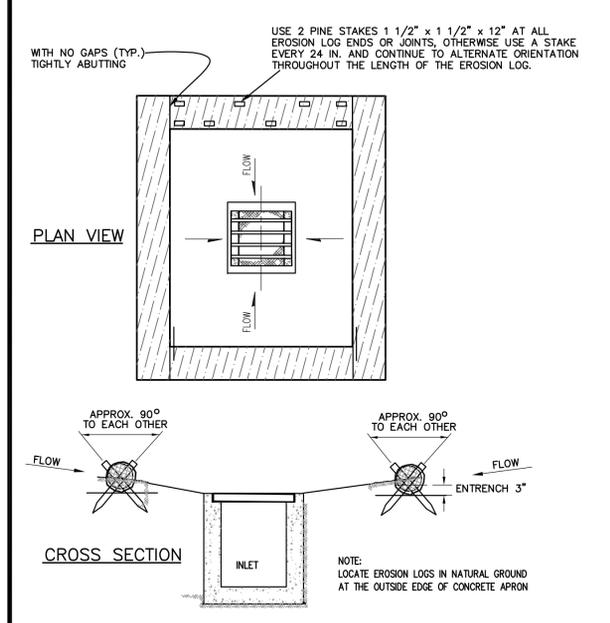
**C CULVERT / DRAIN BEDDING**



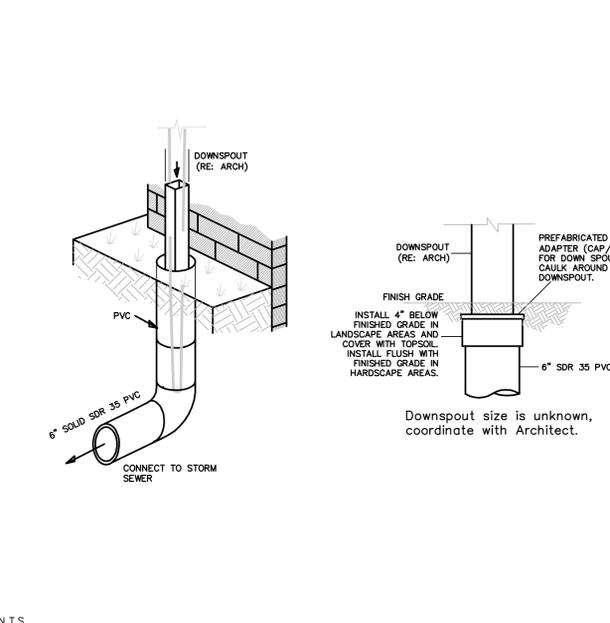
**B BOULDER RETAINING WALL**



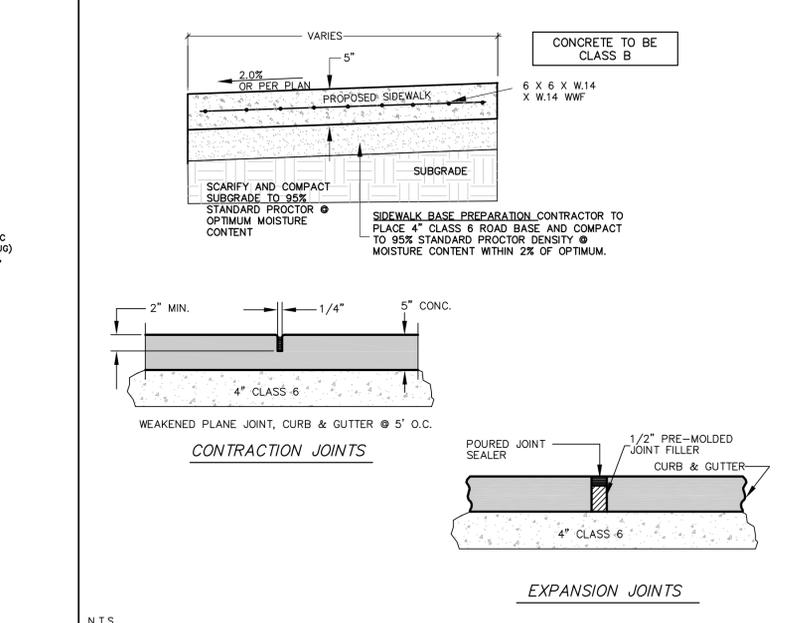
**A TYPICAL MULTIFAMILY DRIVE SECTION**



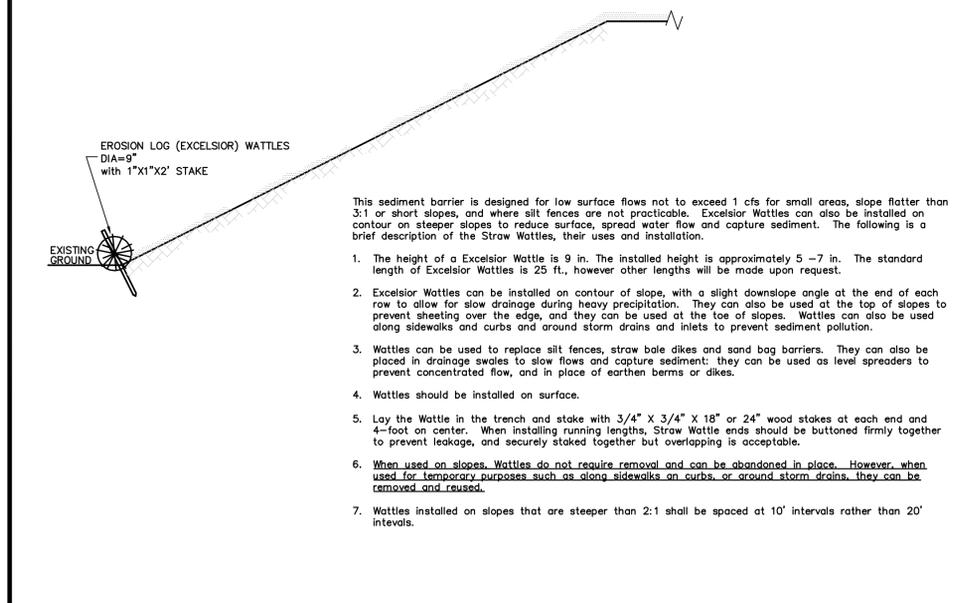
**E EROSION LOG INLET PROTECTION**



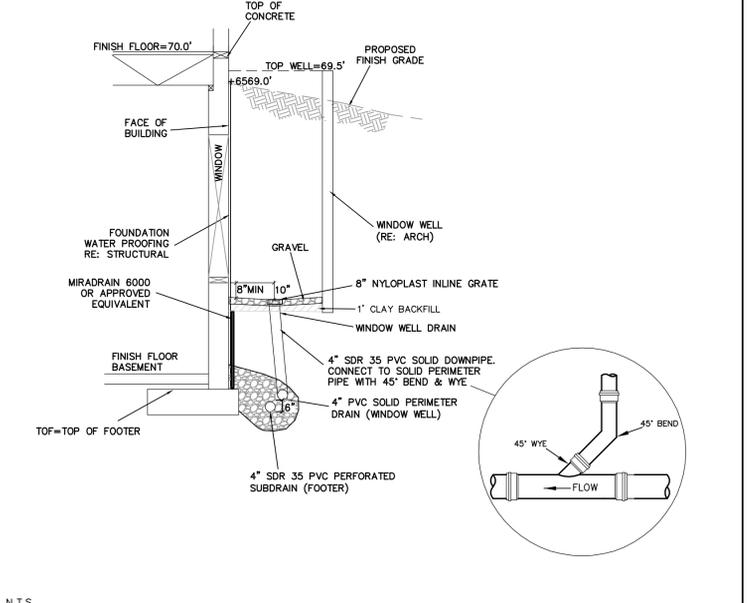
**F DOWNSPOUT CONNECTION**



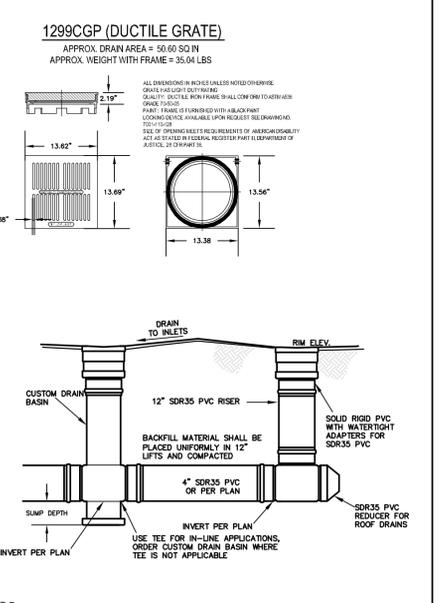
**G CONCRETE PATIOS/SIDEWALK**



**H EROSION WATTLE (SLOPE)**



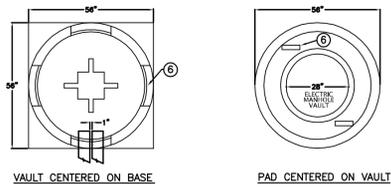
**I WINDOW WELL DRAIN**



**J NYLOPLAST 12" DRAIN**

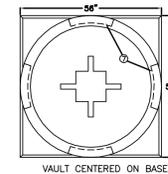
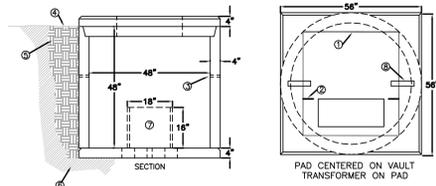
**PRELIMINARY PLAN**  
 July 20, 2016  
**NOT FOR CONSTRUCTION**





- NOTES
- 28" MANHOLE
  - 3/4" HOLE (TOTAL OF FOUR)
  - GROUND LEVEL
  - BACKFILL TO BE WELL COMPACTED
  - SOIL UNDER BASE TO BE UNDISTURBED OR WELL COMPACTED
  - FOUR KNOCKOUTS (16"x18")
  - GROUT HOLE IF CONCRETE BOTTOM IS BROKEN OUT FOR CONSUMERS INSTALLING SECONDARIES, CABLE TAILS SHALL BE 60" LONG MEASURED FROM TOP OF PAD

SPLICE VAULT (Round)	
1 - 48" Dia. Small Base	1 - 1,000 lbs.
1 - 48" Dia. Small Pad	1 - 1,000 lbs.
1 - 48" Dia. Pad	1 - 1,000 lbs.

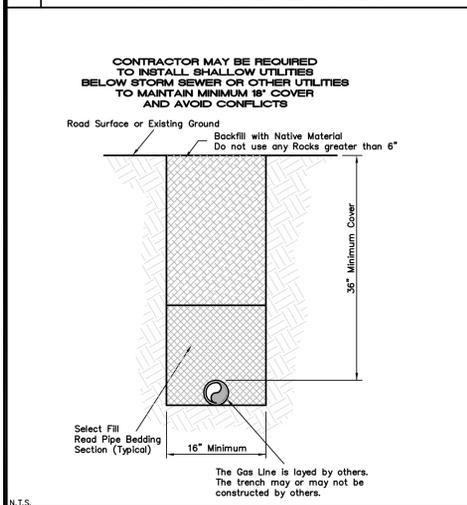


- NOTES
- TYPICAL TRANSFORMER OUTLINE
  - BACK EDGE OF TRANSFORMER OPENING
  - 3/4" HOLE (TOTAL OF FOUR)
  - GROUND LEVEL
  - BACKFILL TO BE WELL COMPACTED
  - SOIL UNDER BASE TO BE UNDISTURBED OR WELL COMPACTED
  - FOUR KNOCKOUTS (16"x18")
  - GROUT HOLE IF CONCRETE BOTTOM IS BROKEN OUT FOR CONSUMERS INSTALLING SECONDARIES, CABLE TAILS SHALL BE 60" LONG MEASURED FROM TOP OF PAD

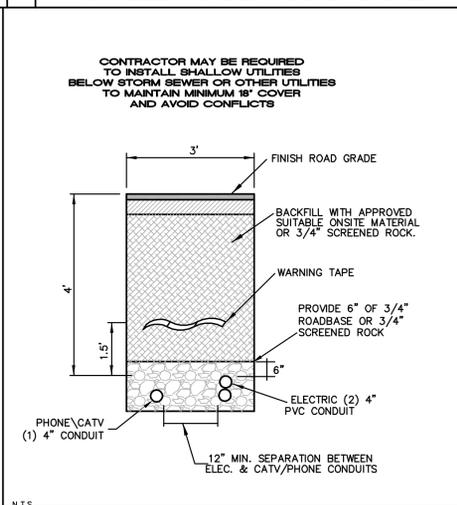
SINGLE PHASE TRANSFORMER VAULT (Round)	
1 - 48" Dia. Small Base	1 - 1,000 lbs.
1 - 48" Dia. Small Pad	1 - 1,000 lbs.
1 - 48" Dia. Pad	1 - 1,000 lbs.

**UM30R SPLICE VAULT**

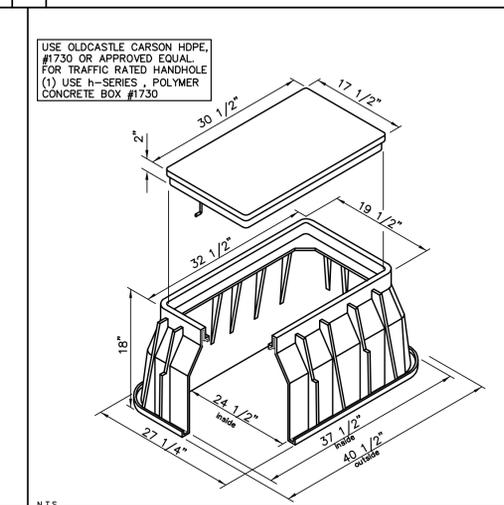
**SINGLE PHASE TRANSFORMER**



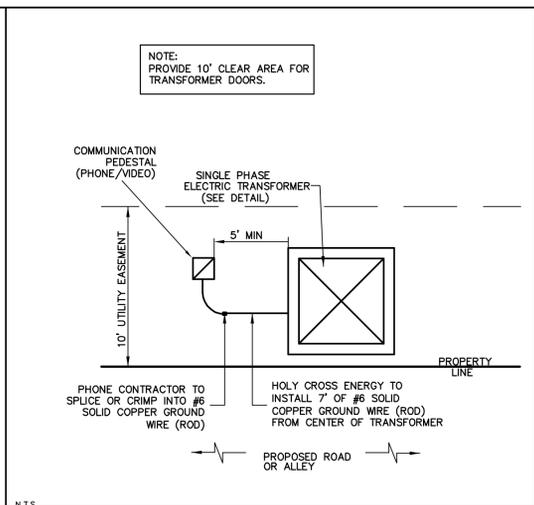
**GAS TRENCH**



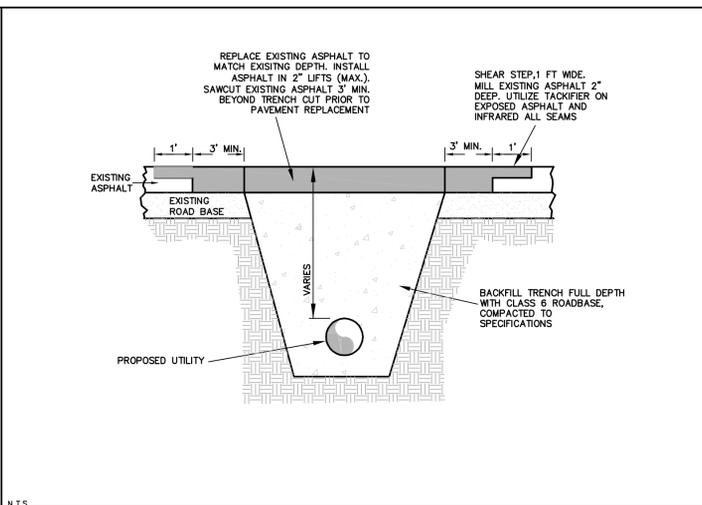
**ELEC./PHONE/JOINT TRENCH**



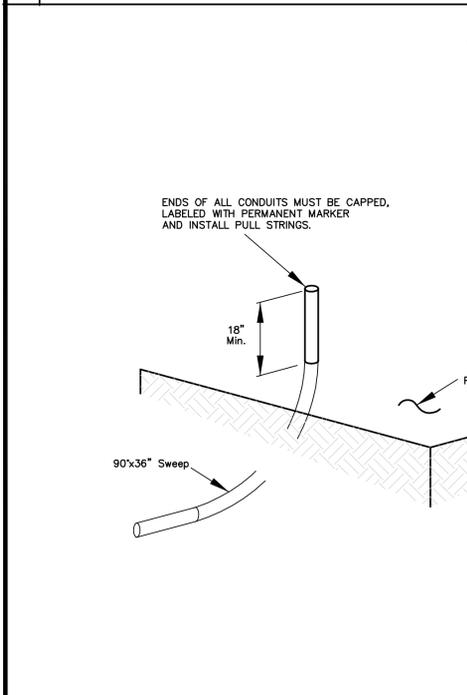
**HANDHOLE**



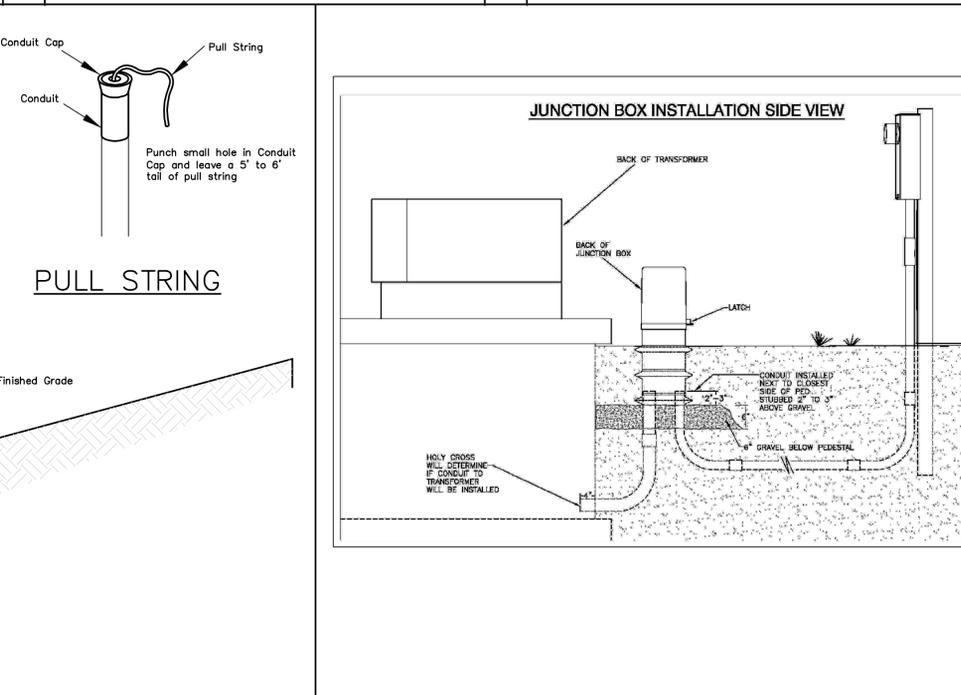
**TRANSFORMER / PEDESTAL LAYOUT**



**ROADCUT DETAIL**



**CONDUIT SWEEP / STUB**



**ELECTRIC- SECONDARY PEDESTAL**

**PRELIMINARY PLAN**  
July 20, 2016  
**NOT FOR CONSTRUCTION**

NO.	DATE	REVISIONS	BY
	6/28/2016	DEVELOPMENT PERMIT	MCW
	7/20/2016	DEVELOPMENT PERMIT	MCW

DESIGNED	MCW
DRAWN	MCW
CHECKED	GLB
JOB NO.	44072
DATE	3-4-2016

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**DEVELOPMENT IMPROVEMENTS AGREEMENT**  
**Parcel B, Creekside Lofts**

THIS AGREEMENT is entered into and made effective as of the \_\_\_\_\_ day of August, 2016, by and between the TOWN OF EAGLE, COLORADO, a Colorado municipal corporation, whose address is P.O. Box 609, Eagle, Colorado 81631 (hereinafter referred to as the "Town"); and ERLI LOT 2, LLC, LLC, a Colorado limited liability company, whose address is 232 West Meadow Drive, Vail, Colorado 81657, (hereinafter referred to as the "Developer").

RECITALS

A. WHEREAS, the Developer is the owner of Parcel B, Creekside Lofts Subdivision, Town of Eagle, County of Eagle, State of Colorado also known as 718 Prince Alley, Eagle, Colorado (the "Property" or "Development"); and

B. WHEREAS, the Developer desires to develop the Property for eight (8) dwelling units contained in three (3) buildings, a four-plex, a three-plex and a single family home and has filed an application for a Major Development Permit pursuant to Chapter 4.06 of the Eagle Municipal Code; and

C. WHEREAS, the Board of Trustees has approved a Development Plan for the Property, subject to conditions, in accordance with Section 4.06.030 of the Eagle Municipal Code; and

D. WHEREAS, Section 4.06.010(F) of the Eagle Municipal Code requires a developer to furnish the Town with a performance guarantee in order to secure the construction and installation of pedestrian paths, parking spaces, wastewater lines, paving, and any other public improvements required by the approved Development Plan as a condition for the issuance of a development permit; and

E. WHEREAS, the legislature of the State of Colorado adopted Section 24-68-101, *et. seq.* of the Colorado Revised Statutes (the "Vested Property Rights Statute") to provide for the establishment of vested property rights in order to ensure reasonable certainty, stability and fairness in the land use planning process and in order to stimulate economic growth, security, reasonable investment-backed expectations of landowners, and foster cooperation between the public and private sectors in the area of land use planning. The Vested Property Rights Statute authorizes the Town to enter into development agreements with landowners providing for vesting of certain property rights; and

F. WHEREAS, consistent with the Vested Property Rights Statute, Chapter 4.17 of the Eagle Municipal Code (the "Vested Property Rights Regulations") authorizes the Town to enter into development agreements with landowners and other qualified applicants providing for the vesting of property development rights; and

G. WHEREAS, a purpose of this Agreement is to assure development of the Property will take place in accordance with the approved Development Plan and is not executed for the benefit of materialmen, laborers, or others providing work, services or material to the Development or for the benefit of occupants of the Property; and

H. WHEREAS, development of the Property in accordance with this Agreement will provide for orderly growth in accordance with the policies and goals set forth in the Town's Master Plan, ensure reasonable certainty, stability and fairness in the land use planning process, stimulate economic growth, secure the reasonable investment-backed expectations of Developer, foster cooperation between the public and private sectors in the area of land use planning, and otherwise achieve the goals and purposes for which the Vested Property Rights Statute and the Vest Property Rights Regulations were enacted. In exchange for these benefits and the other benefits to the Town contemplated by this Agreement, together with the public benefits served by the orderly development of the Property, Developer desires to receive the assurance that it may proceed with development of the Property pursuant to the terms and conditions contained in this Agreement; and

I. WHEREAS, the Town and Developer mutually agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by the Town upon the Developer and its successors in connection with the acceptance and favorable action on the Developer's application for a Major Development Permit; the Town recognizing and reciting that such matters are necessary to protect, promote and enhance the public welfare; and

J. WHEREAS, the mutual promises, covenants and obligations contained in this Agreement are authorized by Colorado law and Title 4 of the Eagle Municipal Code.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and the Developer agree as follows:

## SECTION 1 DEFINITIONS

1.1 APF Regulations. The Town's regulations regarding assurance of adequate public facilities, as set forth in Chapter 4.14 of the Eagle Municipal Code in effect as of the effective date of this Agreement, unless otherwise provided in this Agreement.

1.2 Agreement. This Development Improvements Agreement for Parcel B, Creekside Lofts Subdivision, Town of Eagle, County of Eagle, State of Colorado, between Developer and the Town.

1.3 Board. The Board of Trustees of the Town of Eagle, Colorado.

1.4 Developer. ERLI Lot 2, LLC, a Colorado limited liability company, and its successors and assigns.

1.5 Development. The residential development to be constructed on the Property.

1.6 Development Plan. The Development Plan for the Property required pursuant to Section 4.06.030 of the Eagle Municipal Code, attached hereto as Exhibit "A", and incorporated herein by this reference, which together with this Agreement shall constitute the "site-specific development plan" establishing Vested Property Rights in accordance with the Vested Property Rights Statute and the Vested Property Rights Regulations.

1.7 Property. The real property known as Parcel B, Creekside Lofts Subdivision, Town of Eagle, County of Eagle, State of Colorado.

1.8 Town. The Town of Eagle, Colorado, a municipal corporation.

1.9 Uniform, Non-discriminatory Regulations. Collectively, Town ordinances, rules, regulations, policies and standards, including engineering and design standards, applicable in the same manner to all developments within the Town.

1.10 Vested Property Rights Regulations. Chapter 4.17 of the Eagle Municipal Code.

1.11 Vested Property Rights Statute. Sections 24-68-101, *et. seq.*, C.R.S.

## SECTION 2

### TERM

The term of this Agreement and the vested property rights expressly established under this Agreement shall commence on the effective date of the Town ordinance or resolution approving this Agreement, and shall continue until the third (3<sup>rd</sup>) anniversary of the effective date of this Agreement. Developer will only be required to construct the public improvements described in this Agreement and the Development Plan if Developer elects to construct residential dwelling units on the Property during said term. After the expiration of the term, this Agreement may be terminated by the Town and upon such termination shall be of no further force or effect except as to the maintenance of the Development improvements; provided, however, that such termination shall not affect (a) any common law vested rights obtained prior to such termination; (b) any right arising from Town permits, approvals or other entitlements for the Property which were granted or approved prior to, concurrently with, or subsequent to the approval of this Agreement, or (c) the parties rights pursuant to subsection 16.5 below.

## SECTION 3

### SCOPE OF THIS AGREEMENT

3.1 Purpose. This Agreement is intended to set forth the parties' understanding and agreement as to the development of the Property pursuant to Article 68 of Title 24 of the

Colorado Revised Statutes and Title 4 of the Eagle Municipal Code; as to the nature of the development proposed for the Property; as to the procedures, limitations and standards applicable to the construction of public and other required on-site and off-site Development improvements to be installed to serve the Property; as to the responsibilities of the parties for various costs, fees and charges; and as to such other matters the parties believe can be adequately addressed at this time. This Agreement is not intended to address those matters which are more appropriately considered at the time of issuance of building permits for the Development, or future subdivision of the Property.

3.2 Town's Rights Reserved. It is not the intention of the parties in any way to diminish or limit the Town's legislative, quasi-judicial, or other non-delegable discretionary powers or to impose on the Town any duty, beyond its ordinances and regulations as they may from time to time exist, nor to impose any special obligation on the Town to approve or accept any future applications, plans, drawings, security documents, improvements, and conveyances, except as otherwise set forth in this Agreement. The Town reserves all rights to review, approve or deny any future Subdivision application for the Property in accordance with State law and the ordinances and policies of the Town then in effect. It is furthermore the express intention of the parties that nothing in this Agreement shall be construed to void the rights and obligations of the parties as set forth herein, to the extent such rights and obligations are consistent with law. The parties expressly agree they will fully perform this Agreement to the extent it is consistent with the law.

SECTION 4  
DEVELOPMENT OF THE PROPERTY

4.1 Nature of Development. The Property is intended to be developed for a total of eight (8) dwelling units contained in three (3) buildings, a four-plex, a three-plex and a single family home.

4.2 Compliance with Current Regulations. Developer states that it has reviewed all applicable zoning, subdivision, building and other development regulations and ordinances of the Town currently in effect. Developer agrees to comply with all said regulations and requirements.

SECTION 5  
ADEQUATE PUBLIC FACILITIES

Because of the nature and size of this Development, the Development is exempt from the requirement that a determination of adequacy of public facilities be made, pursuant to Section 4.14.020 of the Eagle Municipal Code.

SECTION 6  
DEVELOPMENT IMPROVEMENTS AND WARRANTY-GENERAL PROVISIONS

6.1 Construction of Improvements by Developer. All on-site water service lines and

other water distribution facilities necessary to provide treated water service for this Development, all on-site wastewater collection service lines and related improvements necessary to provide wastewater service for this Development, any on-site drainage facilities required for the Development, a gravel pedestrian path including grading improvements, three (3) gravel parking spaces on the west side of Prince Alley, installation of seven (7) water taps and construction of water service lines from such taps on the water main to curb stops, installation of no parking signs on Prince Alley, reconstruction of the bollard system at the end of Prince Alley, a pavement overlay of Prince Alley in areas where road cuts for utility extensions will occur and any other public or required private development improvements as shown in the Development Plan and Exhibit "A", this Agreement, and any other improvements required by Uniform, Non-discriminatory Regulations contained within the Eagle Municipal Code shall be installed and completed at the sole cost and expense of the Developer. The public and other required development improvements to be constructed by the Developer shall be designed and built in conformance with all Uniform Non-discriminatory Regulations and requirements contained within, or promulgated pursuant to, Title 4 of the Eagle Municipal Code in effect as of the effective date of this Agreement. All such public and required Development improvements shall be designed and approved by a registered professional engineer retained by the Developer. All drawings and plans for such improvements shall be stamped by a registered engineer.

6.2 Schedule of Improvements to be Constructed By Developer. Preliminary cost estimates prepared by Developer's engineer are attached hereto as Exhibit "B" and incorporated herein by this reference. Prior to the issuance of a building permit for any structure on the Property, Developer shall submit Development Permit Civil Drawings and a Landscape Plan which shall be approved by the Town Engineer. Such drawings shall govern the installation of the required public and other development improvements in order for Developer to obtain a building permit, Temporary Certificate of Occupancy or Certificate of Occupancy. Prior to any construction on the Property, Developer shall provide to the Town Engineer for review and approval a coordinated set of architectural, landscape and engineering drawings with any revisions requested by the Town Engineer.

Prior to commencing work on the Property, the Developer shall submit to the Town for its review and approval a Final Cost Estimate showing in detail the required public improvements required for the Development that it shall be responsible for constructing, and the cost therefor. The Town Engineer shall review the Final Cost Estimate, and upon approval, such document may be recorded as an addendum to this Agreement. Unless otherwise authorized by the Town Administrator, no work shall be commenced on the Property by the Developer until such time as the performance guarantee pursuant to Section 9 of this Agreement has been furnished to the Town.

6.3 Warranty by Developer. The Developer shall warrant any and all on-site and off-site public improvements constructed by Developer which are conveyed or dedicated to the Town pursuant to this Agreement, or the Development Plan, for a period of twenty-four (24) months from the date the Town's Engineer certifies that the same conform with the approved specifications. Specifically, but not by way of limitation, the Developer shall warrant the

following:

- (a) That the title conveyed shall be good and its transfer rightful; and
- (b) Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance; and
- (c) Any and all facilities so conveyed shall be free of any and all defects in materials or workmanship.

6.4 Town Inspections. The Town shall have the right to make engineering inspections and require testing during construction of the required public Development improvements in such reasonable intervals and upon reasonable notice as the Town Engineer may request in accordance with the Town's Street Construction Regulations, Water Distribution Regulations, and Wastewater Regulations, or as otherwise determined by the Town Engineer. Inspection, acquiescence and approval of any engineering inspector of the construction of physical facilities, at any particular time, shall not constitute the approval by the Town of any phase of the construction of such public improvements. Such approvals shall be made by the Town only after completion of construction and in the manner hereinafter set forth.

6.5 Approval by Town Engineer. Upon full completion of construction by the Developer of such on-site and any off-site public improvements, the Developer shall submit to the Town Engineer a written request for an inspection and the preparation of a Final Acceptance Punch List. Upon receipt of such request, the Town Engineer shall inspect the improvements and prepare a written Final Acceptance Punch List which shall be provided to the Developer within thirty (30) days of receipt of said written request from the Developer. Within ninety (90) days from receipt of the Final Acceptance Punch List, the Developer shall make all corrections necessary to bring the system or improvements in to conformity with applicable Town standards and all plans, as approved. In the event the Developer fails to complete the Final Acceptance Punch List work within said ninety (90) day period, the Town shall proceed to exercise its remedies pursuant to Section 9 of this Agreement.

Upon completing the Final Acceptance Punch List work, the Developer shall submit to the Town Engineer a written request for final acceptance. The Town Engineer shall then inspect said improvements and issue a written determination as to whether the Final Acceptance Punch List work has been satisfactorily completed within thirty (30) days of the Developer's request. If the Town Engineer determines that the Final Acceptance Punch List work has not been satisfactorily completed, the Town Engineer shall issue a revised written Final Acceptance Punch List to the Developer. Upon a determination by the Town Engineer that the Final Acceptance Punch List work has been completed in a satisfactory manner, the Town Engineer shall prepare a bill of sale for the public improvements to be conveyed for consideration by the Town Administrator. The Town Administrator shall issue a written acceptance of the bill of sale within forty-five (45) days of the determination that the work is complete. The warranty period set forth in subsection 6.3 above shall commence upon the date of approval of the bill of sale. The Town shall be under no

obligation to provide any water service or wastewater collection service until on-site water and wastewater lines have been installed and are brought into conformance with the applicable plans and specifications approved by the Town Engineer.

6.6 Provision of "As-built" Drawings. The Developer shall provide all necessary engineering designs, surveys, field surveys, and "as-built" drawings for all on-site and off-site public improvements and utility improvements constructed by Developer which shall be approved by the Town Engineer. The "as-built" locations of all utility service lines shall be prepared by a registered land surveyor at the Developer's sole expense. Developer shall use good faith efforts to submit such "as-built" drawings for the Development prior to the issuance of a Temporary Certificate of Occupancy for any building or structure within the Development. No Certificate of Occupancy for any building or structure within the Development shall be issued until the required "as-built" drawings have been submitted to the Town. In addition, all expenses incurred for this Property by the Town in updating the Town's base maps shall be paid by the Developer to the Town. Developer shall submit both hard copy and electronic files of the "as-built" drawings. The format of the electronic files shall be AutoCad 2004 or latest edition thereof.

6.7 Conveyance of Public Improvements. All on-site and any off-site public improvements constructed by Developer in accordance with this Agreement, shall be dedicated to the Town and warranted for a period of twenty-four (24) months following completion and approval, as provided in subsection 6.5 above. Upon completion of construction in conformity with the plans, and any properly approved changes, the Developer shall convey to the Town, by bill of sale, all physical facilities constructed by Developer necessary for the extension, maintenance and repair of municipal utility services and other public facilities in accordance with subsection 6.5 above. Acceptance of said conveyance shall be authorized by the Town Administrator. Following such dedication or conveyance, the Town shall be solely responsible for the maintenance of such improvements, including any utility charges, and any damage to the improvements not resulting from defects in materials and workmanship, except for any correction work required during the warranty period. In addition, all required private Development improvements such as utility service lines, shown on the Development Plan, related plans and approved construction drawings submitted to the Town for this Development, shall be warranted for a period of twenty-four (24) months following completion and approval, as provided in subsection 6.3 above.

6.8 Construction Schedule. Prior to commencing any work on the Property, the Developer shall submit an agreed upon time schedule for the construction and completion of the public and other required private Development improvements, including public infrastructure, landscaping, and the phasing of the construction of buildings. Said schedule shall provide for a commencement date as well as a date when such improvements will be substantially completed.

Where Developer is prevented from commencing or completing any of the public or other required private Development improvements within the time periods set forth in the construction schedule or otherwise set forth in this Agreement due to an unforeseeable cause or delay beyond the control and without the fault or negligence of the Developer, the times for

commencement and/or completion of such improvements shall be extended in an amount equal to the time lost due to such delay if a request is made in writing to the Town by the Developer and approved by the Town Engineer. Delays beyond the control of the Developer shall include, but not be limited to, acts of neglect by the Town, fires, floods, epidemics, weather conditions, strikes, freight embargos or acts of God. Delays attributable to and within the control of the Developer's contractors, subcontractors or suppliers, as applicable, shall be deemed to be delays within the control of the Developer.

6.9 Dogs Prohibited During Construction. The Developer shall prohibit its contractors and subcontractors from bringing dogs onto the Property, even if such dogs are to be kept inside motor vehicles. Violation of this policy shall result in the immediate eviction of the dog and the dog's owner or harbinger by the Developer from the Property. In the event of a second violation by the same dog and/or the same dog's owner or harbinger, the dog and the dog's owner or harbinger shall be immediately evicted from the Property by the Developer and the offending person shall be prohibited from entering or working within the Property for the following seven (7) consecutive calendar days. In the event of a third violation, the offending person shall be prohibited by the Developer from entering or working within the Property for the following six (6) calendar months.

## SECTION 7 LANDSCAPING

Developer shall submit to the Town for review and approval a landscape plan as part of Developer's application for the first building permit.

## SECTION 8 WATER AND WASTEWATER SERVICES

8.1 Dedication of Water Rights. The Town acknowledges that sufficient water rights have previously been dedicated to the Town to serve this Development.

8.2 Construction of Treated Water Distribution System Improvements. The Developer shall be responsible for extending all water facilities necessary to provide water service to the Development.

8.3 Provision of Water Service Within the Development. Upon completion of the water system improvements necessary to serve the Development, the Town shall provide municipal treated water service to the Development. Provision of water service within the Development to customers shall be made available on a first come/first served basis with other water service customers subject to system capacity upon payment of applicable plant investment fees and utility connection charges at the then applicable rate set forth in the Eagle Municipal Code. Neither the Developer nor any other customer shall receive any preference for or assurance of the availability of water service from the Town until a plant investment fee is paid.

8.4 Construction of Wastewater Collection System Improvements. The Developer, at its sole cost and expense, shall design, purchase, and install all elements of the wastewater collection system located on the Property to fully service the Development in accordance with Exhibit "A" and any other design drawings, plans and specifications submitted with the Development Plan and approved by the Town Engineer, and applicable Uniform Non-discriminatory Regulations of the Town in effect at the time of issuance of the Major Development Permit.

8.5 Provision of Wastewater Service by the Town. Upon completion of any wastewater collection system improvements necessary to serve the Development by the Town and the Developer, and upon approval and acceptance by the Town Engineer, the Town agrees to provide wastewater treatment and collection service to the Development upon Developer or other customer making a written request for such service and the payment of any required plant investment fees and connection charges. Provision of wastewater service by the Town within the Development shall be made pursuant to agreement by the Town and on a first come/first served basis with other wastewater service customers, subject to system capacity and any prior commitments, and at the then applicable rate as set forth in the Eagle Municipal Code. Neither the Developer nor any other customer shall receive any preference for or assurance of the availability of wastewater service from the Town until a plant investment fee is paid.

## SECTION 9 PERFORMANCE GUARANTEE

9.1 Security Required. In order to secure the construction and installation of the public improvements, whether on-site or off-site, above described and as shown in the Development Plan for the Property and Exhibit "A" attached hereto, for which Developer is responsible, Developer shall furnish the Town with: (a) cash to be deposited in an escrow account that is acceptable to the Town pursuant to the Escrow and Disbursement Agreement attached hereto as Exhibit "C" and incorporated herein by this reference; or (b) an irrevocable standby letter of credit that is acceptable to the Town to secure the performance and completion of such required public improvements in an amount equal to one hundred ten percent (110%) of the estimated cost of said facilities.

9.2 Delivery of Security. Developer shall furnish to the Town the security required by this Section concurrently with the issuance of the Major Development Permit. The Developer shall not commence any work within the Development until such approved security is furnished to the Town.

9.3 Special Letter of Credit Standards. In the event the Developer elects to deliver to the Town an irrevocable letter of credit as a performance guarantee, the letter of credit shall be payable at sight to the Town, or its designee, and will bear an expiration date of not earlier than two (2) years from the date of issuance. The Developer shall renew such letter of credit as necessary in order to secure the performance and completion of the public improvements for which Developer is responsible in accordance with this Agreement, without further notice from

the Town. If the Developer fails to provide the Town a satisfactory substitute letter of credit at least thirty (30) days prior to the expiration date of the letter of credit previously delivered, the Town may, at its sole option, draw the full amount of the letter of credit and hold the proceeds thereof as a performance guarantee deposit. The proceeds of such draw shall be deposited in a federally insured interest bearing account, and all interest earned thereon shall be added to and become part of the performance guarantee deposit.

9.4 Additional Security Standards; Payment Upon Default. The letter of credit, or escrow funds shall be payable at any time upon presentation of an affidavit by the Town stating Developer is in default under this Agreement, has received notice of such default as required by subsection 9.7 of this Agreement and has failed to cure such default within the time set forth in subsection 9.7 of this Agreement or in the case of a letter of credit, the Developer has failed to renew the letter of credit as required herein. The letter of credit, or Escrow and Disbursement Agreement shall be in good and sufficient form as approved by the Town. In the event of a default by the Developer and compliance with the terms of subsection 9.7 of this Agreement the financial institution shall disperse funds, upon written request by the Town, or the escrow fund may be drawn upon, showing the proposed payee and the amount to be paid. Copies of any such request shall be sent to the Developer at its last known address.

9.5 Partial Release of Security. Upon completion of a certain class of the improvements by the Developer, such as water system improvements by way of example, evidenced by a detailed cost breakdown of the completed improvements, the amount of any security issued pursuant to this Agreement may be reduced by up to twenty percent (20%) of the approved estimated cost for the installation of such class of improvements, upon application of the Developer, and approval by the Town Administrator. Upon completion of all of the public improvements by the Developer, and upon final inspection and approval by the Town Engineer of all such improvements, the Board of Trustees shall further authorize the reduction of the amount of the security guaranteeing the public improvements to ten percent (10%) of the total actual cost of such improvements.

9.6 Full Release of Security. Any performance guarantee issued pursuant to this Agreement shall be fully released and discharged by action of Town's Board of Trustees upon expiration of the twenty-four (24) month warranty period, and the correction of any defects discovered during such warranty period. In the event that the correction of defects are not satisfactorily completed upon the expiration of the twenty-four (24) months, the Town may require a new performance guarantee and withhold the issuance of building permits until a new improvements guarantee is delivered to the Town. The warranty period begins on the day Board of Trustees approves the Partial Release of Security per subsection 9.5 above.

9.7 Notice of Default. Upon the Developer's failure to perform its obligations under this Agreement, all other applicable plans, drawings, specifications and other documents as approved, within the time periods set forth in this Agreement, the Town may give written notice to Developer of the nature of the default and an opportunity to be heard before the Board of Trustees concerning such default. If such default has not been remedied within thirty (30) days

of receipt of the notice or of the date of any hearing before the Board of Trustees, whichever is later, (or such reasonable time period as is necessary to cure the default provided that Developer has commenced in good faith to cure the default), the Town may then give written notice to the Developer and issuer of a letter of credit, or escrow agent that the Town, as agent for the Developer, is proceeding with the task of installing the public and other required Development improvements in whole or in part.

9.8 Power of Attorney Granted. The Developer hereby designates and irrevocably appoint the Mayor of the Town of Eagle, Colorado, as its Attorney-In-Fact and agent for the purpose of completing all public and other necessary improvements required by this Agreement in the event of a default by the Developer. This Agreement shall be filed in the office of the Clerk and Recorder of Eagle County, Colorado, and shall constitute constructive notice of this Agreement and the power of attorney provided herein. This Agreement and power of attorney contained herein may be enforced by the Town pursuant to all legal and equitable remedies available, including an action for specific performance in a court of competent jurisdiction.

9.9 Increase in Amount of Security. If a substantial amount of time elapses between the time of posting of the security and actual construction of the improvements, the Town reserves the right to require a reasonable increase in the amount of the applicable security, if necessary because of estimated increased costs of construction.

9.10 Cost Estimate Not Binding. The purpose of the cost estimate provided to the Town is solely to determine the amount of security required and may be revised from time to time to reflect the actual costs. No representations are made as to the accuracy of these estimates, and the Developer agrees to pay the actual cost of all such public improvements. Neither the estimated costs nor the amount of the security establishes the maximum amount of the Developer's liability.

9.11 Attorney's Fees. If any legal proceedings are commenced concerning the Town's election to complete the public improvements, as agent for the Developer, against the Developer, or issuer of the letter of credit, the substantially prevailing party shall be entitled to its costs and reasonable attorney's fees (including legal assistant's fees) or the reasonable value of a salaried attorney's time (including legal assistant's time).

## SECTION 10 INDEMNIFICATION AND INSURANCE

10.1 Indemnification By Contractors. Any contractor employed by the Developer who performs work within rights-of-way or easements dedicated to the Town or within other property owned by the Town shall agree to indemnify and hold harmless the Town of Eagle, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with work performed by

such contractor for the Developer within Town rights-of-way, easements or other property, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of such contractor, any subcontractor of the contractor, or any officer, employee, representative, or agent of such contractor or of any subcontractor of the contractor, or which arise out of any workers compensation claim of any employee of the contractor or of any employee of any subcontractor of the contractor. The contractor shall agree to investigate, handle, respond to, and provide a defense for and defend against, any such liability, claims or demands at the sole expense of such contractor. The contractor shall also agree to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.

10.2 Insurance Required. Any contractor employed by the Developer to perform work within rights-of-way or easements dedicated to the Town or within any other property owned by the Town, shall agree to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by such contractor pursuant to subsection 10.1. Such insurance shall be in addition to any other insurance requirements imposed by the Developer or by law. Any such contractor shall not be relieved of any liability, claims, demands or other obligations to be assumed pursuant to subsection 10.1 by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

10.3 Nature and Amounts of Insurance. Any contractor employed by the Developer to perform work within rights-of-way and easements dedicated to the Town or other property owned by the Town shall procure and maintain, and shall cause any subcontractor of such contractor to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the Town. All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations to be assumed by such contractor pursuant to subsection 10.1. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

(a) Workers compensation insurance to cover obligations imposed by applicable Colorado law for any employee engaged in the performance of work, and Employers' Liability insurance with minimum limits of \$500,000.00 each accident, \$500,000.00 disease-policy limit, and \$500,000.00 disease-each employee. Evidence of qualified self-insured status may be substituted for the Workers Compensation requirements of this paragraph.

(b) General Liability insurance with minimum combined single limits of \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual, and employee acts), blanket contractual independent contractors, products, and completed

operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.

(c) Comprehensive Automobile liability insurance with minimum combined single limits for bodily injury and property damage of not less than \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate with respect to each of a contractor's owned, hired or non-owned vehicles assigned to or used in performance of services within the Town's rights-of-way, easements and other property. The policy shall contain a severability of interests provision.

(d) The policies required by paragraphs (b) and (c) above shall be endorsed to include the Town of Eagle and the Town's officers and employees as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, or carried by or provided through any insurance pool of the Town, shall be excess and not contributory insurance to that provided by the Developer's contractors. No additional insured endorsement to the policy required by paragraph (a) above shall contain any exclusion for bodily injury or property damage arising from completed operations. A contractor shall be solely responsible for deductible losses under any policy required above.

(e) Upon request by the Town, the Developer, shall provide the Town with a certificate of insurance to be completed by the contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect. The certificate shall identify the contract and shall provide that the coverages afforded under the policy shall not be canceled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the Town.

10.4 Indemnification by Developer. In addition to the indemnification required in subsection 10.1, the Developer hereby expressly agrees to indemnify and hold the Town harmless from and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity, excluding Town officers, agents or employees, in connection with, or on account of the performance of work within the Development and elsewhere by the Developer, or its agents, contractors or employees pursuant to this Agreement. The Developer further agrees to aid and defend the Town in the event that the Town is named as a defendant in any action concerning the performance of work by the Developer, or its agents, contractors or employees pursuant to this Agreement except where such suit is brought by the Developer. The Developer shall not be considered an agent or employee of the Town for any purpose.

10.5 Governmental Immunity. The parties hereto understand and agree that the Town is relying on, and does not waive or intend to waive by any provision contained in this Section, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Sections 24-10-101, *et.seq.*, C.R.S., as from time to time amended, or otherwise available to the Town, its officers, or its employees.

SECTION 11  
REIMBURSEMENT OF COSTS

11.1 Development Review Costs. Pursuant to Section 4.03.080(C)(2) of the Eagle Municipal Code, the Developer shall pay to the Town the actual cost to the Town for consulting engineering, surveying, base map updating, consultant planning services, and legal services rendered in connection with the Developer's Major Development Permit application. Said costs shall be paid prior to the issuance of the Major Development Permit. Provided, however, upon request, the Developer shall receive detailed invoices reflecting the nature and description of each charge so incurred by the Town. In the event the Developer does not believe that the costs assessed under this Section are reasonable, the Developer may appeal such assessment to the Board of Trustees. Following an opportunity for the Developer to be heard, the Board shall affirm the appeal or deny the appeal.

11.2 Inspection Costs. Prior to the approval and acceptance of the construction and installation of the required public and private Development improvements, the Developer shall pay to the Town the actual cost of all inspections of such improvements made or conducted at the direction of the Town Administrator, Town Engineer, or Town Public Works Director, including the reasonable value of a salaried employee's time, as provided in Section 4.03.080(D)(1) of the Eagle Municipal Code. In the event the Developer believes the costs assessed are unreasonable, the Developer may appeal such assessment in the manner set forth in subsection 11.1.

SECTION 12  
IMPACT FEES; SALES AND USE TAXES

12.1 Street Improvement Fees. In accordance with Section 4.13.185 of the Eagle Municipal Code, Developer shall pay to the Town the street improvement fees for seven (7) multi-family residential units and one (1) single family unit. The exact amount of such fees shall be based upon plans submitted at the time of application for a building permit. Such fees shall be paid at the time the first building permit for the Development is issued.

12.2 Fire Protection Impact Fees. In accordance with Section 4.13.186 of the Eagle Municipal Code, Developer shall pay to the Town fire protection impact fees for seven (7) multi-family residential units and one (1) single family unit. The exact amount of such fees shall be based upon plans submitted at the time of application for a building permit. Such fees shall be paid at the time of the issuance of the first building permit for the Property.

12.3 Fee in Lieu of School Land Dedication. In accordance with Section 4.13.064 of the Eagle Municipal Code, the Developer shall pay to the Town a fee in lieu of school land dedication based on the increased number of residential dwelling units to be constructed on the Property. Such fee shall be paid prior to the issuance of the first building permit for the Property.

SECTION 13  
ISSUANCE OF MAJOR DEVELOPMENT PERMIT

Upon payment of the costs set forth in subsection 11.1, the Town agrees to issue a Major Development Permit to the Developer subject to the terms and conditions of this Agreement and the Development Plan, as approved by the Town.

SECTION 14  
ENFORCEMENT

14.1 Default; Notice; Termination. In the event of any default or breach by the Developer of a covenant, term, condition, or obligation under this Agreement, and if such default or breach continues after notice thereof for sixty (60) days, this Agreement may be forthwith terminated with respect to such party, at the option of the Town. Any declaration of termination of the Agreement shall be effective only after and upon a resolution to that effect duly authorized by the Town's Board of Trustees. All rights concerning remedies or attorney's fees shall survive any termination of this Agreement.

14.2 Legal Action. The parties to this Agreement shall have all rights available at law or in equity to enforce the terms of this Agreement, including the right of specific performance. In the event that any action is filed or maintained by either party in relation to this Agreement, the prevailing party shall be entitled to its costs and reasonable attorney's fees (including legal assistant's fees) or the reasonable value of a salaried attorney's time.

14.3 Other Remedies Available to Town. In the event the Developer fails to construct any required public improvements in accordance with the terms and conditions of this Agreement, following the delivery of a letter of credit or the deposit of funds into escrow as set forth in Section 9 of this Agreement and the Escrow and Disbursement Agreement attached hereto as Exhibit "B", the Town may exercise any of the remedies set forth in Section 9. Alternatively, the Town may assign any funds on deposit with the escrow agent to a subsequent developer or a lender who has acquired the Development by purchase, foreclosure or otherwise who will then have the same rights of completion as the Town if the subsequent developer or lender agrees in writing to complete the unfinished improvements. In addition, the Town may also suspend the Major Development Permit approval during which time the Developer will have no right to lease or sell portions of the Property without the express written approval of the Town or until the improvements are completed and accepted by the Town. Provided, however, such suspension shall not affect (a) any right arising from other Town permits, approvals or other entitlements for the Property which were granted or approved prior to, concurrently with, or subsequent to the approval of this Agreement and the issuance of the Major Development Permit; or (b) the parties' rights pursuant to subsection 16.5 below. These remedies are cumulative in nature.

SECTION 15  
VESTED RIGHTS-VACATION OF DEVELOPMENT PLAN

15.1 Vested Property Rights. Developer and the Town agree that (a) this Agreement, together with the documents constituting the approved Development Plan constitute an approved "Site Specific Development Plan" as defined in the Vested Property Rights Statute and the Vested Property Rights Regulations, and (b) the owner of the Property shall have vested property rights to undertake and complete development and use of the Property for a period of three (3) years from the effective date of the ordinance or restitution approving this Agreement. The Town shall not initiate any zoning, land use or other legal or administrative action that would directly or indirectly have the effect of altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise materially and adversely impairing to a substantial degree any of Developer's vested property rights, except as otherwise permitted under Section 24-68-105, C.R.S., or as expressly set forth in this Agreement.

**APPROVAL OF THIS PLAN CREATES A VESTED PROPERTY RIGHT PURSUANT TO SECTION 24-68-103, C.R.S., AS AMENDED.**

15.2 Vacation of Development Plan. Failure of the Developer to complete construction of the public improvements required by this Agreement within the times provided herein and following the delivery of the notice described in subsection 9.6 hereof and the expiration of the thirty (30) day time period described in subsection 9.6 without a cure by Developer, the vested property rights associated with the Development Plan and this Agreement shall be forfeited. Upon such an event, the Board of Trustees of the Town may enact an ordinance vacating the Development Plan and Major Development Permit and upon the effective date of such ordinance, the Development Plan and the Major Development Permit issued in connection therewith shall be null, void, and of no effect. The Developer shall then be prohibited from developing the Property without further approvals by the Town. Any property rights dedicated to the Town of Eagle for public purposes shall remain the property of the Town and shall be considered liquidated damages. Provided, however, vacation of the Development Plan and Major Development Permit shall not affect (a) any right arising from other Town permits, approvals or other entitlements for the Development which were granted or approved prior to, concurrently with, or subsequent to the issuance of the Major Development Permit; or (b) the parties' rights pursuant to subsection 16.5 below.

15.3 Certificate of Compliance. It is agreed that upon completion of all improvements which are the subject of this Agreement, expiration of the warranty period as provided herein, and compliance with all of the terms of this Agreement, the Town shall, upon request from Developer, execute a resolution or certificate stating that all improvements have been constructed in compliance with this Agreement.

SECTION 16  
MISCELLANEOUS PROVISIONS

16.1 Waiver of Defects. In executing this Agreement, Developer and the Town waive all rights they may have concerning defects, if any, of the form of this Agreement, the formalities whereby it is executed; and concerning the procedure, substance and form of the ordinances or resolutions adopting this Agreement. Developer further waives all rights it may have concerning the power of the Town to impose conditions on Developer as set forth herein.

16.2 Failure to Exercise Rights. No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by written amendment to this Agreement signed by the Town and the Developer; the waiver of any default under this Agreement shall not be deemed a waiver of any subsequent default or defaults of the same type. The Town's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any improvement. The Developer's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Town.

16.3 Complete Agreement. This Agreement together with the Development Plan and related plans and design specifications contain all of the understandings, conditions and agreements between the Town and Developer relating to the Development at this time, and no other prior or current representation, oral or written, shall be effective or binding upon the Town and Developer, except for representations made by the Developer, or its agent, or the Town Board of Trustees and Town staff members at public hearings concerning approval of the Development Plan, not in conflict with the express provisions of this Agreement.

16.4 Enabling Ordinances Required. To the extent required by law and by the terms of this Agreement, the obligations and covenants of the Town are conditional upon the adoption by the Town of appropriate enabling ordinances or resolutions.

16.5 Attorney's Fees. In the event that any action is filed or maintained by any party in relation to this Agreement, the prevailing party shall be entitled to its costs and reasonable attorney fees (including legal assistant's fees) or the reasonable value of a salaried attorney's time (including legal assistant's time). All rights concerning remedies or attorney's fees shall survive termination of this Agreement.

16.6 Authorization. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings, and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made or will be made.

16.7 Amendments. This Agreement may be amended from time to time by written agreement duly authorized by the parties.

16.8 Representations of Town Officials. It is expressly understood that the Town cannot be legally bound by the representations of any of its officers or agents or their designees except in accordance with the Eagle Municipal Code and ordinances, and that the Developer, when dealing with the Town, acts at its own risk as to any representation or undertaking by the Town or its officers or agents or their designees which is subsequently held unlawful by a court of law, which is in accordance with the laws of the State of Colorado. Provided, however, that this paragraph shall not be construed to limit the rights and remedies of the parties otherwise provided by law.

16.9 Covenants. The provisions of this Agreement shall be binding on all subsequent owners of the Property as covenants running with the Property, to be released only by the Town of Eagle, and the benefits and burdens of this Agreement shall bind and inure to the benefit of all estates and interests in the Property and all successors in interest to the parties to this Agreement, except as otherwise provided herein.

16.10 Notices. All notices required or given by the terms of this Agreement shall be made by certified first class mail, postage prepaid, return receipt requested, to the parties at their addresses listed below. All notices shall be effective upon mailing. These addresses shall remain valid until notice of a change of address is given in accordance herewith.

If to Town:                      Town of Eagle, Colorado Board of Trustees  
   P.O. Box 609  
   Eagle, Colorado 81631  
   Attn.: Town Manager

With a copy to:                      Sands Law Office, LLC.  
   450 West Avenue, Suite 204  
   Rifle, Colorado 81650  
   Attn.: Edward P. Sands, Esq.

If to Developer:                      ERLI Lot 2, LLC  
   232 West Meadow Drive  
   Vail, Colorado 81657

16.11 Time of the Essence. Time is of the essence of this Agreement.

16.12 Colorado Law Applicable. This Agreement is made and delivered within the State of Colorado, and the laws of the State of Colorado shall govern its interpretation, validity, and enforceability.

16.13 Jurisdiction of Courts. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to the Agreement, a letter of credit, or performance bond will be deemed to be proper only if such action is commenced in the District Court for Eagle County, Colorado. The Developer expressly

waives its right to bring such action in or to remove such action to any other court, whether State or federal.

16.14 Rights of Persons Not a Party. No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement.

16.15 Provisions Deemed Severable. If any part, term or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.

16.16 Assignment of Rights; Release of Obligations. The benefits of this Agreement are personal to the Developer and may not be assigned without the express written approval of the Town. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and they will be binding on the heirs, successors, and assigns of the Developer, unless otherwise released by the Town. There is no prohibition on the right of the Town to assign its rights under this Agreement. The Town will release the original Developer's security if it accepts new acceptable security from any developer or lender who obtains the Property. However, no act will constitute a release of the original Developer from liability under this Agreement unless an assignment of this Agreement is expressly authorized by the Town.

16.17 No Waiver of Immunity. Nothing contained in this Agreement constitutes a waiver of the Town's sovereign immunity or governmental immunity under any applicable State law.

16.18 Recordation of Agreement. The Town shall record a copy of this Agreement in the office of the Clerk and Recorder of Eagle County, Colorado.

16.19 Execution of Other Documents. The parties agree to execute any additional documents and to take any additional actions necessary to carry out the terms of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

TOWN OF EAGLE, COLORADO, a municipal corporation, acting by and through its Board of Trustees,

ATTEST:

By: \_\_\_\_\_  
Anne McKibbin, Mayor

\_\_\_\_\_  
Jenny Rakow, Town Clerk

ERLI Lot 2, LLC, a Colorado limited liability company

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

STATE OF COLORADO        )  
  )ss.  
COUNTY OF EAGLE        )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by Anne McKibbin, Mayor, and Jenny Rakow, Town Clerk, respectively, of the Town of Eagle, Colorado.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

STATE OF COLORADO        )  
  )ss.  
COUNTY OF EAGLE        )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ of ERLI Lot 2, LLC, a Colorado limited liability company.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

## **EXHIBIT LIST**

Exhibit "A"	Section 4.06.030 of the Eagle Municipal Code
Exhibit "B"	Developer's Preliminary Cost Estimate
Exhibit "C"	Escrow & Disbursement Agreement

**RESOLUTION NO. 45**  
**(Series of 2016)**

A RESOLUTION OF THE BOARD OF TRUSTEES TOWN OF EAGLE, COLORADO APPROVING A DEVELOPMENT PLAN FOR THE CONSTRUCTION OF EIGHT (8) DWELLING UNITS CONTAINED IN THREE (3) BUILDINGS, A FOUR-PLEX, A THREE-PLEX AND A SINGLE FAMILY DWELLING AND APPURTENANCES ON PARCEL B, CREEKSIDE LOFTS SUBDIVISION WITHIN THE TOWN OF EAGLE; APPROVING A DEVELOPMENT IMPROVEMENTS AGREEMENT, DATED AUGUST 23, 2016 BETWEEN THE TOWN AND ERLI, LLC.; APPROVING A SITE SPECIFIC DEVELOPMENT PLAN ESTABLISHING A VESTED PROPERTY RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, C.R.S. AND SECTION 4.17.030 OF THE EAGLE MUNICIPAL CODE; AND AUTHORIZING THE ISSUANCE OF A MAJOR DEVELOPMENT PERMIT FOR SAID PROPERTY.

WHEREAS, ERLI, LLC, a Colorado limited liability company, (the "Applicant") is the owner of Parcel B, Creekside Lofts Subdivision, Town of Eagle, County of Eagle, State of Colorado (the "Property" or "Development"), and desires to develop the Property; and

WHEREAS, the Applicant desires to develop the Property for eight (8) dwelling units contained in three (3) buildings, a four-plex, a three-plex and a single family home and has filed an application for a Major Development Permit pursuant to Chapter 4.06 of the Eagle Municipal Code; and

WHEREAS, the Applicant has submitted as part of its Major Development Permit application a Development Plan in accordance with the requirements of Section 4.06.030 of the Eagle Municipal Code; and

WHEREAS, the Town of Eagle Planning and Zoning Commission reviewed the proposed Development Plan on August 2, 2016 and made recommendations to the Board of Trustees in accordance with Section 4.06.060 of the Eagle Municipal Code; and

WHEREAS, the Town and the Applicant have entered into a Development Improvements Agreement for Parcel B, Creekside Lofts Subdivision dated August 23, 2016 (the "Agreement") attached hereto as Exhibit "A" and incorporated herein by this reference; and

WHEREAS, in accordance with Title 4 of the Eagle Municipal Code, approval of the Agreement together with approval of the Development Plan collectively constitute a site specific development plan; and

WHEREAS, it is the intent of the Board of Trustees of the Town that approval of the Agreement together with the approval of the Development Plan shall collectively constitute approval of a site specific development plan establishing vested property rights in accordance with Article 68 of Title 24, C.R.S. and Section 4.17.030 of the Eagle Municipal Code, under the

terms, conditions and limitations set forth in the Agreement; and

WHEREAS, the Board of Trustees of the Town of Eagle held a public hearing on August 23, 2016 at which it received evidence and testimony concerning the Agreement and the Development Plan, at the conclusion of which the Board of Trustees considered such evidence and testimony so introduced and by this Resolution sets forth its findings of fact and conclusions.

WHEREAS, approval of the Development Plan and the Agreement are in the best interests of the public health, safety and general welfare of the inhabitants of the Town; and

WHEREAS, the Board of Trustees of the Town of Eagle finds and determines that the proposed Development Plan, as approved with conditions, will comply with the Town's regulations, goals and policies.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO:

Section 1. The Board of Trustees of the Town of Eagle hereby makes the following findings of fact and conclusions:

(a) The Agreement, attached hereto as Exhibit "A", and Development Plan, as approved with conditions, comply with all applicable laws and regulations of the State of Colorado and the Town, including, without limitation, Article 68 of Title 24, C.R.S., Chapter 4.06 of the Eagle Municipal Code and Chapter 4.17 of the Eagle Municipal Code.

(b) All notices required for the public hearing at which the Board of Trustees considered the Agreement and the Development Plan were properly and timely published or posted in accordance with all applicable laws and regulations of the State of Colorado and the Town.

(c) The public hearing at which the Board of Trustees considered the Agreement and the Development Plan was held and conducted in accordance with all applicable laws and regulations of the State of Colorado and the Town.

(d) The Town has authority to enter into the Agreement pursuant to Sections 24-68-204(2), 31-15-101, and 29-20-101, *et. seq.*, C.R.S. and pursuant to Title 4 of the Eagle Municipal Code.

(e) The Town's approval of the Agreement and the Development Plan are in the best interests of the public health, safety and general welfare of the inhabitants of the Town.

Section 2. The Development Plan for Parcel B, Creekside Lofts Subdivision, Town of Eagle, County of Eagle, State of Colorado, attached hereto as Exhibit "B" and incorporated herein

by this reference, and the Agreement are hereby approved and the Town shall enter into the Agreement and perform its obligations under such Agreement.

Section 3. The Mayor of the Town of Eagle is hereby authorized and directed to execute the Agreement on behalf of the Town.

Section 4. The Town Planner is hereby authorized and directed to issue a Major Development Permit to the Applicant subject to the terms and conditions of the Agreement and the Development Plan as approved.

Section 5. Approval of the Agreement, together with approval of the Development Plan, as approved with conditions, collectively hereby constitute approval of a site specific development plan establishing vested property rights pursuant to Article 68 of Title 24, C.R.S., and Section 4.17.030 of the Eagle Municipal Code in accordance with the terms, conditions and limitations of the Agreement.

Section 6. Within fourteen (14) days after the approval of this Resolution, the Town Clerk, on behalf of the Town of Eagle, is hereby authorized and directed to:

(a) Publish a notice advising the general public that approval of the Development Improvements Agreement pursuant to this Resolution, together with approval of the Development Plan, as approved with conditions, collectively constitute approval of a site specific development plan establishing vested property rights in accordance with the terms, conditions and limitations of the Agreement and pursuant to Article 68 of Title 24, C.R.S., and Section 4.17.030 of the Eagle Municipal Code; and

(c) File for record one certified copy of the Agreement, the Development Plan and the within Resolution with the Clerk and Recorder of Eagle County, Colorado.

INTRODUCED, READ, PASSED, AND ADOPTED at a regular meeting of the Board of Trustees of the Town of Eagle, Colorado, held on August 23, 2016.

TOWN OF EAGLE, COLORADO

By: \_\_\_\_\_  
Anne McKibbin, Mayor

ATTEST:

\_\_\_\_\_  
Jenny Rakow, Town Clerk

**DEVELOPMENT IMPROVEMENTS AGREEMENT**  
**Parcel B, Creekside Lofts**

THIS AGREEMENT is entered into and made effective as of the \_\_\_\_\_ day of August, 2016, by and between the TOWN OF EAGLE, COLORADO, a Colorado municipal corporation, whose address is P.O. Box 609, Eagle, Colorado 81631 (hereinafter referred to as the "Town"); and ERLI LOT 2, LLC, LLC, a Colorado limited liability company, whose address is 232 West Meadow Drive, Vail, Colorado 81657, (hereinafter referred to as the "Developer").

RECITALS

A. WHEREAS, the Developer is the owner of Parcel B, Creekside Lofts Subdivision, Town of Eagle, County of Eagle, State of Colorado also known as 718 Prince Alley, Eagle, Colorado (the "Property" or "Development"); and

B. WHEREAS, the Developer desires to develop the Property for eight (8) dwelling units contained in three (3) buildings, a four-plex, a three-plex and a single family home and has filed an application for a Major Development Permit pursuant to Chapter 4.06 of the Eagle Municipal Code; and

C. WHEREAS, the Board of Trustees has approved a Development Plan for the Property, subject to conditions, in accordance with Section 4.06.030 of the Eagle Municipal Code; and

D. WHEREAS, Section 4.06.010(F) of the Eagle Municipal Code requires a developer to furnish the Town with a performance guarantee in order to secure the construction and installation of pedestrian paths, parking spaces, wastewater lines, paving, and any other public improvements required by the approved Development Plan as a condition for the issuance of a development permit; and

E. WHEREAS, the legislature of the State of Colorado adopted Section 24-68-101, *et. seq.* of the Colorado Revised Statutes (the "Vested Property Rights Statute") to provide for the establishment of vested property rights in order to ensure reasonable certainty, stability and fairness in the land use planning process and in order to stimulate economic growth, security, reasonable investment-backed expectations of landowners, and foster cooperation between the public and private sectors in the area of land use planning. The Vested Property Rights Statute authorizes the Town to enter into development agreements with landowners providing for vesting of certain property rights; and

F. WHEREAS, consistent with the Vested Property Rights Statute, Chapter 4.17 of the Eagle Municipal Code (the "Vested Property Rights Regulations") authorizes the Town to enter into development agreements with landowners and other qualified applicants providing for the vesting of property development rights; and

G. WHEREAS, a purpose of this Agreement is to assure development of the Property will take place in accordance with the approved Development Plan and is not executed for the benefit of materialmen, laborers, or others providing work, services or material to the Development or for the benefit of occupants of the Property; and

H. WHEREAS, development of the Property in accordance with this Agreement will provide for orderly growth in accordance with the policies and goals set forth in the Town's Master Plan, ensure reasonable certainty, stability and fairness in the land use planning process, stimulate economic growth, secure the reasonable investment-backed expectations of Developer, foster cooperation between the public and private sectors in the area of land use planning, and otherwise achieve the goals and purposes for which the Vested Property Rights Statute and the Vest Property Rights Regulations were enacted. In exchange for these benefits and the other benefits to the Town contemplated by this Agreement, together with the public benefits served by the orderly development of the Property, Developer desires to receive the assurance that it may proceed with development of the Property pursuant to the terms and conditions contained in this Agreement; and

I. WHEREAS, the Town and Developer mutually agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by the Town upon the Developer and its successors in connection with the acceptance and favorable action on the Developer's application for a Major Development Permit; the Town recognizing and reciting that such matters are necessary to protect, promote and enhance the public welfare; and

J. WHEREAS, the mutual promises, covenants and obligations contained in this Agreement are authorized by Colorado law and Title 4 of the Eagle Municipal Code.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and the Developer agree as follows:

## SECTION 1 DEFINITIONS

1.1 APF Regulations. The Town's regulations regarding assurance of adequate public facilities, as set forth in Chapter 4.14 of the Eagle Municipal Code in effect as of the effective date of this Agreement, unless otherwise provided in this Agreement.

1.2 Agreement. This Development Improvements Agreement for Parcel B, Creekside Lofts Subdivision, Town of Eagle, County of Eagle, State of Colorado, between Developer and the Town.

1.3 Board. The Board of Trustees of the Town of Eagle, Colorado.

1.4 Developer. ERLI Lot 2, LLC, a Colorado limited liability company, and its successors and assigns.

1.5 Development. The residential development to be constructed on the Property.

1.6 Development Plan. The Development Plan for the Property required pursuant to Section 4.06.030 of the Eagle Municipal Code, attached hereto as Exhibit "A", and incorporated herein by this reference, which together with this Agreement shall constitute the "site-specific development plan" establishing Vested Property Rights in accordance with the Vested Property Rights Statute and the Vested Property Rights Regulations.

1.7 Property. The real property known as Parcel B, Creekside Lofts Subdivision, Town of Eagle, County of Eagle, State of Colorado.

1.8 Town. The Town of Eagle, Colorado, a municipal corporation.

1.9 Uniform, Non-discriminatory Regulations. Collectively, Town ordinances, rules, regulations, policies and standards, including engineering and design standards, applicable in the same manner to all developments within the Town.

1.10 Vested Property Rights Regulations. Chapter 4.17 of the Eagle Municipal Code.

1.11 Vested Property Rights Statute. Sections 24-68-101, *et. seq.*, C.R.S.

## SECTION 2

### TERM

The term of this Agreement and the vested property rights expressly established under this Agreement shall commence on the effective date of the Town ordinance or resolution approving this Agreement, and shall continue until the third (3<sup>rd</sup>) anniversary of the effective date of this Agreement. Developer will only be required to construct the public improvements described in this Agreement and the Development Plan if Developer elects to construct residential dwelling units on the Property during said term. After the expiration of the term, this Agreement may be terminated by the Town and upon such termination shall be of no further force or effect except as to the maintenance of the Development improvements; provided, however, that such termination shall not affect (a) any common law vested rights obtained prior to such termination; (b) any right arising from Town permits, approvals or other entitlements for the Property which were granted or approved prior to, concurrently with, or subsequent to the approval of this Agreement, or (c) the parties rights pursuant to subsection 16.5 below.

## SECTION 3

### SCOPE OF THIS AGREEMENT

3.1 Purpose. This Agreement is intended to set forth the parties' understanding and agreement as to the development of the Property pursuant to Article 68 of Title 24 of the

Colorado Revised Statutes and Title 4 of the Eagle Municipal Code; as to the nature of the development proposed for the Property; as to the procedures, limitations and standards applicable to the construction of public and other required on-site and off-site Development improvements to be installed to serve the Property; as to the responsibilities of the parties for various costs, fees and charges; and as to such other matters the parties believe can be adequately addressed at this time. This Agreement is not intended to address those matters which are more appropriately considered at the time of issuance of building permits for the Development, or future subdivision of the Property.

3.2 Town's Rights Reserved. It is not the intention of the parties in any way to diminish or limit the Town's legislative, quasi-judicial, or other non-delegable discretionary powers or to impose on the Town any duty, beyond its ordinances and regulations as they may from time to time exist, nor to impose any special obligation on the Town to approve or accept any future applications, plans, drawings, security documents, improvements, and conveyances, except as otherwise set forth in this Agreement. The Town reserves all rights to review, approve or deny any future Subdivision application for the Property in accordance with State law and the ordinances and policies of the Town then in effect. It is furthermore the express intention of the parties that nothing in this Agreement shall be construed to void the rights and obligations of the parties as set forth herein, to the extent such rights and obligations are consistent with law. The parties expressly agree they will fully perform this Agreement to the extent it is consistent with the law.

#### SECTION 4 DEVELOPMENT OF THE PROPERTY

4.1 Nature of Development. The Property is intended to be developed for a total of eight (8) dwelling units contained in three (3) buildings, a four-plex, a three-plex and a single family home.

4.2 Compliance with Current Regulations. Developer states that it has reviewed all applicable zoning, subdivision, building and other development regulations and ordinances of the Town currently in effect. Developer agrees to comply with all said regulations and requirements.

#### SECTION 5 ADEQUATE PUBLIC FACILITIES

Because of the nature and size of this Development, the Development is exempt from the requirement that a determination of adequacy of public facilities be made, pursuant to Section 4.14.020 of the Eagle Municipal Code.

#### SECTION 6 DEVELOPMENT IMPROVEMENTS AND WARRANTY-GENERAL PROVISIONS

6.1 Construction of Improvements by Developer. All on-site water service lines and

other water distribution facilities necessary to provide treated water service for this Development, all on-site wastewater collection service lines and related improvements necessary to provide wastewater service for this Development, any on-site drainage facilities required for the Development, a gravel pedestrian path including grading improvements, three (3) gravel parking spaces on the west side of Prince Alley, installation of seven (7) water taps and construction of water service lines from such taps on the water main to curb stops, installation of no parking signs on Prince Alley, reconstruction of the bollard system at the end of Prince Alley, a pavement overlay of Prince Alley in areas where road cuts for utility extensions will occur and any other public or required private development improvements as shown in the Development Plan and Exhibit "A", this Agreement, and any other improvements required by Uniform, Non-discriminatory Regulations contained within the Eagle Municipal Code shall be installed and completed at the sole cost and expense of the Developer. The public and other required development improvements to be constructed by the Developer shall be designed and built in conformance with all Uniform Non-discriminatory Regulations and requirements contained within, or promulgated pursuant to, Title 4 of the Eagle Municipal Code in effect as of the effective date of this Agreement. All such public and required Development improvements shall be designed and approved by a registered professional engineer retained by the Developer. All drawings and plans for such improvements shall be stamped by a registered engineer.

6.2 Schedule of Improvements to be Constructed By Developer. Preliminary cost estimates prepared by Developer's engineer are attached hereto as Exhibit "B" and incorporated herein by this reference. Prior to the issuance of a building permit for any structure on the Property, Developer shall submit Development Permit Civil Drawings and a Landscape Plan which shall be approved by the Town Engineer. Such drawings shall govern the installation of the required public and other development improvements in order for Developer to obtain a building permit, Temporary Certificate of Occupancy or Certificate of Occupancy. Prior to any construction on the Property, Developer shall provide to the Town Engineer for review and approval a coordinated set of architectural, landscape and engineering drawings with any revisions requested by the Town Engineer.

Prior to commencing work on the Property, the Developer shall submit to the Town for its review and approval a Final Cost Estimate showing in detail the required public improvements required for the Development that it shall be responsible for constructing, and the cost therefor. The Town Engineer shall review the Final Cost Estimate, and upon approval, such document may be recorded as an addendum to this Agreement. Unless otherwise authorized by the Town Administrator, no work shall be commenced on the Property by the Developer until such time as the performance guarantee pursuant to Section 9 of this Agreement has been furnished to the Town.

6.3 Warranty by Developer. The Developer shall warrant any and all on-site and off-site public improvements constructed by Developer which are conveyed or dedicated to the Town pursuant to this Agreement, or the Development Plan, for a period of twenty-four (24) months from the date the Town's Engineer certifies that the same conform with the approved specifications. Specifically, but not by way of limitation, the Developer shall warrant the

following:

- (a) That the title conveyed shall be good and its transfer rightful; and
- (b) Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance; and
- (c) Any and all facilities so conveyed shall be free of any and all defects in materials or workmanship.

6.4 Town Inspections. The Town shall have the right to make engineering inspections and require testing during construction of the required public Development improvements in such reasonable intervals and upon reasonable notice as the Town Engineer may request in accordance with the Town's Street Construction Regulations, Water Distribution Regulations, and Wastewater Regulations, or as otherwise determined by the Town Engineer. Inspection, acquiescence and approval of any engineering inspector of the construction of physical facilities, at any particular time, shall not constitute the approval by the Town of any phase of the construction of such public improvements. Such approvals shall be made by the Town only after completion of construction and in the manner hereinafter set forth.

6.5 Approval by Town Engineer. Upon full completion of construction by the Developer of such on-site and any off-site public improvements, the Developer shall submit to the Town Engineer a written request for an inspection and the preparation of a Final Acceptance Punch List. Upon receipt of such request, the Town Engineer shall inspect the improvements and prepare a written Final Acceptance Punch List which shall be provided to the Developer within thirty (30) days of receipt of said written request from the Developer. Within ninety (90) days from receipt of the Final Acceptance Punch List, the Developer shall make all corrections necessary to bring the system or improvements in to conformity with applicable Town standards and all plans, as approved. In the event the Developer fails to complete the Final Acceptance Punch List work within said ninety (90) day period, the Town shall proceed to exercise its remedies pursuant to Section 9 of this Agreement.

Upon completing the Final Acceptance Punch List work, the Developer shall submit to the Town Engineer a written request for final acceptance. The Town Engineer shall then inspect said improvements and issue a written determination as to whether the Final Acceptance Punch List work has been satisfactorily completed within thirty (30) days of the Developer's request. If the Town Engineer determines that the Final Acceptance Punch List work has not been satisfactorily completed, the Town Engineer shall issue a revised written Final Acceptance Punch List to the Developer. Upon a determination by the Town Engineer that the Final Acceptance Punch List work has been completed in a satisfactory manner, the Town Engineer shall prepare a bill of sale for the public improvements to be conveyed for consideration by the Town Administrator. The Town Administrator shall issue a written acceptance of the bill of sale within forty-five (45) days of the determination that the work is complete. The warranty period set forth in subsection 6.3 above shall commence upon the date of approval of the bill of sale. The Town shall be under no

obligation to provide any water service or wastewater collection service until on-site water and wastewater lines have been installed and are brought into conformance with the applicable plans and specifications approved by the Town Engineer.

6.6 Provision of "As-built" Drawings. The Developer shall provide all necessary engineering designs, surveys, field surveys, and "as-built" drawings for all on-site and off-site public improvements and utility improvements constructed by Developer which shall be approved by the Town Engineer. The "as-built" locations of all utility service lines shall be prepared by a registered land surveyor at the Developer's sole expense. Developer shall use good faith efforts to submit such "as-built" drawings for the Development prior to the issuance of a Temporary Certificate of Occupancy for any building or structure within the Development. No Certificate of Occupancy for any building or structure within the Development shall be issued until the required "as-built" drawings have been submitted to the Town. In addition, all expenses incurred for this Property by the Town in updating the Town's base maps shall be paid by the Developer to the Town. Developer shall submit both hard copy and electronic files of the "as-built" drawings. The format of the electronic files shall be AutoCad 2004 or latest edition thereof.

6.7 Conveyance of Public Improvements. All on-site and any off-site public improvements constructed by Developer in accordance with this Agreement, shall be dedicated to the Town and warranted for a period of twenty-four (24) months following completion and approval, as provided in subsection 6.5 above. Upon completion of construction in conformity with the plans, and any properly approved changes, the Developer shall convey to the Town, by bill of sale, all physical facilities constructed by Developer necessary for the extension, maintenance and repair of municipal utility services and other public facilities in accordance with subsection 6.5 above. Acceptance of said conveyance shall be authorized by the Town Administrator. Following such dedication or conveyance, the Town shall be solely responsible for the maintenance of such improvements, including any utility charges, and any damage to the improvements not resulting from defects in materials and workmanship, except for any correction work required during the warranty period. In addition, all required private Development improvements such as utility service lines, shown on the Development Plan, related plans and approved construction drawings submitted to the Town for this Development, shall be warranted for a period of twenty-four (24) months following completion and approval, as provided in subsection 6.3 above.

6.8 Construction Schedule. Prior to commencing any work on the Property, the Developer shall submit an agreed upon time schedule for the construction and completion of the public and other required private Development improvements, including public infrastructure, landscaping, and the phasing of the construction of buildings. Said schedule shall provide for a commencement date as well as a date when such improvements will be substantially completed.

Where Developer is prevented from commencing or completing any of the public or other required private Development improvements within the time periods set forth in the construction schedule or otherwise set forth in this Agreement due to an unforeseeable cause or delay beyond the control and without the fault or negligence of the Developer, the times for

commencement and/or completion of such improvements shall be extended in an amount equal to the time lost due to such delay if a request is made in writing to the Town by the Developer and approved by the Town Engineer. Delays beyond the control of the Developer shall include, but not be limited to, acts of neglect by the Town, fires, floods, epidemics, weather conditions, strikes, freight embargos or acts of God. Delays attributable to and within the control of the Developer's contractors, subcontractors or suppliers, as applicable, shall be deemed to be delays within the control of the Developer.

6.9 Dogs Prohibited During Construction. The Developer shall prohibit its contractors and subcontractors from bringing dogs onto the Property, even if such dogs are to be kept inside motor vehicles. Violation of this policy shall result in the immediate eviction of the dog and the dog's owner or harbinger by the Developer from the Property. In the event of a second violation by the same dog and/or the same dog's owner or harbinger, the dog and the dog's owner or harbinger shall be immediately evicted from the Property by the Developer and the offending person shall be prohibited from entering or working within the Property for the following seven (7) consecutive calendar days. In the event of a third violation, the offending person shall be prohibited by the Developer from entering or working within the Property for the following six (6) calendar months.

## SECTION 7 LANDSCAPING

Developer shall submit to the Town for review and approval a landscape plan as part of Developer's application for the first building permit.

## SECTION 8 WATER AND WASTEWATER SERVICES

8.1 Dedication of Water Rights. The Town acknowledges that sufficient water rights have previously been dedicated to the Town to serve this Development.

8.2 Construction of Treated Water Distribution System Improvements. The Developer shall be responsible for extending all water facilities necessary to provide water service to the Development.

8.3 Provision of Water Service Within the Development. Upon completion of the water system improvements necessary to serve the Development, the Town shall provide municipal treated water service to the Development. Provision of water service within the Development to customers shall be made available on a first come/first served basis with other water service customers subject to system capacity upon payment of applicable plant investment fees and utility connection charges at the then applicable rate set forth in the Eagle Municipal Code. Neither the Developer nor any other customer shall receive any preference for or assurance of the availability of water service from the Town until a plant investment fee is paid.

8.4 Construction of Wastewater Collection System Improvements. The Developer, at its sole cost and expense, shall design, purchase, and install all elements of the wastewater collection system located on the Property to fully service the Development in accordance with Exhibit "A" and any other design drawings, plans and specifications submitted with the Development Plan and approved by the Town Engineer, and applicable Uniform Non-discriminatory Regulations of the Town in effect at the time of issuance of the Major Development Permit.

8.5 Provision of Wastewater Service by the Town. Upon completion of any wastewater collection system improvements necessary to serve the Development by the Town and the Developer, and upon approval and acceptance by the Town Engineer, the Town agrees to provide wastewater treatment and collection service to the Development upon Developer or other customer making a written request for such service and the payment of any required plant investment fees and connection charges. Provision of wastewater service by the Town within the Development shall be made pursuant to agreement by the Town and on a first come/first served basis with other wastewater service customers, subject to system capacity and any prior commitments, and at the then applicable rate as set forth in the Eagle Municipal Code. Neither the Developer nor any other customer shall receive any preference for or assurance of the availability of wastewater service from the Town until a plant investment fee is paid.

## SECTION 9 PERFORMANCE GUARANTEE

9.1 Security Required. In order to secure the construction and installation of the public improvements, whether on-site or off-site, above described and as shown in the Development Plan for the Property and Exhibit "A" attached hereto, for which Developer is responsible, Developer shall furnish the Town with: (a) cash to be deposited in an escrow account that is acceptable to the Town pursuant to the Escrow and Disbursement Agreement attached hereto as Exhibit "C" and incorporated herein by this reference; or (b) an irrevocable standby letter of credit that is acceptable to the Town to secure the performance and completion of such required public improvements in an amount equal to one hundred ten percent (110%) of the estimated cost of said facilities.

9.2 Delivery of Security. Developer shall furnish to the Town the security required by this Section concurrently with the issuance of the Major Development Permit. The Developer shall not commence any work within the Development until such approved security is furnished to the Town.

9.3 Special Letter of Credit Standards. In the event the Developer elects to deliver to the Town an irrevocable letter of credit as a performance guarantee, the letter of credit shall be payable at sight to the Town, or its designee, and will bear an expiration date of not earlier than two (2) years from the date of issuance. The Developer shall renew such letter of credit as necessary in order to secure the performance and completion of the public improvements for which Developer is responsible in accordance with this Agreement, without further notice from

the Town. If the Developer fails to provide the Town a satisfactory substitute letter of credit at least thirty (30) days prior to the expiration date of the letter of credit previously delivered, the Town may, at its sole option, draw the full amount of the letter of credit and hold the proceeds thereof as a performance guarantee deposit. The proceeds of such draw shall be deposited in a federally insured interest bearing account, and all interest earned thereon shall be added to and become part of the performance guarantee deposit.

9.4 Additional Security Standards; Payment Upon Default. The letter of credit, or escrow funds shall be payable at any time upon presentation of an affidavit by the Town stating Developer is in default under this Agreement, has received notice of such default as required by subsection 9.7 of this Agreement and has failed to cure such default within the time set forth in subsection 9.7 of this Agreement or in the case of a letter of credit, the Developer has failed to renew the letter of credit as required herein. The letter of credit, or Escrow and Disbursement Agreement shall be in good and sufficient form as approved by the Town. In the event of a default by the Developer and compliance with the terms of subsection 9.7 of this Agreement the financial institution shall disperse funds, upon written request by the Town, or the escrow fund may be drawn upon, showing the proposed payee and the amount to be paid. Copies of any such request shall be sent to the Developer at its last known address.

9.5 Partial Release of Security. Upon completion of a certain class of the improvements by the Developer, such as water system improvements by way of example, evidenced by a detailed cost breakdown of the completed improvements, the amount of any security issued pursuant to this Agreement may be reduced by up to twenty percent (20%) of the approved estimated cost for the installation of such class of improvements, upon application of the Developer, and approval by the Town Administrator. Upon completion of all of the public improvements by the Developer, and upon final inspection and approval by the Town Engineer of all such improvements, the Board of Trustees shall further authorize the reduction of the amount of the security guaranteeing the public improvements to ten percent (10%) of the total actual cost of such improvements.

9.6 Full Release of Security. Any performance guarantee issued pursuant to this Agreement shall be fully released and discharged by action of Town's Board of Trustees upon expiration of the twenty-four (24) month warranty period, and the correction of any defects discovered during such warranty period. In the event that the correction of defects are not satisfactorily completed upon the expiration of the twenty-four (24) months, the Town may require a new performance guarantee and withhold the issuance of building permits until a new improvements guarantee is delivered to the Town. The warranty period begins on the day Board of Trustees approves the Partial Release of Security per subsection 9.5 above.

9.7 Notice of Default. Upon the Developer's failure to perform its obligations under this Agreement, all other applicable plans, drawings, specifications and other documents as approved, within the time periods set forth in this Agreement, the Town may give written notice to Developer of the nature of the default and an opportunity to be heard before the Board of Trustees concerning such default. If such default has not been remedied within thirty (30) days

of receipt of the notice or of the date of any hearing before the Board of Trustees, whichever is later, (or such reasonable time period as is necessary to cure the default provided that Developer has commenced in good faith to cure the default), the Town may then give written notice to the Developer and issuer of a letter of credit, or escrow agent that the Town, as agent for the Developer, is proceeding with the task of installing the public and other required Development improvements in whole or in part.

9.8 Power of Attorney Granted. The Developer hereby designates and irrevocably appoint the Mayor of the Town of Eagle, Colorado, as its Attorney-In-Fact and agent for the purpose of completing all public and other necessary improvements required by this Agreement in the event of a default by the Developer. This Agreement shall be filed in the office of the Clerk and Recorder of Eagle County, Colorado, and shall constitute constructive notice of this Agreement and the power of attorney provided herein. This Agreement and power of attorney contained herein may be enforced by the Town pursuant to all legal and equitable remedies available, including an action for specific performance in a court of competent jurisdiction.

9.9 Increase in Amount of Security. If a substantial amount of time elapses between the time of posting of the security and actual construction of the improvements, the Town reserves the right to require a reasonable increase in the amount of the applicable security, if necessary because of estimated increased costs of construction.

9.10 Cost Estimate Not Binding. The purpose of the cost estimate provided to the Town is solely to determine the amount of security required and may be revised from time to time to reflect the actual costs. No representations are made as to the accuracy of these estimates, and the Developer agrees to pay the actual cost of all such public improvements. Neither the estimated costs nor the amount of the security establishes the maximum amount of the Developer's liability.

9.11 Attorney's Fees. If any legal proceedings are commenced concerning the Town's election to complete the public improvements, as agent for the Developer, against the Developer, or issuer of the letter of credit, the substantially prevailing party shall be entitled to its costs and reasonable attorney's fees (including legal assistant's fees) or the reasonable value of a salaried attorney's time (including legal assistant's time).

## SECTION 10 INDEMNIFICATION AND INSURANCE

10.1 Indemnification By Contractors. Any contractor employed by the Developer who performs work within rights-of-way or easements dedicated to the Town or within other property owned by the Town shall agree to indemnify and hold harmless the Town of Eagle, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with work performed by

such contractor for the Developer within Town rights-of-way, easements or other property, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of such contractor, any subcontractor of the contractor, or any officer, employee, representative, or agent of such contractor or of any subcontractor of the contractor, or which arise out of any workers compensation claim of any employee of the contractor or of any employee of any subcontractor of the contractor. The contractor shall agree to investigate, handle, respond to, and provide a defense for and defend against, any such liability, claims or demands at the sole expense of such contractor. The contractor shall also agree to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.

10.2 Insurance Required. Any contractor employed by the Developer to perform work within rights-of-way or easements dedicated to the Town or within any other property owned by the Town, shall agree to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by such contractor pursuant to subsection 10.1. Such insurance shall be in addition to any other insurance requirements imposed by the Developer or by law. Any such contractor shall not be relieved of any liability, claims, demands or other obligations to be assumed pursuant to subsection 10.1 by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

10.3 Nature and Amounts of Insurance. Any contractor employed by the Developer to perform work within rights-of-way and easements dedicated to the Town or other property owned by the Town shall procure and maintain, and shall cause any subcontractor of such contractor to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the Town. All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations to be assumed by such contractor pursuant to subsection 10.1. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

(a) Workers compensation insurance to cover obligations imposed by applicable Colorado law for any employee engaged in the performance of work, and Employers' Liability insurance with minimum limits of \$500,000.00 each accident, \$500,000.00 disease-policy limit, and \$500,000.00 disease-each employee. Evidence of qualified self-insured status may be substituted for the Workers Compensation requirements of this paragraph.

(b) General Liability insurance with minimum combined single limits of \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual, and employee acts), blanket contractual independent contractors, products, and completed

operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.

(c) Comprehensive Automobile liability insurance with minimum combined single limits for bodily injury and property damage of not less than \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate with respect to each of a contractor's owned, hired or non-owned vehicles assigned to or used in performance of services within the Town's rights-of-way, easements and other property. The policy shall contain a severability of interests provision.

(d) The policies required by paragraphs (b) and (c) above shall be endorsed to include the Town of Eagle and the Town's officers and employees as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, or carried by or provided through any insurance pool of the Town, shall be excess and not contributory insurance to that provided by the Developer's contractors. No additional insured endorsement to the policy required by paragraph (a) above shall contain any exclusion for bodily injury or property damage arising from completed operations. A contractor shall be solely responsible for deductible losses under any policy required above.

(e) Upon request by the Town, the Developer, shall provide the Town with a certificate of insurance to be completed by the contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect. The certificate shall identify the contract and shall provide that the coverages afforded under the policy shall not be canceled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the Town.

10.4 Indemnification by Developer. In addition to the indemnification required in subsection 10.1, the Developer hereby expressly agrees to indemnify and hold the Town harmless from and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity, excluding Town officers, agents or employees, in connection with, or on account of the performance of work within the Development and elsewhere by the Developer, or its agents, contractors or employees pursuant to this Agreement. The Developer further agrees to aid and defend the Town in the event that the Town is named as a defendant in any action concerning the performance of work by the Developer, or its agents, contractors or employees pursuant to this Agreement except where such suit is brought by the Developer. The Developer shall not be considered an agent or employee of the Town for any purpose.

10.5 Governmental Immunity. The parties hereto understand and agree that the Town is relying on, and does not waive or intend to waive by any provision contained in this Section, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Sections 24-10-101, *et.seq.*, C.R.S., as from time to time amended, or otherwise available to the Town, its officers, or its employees.

SECTION 11  
REIMBURSEMENT OF COSTS

11.1 Development Review Costs. Pursuant to Section 4.03.080(C)(2) of the Eagle Municipal Code, the Developer shall pay to the Town the actual cost to the Town for consulting engineering, surveying, base map updating, consultant planning services, and legal services rendered in connection with the Developer's Major Development Permit application. Said costs shall be paid prior to the issuance of the Major Development Permit. Provided, however, upon request, the Developer shall receive detailed invoices reflecting the nature and description of each charge so incurred by the Town. In the event the Developer does not believe that the costs assessed under this Section are reasonable, the Developer may appeal such assessment to the Board of Trustees. Following an opportunity for the Developer to be heard, the Board shall affirm the appeal or deny the appeal.

11.2 Inspection Costs. Prior to the approval and acceptance of the construction and installation of the required public and private Development improvements, the Developer shall pay to the Town the actual cost of all inspections of such improvements made or conducted at the direction of the Town Administrator, Town Engineer, or Town Public Works Director, including the reasonable value of a salaried employee's time, as provided in Section 4.03.080(D)(1) of the Eagle Municipal Code. In the event the Developer believes the costs assessed are unreasonable, the Developer may appeal such assessment in the manner set forth in subsection 11.1.

SECTION 12  
IMPACT FEES; SALES AND USE TAXES

12.1 Street Improvement Fees. In accordance with Section 4.13.185 of the Eagle Municipal Code, Developer shall pay to the Town the street improvement fees for seven (7) multi-family residential units and one (1) single family unit. The exact amount of such fees shall be based upon plans submitted at the time of application for a building permit. Such fees shall be paid at the time the first building permit for the Development is issued.

12.2 Fire Protection Impact Fees. In accordance with Section 4.13.186 of the Eagle Municipal Code, Developer shall pay to the Town fire protection impact fees for seven (7) multi-family residential units and one (1) single family unit. The exact amount of such fees shall be based upon plans submitted at the time of application for a building permit. Such fees shall be paid at the time of the issuance of the first building permit for the Property.

12.3 Fee in Lieu of School Land Dedication. In accordance with Section 4.13.064 of the Eagle Municipal Code, the Developer shall pay to the Town a fee in lieu of school land dedication based on the increased number of residential dwelling units to be constructed on the Property. Such fee shall be paid prior to the issuance of the first building permit for the Property.

SECTION 13  
ISSUANCE OF MAJOR DEVELOPMENT PERMIT

Upon payment of the costs set forth in subsection 11.1, the Town agrees to issue a Major Development Permit to the Developer subject to the terms and conditions of this Agreement and the Development Plan, as approved by the Town.

SECTION 14  
ENFORCEMENT

14.1 Default; Notice; Termination. In the event of any default or breach by the Developer of a covenant, term, condition, or obligation under this Agreement, and if such default or breach continues after notice thereof for sixty (60) days, this Agreement may be forthwith terminated with respect to such party, at the option of the Town. Any declaration of termination of the Agreement shall be effective only after and upon a resolution to that effect duly authorized by the Town's Board of Trustees. All rights concerning remedies or attorney's fees shall survive any termination of this Agreement.

14.2 Legal Action. The parties to this Agreement shall have all rights available at law or in equity to enforce the terms of this Agreement, including the right of specific performance. In the event that any action is filed or maintained by either party in relation to this Agreement, the prevailing party shall be entitled to its costs and reasonable attorney's fees (including legal assistant's fees) or the reasonable value of a salaried attorney's time.

14.3 Other Remedies Available to Town. In the event the Developer fails to construct any required public improvements in accordance with the terms and conditions of this Agreement, following the delivery of a letter of credit or the deposit of funds into escrow as set forth in Section 9 of this Agreement and the Escrow and Disbursement Agreement attached hereto as Exhibit "B", the Town may exercise any of the remedies set forth in Section 9. Alternatively, the Town may assign any funds on deposit with the escrow agent to a subsequent developer or a lender who has acquired the Development by purchase, foreclosure or otherwise who will then have the same rights of completion as the Town if the subsequent developer or lender agrees in writing to complete the unfinished improvements. In addition, the Town may also suspend the Major Development Permit approval during which time the Developer will have no right to lease or sell portions of the Property without the express written approval of the Town or until the improvements are completed and accepted by the Town. Provided, however, such suspension shall not affect (a) any right arising from other Town permits, approvals or other entitlements for the Property which were granted or approved prior to, concurrently with, or subsequent to the approval of this Agreement and the issuance of the Major Development Permit; or (b) the parties' rights pursuant to subsection 16.5 below. These remedies are cumulative in nature.

SECTION 15  
VESTED RIGHTS-VACATION OF DEVELOPMENT PLAN

15.1 Vested Property Rights. Developer and the Town agree that (a) this Agreement, together with the documents constituting the approved Development Plan constitute an approved "Site Specific Development Plan" as defined in the Vested Property Rights Statute and the Vested Property Rights Regulations, and (b) the owner of the Property shall have vested property rights to undertake and complete development and use of the Property for a period of three (3) years from the effective date of the ordinance or restitution approving this Agreement. The Town shall not initiate any zoning, land use or other legal or administrative action that would directly or indirectly have the effect of altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise materially and adversely impairing to a substantial degree any of Developer's vested property rights, except as otherwise permitted under Section 24-68-105, C.R.S., or as expressly set forth in this Agreement.

**APPROVAL OF THIS PLAN CREATES A VESTED PROPERTY RIGHT PURSUANT TO SECTION 24-68-103, C.R.S., AS AMENDED.**

15.2 Vacation of Development Plan. Failure of the Developer to complete construction of the public improvements required by this Agreement within the times provided herein and following the delivery of the notice described in subsection 9.6 hereof and the expiration of the thirty (30) day time period described in subsection 9.6 without a cure by Developer, the vested property rights associated with the Development Plan and this Agreement shall be forfeited. Upon such an event, the Board of Trustees of the Town may enact an ordinance vacating the Development Plan and Major Development Permit and upon the effective date of such ordinance, the Development Plan and the Major Development Permit issued in connection therewith shall be null, void, and of no effect. The Developer shall then be prohibited from developing the Property without further approvals by the Town. Any property rights dedicated to the Town of Eagle for public purposes shall remain the property of the Town and shall be considered liquidated damages. Provided, however, vacation of the Development Plan and Major Development Permit shall not affect (a) any right arising from other Town permits, approvals or other entitlements for the Development which were granted or approved prior to, concurrently with, or subsequent to the issuance of the Major Development Permit; or (b) the parties' rights pursuant to subsection 16.5 below.

15.3 Certificate of Compliance. It is agreed that upon completion of all improvements which are the subject of this Agreement, expiration of the warranty period as provided herein, and compliance with all of the terms of this Agreement, the Town shall, upon request from Developer, execute a resolution or certificate stating that all improvements have been constructed in compliance with this Agreement.

SECTION 16  
MISCELLANEOUS PROVISIONS

16.1 Waiver of Defects. In executing this Agreement, Developer and the Town waive all rights they may have concerning defects, if any, of the form of this Agreement, the formalities whereby it is executed; and concerning the procedure, substance and form of the ordinances or resolutions adopting this Agreement. Developer further waives all rights it may have concerning the power of the Town to impose conditions on Developer as set forth herein.

16.2 Failure to Exercise Rights. No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by written amendment to this Agreement signed by the Town and the Developer; the waiver of any default under this Agreement shall not be deemed a waiver of any subsequent default or defaults of the same type. The Town's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any improvement. The Developer's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Town.

16.3 Complete Agreement. This Agreement together with the Development Plan and related plans and design specifications contain all of the understandings, conditions and agreements between the Town and Developer relating to the Development at this time, and no other prior or current representation, oral or written, shall be effective or binding upon the Town and Developer, except for representations made by the Developer, or its agent, or the Town Board of Trustees and Town staff members at public hearings concerning approval of the Development Plan, not in conflict with the express provisions of this Agreement.

16.4 Enabling Ordinances Required. To the extent required by law and by the terms of this Agreement, the obligations and covenants of the Town are conditional upon the adoption by the Town of appropriate enabling ordinances or resolutions.

16.5 Attorney's Fees. In the event that any action is filed or maintained by any party in relation to this Agreement, the prevailing party shall be entitled to its costs and reasonable attorney fees (including legal assistant's fees) or the reasonable value of a salaried attorney's time (including legal assistant's time). All rights concerning remedies or attorney's fees shall survive termination of this Agreement.

16.6 Authorization. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings, and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made or will be made.

16.7 Amendments. This Agreement may be amended from time to time by written agreement duly authorized by the parties.

16.8 Representations of Town Officials. It is expressly understood that the Town cannot be legally bound by the representations of any of its officers or agents or their designees except in accordance with the Eagle Municipal Code and ordinances, and that the Developer, when dealing with the Town, acts at its own risk as to any representation or undertaking by the Town or its officers or agents or their designees which is subsequently held unlawful by a court of law, which is in accordance with the laws of the State of Colorado. Provided, however, that this paragraph shall not be construed to limit the rights and remedies of the parties otherwise provided by law.

16.9 Covenants. The provisions of this Agreement shall be binding on all subsequent owners of the Property as covenants running with the Property, to be released only by the Town of Eagle, and the benefits and burdens of this Agreement shall bind and inure to the benefit of all estates and interests in the Property and all successors in interest to the parties to this Agreement, except as otherwise provided herein.

16.10 Notices. All notices required or given by the terms of this Agreement shall be made by certified first class mail, postage prepaid, return receipt requested, to the parties at their addresses listed below. All notices shall be effective upon mailing. These addresses shall remain valid until notice of a change of address is given in accordance herewith.

If to Town:                      Town of Eagle, Colorado Board of Trustees  
   P.O. Box 609  
   Eagle, Colorado 81631  
   Attn.: Town Manager

With a copy to:                      Sands Law Office, LLC.  
   450 West Avenue, Suite 204  
   Rifle, Colorado 81650  
   Attn.: Edward P. Sands, Esq.

If to Developer:                      ERLI Lot 2, LLC  
   232 West Meadow Drive  
   Vail, Colorado 81657

16.11 Time of the Essence. Time is of the essence of this Agreement.

16.12 Colorado Law Applicable. This Agreement is made and delivered within the State of Colorado, and the laws of the State of Colorado shall govern its interpretation, validity, and enforceability.

16.13 Jurisdiction of Courts. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to the Agreement, a letter of credit, or performance bond will be deemed to be proper only if such action is commenced in the District Court for Eagle County, Colorado. The Developer expressly

waives its right to bring such action in or to remove such action to any other court, whether State or federal.

16.14 Rights of Persons Not a Party. No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement.

16.15 Provisions Deemed Severable. If any part, term or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.

16.16 Assignment of Rights; Release of Obligations. The benefits of this Agreement are personal to the Developer and may not be assigned without the express written approval of the Town. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and they will be binding on the heirs, successors, and assigns of the Developer, unless otherwise released by the Town. There is no prohibition on the right of the Town to assign its rights under this Agreement. The Town will release the original Developer's security if it accepts new acceptable security from any developer or lender who obtains the Property. However, no act will constitute a release of the original Developer from liability under this Agreement unless an assignment of this Agreement is expressly authorized by the Town.

16.17 No Waiver of Immunity. Nothing contained in this Agreement constitutes a waiver of the Town's sovereign immunity or governmental immunity under any applicable State law.

16.18 Recordation of Agreement. The Town shall record a copy of this Agreement in the office of the Clerk and Recorder of Eagle County, Colorado.

16.19 Execution of Other Documents. The parties agree to execute any additional documents and to take any additional actions necessary to carry out the terms of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

TOWN OF EAGLE, COLORADO, a municipal corporation, acting by and through its Board of Trustees,

ATTEST:

By: \_\_\_\_\_  
Anne McKibbin, Mayor

\_\_\_\_\_  
Jenny Rakow, Town Clerk

ERLI Lot 2, LLC, a Colorado limited liability company

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

STATE OF COLORADO        )  
  )ss.  
COUNTY OF EAGLE        )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by Anne McKibbin, Mayor, and Jenny Rakow, Town Clerk, respectively, of the Town of Eagle, Colorado.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

STATE OF COLORADO        )  
  )ss.  
COUNTY OF EAGLE        )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ of ERLI Lot 2, LLC, a Colorado limited liability company.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

## **EXHIBIT LIST**

Exhibit "A"	Section 4.06.030 of the Eagle Municipal Code
Exhibit "B"	Developer's Preliminary Cost Estimate
Exhibit "C"	Escrow & Disbursement Agreement

**TOWN OF EAGLE DEVELOPMENT IMPROVEMENTS  
ESCROW AND DISBURSEMENT AGREEMENT**

THIS AGREEMENT is entered into on August \_\_\_\_\_, 2016, by and between THE TOWN OF EAGLE, COLORADO, a municipal corporation, whose address is Town Hall, 200 Broadway, P.O. Box 609, Eagle, Colorado 81631; and ERLI, LLC a Colorado limited liability company, whose address is 232 West Meadow Drive, Vail, Colorado (“Developer”); and \_\_\_\_\_ (“Escrow Agent”)

RECITALS:

A. Whereas, the Town and ERLI, LLC entered into a Development Improvements Agreement dated August 23, 2016, (“Development Improvements Agreement”) containing terms and conditions regarding the development of certain property described as Parcel B, Creekside Lofts Subdivision, Town of Eagle, County of Eagle, State of Colorado, and

B. Whereas, in accordance with the Development Improvements Agreement, Developer is required to deposit the sum of \$\_\_\_\_\_ (“Escrow Funds”), an amount equal to one hundred ten percent (110%) of the estimated cost of constructing and installing certain described public improvements, to guarantee the construction and installation of such improvements; and the Town and Developer have selected Escrow Agent to hold and disburse the Escrow Funds.

NOW, THEREFORE, in consideration of the recitals described above, the mutual covenants and conditions contained in this Escrow and Disbursement Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town, Developer, and Escrow Agent agree as follows:

**SECTION 1  
CONSTRUCTION OF IMPROVEMENTS**

Developer agrees to complete the construction and installation of the public improvements in accordance with all terms and conditions contained in the Development Improvements Agreement. Such construction and installation shall be at Developer’s sole expense.

**SECTION 2  
FUNDS HELD IN ESCROW**

Concurrently with the execution of this Escrow and Disbursement Agreement, Developer shall deposit the sum of \$\_\_\_\_\_ with Escrow Agent. Escrow Agent agrees to hold this amount in escrow and any additional amounts deposited in accordance with the terms of the Development Improvements Agreement. Any interest earned on the funds deposited shall belong to the Developer.

SECTION 3  
DUTIES OF ESCROW AGENT

The duties of the Escrow Agent shall be as follows:

3.1 Disbursement of Funds. During the term of this Escrow and Disbursement Agreement, Escrow Agent shall hold and disburse the Escrow Funds strictly in accordance with the terms and provisions of this Escrow and Disbursement Agreement.

3.2 Limited Liability. The Town and Developer agree and acknowledge that Escrow Agent assumes no liability in connection with this Escrow and Disbursement Agreement except for gross negligence or willful misconduct; that Escrow Agent shall never be responsible for the validity, correctness or genuineness of any document or notice referred to in this Escrow and Disbursement Agreement; that Escrow Agent is under no duty or obligation to ascertain the identity, authority or rights of the other parties (or their agents) executing or delivering or purporting to execute or to deliver this Escrow and Disbursement Agreement or any documents, papers or payments deposited or called for under this Escrow and Disbursement Agreement; and that Escrow Agent may seek advice from its own legal counsel and shall be fully protected in any action taken by it in good faith in accordance with the opinion of its counsel.

3.3 Disputes. If Escrow Agent is unable to determine at any time to whom the Escrow Funds should be delivered, or if a dispute develops between the Town and the Developer concerning to whom the Escrow Funds should be delivered, then in such event, the Escrow Agent shall deliver the Escrow Funds in accordance with the joint written instructions of the Town and Developer. In the even such written instructions are not received by Escrow Agent within ten (10) days after Escrow Agent has issued a written request for instructions to the Town and Developer, Escrow Agent shall have the right to pay the Escrow Funds into the registry of the Eagle County District Court and interplead the Town and Developer. Escrow Agent shall then be fully discharged of any obligation in connection with this Escrow and Disbursement Agreement. Escrow Agent shall be entitled to recover its reasonable attorneys' fees, related costs, and expenses from the Town and Developer in commencing such action.

SECTION 4  
INDEMNIFICATION OF ESCROW AGENT

Town and Developer agree to indemnify and hold Escrow Agent harmless from and against all claims, actions, causes of action, judgments, damage, loss, liability, costs and expenses including, but not limited to, attorneys' fees, expenses, and court costs, arising out of or in any way resulting from the construction and installation of the required public improvements on the Property as required by the Development Improvements Agreement.

SECTION 5  
PARTIES' CONSENT

The Town and Developer hereby expressly consent to the disbursement of funds and other conduct of the Escrow Agent as authorized by the provisions of this Escrow and Disbursement Agreement.

SECTION 6  
ESCROW AGENT FEES

Any fees charged by the Escrow Agent shall be paid by the Developer.

SECTION 7  
DISBURSEMENT OF ESCROW FUNDS

Escrow Agent shall disburse the Escrow Funds as follows:

7.1 Partial Disbursements. Upon completion of a certain class of public improvements by the Developer, Escrow Funds shall be paid to the Developer in an amount equal to up to twenty percent (20%) of the approved estimated cost for the installation of such class of improvements upon application by the Developer, and approval by the Town's Engineer or Town Planner. In order for Developer to receive such partial disbursement, the following shall be presented to the Escrow Agent:

7.1.1 A disbursement request signed by a professional engineer licensed by the State of Colorado ("Developer's Engineer"), which shall state which class of improvements have been completed; that Developer's Engineer has inspected the improvements for which payment is requested; that the work has been completed in accordance with approved plans and specifications; and that the sum requested to be disbursed is reasonable and consistent with the estimate contained in an addendum to of the Development Improvements Agreement; and

7.1.2 All bills or invoices for such work which have been approved by the Developer; and

7.1.3 Written approval of such partial disbursement executed by the Town Engineer or Town Planner.

7.2 Disbursements Upon Completion of Improvements. Upon written certification by the Developer and the Town Engineer that the Developer has completed all of the required Development improvements in accordance with the Development Improvements Agreement, and that there are no liens, encumbrances or other restrictions on the improvements, and that such improvements have been inspected and approved by the Town Engineer or Public Works Director, the Town's Board of Trustees shall execute a resolution verifying the acceptance of the improvements and authorizing the Escrow Agent to disburse to the Developer all remaining funds except an amount equal to ten percent (10%) of the total actual cost for construction and installation

of the required improvements, as certified by the Developer and the Town Engineer. The Escrow Agent shall then disburse all remaining funds except an amount equal to ten percent (10%) of the actual total cost for construction and installation of the required Development improvements, as certified by Developer and the Town Engineer, upon receiving such certification.

The remaining funds shall be retained by Escrow Agent for a period of twenty-four (24) months from the date of the Board of Trustees resolution verifying the acceptance of the improvements. Provided, however, during said period all or part of such funds shall be disbursed upon written certification by the Town Administrator or his designee that: any of the public improvements constructed by the Developer in accordance with the Development Improvements Agreement are defective in materials or workmanship; that following notice, the Developer has failed to perform the corrective work necessary to remedy such defects in accordance with the Development Improvements Agreement; and the Town, pursuant to the Development Improvement Agreement, is proceeding with the task of correcting the defective materials or work. Such Escrow Funds shall then be disbursed by Escrow Agent to the Town or other payee authorized by the Town in such amounts as designated by the Town.

7.3 Disbursements Upon Default. Upon written certification by the Town Administrator or his designee that: the Developer is in default under the Development Improvements Agreement and has failed to perform its obligations under such Agreement, in accordance with all plans, drawings, specifications, and other documents submitted to the Town, as approved, within the time period set forth in the Development Improvements Agreement; and that the Town, as agent for the Developer, is proceeding with the task of installing or completing the required public improvements on the Property, as specified in the Development Improvements Agreement, in whole or in part; the Escrow Agent shall then disburse Escrow Funds to the Town or other payee authorized by the Town, in such amounts as requested by the Town.

## SECTION 8 TERMINATION OF AGREEMENT

Upon the full completion of the construction and installation of the required improvements as designated in the Development Improvements Agreement; and upon expiration of the twenty-four (24) month warranty period set forth in the Development Improvements Agreement, as certified by the Town Engineer or Town Planner, Escrow Agent shall disburse any remaining Escrow Funds to Developer and this Escrow and Disbursement Agreement shall then terminate, and no parties shall have any further rights, duties or obligations under this Escrow and Disbursement Agreement.

## SECTION 9 MISCELLANEOUS PROVISIONS

9.1 Waiver of Defects. In executing this Escrow and Disbursement Agreement, the parties waive all rights they may have concerning defects, if any, of the form of this Agreement, the formalities whereby it is executed; and concerning the procedure, substance and form of the ordinances or resolutions adopting this Escrow and Disbursement Agreement.

9.2 Complete Agreement. This Escrow and Disbursement Agreement, together with the Development Improvements Agreement and Development Plan, contain all of the understandings, conditions and agreements between the Town and the Developer relating to the escrow and disbursement of funds for the construction and installation of the required Development improvements, and no other prior or current representation, oral or written, shall be effective or binding upon the Town and Developer.

9.3 Attorneys' Fees. In the event that any action is filed or maintained by any party in relation to this Escrow and Disbursement Agreement, the substantially prevailing party shall be entitled to its costs and reasonable attorneys' fees (including legal assistant's fees) or the reasonable value of a salaried attorney's time (including legal assistant's time). All rights concerning remedies or attorneys' fees shall survive termination of this Escrow and Disbursement Agreement.

9.4 Authorization. The signatories to this Escrow and Disbursement Agreement affirm and warrant that they are fully authorized to enter into and execute this Escrow and Disbursement Agreement, and all necessary actions, notices, meetings, and/or hearings pursuant to any law required to authorize their execution of this Escrow and Disbursement Agreement have been made or will be made.

9.5 Amendments. This Escrow and Disbursement Agreement may be amended from time to time by written agreement duly authorized by the parties against whom such amendment may be enforced.

9.6 Notices. All notices required or given by the terms of this Escrow and Disbursement Agreement shall be made by personal delivery or by certified first class mail, postage pre-paid, return receipt requested, to the parties at their addresses listed below. All notices shall be effective upon personal delivery or mailing. These addresses shall remain valid until notice of a change of address is given to all parties.

If to Town::	Town of Eagle P.O. Box 609 Eagle, CO 81631 Attn: Town Manager
With a copy to:	Sands Law Office, LLC. 450 West Avenue, Suite 204 Rifle, CO 81650 Attn: Edward P. Sands, Esq.
If to Developer:	ERLI, LLC 232 West Meadow Drive Vail, CO 81657

If to Escrow Agent: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9.7 Time of the Essence. Time is of the essence of this Agreement.

9.8 Colorado Law Applicable. This Escrow and Disbursement Agreement is made and delivered within the State of Colorado, and the laws of the State of Colorado shall govern its interpretation, validity and enforceability.

9.9 Jurisdiction of Courts. Personal jurisdiction and venue for any civil action commenced by any of the parties arising out of or relating to this Escrow and Disbursement Agreement will be deemed to be proper only if such action is commenced in the District Court of Eagle County, Colorado. The parties expressly waive any rights to bring such action in or to remove such action to any other court, whether State or federal.

9.10 Rights of Persons Not a Party. No person or entity who or which is not a party to this Escrow and Disbursement Agreement will have any right of action under this Escrow and Disbursement Agreement.

9.11 Provisions Deemed Severable. If any part, term or provision of this Escrow and Disbursement Agreement is held by a court to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the part, term, or provision was never part of the Escrow and Disbursement Agreement.

9.12 Execution of Other Documents. The parties agree to execute any additional documents and to take any additional action necessary to carry out the terms of this Escrow and Disbursement Agreement.

IN WITNESS WHEREOF, each party to this Escrow and Disbursement Agreement has caused it to be executed on the date indicated below.

THE TOWN OF EAGLE, COLORADO,  
a municipal corporation

By: \_\_\_\_\_  
Anne McKibbin, Mayor

\_\_\_\_\_ Date

ATTEST:

\_\_\_\_\_  
Jenny Rakow, Town Clerk



ESCROW AGENT:

\_\_\_\_\_  
(Name of Financing Institution)

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

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF EAGLE            )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2016,  
by\_\_\_\_\_.

(Escrow Agent)

WITNESS MY HAND AND OFFICIAL SEAL

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

To: Mayor Anne McKibbin and Town Board  
 From: Jenny Rakow, CMC Town Clerk  
 Date: August 23, 2016 Town Board Meeting  
 Re: Old Town Hall Leases




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Sara Amberg, Strategic Director for InteGreat! approached me last month regarding renting the remaining office space at Old Town Hall. They are in need of a satellite office for their administrative staff in Eagle.

InteGreat! is a part of the Eagle River Youth Coalition and according to their web description “is a community coalition of people and organizations in Eagle County. We are collaborating to create a community system that effectively supports health and learning for all children. Our goals are driven by neighborhood leaders, parents, students, and teachers, who together represent 33 organizations from across 16 private and public sectors.”

**STAFF RECOMMENDATION: Approve Resolution 43, Series 2016 approving a one-year lease for Eagle River Youth Coalition d/b/a InteGreat!**

Leases

Name	Year	Costs Amount	Rent/Management Cost	Total Rent
Ute Springs (680 sq ft)	2016	160.00	100.00	260.00
Mean Streets Boxing (1600 sq ft)	2016	320.00	100.00	420.00
Eagle River Youth Coalition (680)	2016	160.00	100.00	260.00
				<b>\$940.00</b>

**RESOLUTION NO. 43**  
**(Series of 2016)**

A RESOLUTION OF THE BOARD OF TRUSTEES TOWN OF EAGLE, COLORADO  
APPROVING A LEASE AGREEMENT BETWEEN THE TOWN OF EAGLE AND EAGLE  
RIVER YOUTH COALITION D/B/A INTEGREAT! FOR SPACE IN THE TOWN OF EAGLE  
OLD TOWN HALL; AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

WHEREAS, the Town of Eagle is the owner of the real property situated at 108 West Second Street, Town of Eagle, County of Eagle, State of Colorado, known as the "Eagle Old Town Hall"; and

WHEREAS, the Eagle River Youth Coalition d/b/a InteGreat! desires to lease office space at the Eagle Old Town Hall, and the Town of Eagle is willing to make such space available under the terms and conditions as contained in attached lease (Exhibit "A").

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO:

Section 1. The lease Agreement between the Town of Eagle, Colorado and the Eagle River Youth Coalition d/b/a InteGreat!, for the lease of space at the Eagle Town Hall, attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby approved.

Section 2. The Mayor of the Town of Eagle is hereby authorized and directed to execute the agreement attached hereto as Exhibit "A" on behalf of the Town of Eagle.

INTRODUCED, READ, PASSED, AND ADOPTED at a regular meeting of the Board of Trustees of the Town of Eagle, Colorado, held on the 23rd day of August, 2016.

TOWN OF EAGLE, COLORADO

ATTEST:

\_\_\_\_\_  
Jenny Rakow, Town Clerk

\_\_\_\_\_  
Anne McKibbin, Mayor

# LEASE AGREEMENT

## TOWN OF EAGLE OLD TOWN HALL

THIS LEASE is made and entered into and effective as of this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **TOWN OF EAGLE, COLORADO**, a municipal corporation, whose address is P.O. Box 609, Eagle, Colorado 81631 (“Lessor”), and **EAGLE RIVER YOUTH COALITION D/B/A INTEGREAT!**, whose address is PO BOX 4613 EDWARDS CO 81632 (“Lessee”).

### RECITALS

**WHEREAS**, Lessor is the owner of the real property situate at 108 West Second Street, Town of Eagle, County of Eagle, State of Colorado, known as the “Eagle Old Town Hall”, (the “Property”); and

**WHEREAS**, Lessee desires to rent and lease a portion of the Property from Lessor, as described in Exhibit “A”, attached hereto and incorporated herein by this reference (“Leased Premises”).

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Lessor and Lessee agree as follows:

1. **LEASED PREMISES.** The Lessor hereby leases to Lessee the portion of the Property described in Exhibit “A”, attached hereto and incorporated herein by this reference, situate in the Town of Eagle, County of Eagle, State of Colorado (“Leased Premises”). Such letting is upon and subject to the terms, conditions and covenants set forth below, and Lessee covenants as a material part of the consideration for this Lease to keep and perform all such terms, conditions and covenants. In addition, Lessee shall have full and complete access to and use of the common areas of the Property described as the two (2) restrooms, hallways to restrooms, and entryway to the building. Said common areas shall also be available for use by other building tenants.

2. **COMMENCEMENT/LEASE TERM.** The initial term of this Lease shall commence September 1, 2016 for a period of one (1) year. Upon execution of this Lease and upon delivery of the insurance certificates required by Section 9 below and delivery of the security deposit, the first Lease payment shall be due on September 1, 2016. In the event Lessee elects to exercise its option to renew the Lease for an additional one (1) year term, Lessee shall provide Lessor at least sixty (60) days advance written notice of its election. Lessee may terminate this Lease, with thirty (30) days written notice to Lessor.

3. **RENT.** Lessee shall pay to Lessor for the initial term annual rent in the amount of three thousand one hundred twenty (\$3,120.00) payable in the amount of \$260.00 per month on

the 1st day of each month for the Leased Premises commencing September 1, 2016, at the Lessor's address stated above. In the event Lessee fails to make any rent payment within five (5) days following the scheduled monthly payment date, Lessee shall pay a late fee charge in the amount of fifty dollars (\$50.00) in addition to interest on the unpaid monthly balance and any applicable late fees at the rate of eighteen percent (18%) per annum, compounded monthly, until fully paid. The rent shall be paid to Lessor without notice or demand and without abatement, deduction or setoff unless otherwise specifically permitted in this Lease.

4. **SECURITY DEPOSIT.** Upon execution of this Lease, the Lessee shall deliver to Lessor a security deposit in the amount of five hundred twenty dollars (\$520.00). Said deposit may be commingled by Lessor with its other funds and shall be received by Lessor without liability for interest, as security for Lessee's faithful performance of all of the provisions of this Lease, including the obligation to pay rent. For so long as the security deposit has not been repaid by Lessor, it shall constitute an account payable by Lessor to Lessee. Within sixty (60) days following termination of this Lease, to the extent, if any, that Lessor has not applied the security deposit as herein permitted, the balance shall be returned to Lessee. If Lessee shall default with respect to any covenant, duty or obligation of Lessee under this Lease, then the security deposit or any part thereof may be applied by Lessor (but Lessor shall not be obligated to do so) to the damages sustained by Lessor by reason of any such default or to any indebtedness owing by reason of any failure of Lessee to make any required monetary payment under this Lease. Lessor shall provide Lessee a written notice and accounting of such applications of the security deposit. No such application shall be construed as an agreement to limit the amount of Lessor's claim for damages or as a waiver of any damages or release of any indebtedness, and any claim of Lessor under this Lease not recovered in full from the security deposit shall remain in full force and effect.

At any time when Lessor has made any such application of all or any part of the security deposit, Lessor shall have the right (but not the obligation) at any time thereafter to request that Lessee pay to Lessor a sum or sums equal to the amount so applied by Lessor so that Lessor will always have in its possession a sum equal to the amount of the security deposit stated above. Lessee shall make each such requested remittance within ten (10) days following such written request from Lessor and each such remittance received by Lessor shall thereupon constitute a part of the security deposit subject to the terms and provisions of this Lease. Failure to make any such requested remittance within such ten (10) day period may be treated by Lessor as a failure of Lessee to make timely payment of rent and as an event of default.

In the event of any conveyance or other transfer of the Leased Premises by Lessor, Lessor's remittance of the security deposit or any remaining portion thereof to Lessor's transferee shall release and relieve Lessor of any further obligation or liability to Lessee with respect to the security deposit. Lessor shall comply with all applicable State laws concerning application of the security deposit and any required notices to Lessee.

5. **POSSESSION.** Upon execution of this Lease by both parties, full payment of the security deposit, and upon delivery of an insurance certificate to Lessor by Lessee as required by Section 9 below, Lessee shall be entitled to full access and possession of the Leased Premises.

6. **LESSOR INSTALLED IMPROVEMENTS.** Lessee shall be entitled to use all improvements installed by Lessor and all furnishings belonging to Lessor.

7. **USE OF LEASED PREMISES.** Lessee shall use or cause the Leased Premises to be used for the purpose of operating a non-profit administrative office. Lessee covenants that it will not permit the Leased Premises to be used for any illegal or immoral purpose, and that Lessee will not do, or suffer to be done, in or about the Leased Premises, any act or thing that may be a nuisance, annoyance, or inconvenience to Lessor or any other lessees of the Property.

8. **UTILITY AND OTHER SERVICES.** Lessee's rent charges shall include the average utilities for its proportional share of electric, natural gas monthly service charges, water, sewer and trash based on the square footage occupied by Lessee and all other tenants. Provided, however, utilities will be reviewed quarterly by the Lessor to insure that utility usage charges do not exceed twenty-five percent (25%) of the annual estimate of total utility fees and costs based on the previous year's charges and costs, which is currently seven thousand five hundred dollars (\$7,500.00). If costs exceed such amount, the Lessor shall notify Lessee that a temporary rent adjustment will be made to cover a percentage of those excess costs and fees. Lessee shall pay twenty-five percent (25%) of such excess costs and fees commencing with its next rental payment. The Lessee shall be solely responsible for and shall pay the cost of telecommunications and cable service and any security alarm systems to the Leased Premises. The Lessee shall arrange for such telecommunications and cable services in its own name. The physical installation of any additional telecommunication services shall be subject to the Lessor's prior written approval.

9. **INSURANCE.** The Lessor shall keep and maintain (a) fire, casualty and extended coverage insurance on the Leased Premises in such amounts as the Lessor shall from time to time determine; and (b) fire and extended coverage insurance on the Town's personal property remaining within the Leased Premises in such amounts as the Lessor shall from time to time determine.

Lessee shall keep and maintain (a) public liability insurance for the Leased Premises and any business or operations conducted on the Leased Premises, with coverage for bodily injury and property damage on a comprehensive basis with limits of not less than one million dollars (\$1,000,000.00) per occurrence; and (b) fire and extended coverage insurance on the Lessee's personal property and contents within the Leased Premises equal to the full replacement cost. All public liability insurance policies shall name the Lessor as an additional insured. The Lessee shall provide the Lessor with certificates of such insurance prior to taking possession. No such policy or policies may be cancelled without thirty (30) days prior written notice to the Lessor, and said certificate shall so provide. In the event of damage to the Leased Premises covered by insurance, the Lessor shall use its proceeds of such insurance to repair and restore the Leased Premises, except as otherwise provided herein. All insurance companies selected by the Lessee shall be licensed to do business in the State of Colorado and rated A+1. In the event the Lessor elects to also maintain public liability insurance for the Property or the Leased Premises, the Lessee's public liability insurance for the Leased Premises shall be deemed the primary insurance coverage.

10. **ACCEPTANCE OF PREMISES.** The Lessee accepts the Leased Premises in its

present condition. The Lessee acknowledges that it has inspected the Leased Premises and all utilities, appurtenances, access and other services to the Leased Premises, and it is satisfied with all aspects of the same. The Lessee further acknowledges that neither the Lessor nor any agent or other representative of the Lessor has made any representation or warranty as to suitability of the Leased Premises for the conduct of the Lessee's operations and business. All work, improvements and alterations required for the Lessee's use of the Leased Premises will be accomplished at the Lessee's sole cost and expense. The Lessee shall, at the Lessee's sole expense, keep the interior of the Leased Premises in good repair during the term of this Lease.

11. **ALTERATION OF PREMISES.** The Lessee shall not, without the prior written consent of the Lessor, make any alterations, improvements, or additions to the Leased Premises, including, but not limited to, partitions, wall coverings, floor coverings and special lighting installations.

In the event the Lessee desires to make any alterations, improvements or additions, the Lessee shall first submit plans and specifications and obtain the Lessor's written consent for the same prior to commencing any such work. All alterations, improvements or additions, whether temporary or permanent in nature, made by the Lessor or the Lessee in or about the Leased Premises, shall become the Lessor's property and shall remain upon the Leased Premises at the termination of this Lease by lapse of time or otherwise, without compensation to the Lessee (excepting only the Lessee's furniture, trade fixtures and equipment) provided, however, the Lessor shall have the right to require the Lessee to remove such alterations, improvements or additions at the Lessee's cost upon the termination of this Lease and repair any damage caused to the Leased Premises as a result of any such removal. Such repair costs shall be paid for by the Lessee. The Lessee shall promptly pay the cost and expense of all work on the Leased Premises and upon completion deliver to the Lessor evidence of payment and waivers of all liens for labor, servicing or materials. The Lessee shall defend and hold the Lessor and the Leased Premises harmless from all costs, damages or liens for labor, services or material relating to such work. At least five (5) days prior to the commencement of any work on the Leased Premises, the Lessee shall notify the Lessor of the names and addresses of the persons supplying labor and materials for the proposed work. During the progress of any such work on the Leased Premises, the Lessor shall have the right to go upon and inspect the Leased Premises at all reasonable times, and shall have the right to post and keep posted thereon notices of non-liability as provided by law.

12. **HAZARDOUS MATERIALS AND SUBSTANCES.** Lessee shall not cause or permit at any time during the term of this Lease or any renewals, extensions or modifications thereof, any hazardous material or substance (as defined below) to be brought upon, kept, or used in or about the Leased Premises by the Lessee, the Lessee's agents, employees, contractors or invitees. As used herein, the term "hazardous material or substance" means any hazardous or toxic substances, material or waste which is or becomes regulated by any local, State or federal government authority, including the Comprehensive Environmental Response Compensation and Liability Act, the Resource Conservation and Recovery Act, the Hazardous Material Transportation Act, or the Toxic Substances Control Act. The term "hazardous material or substance" includes without limitation, (a) any material or substance that is defined as a "hazardous substance" or "hazardous waste" under applicable law, (b) petroleum, (c) asbestos, or (d) any

material that is defined as a “regulated substance.”

Lessee shall comply with all environmental laws, orders, and regulations of federal, State, County and Town authorities, and with any directive issued pursuant to law by any public officer thereof, which shall impose any order or duty upon Lessee pertaining to the construction, use or occupancy of the Leased Premises by Lessee, its assignees or sub-lessees.

Lessee shall have the right, upon giving written notice to Lessor, to contest any obligation imposed upon Lessee pursuant to the provisions of this Section, and to defer compliance during the pendency of the contest proceedings, provided that the failure of Lessee to comply will not subject Lessor to any civil fine or criminal penalty.

Notwithstanding the foregoing, in the event that Lessee’s failure to promptly fulfill the contested obligations could pose an imminent threat to public health, public safety and/or the environment, the Lessee shall immediately perform whatever actions may be required to abate the immediate threat. Thereafter, Lessee may contest the obligations and defer further compliance, as set forth above.

Lessee shall provide Lessor with copies of all documents served upon Lessee or its counsel, and served by Lessee or its counsel, upon any governmental authority.

Failure of Lessee to comply with the provisions of this Section shall be an event of default under the terms of this Lease and shall entitle Lessor to pursue all applicable remedies. In addition, Lessor shall be entitled to collect from Lessee any fines, penalties, expenses of defense (including attorney’s fees and legal assistant’s fees), expenses of compliance and other damages incurred by Lessor by reason of Lessee’s default under this Section.

In the event that Lessee discovers any condition during the course of construction or remodeling that would indicate the possible existence of hazardous substances or materials on the Leased Premises, Lessee shall immediately notify Lessor. Lessor shall investigate the matter at its sole cost and expense. If the substances are indeed hazardous (as defined herein), Lessee shall be entitled to terminate this Lease by giving written notice of its election to do so within thirty (30) days after Lessor advises that such substances are hazardous. The obligation to pay rent shall be suspended upon the date of discovery by Lessor of the evidence of hazardous substances. If Lessee elects not to terminate this Lease, Lessor shall promptly take whatever actions are required by law to remedy, remove or otherwise clean up the Leased Premises as required by the Comprehensive Environmental Response Compensation and Liability Act. The obligation to pay rent shall be suspended from the date of discovery of the evidence of hazardous materials or substances until remediation is complete. Lessee shall be entitled to an extension of the term of this Lease for the same period of time.

13. **SIGNS.** The Lessee shall have the right to erect and install signs in and about the Leased Premises; provided, however, that all such signs shall comply with the Town of Eagle’s Sign Code and shall be kept in good condition and repair at the Lessee’s sole cost and expense. The design, color and size of any such sign shall be subject to prior written approval by the Lessor.

14. **ADDITIONAL COVENANTS OF THE LESSEE.** In addition to the terms, conditions and covenants set forth elsewhere in this Lease, the Lessee covenants with Lessor that the Lessee shall:

- a. Keep and maintain the Leased Premises and the common areas described in Section 1 in a sanitary condition as required by State and local laws and comply with all fire, safety, health, environmental, building, zoning, anti-discrimination and all other laws regulating the use of the Leased Premises now or hereafter in force;
- b. Keep and maintain the Leased Premises and the common areas described in Section 1, including fixtures, interior doors, floors coverings, windows, window coverings, walls and ceilings in good condition and repair, and at the expiration of this Lease to render and deliver up the Leased Premises clean and in as good an order and condition as when entered upon; loss by fire, inevitable acts, and ordinary wear, tear and depreciation excepted;
- c. Neither commit, suffer nor permit any waste, damage, disfiguration or injury to the Leased Premises or any improvements, fixtures or equipment located therein;
- d. Neither keep, use nor sell any article or substance on the Leased Premises which shall be prohibited by any insurance policy in force;
- e. Neither commit nor suffer any disorderly conduct, noise or nuisance whatsoever about the Leased Premises having a tendency to annoy or disturb other tenants located in the Property or persons on adjacent property;
- f. Neither permit nor suffer the Leased Premises or the walls or floors thereof to be endangered by overloading, nor use the Leased Premises for any purpose which would render the insurance thereon void or the insurance risk more hazardous.
- g. Be responsible, together with any other lessees, for maintenance of the sidewalk in front of the Property including snow removal and sweeping. Lessee shall also be responsible, together with any other lessees, for keeping the entryway to the Property in a clean and orderly condition.

15. **LESSOR'S OBLIGATIONS.** In addition to the terms, conditions and covenants set forth elsewhere in this Lease, the Lessor covenants with the Lessee that the Lessor shall, at Lessor's sole cost and expense, keep and maintain in good condition the following:

- a. The structural components of the Property, which structural components shall include only the foundation, bearing and exterior walls (including

glass and doors), subflooring and roof; and

- b. The heating, cooling systems and electrical apparatus, wiring, water and wastewater service lines and fixtures within the building and outside the building serving the Property; and
- c. Window frames, gutters and down spouts.

16. **DAMAGE BY LESSEE.** If any part of the Lessor's Property is damaged or destroyed through the intentional act, negligence, carelessness, abuse or misuse of or by the Lessee, the Lessee's agents, employees, contractors, or invitees, the cost of all necessary repairs and replacements shall be paid by the Lessee, to the Lessor, on demand, as additional rent.

17. **COVENANT OF QUIET ENJOYMENT.** The Lessor covenants that the Lessor is the owner of the Leased Premises and has the power and authority to grant and make the within Lease; that during the term of the Lease and subject to the terms of this Lease, and on condition that the Lessee shall discharge all of the Lessee's obligations hereunder, the Lessee shall have and enjoy the quiet and undisturbed possession of the Leased Premises.

18. **HOLDOVER.** It is mutually agreed that if, after the expiration of this Lease, or any renewal term, the Lessee shall remain in possession of the Leased Premises and continues to pay rent without written agreement as to such possession, then the Lessee shall be deemed a tenant from month to month at a rent payable, in advance, equal to the monthly rent set forth in this Lease and otherwise shall be subject to all terms and conditions of this Lease, and further provided each party shall give thirty (30) days prior written notice of the termination of such holdover tenancy.

19. **LESSOR'S RIGHT TO PERFORM.** In the event the Lessee breaches any covenant or condition of this Lease, the Lessor may cure such breach at the expense of the Lessee and the reasonable amount of all expenses, including attorney's fees and legal assistant's fees, incurred by the Lessor in doing so shall be deemed additional rent payable by Lessee on demand.

20. **ENTRY AND INSPECTION BY LESSOR.** The Lessor and the Lessor's agents and employees shall have the right to enter the Leased Premises at all reasonable times for the purpose of examining or inspecting the same, and to make such alterations, repairs, improvements or additions to the Leased Premises and the Property as the Lessor may deem necessary or desirable. The Lessor may enter by means of a master key, without liability to the Lessee, except for any failure to exercise due care for the Lessee's property, and without affecting this Lease. The Lessor shall use reasonable efforts upon any such entry not to unreasonably interrupt or interfere with the Lessee's use, enjoyment and occupancy of the Leased Premises.

21. **ABANDONMENT OF PERSONAL PROPERTY.** If the Lessee shall abandon, vacate or surrender the Leased Premises or shall be dispossessed by process of law or otherwise, then any personal property belonging to the Lessee and left on the Leased Premises shall be deemed abandoned.

22. **DEFAULT.** Each one of the following events is an “event of default”:

- a. The Lessee fails to pay rent or any other amount payable to the Lessor under this Lease and such failure continues for three (3) days after written notice of such default is given to the Lessee in accordance with Colorado law;
- b. The Lessee vacates or abandons the Leased Premises at any time prior to the expiration of this Lease or any renewal term;
- c. This Lease or possession of the Leased Premises is transferred to or obtained by any person other than Lessee without the written consent of the Lessor in accordance with the terms of this Lease;
- d. This Lease or possession of the Leased Premises is taken upon execution or by other process of law directed against the Lessee, or is taken upon attachment by any creditor of or claimant against the Lessee, and such writ is not discharged within fifteen (15) days after levy; or
- e. The Lessee fails to perform any other agreement, term, covenant or condition of this Lease on the Lessee’s part to be performed and such non-performance continues for a period of fifteen (15) days after written notice of such default by Lessee is given to the Lessee by Lessor, provided that if such default cannot be reasonably cured within such fifteen (15) day period, the Lessee, in good faith, may commence such cure within such fifteen (15) day period and shall thereafter diligently proceed to completion.

23. **REMEDIES UPON DEFAULT.** In the event of an uncured default by the Lessee, the Lessor may have any one or more of the following described remedies, in addition to all other rights and remedies provided in law or in equity:

- a. The Lessor may terminate this Lease and forthwith repossess the Leased Premises and be entitled to recover as damages a sum of money equal to the total of (i) the cost of recovering the Leased Premises, including the Lessor’s reasonable attorney’s fees and legal assistant’s fees; (ii) the unpaid rent owed at the time of termination, plus the rent owed for the remainder of the Lease term, plus applicable late charges and interest thereon at the rate of eighteen percent (18%) per annum from the due date; (iii) damages for the wrongful withholding of the Leased Premises by the Lessee; and (iv) any other damages owed by the Lessee to the Lessor as provided by law.
- b. Any amounts paid by the Lessor to cure any defaults of the Lessee under this Lease which the Lessor shall have the right, but not the obligation, to cure, shall, if not repaid by the Lessee within five (5) days of written demand by the Lessor, thereafter bear interest at the rate of eighteen percent (18%) per annum until paid.

24. **DAMAGE OR DESTRUCTION OF PREMISES.** In the event the Leased Premises is destroyed or becomes untenable as a result of damage by fire or other casualty, the Lessor shall have the right, but not the obligation, to repair and restore the Leased Premises to its former state and condition. If the Lessor elects not to repair or restore the Leased Premises, this Lease shall be deemed terminated and of no further force or effect. If the Lessor elects to repair and restore the Leased Premises as herein provided, then rent shall abate during the time the Leased Premises remains untenable. If the Lease is terminated as herein provided, the Lessee's obligation for the payment of rent shall cease as of the day following such casualty and the Lessor shall be released from any further obligations under this Lease.

25. **INDEMNIFICATION OF LESSOR.** The Lessee shall defend, indemnify and hold harmless the Lessor from and against any and all claims arising from (a) the Lessee's use and occupancy of the Leased Premises, or from the conduct of the Lessee's business and operations in or about the Leased Premises; (b) any breach or default in the performance of any obligation on the Lessee's part to be performed under the terms of this Lease; (c) the negligence or willful acts of the Lessee, or any of the Lessee's agents, employees, invitees or contractors; and (d) against all costs, including reasonable attorney's fees and legal assistant's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceedings brought thereon. In no event, however, shall the Lessor be entitled to indemnification under this Section if such claim arises from any breach or default in the performance of any obligation on the Lessor's part to be performed under the terms of this Lease, or arising from any negligent or willful act of the Lessor, or any of the Lessor's agents, contractors or employees.

26. **INDEMNIFICATION OF LESSEE.** The Lessor shall defend, indemnify and hold harmless the Lessee from and against any and all claims arising from (a) any breach or default in the performance of any obligation on the Lessor's part to be performed under the terms of this Lease; (b) the negligent or willful acts of the Lessor, or any of the Lessor's agents, contractors or employees; and (c) from and against all costs, including reasonable attorney's fees and legal assistant's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. In no event, however, shall the Lessee be entitled to indemnification under this Section if such claim arises from any breach or default in the performance of any obligation on the Lessee's part to be performed under the terms of this Lease, or arising from any negligent or willful acts of the Lessee, or any of the Lessee's agents, employees, invitees or contractors.

27. **ATTORNEY'S FEES.** In the event of any litigation between the Lessor and the Lessee to enforce any provision of this Lease or any right of either party in this Lease, the substantially prevailing party in such litigation shall be entitled to receive all of its costs and expenses, including reasonable attorney's fees and legal assistant's fees, incurred in such proceeding from the other party. Moreover, if the Lessor, without fault, is made a party to any litigation instituted by or against the Lessee, the Lessee shall indemnify the Lessor against and protect, defend and save the Lessor harmless from all costs and expenses, including attorney's fees and legal assistant's fees, incurred by the Lessor in connection with the same. To the extent permitted by law, the Lessor and Lessee hereby waive their right to a jury trial in any legal

proceeding related to this Lease.

28. **LESSOR'S RIGHTS RESERVED.** The Lessor reserves the following rights, exercisable without notice and without liability to the Lessee for damage or injury to property, persons or business, and without effecting an eviction, constructive or actual, or disturbance of the Lessee's use or possession, or giving rise to any claim for setoff or abatement of rent:

- a. To make repairs, alterations, additions or improvements, whether structural or otherwise, in and about the Property and the Leased Premises and for such purpose to enter upon the Leased Premises, and during the continuance of said work to temporarily close doors, entryways and corridors in the building and to interrupt or temporarily suspend building services and facilities;
- b. To enter the Leased Premises at all reasonable times for the purpose of examining or inspecting the same; and
- c. To have and retain a paramount title to the Leased Premises free and clear of any act of the Lessee.

The Lessor shall use reasonable efforts upon any entry into the Leased Premises not to unreasonably interrupt or interfere with the Lessee's use, enjoyment and occupancy of the Leased Premises.

29. **ASSIGNMENT AND SUBLETTING.** The Lessee shall not sublet, assign, encumber, or otherwise transfer any interest in this Lease or the Leased Premises without the expressed written consent of the Lessor having been first obtained, which consent need not release the Lessee from any obligation under this Lease. Any sublease, assignment, transfer or sale of this Lease, or any part thereof, by the Lessee without the expressed written consent of the Lessor shall be invalid, null and void. It is further understood and agreed, however, that the Lessor shall have the right to freely assign and transfer the Lessor's interest in and to this Lease or the Property or the Leased Premises and the Lessee shall remain bound under the terms of this Lease without the necessity of an express attornment to any such assignee or transferee.

30. **NOTICES.** Any notice by either party to the other shall be in writing and shall be deemed to be duly given if delivered personally or mailed ordinary first class mail, postage pre-paid, addressed to the addresses first above set forth, or to such other addresses as the parties may designate in writing. Notice shall be deemed to have been fully given, if personally delivered upon delivery thereof, and if mailed one (1) day after the mailing thereof.

31. **SURVIVAL OF RIGHTS.** Any termination of this Lease (however occasioned) shall not affect the accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

32. **INTERPRETATION.** If any clause or provision of this Lease is determined by a court to be illegal, invalid, null, void or unenforceable under present or future laws, then it is the intention of the parties to this Lease that the other terms and provisions of this Lease shall remain in full force and effect. No assent, expressed or implied, to any breach of any one (1) or more of the covenants of this Lease shall be taken or deemed to be a waiver of any succeeding or other breach. Subject to Section 29 limiting assignments and subletting, this Lease shall extend to and be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties. This Lease shall be governed by, and construed and enforced, in accordance with the laws of the State of Colorado. Any word contained in the text of this Lease shall be read as singular or plural and in the masculine, feminine or neuter gender as may be applicable in the particular context. The captions of sections in this Lease are for convenience only, are not part of this Lease, and do not in any way limit or amplify any term, condition or covenant. This Lease contains all of the agreements, understandings and representations between the parties. No term of this Lease shall be altered, amended, waived or modified to any extent, except by written instrument executed by both parties. This Lease may be executed in two (2) or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. Time is of the essence under this Lease.

33. **EXECUTION OF OTHER DOCUMENTS.** Each party agrees to execute and deliver all other documents requested by the other party necessary to carry out the terms of this Lease and such documents will contain all of the standard terms normally contained in such documents, together with all relevant terms and provisions of this Lease.

34. **EFFECT OF CONVEYANCE.** The term “Lessor” as used in this Lease means only the owner for the time being of the Leased Premises, so that, in the event of any sale of said Leased Premises, the seller shall be and hereby is entirely freed and relieved of all covenants and obligations of the Lessor hereunder, not previously accrued, for the period from and after the transfer of the Property if the security deposit is delivered from the existing Lessor to the new Lessor, and it shall be deemed and construed, without further agreement between the parties and the purchaser of the Leased Premises, that such purchaser has assumed and agreed to carry out any and all covenants and obligations of Lessor hereunder.

35. **STATEMENT OF PERFORMANCE.** Lessor agrees to furnish Lessee, or any creditor of Lessee, from time to time, upon written request therefor, a statement wherein Lessor shall acknowledge that as of the date of such statement, Lessee has performed and observed all of the covenants and conditions herein stated to be performed and observed by Lessee, and that as of said date, the leasehold estate hereby created and granted to Lessee is free of any default hereunder; provided, however, Lessor is not required to furnish Lessee or any other person with such statement more than once during any calendar year, or if at the time it is requested, Lessee is in default hereunder.

IN WITNESS WHEREOF, the parties have signed this Lease as set forth below to be effective the day and year first written above.

LESSOR:

TOWN OF EAGLE, COLORADO, a  
municipal corporation, acting by and  
through its Board of Trustees

By \_\_\_\_\_  
Anne McKibbin, Mayor

ATTEST:

\_\_\_\_\_  
Jenny Rakow, Town Clerk

LESSEE:

EAGLE RIVER YOUTH  
COALITION D/B/A INTEGREAT!

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

## **EXHIBIT "A"**

Old Town Hall Building  
108 W. Second Street  
Eagle, CO 81631

Lower floor consisting of approximately 680 square feet.  
Entryway and bathrooms are common areas used by other tenants. (Not part of the 680 SF)



**Town Board of Trustees  
August 18, 2016**

Topic: Community Impact Award  
Staff: Jenny Rakow, Town of Eagle Clerk  
Amy Cassidy, Take Aim Marketing, Inc.

**Action Requested: Select 2016 Community Impact Award recipient**

*The Community Impact Award honors a town of Eagle individual, business or organization that is making a tangible, measurable impact on the community.*

*The Community Impact Award recipient has worked to make Eagle a better place to live, work and play, and represents the town's creativity, resourcefulness and potential.*

**Background:**

The Town Board of Trustees adopted a resolution to implement an annual Community Impact Award program. Eagle community residents nominate an individual, business or organization. TBOT will select the winner by secret ballot during a board meeting. The selection will remain a secret until the award is presented.

Staff will order plaques for recipient(s) as well as name plates for the Community Impact Award display at Town Hall. In addition, the Board will select an award that is meaningful to both the community and the winner. This award will be presented to the Community Impact Award winner but retained by the Town.

The 2016 Community Impact Award presentation will take place at the Eagle Vision 20/20 meeting on October 5, 2016.

The 2014 Community Impact Award recipients, as selected by then Mayor Kostick, were Scott Turnipseed and Chris Cook.

The 2015 Community Impact Award recipient, as selected by the Town Board of Trustees, was John Shipp.

2016 nominees:

- Mick Daly
- Yuri Kostick
- Yvonne Schwartz / Yoga Off Broadway
- Yoga Off Broadway

Encl: 2016 Community Impact Award nominations



## 2016 COMMUNITY IMPACT AWARD NOMINATION

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Or mail to: Town of Eagle, Attn: Danielle Couch, 200 Broadway, P.O Box 609, Eagle, CO 81631

YOUR NAME: Sarah Baker & Geoff Grimmer

YOUR E-MAIL ADDRESS: sbaker@sbakerpc.com; gkggrimmer@gmail.com

YOUR PHONE NUMBER: (970) 331-0799

Do you wish to remain anonymous? \_\_\_ Yes  No

BUSINESS / ORGANIZATION / PROGRAM / PERSON NOMINATED: \_\_\_\_\_

Former Mayor Yuri Kostick

CONTACT INFORMATION: yurikostick@gmail.com; (970) 471-0396

*Please submit this application with a description of the nominee, as well as any supporting documentation and/or images.*

- Describe the company, organization, business or person nominated.
- Describe the nominee's efforts to make a measurable impact on the community.
- Explain how the nominee's efforts have made a positive impact. Identify examples that demonstrate success and direct community impact (e.g. milestones achieved, objectives met, recognition earned and/or testimonials or references from community representatives or from someone who has benefited from the program, as well as other pertinent information).
- Please clearly mark any confidential documentation as such at the top of each page, and this information will be kept strictly confidential.
- Supporting documentation (photography, articles, etc.) will not be returned.

### GUIDELINES & SUGGESTIONS:

Please limit your nomination to 1 page or less.

Supporting Documentation: The Town of Eagle Board of Trustees will use this documentation to verify the impact of the program and learn more about it. You may choose to include statistics, press releases, articles, photography, or anything else that will illustrate the positive impact of the nominee.

### TIMELINE:

- Nominations due August 12, 2016
- Community Impact Award presentation October 2016 TBA

COMMUNITY IMPACT AWARD – NOMINATION  
YURI KOSTICK

A Town doesn't go from good to great without a great leader—a person with passion, a person who is not afraid to try, a person who gives his all to a vision he believes in, a person who keeps on the course of his own moral compass even when he is under attack by the nay-sayers, and a person who can get others to support his vision. Eight years ago, Eagle was a nice small town, but it wasn't anything exceptional. It had experienced explosive growth, but was a place where most people lived because they could afford it—not because they chose to.

One person played a big part in changing all of that.

Today, Eagle is a place a lot of us choose to live thanks in large part to our former mayor, Yuri Kostick. Yuri's love for Eagle—and his love for fun and thinking outside the box—have transformed Eagle into a town with its own identity. He challenges us all to think about what we want our community to be—and to roll up our sleeves and make it happen. Yuri doesn't accept doing things the way they have always been done, or the way everybody else does them. He pushes us to be better than that. When he gets a wild hair idea, he challenges us to give him a good reason why not. When Avon turned down the GoPro Enduro, Yuri was the first one out there inviting them to the great town of Eagle. When Vail was removing its skate park, Yuri was the first one to say, "We'll take that!" Want to give the kids some Singletrack Sidewalks to have a blast on their way to and from school? Why not!? Yuri never wanted Eagle to be like everybody else—he wanted us to be better than that, and he wanted us to have some fun doing it.

Under his leadership, sales tax revenues have risen 20%. The Town completed the roundabout project on time and on budget. We built an iconic bridge at our front door that economically and socially connects disconnected sides of our town. Eagle gained a seat among the handful of towns with a premier reputation in the mountain biking and outdoor recreation industry. We took the first step toward cleaning up and making an incredible amenity out of our river corridor—something every other mayor before him simply ignored. Yuri got people together and put Eagle on the map. We have a great town because of him.

Yuri is so creative and so energetic and so without bounds that at times working with him can be like herding cats for some of us; but at the end of the day, his creativity, energy and refusal to take no for an answer have led Eagle to become a community that is a really special place to live, work, and play. A place we all know is the best little town in Colorado. So much of this Town has Yuri's fingerprints on it, and there is no one person who is more deserving of the Eagle Community Impact Award than Yuri Kostick.



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Or mail to: Town of Eagle, Attn: Danielle Couch, 200 Broadway, P.O Box 609, Eagle, CO 81631

YOUR NAME: John Shipp

YOUR E-MAIL ADDRESS: jshipp@roadhousehg.com

YOUR PHONE NUMBER: (970) 331-3592

Do you wish to remain anonymous? \_\_\_ Yes  No

BUSINESS / ORGANIZATION / PROGRAM / PERSON NOMINATED: \_\_\_\_\_

Former Mayor, Yuri Kostick

CONTACT INFORMATION: yurikostick@gmail.com

*Please submit this application with a description of the nominee, as well as any supporting documentation and/or images.*

- Describe the company, organization, business or person nominated.
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- Explain how the nominee's efforts have made a positive impact. Identify examples that demonstrate success and direct community impact (e.g. milestones achieved, objectives met, recognition earned and/or testimonials or references from community representatives or from someone who has benefited from the program, as well as other pertinent information).
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*“The Community Impact Award honors a Town of Eagle individual, business or organization that is making a tangible, measurable impact on the community. The Community Impact Award recipient has worked to make Eagle a better place to live, work and play, and represents the town’s creativity, resourcefulness and potential.”*

If this doesn't describe Yuri Kostick and the impact he made as trustee on the Eagle Town Board and more recently as Mayor, I don't know what does. I am proud to nominate Yuri Kostick for the 2016 Community Impact Award. As the 2015 award winner, I assure you this award has tremendous meaning to me, and I submit this nomination with complete conviction.

I first met Yuri in 2006 when he was working as the Assistant Town Planner and I was beginning design and construction of the Dusty Boot building in Eagle. Even back then, Yuri had a vision for Eagle.

Yuri Kostick devoted his entire 8 years on the Eagle Town Board to making Eagle a better place to live, work and play. His efforts were truly altruistic: he genuinely wants Eagle to be a better place for the sake of the community and not for his own self-interest. Yuri had a vision for the town that included making Eagle a hub for outdoor recreation. Nicknamed the “Mayor of Mountain Biking” by the *Denver Post*, Yuri played a key role in getting the Haymaker Trail built and enticing the Colorado High School Cycling League to bring their state championships to Eagle. This was but one step in putting Eagle on the map for not just mountain biking, but hiking, trail running and outdoor recreation in general.

Yuri did not back down in the face of opposition, rather he doubled down and offered solutions instead of criticism. He put his money where his mouth is, rolling up his sleeves and pitching in on trail building days and through countless other volunteer efforts.

There is no doubt that Yuri Kostick's efforts and leadership at the town have resulted in increased business at my restaurants. More importantly, these efforts have led to an increase in quality of life for Eagle residents, many of whom work for me, as well as a true sense of pride in saying, “I'm from Eagle, Colorado.” It is because of Yuri, and people like him, that I will be making Eagle my home in the very near future.



## 2016 COMMUNITY IMPACT AWARD NOMINATION

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Or mail to: Town of Eagle, Attn: Danielle Couch, 200 Broadway, P.O. Box 609, Eagle, CO 81631

YOUR NAME: Pam Elliott

YOUR E-MAIL ADDRESS: iski4kix@gmail.com

YOUR PHONE NUMBER: 970 471 6580

Do you wish to remain anonymous? \_\_\_ Yes  No

BUSINESS / ORGANIZATION / PROGRAM / PERSON NOMINATED: \_\_\_\_\_  
Yoga Off Broadway

CONTACT INFORMATION: \_\_\_\_\_

*Please submit this application with a description of the nominee, as well as any supporting documentation and/or images.*

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- Explain how the nominee's efforts have made a positive impact. Identify examples that demonstrate success and direct community impact (e.g. milestones achieved, objectives met, recognition earned and/or testimonials or references from community representatives or from someone who has benefited from the program, as well as other pertinent information).
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### GUIDELINES & SUGGESTIONS:

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### TIMELINE:

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- Community Impact Award presentation October 2016 TBA

I nominate Yvonne Schwartz the owner of Yoga Off Broadway. I have watched Yvonne grow the Yoga community in Eagle to the point of a huge Sunday gathering in the park, to a larger studio in Eagle. Yoga in the park in my opinion is one of the best ways to get people out of their house and to mingle as well as practice such a beautiful way to start the day.

But even better with Yoga on the Park she incorporates other local businesses to be involved. Green Elephant, Art on Broadway, local charities etc.

Yvonne is a beautiful person and her positive influence is what Eagle should be about.

Pam



## 2016 COMMUNITY IMPACT AWARD NOMINATION

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Or mail to: Town of Eagle, Attn: Danielle Couch, 200 Broadway, P.O Box 609, Eagle, CO 81631

YOUR NAME: Laura Fessenden

YOUR E-MAIL ADDRESS: overduelaura@gmail.com

YOUR PHONE NUMBER: 303-808-7172

Do you wish to remain anonymous? \_\_\_ Yes  No

BUSINESS / ORGANIZATION / PROGRAM / PERSON NOMINATED: \_\_\_\_\_

Yvonne Schwartz/ Yoga off Broadway

CONTACT INFORMATION: yogaoffbroadway@gmail.com

*Please submit this application with a description of the nominee, as well as any supporting documentation and/or images.*

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- Describe the nominee's efforts to make a measurable impact on the community.
- Explain how the nominee's efforts have made a positive impact. Identify examples that demonstrate success and direct community impact (e.g. milestones achieved, objectives met, recognition earned and/or testimonials or references from community representatives or from someone who has benefited from the program, as well as other pertinent information).
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### TIMELINE:

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Yoga Off Broadway exemplifies "Community Impact" for countless reasons. Upon moving to Eagle in 2009, I was in need of a place to make me feel at home in a new town. My very first yoga class (in their first location) made me feel beyond welcome. It eventually became my home away from home. The owner, Yvonne Schwartz, and all of the teachers there acknowledge that yoga can be for every BODY and EVERY body, whether you are younger or older, healthy or injured, at peace or in turmoil. There are hundreds of community members that will agree with me.

Over the years, I've gotten to see their impact grow. Yvonne founded the annual Eagle Yoga Fest and is gearing up for the 4th year. This event brings not only the local community together for a weekend of yoga and meditation, but also others from all over Colorado and beyond! Yvonne has grown Eagle's Yoga in the Park into a weekly ritual that brings close to a hundred participants each year. Each year she chooses an organization to direct all donations from Yoga in the Park. This year, she has chosen The Special Olympics of the Vail Valley. Yoga off Broadway has held several donation-based classes for various causes including Yoga for Africa, disaster relief, homeless shelters in Colorado, and those that serve our country.

Because of the inspiration I personally have felt as becoming a strong part of this yoga community, it has propelled me to further my own yoga practice and become a yoga teacher. Yvonne has guided me as a mentor in this area as well. The studio is now in the process of moving into it's third and biggest location yet, and will have the capability to continue to impact so many in our town and valley. YOB has impacted my life in the most positive way, and has continuously impacted the community over the last several years. It will continue to do so, for many years to come!

Sincerely,  
Laura Fessenden



## 2016 COMMUNITY IMPACT AWARD NOMINATION

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Or mail to: Town of Eagle, Attn: Danielle Couch, 200 Broadway, P.O Box 609, Eagle, CO 81631

YOUR NAME: Levi Rozga - on behalf of a coalition of community members (see attached)

YOUR E-MAIL ADDRESS: levi.j.rozga@gmail.com

YOUR PHONE NUMBER: 970-946-0073

Do you wish to remain anonymous?  Yes  No

BUSINESS / ORGANIZATION / PROGRAM / PERSON NOMINATED: \_\_\_\_\_

Mick Daly - President; Eagle Chamber of Commerce (amongst other things)

CONTACT INFORMATION: mick@dalys.com

*Please submit this application with a description of the nominee, as well as any supporting documentation and/or images.*

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- Explain how the nominee's efforts have made a positive impact. Identify examples that demonstrate success and direct community impact (e.g. milestones achieved, objectives met, recognition earned and/or testimonials or references from community representatives or from someone who has benefited from the program, as well as other pertinent information).
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### TIMELINE:

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- Community Impact Award presentation October 2016 TBA

Levi Rozga  
72 W Double Hitch  
Eagle, CO

7/25/2016

Town of Eagle  
Attn: Danielle Couch  
200 Broadway  
Eagle, CO 81631

Dear Danielle Couch,

I am submitting this letter to nominate Mick Daly, President of the Eagle Chamber of Commerce, for the Community Impact Award. Although I fully support this nomination independently, in an effort to save your selection committee the time of reading multiple nominations for Mick Daly, I am submitting this nomination on behalf of a group of supportive citizens of Eagle.

Mick Daly has been giving out awards like this for years, when in fact he has been deserving of each one of them. So many of us in Eagle have had the chance to see first-hand just how dedicated Mick is to the community of Eagle, but many others have simply been the unknowing beneficiaries of his work. Whether you agree with the projects, or the positions that he takes, there is absolutely no doubt in any of your minds that he has been a part of, contributed to, or at least facilitated the conversation of so many ideas, projects and activities that have shaped our community for the past 5 years. That is the definition of Community Impact. Mick Daly puts in more hours towards our community each day, than many of us do on a monthly basis.

Rather than continue on about his work on the Chamber, the Selection Committee for Town Manager, his Church, or the multitude of one-off volunteer projects that he participates in every week, I thought it more appropriate to provide comments from the group referenced above. **Although more than 20 individuals responded** to my email in support of Mick, in the interest of brevity, I have selected only 5 of their responses below...enjoy:

***"I've really enjoyed working with Mick on the Eagle Chamber Board of Directors. His passion for people & our community shines bright in our meetings & our events and it's contagious! He continues to prove to be a strong community leader, inspiring all us on the Board to do our best & challenging us to make a difference.***

*I was happy to see Mick offer to be involved in the interview & selection process for the new Town Manager and even happier that the Town accepted his help. With the Town utilizing Mick, I believe speaks to his leadership, character & reasonableness, as they obviously value his opinion & input.*

*Mick is an integral part of our community & well-deserving of the Community Impact Award."*

[Kyle Hoiland – Board Member, Eagle Chamber of Commerce]

*"Mick Daly is deserving of the Town of Eagle's Community Impact Award. He's put in more volunteer time with the Eagle Chamber in support of the Town's community goals than anyone I know. Mick cares deeply about seeing the Town of Eagle succeed, and he's contributed to making this a reality in countless ways, including his passion for Eagle River Station, the co-working space in Eagle Ranch, the Eagle River Park project, and in bringing together the citizens in the community regularly through the Eagle Chamber to learn more about their community and decisions that impacts their lives. This has, in turn, engaged countless other citizens in their community so that they can lend their own efforts and voices to making Eagle a continually better community."*

[Jeremy Rietmann – Economic Development, Vail valley Partnership]

*"Mick has been an incredible asset to us in the location search and development process of the new Color Roasters coming soon to Eagle Ranch Village. His support and insight have been invaluable. I've worked closely with Mick thru the Eagle River Park campaign, and the City Manager search process. Again his ideas, support, and insights have been invaluable here as well.*

*There's no other person more deserving of this recognition."*

[Clark Gundlack – Business Consultant]

*"[Mick] is one of the greatest champions the Town of Eagle has ever had. A couple of years ago, I attended a Vail Leadership Institute-sponsored talk on leveraging relationships. The basic premise was that to be the most value to your community and yourself, you need to become a "node," connecting people and resources to each other. That's definitely what Mick is – he has the ability to get the right people doing the rights things together to create a whole that is far greater than the sum of its parts."*

[Anonymous – Eagle Resident, Business Owner, and Community Volunteer]

*"I have lived in four different mountain communities of Colorado over the past decade and a half. In each of these communities, there is always one person that seems to stand out as truly concerned for their community. Someone that would willingly sacrifice their free time to help out a fellow resident. Someone who's shoulder is worn from being tapped, but will happily say "yes" to the next community project. Mick Daily stands out in my mind as the truest of those champions on all levels. Through his work as the President of the Chamber of Commerce, Mick seems to find a way to insert his helpful hand into almost every significant community event. From ERS, to the Eagle River Project, to SimpaticOWORKING, to Town Manager selection, to simply helping a new business owner...Mick has truly made an impact on our community."*

[Levi Rozga – Vice-President, Eagle Chamber of Commerce]

For the reasons above, and many more (I'm sure you each have your own stories) please consider Mick Daly for this Award.

Best regards,  
Levi Rozga

A handwritten signature in black ink, appearing to be 'L. Rozga', written in a cursive style.

## Memorandum

**TO:** Town Board of Trustees  
**FROM:** Jill Ewing, Finance Director  
John Schneiger, Town Manager  
**DATE:** August 19, 2016  
**RE:** Reallocation of Capital Improvement Funds for Police Dept. Improvements

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The purpose of this memo is to request a reallocation of funds from “Old Town Hall Improvements” line item to “Town Hall Improvements” line item within the Capital Improvements Fund.

**Background:** During the 2016 budget process the Board approved \$23,700 in Town Hall Capital improvements for police lobby increased security and basement police storage.

During the beginning of 2016, it was made apparent that the Building & Planning department was understaffed and required a new position. There were concerns that the Planning and Building Department workspace for the new position was not functional, as well as the General Admin workspace. Also during this time, the bids received for the police lobby exceeded budget. It was decided that the Town Hall Improvement budgeted funds would be utilized to create a functional workspace for the Building & Planning and General Admin departments, instead of the Police Lobby security and basement storage.

The 2016 budget also includes \$40,000 for Old Town Hall Capital Improvements. The original intention of this line item was for potential asbestos removal. An inspection proved that complete mitigation would not be necessary and the entire \$40,000 utilized.

### **Original 2016 Budget Request (provided by PD): Police Lobby Security**

**Summary:** It is not uncommon for police department employees to encounter hostile individuals. Nationwide, there have been more occasions where an armed and dangerous person with specific intent to harm others have entered police department lobbies and threatened employees. While some security measures are in place for the Town Hall in Eagle, the manner in which some are followed do not provide for enhanced safety.

Town Hall Controlled Access for the police lobby was assessed by CIRSA this year. An audit concluded that the Police Department lobby area is vulnerable and steps should be taken to increase controlled access for safety of certified and non-certified employees.

- The police lobby should be updated so that the Eagle Police Department’s Records Supervisor may have enhanced security from potentially volatile customers. The current design provides for an avenue to add a security window to the north facing wall. Combined with an electronic push-button access lock, this would provide for a cost-effective manner to provide enhanced security to the civilian employee.
- Security monitoring equipment should be placed at entry and exit points of the police department and should include the parking area where patrol vehicles are normally parked.

Project Breakdown:

- Security window and installation
- Electric lock and installation
- 6 camera security system and installation

**Recommendation:** To reallocate \$30,000 of the original \$40,000 in “Old Town Hall Improvements” line item to the “Town Hall Improvements” line item for the Police Lobby Security.

<b>CAPITAL IMPROVEMENTS FUND</b>				
<b>Account Description</b>	<b>Acct #</b>	<b>2016 Budget</b>	<b>Requested Reallocation</b>	<b>Total</b>
Old Town Hall Improvements	31-51-726	\$40,000	(\$30,000)	\$10,000
Town Hall Improvements	31-51-730	\$23,700	\$30,000	\$53,700
	<b>Total</b>	<b>\$63,700</b>	<b>\$0</b>	<b>\$63,700</b>

**TO JOHN SCHNEIGER, TOWN MANAGER**  
**cc Tom Boni**

**FROM CAROLINE BRADFORD**

**RE STATUS UPDATE REPORT**

**DATE AUGUST 19, 2016**

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The purpose of this memo is briefly recap the latest meetings with external stakeholders regarding the Eagle River Park project. Please forward to other staff or elected officials as you may find helpful to keep them in the loop.

### **FUNDRAISING**

**GOCO** Caroline Bradford attended the GOCO Workshop on August 11 to share project details with staff and participate in their feedback session. The Local Parks & Outdoor Recreation (LPOR) cycle is will be very competitive with only about half of all applications expected to receive an award. Eagle County had plenty of representation at the meeting with about 6-7 representatives attending. (OSAC, Minturn, Walking Mountains, Eagle, etc) Eagle will submit an application for \$350,000 in the current cycle due in early November. The board decision will be made in April 2017.

**DOLA** Greg Winkler of DOLA talked with Caroline Bradford about the likelihood of an award for the Eagle River Park from Tier I Severance Tax funds in the September cycle. He was very clear that only applications for critical infrastructure needs would have any chance of being funded. With severance tax collections at all time lows, these funds are very limited. An application to DOLA to fund the wastewater treatment plant upgrade would be appropriate once the project is a bit farther along.

### **EAGLE COUNTY:**

Positive communication is ongoing between Eagle County staff and Tom Boni regarding the details of the process that will be used. Information will be provided as more is available to share.

### **CITIZEN'S COMMITTEE:**

Tuesday, August 2, 2016. Caroline and John to met with Markian Feduschak regarding his continued interest in spearheading citizen involvement in the park project. Markian has generously offered to chair a citizen's committee that will focus on raising private funds from the community to supplement the tax and other funds being raised for the project.

### **PRIVATE PROPERTY**

**SURVEY PROPOSAL:** Sam Ecker of Gore Range Survey prepared a proposal at the request of Tom Boni to survey the Case and Johnson/House parcels. The cost is (not-to-exceed) \$14,000. Mike Clark offered to provide support on site to find the existing markers which may speed up the process a bit and result in cost savings to the Town of Eagle. The Town will be providing copies of the surveys at no charge to both the Case and Johnson/House families. This work is expected to proceed over the next six to eight weeks and will begin once the Gore Range is under contract with the Town and the liability waivers are all in place.

**CASE PARCEL:** A site visit took place on August 5 with Mike Clark and his attorneys, Mr. Patrick Tooley and Mr. John Coates. Anne McKibbin, John Schneider, Tom Boni and Caroline Bradford attended on behalf of Town of Eagle. The visit was amiable and the design plans for the project were discussed as the group walked the site from the truck parking lot side of the river. Mr. Tooley was curious about the history of the CDOT/Eagle County easements and was planning to look into that more. On August 18, Mayor McKibbin signed the liability release form prepared by Mr. Tooley. Once it is returned to TOE with Mr. Clark's signature, the boundary survey and wetland survey of both parcels will proceed.

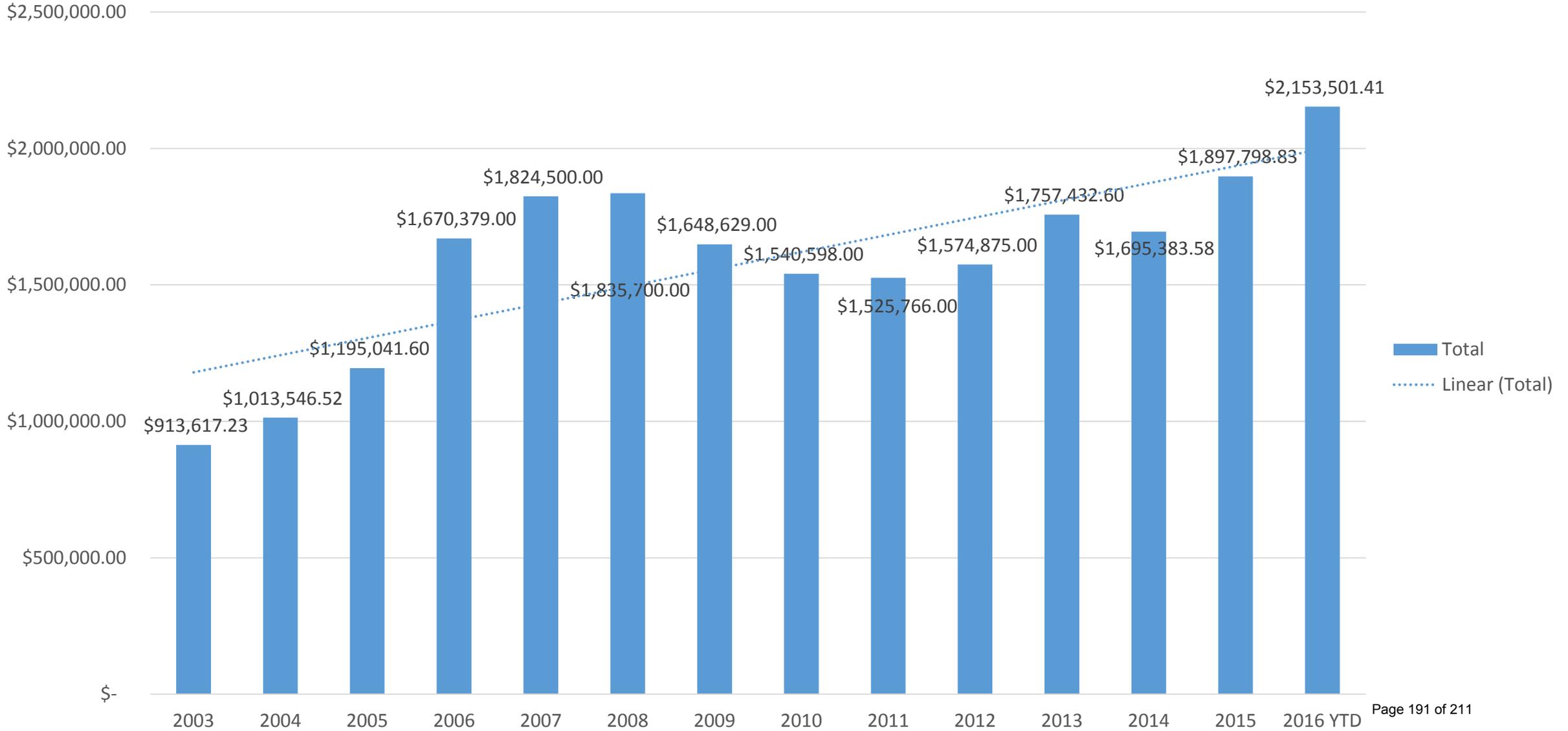
#### **MONITORING PLAN**

Eagle River Watershed Council provided Town of Eagle with a written summary and pricing for water quality and bug monitoring consistent with earlier verbal agreements. Kendall Bakich, CPW is expected to provide a written fish monitoring proposal in the next week. This information will be incorporated into the media releases to share these plans with the community.

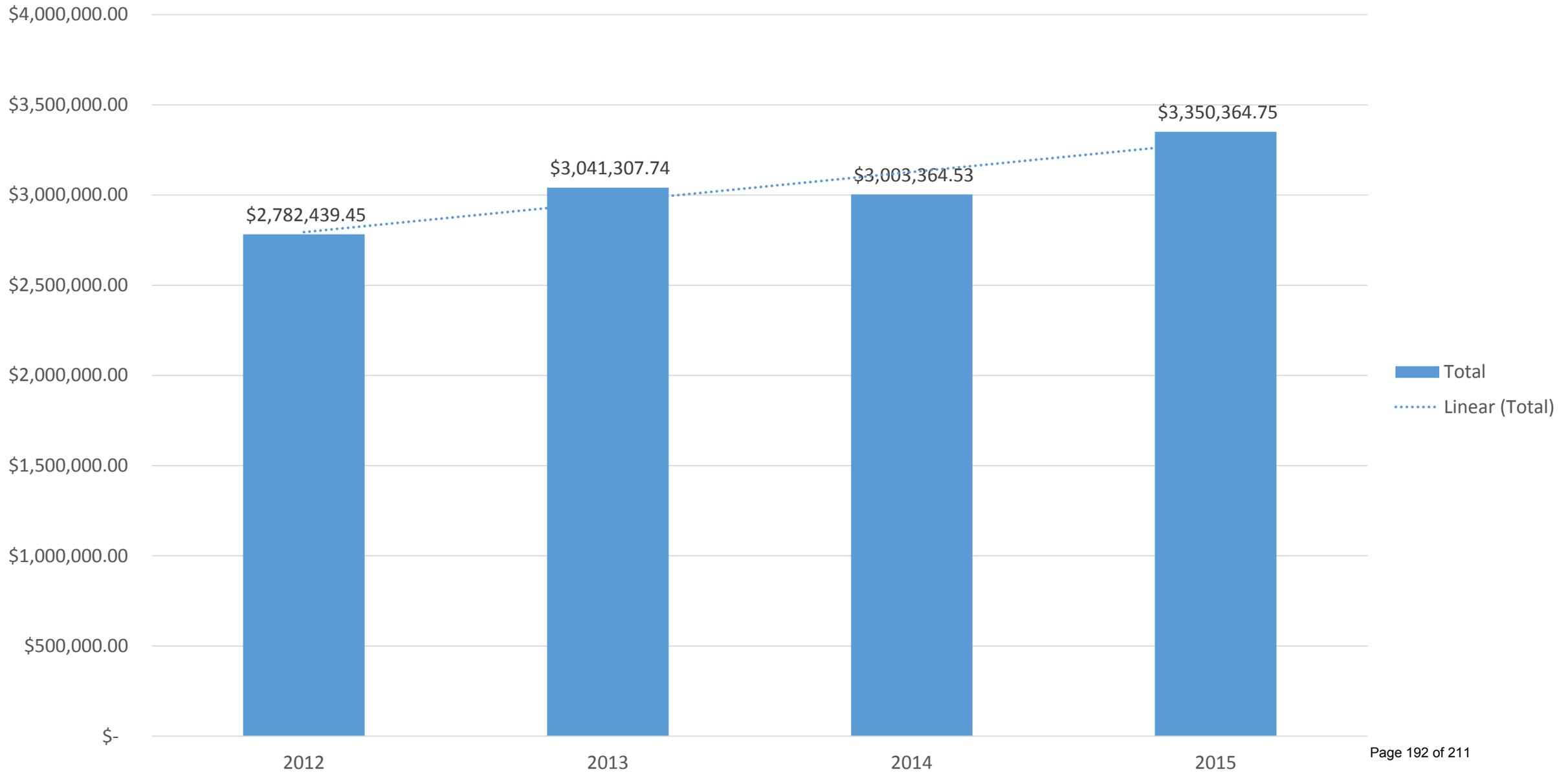
#### **TRUCK PARKING:**

Next meeting with CDOT for an update is Thursday, September 8, at a time TBD.

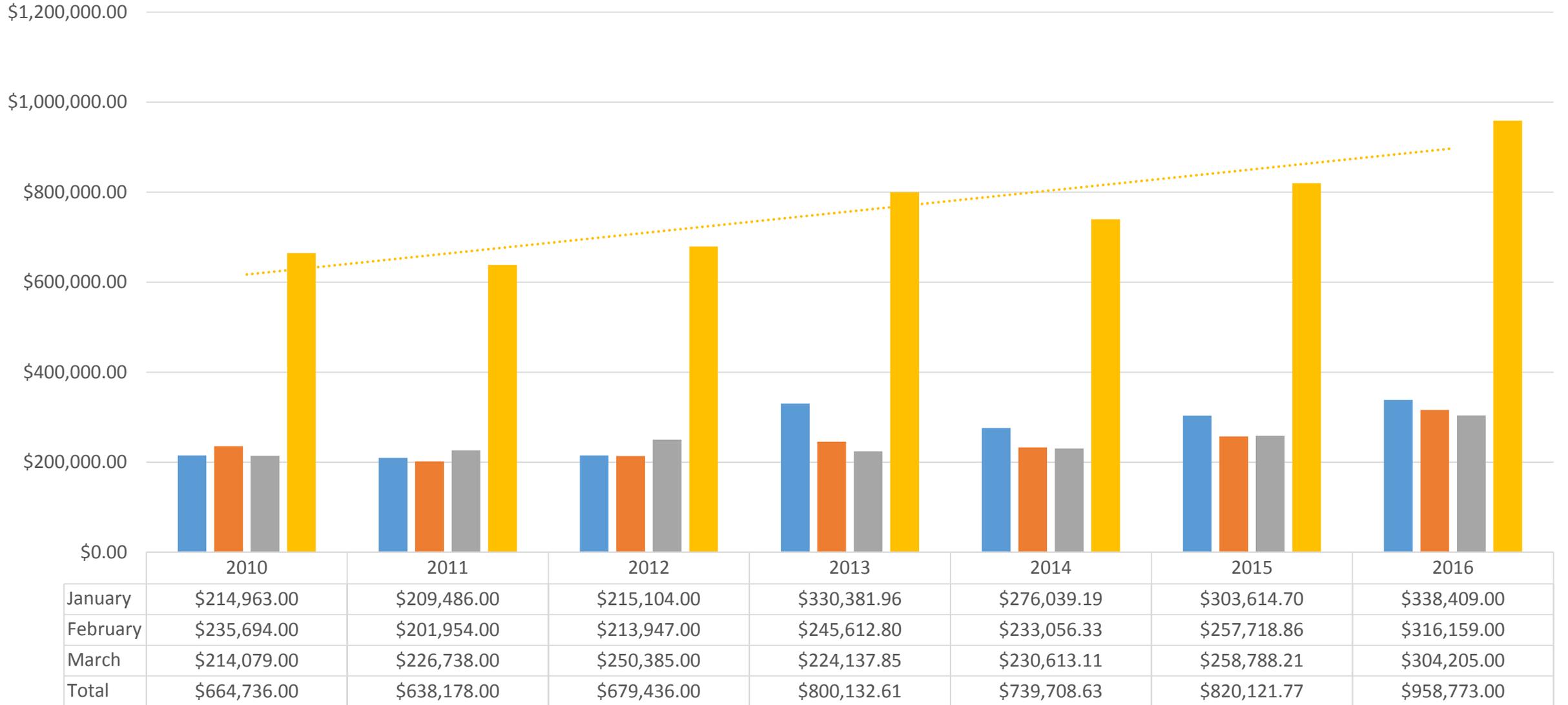
# TOTAL SALES TAX 2010-2016 Collection through July



# TOTAL SALES TAX 2012-2015

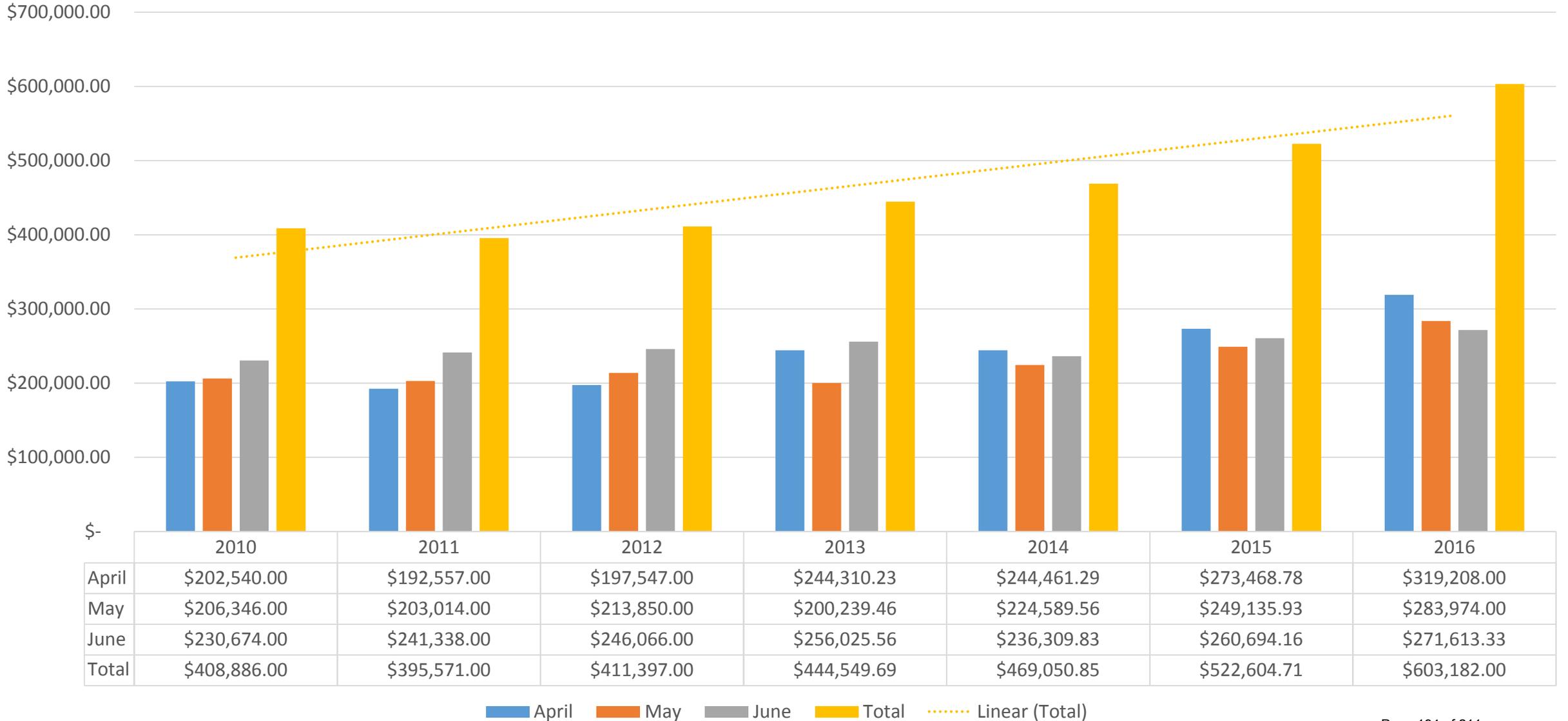


## TOTAL SALES TAX FIRST QUARTER 2010-2016

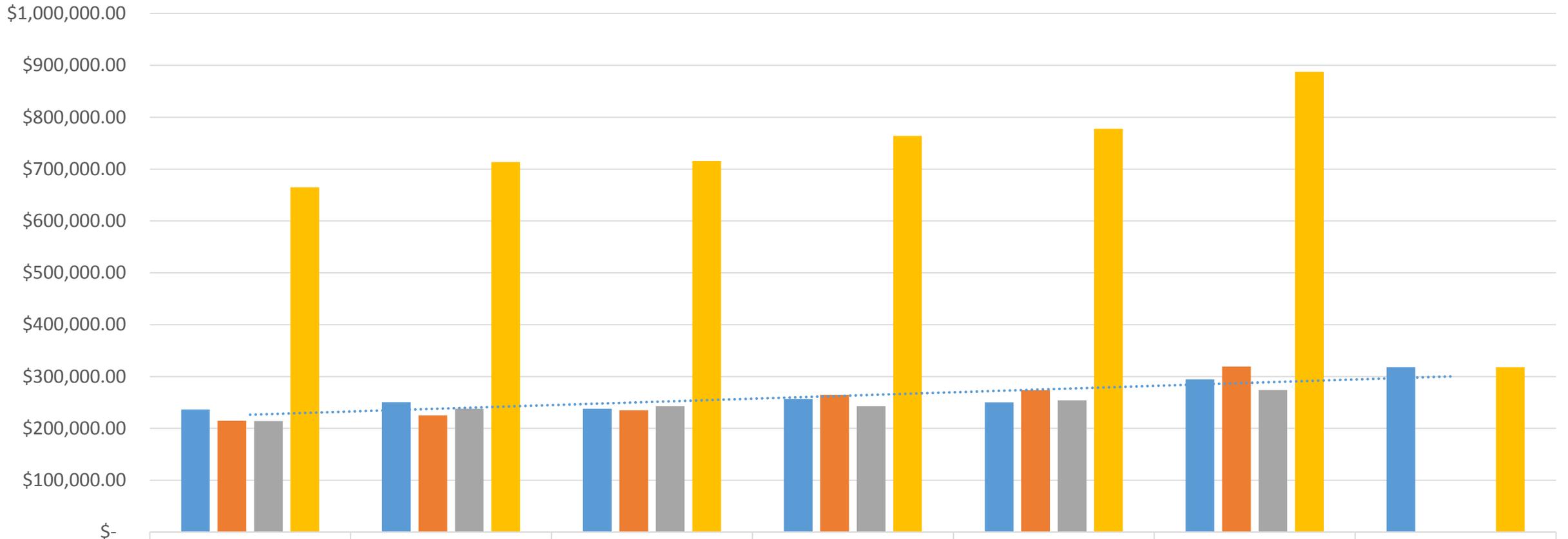


■ January   
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 ⋯ Linear (Total)

## TOTAL SALES TAX SECOND QUARTER 2010-2016



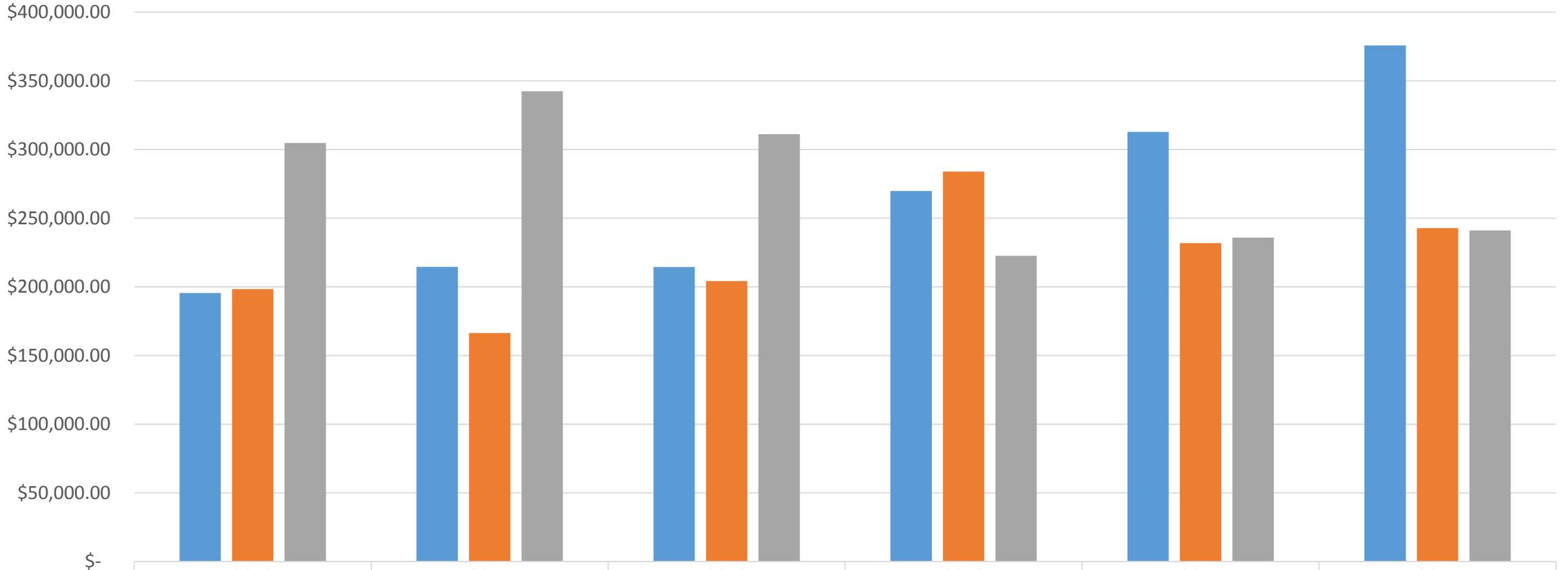
## TOTAL SALES TAX THIRD QUARTER 2010-2016



	2010	2011	2012	2013	2014	2015	2016
July	\$236,300.00	\$250,678.00	\$237,972.00	\$256,725.00	\$250,314.00	\$294,378.00	\$318,132.00
August	\$214,654.00	\$224,857.00	\$234,977.00	\$264,787.26	\$273,387.21	\$319,145.22	
September	\$213,929.00	\$238,140.00	\$242,722.00	\$242,628.59	\$254,017.17	\$273,877.60	
Total	\$664,883.00	\$713,675.00	\$715,671.00	\$764,140.85	\$777,718.38	\$887,400.82	\$318,132.00

■ July   
 ■ August   
 ■ September   
 ■ Total   
 ⋯ Linear (July)

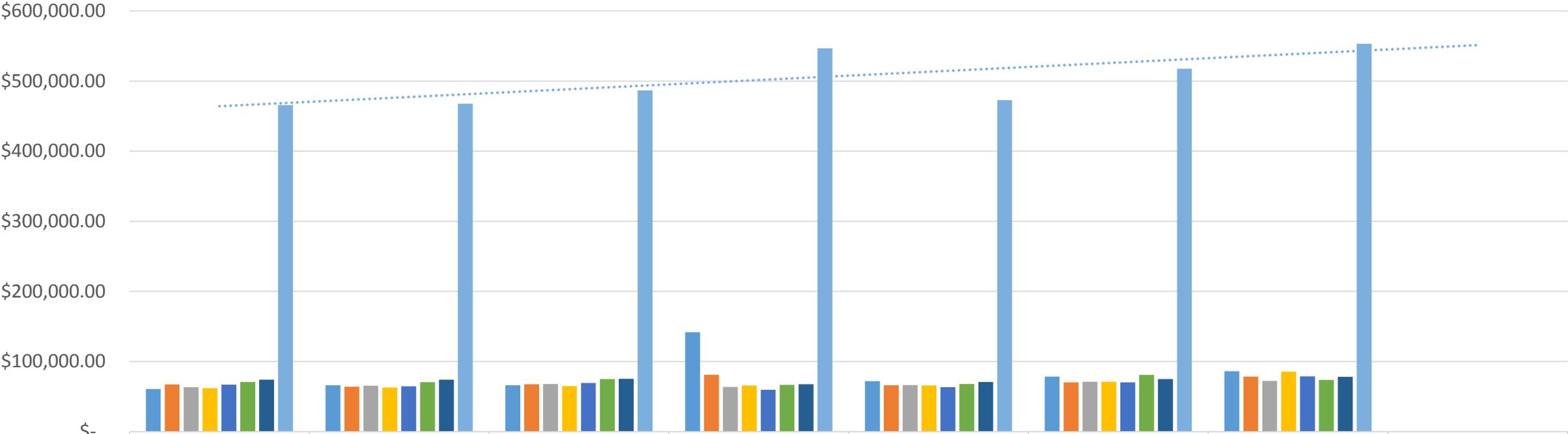
## TOTAL SALES TAX FOURTH QUARTER 2010-2015



	2010	2011	2012	2013	2014	2015
October	\$195,480.05	\$214,590.69	\$214,456.06	\$269,832.44	\$312,861.40	\$375,766.51
November	\$198,393.49	\$166,431.44	\$204,145.99	\$284,009.21	\$231,886.76	\$242,705.03
December	\$304,791.25	\$342,428.26	\$311,262.85	\$222,617.64	\$235,828.41	\$241,071.56

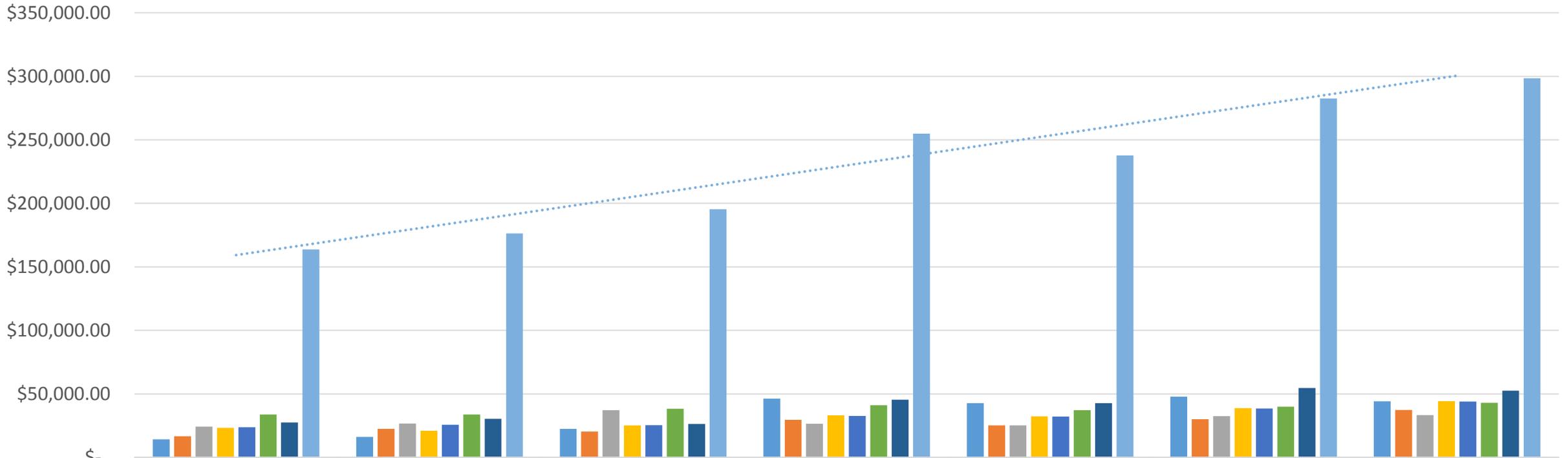
■ October   
 ■ November   
 ■ December

# FOOD MONTHLY COLLECTIONS 2010-2016



	2010	2011	2012	2013	2014	2015	2016
JANUARY	\$60,730.00	\$66,155.00	\$66,194.00	\$141,952.37	\$71,959.27	\$78,554.69	\$86,145.62
FEBRUARY	\$67,476.00	\$64,082.00	\$67,585.00	\$81,106.01	\$66,173.47	\$70,264.15	\$78,399.58
MARCH	\$63,641.00	\$65,456.00	\$68,014.00	\$63,942.23	\$66,542.50	\$71,312.34	\$72,233.11
APRIL	\$62,031.00	\$62,782.00	\$65,036.00	\$65,779.44	\$65,735.26	\$71,179.79	\$85,676.83
MAY	\$67,022.00	\$64,549.00	\$69,544.00	\$59,562.84	\$63,603.54	\$70,402.73	\$78,933.25
JUNE	\$70,776.00	\$70,673.00	\$74,975.00	\$66,704.93	\$67,936.60	\$80,904.93	\$73,715.09
JULY	\$73,987.00	\$74,021.00	\$75,375.00	\$67,688.52	\$71,002.78	\$74,990.68	\$78,226.46
TOTAL	\$465,663.00	\$467,718.00	\$486,723.00	\$546,736.34	\$472,953.42	\$517,609.31	\$553,329.94

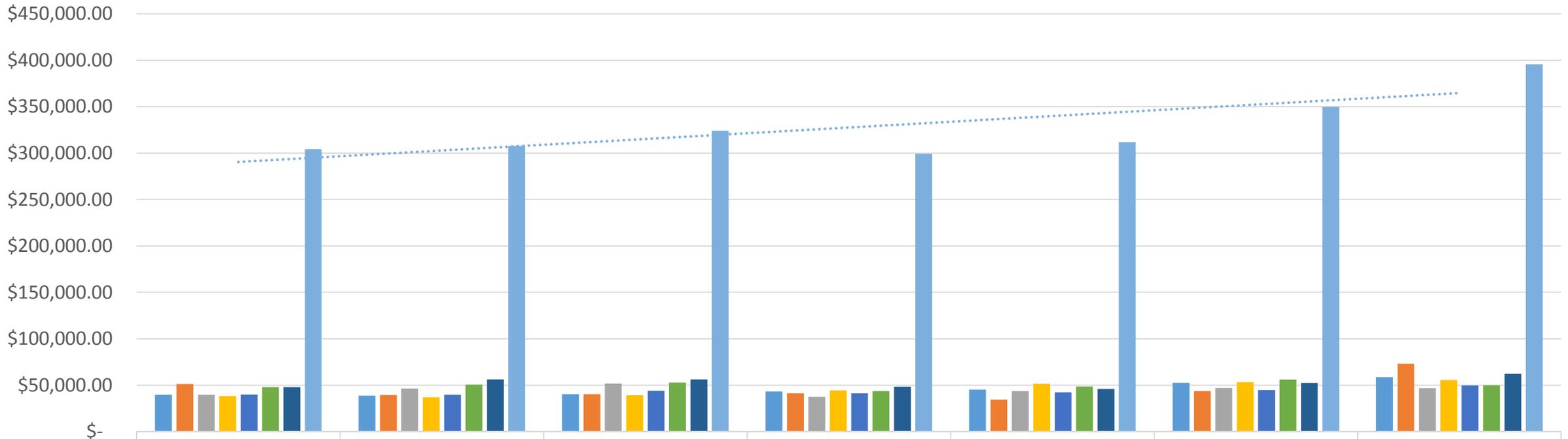
# RETAIL MONTHLY COLLECTIONS 2010-2016



	2010	2011	2012	2013	2014	2015	2016
JANUARY	\$14,236.00	\$16,272.00	\$22,462.00	\$46,318.31	\$42,665.49	\$47,887.75	\$44,071.04
FEBRUARY	\$16,642.00	\$22,507.00	\$20,377.00	\$29,689.06	\$25,206.71	\$30,155.29	\$37,302.89
MARCH	\$24,216.00	\$26,723.00	\$37,149.00	\$26,544.83	\$25,274.31	\$32,578.98	\$33,264.60
APRIL	\$23,276.00	\$20,996.00	\$25,182.00	\$33,228.69	\$32,322.93	\$38,880.25	\$44,275.17
MAY	\$23,858.00	\$25,723.00	\$25,480.00	\$32,691.30	\$32,235.78	\$38,441.52	\$43,964.75
JUNE	\$33,866.00	\$33,743.00	\$38,396.00	\$41,007.68	\$37,235.47	\$40,010.56	\$43,066.02
JULY	\$27,575.00	\$30,408.00	\$26,337.00	\$45,382.41	\$42,727.92	\$54,588.57	\$52,548.89
TOTAL	\$163,669.00	\$176,372.00	\$195,383.00	\$254,862.28	\$237,668.61	\$282,542.92	\$298,493.36

■ JANUARY  
 ■ FEBRUARY  
 ■ MARCH  
 ■ APRIL  
 ■ MAY  
 ■ JUNE  
 ■ JULY  
 ■ TOTAL  
 ⋯ Linear (TOTAL)

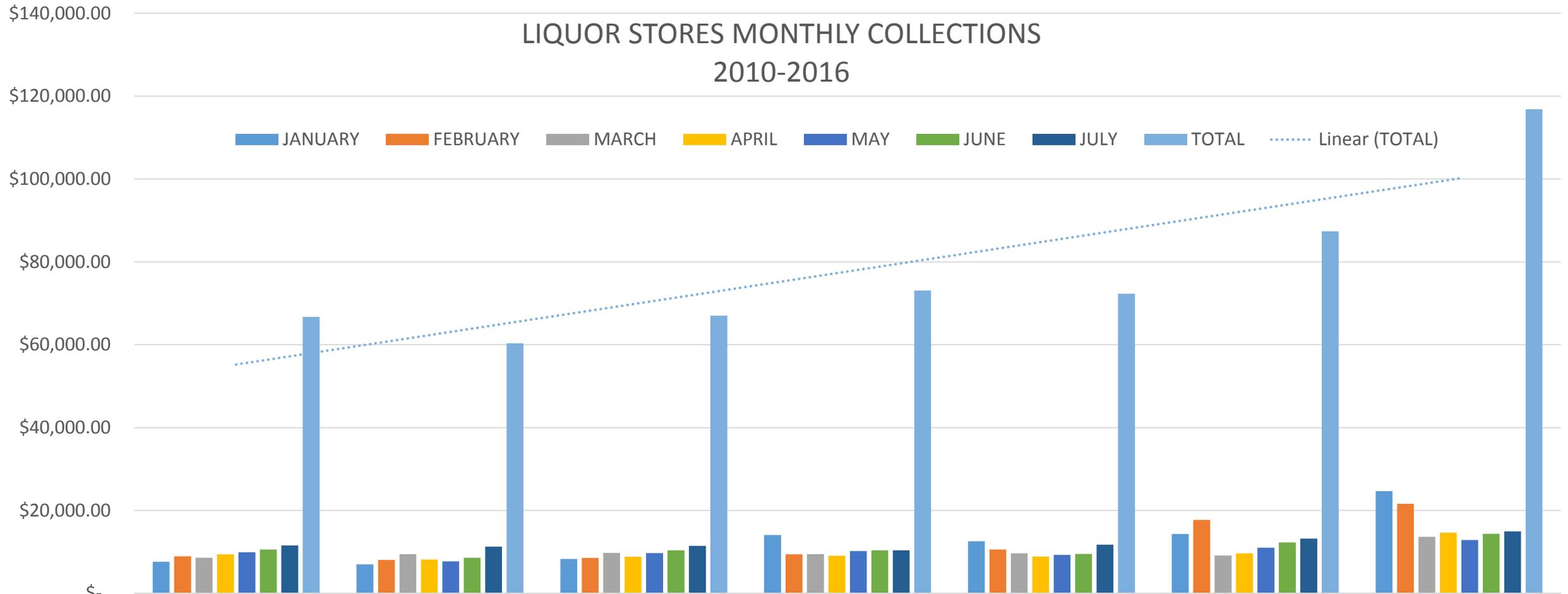
## RESTAURANTS & BARS MONTHLY COLLECTIONS 2010-2016



	2010	2011	2012	2013	2014	2015	2016
JANUARY	\$39,545.00	\$38,666.00	\$40,261.00	\$43,265.33	\$45,215.36	\$52,665.00	\$58,541.55
FEBRUARY	\$51,320.00	\$39,355.00	\$40,245.00	\$41,147.62	\$34,479.13	\$43,721.00	\$73,101.75
MARCH	\$39,527.00	\$46,371.00	\$51,693.00	\$37,431.99	\$43,740.01	\$47,095.00	\$46,810.54
APRIL	\$38,235.00	\$36,956.00	\$39,201.00	\$44,369.10	\$51,487.87	\$53,291.00	\$55,522.85
MAY	\$39,836.00	\$39,709.00	\$43,858.00	\$41,074.99	\$42,351.60	\$44,855.00	\$49,713.58
JUNE	\$47,867.00	\$50,575.00	\$52,868.00	\$43,743.33	\$48,603.59	\$56,035.00	\$49,851.92
JULY	\$47,999.00	\$56,107.00	\$56,069.00	\$48,235.99	\$45,906.51	\$52,263.98	\$62,188.00
TOTAL	\$304,329.00	\$307,739.00	\$324,195.00	\$299,268.35	\$311,784.07	\$349,925.98	\$395,730.19

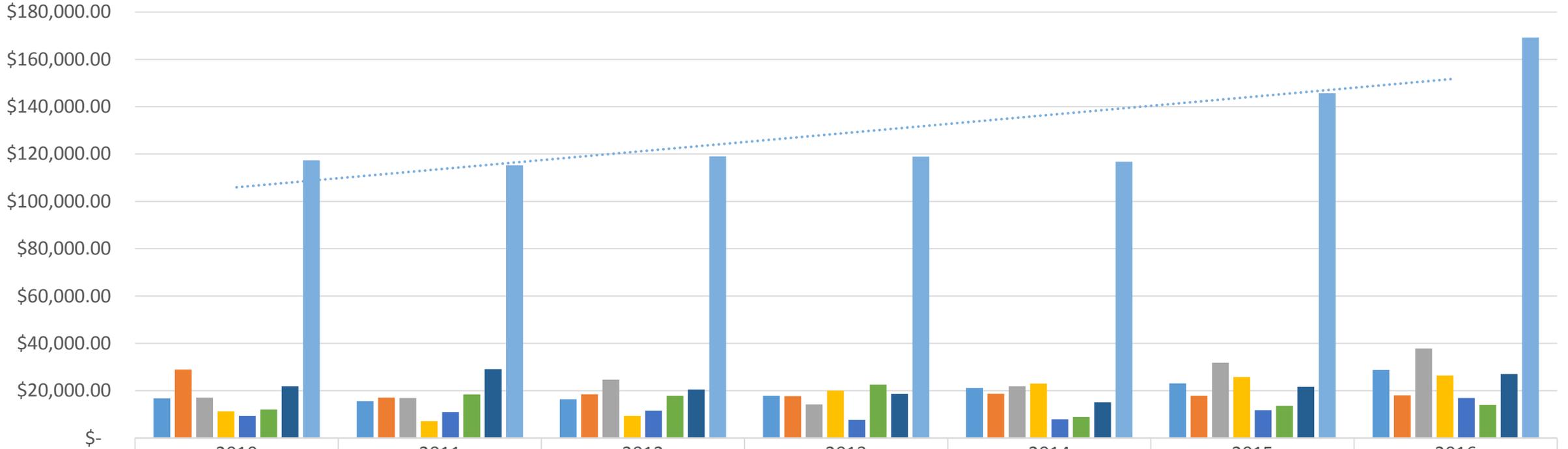
■ JANUARY  
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 ■ JUNE  
 ■ JULY  
 ■ TOTAL  
 ⋯ Linear (TOTAL)

## LIQUOR STORES MONTHLY COLLECTIONS 2010-2016



	2010	2011	2012	2013	2014	2015	2016
JANUARY	\$7,635.00	\$7,000.00	\$8,306.00	\$14,110.28	\$12,595.00	\$14,340.00	\$24,694.02
FEBRUARY	\$8,947.00	\$8,090.00	\$8,537.00	\$9,423.00	\$10,585.00	\$17,734.00	\$21,628.20
MARCH	\$8,614.00	\$9,493.00	\$9,767.00	\$9,477.29	\$9,652.00	\$9,129.00	\$13,654.00
APRIL	\$9,421.00	\$8,145.00	\$8,829.00	\$9,066.00	\$8,900.52	\$9,656.00	\$14,662.00
MAY	\$9,932.00	\$7,733.00	\$9,727.00	\$10,182.00	\$9,268.00	\$11,022.00	\$12,881.00
JUNE	\$10,597.00	\$8,599.00	\$10,390.00	\$10,415.92	\$9,518.00	\$12,272.00	\$14,366.00
JULY	\$11,582.00	\$11,298.00	\$11,479.00	\$10,422.00	\$11,784.22	\$13,209.00	\$14,956.00
TOTAL	\$66,728.00	\$60,358.00	\$67,035.00	\$73,096.49	\$72,302.74	\$87,362.00	\$116,841.22

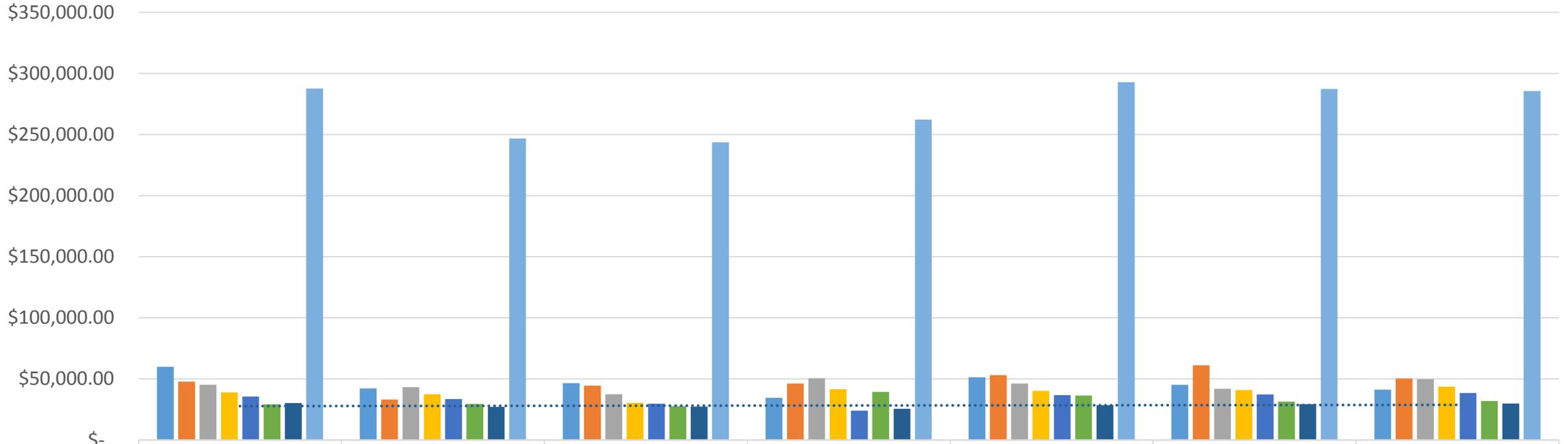
# LODGING MONTHLY COLLECTIONS 2010-2016



	2010	2011	2012	2013	2014	2015	2016
JANUARY	\$16,734.00	\$15,638.00	\$16,409.00	\$17,923.00	\$21,175.57	\$23,076.00	\$28,827.69
FEBRUARY	\$28,941.00	\$17,084.00	\$18,454.00	\$17,746.80	\$18,711.12	\$17,905.00	\$18,085.00
MARCH	\$17,083.00	\$16,898.00	\$24,722.00	\$14,237.05	\$21,907.00	\$31,804.00	\$37,848.94
APRIL	\$11,220.00	\$7,183.00	\$9,461.00	\$20,078.52	\$22,993.00	\$25,827.00	\$26,460.00
MAY	\$9,424.00	\$10,963.00	\$11,567.00	\$7,729.00	\$7,944.51	\$11,778.00	\$16,908.00
JUNE	\$12,068.00	\$18,385.00	\$17,859.00	\$22,554.40	\$8,897.41	\$13,644.00	\$14,060.52
JULY	\$21,868.00	\$29,097.00	\$20,481.00	\$18,673.00	\$15,089.02	\$21,628.00	\$27,019.00
TOTAL	\$117,338.00	\$115,248.00	\$118,953.00	\$118,941.77	\$116,717.63	\$145,662.00	\$169,209.15

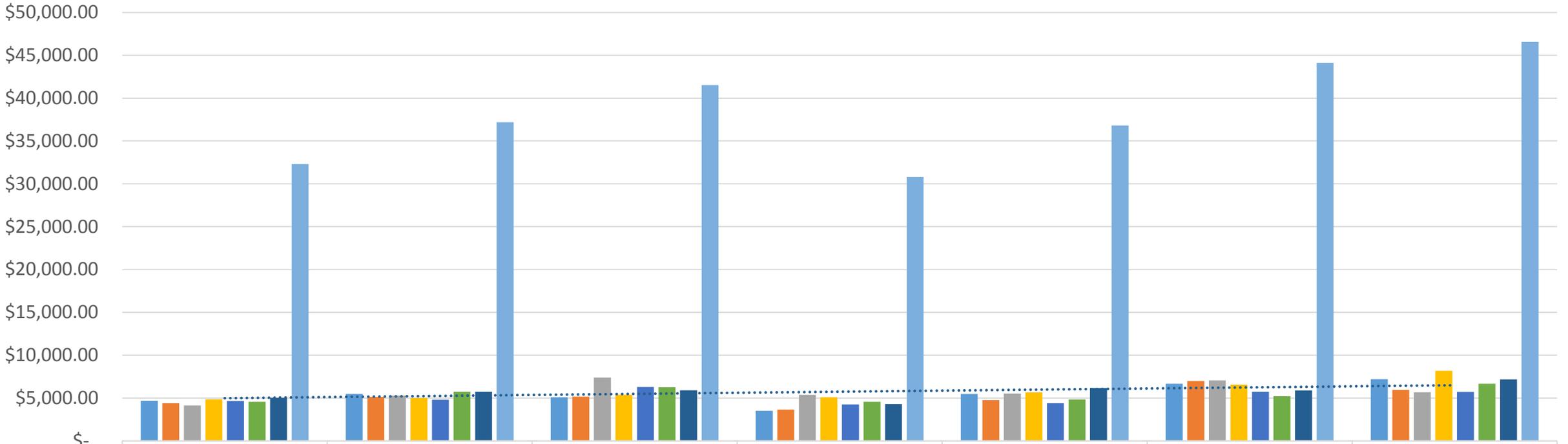
■ JANUARY  
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 ⋯ Linear (TOTAL)

## UTILITIES MONTHLY COLLECTIONS 2010-2016



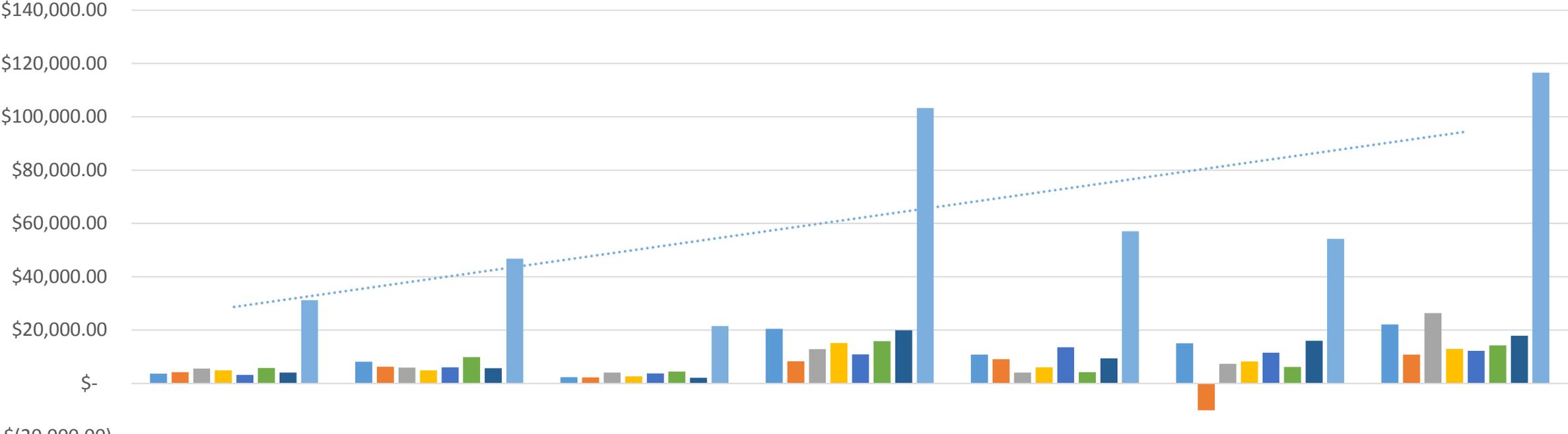
	2010	2011	2012	2013	2014	2015	2016
JANUARY	\$60,063.00	\$42,338.00	\$46,572.00	\$34,613.20	\$51,376.75	\$45,138.62	\$41,287.19
FEBRUARY	\$47,876.00	\$33,217.00	\$44,489.00	\$46,213.57	\$53,154.11	\$61,168.69	\$50,409.27
MARCH	\$45,241.00	\$43,295.00	\$37,467.00	\$50,576.01	\$46,224.24	\$41,921.11	\$49,844.23
APRIL	\$39,090.00	\$37,506.00	\$30,402.00	\$41,616.13	\$40,157.39	\$40,897.06	\$43,599.62
MAY	\$35,622.00	\$33,564.00	\$29,757.00	\$24,060.91	\$36,838.18	\$37,278.61	\$38,601.01
JUNE	\$29,330.00	\$29,540.00	\$27,639.00	\$39,448.81	\$36,405.96	\$31,447.88	\$31,914.36
JULY	\$30,282.00	\$27,243.00	\$27,367.00	\$25,645.19	\$28,508.44	\$29,463.74	\$29,951.00
TOTAL	\$287,504.00	\$246,703.00	\$243,693.00	\$262,173.82	\$292,665.07	\$287,315.71	\$285,606.68

# AUTOMOTIVE MONTHLY COLLECTIONS 2010-2016



	2010	2011	2012	2013	2014	2015	2016
JANUARY	\$4,676.00	\$5,478.00	\$5,103.00	\$3,522.22	\$5,483.29	\$6,681.51	\$7,206.60
FEBRUARY	\$4,398.00	\$5,136.00	\$5,162.00	\$3,652.17	\$4,760.32	\$6,986.09	\$5,961.80
MARCH	\$4,139.00	\$5,292.00	\$7,403.00	\$5,373.42	\$5,514.96	\$7,053.58	\$5,664.35
APRIL	\$4,866.00	\$4,992.00	\$5,369.00	\$5,094.69	\$5,656.29	\$6,542.47	\$8,184.59
MAY	\$4,651.00	\$4,806.00	\$6,287.00	\$4,264.50	\$4,392.67	\$5,734.13	\$5,716.54
JUNE	\$4,562.00	\$5,745.00	\$6,278.00	\$4,575.88	\$4,836.56	\$5,216.85	\$6,677.93
JULY	\$5,018.00	\$5,741.00	\$5,919.00	\$4,315.74	\$6,172.94	\$5,892.95	\$7,170.00
TOTAL	\$32,310.00	\$37,190.00	\$41,521.00	\$30,798.62	\$36,817.03	\$44,107.58	\$46,581.81

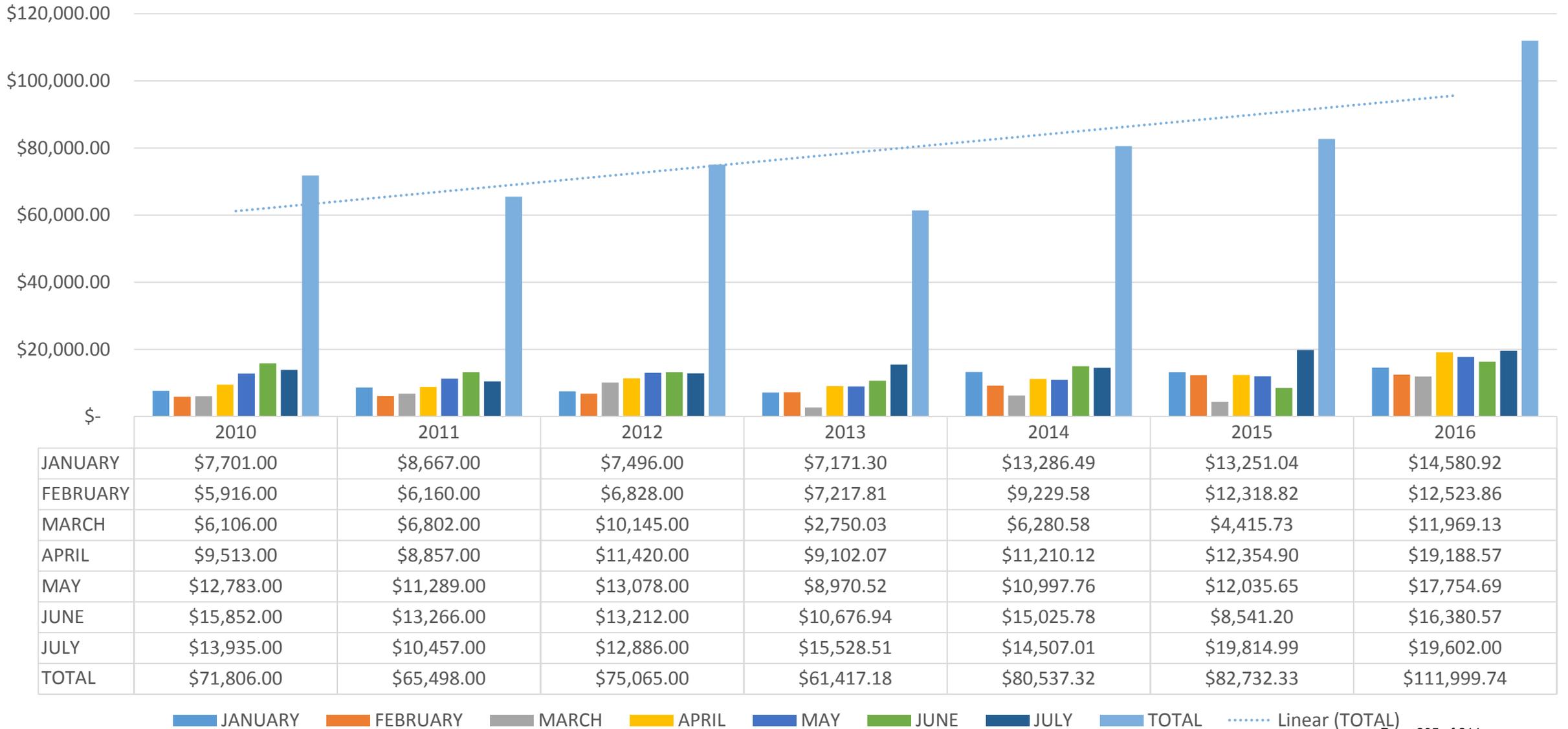
# MISCELLANEOUS MONTHLY COLLECTIONS 2010-2016



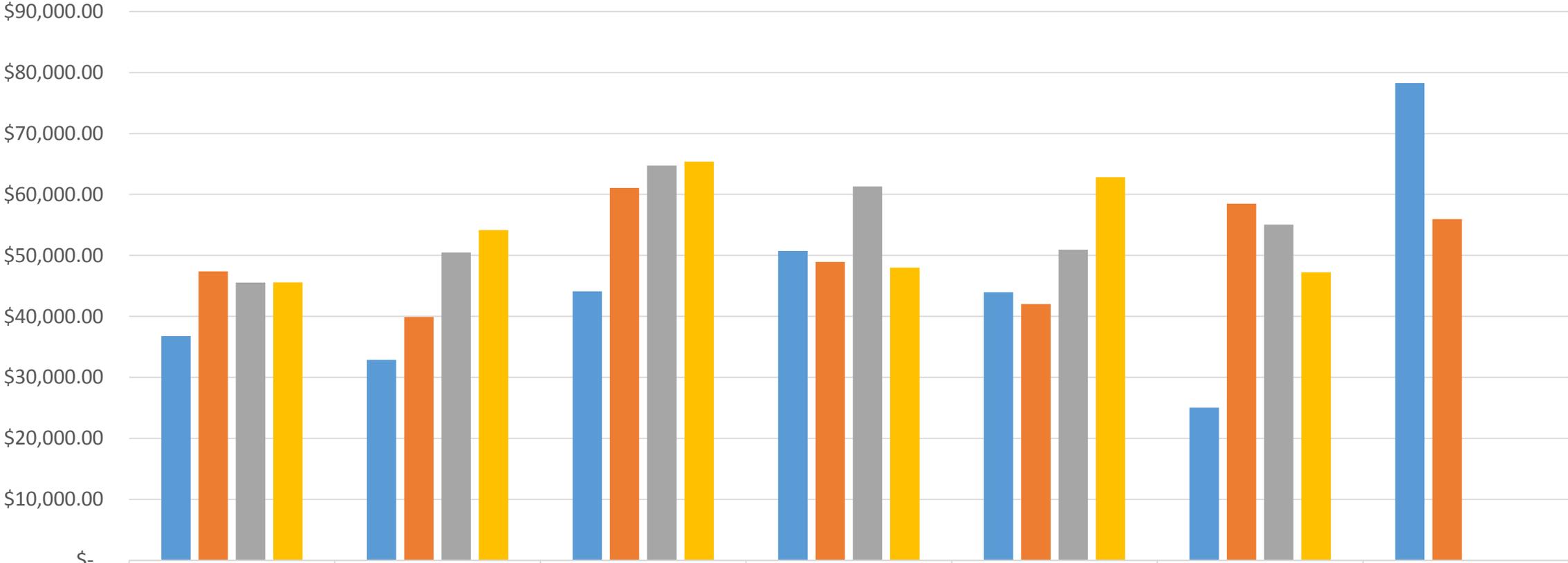
	2010	2011	2012	2013	2014	2015	2016
JANUARY	\$3,640.00	\$8,131.00	\$2,298.00	\$20,450.95	\$10,801.97	\$15,040.87	\$22,075.17
FEBRUARY	\$4,176.00	\$6,266.00	\$2,268.00	\$8,297.76	\$9,095.76	\$(10,064.41)	\$10,809.81
MARCH	\$5,510.00	\$5,958.00	\$4,021.00	\$12,838.48	\$4,024.51	\$7,378.78	\$26,310.59
APRIL	\$4,887.00	\$4,880.00	\$2,642.00	\$15,118.59	\$5,997.91	\$8,213.51	\$12,927.29
MAY	\$3,218.00	\$6,022.00	\$3,716.00	\$10,863.40	\$13,532.52	\$11,473.88	\$12,253.70
JUNE	\$5,754.00	\$9,836.00	\$4,445.00	\$15,839.67	\$4,229.46	\$6,184.57	\$14,295.77
JULY	\$4,054.00	\$5,693.00	\$2,058.00	\$19,881.86	\$9,362.43	\$16,009.32	\$17,901.00
TOTAL	\$31,239.00	\$46,786.00	\$21,448.00	\$103,290.71	\$57,044.56	\$54,236.52	\$116,573.33

■ JANUARY   
 ■ FEBRUARY   
 ■ MARCH   
 ■ APRIL   
 ■ MAY   
 ■ JUNE   
 ■ JULY   
 ■ TOTAL   
 ⋯ Linear (TOTAL)

## BUILDING/CONSTRUCTION MONTHLY COLLECTIONS 2010-2016



# DOWN TOWN DISTRICT QUARTERLY 2010-2016



	2010	2011	2012	2013	2014	2015	2016
FIRST QUARTER	\$36,785.00	\$32,878.00	\$44,121.00	\$50,728.90	\$43,962.97	\$25,055.03	\$78,254.29
SECOND QUARTER	\$47,389.00	\$39,912.00	\$61,063.00	\$48,931.16	\$42,016.92	\$58,470.57	\$55,960.22
THIRD QUARTER	\$45,543.00	\$50,466.00	\$64,744.00	\$61,315.88	\$50,935.42	\$55,068.05	
FOURTH QUARTER	\$45,572.00	\$54,139.00	\$65,374.00	\$47,987.66	\$62,820.04	\$47,232.45	

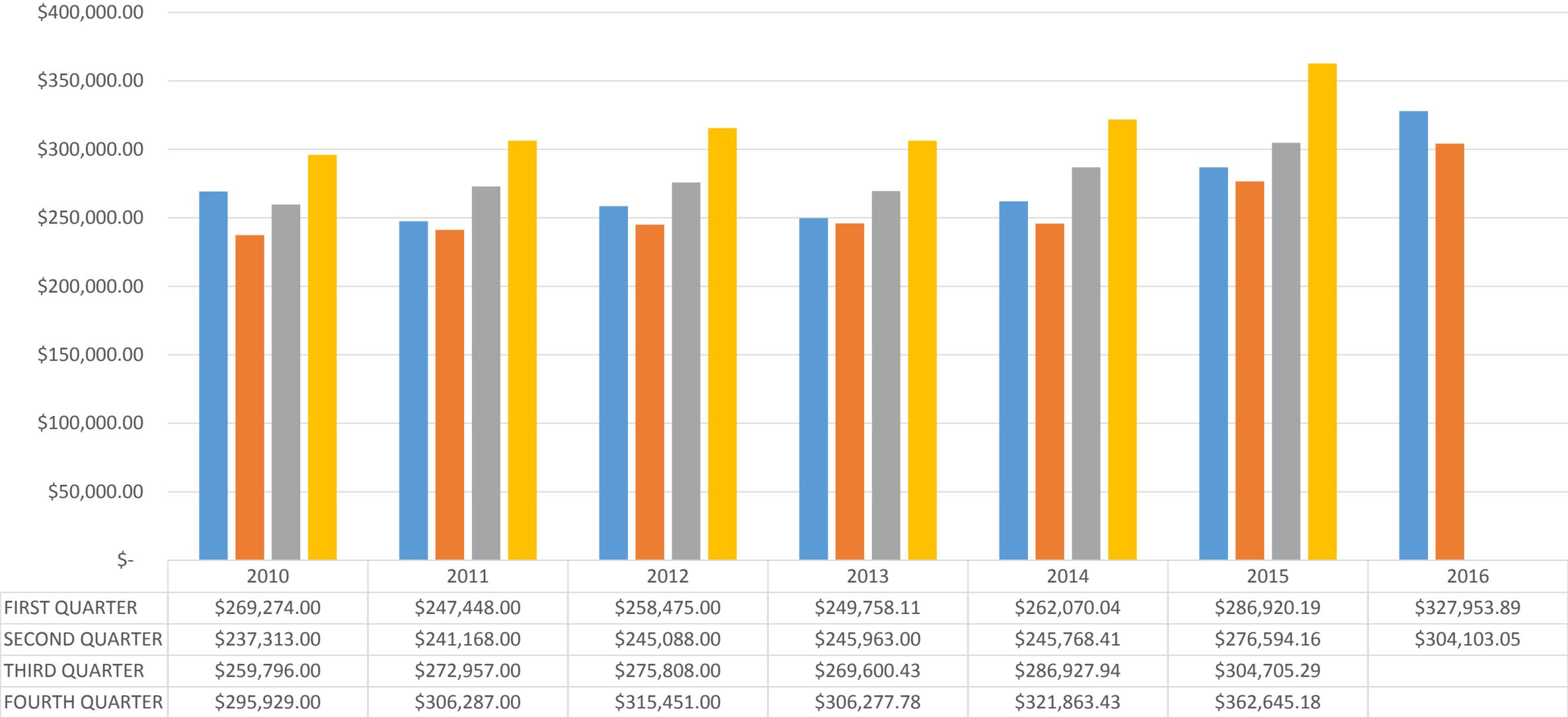
■ FIRST QUARTER   
 ■ SECOND QUARTER   
 ■ THIRD QUARTER   
 ■ FOURTH QUARTER

## CHAMBERS AVENUE QUARTERLY 2010-2016



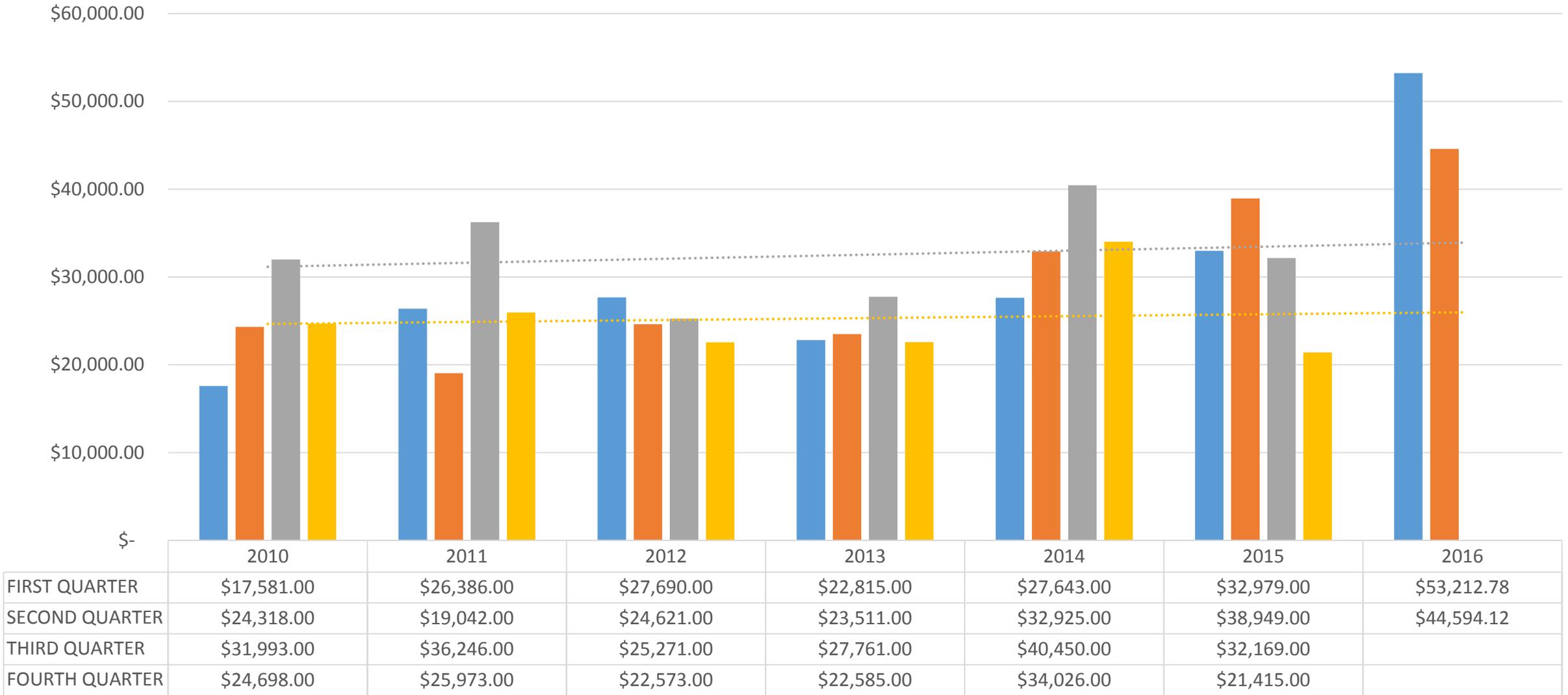
■ FIRST QUARTER   
 ■ SECOND QUARTER   
 ■ THIRD QUARTER   
 ■ FOURTH QUARTER

# MARKET STREET QUARTERLY 2010-2016



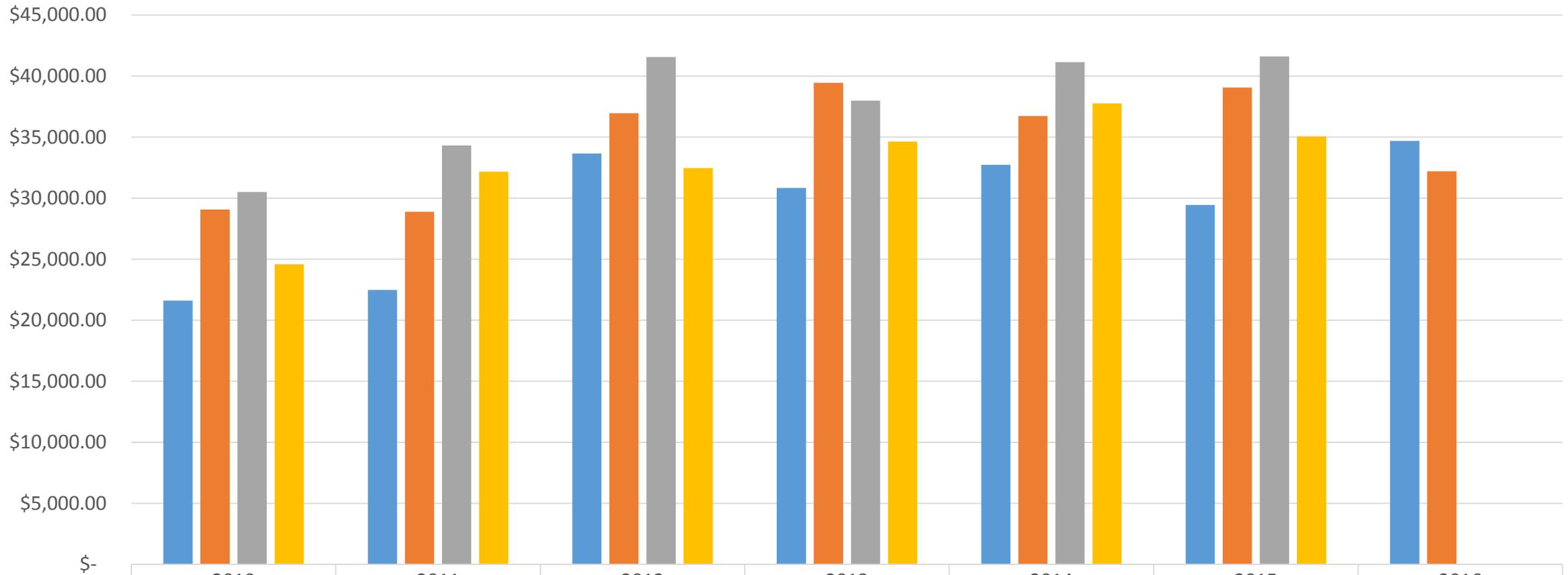
■ FIRST QUARTER   
 ■ SECOND QUARTER   
 ■ THIRD QUARTER   
 ■ FOURTH QUARTER

# HIGHWAY 6/GRAND AVE. QUARTERLY 2010-2016



■ FIRST QUARTER   
 ■ SECOND QUARTER   
 ■ THIRD QUARTER   
 ■ FOURTH QUARTER   
 ..... Linear (THIRD QUARTER)   
 ..... Linear (FOURTH QUARTER)

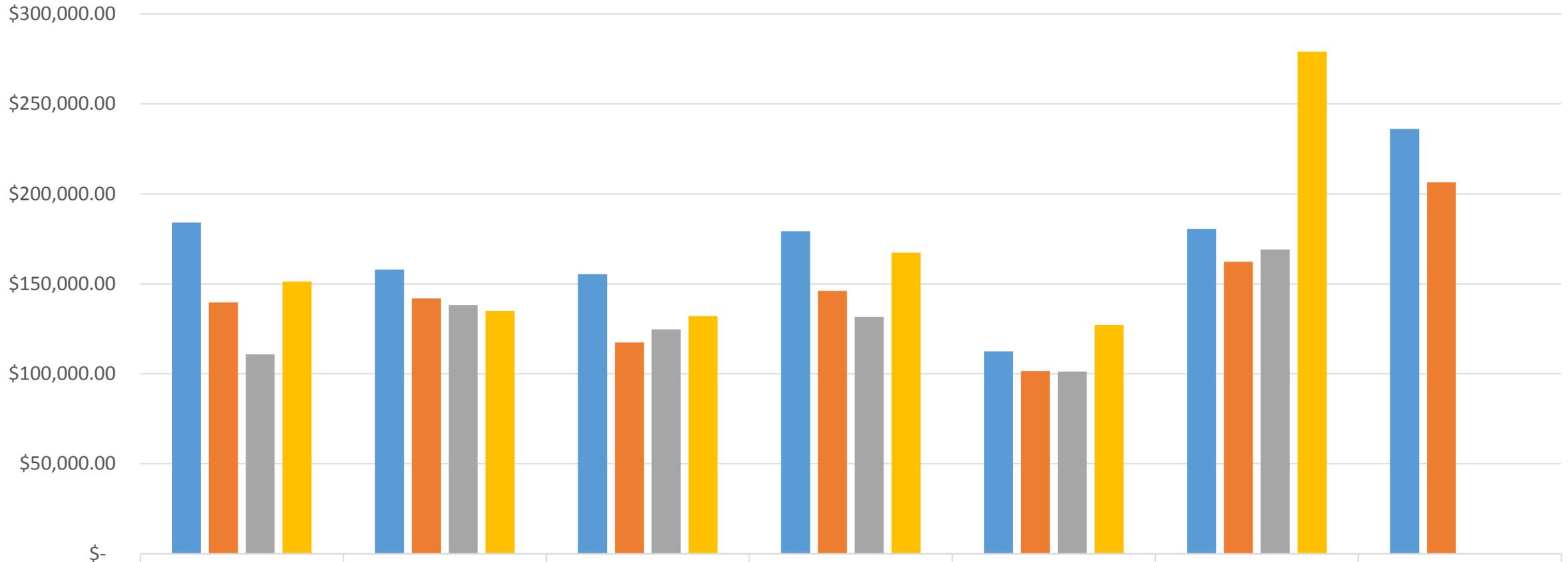
## EAGLE RANCH QUARTERLY 2010-2016



	2010	2011	2012	2013	2014	2015	2016
FIRST QUARTER	\$21,610.00	\$22,475.00	\$33,663.00	\$30,848.00	\$32,731.00	\$29,433.00	\$34,679.12
SECOND QUARTER	\$29,076.00	\$28,883.00	\$36,964.00	\$39,441.00	\$36,724.00	\$39,057.00	\$32,197.83
THIRD QUARTER	\$30,516.00	\$34,318.00	\$41,549.00	\$37,986.00	\$41,129.00	\$41,601.00	
FOURTH QUARTER	\$24,575.00	\$32,167.00	\$32,460.00	\$34,634.00	\$37,764.00	\$35,060.00	

■ FIRST QUARTER   
 ■ SECOND QUARTER   
 ■ THIRD QUARTER   
 ■ FOURTH QUARTER

## OTHER AREAS QUARTERLY 2010-2016



	2010	2011	2012	2013	2014	2015	2016
FIRST QUARTER	\$183,996.00	\$157,877.00	\$155,343.00	\$179,194.00	\$112,545.00	\$180,434.00	\$235,975.64
SECOND QUARTER	\$139,648.00	\$141,806.00	\$117,458.00	\$146,045.00	\$101,539.00	\$162,255.00	\$206,414.35
THIRD QUARTER	\$110,878.00	\$138,151.00	\$124,704.00	\$131,598.00	\$101,239.00	\$169,026.00	
FOURTH QUARTER	\$151,254.00	\$134,927.00	\$132,054.00	\$167,266.00	\$127,202.00	\$278,974.00	

■ FIRST QUARTER   
 ■ SECOND QUARTER   
 ■ THIRD QUARTER   
 ■ FOURTH QUARTER