



YUMA COUNTY COMMISSIONERS

June 15, 2020

Minutes¹

On June 15, 2020 at 8:00 a.m., the Yuma County Board of Commissioners met in regular session. Chairman Dean Wingfield, Commissioner Trent Bushner, Commissioner Robin Wiley, and Administrator Andrea Calhoon were present throughout the day. The meeting was open to the public via teleconference due to the COVID19 pandemic.

The Commissioners reviewed and signed accounts payable and discussed various meetings attended throughout the prior month.

Financial Reports

Finance Officer in Training Sarah Carwin joined the meeting at 8:30 a.m. to provide financial updates including audit updates, monthly financial reports, and updates on the implementation of Paycor payroll software.

Human Services

The Board of County Commissioners convened as the Board of Social Services at 9:00 a.m. Human Services Director Kara Hoover, Eligibility Supervisor Dalene Rogers, Bookkeeper Melanie Fisher, and Child and Adult Protection Supervisor Hollie Hillman were present via teleconference. Detailed minutes of the Board of Social Services are maintained separately by the Department of Human Services.

Commissioner Wiley moved to enter into executive session at 9:29 a.m. under CRS 24-6-402(4)(c) for items to be kept confidential by law. Commissioner Bushner seconded the motion, which passed unanimously. Present for executive session were Chairman Dean Wingfield, Commissioner Robin Wiley, Commissioner Trent Bushner, Human Services Director Kara Hoover, Child and Adult Protection Supervisor Hollie Hillman, and Administrator Andrea Calhoon. Executive session ended at 9:39 a.m. No action was taken following executive session.

The Board of County Commissioners reconvened at 9:40 a.m.

Road and Bridge

Road & Bridge Supervisor Tom Andersen and Assistant Road & Bridge Supervisor Sean Malay joined the meeting at 10:00 a.m. to provide department updates.

- *Signage* – The Commissioners discussed with Andersen signage down due to high winds in the past week.
- *Water Application* – Andersen discussed with the group information received from Northeast Colorado Health Department regarding the application of potato processing waste water to County roads. Northeast Colorado Health expressed no concern for health impacts. The group discussed impacts on the equipment and the process for road applying the waste water.
- *Culvert Project* – Andersen provided updates on the planned completion of the culvert project on County Road AA.
- *Road Work* – Andersen discussed planned work on County Road PP.5.
- *Stop Sign Addition* – Andersen reported that stop signs have been added to County Road 38 and County Road D in response to the addition of a local business at that intersection.
- *Eckley Oil Planning* – Andersen discussed planning and timing for the Eckley Oil project for which Yuma County received a grant award from DOLA.
- *Visa Authorizations* – Andersen presented a request to change the authorized signors for the Road & Bridge Visa cards. **Commissioner Wiley moved to approve signature on the change of authorized Visa representatives on Road & Bridge credit cards from JR Colden and Jessica Mitchell to Tom Andersen and Charman Adame.**
- *Mower Pricing* – Malay presented information on new mower pricing from John Deere. The group discussed equipment needs, prior uses, and specs for the mower. **Commissioner Wiley moved to approve the**

¹ Minutes prepared by Andrea Calhoon are a summary of discussions, not a verbatim account.



purchase of a mower from 21st Century Equipment John Deere for an amount not to exceed \$19,500. Commissioner Bushner seconded the motion which passed by unanimous vote.

Maintenance Supervisor, Travis Dinsmore

At 11:30 a.m. the Commissioners heard a request from Maintenance Supervisor Travis Dinsmore to make updates to the county-owned house located on Blake Street in Wray and review various facilities maintenance topics. **Commissioner Wiley moved to approve the purchase of a new storm door for the Blake Street house for an amount not to exceed \$300. Commissioner Bushner seconded the motion, which passed unanimously.**

Land Use

Land Use Administrator Colten Yoast was heard at 1:00 p.m. to review Land Use and GIS business and conduct Land Use hearings.

- *Land Use Activity* – Yoast presented two lot line adjustments for review and approval. **Commissioner Wiley moved to approve signature on resolution 06-15-2020 B approving administrative permit ACT 0620-01 for marc Reck on behalf of Murphy Brown, LLC and Dorothy Mitchell for lot line adjustments located in Sections 28, 32, and 33 of T1S, R46W. Commissioner Bushner seconded the motion, which passed unanimously.**
Commissioner Wiley moved to approve signature on resolution 06-15-2020 C approving administrative permit ACT 06-20-02 for Katie Shaw and Ruben Richardson for a lot line adjustment located in Section 31, T3n, R47W. Commissioner Bushner seconded the motion. It passed by unanimous vote.
- *Pending Land Use Activity* – Yoast reported that there are currently no hearings scheduled for the end of the month and there is one hearing currently scheduled for the month of July.

GIS

- *Current Projects* – Yoast reported on various GIS topics including the online map and public utility mapping work being completed with the City of Yuma.

Yuma County Assessor, Cindy Taylor

At 2:00 p.m. the Commissioners met with Yuma County Assessor Cindy Taylor to discuss and oil and gas property reporting issue. Also joining the meeting was Yuma County Treasurer Dee Ann Stults. Taylor discussed an oil and gas property owner who is delinquent in various payments and the filings of a number of required documents as well as being delinquent in property tax payments. Based on failure to file personal property and oil and gas property documentation with the County Assessor by the extended deadline of June 15, Assessor Taylor may opt to assess a \$100 per day fine up to \$3,000. Additionally, Taylor may append the records with a best-information-available marker indicating that the information is incomplete. Taylor reports that complaints have been filed to the COGCC and that the COGCC remedies have not been successful in resolving the issues. The group determined that some additional information is needed from the Assessor and Treasurer records and then the matter will be referred to the County Attorney for review and assistance.

Also discussed was HB20-1421 passed in recent days at the Colorado Legislature impacting delinquent interest payments on property tax payments. The group determined that Yuma County would not waive interest payments as permitted in the bill based on current local collection rates.

Yuma County Fair Rodeo, Jed Gleghorn

At 3:00 p.m. the Commissioners were joined by Jed Gleghorn of the Yuma County Fair Board to discuss updates in planning for the 2020 Yuma County Fair Rodeo. The group discussed the various sets of requirements to hosting
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an event such as a rodeo as well as the current guidance regarding the likelihood of hosting a rodeo in Colorado this year. The group advised additional information was expected to be available at the end of the week that may help guide decisions. Among topics of focus were the likelihood that masks would be required of all attendees and that a specific variance with input from the State health department would be necessary to be approved before a decision to host was final.

Administrator's Report

Administrator Andrea Calhoon reviewed calls, correspondence, and presented the following for discussion and action:

- *Minutes* – The Commissioners reviewed the minutes from the previous BOCC meetings. **Commissioner Bushner moved to approve the minutes from the May 29, 2020 regular meeting and the June 11, 2020 special meeting of the Board of County Commissioners. Commissioner Wiley seconded the motion, which passed unanimously.**
- *CAPP Report & Claim Review* – The Commissioners heard information on pending CAPP and workers' compensation claims.
- *Signatures and Ratifications* –
 - Resolutions/Ordinances/Signatures:
 - **Commissioner Wiley moved to approve signature on Resolution 06-15-2020A opting in to the CPACE program and approving the associated participation agreement. Commissioner Bushner seconded the motion. It passed unanimously.**
 - **Commissioner Wiley moved to approve signature on the 2020 EMPG Grant award letter. Commissioner Bushner seconded the motion, which passed by unanimous vote.**
 - Invoices/Finance Requests:
 - The Commissioners reviewed sealed bids on the 2003 Ford pickup up for bid from the Landfill. The bids will be reviewed and decided on by the Landfill Board.
 - Grant Updates:
 - The Commissioners reviewed information regarding pending and submitted grant applications including various grants for the Ag Innovation Center, the DOLA administrative planning grant for completion of a landfill feasibility study, the approval of CDOT multimodal grant funds, and the awarded energy impact grant application for the Eckley Road paving project.
- *Department Reports* – The Commissioners discussed fair concessions and food vendor planning topics. **At 3:45 p.m. Commissioner Wiley moved to enter into executive session under CRS 24-6-402(4)(b) for legal advice on specific legal matters. Commissioner Bushner seconded the motion, which passed unanimously.** Present for executive session were Chairman Wingfield, Commissioner Wiley, Commissioner Bushner, Treasurer Dee Ann Stults, County Attorney Ken Fellman, and Administrator Andrea Calhoon. Executive session ended at 4:10 p.m.
- *Prior Meeting Follow-Up* – Calhoon provided updates on ongoing projects.
- *Correspondence* – Calhoon presented correspondence received since the last meeting including:
 - A request by the Sheriff's Office to add aircraft casualty and property coverage.
 - Establishment of Commissioners' meeting dates through the end of the year. Dates set were: August 14 & 31, September 15 & 30, October 15 & 29, November 13 & 30, and December 15 & 31.
- *CDL Testing Unit* – Calhoon provided updates on the status of the Yuma County CDL testing unit.
- *Oil & Gas Updates* – Calhoon reported on oil and gas updates since the last meeting including litigation to which Yuma County is party regarding rulemaking by the Air Quality Control Commission.
- *IT Updates* – Calhoon presented updates on various IT-related topics.
- *Maintenance Updates* – Calhoon reported on various facilities maintenance topics. The group discussed building operation plans in light of COVID19 public health ordinances and it was determined that



courthouse operations would remain on a by appointment only basis for two more weeks and operations will be reassessed at the June 30 Commissioner's meeting. **Commissioner Bushner moved to approve the bid from Jim Andrews for the construction of iron frames for sun shades for the infield bleachers at the fairgrounds for an amount not to exceed \$6,000 to be paid out of Fund 6. Commissioner Wiley seconded the motion, which passed unanimously.**

- *HR Updates* – Calhoun reported updates on county Human Resource topics including policy updates and county vacancies. **Commissioner Wiley moved to approve the salary authorization for Assessor's Office Transfer Clerk Kaci Sholes effective June 22, 2020. Commissioner Bushner seconded the motion. It passed by unanimous vote.**

There being no further business, the meeting adjourned at 4:50 p.m. The next regular meetings of the Board of County Commissioners will be on June 30, 2020 and July 16, 2020.


Dean Wingfield, Chairman


Andrea Calhoun, Administrator

ATTEST: 
Beverly Wenger, County Clerk



BOARD OF COUNTY COMMISSIONERS
COUNTY OF YUMA, STATE OF COLORADO

RESOLUTION NO. 06-15-2020 A

CONCERNING THE AUTHORIZATION OF THE COLORADO NEW ENERGY IMPROVEMENT DISTRICT TO
CONDUCT ITS NEW ENERGY IMPROVEMENT PROGRAM, CALLED COLORADO COMMERCIAL PROPERTY
ASSESSED CLEAN ENERGY (C-PACE) WITHIN YUMA COUNTY

WHEREAS, C.R.S. §§ 32-20-101 *et seq.* establishes the Colorado New Energy Improvement District (the "District") and provides for the creation of a new energy improvement program, which the District has named "C-PACE" or the Colorado Commercial Property Assessed Clean Energy program; and,

WHEREAS, pursuant to C.R.S. § 32-20-105(3), the District may only conduct the C-PACE program in Yuma County ("County") if the Board of County Commissioners ("Board") authorizes it do so by resolution; and,

WHEREAS, pursuant to C.R.S. § 32-20-105(3), the District may only conduct the C-PACE program in the County if the Board of County Commissioners ("Board") authorizes it do so by resolution; and,

WHEREAS, the District and County have agreed on the terms of the C-PACE NEID-County Participation Agreement in the form attached hereto (the "Participation Agreement").

NOW, THEREFORE, BE IT RESOLVED by the Yuma County Board of County Commissioners that the Colorado New Energy Improvement District shall be authorized to conduct the C-PACE program in the County in accordance with the Participation Agreement.

BE IT FURTHER RESOLVED that the Board hereby: (a) adopts the above recitations as findings of the Board; (b) authorizes the County Attorney, in consultation with the Chair of the Board, to make such changes as may be needed to the Participation Agreement in order to correct any nonmaterial errors or language that do not materially increase the obligations of the County; (c) authorizes the Chair to execute the Participation Agreement following review and approval by the County Attorney; and (d) authorizes County Staff to execute any and all other necessary letters, orders, or documents as may be required to facilitate the successful implementation of the C-PACE program in the County.

ADOPTED this 15th day of June, 2020 at YUMA COUNTY, COLORADO.



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Yuma County Recorder, BEVERLY WENGER Page 1 of 1
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Dean Wingfield, Chairman


Trent Bushner, Commissioner


Robin Wiley, Commissioner




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Yuma County Recorder, BEVERLY WENGER Page 1 of 1
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ATTEST:


Clerk to the Board



APPROVED AS TO FORM:


County Attorney



Colorado C-PACE NEID-COUNTY PARTICIPATION AGREEMENT

THIS PARTICIPATION AGREEMENT (the “**Agreement**”) is made and entered into as of the 15th day of June, 2020, by and between **YUMA COUNTY**, a body corporate and politic of the State of Colorado (the “**County**”), and the **COLORADO NEW ENERGY IMPROVEMENT DISTRICT**, an independent body corporate and politic of the State of Colorado established under C.R.S. § 32-20-104(1) (the “**District**”) (each a “**Party**” and collectively the “**Parties**”).

RECITALS

WHEREAS, C.R.S. §§ 32-20-101 *et seq.* (the “**Colorado C-PACE Act**” or the “**Act**”) established the District and a commercial property assessed clean energy (C-PACE) program; and

WHEREAS, C-PACE is a program to facilitate financing for clean energy improvements to commercial, industrial, multi-family, institutional and agricultural properties by utilizing a local assessment mechanism to provide security for repayment of the financing; and

WHEREAS, under C.R.S. § 32-20-105(1), the purpose of the District is “to help provide the special benefits of new energy improvements to owners of eligible real property who voluntarily join the district by establishing, developing, financing, and administering a new energy improvement program through which the district can provide assistance to such owners in completing new energy improvements”; and

WHEREAS, C.R.S. § 32-20-105(3) directs the District to “establish, develop, finance, and administer” the C-PACE program but stipulates that the C-PACE program may only operate in a given county if the board of county commissioners of the county has adopted a resolution authorizing the District to conduct the program within the county; and

WHEREAS, the Board of County Commissioners of the County has adopted a resolution in the form attached hereto as **Exhibit A**, authorizing the District to conduct the C-PACE program within the County and authorizing the County to enter into this Agreement with the District;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein and in order to effectuate the purposes of the C-PACE Act, it is hereby agreed as follows:

Section 1. Definitions.

- (a) “**C-PACE Assessment**” means the C-PACE assessment authorized by the Act, and as further defined at C.R.S. § 32-20-103(14).
- (b) “**Commercial Building**” means any real property other than a residential building containing fewer than five dwelling units.
- (c) “**New Energy Improvement**” means one or more energy efficiency improvements or renewable energy improvements, or both, made to Participating Property that will reduce the energy or water consumption of or add energy produced from renewable energy sources with regard to any portion of the Participating Property, as specified in the C-PACE Act and in the Program Guidelines.

- (d) **“Participating Property”** means a Commercial Building that has been approved by the District to participate in the C-PACE program.
- (e) **“Program Guidelines”** means the rules, regulations and guidelines promulgated by the District to implement the C-PACE program pursuant to the C-PACE Act, as the same may be amended or supplemented from time to time.

Section 2. Obligations of the District.

- (a) Program Requirements. Pursuant to the C-PACE Act, the District:
 - (1) shall develop Program Guidelines governing the terms and conditions under which private financing will be made available to the C-PACE program, and may serve as an aggregating entity for the purpose of securing state or private third-party financing for New Energy Improvements pursuant to the Act; and
 - (2) shall receive and review applications submitted by property owners within the County for financing of New Energy Improvements, and approve or disapprove such applications in accordance with the Program Guidelines and underwriting procedures and requirements established by the District.
- (b) Project Requirements. If a property owner requests financing through the C-PACE program for energy improvements under the C-PACE Act, the District shall:
 - (1) impose requirements and criteria to ensure that the proposed energy improvements are consistent with the purpose and requirements of the C-PACE Act, and
 - (2) provide the notification and conduct the hearing required by C.R.S. § 32-20-106(3) of the C-PACE Act prior to imposing a special C-PACE Assessment on any Participating Property.
- (c) Assessment and Financing Agreement for Project.
 - (1) The District and the party providing the financing (the **“Capital Provider”**) may enter into an Assessment and Financing Agreement with the owner of Participating Property (the **“Assessment & Financing Agreement”**). The Assessment & Financing Agreement shall clearly state the amount of the C-PACE Assessment to be levied against the Participating Property. The District and the Capital Provider shall disclose to the property owner the costs and risks associated with participating in the C-PACE program, including risks related to the failure of the property owner to pay the C-PACE Assessment provided for in the Assessment & Financing Agreement. The District and the Capital Provider shall disclose to the property owner the effective interest rate on the C-PACE Assessment, including program application and other fees and charges imposed by the District to administer the C-PACE Program, fees charged by the Treasurer for collection, as well as any fees charged by the Capital Provider, and the risks associated with variable interest rate financing, if applicable. The property owner must be informed that each New Energy Improvement, regardless of its useful life, will be bundled with other such improvements on the Participating Property for purposes of assessment and paid for over the assessment term.



(d) Establish C-PACE Assessments and Assessment Units.

(1) With respect to each C-PACE Assessment placed on a parcel of Participating Property, the District shall determine the amount of the C-PACE Assessment and establish the appropriate special assessment units and specify the method of calculating the C-PACE Assessment for each Participating Property. The District's Board of Directors shall approve the specifics of the applicable C-PACE Assessment including, without limitation, the amount of the C-PACE Assessment, term, interest rate and repayment dates, which approval shall be set out in an assessing resolution (a "**Resolution**"). In no event shall the amount of any C-PACE Assessment exceed the value of (a) the special benefit provided to the Participating Property, or (b) the Participating Property, as provided in C.R.S. § 32-20-106(1). Costs incurred for any property not approved to participate may not be included in a certified assessment roll.

(2) The District shall cause to be prepared and certified under the District's corporate seal to the County Treasurer annually no later than December 1st of each year a District assessment roll for each Participating Property in a form determined by the District and acceptable to the County Treasurer. Such assessment roll shall specify for the Participating Property to which it pertains the amount of each installment of principal and interest (if the C-PACE Assessment is payable in installments), provided that each installment will become due on the date or dates that the Participating Property taxes are payable under C.R.S. Section 39-10-104.5(2) (which states in part "property taxes may be paid in full or in two equal installments, the first such installment to be paid on or before the last day of February and the second installment to be paid no later than the fifteenth day of June."), and C.R.S. 39-10-104.5(3)(b) (which states in part "if the full amount of the of taxes is paid in a single payment on or before the last day of April, then no delinquent interest shall accrue on any portion of the taxes."), and the date on which the assessment is expected to be satisfied in full. Once the C-Pace Assessment roll for each participating property is certified to the County Treasurer, the Assessment installments become part of the property tax on each participating property and payment will be collected as required by C.R.S. 39-10-104.5(2) and C.R.S. 39-10-104.5(3)(b).

(e) Filing Assessment with County Clerk & Recorder. The District shall transmit to the County Clerk and Recorder for recording copies of each Resolution and certified assessment roll affecting Participating Properties located in the County, as specified in C.R.S § 32-20-107(2). After recording the Resolution and certified assessment roll, the County Clerk and Recorder shall file a copy of each Resolution and certified assessment roll with the County Assessor.

Section 3. Obligations of the County.

(a) Billing of C-PACE Assessment. Upon receiving the certified assessment rolls from the District, the County Treasurer shall add the amounts required to be paid by owners of the Participating Properties burdened by such C-PACE Assessments



specified on such rolls to the property tax bills of the respective Participating Properties.

(b) Billing and Collection; Payment to the District.

(1) As specified in Section 3(a), the County shall bill the C-PACE Assessments in the same manner and at the same time as it bills its real property taxes. The C-PACE Assessment payments shall be a separate clearly defined line item and shall be due on the same dates as the County's real property taxes. The property taxes and assessment payments must be paid in full; no partial payments will be accepted except as described in C.R.S. § 39-10-104.5(2).

(2) Billed C-PACE Assessment amounts shall be collected in the same manner and at the same time as the property taxes of the County on real property, including, in the event of default or delinquency, with respect to any penalties, fees and remedies, and lien priorities as provided in Section 32-20-107(1) of the CoPACE Act. Interest shall be collected at the rate specified in C.R.S. § 5-12-106(2) and (3), in accordance with C.R.S. § 32-20-106(7), as may be amended. Penalties and interest on delinquent C-PACE Assessments shall be charged in the same manner and rate as the County charges for delinquent real property taxes.

(3) The County Treasurer shall remit all amounts collected with respect to the C-PACE Assessments within any calendar month to the District in same manner as taxes are distributed accordance with C.R.S. §39-10-107(1)(a) less the County Collection Fee described in Section 3(c) of this Agreement. The County will provide monthly collection reports to the District, and the District, at its own expense, shall have the right to audit the records relating to the C-PACE Assessments upon reasonable notice at reasonable times. The District and County agree to provide each other with such reasonable information as they may request, and the District and the County agree to provide such information in an electronic format satisfactory to the other.

(c) County Collection Fee. The County Treasurer shall retain a collection fee as specified in C.R.S. § 30-1-102(1)(c) for each C-PACE Special Assessment and delinquencies that it collects as part of the program.

(d) Collection of Delinquent Payments. In the event of the failure by the owner of the Participating Property to pay the installment due on a C-Pace Assessment, the County Treasurer shall advertise and sell the assessed eligible real property tax lien in accordance with Title 39, C.R.S. Advertisements and sales shall be made at the same times, in the same manner, under all the same conditions and penalties, and with the same effect as provided by general law for sales of real estate tax liens in default of payment of the general property tax. The sales proceeds up to the amount in the certified assessment roll, less the County Collection Fee described in Section 3(c) of this Agreement and any other statutorily imposed fees required to be paid to the County shall be forwarded to the District.

(e) Promotion of Program; Assistance for District Financing. The County shall use good faith efforts to assist the District in local marketing efforts and outreach to the local business community to encourage participation in the C-PACE program, such



as including C-PACE program information on the County’s website, distributing an informational letter from appropriate County officials to local businesses regarding the program, and conducting one or more business roundtable events.

Section 4. Term and Termination.

The term of this Agreement shall commence upon the date first written above. This Agreement shall be in full force and effect until all of the C-PACE Assessments have been paid in full or deemed no longer outstanding. The Board of County Commissioners may subsequently adopt a resolution deauthorizing the District from conducting the program within the County. However, if the County adopts a deauthorizing resolution, the County shall continue to meet all of its obligations as required by this Agreement and C.R.S. § 32-20-105(3) as to program financing obligations existing on the effective date of the deauthorization until any and all C-PACE special assessments within the County have been paid in full and remitted to the District.

Section 5. Default.

Each Party shall give the other Party written notice of any breach of any covenant or agreement under this Agreement and shall allow the defaulting Party 30 days from the date of its receipt of such notice within which to cure any such default or, if it cannot be cured within the 30 days, to commence and thereafter diligently pursue to completion, using good faith efforts to effect such cure and to thereafter notify the other Party of the actual cure of any such default. The Parties shall have all other rights and remedies provided by law, including, but not limited to, specific performance.

Section 6. Miscellaneous Provisions.

(a) Amendment and Termination.

After the District sells and issues its bonds, notes or other obligations (or a third party capital provider provides funds) to finance the costs of any C-PACE project, this Agreement may not be amended or terminated by the Parties without the prior approval of the holders of the District’s bonds, notes or other obligations (or such third party capital provider, as applicable), which approval shall be obtained in accordance with the indenture or other documents entered into by the District in connection with such financing.

(b) Severability.

If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision or section will not affect any of the remaining clauses, provisions or sections, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision or section has not been contained in it.

(c) Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same instrument. In addition, the Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.



(d) Notices.

All notices, requests, consents and other communications shall be in writing and shall be delivered, mailed by first class mail, postage prepaid, or overnight delivery service, to the Parties, as follows:

If to the County:

Yuma County
c/o Board of County Commissioners
Yuma County Courthouse
310 Ash, Suite A
Wray, Colorado 80758

With a Copy to:

County Attorney
Yuma County
310 Ash, Suite A
Wray, Colorado 80758

If to the District:

Colorado New Energy Improvement District
c/o Colorado Energy Office
1600 Broadway, Suite 1960
Denver, Colorado 80202
Attention: Chairman of the Board

With a Copy to:

Michow Cox & McAskin LLP
District General Counsel
6530 S. Yosemite Street, Suite 200
Greenwood Village, Colorado 80111

(e) Amendment.

Except as otherwise set forth in this Agreement, any amendment to any provision of this Agreement must be in writing and mutually agreed to by the District and the County.

(f) Applicable Law and Venue.

This Agreement and its provisions shall be governed by and construed in accordance with the laws of the State of Colorado. In any action, in equity or law, with respect to the enforcement or interpretation of this Agreement, venue shall be in the district courts of the County, the State of Colorado.



(g) Entire Agreement.

This instrument constitutes the entire agreement between the Parties and supersedes all previous discussions, understandings and agreements between the Parties relating to the subject matter of this Agreement. In the event of any conflict between the Program Guidelines and this Agreement, the terms of this Agreement shall control.

(h) Headings.

The headings in this Agreement are solely for convenience, do not constitute a part of this Agreement and do not affect its meaning or construction.

(i) Changes in Law or Regulation.

This Agreement is subject to such modifications as may be required by change in federal or Colorado state law, or their implementing regulations. Any such required modification shall automatically be incorporated into and made a part of this Agreement on the effective date of such change, as if fully set forth herein. Headings in this Agreement are solely for convenience, do not constitute a part of this Agreement and do not affect its meaning or construction.

(j) Third Party Beneficiaries.

It is specifically agreed among the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create a third party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain any claim under this Agreement. The duties, obligations and responsibilities of the Parties to this Agreement with respect to third parties shall remain as imposed by law.

(k) No Waiver of Rights.

A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.

(l) No Waiver of Governmental Immunity.

Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the County or to the District, their officials, employees, contractors, or agents, or any other person acting on behalf of the County or the District and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10 of the Colorado Revised Statutes.

(m) Independent Entities.

The Parties shall perform all services under this Agreement as independent entities and not as an agent or employee of the other Party. It is mutually agreed and understood that nothing contained in this Agreement is intended, or shall be construed as, in any way establishing the relationship of co-partners or joint ventures between the Parties hereto, or as construing either Party, including its agents and employees, as an agent of the other Party. Each Party shall remain an independent and separate entity. Neither Party shall be supervised by any employee or official of the other Party. Neither Party shall represent that it is an employee or agent of the other Party in any capacity.



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Yuma County Recorder, BEVERLY WENGER Page 9 of 9
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Yuma County Recorder, BEVERLY WENGER Page 9 of 9
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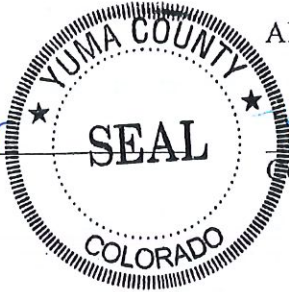
IN WITNESS WHEREOF, the County and the District have each caused this Agreement to be executed and delivered as of the date indicated above:

YUMA COUNTY

By: Dean Wingfield
Dean Wingfield, Chair

ATTEST:

Beverly Wenger
Clerk to the Board



APPROVED AS TO FORM:

Kevin D. Stiller
County Attorney

**COLORADO NEW ENERGY
IMPROVEMENT DISTRICT**

By: _____
Andrew Sand, Chairman of the Board

ATTEST:

Jeffrey King, Recording Secretary