



-AGENDA-

CHAD EDWARDS, MAYOR

November 14, 2022

7:00 P.M.

THE TOWN OF EVANSVILLE

Council Members:

Candace Machado

Michael Scott

Dacia Edwards

Town Attorney Williams, Porter, Day & Neville

Town Engineer - WLC, Inc.

Town Clerk Janelle Underwood

Town Treasurer Lexi Erickson

Chief of Police Mike Thompson

Fire Chief Leo Malsom

P.W. Director Robert Lewallen

YouTube Channel <https://www.youtube.com/channel/UCB0HNSulhIk51ixwxexh55w>

Meeting called to order

Roll call

Pledge of Allegiance

Approval of Agenda

1) Consent Agenda

a. Approval of Minutes for October 24, 2022

b. Approval of Bills

2) Appointment of Greg Flesvig to Fill Vacant Council Seat

3) Approval of Temporary Use Agreement – Highwire Energy

4) Public Comments

5) Adjournment

AGENDA SUBJECT TO CHANGE WITHOUT NOTICE

P.O. DRAWER 158, EVANSVILLE, WYOMING 82636-0158

(307) 234-6530 • FAX: (307) 266-5109

www.townofevansville.org • EMAIL: townclerk@evansvillewy.com

RECORD OF PROCEEDINGS

Meeting of the Evansville Town Council, Evansville, Wyoming

October 24, 2022

The regular meeting of the Evansville Town Council of the Town of Evansville, County of Natrona, State of Wyoming, was held at 7:00 p.m. in the Council Chambers of the Town Hall.

The meeting was called to order by Mayor Chad Edwards at 7:00 p.m. and upon roll call the following were present: Council Members Candace Machado, Michael Scott, and Dacia Edwards, Town Attorney Scott Murray, Town Engineer Shane Porter, Chief of Police Mike Thompson, Fire Chief Leo Malsom, Public Works Director Robert Lewallen, Town Clerk Janelle Underwood, and interested citizens.

Mayor Chad Edwards led the Pledge of Allegiance.

APPROVAL OF AGENDA: Motion was made by Michael Scott and seconded by Dacia Edwards to approve the agenda. Motion carried.

APPROVAL OF CONSENT AGENDA:

- a) Approval of Minutes for Regular Meeting October 10, 2022
- b) Approval of Business License – Big Al's, Droptine Roofing, and Fire Protection Services

Motion was made by Michael Scott and seconded by Dacia Edwards to approve the Consent Agenda. Motion carried.

PUBLIC HEARING – 7:00 P.M.: Public Hearing for Grant Applications to WCDA (Wyoming Community Development Authority) for a CDBG (Community Development Block Grant) and CDBG-CV (Community Development Block Grant – Corona Virus). Town Engineer Shane Porter stated that the Public Hearing is to take public input to consider two grant applications that the Town would like to submit. Engineer Porter said that the intent is for the Town to apply for a Community Development Block Grant for another sidewalk project and a Community Development Block Grant – CV (Corona Virus) for a new park north of the Reshaw Subdivision.

Mayor Edwards opened the Public Hearing and asked for any public comments regarding the Community Development Block Grant applications that the Town is considering. There were no public comments. Mayor Edwards closed the public hearing.

ENGINEER'S REPORT: Town Engineer Shane Porter said that he had Resolution #2022-9, A Resolution Identifying a Local Government Citizen Participation Plan as Required for Application for Community Development Block Grant Funding (CDBG) Administered by the Wyoming Community Development Authority for the Town of Evansville for the Purpose of the Sidewalks Installation Project.

Motion was made by Dacia Edwards and seconded by Michael Scott to approve Resolution #2022-9. Motion carried.

Engineer Porter stated that he had Resolution #2022-10, A Resolution Authorizing the Submittal of a Community Development Block Grant (CDBG) application to the Wyoming Community Development Authority for the Purpose of Sidewalk Installation. He stated that the request amount is nine hundred eighty-one thousand one hundred forty-two dollars (\$981,142.00) and that it does not require a local match for the project if approved.

Motion was made by Michael Scott and seconded by Candace Machado to approve Resolution #2022-10. Motion carried.

Engineer Porter said that he had an Environmental Review and the Grant Application for the Sidewalk Project. He stated that he needed authorization for the Mayor to execute.

RECORD OF PROCEEDINGS

Meeting of the Evansville Town Council, Evansville, Wyoming

October 24, 2022

Motion was made by Michael Scott and seconded by Candace Machado authorizing the Mayor to execute the Environmental Review and the Grant Application for the Sidewalk Project. Motion carried.

Engineer Porter stated that he had Resolution #2022-11, A Resolution Identifying a Local Government Citizen Participation Plan as Required for Application for Community Development Block Grant Funding Corona Virus Funding (CDBG-CV) Administered by the Wyoming Community Development Authority for the Town of Evansville for the Purposes of the New Park Project.

Motion was made by Michael Scott and seconded by Candace Machado to approve Resolution #2022-11. Motion carried.

Engineer Porter stated that he had Resolution #2022-12, A Resolution Authorizing the Submittal of a Community Development Block Grant Corona Virus (CDBG-CV) application to the Wyoming Community Development Authority for the Purpose of the New Park. He said that the request amount is one million sixty-eight thousand five hundred sixty-six dollars (\$1,068,566.00) and that it does not require a local match for the project if approved.

Motion was made by Michael Scott and seconded by Dacia Edwards to approve Resolution #2022-12. Motion carried.

Engineer Porter stated that he had an Environmental Review and the Grant Application for the New Park Project. He stated that he needed authorization for the Mayor to execute.

Motion was made by Dacia Edwards and seconded by Michael Scott to authorize the Mayor to execute the Environmental Review and the Grant Application for the New Park Project. Motion carried.

Motion was made by Michael Scott and seconded by Candace Machado to approve the Engineer's report. Motion carried.

AWARD OF BID FOR PATROL UNIT: Town Clerk Janelle Underwood advised that the Town had advertised for bids for a new 2022 Dodge Durango Pursuit vehicle. She stated that Fremont Motors bid came in at forty-eight thousand four hundred fifty dollars (\$48,450.00) with a trade in of a 2017 Ford Explorer for ten thousand dollars (\$10,000.00) which brings the bid total to thirty-eight thousand four hundred fifty dollars (\$38,450.00).

Motion was made by Michael Scott and seconded by Candace Machado to award the bid in the amount of thirty-eight thousand four hundred fifty dollars (\$38,450.00) for the 2022 Dodge Durango Pursuit vehicle. Motion carried.

PUBLIC COMMENTS: Council Member Dacia Edwards stated that recently the Public Works Department had to replace her water meter and stated that she would like to thank them for their professionalism and promptness. She stated so often people hear about what you have done wrong, but never what you have done right. She just wanted them to know how much she appreciated it.

Council Member Candace Machado stated the Town will be hosting the Maze of Abomination on October 29th, October 30th, and October 31st, from 6:00 p.m. to 10:00 p.m. and the event is free. She stated that the Police Department and Fire Department have been hard at it to make this a spooktacular event.

Mayor Edwards stated that Evansville has a friendly challenge with the Bar Nunn Fire Department for a Fright Fight and that he encourages everyone to come out and cast their vote for the Evansville Maze of Abomination.


RECORD OF PROCEEDINGS

Meeting of the Evansville Town Council, Evansville, Wyoming

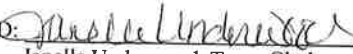
October 24, 2022

ADJOURNMENT: There being no further business, motion was made by Michael Scott and seconded by Dacia Edwards to adjourn at 7:10 p.m. Motion carried.

APPROVED: _____


Chad Edwards, Mayor

ATTESTED: _____


Janelle Underwood, Town Clerk

TEMPORARY USE AGREEMENT

THIS AGREEMENT is entered into this ____ of November, 2022, by and between the Town of Evansville, Wyoming, organized under the laws of the State of Wyoming, ("Town"), with offices at 235 Curtis Street, Evansville, Wyoming, 82636, and Highwire Energy Partners, LLC ("Operator"), whose address is P.O. Box 51208, Casper, WY 82605.

RECITALS

A. The Operator is in the process of deploying containerized data centers (the "Project") within the Town of Evansville;

B. The Parties became aware that the Project and the Operator's intended use of the subject property may not comply with current Town of Evansville zoning regulations;

C. The Operator has submitted an application to the Town of Evansville for a Conditional Use Permit allowing for continued construction and operation;

D. The Parties desire to enter into a temporary agreement whereby the Operator may continue its construction of the Project pending the outcome of the Conditional Use Permit process;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN, THE TOWN AND THE OPERATOR AGREE AS FOLLOWS:

1. License. The Town grants to the Operator a non-exclusive revocable license to locate, construct, operate and maintain a containerized data center project within the portions of the Town (See Map Attachment A).

2. Maintenance. The Operator shall, at its expense, maintain the lands in good condition.

3. General Obligations with Respect to Initial Construction and Maintenance Work.

a. All work performed by the Operator pursuant to this Agreement shall be done:

- i. In a good workmanlike manner, and
- ii. In a timely and expeditious manner, and
- iii. In a manner which minimizes inconveniences to the public and individuals, and
- iv. In accordance with all applicable codes, rules and regulations of the Town.

b. Inspection – All work performed by the Operator shall be subject to inspection by the Town. The contractor performing the work shall apply for any required permits prior to commencement of any work. The Operator shall promptly perform reasonable remedial action as required by the Town pursuant to any inspection.

c. Construction – The design, construction and maintenance of the Project shall

be the sole responsibility of the Operator.

d. Any Town streets and sidewalks disturbed by the construction of the Project shall be restored to their original construction to the satisfaction of the Town Engineer.

4. Indemnification and Release. The Operator shall indemnify, defend and hold harmless the Town against all liabilities, damages and claims which result or arise from any act or omission of Operator, including those of its employees, agents or sub-contractors, regarding, pertaining to or arising from the design, construction, operation, use or maintenance of the Project.

5. Compliance with Laws. The execution of this Agreement shall not relieve the Operator from complying with provisions of the Evansville Town Code and any other federal, state, or local laws, rules, and regulations pertaining to Operator's improvements, including compliance with zoning ordinances and subdivision regulations nor shall this Agreement be construed as approval by the Town to construct the improvements contemplated by the Operator to the extent that Town approvals or permits are otherwise required by the Evansville Town Code or state statute.

6. Force Majeure. Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event and takes reasonable steps to minimize delays. This provision shall not be effective until the failure to perform is beyond the control and without fault or negligence of the nonperforming party.

7. Termination. Either party may terminate this Agreement for any reason with thirty (30) day's written notice to the other party. The Town may terminate this Agreement within the event of a material breach by Operator, which material breach Operator does not promptly cure within seven (7) days after receiving written notice from the Town informing Operator of the breach. In either case, upon termination, Operator shall cease construction of the Project until further notice.

8. Assignment. Operator may not assign any or all its duties and responsibilities set forth in this Agreement without the prior written permission of the Town.

9. Sovereign Immunity. The Town expressly retains all rights and benefits of governmental immunity in accordance with the Wyoming Governmental Claims Act, Wyoming Statute §§ 1-39-101 et seq. Nothing in this Agreement shall be deemed as a waiver of sovereign immunity or as increasing the Town's liability beyond any statutory limitation of liability.

10. Insurance. Operator shall obtain and maintain, and shall require any of its permitted subcontractors to obtain and maintain, not less than the insurance set forth below:

a. **Workers' Compensation:** Statutory; and employer's liability insurance covering death or injury to any person or persons, or damage to property arising from the operations of vehicles or equipment, with limits of not less than \$1,000,000 per occurrence.

b. **Commercial General Liability:** Written on a per occurrence basis to include coverage for: Broad Form Property Damage; Bodily Injury; Personal Injury; Blanket Contractual Liability; and Products/Completed Operations, with a combined single limit per Occurrence not less than \$2,000,000.

c. **Automotive Liability:** Covering death or injury to any person or persons, or damage to property arising from the operation of vehicles or equipment, for all vehicles owned, hired, non-hired, non-owned and borrowed by contractor in the performance of the obligations covered under this Agreement, with limits of not less than \$1,000,000 per occurrence.

11. **Notices.** All notices shall be in writing and shall be delivered by personal service, certified mail return receipt requested or by overnight delivery, with proof of delivery. Any such notice shall be deemed effective on the date of personal service or mailing. All notices shall be addressed to the parties as specified below, or such other address as a party may update in writing to the other party from time to time:

Town: Town of Evansville
235 Curtis Street, PO Box 158
Evansville, Wyoming 8263
Attention: Chad Edwards, Mayor

Operator: Highwire Energy Partners, LLC
Attn.: Kris Holbrook
P.O. Box 51208
Casper, WY 82605

a. **Wyoming Law.** This Agreement is to be governed by the laws of the State of Wyoming. Venue for any litigation shall be in Natrona County.

b. **Counterparts.** This Agreement may be executed in two or more counterparts, using manual or facsimile signature, each of which shall be deemed an original and all of which together shall constitute one and the same document.

c. **Severability.** If any term, covenant, or condition of this Agreement is deemed by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall be binding upon the parties.

d. **Entire Agreement.** This Agreement constitutes the entire agreement between

the parties and supersedes all other prior and contemporaneous agreements, representations, and understandings of the parties regarding the subject matter of this Agreement. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by the parties. No representations or warranties whatever are made by any party to this Agreement except as specifically set forth in this Agreement or in any instrument delivered pursuant to this Agreement.

e. Default/Attorney's Fees. In the event of default of any of the provisions herein, the defaulting party shall be liable to the non-defaulting party for all reasonable attorney fees, legal expenses and costs incurred as a result of the default.

f. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by either party shall not constitute a waiver of any of the other terms or obligations of this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed and executed this Agreement the day first written above.

TOWN OF EVANSVILLE

Chad Edwards
Mayor

Date

ATTEST:

Janelle Underwood
Town Clerk

Date

OPERATOR:

HIGHWIRE ENERGY PARTNERS, LLC:

By: _____
Kris Holbrook, Manager

Date