



## Town Board of Trustees

Tuesday, July 11, 2023 at 7:00 pm

**PLEASE SILENCE ALL CELL PHONE AND ELECTRONIC DEVICES.  
THANK YOU.**

### 1. Meeting Information

207 Muegge Way, Bennett, CO 80102

For a live stream of the meeting use the information below:

<https://us02web.zoom.us/j/82969043900>

Meeting ID: 829 6904 3900

Passcode: 166365

One tap mobile

+13462487799

### 2. Call to Order

Royce D. Pindell, Mayor

#### a. Roll Call

### 3. Pledge of Allegiance

Royce D. Pindell, Mayor

### 4. Approval of Agenda

Royce D. Pindell, Mayor

### 5. Consent Agenda

Royce D. Pindell, Mayor

#### a. June 27, 2023 - Regular Meeting Minutes

##### Attachments:

- **June 27, 2023 - Regular Meeting Minutes** (06-27-2023\_Draft\_Regular\_Meeting\_Minutes.pdf)

#### b. Adams County Open Space Grant Agreements

Resolution No. 979-23 - A Resolution Approving Open Space Grant Agreements Between the Town of Bennett and County of Adams for the Open Space Event Bleachers, Highway 79 Permanent Trail Construction Phase II and Trupp Park Phase VI

##### Attachments:

- **Adams County Open Space Grant Agreement OSG2023-00018 - Open Space Event Bleachers** (1\_-\_Town\_of\_Bennett\_Open\_Space\_Bleachers\_Agreement.pdf)
- **Adams County Open Space Grant Agreement OSG2023-00003 - Highway 79 Permanent Trail Construction Phase II** (2\_-\_Bennett\_Hwy\_79\_OPEN\_SPACE\_GRANT\_AGREEMENT.pdf)
- **Adams County Open Space Grant Agreement OSG2023-00013 - Trupp Park Phase VI** (3\_-\_BENNETT\_TRUPP\_PARK\_VI\_GRANT\_AGREEMENT.pdf)
- **Resolution No. 979-23 - A Resolution Approving Open Space Grant Agreements Between the Town of Bennett and County of Adams for the Open Space Event Bleachers, Highway 79 Permanent Trail Construction Phase II and Trupp Park Phase V I** (4\_-\_Grant\_Resolution.pdf)

## Public Comments on Items Not Scheduled for Public Hearing

The Board of Trustees welcomes you. Thank you for joining us for our Town of Bennett Board of Trustees Meeting. If you are not speaking, we ask that you please mute your microphone. For public comment please sign up on the provided sheet or in the chat box. If you are on the phone, once we get through the sign-up sheet and chat box we will call for any other comments for items not on the agenda.

Your comments will be limited to three (3) minutes. The Board may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and provide direction to the appropriate member of Town staff for follow-up. Thank you.

## Regular Business

### 6. Action/Discussion Items

#### a. Termination of Lease Agreement

Resolution No. 980-23 - A Resolution Approving a Termination of Lease Agreement

Trish Stiles, Town Manager

#### Attachments:

- **Staff Report Termination of Lease Agreement** (0\_-\_Staff\_Report\_Termination\_of\_the\_Lease\_Agreement\_for\_Shelter.pdf)
- **Executed Lease Agreement** (2022\_Executed\_Lease\_Agreement.pdf)
- **Termination of Lease Agreement** (2\_-\_TERMINATION\_OF\_LEASE\_AGREEMENT\_-\_Animal\_Shelter.pdf)
- **Resolution No. 980-23 - A Resolution Approving a Termination of Lease Agreement** (3\_-\_Lease\_Termination.reso.pdf)
- **Suggested Motion** (4\_-\_suggested\_motion.pdf)

### 7. Town Manager Report

Trish Stiles, Town Manager

### 8. Trustee Comments and Committee Reports

Mayor and Trustees

## 9. Adjournment

Individuals with disabilities who need auxiliary aids in attending the meeting may request assistance by contacting the Town Hall at 207 Muegge Way, Bennett, CO 80102-7806, (303) 644-3249. Please give notice at least 48 hours in advance of the meeting to allow for enough time in making the necessary arrangements.

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Contact: Christina Hart (chart@bennett.co.us 1303-644-3249 X1001) | Agenda published on 07/07/2023 at 10:29 AM



DRAFT

## Town Board of Trustees

### Minutes

Tuesday, June 27, 2023 at 7:00 pm

**PLEASE SILENCE ALL CELL PHONE AND ELECTRONIC DEVICES.**

**THANK YOU.**

#### 1. Meeting Information

207 Muegge Way, Bennett, CO 80102

#### 2. Call to Order

Royce D. Pindell, Mayor

##### a. Roll Call

###### **Minutes:**

###### **Present:**

Royce D. Pindell, Mayor  
Whitney Oakley, Mayor Pro Tem  
Kevin Barden, Trustee  
Steve Dambroski, Trustee  
Denice Smith, Trustee  
Donna Sus, Trustee  
Larry Vittum, Trustee

###### **Staff Present:**

Trish Stiles, Town Manager  
Rachel Summers, Deputy Town Manager  
Taeler Houlberg, Administrative Services Director  
Adam Meis, IT and Communications Manager  
Tiffany Chaput, Communications Coordinator  
Danette Ruvalcaba, Director of Finance  
Danny Pennington, Finance Manager  
Melinda Culley, Town Attorney  
Christina Hart, Town Clerk

###### **Public Present:**

Kathy Smiley  
Eric Miller  
Mason Oakley

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### 3. Pledge of Allegiance

Royce D. Pindell, Mayor

**Minutes:**

The Pledge of Allegiance was led by Royce D. Pindell, Mayor.

### 4. Approval of Agenda

Royce D. Pindell, Mayor

**Minutes:**

**TRUSTEE VITTUM MOVED, MAYOR PRO TEM OAKLEY SECONDED** to approve the agenda as presented. The voting was as follows:

Ayes: Dambroski, Oakley, Pindell, Smith, Sus, Vittum, Barden

Nays: None

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote.

### 5. Consent Agenda

Royce D. Pindell, Mayor

**Minutes:**

**TRUSTEE VITTUM MOVED, TRUSTEE SUS SECONDED** to approve the consent agenda as presented. The voting was as follows:

Ayes: Oakley, Pindell, Smith, Sus, Vittum, Barden, Dambroski

Nays: None

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote. **1. Action:** Approval of June 13, 2023, Regular Meeting Minutes **2. Action:** Approval of Resolution No. 975-23 - A Resolution Accepting the 2022 Audit for the Town of Bennett **3. Action:** Approval of Resolution No. 978-23 - A Resolution Supporting the Grant Application for the Town of Bennett Hazard Mitigation Grant Program Public Works Facility Backup Generator System **4. Action:** Approval of Resolution No. 977-23 - A Resolution Approving the 2023 Amended and Restated Adams County 911 Authority Intergovernmental Agreement

**PUBLIC COMMENTS NOT ON THE AGENDA**

There were no public comments presented.

**a. June 13, 2023 - Regular Meeting Minutes**

**b. 2022 Town of Bennett Audit**

Resolution No. 975-23 - A Resolution Accepting the 2022 Audit for the Town of Bennett

**c. FEMA Hazard Mitigation Grant**

Resolution No. 978-23 - A Resolution Supporting the Grant Application for the Town of Bennett Hazard Mitigation Grant Program Public Works Facility Backup Generator System

**d. Amended and Restated Adams County 911 Authority Intergovernmental Agreement (IGA)**

Resolution No. 977-23 - A Resolution Approving the 2023 Amended and Restated Adams County 911 Authority Intergovernmental Agreement

### Public Comments on Items Not Scheduled for Public Hearing

The Board of Trustees welcomes you. Thank you for joining us for our Town of Bennett Board of Trustees Meeting. If you are not speaking, we ask that you please mute your microphone. For public comment please sign up on the provided sheet or in the chat box. If you are on the phone, once we

get through the sign-up sheet and chat box we will call for any other comments for items not on the agenda.

Your comments will be limited to three (3) minutes. The Board may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and provide direction to the appropriate member of Town staff for follow-up. Thank you.

## 6. Public Hearing

### a. 2022 Town of Bennett Budget Amendment

Resolution No. 976-23 - A Resolution Appropriating Sums of Money in Addition to Those Appropriated in Resolution No. 895-21 for the 2022 Fiscal Year for the Town of Bennett General Fund, Water Fund, Sales Tax Capital Improvement Fund, CIP Fund, Water Capital Fund and Public Facilities Impact Fee Fund

#### **Minutes:**

Royce D. Pindell, Mayor, opened the public hearing for the 2022 Town of Bennett Budget Amendment to order.

The public hearing was opened at 7:04 p.m.

Christina Hart, Town Clerk, stated that in accordance with the Colorado State Statute, a notice of the public hearing was properly posted and published in the Eastern Colorado News on May 26, 2023. Legal #2839.

Danette Ruvalcaba, Director of Finance, presented the 2022 Town of Bennett budget amendment to the Board.

#### **PUBLIC COMMENTS**

No public comments were presented.

The public hearing was closed at 7:09 p.m.

**MAYOR PRO TEM OAKLEY MOVED, TRUSTEE SMITH SECONDED** to approve Resolution No. 976-23 - A Resolution Appropriating Sums of Money in Addition to Those Appropriated in Resolution No. 895-21 for the 2022 Fiscal Year for the Town of Bennett General Fund, Water Fund, Sales Tax Capital Improvement Fund, CIP Fund, Water Capital Fund and Public Facilities Impact Fee Fund. The voting was as follows:

Ayes: Pindell, Smith, Sus, Vittum, Barden, Dambroski, Oakley

Nays: None

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote.

## Regular Business

## 7. Action/Discussion Items

### a. 2023 Bennett Gives Back Grant Recommendations

**Minutes:**

Danette Ruvalcava, Director of Finance, presented the Bennett Gives Back Advisory Board recommendations for the 2023 Bennett Gives Back Grant recipients to the Trustees.

**TRUSTEE SUS MOVED, TRUSTEE DAMBROSKI SECONDED** to approve funding for the 2023 Bennett Gives Back Grant Applications as recommended by the Advisory Board. In addition, I move to approve an annual appropriation for the Bennett Imagination Library up to \$5,000. The voting was as follows:

Ayes: Smith, Sus, Vittum, Barden, Dambroski, Oakley, Pindell

Nays: None

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote.

**b. 2023 Bennett Days**

**Minutes:**

Danette Ruvalcava, Director of Finance, presented a proposal from Staff that the Board of Trustees be the headline sponsor of the 2023 Bennett Days concert and Bull Riding Finals.

**TRUSTEE BARDEN MOVED, TRUSTEE SMITH SECONDED** for the approval of \$50,000 from the general fund contingency for the Town of Bennett Board of Trustees' sponsorship of the 2023 Bennett Days Headliner Concert and Bull Riding Finals. The voting was as follows:

Ayes: Sus, Vittum, Barden, Dambroski, Oakley, Pindell, Smith

Nays: None

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote.

**c. Acknowledgement of Town Staff**

**Minutes:**

Royce D. Pindell, Mayor, presented a Town of Bennett Proclamation to Rachel Summers, Deputy Town Manager. Ms. Summers recently received the Credentialed Manager designation from ICMA, the International City/County Management Association.

**8. Town Manager Report**

**Minutes:**

- June 28th - Annual CIRSA Luncheon at Gaylord of the Rockies.
- June 30th - Hydro Complex for Energy Assistance Grant presentation.
- Town Hall will close on July 3rd at 1 pm in observance of the Fourth of July holiday and reopen on July 5th at 7:00 a.m.
- July 8th - Town partners Arapahoe and Adams County OEM Departments (Office of Emergency Management) and Arapahoe and Adams County Sheriff's Departments along with Bennett-Watkins Fire will perform an evacuation exercise at Antelope Hills.
- July 26th - Bennett is hosting the ADCOG dinner.
- August 10th - Community Night Out.

**9. Trustee Comments and Committee Reports**

Mayor and Trustees

**Minutes:**

**Kevin Barden, Trustee, reported on the following:**

- Recommended an introduction of the Bennett Board of Trustees to the new members of the Bennett Recreation Center Board.

**Royce D. Pindell, Mayor, reported on the following:**

- Legislative updates during the CML Conference will include Senate Bill (SB) 123 and Proposition 123.

**Steve Dambroski, Trustee, reported on the following:**

- Attended the I-70 Corridor Chamber of Commerce Lunch and Learn.

**Larry Vittum, Trustee, reported on the following:**

- Attended the Arapahoe County Open Space & Trails meeting.

**10. Executive Session**

- a. For the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators under C.R.S. Section 24-6-402(4)(e); Animal Shelter Partnership/Independent.**

**Minutes:**

**MAYOR PRO TEM OAKLEY MOVED, TRUSTEE SMITH SECONDED** to go into executive session for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators under C.R.S. 24-6-402(4)(e); Animal Shelter Partnership/Independent. Voting was as follows:

Ayes: Vittum, Barden, Dambroski, Oakley, Pindell, Smith, Sus,

Nays: None

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote.

The Board went into executive session at 8:28 pm.

- b. Return to Open Meeting**

**Minutes:**

The Board came out of the executive session at 8:44 pm.

Royce D. Pindell, Mayor, announced that the Board has been in executive session and the following persons participated: Trustee Barden, Trustee Dambroski, Trustee Vittum, Christina Hart, Rachel Summers, Trish Stiles, Trustee Smith, Trustee Sus, Mayor Pindell and Melinda Culley. Royce D. Pindell, Mayor, asked if there were any matters not included in the motion for an executive session or violations of the Open Meetings Law, and if so, that these concerns be stated for the record.

No concerns were presented.

- c. Report from Executive Session**

**Minutes:**



Direction was provided to Town Staff to proceed accordingly for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators under C.R.S. Section 24-6-402(4)(e); Animal Shelter Partnership/Independent.

## 11. Adjournment

**Minutes:**

**TRUSTEE DAMBROSKI MOVED, TRUSTEE SMITH SECONDED** to adjourn the meeting. The meeting was adjourned at 8:46 p.m. Voting was as follows:

Ayes: Barden, Dambroski, Oakley, Pindell, Smith, Sus, Vittum

Nays: None

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote.

**Minutes Approved:**

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Royce D. Pindell, Mayor

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Christina Hart, Town Clerk

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**ADAMS COUNTY OPEN SPACE GRANT AGREEMENT**  
**OSG2023-00018**

The Grant Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, between the Town of Bennett (“Applicant”) and the County of Adams, acting through the Board of County Commissioners (“Adams County”).

**RECITALS**

WHEREAS, in November 1999, the citizens of Adams County passed a county-wide one-fifth of one percent Open Space Sales Tax (the “Tax”); and

WHEREAS, in November 2004, the citizens of Adams County reauthorized the Tax and increased it to one-fourth of one percent; and

WHEREAS, in November 2020, the citizens of Adams County authorized the permanent extension of the existing county-wide sales tax of one-fourth of one percent for the continuing purpose of preserving open space and creating and maintaining parks and recreation facilities; and

WHEREAS, the majority of the revenues collected are distributed to qualifying jurisdictions through a competitive grant process; and

WHEREAS, on March 31<sup>st</sup>, 2023, Applicant applied for an Adams County Open Space Grant to complete the “Open Space Event Bleachers” (the “Project”); and

WHEREAS, on June 27, 2023, Adams County awarded Applicant an Adams County Open Space Grant to complete the Project; and

WHEREAS, Adams County awarded the Project 0.5% of the total Project costs, not to exceed \$25000.

**AGREEMENT**

**NOW, THEREFORE**, the Parties hereto agree as follows:

1. Grant Award. Adams County hereby awards to Applicant a grant in the amount of 50% of the total Project costs, not to exceed \$25,000.00 (the “Grant”), subject to terms and conditions set forth in this Agreement.
2. Project Scope. Applicant shall complete the Project as described in the grant application, attached as Exhibit 1 (“Project Scope”), and incorporated herein by this reference. Exhibit 1 attachments include the grant application and all application attachments. Applicant shall not materially modify the Project Scope without the approval of Adams County. Applicant may request a modification to the Project Scope in compliance with the Modification Policy in the Open Space Policies and Procedures, attached as Exhibit 2 and incorporated herein by this reference, as may be amended from time to time by Adams County in its sole discretion. Adams

County may elect to terminate this Agreement and deauthorize its funding for the Project in the event it determines that the Project Scope has been materially modified without its approval and/or if Applicant fails to comply with the Modification Policy.

3. Completion Date. Applicant shall complete the Project no later than June 27, 2025, (“Completion Date”), which is two years after the date of Adams County’s approval of the Project. Project completion requires all necessary documentation be submitted to Open Space staff on or before the Completion Date. Applicant may request an extension of the Completion Date in compliance with the Extension Policy in the Open Space Policies and Procedures, exhibit 2, as may be amended from time to time by the Board of County Commissioners in its sole discretion. Adams County may elect to terminate this Agreement and deauthorize its funding for the Project in the event that this Completion Date is not met and/or if Applicant fails to comply with the Extension Policy.
4. Compliance with Open Space Sales Tax Resolution and Open Space Policies and Procedures. Applicant shall use the Grant in accordance with Resolution 2020-480, and the Open Space Policies and Procedures, collectively attached hereto as Exhibit 2.
5. Audits and Accounting Records. Applicant shall maintain standard financial accounts, documents, and records relating to the completion of the Project. The accounts, documents and records related to the completion of this Project shall be subject to examination and audit by Adams County staff (the “Staff”) prior to receiving the Grant. All such accounts, documents, and records shall be kept in accordance with generally accepted accounting principles and be subject to an annual independent audit as set forth in Exhibit 2.
6. Payment of Grant. Adams County agrees to make payments to the Applicant in the following manner:
  - a. Payments. Adams County agrees to disburse grant funds to Applicant to provide reimbursement for the payment of project costs upon successful completion of the Project, or on a quarterly basis. Itemized Reimbursement Requests, as set forth below, are required for reimbursements. Should the Project take two full years to complete, the Reimbursement Request for the final period of the project must be received by June 27, 2025 to remain compliant with the Project Completion Date, as set forth above. Reimbursements disbursed from Adams County shall not exceed 50% of project costs incurred during the previous period with cumulative reimbursements totaling no more than \$25,000.00.
  - b. Acceptable Expenditures. Applicant can request payment for 50% of all project costs incurred within the previous period with cumulative reimbursements totaling no more than \$25,000.00 that: (1) have already been paid by the Applicant, and (2) are listed in the approved budget attached as Exhibit 1, under Application Attachment A – Project Budget. Applicant may request disbursement of grant funds for costs that have been

incurred, but not paid by Applicant. However, Adams County will consider such requests on a case-by-case basis and distribution of grant funds for these purposes is not guaranteed.

- c. Reimbursement Request. Applicant shall submit via hand delivery, email, or regular mail, to Adams County an itemized Reimbursement Request for project costs that have been incurred as of the date of the request. Each Reimbursement Request shall contain the following: (1) copies of invoices and/or employee time sheets complete with a spreadsheet indicating hours worked, wages earned, and taxes and benefits paid for work related specifically to the Project; (2) documentation substantiating that the Applicant has paid for the costs for which it is requesting reimbursement, including but not limited to cancelled checks or proof of a wire transfer; and (3) a brief summary of the work completed to date.
  - d. Approval of Payment of Reimbursement Requests. The Adams County Open Space Program Manager shall approve or disapprove the amount of each Reimbursement Request within fifteen (15) days of receipt of a legible Reimbursement Request. Payment shall be made to Applicant by check or electronic fund transfer.
  - e. Disapproval of Reimbursement Request. If Adams County disapproves any amount or amounts in a Reimbursement Request, Adams County shall promptly notify Applicant of the reason, therefore. Upon receipt of disapproval, Applicant and Adams County shall meet within one week to discuss what, if anything, the Applicant can do to obtain payment of the requested amount that was denied.
7. Signage. Applicant shall erect and maintain an Adams County Open Space Sign, which shall be provided by Adams County, in a prominent place on the Project site, unless the Project will not be open to the public.
8. Publicity. In all press releases regarding this Project, Applicant shall include the following statement: "This Project was funded in part with proceeds from the Adams County Open Space Sales Tax. The Adams County Open Space Sales Tax was originally passed by the Adams County voters in 1999, and reauthorized and permanently extended in November 2020.
9. Miscellaneous Provisions.
- A. Good Faith. Both Parties have an obligation to act in good faith, including the obligation to make timely communication of information that may reasonably be believed to be of interest to the other party.
  - B. Applicable Law. Colorado law applies to the interpretation and enforcement of this Agreement. Venue for any dispute shall be in Adams County, Colorado.

- C. Time is of the essence. Time is of the essence in this Agreement.
- D. Authority. The undersigned represents and warrants that he or she is duly authorized and has legal capacity to execute this agreement on behalf of the Applicant, that the Applicant's obligations in this Grant Agreement have been authorized, and that the Grant Agreement is a valid and legal agreement binding on the Applicant in accordance with its terms.
- E. Survival. The terms and provisions of this Agreement and Applicant's obligations hereunder shall survive the funding of the Grant.
- F. Entire Agreement. Except as expressly provided herein, this Agreement constitutes the entire agreement of the parties. No changes to this Agreement shall be valid unless made in writing and signed by the parties to this Agreement.

The remainder of this page is left blank intentionally.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF ADAMS, STATE OF COLORADO

\_\_\_\_\_  
Chair

ATTEST:  
CLERK AND RECORDER'S OFFICE

\_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney's Office

Town of Bennett

\_\_\_\_\_  
By (signature)

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Title

**ADAMS COUNTY OPEN SPACE GRANT AGREEMENT**  
**OSG2023-00003**

The Grant Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, between the Town of Bennett (“Applicant”) and the County of Adams, acting through the Board of County Commissioners (“Adams County”).

**RECITALS**

WHEREAS, in November 1999, the citizens of Adams County passed a county-wide one-fifth of one percent Open Space Sales Tax (the “Tax”); and

WHEREAS, in November 2004, the citizens of Adams County reauthorized the Tax and increased it to one-fourth of one percent; and

WHEREAS, in November 2020, the citizens of Adams County authorized the permanent extension of the existing county-wide sales tax of one-fourth of one percent for the continuing purpose of preserving open space and creating and maintaining parks and recreation facilities; and

WHEREAS, the majority of the revenues collected are distributed to qualifying jurisdictions through a competitive grant process; and

WHEREAS, on March 31<sup>st</sup>, 2023, Applicant applied for an Adams County Open Space Grant to complete the “Highway 79 Permanent Trail Construction Phase II” (the “Project”); and

WHEREAS, on June 27, 2023, Adams County awarded Applicant an Adams County Open Space Grant to complete the Project; and

WHEREAS, Adams County awarded the Project 70% of the total Project costs, not to exceed \$140,000.00.

**AGREEMENT**

**NOW, THEREFORE**, the Parties hereto agree as follows:

1. Grant Award. Adams County hereby awards to Applicant a grant in the amount of 70% of the total Project costs, not to exceed \$140,000.00 (the “Grant”), subject to terms and conditions set forth in this Agreement.
2. Project Scope. Applicant shall complete the Project as described in the grant application, attached as Exhibit 1 (“Project Scope”), and incorporated herein by this reference. Exhibit 1 attachments include the grant application and all application attachments. Applicant shall not materially modify the Project Scope without the approval of Adams County. Applicant may request a modification to the Project Scope in compliance with the Modification Policy in the Open Space Policies and Procedures, attached as Exhibit 2 and incorporated herein by this

reference, as may be amended from time to time by Adams County in its sole discretion. Adams County may elect to terminate this Agreement and deauthorize its funding for the Project in the event it determines that the Project Scope has been materially modified without its approval and/or if Applicant fails to comply with the Modification Policy.

3. Completion Date. Applicant shall complete the Project no later than June 27, 2025, (“Completion Date”), which is two years after the date of Adams County’s approval of the Project. Project completion requires all necessary documentation be submitted to Open Space staff on or before the Completion Date. Applicant may request an extension of the Completion Date in compliance with the Extension Policy in the Open Space Policies and Procedures, exhibit 2, as may be amended from time to time by the Board of County Commissioners in its sole discretion. Adams County may elect to terminate this Agreement and deauthorize its funding for the Project in the event that this Completion Date is not met and/or if Applicant fails to comply with the Extension Policy.
4. Compliance with Open Space Sales Tax Resolution and Open Space Policies and Procedures. Applicant shall use the Grant in accordance with Resolution 2020-480, and the Open Space Policies and Procedures, collectively attached hereto as Exhibit 2.
5. Audits and Accounting Records. Applicant shall maintain standard financial accounts, documents, and records relating to the completion of the Project. The accounts, documents and records related to the completion of this Project shall be subject to examination and audit by Adams County staff (the “Staff”) prior to receiving the Grant. All such accounts, documents, and records shall be kept in accordance with generally accepted accounting principles and be subject to an annual independent audit as set forth in Exhibit 2.
6. Payment of Grant. Adams County agrees to make payments to the Applicant in the following manner:
  - a. Payments. Adams County agrees to disburse grant funds to Applicant to provide reimbursement for the payment of project costs upon successful completion of the Project, or on a quarterly basis. Itemized Reimbursement Requests, as set forth below, are required for reimbursements. Should the Project take two full years to complete, the Reimbursement Request for the final period of the project must be received by June 27, 2025 to remain compliant with the Project Completion Date, as set forth above. Reimbursements disbursed from Adams County shall not exceed 70% of project costs incurred during the previous period with cumulative reimbursements totaling no more than \$140,000.00.
  - b. Acceptable Expenditures. Applicant can request payment for 70% % of all project costs incurred within the previous period with cumulative reimbursements totaling no more than \$140,000.00 that: (1) have already been paid by the Applicant, and (2) are listed in the approved budget attached as Exhibit 1, under Application Attachment A – Project



Budget. Applicant may request disbursement of grant funds for costs that have been incurred, but not paid by Applicant. However, Adams County will consider such requests on a case-by-case basis and distribution of grant funds for these purposes is not guaranteed.

- c. Reimbursement Request. Applicant shall submit via hand delivery, email, or regular mail, to Adams County an itemized Reimbursement Request for project costs that have been incurred as of the date of the request. Each Reimbursement Request shall contain the following: (1) copies of invoices and/or employee time sheets complete with a spreadsheet indicating hours worked, wages earned, and taxes and benefits paid for work related specifically to the Project; (2) documentation substantiating that the Applicant has paid for the costs for which it is requesting reimbursement, including but not limited to cancelled checks or proof of a wire transfer; and (3) a brief summary of the work completed to date.
  - d. Approval of Payment of Reimbursement Requests. The Adams County Open Space Program Manager shall approve or disapprove the amount of each Reimbursement Request within fifteen (15) days of receipt of a legible Reimbursement Request. Payment shall be made to Applicant by check or electronic fund transfer.
  - e. Disapproval of Reimbursement Request. If Adams County disapproves any amount or amounts in a Reimbursement Request, Adams County shall promptly notify Applicant of the reason, therefore. Upon receipt of disapproval, Applicant and Adams County shall meet within one week to discuss what, if anything, the Applicant can do to obtain payment of the requested amount that was denied.
7. Signage. Applicant shall erect and maintain an Adams County Open Space Sign, which shall be provided by Adams County, in a prominent place on the Project site, unless the Project will not be open to the public.
  8. Publicity. In all press releases regarding this Project, Applicant shall include the following statement: "This Project was funded in part with proceeds from the Adams County Open Space Sales Tax. The Adams County Open Space Sales Tax was originally passed by the Adams County voters in 1999, and reauthorized and permanently extended in November 2020.
  9. Miscellaneous Provisions.
    - A. Good Faith. Both Parties have an obligation to act in good faith, including the obligation to make timely communication of information that may reasonably be believed to be of interest to the other party.
    - B. Applicable Law. Colorado law applies to the interpretation and enforcement of this Agreement. Venue for any dispute shall be in Adams County, Colorado.

- C. Time is of the essence. Time is of the essence in this Agreement.
- D. Authority. The undersigned represents and warrants that he or she is duly authorized and has legal capacity to execute this agreement on behalf of the Applicant, that the Applicant's obligations in this Grant Agreement have been authorized, and that the Grant Agreement is a valid and legal agreement binding on the Applicant in accordance with its terms.
- E. Survival. The terms and provisions of this Agreement and Applicant's obligations hereunder shall survive the funding of the Grant.
- F. Entire Agreement. Except as expressly provided herein, this Agreement constitutes the entire agreement of the parties. No changes to this Agreement shall be valid unless made in writing and signed by the parties to this Agreement.

The remainder of this page is left blank intentionally.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF ADAMS, STATE OF COLORADO

\_\_\_\_\_  
Chair

ATTEST:  
CLERK AND RECORDER'S OFFICE

\_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney's Office

Town of Bennett

\_\_\_\_\_  
By (signature)

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Title

**ADAMS COUNTY OPEN SPACE GRANT AGREEMENT**  
**OSG2023-00013**

The Grant Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, between the Town of Bennett (“Applicant”) and the County of Adams, acting through the Board of County Commissioners (“Adams County”).

**RECITALS**

WHEREAS, in November 1999, the citizens of Adams County passed a county-wide one-fifth of one percent Open Space Sales Tax (the “Tax”); and

WHEREAS, in November 2004, the citizens of Adams County reauthorized the Tax and increased it to one-fourth of one percent; and

WHEREAS, in November 2020, the citizens of Adams County authorized the permanent extension of the existing county-wide sales tax of one-fourth of one percent for the continuing purpose of preserving open space and creating and maintaining parks and recreation facilities; and

WHEREAS, the majority of the revenues collected are distributed to qualifying jurisdictions through a competitive grant process; and

WHEREAS, on March 31<sup>st</sup>, 2023, Applicant applied for an Adams County Open Space Grant to complete the “Trupp Park Phase VI” (the “Project”); and

WHEREAS, on June 27, 2023, Adams County awarded Applicant an Adams County Open Space Grant to complete the Project; and

WHEREAS, Adams County awarded the Project 60% of the total Project costs, not to exceed \$225,000.00.

**AGREEMENT**

**NOW, THEREFORE**, the Parties hereto agree as follows:

1. Grant Award. Adams County hereby awards to Applicant a grant in the amount of 60% of the total Project costs, not to exceed \$225,000.00 (the “Grant”), subject to terms and conditions set forth in this Agreement.
2. Project Scope. Applicant shall complete the Project as described in the grant application, attached as Exhibit 1 (“Project Scope”), and incorporated herein by this reference. Exhibit 1 attachments include the grant application and all application attachments. Applicant shall not materially modify the Project Scope without the approval of Adams County. Applicant may request a modification to the Project Scope in compliance with the Modification Policy in the Open Space Policies and Procedures, attached as Exhibit 2 and incorporated herein by this

reference, as may be amended from time to time by Adams County in its sole discretion. Adams County may elect to terminate this Agreement and deauthorize its funding for the Project in the event it determines that the Project Scope has been materially modified without its approval and/or if Applicant fails to comply with the Modification Policy.

3. Completion Date. Applicant shall complete the Project no later than June 27, 2025, (“Completion Date”), which is two years after the date of Adams County’s approval of the Project. Project completion requires all necessary documentation be submitted to Open Space staff on or before the Completion Date. Applicant may request an extension of the Completion Date in compliance with the Extension Policy in the Open Space Policies and Procedures, exhibit 2, as may be amended from time to time by the Board of County Commissioners in its sole discretion. Adams County may elect to terminate this Agreement and deauthorize its funding for the Project in the event that this Completion Date is not met and/or if Applicant fails to comply with the Extension Policy.
4. Compliance with Open Space Sales Tax Resolution and Open Space Policies and Procedures. Applicant shall use the Grant in accordance with Resolution 2020-480, and the Open Space Policies and Procedures, collectively attached hereto as Exhibit 2.
5. Audits and Accounting Records. Applicant shall maintain standard financial accounts, documents, and records relating to the completion of the Project. The accounts, documents and records related to the completion of this Project shall be subject to examination and audit by Adams County staff (the “Staff”) prior to receiving the Grant. All such accounts, documents, and records shall be kept in accordance with generally accepted accounting principles and be subject to an annual independent audit as set forth in Exhibit 2.
6. Payment of Grant. Adams County agrees to make payments to the Applicant in the following manner:
  - a. Payments. Adams County agrees to disburse grant funds to Applicant to provide reimbursement for the payment of project costs upon successful completion of the Project, or on a quarterly basis. Itemized Reimbursement Requests, as set forth below, are required for reimbursements. Should the Project take two full years to complete, the Reimbursement Request for the final period of the project must be received by June 27, 2025 to remain compliant with the Project Completion Date, as set forth above. Reimbursements disbursed from Adams County shall not exceed 60% of project costs incurred during the previous period with cumulative reimbursements totaling no more than \$225,000.00.
  - b. Acceptable Expenditures. Applicant can request payment for 60% of all project costs incurred within the previous period with cumulative reimbursements totaling no more than \$225,000.00 that: (1) have already been paid by the Applicant, and (2) are listed in the approved budget attached as Exhibit 1, under Application Attachment A – Project

Budget. Applicant may request disbursement of grant funds for costs that have been incurred, but not paid by Applicant. However, Adams County will consider such requests on a case-by-case basis and distribution of grant funds for these purposes is not guaranteed.

- c. Reimbursement Request. Applicant shall submit via hand delivery, email, or regular mail, to Adams County an itemized Reimbursement Request for project costs that have been incurred as of the date of the request. Each Reimbursement Request shall contain the following: (1) copies of invoices and/or employee time sheets complete with a spreadsheet indicating hours worked, wages earned, and taxes and benefits paid for work related specifically to the Project; (2) documentation substantiating that the Applicant has paid for the costs for which it is requesting reimbursement, including but not limited to cancelled checks or proof of a wire transfer; and (3) a brief summary of the work completed to date.
  - d. Approval of Payment of Reimbursement Requests. The Adams County Open Space Program Manager shall approve or disapprove the amount of each Reimbursement Request within fifteen (15) days of receipt of a legible Reimbursement Request. Payment shall be made to Applicant by check or electronic fund transfer.
  - e. Disapproval of Reimbursement Request. If Adams County disapproves any amount or amounts in a Reimbursement Request, Adams County shall promptly notify Applicant of the reason, therefore. Upon receipt of disapproval, Applicant and Adams County shall meet within one week to discuss what, if anything, the Applicant can do to obtain payment of the requested amount that was denied.
7. Signage. Applicant shall erect and maintain an Adams County Open Space Sign, which shall be provided by Adams County, in a prominent place on the Project site, unless the Project will not be open to the public.
  8. Publicity. In all press releases regarding this Project, Applicant shall include the following statement: "This Project was funded in part with proceeds from the Adams County Open Space Sales Tax. The Adams County Open Space Sales Tax was originally passed by the Adams County voters in 1999, and reauthorized and permanently extended in November 2020.
  9. Miscellaneous Provisions.
    - A. Good Faith. Both Parties have an obligation to act in good faith, including the obligation to make timely communication of information that may reasonably be believed to be of interest to the other party.
    - B. Applicable Law. Colorado law applies to the interpretation and enforcement of this Agreement. Venue for any dispute shall be in Adams County, Colorado.

- C. Time is of the essence. Time is of the essence in this Agreement.
- D. Authority. The undersigned represents and warrants that he or she is duly authorized and has legal capacity to execute this agreement on behalf of the Applicant, that the Applicant's obligations in this Grant Agreement have been authorized, and that the Grant Agreement is a valid and legal agreement binding on the Applicant in accordance with its terms.
- E. Survival. The terms and provisions of this Agreement and Applicant's obligations hereunder shall survive the funding of the Grant.
- F. Entire Agreement. Except as expressly provided herein, this Agreement constitutes the entire agreement of the parties. No changes to this Agreement shall be valid unless made in writing and signed by the parties to this Agreement.

The remainder of this page is left blank intentionally.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF ADAMS, STATE OF COLORADO

\_\_\_\_\_  
Chair

ATTEST:  
CLERK AND RECORDER'S OFFICE

\_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney's Office

Town of Bennett

\_\_\_\_\_  
By (signature)

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Title



**RESOLUTION NO. 979-23**

**A RESOLUTION APPROVING OPEN SPACE GRANT AGREEMENTS BETWEEN THE TOWN OF BENNETT AND COUNTY OF ADAMS FOR THE OPEN SPACE EVENT BLEACHERS, HIGHWAY 79 PERMANENT TRAIL CONSTRUCTION PHASE II AND TRUPP PARK PHASE VI**

**WHEREAS**, the Town of Bennett has applied for and been awarded Adams County Open Space grants for the Open Space Event Bleachers in an amount of 50% of the total project costs, not to exceed \$25,000; and

**WHEREAS**, the Town of Bennett has also applied for and been awarded an Adams County Open Space grant for the Highway 79 Permanent Trail Construction Phase II project in an amount of 70% of the total project costs, not to exceed \$140,000; and

**WHEREAS**, the Town of Bennett has also applied for and been awarded an Adams County Open Space grant for the Trupp Park Phase VI project in an amount of 60% of the total project costs, not to exceed \$225,000; and

**WHEREAS**, the Town desires to accept such grant and authorize the execution of a grant agreement for such funds;

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

**Section 1.** The Board of Trustees hereby authorizes the execution of three Adams County Open Space Grant Agreements for the Open Space Event Bleachers, Highway 79 Permanent Trail Construction Phase II, and Trupp Park Phase VI Projects (the “Agreements”), in essentially the same form as the copy of such Agreements accompanying this Resolution.

**Section 2.** The Mayor is authorized to execute such Agreements on behalf of the Town, except that the Mayor is hereby further authorized to negotiate and approve such revisions to said Agreements as the Mayor and Town Manager determine are necessary or desirable for the protection of the Town, so long as the essential terms and conditions of the Agreements are not altered.

**Section 3.** This Resolution shall be in full force and effect from and after the date of its passage and approval.

**INTRODUCED, READ, AND ADOPTED THIS 11<sup>TH</sup> DAY OF JULY 2023.**

TOWN OF BENNETT, COLORADO

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Royce D. Pindell, Mayor

ATTEST:

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Christina Hart, Town Clerk

# STAFF REPORT



welcome neighbors.

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TO: Mayor and Town of Bennett Board of Trustees  
FROM: Trish Stiles, Town Manager  
DATE: July 11, 2023  
SUBJECT: Termination of Lease Agreement

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## Background

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The Town of Bennett and Broken and Beautiful Bennett signed a Lease Agreement on October 11, 2022 to serve as a creative and innovative animal service partnership to provide sheltering services to the Town of Bennett at the old North Shop at the rear of the waste water facility.

Following the request by Broken and Beautiful Bennett's owner Gina Yeater on June 27<sup>th</sup>, 2023, the Town will agree to terminate the lease for the 47300 County Road 38.

## Staff Recommendation

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Staff recommends approval of Resolution No. 980-23 Termination of Lease Agreement.

## Attachments

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1. Executed Lease Agreement
2. Termination of Lease Agreement
3. Resolution No. 980-23

## LEASE AGREEMENT

**THIS LEASE AGREEMENT** (hereinafter " Lease") is made and entered into effective the 11 day of Oct., 2022, by and between the Town of Bennett, Colorado, a municipal corporation (hereinafter "Town") and Broken and Beautiful Bennett (hereinafter "Lessee").

**WHEREAS**, the Town is the owner of the property at 47300 County Road 38 in the Town of Bennett, County of Adams, State of Colorado, which property is more particularly described and depicted on Exhibit A, attached hereto and incorporated herein by reference and is hereinafter referred to as the " Premises;" and

**WHEREAS**, the Town of Bennett is seeking a creative, innovative animal services organization primarily to provide better animal-centered services through a public-private partnership locally; and

**WHEREAS**, the public-private partnership is expected to provide programs and services that continue to improve in protecting the health, safety, and welfare of animals and people in Bennett; and

**WHEREAS**, in exchange for providing animal-centered services and for making certain improvements to the Premises, the Town wishes to lease the Premises to the Lessee for a term of fifteen (15) years, with such lease to be upon the terms, covenants and conditions of this Lease; and

**WHEREAS**, the Town is authorized to enter into this Lease pursuant to state law, including but not limited to C.R.S. §31-15-713(1)(c).

### **NOW, THEREFORE, The Town and Lessee agree as follows:**

1. **Demise.** In consideration of the performance of the covenants and agreements set forth in this Lease, the Town leases to Lessee that certain real property described and depicted on Exhibit A, attached hereto and incorporated herein by reference (hereinafter the " Premises").

2. **Term.** The term of this Lease shall be for a period of fifteen (15) years commencing on the 1st day of January 2023 and shall terminate on the 31st day of December 2037, unless sooner terminated by the mutual written consent of the Town and Lessee or as provided in this Lease. The parties may renew the Lease by written agreement for an additional term of ten years, or for a shorter period agreed to in writing by the parties ("Renewal Term"). All of the terms and provisions of this Lease shall apply to the Renewal Term, unless amended by written agreement of the parties.

3. **Rent.** As consideration for this Lease, Lessee shall pay the Town rent in the amount of two thousand dollars (\$2,000) per month, payable on the 1st day of each month. Rent shall be payable to the Town of Bennett, 207 Muegge Way, Bennett, CO, 80102, or to such other address as directed by the Town. Rent shall be due beginning the first month during which Lessee obtains a certificate of occupancy for the facility and sheltering operations.

4. **Purposes.** The parties agree the Premises are to be used solely as an animal shelter and for the animal-centered services described in Section 6, below.

5. **Alterations and Improvements.** Lessee, at its sole expense, shall be responsible for the

design, construction and installation of the facility, sheltering, operations and related improvements on the Premises. If Lessee fails to obtain a certificate of occupancy for the facility and sheltering operations on or before December 31, 2023, the Town may terminate this Lease in accordance with Section 21, below. All Lessee improvements to the Premises shall be in accordance with the Town-approved site plan, which will be approved administratively and incorporated herein by reference. No changes to the site plan shall be made by Lessee without the prior written approval of the Town. Lessee shall not place, build, expand, alter or add to any structures or other improvements on the Premises without the Town's prior written consent, which consent may be granted or denied in the Town's sole discretion.

**6. General Responsibilities of the Lessee.** The following terms and conditions shall apply during the term of the Lease:

A. Prior to the construction of any improvements on the Premises, Lessee shall obtain, at its expense, all permits required under the Bennett Municipal Code.

B. Lessee shall not permit its owners, agents, employees, consultants, affiliates, guests and invitees to park on the Premises until the improvements are constructed and approved by the Town.

C. Lessee shall own and keep all improvements constructed upon the Premises in good condition and repair, all at the Lessee's expense. Lessee's maintenance obligations shall include, but are not limited to: maintenance, repair, and control of the parking lot, access drives, paths and ways; removal of snow; mowing, watering and otherwise maintaining all turf and landscaping; removal of trash and debris from the Premises; and other maintenance as required by the Town. Lessee shall use reasonable care and caution against damage or destruction of the Premises, and shall use reasonable care to prevent waste, damage or injury to the Premises. Lessee shall comply with all applicable ordinances, resolutions, rules, and regulations in Lessee's use and occupancy of the Premises.

D. Lessee shall allow representatives of the Town to enter upon the Premises at any reasonable hour, upon notice from the Town to inspect the Premises and improvements, to assure compliance with this Lease.

E. All signs proposed to be placed on the Premises shall be subject to review and approval by the Town. Signage shall comply with all applicable laws, ordinances and regulations.

F. Lessee agrees to not permit or suffer any use of the Premises which may constitute a nuisance or result in a violation of any federal, state, or local law, ordinance or rule; or any activity which may be hazardous or result in the discharge of any fumes or hazardous materials.

**7. Animal Shelter Responsibilities of Lessee.** The Lessee, at its sole expense, agrees to provide the following services:

A. Accept for impoundment animals from Town officials or private citizens of the Town, the object being to release such animals back to their owners, or to any other person after service fees have been paid.

B. Accept deceased animals from any authorized Town representative.

C. Accept feral cats from citizens of the Town and Town personnel, the object being to vaccinate, spay or neuter, and subsequently release such feral cats back to the general area from which the feral cat was found.

D. Furnish and maintain facilities and equipment in a clean and sanitary condition for the housing, shelter, care, of the animals.

E. Ensure that at least one vacant pen or other method of confinement is available at the facility for the purposes of confinement at all times.

F. Permit access by Town employees for the purposes of impoundment 24 hours a day, seven days a week.

G. Not release any impounded animals until all fees prescribed under the Bennett Municipal Code and applicable state laws have been satisfied.

H. Assist owners of impounded animals with reclaiming such animals during the impoundment period upon verification of ownership and paying required fees pursuant to the Bennett Municipal Code. In the case of dogs, the owner must first show proof of current, valid rabies vaccination as required under the Bennett Municipal Code or in the alternative, must purchase a Rabies Voucher to be used to obtain a current vaccination.

I. Establish, keep and maintain a daily register of all animals placed by the Town or a citizen of the Town into the animal shelter and released from the animal shelter and allow the Town access to such records as reasonably requested. In addition, Lessee shall submit to the Town by the tenth (10th) calendar day of each month for the month prior a summary report of animals received and the disposition thereof, which contains the following information: animals reclaimed/unclaimed(stray)/quarantined, disposed of; the name and address of any person reclaiming an animal; and any fees collected for such reclaimed animal.

J. Provide whatever form(s) deemed necessary by Lessee for recording information on all animals.

K. Employ any and all personnel necessary to perform the duties and functions that are the responsibility of Lessee under this Agreement.

L. Obtain and/or maintain any and all licenses required by Colorado Revised Statute (C.R.S.) § 35-80-101, et seq.

M. Any animal impounded for more than five (5) days during which the Lessee is open to the public and not reclaimed by its owner may be made available for adoption or transferred for rescue pursuant to Colorado Revised Statute (C.R.S.) §35-80-106.3, as amended, or other relevant statutory provision in effect at the time.

N. Unless ownership of a released animal is specifically acknowledged by the releasing individual, any animals brought to the Lessee will be considered to be a stray by Lessee. These animals will be held for five (5) days during which the Lessee is open to the public and will be

processed in accordance with C.R.S. §35-80-106.3.

O. Have the right to immediately and humanely euthanize any animal impounded at its facility if such animal is diagnosed by a licensed veterinarian as being terminally ill, injured, or diseased.

P. Quarantine animals for rabies observation and report all suspected rabid animals to the Health Department.

Q. Maintain a telephone answering service to receive inquiries on impounded animals from 10:00 a.m. to 6:00 p.m. on weekdays, and from 9:00 a.m. to 5:00 p.m. on Saturdays and Sundays. Lessee will be closed on Town-designated holidays.

R. No animal impounded at the shelter shall be sold or given away to any person, organization, company, or other entity for the purposes of medical research or experimentation.

S. Provide veterinary care, including but not limited to holding spay/neuter clinics and low-cost rabies vaccination and microchip clinics.

T. Perform licensing canvassing and assist Town Community Service Officers with animal hoarding and animal abuse/neglect cases.

U. Provide testimony in court cases related to bite cases.

**8. Utilities and Other Costs.** Lessee shall be solely responsible for payment of, and shall pay when due, all charges and costs for water, electricity, sewer, trash removal, and other utilities and services from time to time furnished to, or consumed in or upon, the Premises. Lessee shall have 100% responsibility for all costs and expenses related to its use of the Premises, including, but not limited to, the design, installation, maintenance, repair and operation of the parking lot, access drive and all other Lessee improvements; installation and maintenance of all improvements necessary for the animal shelter and to perform the animal related services hereunder; installation and maintenance of electric and other utility connections; and any and all other charges, costs and expenses arising out of or relating to its development, occupancy or use of the Premises or the conduct of its operations thereon.

**9. Security Deposit.** At the time of its execution hereof, Lessee shall deposit with the Town, in good funds, a security deposit in the amount of \$1,000.00, to serve as security for the performance by Lessee of all of the terms, covenants, and conditions required to be performed by it under this Lease. The undisputed portion of such sum shall be returned to Lessee within 30 days following the expiration of the Lease term and delivery of possession of the Premises to Lessee if, at such time, Lessee has fully performed all such terms, covenants and conditions. Prior to the time when Lessee is entitled to the return of the security deposit, the Town shall be entitled to intermingle such deposit with its own funds. Lessee shall not be entitled to any interest on the security deposit. In the event of default by Lessee in performing any of its obligations under this Lease, Town may, in addition to any other right or remedy available to Town hereunder and after giving 15 days' notice to Lessee, use, apply, or retain all or any part of this security deposit for the payment of any unpaid rent or for any other amount which Town may be required to expend by reason of the default of Lessee. If a portion of the security deposit is used or applied by the Town during the term hereof, Lessee shall, upon 10 days' written demand, deposit with the Town an amount sufficient to restore the security deposit to its original amount.

10. **Removal and Restoration Upon Termination.** Upon termination of this Lease by lapse of time or otherwise, all buildings and fixtures on the Premises shall become the property of the Town, with no payments for such buildings or other fixtures due to the Lessee by the Town. Additionally, upon such expiration, the Town shall have the option of purchasing, at fair market value, the equipment and personal property associated with the veterinary clinic and animal shelter. The Town shall also have the right, in the Town's sole discretion, to require that the Lessee, at the Lessee's sole cost and expense, remove any improvements from the Premises and to deliver up possession of the Premises in as good a condition as when Lessee took possession.

11. **Holding After Termination.** Lessee is strictly forbidden from holding over under this Lease. If after the termination of this Lease Lessee shall remain in possession of the Premises, then such holding shall be deemed and taken to be a continued holding of the Premises upon a tenancy from month to month at two times the rental rate, and Lessee shall be liable for such rent in addition to all other damages incurred by Lessor as a result of such unauthorized holding over.

12. **Hazardous Materials.** Lessee shall not keep any hazardous materials in or about the Premises. "Hazardous material" includes but is not limited to asbestos, other asbestotic material (which is currently or may be designated in the future as a hazardous material), any petroleum base products, pesticides, paints and solvents, polychlorinated biphenyl, lead, cyanide, DDT, acids, ammonium compounds, and other chemical products (excluding commercially used cleaning materials in ordinary quantities) and any substance or material defined or designated as a hazardous or toxic substance, or other similar term, by any federal, state, or local law.

13. **Compliance Costs.** If Lessee fails to comply with any of its obligations under this Lease, the Town may at its option terminate this Lease as provided herein or take such measures as it determines necessary to bring the Premises into compliance with the terms hereof, and the cost of any such measures shall be paid by Lessee within fifteen (15) days of demand from the Town.

14. **General Acceptance.** Lessee accepts the Premises in its present "as is" condition with all faults, whether patent or latent, and without warranties or covenants, express or implied. Lessee acknowledges the Town shall have no obligation to repair, replace, improve or maintain any portion of the Premises.

15. **Taxes; Non-Subordination.** The Premises are presently exempt from any real property taxation. In the event the Assessor determines that the Premises are subject to the lien of general property taxes due to Lessee 's use or occupancy, Lessee shall be responsible for the payment of taxes. The Town's interest in the Premises shall at no time be subordinated to any lien or other interest in connection with Lessee 's use and occupancy of the Premises.

16. **Liens.** Lessee shall be solely responsible for and shall promptly pay for all services, labor or materials furnished to the Premises at the instance of Lessee. The Town may at Lessee' s expense discharges any liens or claims arising from the same.

17. **Lessee's Property.** The Town shall have no responsibility, liability, or obligation with respect to the safety or security of any personal property or improvements of Lessee placed or located on, at, or in the Premises, it being acknowledged and understood by Lessee that the safety and security of any such personal property and improvements is the sole responsibility and risk of Lessee.



**18. Indemnity and Release.** Lessee shall be solely responsible for any damages suffered by the Town or others as a result of Lessee's use and occupancy of the Premises. Lessee agrees to indemnify and hold the Town, its elected and appointed officers, employees and agents, from and against all liability, claims, damages, losses, and expenses, including but not limited to attorney fees, arising out of, resulting from, or in any way connected with: (a) Lessee's use and occupancy of the Premises; (b) any liens or other claims made, asserted or recorded against the Premises as a result of Lessee's use or occupancy thereof; or (c) the rights and obligations of Lessee under this Lease. Lessee shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, demands, losses and expenses. Lessee releases and agrees to hold harmless and make no claim against the Town or its elected or appointed officers, employees or agents, for any damages which may be caused by the acts of any such released entities or persons, to Lessee's interests or Lessee's improvements located upon the Premises; however, this release shall not apply with respect to wanton and willful acts by the Town.

**19. Insurance.**

A. Lessee shall procure and maintain and cause each of its contractors to procure and maintain the minimum insurance coverages listed below.

i. Workers' Compensation insurance to cover obligations imposed by the Workers' Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work under this contract.

ii. Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) 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 contain a severability of interest's provision.

iii. Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate with respect to each of contractor's and any subcontractors' owned, hired and/or non-owned vehicles assigned to or used in the performance of any of the services provided hereunder or any work related to the construction of the improvements. The policy shall contain a severability of interest's provision.

B. The policies required above, except for the Workers' Compensation insurance, shall be endorsed to include the Town and its 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, shall be excess and not contributory insurance to that provided by the Lessee. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The insurance holder shall be solely responsible for any deductible losses under each of the policies required above.

C. Certificates of insurance shall be completed by the insured's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject review and approval by the Town. Lessee shall ensure that each certificate shall provide that the coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days' prior written notice has been given to the Town. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The Town reserves the right to request and receive a certified copy of any policy.

D. Failure on the part of the Lessee to procure or maintain and to cause its contractors to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of this Lease upon which the Town may immediately terminate the Lease, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith. All monies so paid by the Town shall be repaid by Lessee to the Town upon demand. Lessee shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Lease by reason of its failure to procure or maintain insurance, or by reason of its failure to cause any contractor to procure or maintain insurance in sufficient amounts, durations, or types.

**20. No Waiver of Immunity or Impairment of Other Obligations.** The Town, its officers and employees are relying on and do not waive or intend to waive by any provision of this Lease the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. §24-10-101 et seq., as from time to time amended, or otherwise available to the Town, and their respective officers and employees.

**21. Termination.** At the Town's option, it shall be deemed a breach of this Lease if the Lessee defaults in the payment of the rent, or defaults in the performance of any other term or condition of this Agreement. In the event the Town elects to declare a breach of this Agreement, the Town shall give the Lessee fifteen (15) days written notice requiring payment of the rent or compliance with the other terms and conditions of this Lease. In the event any default remains uncorrected after fifteen (15) days written notice, the Town, at the Town's option, may terminate the Lease, repossess the Premises and expel the Lessee without being deemed guilty of a trespass or of a forcible entry and detainer and without prejudice to any other remedies to which the Town may be entitled.

**22. Destruction by Casualty.** In the event that the Premises may be rendered untenable by reason of fire, flood or other casualty, Lessee at its option may terminate this Lease effective on the date of casualty by giving written notice to the Town within thirty (30) days of the date of casualty.

**23. Contingencies.** This Lease is contingent upon the adoption by the Bennett Board of Trustees and final effectiveness of an ordinance authorizing this Lease. Lessee acknowledges and agrees that such contingency is subject to the legislative discretion of the Board of Trustees of the Town of Bennett, and that no representations or assurances of any approvals respecting such contingencies have been or will be made by the Town, or have been or will be relied upon by Lessee.

**24. Notices.** Any notices or communication required or permitted hereunder shall be given in writing and shall be personally delivered, or sent by facsimile transmission or by United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

The Town:

Town of Bennett  
Attn: Town Administrator  
207 Muegge Way  
Bennett, CO 80102  
Fax: 303-644-3249

Lessee:

Broken and Beautiful Bennett  
47300 C.R. 38  
Bennett, Co 80102  
\_\_\_\_\_  
\_\_\_\_\_

or to such other address or the attention of such other person(s) as hereafter designated in writing by the parties. Notices given in the manner described above shall be effective, respectively, upon personal delivery, upon facsimile receipt, or upon mailing.

**25. Representations Respecting Premises.** Lessee affirms that the Town and the Town's agents have made no representations or promises with respect to the Premises, or the condition thereof, or the making or entry into this Lease except as in this Lease expressly set forth, and that no claim or liability shall be asserted by Lessee against the Town, and that the Town shall not be liable, for breach of any representations or promises not expressly stated in this Lease. Specifically, the Lessee agrees that the Town has made no warranties or representations that the Premises are suitable for any purpose.

**26. No Waiver.** Waiver by the Town of any breach of any term of this Lease shall not be deemed a waiver of any subsequent breach of the same or any other term or provision thereof.

**27. No Assignment.** This Lease is personal to the parties hereto. Lessee shall not sublease the Premises, or transfer or assign any rights under this Lease, for monetary or any other consideration, without the prior written approval of the Town, which approval is solely at the discretion of the Town.

**28. Force Majeure.** If either party is prevented from performing due to acts of God or other conditions beyond its control, such performance shall be excused so long as the condition exists.

**29. No Partnership.** This Lease shall not be deemed to give rise to a partnership, and neither party shall have authority to obligate the other without written consent, except as specifically provided in the Lease.

**30. Independent Contractor.** In providing services under this Lease, Lessee acts as an independent contractor and not as an employee of the Town. Lessee shall be solely and entirely responsible for its acts, and the acts of its employees, agents, servants, and subcontractors during the term and performance of this Agreement. No employee, agent, servant, or subcontractor of the Lessee shall be deemed to be an employee, agent, or servant of the Town because of the performance of any services or work under this Agreement. Lessee, at its expense, shall procure and maintain workers' compensation insurance and unemployment compensation insurance as stated in this Agreement. **Pursuant to the Workers' Compensation Act, § 8-40-202(2)(b)(IV), C.R.S., as amended, Lessee understands that it and its employees and servants are not entitled to workers' compensation benefits from the Town. Lessee further understands that it is solely obligated for the payment of federal and state income tax on any moneys earned pursuant to this Lease.**

**31. Governing Law and Venue.** This Lease shall be deemed entered into in Adams County, Colorado, and shall be governed by and interpreted under the laws of the State of Colorado. Any action

arising out of, in connection with, or relating to this Lease shall be filed in the District Court of Adams County of the State of Colorado, and in no other court.

32. **Attorney Fees and Costs.** Should the Town commence an action for collection of rent or other sums payable under this Lease, or to compel performance of any of the terms or conditions of this Lease, or for damages for failure of Lessee to perform under this Lease, the Town shall collect from Lessee all reasonable attorney fees in respect thereof.

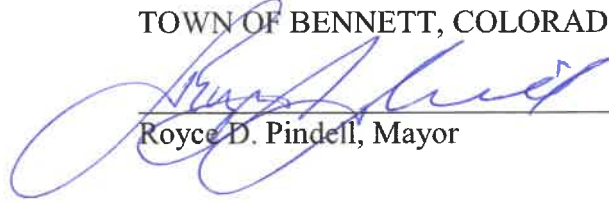
33. **Captions.** The captions hereof shall be deemed and construed to be informative only and shall have no legal effect upon the interpretations of the terms and conditions of this Lease.

34. **Entire Agreement.** This Lease is the entire agreement between the Town and Lessee and may be amended only by written instrument subsequently executed by the Town and Lessee.

35. **Survival.** All of the terms and conditions of this Lease concerning release, indemnification, termination, remedies and enforcement shall survive termination of this Lease.

**IN WITNESS WHEREOF**, the parties have entered into this Lease on the date first above written.

TOWN OF BENNETT, COLORADO

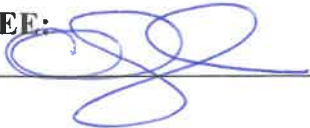
  
\_\_\_\_\_  
Royce D. Pindell, Mayor

ATTEST:

  
\_\_\_\_\_  
Christina Hart, Town Clerk



**LESSEE:**



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

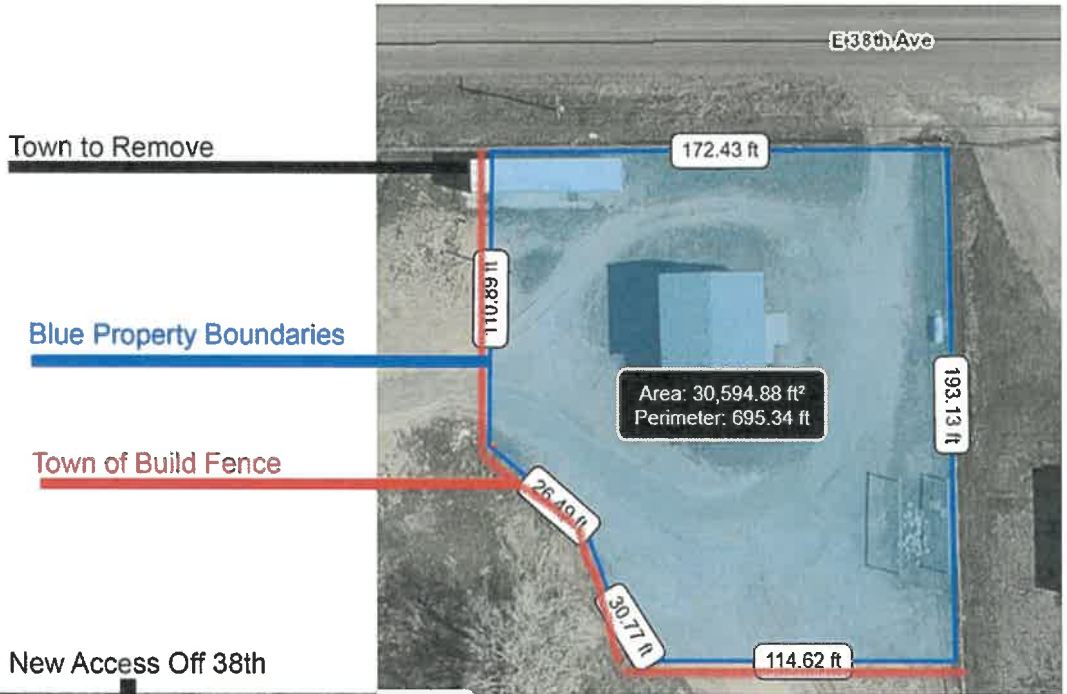
Printed Name: \_\_\_\_\_

*Gina Yeater*

Title: \_\_\_\_\_

*Owner*

**Exhibit A**  
Legal Description and Depiction of Premises





**Exhibit B**  
Site Plan



**TERMINATION OF LEASE AGREEMENT**

THIS TERMINATION OF LEASE AGREEMENT (“Termination”) is entered into effective as of the 11<sup>th</sup> day of July, 2023 by and between the TOWN OF BENNETT, COLORADO, a Colorado municipal corporation (“Town”) and BROKEN AND BEAUTIFUL OF BENNETT ANIMAL SHELTER INC. (“Lessee”).

**WHEREAS**, the Town and Lessee previously entered into that certain Lease Agreement (the “Lease”) dated October 11, 2022 for the Town-owned property located at 47300 County Road (the “Property”) for the purpose of operating an animal services organization on the Property; and

**WHEREAS**, the Town and Lessee have determined that it is in their mutual interest to terminate the Lease, subject to the conditions of this Termination.

**NOW THEREFORE, the Town and Lessee hereby agree that:**

1. That certain Lease Agreement dated October 11, 2022 by and between the Town of Bennett and Broken and Beautiful of Bennett Animal Shelter, Inc. (the “Lease”) is hereby terminated effective July 11, 2023. The Town and Lessee are hereby released of all obligations under the Lease except Lessee acknowledges and agrees its indemnification obligations under the Lease, and Landlord acknowledges and agrees its obligation to return Lessee’s security deposit if applicable, shall survive this Termination.

**IN WITNESS WHEREOF, the Tenant and Landlord have executed this Termination the date first written above.**

LESSEE: BROKEN AND BEAUTIFUL OF BENNETT ANIMAL SHELTER INC.

By: \_\_\_\_\_  
Gina Yeater, Owner

TOWN: TOWN OF BENNETT, COLORADO  
a Colorado municipal corporation

By: \_\_\_\_\_  
Royce D. Pindell, Mayor

ATTEST:

By: \_\_\_\_\_  
Christina Hart, Town Clerk

**RESOLUTION NO. 980-23**

**A RESOLUTION APPROVING A TERMINATION OF LEASE AGREEMENT**

**WHEREAS**, the Town and Broken and Beautiful of Bennett Animal Shelter, Inc. (“Lessee”) previously entered into a Lease Agreement (the “Lease”) dated October 11, 2022; and

**WHEREAS**, the Town and Lessee have determined that it is in their mutual interest to terminate the Lease.

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

**Section 1.** The Board of Trustees does hereby approve the Termination of Lease Agreement (“Termination”) by and between the Town of Bennett and Broken and Beautiful of Bennett Animal Shelter, Inc., in essentially the same form as the copy of such Termination accompanying this resolution.

**Section 2.** The Mayor is authorized to execute such Termination on behalf of the Town, except that the Mayor is hereby further authorized to negotiate and approve such revisions to said Termination of Lease Agreement as the Mayor determines are necessary or desirable for the protection of the Town, so long as the essential terms and conditions of the Termination are not altered.

**INTRODUCED, READ, AND ADOPTED THIS 11<sup>TH</sup> DAY OF JULY 2023.**

TOWN OF BENNETT, COLORADO

\_\_\_\_\_  
Royce D. Pindell, Mayor

ATTEST:

\_\_\_\_\_  
Christina Hart, Town Clerk

## Suggested Motion

I move to approve Resolution No. 980-23 – A resolution approving a termination of lease agreement.