

February 20, 2024

Gene Claps  
4430 S. Adams County Pkwy.  
1st Floor, Suite W5400  
Brighton, CO 80601

RE: Response to your letter dated February 6, 2024

Sheriff Claps,

The Town is in receipt of your letter dated February 6, 2024 that you had your operations manager send on your behalf. I would like an opportunity to review with you the Town's position and our Board's decision on your demand for an IGA and payment for your claimed services for the month of February.

#### 1. Lack of Communication

To recap, the Town Manager sent you and your command staff a letter on July 25, 2023, per section III of the IGA for Law Enforcement Services executed December 8, 2022, indicating the Town's desire to continue another year of law enforcement services and engage in negotiations. The letter was acknowledged by your command staff but never you. The Manager again followed up on November 2, 2023 with no response from you. After our attempts to discuss, you dropped a proposed IGA to the Board during your visit on the November 14, 2023 study session and told us to let you know when we had approved. In the meetings held subsequently with the Town you told us that if we refused to pay your contract price we should find services elsewhere, that the price and contract was not up for negotiation and those are what the costs are and in 2025 would have to be increased to \$1.5-2 million dollars.

Your failure to respond to our attempts to engage in discussion, dialog and negotiation lends to the lack of interest in reaching a compromise, your non-negotiable position and a desire to exert power and control over the Town. Regardless of the underlying reasons, your refusal to engage in the Town's request for contract negotiation of our IGA for additional law enforcement services, resulted in missed opportunities for financial transparency and preserving the relationship between parties.

#### 2. Unexplained Discrepancies and Conflicting Information

We further are concerned with your discrepancies between reported and actual financial figures, such as unexplained fluctuations in calls for service, reporting and tickets. Additionally, inconsistencies between different financial reports, statements or databases indicate discrepancies that do not align with the IGA for additional law enforcement services. The database on the Sheriff's website:

<https://myneighborhoodupdate.net/?center=39.986809%2C%20-104.81816900000001&zoom=15&c=all>

does not correlate with reports for incorporated Bennett limit calls for additional service reports provided by the Sheriff's office. While we appreciate your reporting on calls for service, it does not fully and accurately depict the amount of time spent in Bennett and our desire to understand what activity the department is engaged in while in Bennett.

### 3. Lack of Documentation and Unwillingness to Explain or Discuss Financial Impact

The Town feels that the lack of documentation and unwillingness to explain or discuss financial impacts is an important issue. In the January 24, 2024 letter to you we requested:

"Identification of Specific Services:

Provide a detailed and specific breakdown of the services delivered by you, your deputies, and staff that substantiate the invoiced fee. We need a precise account of each service rendered and the associated fee.

Legal Basis for Fees:

Clearly specify where each of the fees is provided for by contract or allowed by other legal provisions or statutes, identifying the specific contract provision or section of the statutes you rely on."

Thus far you have either provided no or inadequate supporting documentation and continued a resistance or reluctance to provide detailed explanations or transparent information.

### 4. Financial Impacts and Service Levels

Bennett residents pay 22.712 mills to Adams County, the same mills that unincorporated residents pay. In total, the Town residents will pay \$1,225,209.97 to Adams County for general public services, which according to their published 2024 budget, include services provided by the Sheriff's office. [https://adcogov.org/sites/default/files/2024-01/2024-Adopted-Budget\\_2024.01.30.pdf](https://adcogov.org/sites/default/files/2024-01/2024-Adopted-Budget_2024.01.30.pdf). Through information provided to the Town from the Adams County Finance Department the Sheriff's Division budget for expenditures is \$117,552,033 and "39.9% of general fund property tax revenues support the Sheriff's Office." Bennett residents of Adams County will pay through property tax in 2024 \$488,858.78 to your division. In addition to this you requested an additional \$489,922.64 for an additional contract with the Town of Bennett. We strongly feel that this is double charging the Town of Bennett residents when, unincorporated residents are charged once but both receive the same level of service provided by your office.

The 2023 IGA was for additional law enforcement services within the incorporated limits of Bennett. These services are identified as; additional proactive neighborhood patrol, and upholding Bennett's Municipal Model Traffic Code and outlined in Section I of the 2023 IGA:

“The Adams County Sheriff’s Office shall provide law enforcement services to Bennett including: patrol duties; follow-up investigations of criminal matters; supervision of the assigned personnel; and will meet with Bennett management to ensure assignment of appropriate resources for anticipated events and address any concerns of the Parties. For 2023, the personnel necessary to provide these services as determined by the Sheriff’s Office are as follows: two full-time patrol deputies, and part-time services of a detective (37.5% of full-time work schedule), sergeant (25% of full-time work schedule) and commander (25% of full-time work schedule) as set forth in further detail in Attachment A to the Agreement, attached hereto and incorporated by reference as if set forth fully herein. All employees providing law enforcement services to Bennett shall be employees of the County, and not of Bennett, and all equipment and supplies provided incidental thereto shall be and remain the property of the County.”

As noted the Town entered into an IGA with Adams County for the sole purposes of municipal law enforcement services, however, you requested that the Town pay a 26% increased contract rate of \$489,922.64 in 2024, and noted an anticipated significant increase of three to four times that amount in the following year and moving forward. There were discrepancies in the relationship between the additional financial cost burden and the actual municipal court activity. You have repeatedly stated that the County was supplementing Bennett’s calls for service, but could not provide documentation of this alleged additional cost burden and it did not align with the Municipal Court dockets. Maintaining financial integrity and transparency is crucial for the long-term success and trustworthiness of any organization and a core value for the Town of Bennett. Overall, when asked, you could not provide clarity on increased additional contract services related to actual costs associated with providing the additional law enforcement services.

Your annual report provided to the Board of Trustees indicates approximately 600 calls for service in 2023. This is an approximation given your system’s compromise last year. This would mean that you provided approximately 1.7 calls per day and we believe that in addition to your statutory requirement and our additional service level contract the Town abundantly provides for this average call volume.

Furthermore, your insistence that you would not negotiate or discuss the service level and financial impacts of your mandated contract never allowed the board choice in the matter. As a partner we would have expected communication through our Town Manager and our Mayor Pro-Tem, whom we have designated as our point of contacts, the concerns or reasoning behind your stated structure and costs.

## 5. Threat of Public Safety to Community

In your letter dated December 28, 2023 you informed us

“To avoid any misunderstandings, emergency services does not include school resource officers. The Adams County Sheriff’s Office does not provide school resource officers for any

school within a municipality of the county. Thus, the Sheriff's Office could no longer provide school resource officers to schools within the Town of Bennett. This would impact School District 29J."

The SRO program has never been detailed and included in any prior contract with the Town of Bennett. Additionally, your office has never brought forward any reporting to the Town Board of Trustees on the SRO program. It has always been our understanding that this program was through an MOU with the Sheriff's Office, and the Bennett and Strasburg School Districts. Furthermore, the Board of Trustees never had any opportunity to direct or review those services.

Sheriff Claps, threatening to remove all but emergency policing services, and the School Resource Officer, goes against the Colorado statute and we see as an unwarranted attempt by you to exert power. Attached is a memo provided by Bennett's Town Attorney, Scotty P. Krob. As indicated in the memo, the key statutory provision governing the duties and authority of a county sheriff in Colorado is Section 30-10-516, C.R.S., which provide, in relevant part:

It is the duty of the sheriffs, undersheriffs, and deputies to keep and preserve the peace in their respective counties, and to quiet and suppress all affrays, riots and unlawful assemblies and insurrections.

On its face the statute makes no distinction between the duties you owe to unincorporated parts of the county and those you owe to incorporated areas such as the Town of Bennett. Nor is there any Colorado case law that supports such disparate treatment. As indicated in Attorney Krob's memo, no Colorado case has expressly addressed whether the duties you owe are the same throughout the county, including incorporated areas. However, the appellate cases in other states, in addition to the wording of Section 30-10-516, C.R.S. support the conclusions that:

1. The Adams County sheriff has a duty to keep the peace to the best of his ability and to protect the public by stopping criminal acts and arresting the offenders for crimes defined under Colorado statute or established by the common law.
2. The sheriff does not have a duty to provide a specific number of police officers or a specific level of police services to the incorporated or unincorporated parts of the county, so long as he is satisfying his duties as sheriff.
3. The sheriff owes his duty to the incorporated municipalities within the county such as the Town of Bennett, to the same extent as it is owed to the unincorporated portions of the county.
4. Failure of the sheriff to fulfill his duty to all parts of the county, including incorporated municipalities, could constitute willful neglect of duty.
5. The sheriff's duty may be even greater with regard to municipalities in the county where he knows they do not have their own police department, as is the current situation in Bennett.

6. There is no independent statutory obligation on Bennett to provide police services either by contract or by creating its own department unless it desires to obtain services greater than those the sheriff is obligated to provide throughout the county, or unless Bennett wants to ensure that certain specific police services, such as patrol services, or specific levels of services such as a certain number of deputies on duty at all times, are provided to Bennett.

7. The sheriff is prohibited by statute from asking or collecting a fee from Bennett for the services he is obligated by statute to provide. He is also barred from collecting a fee for additional services beyond his statutory duties in the absence of a valid contract with the municipality agreeing to pay such fee. If the sheriff demands such payment, he owes Bennett three times the amount he demanded or collected.

To mitigate the Town's risk of unsuccessful contract negotiations due to lack of information and unwillingness to provide transparency from you, we felt it was imperative to move toward contract negotiations with Arapahoe County. This decision involved seeking legal counsel, conducting thorough research and engaging in transparent and open communication to address any ambiguities or uncertainties. Addressing these issues proactively, with a more comprehensive understanding of the terms and conditions outlined in the Arapahoe County IGA for Additional Law Enforcement Contract Services, ultimately leads to a more successful partnership and productive outcome of the overall safety and proactive law enforcement in Bennett.

Therefore, we have concluded as a Board of Trustees the following regarding your request for payment of law enforcement fees for February 2024:

Since January 1, 2024, you have continued to provide services to the Town and we appreciate that. To the extent the services you provided Bennett were those you are obligated to provide by statute, you have already been paid for them through Bennett residents paying Adams County taxes to fund your department, as explained above. We are skeptical that you provided services to the Town in excess of those that you are statutorily obligated to provide. To the extent you did so, however, you have no contract entitling you to payment for such services.

You have acknowledged on multiple occasions that the 2023 contract between the Town and your office has expired. You are also well aware that the 2024 contract you attempted to force upon the Town was not acceptable to the Board of Trustees and has never been agreed to. So, from January 1, 2024 through the present you have had no contract that entitles you to payment.

Yet you continue to bill the Town just as you did when there was a contract in place. On January 11, 2024 you sent the Town a bill for \$40,826.89. The Town paid the bill, but only because you threatened to withhold some services if it did not do so. On February 6, 2024 you sent a bill for \$40,826.89 for February services and again threatened to withhold some services if the bill was not paid by February 20, 2024.

Since there is no contract in effect for 2024, the Town has made repeated requests asking you to justify the fees you have charged the Town. The only "support" you have provided is by reference to a contract that expired last year. There is no contract that makes your payment demands lawful. Nor have you identified any statute that authorizes the specific fees you claim. As a result, the fees you have charged the Town are without authority under the statutes or any existing contract and are unlawful.

The Colorado statutes address the consequences of a sheriff demanding or collecting fees that have no basis in law. Section 30-10-521, C.R.S., provides:

No sheriff shall directly or indirectly ask, demand, or receive for any service to be performed by him in the discharge of any of his official duties any greater fees than are allowed by law, on penalty of forfeiture of treble damages to the party aggrieved, and being fined in a sum not less than twenty-five dollars and not more than two hundred dollars.

Your receipt of \$40,826.89 for January and your demand for \$40,826.89 for fees for February, are in direct contravention of Section 30-10-521, and entitle the Town of Bennett to \$244,961.34.

However, since it is all public funds that are at stake, the Town's primary concern is the safety of its citizens, therefore, the Town is willing to waive its entitlement to payment provided you refund the \$40,826.89 you wrongfully collected for January within 10 days of the date of this letter; you acknowledge that the Town does not owe the \$40,826.89 you wrongfully demanded for February; and you continue to fulfill your statutory duties to provide the Town and its residents the same level of police services as you provide to residents of unincorporated Adams County until the Town has alternate law enforcement services in place. You have made it clear to the Town that you do not wish to serve its citizens any longer and I can assure you the Town Board is equally anxious to obtain law enforcement services from an entity other than you. Therefore, we are working as expeditiously as possible to get new law enforcement services in place and will notify you as soon as that is accomplished. I assume you will fully cooperate in this transition so as not to put any of our citizens at risk.

The Town of Bennett is committed to providing our residents the ability to be a community built with small town character that is happy, connected, safe, innovative with an opportunity to LIVE WELL AND THRIVE.

Sincerely,



Royce D. Pindell  
Mayor

