CITY OF FORT LUPTON
SPECIAL MEETING FOLLOWED BY
TOWN HALL MEETING
Tuesday, August 30, 2022
6:00 PM
130 South McKinley Avenue

Zo Stieber-Hubbard, Mayor
Valerie Blackston, Ward 1
Chris Ceretto, Ward 2
Carlos Barron, Ward 3
David Crespin, Ward 1
Claud Hanes, Ward 2
Bruce Fitzgerald, Ward 3

You may join in person or join remotely by clicking on:
https://global.gotomeeting.com/join/851983253

Call to Order

Pledge of Allegiance

Roll Call

Action Memorandum

a. AM 2022-131 Adopting a Resolution Approving the Submission of a Ballot Issue for the November 8, 2022, Coordinated Election, Pertaining to a Retail Marijuana Excise Tax of 1.5% (Tax on Marijuana Grow Operations) with the Rate of Taxation not to Exceed 4%; Setting the Ballot Content

b. AM 2022-132 Adopting a Resolution to Approve the Submission of a Ballot Issue for the November 8, 2022, Coordinated Election, for an Increase in Debt for an Extension of the Property Tax Mill Levy for the Purpose of Construction of the Expansion of the Recreation Center (Phase II); and Authorization for Payment of the Debt; and Establish the Mill Levy at a Rate Necessary for Payment; and Issuance of General Obligation Bonds or Other Multiple Fiscal Year Obligations on Terms and Conditions, Setting the Ballot Content

c. Northern Integrated Supply Project, Water Infrastructure Finance and Innovation Act-Letter of Intent

Information Memorandum

a. IM 2022-012 Dig Deep 2 Month Extension of Initial Services Agreement

b. IM 2022-013 New Library Facility Change Order

Adjourn

Call to Order

General Discussion – The Town Hall meeting is for the Public to have open discussion with Council regarding any topic. This list is not all-inclusive. The following topics are items to be presented to Council by staff and may or may not be followed by discussion. No transcripts or summary are taken during Town Hall meetings.

a. Small Business Development Center

b. Colorado Rangers Intergovermental Agreement

c. Padenville Discussion with County

d. Library Intergovernmental Agreement / New Building

e. Cottonwood Greens Metro District No. 1 Service Plan Dissolution

f. Planning Staff Discussion

g. FAMLI – Colorado Paid Family and Medical Leave Insurance Act

Adjourn

City Council Special Meeting
Date: August 30, 2022
Staff: Mari Peña, City Clerk

AM 2022-131
Consent Agenda☐
Action Memorandum☒
Public Hearing☐

SUBJECT FOR DISCUSSION

Adopting a Resolution to Approving the Submission of a Ballot Issue to for the November 8, 2022, Coordinated Election, Pertaining to a Retail Marijuana Excise Tax of 1.5% (Tax on Marijuana Grow Operations) with the Rate of Taxation not to Exceed 4%; and Setting the Ballot Content.

SUMMARY STATEMENT/BACKGROUND DISCUSSION

The City Council has determined to ask the registered voters whether to impose an excise tax on the first sale or transfer of unprocessed marijuana by a cultivation facility.

The City Council may, without receipt of any petition, submit any proposed or adopted ordinance or resolution or any question to a vote of the registered electors of the municipality. The City Council has determined to ask the registered voters the question on whether to impose an excise tax on the sale or transfer of unprocessed retail marijuana.

At this time, there is no ordinance to allow for cultivation facilities however, the City Council is proposing to add an ordinance.

The Council will determine the excise tax based on:

- The collection and enforcement of the tax by the Finance Department.
- Impacts on the Police Department

The Council has determined to submit the ballot issue at an election of the City, to be held as a coordinated election on November 8, 2022, and to set the title and content of the ballot for the ballot issues to be submitted at the election called by the attached Resolution.

FINANCIAL CONSIDERATIONS

As a statutory City, Fort Lupton sales tax is collected and audited by the State of Colorado. However, marijuana tax collection and enforcement is left to Cities regardless of statutory designation.

LEGAL/POLITICAL CONSIDERATIONS

N/A

ALTERNATIVES/OPTIONS

1. Approve the ballot question.
2. Don't approve the ballot question.

STAFF RECOMMENDATIONS

Staff seeks recommendation.

Attachments: a. Proposed Ordinance

Certification of Council Approval:
Ordinance No. _______________ ____________________________________ ___________
Resolution No. _______________ City Clerk Date

RESOLUTION NO. 2022-XXXX

A RESOLUTION OF THE CITY OF FORT LUPTON APPROVING THE SUBMISSION OF A BALLOT ISSUE ON THE NOVEMBER 8, 2022, COORDINATED ELECTION, PERTAINING TO A RETAIL MARIJUANA EXCISE TAX OF 1.5% (TAX ON MARIJUANA GROW OPERATIONS) WITH THE RATE OF TAXATION NOT TO EXCEED 4%; SETTING THE TITLES AND CONTENT OF THE BALLOT FOR THE ELECTION.

WHEREAS, the City of Fort Lupton, Weld County, Colorado (the "City") is a statutory municipality and political subdivision of the State of Colorado (the "State"), duly organized and operating under the Constitution and laws of the State; and

WHEREAS, The City Council may, without receipt of any petition, submit any proposed or adopted ordinance or resolution or any question to a vote of the registered electors of the municipality; and

WHEREAS, the question of whether to allow a retail marijuana excise tax be placed on the ballot,

WHEREAS, § 29-2-114 C.R.S. authorizes each municipality in the state to levy, collect, and enforce a municipal excise tax; and

WHEREAS, § 29-2-114 C.R.S state the excise tax shall be imposed on the first sale or transfer of unprocessed retail marijuana by a retail cultivation facility; and

WHEREAS, Article X, Section 20, of the Colorado Constitution ("TABOR Amendment") limits the ability of the City to enact new taxes; and

WHEREAS, the TABOR Amendment permits electors of the City to approve the adoption of new taxes and to authorize the expenditure of revenues from such taxes; and

WHEREAS, any excise tax imposed by the municipality shall be administered, collected, or enforced by the municipality; and

WHEREAS, the question of whether to impose a retail marijuana excise tax must be directed to the registered voters.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT LUPTON, COLORADO, AS FOLLOWS:

<u>Section 1:</u> An election shall be held on Tuesday, November 8, 2022, at which there shall be submitted to the eligible electors of the City the question on whether to impose a retail marijuana excise tax on grow operations within the City, which questions shall be in substantially form attached hereto as Exhibit A.

<u>Section 2:</u> The election shall be conducted as a coordinated election in Weld County in accordance with articles 1 to 13 of title 1, C.R.S. (the "Uniform Election Code"), and Intergovernmental Agreements (collectively, the "Intergovernmental Agreement") between the

Board of County Commissioners of the County of Weld, the Weld County Clerk and Recorder (the "County Clerk") and the City of Fort Lupton.

Section 3: For purposes of C.R.S. § 31-11-111, this Resolution shall serve to set the title and content for the ballot issues set forth herein and the ballot titles for such questions shall be the text of the questions themselves. Any protest to the ballot titles shall be filed in writing with the City Clerk within five (5) business days following the date of adoption of this Resolution and shall be resolved thereafter by the City Council following a hearing with published notice. The officers of the City are hereby authorized to enter into one or more intergovernmental agreements with the County for the conduct of the Election pursuant to Section 1-7-116, C.R.S. Any such intergovernmental agreement heretofore entered into in connection with the Election is hereby ratified, approved and confirmed.

Section 4: The City Clerk and other City officials and employees are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

Section 5. If a majority of the votes cast on the debt question submitted at the Election shall be in favor of increasing taxes as provided in such debt question, the City, acting through the Council, shall be authorized to proceed with the necessary action to increase taxes in accordance with such question.

Section 6. Pursuant to Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set.

Section 7: All actions not inconsistent with the provisions of this Resolution heretofore taken by the members of the City Council and the officers and employees of the City and directed toward holding the election for the purposes stated herein are hereby ratified, approved and confirmed.

Section 8: All prior acts, orders or resolutions, or parts thereof, by the City in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 9: If any section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.

Section 10. The effective date of this resolution shall be immediately upon adoption.

INTRODUCED, READ AND PASSED ON this 30th day of August, 2022.

CITY OF FORT LUPTON, COLORADO

____
Zo Stieber-Hubbard, Mayor

ATTEST:

____
Maricela Peña, City Clerk

Approved as to Form:

____
Andy Ausmus, City Attorney

Exhibit A

RETAIL MARIJUANA EXCISE TAX (tax on marijuana growers)

SHALL THE CITY OF FORT LUPTON TAXES BE INCREASED BY ONE HUNDRED THOUSAND DOLLARS ($100,000) IN THE FIRST FISCAL YEAR (2023), AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING, EFFECTIVE JANUARY 1, 2023, A NEW EXCISE TAX OF 1.5% WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A RETAIL MARIJUANA CULTIVATION FACILITY WITH THE TAX REVENUES BEING USED TO FUND GENERAL GOVERNMENT EXPENSES AS DETERMINED BY THE CITY COUNCIL, WITH THE RATE OF THE TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 4%, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE WITHOUT REGARD TO ANY EXPENDITURE, REVENUE RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, § 20 (TABOR), OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Yes:_____ No:______

IMPUESTO ESPECIAL SOBRE LA VENTA DE MARIHUANA (impuesto a los cultivadores de marihuana)

¿LOS IMPUESTOS DE LA CIUDAD DE FORT LUPTON AUMENTARÁN A CIEN MIL DÓLARES ($100,000) ANUALMENTE EN EL PRIMER AÑO FISCAL (2023), Y EN LAS CANTIDADES QUE SE AUMENTEN ANUALMENTE DESPUÉS, ESTABLECIENDO A PARTIR DEL 1 DE ENERO DE 2023, UN NUEVO IMPUESTO ESPECIAL DEL 1.5% CUANDO SE VENDA O TRASLADE LA MARIHUANA SIN PROCESAR POR PRIMERA VEZ POR UNA INSTALACIÓN DE CULTIVO DE MARIHUANA Y QUE LOS INGRESOS FISCALES SE UTILICEN PARA FINANCIAR LOS GASTOS GENERALES DEL GOBIERNO SEGÚN LO DETERMINE EL CONCEJO DE LA CIUDAD Y QUE LA TASA DEL IMPUESTO PUEDA AUMENTARSE O DISMINUIRSE SIN MÁS APROBACIÓN DE LOS VOTANTES, SIEMPRE Y CUANDO LA TASA DE IMPUESTOS NO SUPERE EL 4%, Y QUE LOS INGRESOS FISCALES RESULTANTES PUEDAN RECAUDARSE Y GASTARSE COMO UN CAMBIO DE INGRESOS APROBADO POR LOS VOTANTES SIN CONSIDERAR NINGÚN GASTO, RECAUDACIÓN DE INGRESOS U OTRA LIMITACIÓN INCLUIDA EN EL ARTÍCULO X, § 20 (TABOR), DE LA CONSTITUCIÓN DE COLORADO O CUALQUIER OTRA LEY?

Sí:_____ No:______

City Council Special Meeting
Date: August 30, 2022
Staff: Mari Peña, City Clerk

AM 2022-132
Consent Agenda☐
Action Memorandum☒
Public Hearing☐

SUBJECT FOR DISCUSSION

Adopting a Resolution to Approve the Submission of a Ballot Issue for the November 8, 2022, Coordinated Election, for an Increase in Debt to be paid for by an Extension of the Property Tax Mill Levy for the Purpose of Construction of the Expansion of the Recreation Center (Phase II); and Authorization for Payment of the Debt; and Establish the Mill Levy at a Rate Necessary for Payment; and Issuance of General Obligation Bonds or Other Multiple Fiscal Year Obligations on Terms and Conditions, Setting the Ballot Content

SUMMARY STATEMENT/BACKGROUND DISCUSSION

For the purposes of constructing and equipping a Phase Two of the original design of the Fort Lupton Recreation Center, the City would like to ask the voters to extend the taxes that were authorized at the City's election in 2002 that is set to expire December 31, 2022. The original bonds and tax increase was used to fund the construction of the community recreation center. The expansion will mainly include adding a gymnasium, an additional warm water aquatics area, and enlarging the fitness area.

FINANCIAL CONSIDERATIONS

N/A

LEGAL/POLITICAL CONSIDERATIONS

ALTERNATIVES/OPTIONS

The alternative would be to let the tax expire. This would require coming back to the voter at a later time to ask for a tax increase if desired.

STAFF RECOMMENDATIONS

Staff recommends to place the Recreation Center initiative on this years ballot.

Attachments: a. Proposed Ordinance
b.

Certification of Council Approval:
Ordinance No. _______________
Resolution No. _______________

_________________________________ City Clerk

__________ Date

RESOLUTION NO. 2022-XXXX

A RESOLUTION OF THE CITY OF FORT LUPTON APPROVING THE SUBMISSION OF A BALLOT ISSUE ON THE NOVEMBER 8, 2022, COORDINATED ELECTION, FOR AN INCREASE IN DEBT FOR AN EXTENSION OF THE PROPERTY TAX MILL LEVY FOR THE PURPOSE OF CONSTRUCTION OF THE EXPANSION OF THE RECREATION CENTER (PHASE II); AND AUTHORIZATION FOR PAYMENT OF THE DEBT; AND ESTABLISH THE MILL LEVY AT A RATE NECESSARY FOR PAYMENT; AND ISSUANCE OF GENERAL OBLIGATION BONDS OR OTHER MULTIPLE FISCAL YEAR OBLIGATIONS ON TERMS AND CONDITIONS, SETTING THE BALLOT CONTENT AND DECLARING AN EMERGENCY

WHEREAS, the City of Fort Lupton, Weld County, Colorado (the "City") is a statutory municipality and political subdivision of the State of Colorado (the "State"), duly organized and operating under the Constitution and laws of the State; and

WHEREAS, the members of the City Council of the City (the "Council") have been duly elected and qualified; and

WHEREAS, Article X, Section 20 of the Colorado Constitution ("TABOR") requires voter approval for any new tax, the creation of any debt and for spending certain moneys above limits established by TABOR; and

WHEREAS, TABOR requires the City to submit ballot issues (as defined in TABOR) to the City's electors on limited election days before action can be taken on such ballot issues; and

WHEREAS, November 8, 2022, is one of the dates at which ballot issues may be submitted to the eligible electors of the City pursuant to TABOR; and

WHEREAS, the Council hereby determines that it is necessary to submit to the electors of the City, at a special election to be held on November 8, 2022 (the "Election"), the questions of increasing the debt of the City to construct the expansion of the recreation center (Phase II) as described in the ballot question below (the "Project"), and to pay such debt by extending the originally approved tax from the 2002 and not imposing any new tax (the "debt question"); and

WHEREAS, all elections of the City are governed by the Colorado Municipal Election Code; and

WHEREAS, Section 31-10-102, C.R.S., contained within the Municipal Election Code, permits any municipality to elect by resolution to utilize the requirements and procedures of the Uniform Election Code which will thereby permit the City to participate in the coordinated election being conducted by Weld County (the "County") on November 8, 2022; and

WHEREAS, the Council now determines it is necessary to submit to the electors of the City, at the Election which will be held as a coordinated election with the County on November 8, 2022, the election questions; and

WHEREAS, it is necessary to set forth certain procedures concerning the conduct of the Election.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT LUPTON, COLORADO, AS FOLLOWS:

Section 1: An election shall be held on Tuesday, November 8, 2022, at which there shall be submitted to the eligible electors of the City the question on whether to increase debt, but without increasing taxes, for the purpose of constructing expansion of the recreation center (Phase II) as described in the ballot question attached hereto as Exhibit A.

Section 2: The election shall be conducted as a coordinated election in Weld County in accordance with articles 1 to 13 of title 1, C.R.S. (the "Uniform Election Code"), and Intergovernmental Agreements (collectively, the "Intergovernmental Agreement") between the Board of County Commissioners of the County of Weld, the Weld County Clerk and Recorder (the "County Clerk") and the City of Fort Lupton.

Section 3: For purposes of C.R.S. § 31-11-111, this Resolution shall serve to set the title and content for the ballot issues set forth herein and the ballot titles for such questions shall be the text of the questions themselves. Any protest to the ballot titles shall be filed in writing with the City Clerk within five (5) business days following the date of adoption of this Resolution and shall be resolved thereafter by the City Council following a hearing with published notice. The officers of the City are hereby authorized to enter into one or more intergovernmental agreements with the County for the conduct of the Election pursuant to Section 1-7-116, C.R.S. Any such intergovernmental agreement heretofore entered into in connection with the Election is hereby ratified, approved and confirmed.

Section 4: The City Clerk and other City officials and employees are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

Section 5. If a majority of the votes cast on the debt question submitted at the Election shall be in favor of increasing debt as provided in such debt question, the City, acting through the Council, shall be authorized to proceed with the necessary action to increase debt in accordance with such debt question.

Section 6. Pursuant to Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set.

Section 7: All actions not inconsistent with the provisions of this Resolution heretofore taken by the members of the City Council and the officers and employees of the City and directed toward holding the election for the purposes stated herein are hereby ratified, approved and confirmed.

Section 8: All prior acts, orders or resolutions, or parts thereof, by the City in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 9: If any section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.

Section 10. The effective date of this resolution shall be immediately upon adoption.

INTRODUCED, READ AND PASSED ON this 30th day of August, 2022.

CITY OF FORT LUPTON, COLORADO

____
Zo Stieber-Hubbard, Mayor

ATTEST:

____
Maricela Peña, City Clerk

Approved as to Form:

____
Andy Ausmus, City Attorney

EXHIBIT A

DEBT QUESTION (extension of expiring tax)

WITHOUT IMPOSING ANY NEW TAX, SHALL CITY OF FORT LUPTON DEBT BE INCREASED $10,000,000 WITH A MAXIMUM TOTAL REPAYMENT COST OF NOT MORE THAN $18,240,000 AND A MAXIMUM ANNUAL REPAYMENT COST OF NOT MORE THAN $608,000 FOR THE PURPOSES OF CONSTRUCTING AND EQUIPPING PHASE TWO OF THE ORIGINAL DESIGN OF THE RECREATION CENTER TO INCLUDE, BUT NOT LIMITED TO, AN EXPANSION OF THE GYMNASIUM, FITNESS CENTER AND AQUATICS AREA; AND SHALL THE TAXES AUTHORIZED AT THE CITY'S ELECTION IN 2002 TO CONSTRUCT THE COMMUNITY RECREATION CENTER BE EXTENDED AND AUTHORIZED TO BE USED TO PAY THE DEBT AUTHORIZED AT THIS ELECTION IN ADDITION TO THE DEBT AUTHORIZED AT SUCH PRIOR ELECTION; AND SHALL THE MILL LEVY BE ESTABLISHED IN ANY YEAR AT A RATE NECESSARY TO GENERATE AN AMOUNT SUFFICIENT TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON SUCH DEBT OR ANY REFUNDING DEBT (OR TO CREATE A RESERVE FOR SUCH PAYMENT); AND MAY SUCH DEBT BE EVIDENCED BY THE ISSUANCE OF GENERAL OBLIGATION BONDS OR OTHER MULTIPLE FISCAL YEAR OBLIGATIONS TO BE SOLD IN ONE SERIES OR MORE, FOR A PRICE ABOVE OR BELOW THE PRINCIPAL AMOUNT THEREOF, ON TERMS AND CONDITIONS, AND WITH SUCH MATURITIES AS PERMITTED BY LAW AND AS THE CITY MAY DETERMINE, AND BEARING INTEREST AT A MAXIMUM NET EFFECTIVE INTEREST RATE NOT TO EXCEED 5.00%; AND SHALL SUCH TAX REVENUES, DEBT PROCEEDS, AND THE EARNINGS FROM THE INVESTMENT OF SUCH DEBT PROCEEDS AND TAX REVENUES BE COLLECTED, RETAINED AND SPENT AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Yes ____ No _____

CUESTIÓN DE LA DEUDA (extensión de impuesto a vencer)

SIN ESTABLECER NINGÚN IMPUESTO NUEVO, ¿SE AUMENTARÁ LA DEUDA DE LA CIUDAD DE FORT LUPTON A $10,000,000 CON UN COSTO MÁXIMO DE REEMBOLSO TOTAL NO MAYOR A $18,240,000 Y UN COSTO MÁXIMO DE REEMBOLSO ANUAL NO MAYOR A $608,000 PARA FINES DE CONSTRUCCIÓN Y EQUIPAMIENTO DE LA FASE DOS DEL DISEÑO ORIGINAL DEL CENTRO DE RECREACIÓN PARA INCLUIR, ENTRE OTROS, UNA EXPANSIÓN DEL GIMNASIO, CENTRO DE FITNESS Y ÁREA ACUÁTICA?; Y ¿LOS IMPUESTOS AUTORIZADOS EN LAS ELECCIONES DE LA CIUDAD EN 2002 PARA CONSTRUIR EL CENTRO DE RECREACIÓN DE LA COMUNIDAD SE AMPLIARÁN Y AUTORIZARÁN PARA SU USO EN EL PAGO DE LA DEUDA AUTORIZADA EN ESTAS ELECCIONES, ADEMÁS DE LA DEUDA AUTORIZADA EN LAS ELECCIONES ANTERIORES?; Y ¿SE ESTABLECERÁ EL

IMPUESTO SOBRE BIENES INMUEBLES EN CUALQUIER AÑO A UNA TASA NECESARIA PARA GENERAR UNA CANTIDAD SUFICIENTE PARA PAGAR LA PARTE PRINCIPAL, LA PRIMA, SI LA HAY, Y LOS INTERESES DE ESA DEUDA O CUALQUIER DEUDA DE REEMBOLSO (O PARA CREAR UNA RESERVA PARA DICHO PAGO)?; Y ¿ESA DEUDA PODRÁ DEMOSTRARSE CON LA EMISIÓN DE BONOS DE OBLIGACIÓN GENERAL U OTRAS OBLIGACIONES DE VARIOS AÑOS FISCALES PARA VENDERSE EN UNA SERIE O MÁS, A UN PRECIO MAYOR O MENOR A LA CANTIDAD PRINCIPAL CORRESPONDIENTE, EN TÉRMINOS Y CONDICIONES, Y CON LOS VENCIMIENTOS QUE SE PERMITAN POR LEY Y SEGÚN LO QUE LA CIUDAD PUEDA DETERMINAR, CON UN INTERÉS EN UNA TASA EFECTIVA NETA MÁXIMA QUE NO EXCEDA EL 5.00%?; Y ¿SE RECAUDARÁN, RETENDRÁN Y GASTARÁN DICHOS INGRESOS FISCALES, INGRESOS DE DEUDA Y GANANCIAS DE LA INVERSIÓN DE DICHOS INGRESOS DE DEUDA E INGRESOS FISCALES COMO UN CAMBIO DE INGRESOS APROBADO POR LOS VOTANTES BAJO EL ARTÍCULO X, SECCIÓN 20 DE LA CONSTITUCIÓN DE COLORADO O CUALQUIER OTRA LEY?

Sí ____ No _____

SUBJECT FOR DISCUSSION
Authorize the Mayor to Sign The NISP Letter of Intent for WIFIA Application Via Northern Water.

SUMMARY STATEMENT/BACKGROUND DISCUSSION
NISP Enterprise is seeking a Water Infrastructure Finance and Innovation Act ("WIFIA") loan as part of its NISP pooled financing program. The letter will be included in the WIFIA application materials, and its purpose is to show the participants support the loan. By signing the letter, the City is not obligated to participate in the pooled financing but allows for the option if wanted when the project gets through approvals.

Additional actions and approvals are required for Fort Lupton to enter into an Allotment Contract and those additional actions and approvals are not guaranteed.

FINANCIAL CONSIDERATIONS
This has no current financial impact as it is only an avenue being pursued from as a funding source for the project. The City will still need to enter into an allotment contract once the project is through all approvals in order for the City to have a financial obligation to participate in the project.

LEGAL/POLITICAL CONSIDERATIONS
If the City does not sign the WIFIA letter, such disapproval will likely be perceived negatively by other NISP participants, and could have a negative impact during review of the WIFIA application.

ALTERNATIVES/OPTIONS
Choose to Approve
Choose not to approve
Choose to modify the LOI

STAFF RECOMMENDATIONS

Attachments: a. NISP Letter of Intent

Certification of Council Approval:
Ordinance No. _______________ City Clerk _______ Date
Resolution No. _______________

Mayor Zo Stieber-Hubbard
130 S. McKinley Avenue Phone: 303.857.6694
Fort Lupton, CO 80621 Fax: 303.857.0351
Mayor@fortluptonco.gov
www.fortluptonco.gov

August 26, 2022

Carl Brouwer, PE
Project Management Department Manager
Northern Water
220 Water Ave
Berthoud, CO 80513

RE: NISP Letter of Intent

City of Fort Lupton understands the NISP Enterprise is seeking a Water Infrastructure Finance and Innovation Act ("WIFIA") loan as part of its NISP pooled financing program, a program in which City of Fort Lupton, at its discretion, will have the option to participate. Regardless of the Cities final decision whether to join the pooled financing program, the City supports the NISP Enterprise submitting a loan application to WIFIA for partial financing of NISP construction. We remain committed to funding the development of NISP as evidenced by our continued financial support, up to and including the 18^{th} annual NISP interim funding agreement, and also fully intend, based on the information available to it as of the date of this letter, and to the extent that Fort Lupton continues to participate in NISP, to contribute our proportional share to finance or fund the construction and operation of NISP.

Upon the reaching of certain NISP development milestones and agreement among the participating entities on satisfactory terms of an Allotment Contract, Fort Lupton intends to enter into an Allotment Contract with the NISP Enterprise. Among other things, the Allotment Contract will provide the framework by which NISP construction will be financed. Fort Lupton intends to pledge a portion or all of its Utility Enterprise revenues to meet its Allotment Contract financial obligations. All financial obligations under the Allotment Contract will be treated as operating expenses of the Utility Enterprise. This includes any payments to cover financing costs the NISP Enterprise incurs on Fort Lupton's behalf if, and to the extent, Fort Lupton joins the NISP pooled financing program.

Fort Lupton understands the Allotment Contracts will contain the following two provisions: (1) take-or-pay provisions, such that any obligations related to the pooled financing costs for Participants that join the NISP pooled financing program are paid irrespective of project performance including deliveries of water; and (2) "step- up" provisions where if a participant defaults in the payment of its obligations, the remaining participants will be required to accept a pro-rata share of and pay a pro-rata share for, and then will be entitled to proportionate benefits of, the defaulting participant's obligations.
City of Fort Lupton Council acting as the Utility Enterprise board is authorized to enter into such an Allotment Contract with the above terms by C.R.S. §§ 31-35-402(1)(h), 32-1-1101(1)(d), and 37-45.1-101, *et. seq.*

Additional actions and approvals are required for Fort Lupton to enter into an Allotment Contract and those additional actions and approvals are not guaranteed. Further, this letter does not commit Fort Lupton to joining the NISP pooled financing program. This letter is solely intended to reserve the NISP Pooled financing option for Fort Lupton, and specifically, to allow WIFIA to accept a NISP loan application from the NISP Enterprise. This letter does not confer benefits on any third parties, including, but not limited to, the other entities participating in the NISP Project

Sincerely,

Mayor Zo Stieber-Hubbard

City Council Meeting
Date: August 30, 2022
Staff: Chris Cross
- City Administrator

IM 2022-012

SUBJECT FOR DISCUSSION

Dig Deep 2-month extension of initial services agreement.

SUMMARY STATEMENT/BACKGROUND DISCUSSION

The City contracted with Dig Deep in November of 2021 to provide grant assistance for a 12 month timeline under its current scope. This 2 month extension allows us to finish out the 2022 year under that old scope as staff continues to work with them to identify, prepare and submit for funding opportunities.

This will allow for the 2023 scope of work to be presented later and budgeted in the annual budget process going forward.

FINANCIAL CONSIDERATIONS

There is remaining funds for grant match in the budget to continue the work.

LEGAL/POLITICAL CONSIDERATIONS

None.

Attachments:

- Service Agreement
- Amendment No. 1 to Services Agreement

Certification of Council Approval:
Ordinance No. _______________ | _________________________ City Clerk | __________ Date
Resolution No. _______________

Services Agreement

This agreement is made as of the 2ND day of Nov, 2021, by and between Dig Deep Research, LLC, a Colorado limited liability corporation ("Consultant"), and City of Fort Lupton ("Client").

Whereas, the Client intends that Consultant shall perform services for the Client relating to identification and application for grants and other infrastructure funding opportunities for capital improvement projects; and

Whereas, Consultant represents that it has the present capacity, is experienced and qualified to perform the services for the Client as hereinafter provided in this Agreement;

NOW, THEREFORE, in consideration of the promises and mutual covenants and obligations set forth herein, the Parties mutually agree as follows:

TERMS OF AGREEMENT

Section 1 - Scope of Work

A. Consultant agrees to provide the services as stated in the Scope of Work specified in ***Attachment A***, attached hereto and incorporated into this Agreement.

B. Nothing in this Agreement shall be construed as placing any obligation on the Client to proceed with any tasks beyond those which have been specifically authorized in writing by the Client.

C. The Client may, from time to time and in its sole discretion, require changes in the scope of the services of the Consultant to be performed herein. Changes may include, but not be limited to, the type and scope of services provided by Consultant. Such changes, which are mutually agreed upon between the Client and Consultant, shall be incorporated in written change orders, amendments, additional Scopes, or extensions to this Agreement.

Section 2 - Authority

A. Leann Perino, City Finance Director ("Project Manager") shall be the Client's Project Manager and the Client's authorized representative. The Project Manager is responsible for authorizing and approving all Work performed under this Agreement. The Project Manager is authorized to make decisions on behalf of the Client related to the Work.

B. Cheryl L. Kester ("Consultant's Representative") is Consultant's representative for the work. Consultant's Representative shall have sufficient authority to represent and bind Consultant in those instances when such authority is necessary to carry out Consultant's responsibilities and obligations under the terms of this Agreement.

Section 3 - Schedule

A. This Agreement shall go into effect upon the last date of execution by the Parties below, with work commencing on the date identified in Scope of Work specified in ***Attachment A***, or after final execution of this Agreement, whichever is later; and completing 12 months after date of commencing unless terminated prior thereto.

B. Client acknowledges Time shall be of the essence in Client's duty to respond to Consultant's requests for information or provision of documents, to make invoice payments and expense reimbursements, and to comply with any written notice of failure to cooperate. Failure to provide requested information or documentation by the date set by Consultant may impede progress of the Services. Similarly, Time is of the essence for Consultant to perform the Services.

Section 4 - Compensation

A. The compensation to be paid Consultant under this Agreement, as provided hereinafter, covers the entire cost of the Services under this Agreement. The initial compensation of this Agreement shall not exceed sixty-thousand and 00/100 dollars ($60,000) as more fully set forth in ***Attachment A***, attached hereto and incorporated into this Agreement. The Client may, from time to time and in its sole discretion, appropriate additional amounts to extend this Agreement and or add additional and/or continuing scope(s) of work.

B. The Client shall pay Consultant in accordance with the terms of this Agreement as reflected in the Fee Schedule set forth in ***Attachment A.***

C. Consultant shall submit monthly invoices to be approved by the Client's Project Manager. Consultant shall submit monthly invoices no later than the fifth (5th) calendar day of the month after which the work was performed; provided, however, that if that day falls on a weekend or holiday, then monthly invoices shall be submitted no later than close of business on the next regular business day of the month. Invoices shall paid within thirty (30) days of submission.

D. Client shall be responsible to reimburse Consultant for any Client-requested travel (at applicable Federal per diem and mileage rates) and any additional expenses incurred by Consultant at the request of Client. Any such expenses are in addition to the monthly retainer fee and shall be included in the subsequent invoice. Any such travel and other expenses shall be approved in advance by Client.

Section 5 - Staffing and Subcontractors

A. Consultant shall insure the quality, timeliness, and continuity of services are maintained through the duration of the project. Consultant shall avoid changes to key project personnel to the extent possible.

B. Consultant shall be responsible for any Work performed under this Agreement, including any portion of the Work performed by other individuals or firms. Nothing contained herein shall create any contractual relationship between any additional persons and/or firm(s) and the Client.

Section 6 - Client's Responsibilities

A. The Client shall:

1. Provide available information to Consultant that Consultant deems necessary to perform the Work;

2. Give prompt notice to Consultant whenever the Client observes or otherwise becomes aware of any deficiencies or discrepancies in the Services provided;

3. Furnish, or direct Consultant to provide, at the Client's expense, any necessary additional services, but only if approved by Client;

4. Examine all documents submitted by Consultant, and, if requested by Consultant, provide comments and decisions in a timely manner in order to allow the

Consultant's work to proceed.

5. Prepare, assemble, and submit any funding applications not covered by a Specific Task Order. Any decision by the Client not to submit a proposal for funding will not affect the terms of this contract.

B. Consultant shall not be liable for delays in performing the Work when such delays are caused by the Client, the Client's other Consultants, or by events which are outside of the control of the Parties and which events could not be avoided by the exercise of due care.

Section 7 - Mutual Obligations

A. This Agreement does not guarantee to Consultant any additional or future work except as expressly authorized herein.

B. This Agreement does not create or imply an exclusive agreement between Consultant and the Client.

C. The Services and any and all interests contemplated under this Agreement shall not be assigned or otherwise transferred except with the written consent of the Client.

D. All documents of any nature prepared by Consultant in connection with the Services provided by Consultant under the terms of this Agreement shall become the property of the Client.

Section 8 - Termination

A. Either party may terminate this Agreement upon written notice to the Project Manager or Consultant's Representative (as applicable). Electronic mail shall be considered adequate written notice.

B. In the event of termination by either party prior to completion of the Scope of Services described in ***Attachment A***, Consultant shall submit a final invoice for the applicable month which the termination notice is given consistent with the monthly payment schedule amount set forth in Attachment A, section A.3.A below. Client shall not be responsible for payment of any other amounts after a termination notice is given except for the applicable monthly retainer invoice due for the month in which the termination is given. The amount of the final invoice shall include all unpaid invoices and authorized expenses incurred up to the date of the termination notice.

C. Ownership of Work Product. In the event of termination, all finished and unfinished Project deliverables prepared by Consultant pursuant to this Agreement shall become the sole property of the Client, provided Consultant is compensated in accordance with this Agreement for all work performed in accordance with this Agreement up to the effective date of termination. Consultant shall not be liable with respect to the Client's subsequent use of any incomplete work product, provided Consultant has notified the Client in writing of the incomplete status of such work product.

Section 9 - General Provisions

A. Consultant will treat all information gained from Client as confidential and proprietary to Client.

B. Independent Contractor – The relationship of the Consultant to the Client shall be that of an independent contractor and not of an officer, employee, or agent of the Client. Nothing herein shall operate as a waiver of Client's rights under the Colorado Governmental Immunity Act. All such rights are reserved herein.

C. Integration – This Agreement (including ***Attachment A***) sets forth all of the terms and conditions of the consulting relationship between Consultant and Client. This Agreement may be modified only in writing signed by both parties.

D. Client understands that the Consultant will work diligently and zealously on their behalf, within the bounds of the Consultant's ethical obligations. Consultant cannot guarantee the outcome of any pursuit.

Section 10 - Indemnification

A. Consultant shall defend, indemnify and hold harmless the Client, its officers, directors, agents and employees, from any claims by a third party, including attorneys' fees, arising out of acts or omissions of Consultant in connection with work performed pursuant to this Agreement.

Section 11 - Severability

A. The provisions of this Agreement are severable; if any provision is held invalid or unenforceable, the Agreement shall be enforced to the maximum extent permissible and the remaining provisions will continue in full force and effect. Any modification of this Agreement will be effective only if in writing and signed by both Client and Consultant which explicitly states its intention to modify this Agreement.

Section 12 - Choice of Law and Choice of Forum

A. This Agreement shall be governed by the laws of the State of Colorado. In the event of any dispute arising from this Agreement, parties prefer to resolve without resorting to litigation. Any lawsuit arising from this Agreement shall be filed in the District Court of Weld County, Colorado.

Each of the undersigned has read and agrees to the foregoing terms and conditions:

Consultant: Dig Deep Research, LLC

By: DocuSigned by: 9CB6DEB3724E441... Date: 11/4/2021

Tia A. Cavender, CEO

Client: City of Fort Lupton

By: ______________________ Date: Nov. 2, 2021

[Name and Title]
Christopher Cross City Administrator

ATTACHMENT A:
SCOPE OF WORK FOR RETAINER SERVICES

Section A.1 - Background

This Scope of Work describes the activities, schedule and cost for monthly retainer services planned for the performance period of November 3, 2021 through November 2, 2022.

Section A.2 - Approach and Scope of Work

A. ***Project Kick-Off:*** Upon engagement, Consultant shall request completion of a Client Intake and Readiness Assessment and the provision of key background materials (such as Capital Improvement Plan). Consultant will host a conference call with Client to clarify objectives and goals, collaborate to identify priority projects, and map out the monthly work plan for the engagement.

Deliverables from Project Kick-off:

- Client readiness assessment checklist
- Memo documenting meeting outcomes

B. ***Research & Analysis*****:** Consultant will collaborate with Client to identify Client's most fundable capital improvement projects and produce an action plan for pursuing the most likely funding prospects in 2022 and 2023.

Deliverable from Research & Analysis: Two-year grants calendar and action plan

C. ***Consulting and Capacity-Building:*** Consultant will hold monthly conference calls to identify and address any potential gaps in grant-readiness and provide clear guidance on next steps to prepare to pursue grants. Consultant's services and deliverables will be customized based on Client needs, usually consisting of a combination of the following:

- Administering a government grants readiness assessment and making recommendations to improve readiness and competitiveness.
- Planning and facilitating meetings with state or federal funding agencies.

- Assisting with registrations in federal grants application and management systems (Grants.gov and the System for Award Management (SAM)).
- Obtaining standard federal Certifications and Assurances in preparation for submitting federal proposals.
- Providing Board and/or staff training in grant-seeking for capital projects.
- Using an objective matrix to assess funding notices for a go/no-go pursuit decision.
- Evaluating competitiveness for specific federal grants.
- Recommending ways to re-package or re-design projects to be more "fundable" to funding agencies.
- Designing the pursuit strategy for one or more top funding opportunities. The pursuit strategy consists of important planning, design, and budgeting work prior to beginning a funding application.
- Sharing best practices in grant-seeking and grants office management.
- Helping improve staff capacity to advance grant-seeking efforts.
- Facilitating funder cultivation events to targeted funding agencies.

Deliverables from Monthly Meetings:

- Post-meeting memo documenting meeting outcomes and action items

Section A.3 - Cost and Terms

A. The fee for a 12-month engagement to provide the Work described in this Scope is $5,000 per month, for a total not to exceed $60,000 per annum, not including reimbursable expenses.

B. If Client opts to pre-pay the annual retainer fee, a 3% reduction ($1,800) will be applied to the annual fee.

C. Client-requested travel shall be reimbursed to Consultant at applicable Federal per diem and mileage rates. Any such expenses are in addition to the monthly retainer fee and shall be included in the subsequent invoice.

Section A.4 - Project Specific Grant Services (Task Order Basis)

A. As specific grant opportunities are identified as part of the monthly retainer services, if Client requires additional assistance in preparing funding applications that is not otherwise part of the standard scope of work of this Agreement, Consultant may prepare a Scope of Work that may be adopted as a specific task order to provide the services required for the specific grant writing/procurement. Any such additional task order must be approved in writing by both parties hereto in order to be effective. Client shall provide engineering and administrative support as necessary and as identified within the project specific Scope of Work.

Deliverables for New Task Orders:

- Narrative Scope and cost estimate per specific grant pursuit

Amendment No. 1 to the Services Agreement

This Amendment No. 1 ("**Amendment**") is made on August 5, 2022 between Dig Deep Research, LLC ("**Consultant**") and the City of Fort Lupton ("**Client**") to the Services Agreement and its Attachment A ("**Agreement**"), signed November 2, 2021.

The parties have determined that it is in respective mutual best interest to extend the **Agreement** until January 2, 2023.

Now therefore, the parties acknowledge, represent and agree as follows:

1. The **Agreement** is hereby extended until January 2, 2023;
2. The compensation for this 2-month extension is $5,000 per month, for a total of $10,000, not including reimbursable expenses; and
3. Except as expressly set forth herein, all provisions of the herein described **Agreement** shall continue and remain in full force and effect.

DIG DEEP RESEARCH, LLC	CITY OF FORT LUPTON, CO
______________________	______________________
Tia Cavender CEO	Chris Cross City Administrator
______________________	______________________
Date	Date

City Council Meeting
Date: August 30, 2022
Staff: Thomas Samblanet
- Library Director

IM 2022-013

SUBJECT FOR DISCUSSION

New Library Facility Change Order

SUMMARY STATEMENT/BACKGROUND DISCUSSION

The Library has encountered the first budget changes to the building upon starting construction. These changes are accounted for in the current total budget for the project as voted on by Council. However, they will increase the amount of the contract with GH Phipps, the construction company on the project. These funds will come from the contingency set aside for the project by the project's Owner's Representative, Wember.

The largest added cost of this change is library staff opting into the addition of the optional steel canopy structure. This cost will allow for delay of the decision to purchase the full steel canopy until later in the project's lifecycle or post project completion.

The changes are as follows:

Sanitary sewer changes: $940.00

The existing sewer was discovered to be a larger size and deeper than shown on the bid plans.

Domestic Water Tie in Elevation: $5,258.00

The existing water point of connection which was found to be significantly deeper than indicated on the bid documents.

Exterior Canopy in Wall Steel and Foundations: $16,421.00

Added to project as an alternate. Library staff has opted to pay for this alternate to allow for the exterior steel canopy to be built later in the project's lifecycle or in future years.

Structural Steel Changes: $1,263.00

Structural steel changes to allow for the exterior canopy addition.

Credit – Sanitary Connection under Reynolds Street: $-9,627.00

The sanitary sewer connection is shown under Reynolds Street but was actually located south of the right-of-way.

Steel Connections for Future Canopy: $3,007.00

8 additional steel connection points to support the future installation of a canopy structure.

Credit – Book Drop: $-6,755.00

Bibliotheca, the book drop vendor, would not sell to GH Phipps, only a library. HPLD has purchased the book drop and a credit has been issued on the project. Library staff is negotiating with HPLD to see if they will pay for the book drop.

Total budget changes: $10,507.50

FINANCIAL CONSIDERATIONS

This change is accounted for in the project's contingency already voted on by City Council. It will result in an increase to the contract with the construction company GH Phipps, but will not account for an increase in the total budget for the project.

LEGAL/POLITICAL CONSIDERATIONS

None.

Attachments: NA

Certification of Council Approval:
Ordinance No. _______________
Resolution No. _______________

___________________________________ City Clerk

___________ Date