



2. The documents related to the bonds and the bonds themselves are public records “made, maintained, or kept” by the Town of Nederland “for use in the exercise of functions required or authorized by law or administrative rule.” *See* § 24-72-202(6)(a)(I), C.R.S.

3. As set forth more fully below, the bonds and related documents do not fall within any exemption to CORA’s “strong presumption in favor of disclosing records.” *See Jefferson Cnty. Educ. Ass’n v. Jefferson Cnty. Sch. Dist. R-1*, 378 P.3d 835, 838 (Colo. App. 2016).

4. The PLOM and related documents are not exempted under § 24-72-204(3)(a)(IV), C.R.S., because material a municipality has produced or coauthored is a public record, subject to disclosure. *See Zubeck v. El Paso Cty. Retirement Plan*, 961 P.2d 597, 600 (Colo. App. 1998).

5. The PLOM and related documents are not subject to any exemption under § 24-72-204(1)(b), C.R.S., as Defendant has not demonstrated that disclosure of the sought documents would violate federal securities law.

6. Likewise, Defendant cannot cloak all sought documents as “appraisal materials” under § 24-72-204(2)(a)(IV), C.R.S.

7. Defendant’s purported non-disclosure agreement between itself and the involved private entities is a public record subject to disclosure under § 24-72-202(6)(a)(I), C.R.S.

8. Accordingly, Plaintiff respectfully requests that the Court enter an order directing Defendant to allow Plaintiff to inspect the PLOM and related materials. As set forth further below, the Court should also direct Defendant to waive any costs associated with retrieving the requested records and award Plaintiff reasonable costs and attorney’s fees associated with this matter, pursuant to § 24-72-204(5), C.R.S., and/or § 24-72-203(3.5)(c), C.R.S.

### **Jurisdiction & Parties**

9. This Court has jurisdiction over the claims herein under § 24-72-204(5) of CORA, §§ 24-72-201 *et seq.*, C.R.S. Upon information and belief, the bonds and related documents—the “public records” that is the subject of this action—can be found in this judicial district.

10. Plaintiff BusinessDen LLC (“BusinessDen”) is the publisher of BusinessDen.com, a source for breaking business news in and around Denver, Colorado. BusinessDen is located at 1428 15th Street, Denver, CO 80202.

11. Defendant Macy Caligaris, the Town Clerk for the Town of Nederland (the “Town”), is sued in her official capacity as the custodian of the proposed bond and related documents—the public records that are the subject of this action. *See* § 24-72-202(1.1), C.R.S.

## **Factual Background**

12. In January 2025, the Town announced its interest in acquiring Eldora Ski Mountain from POWDR Corp. According to a page posted to the Town’s website on January 6, 2025 titled “Eldora Mountain Acquisition FAQ Round 1” purporting to contain responses to Frequently Asked Questions (“FAQ”s), the purpose of the acquisition was purported to be in part for public benefit, by offering year-round mountain access and stimulating local economic growth. A true and correct copy of the page as it appeared on January 6, 2025, as preserved by the Internet Archive at the URL <https://web.archive.org/web/20260109000538/https://www.nederlandco.gov/home-page/page/eldora-mountain-acquisition-faq-round-1> is attached as **Exhibit 1**.<sup>1</sup>

13. Upon information and belief, on January 6, 2026, the Board of Trustees of the Town (“Board of Trustees”) approved Ordinance 882, allowing the purchase of Eldora Mountain Resort for at least \$120 million. The total is subject to adjustment as set forth in the “Asset Purchase Agreement.”<sup>2</sup> A true and correct copy of the Agenda and Meeting Minutes of the January 6, 2026 Board of Trustees Meeting is attached as **Exhibit 2**, and **Exhibit 3**.

14. On January 20, 2026, the Town’s Board of Trustees approved Ordinance 885, authorizing the financing of the acquisition of Eldora Mountain Resort by issuing bonds through the Town’s “Mountain Recreation Enterprise.” The bonds are set to “finance the acquisition, improvement, and equipping of Eldora Mountain Resort and Related project costs.”<sup>3</sup> A true and correct copy of the Agenda and Meeting Minutes from the January 20, 2026 meeting that discusses the Eldora Ski Resort purchase and Ordinance 885 are attached as **Exhibit 4** and **Exhibit 5**.

15. Upon information and belief, those bonds will be offered only to a limited group of qualified institutional and accredited investors, and the aggregate principal amount cannot exceed \$225 million. A true and correct copy of Ordinance 885 is attached as **Exhibit 6**.

16. A true and correct copy of the draft of the Indenture of Trust between the Town, by and through its Mountain Recreation Enterprise, and U.S. Bank Trust Company, National Association as Trustee is attached as **Exhibit 7**. The document was published by the Town along with the approval of Ordinance 885; and, contained in that document is a draft of the Form of Series of Bonds as Exhibit B.

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<sup>1</sup> Upon information and belief, this page, explaining the Town’s position on the financing and acquisition of the Eldora Ski Mountain, was available for public view on the Town’s website as of July 31, 2026, and now are not. A true and correct copy of the error message received when attempting to access the once viewable January 6, 2025 page is attached at **Exhibit 12** (and another FAQ 5 page, once available but is now unavailable, is attached as **Exhibit 13**).

<sup>2</sup> Board of Trustees Agenda Information Memorandum, Town of Nederland (Jan. 6, 2026), <https://perma.cc/V2NZ-N965>.

<sup>3</sup> Board of Trustees Agenda Information Memorandum, Town of Nederland (Jan. 20, 2026), <https://perma.cc/3MGT-VFBM>.

17. In a FAQ response on a web page titled “Eldora FAQ 7.0” posted to the Town’s website on July 23, 2026, the Town stated that it expects the bonds to cover completely the purchase of the Eldora Mountain Resort and does not anticipate needing to seek a voter-approved tax increase in order to pay for expenses related to purchase.<sup>4</sup>

18. Upon information and belief, the Town of Nederland and POWDR Corp. planned to close the contract for the purchase of the Eldora Mountain Resort by April 30, 2026, but delays have stalled the completion of the transaction.<sup>5</sup>

19. On May 1, 2026, Thomas Gounley, a reporter with BusinessDen, sent a CORA request on behalf of BusinessDen to Macy Caligaris, the Town Clerk for the Town of Nederland. That CORA request, a true and correct copy of which is attached as **Exhibit 8** and incorporated by reference, stated:

I am seeking a copy of all documents prepared for and being provided to potential buyers of bonds being issued by Nederland in conjunction with its planned purchase of the Eldora ski area.

**Exhibit 8** (hereinafter “BusinessDen Request”).

20. On August 28, 2025, Mr. Gounley received an email response from Ms. Caligaris denying the BusinessDen Request. This denial, a true and correct copy of which is attached as **Exhibit 9** and incorporated by reference, stated:

The Town of Nederland acknowledges receipt of your request under the Colorado Open Records Act (“CORA”). The records responsive to your request are exempt from disclosure pursuant to C.R.S. § 24-72-204(3)(a)(IV), as they were provided to prospective investors under a non-disclosure agreement and contain confidential commercial information. By the delivery of this response to you, the Town has responded to your request in accordance with CORA. C.R.S. sec. 24-72-203.

**Exhibit 9.**

21. On May 21, 2026, in response to this denial, previous counsel for BusinessDen submitted written notice as required under § 24-72-204(5)(a), C.R.S., indicating that it would file an Application to Show Cause regarding the blanket denial. A true and correct copy of that letter is attached as **Exhibit 10** and incorporated by reference.

22. On May 27, 2026, counsel for the town of Nederland responded to BusinessDen’s letter, confirming denial based on § 24-72-204(3)(a)(IV), C.R.S. because the sought PLOM and related records include confidential commercial information furnished to the Town of Nederland

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<sup>4</sup> Eldora FAQ 7, Town of Nederland (July 23, 2026), <https://perma.cc/T2L5-ZYMS>.

<sup>5</sup> Thomas Gounley, *Nederland’s Eldora Bill Top \$800K with Purchase still yet to Close*, BusinessDen (July 6, 2026), <https://businessden.com/nederlands-eldora-bills-top-800k-with-purchase-still-yet-to-close/> (<https://perma.cc/S9FM-6XXT>).

by two private entities, POWDR Corp. and Alterra Mountain Company. A true and correct copy of which is attached as **Exhibit 11** and incorporated by reference, stated:

The PLOM and related investor presentation contains confidential commercial information furnished to the Town by private parties, including POWDR Corp. and Alterra Mountain Company, within the meaning of § 24-72-204(3)(a)(IV), C.R.S. POWDR is a private corporation that operates Eldora Mountain Resort and is not subject to CORA or any other public disclosure requirements.

23. The May 27, 2026, response letter contains an additional basis for denial under § 24-72-204(2)(a)(IV), C.R.S., stating:

The PLOM also contains evaluation materials developed in connection with the proposed acquisition of the ski area, including a market study, environmental assessment, property condition report, and water resource evaluations. These evaluation materials are analogous to valuation and appraisal-type analyses prepared in connection with a governmental acquisition, which the General Assembly has recognized as sensitive in certain contexts. *See* § 24-72-204(2)(a)(IV), C.R.S.

**Exhibit 11.**

24. The May 27, 2026, response letter contains an additional basis for denial under § 24-72-204(1)(b), C.R.S., stating:

[T]he Town is authorized to deny inspection pursuant to § 24-72-204(1)(b), C.R.S. because production of a redacted version would result in a materially misleading disclosure document and therefore would be contrary to federal [securities] law.

**Exhibit 11.**

25. Pursuant to § 24-72-204(5)(a), C.R.S., counsel for Plaintiff and Defendant conferred via Zoom on June 30, 2026, to determine if this dispute could be resolved.

**Applicable Law**

26. The Colorado Open Records Act, §§ 24-72-201 *et seq.*, C.R.S., declares that it is the public policy of the State of Colorado that “all public records shall be open for inspection by any person at reasonable times,” unless specifically exempted by statute. § 24-72-203(1)(a), C.R.S.

27. Under CORA, a public record “means and includes *all writings* made, maintained, or kept by the state, any agency, institution, a nonprofit corporation incorporated pursuant to section 23-5-121(2), C.R.S., or political subdivision of the state, or that are described in section 29-1-902, C.R.S., and held by any local-government-financed entity for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds.” *See* § 24-72-202(6)(a)(I), C.R.S. (emphasis added).

28. CORA defines “writings” to include “all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. ‘Writings’ includes digitally stored data, including without limitation electronic mail messages, but does not include computer software.” *See* § 24-72-202(7), C.R.S.

29. Given CORA’s “strong presumption in favor of disclosing records,” *see Jefferson Cnty. Educ. Ass’n*, 378 P.3d at 838, “[e]xceptions to the Act should be narrowly construed,” *see Daniels v. City of Commerce City, Custodian of Records*, 988 P.2d 648, 650–51 (Colo. App. 1999).

30. CORA’s trade secrets exemption, § 24-72-204(3)(a)(IV), C.R.S., only applies to information that is provided to the government by private parties, but not to information that the government either generated itself or authored with others. *See Zubek v. El Paso Cty. Retirement Plan*, 961 P.2d 597, 600 (Colo. App. 1998). A custodian is required to produce, in full or in redacted form, material that it generated or coauthored.

### **Claim for Relief**

#### **Request for Access to Public Records under CORA (§ 24-72-204(5), C.R.S.)**

31. Paragraph Nos. 1 through 30 above are incorporated herein by reference and made a part hereof with the same force and effect as if fully set forth herein.

32. The PLOM and all related materials, including but not limited to Defendant’s purported non-disclosure agreement, are “writings” under CORA and therefore constitutes public records. *See* § 24-72-202(6)(a)(I), C.R.S.; § 24-72-202(7), C.R.S.

33. Under CORA, any person may request access to inspect and obtain a copy of any public record, unless specifically exempted by statute. § 24-72-203(1)(a), C.R.S.

34. The PLOM and related materials are not exempt from disclosure under any of CORA’s narrow exemptions or under federal securities law.

35. Because Defendant has denied valid requests under CORA for inspection of these public records, Plaintiff is entitled to an order from the Court directing Defendant to show cause “at the earliest practical time” why she should not provide access to the PLOM and related documents. *See* § 24-72-204(5), C.R.S.

36. Plaintiff provided Defendant with written notice, pursuant to § 24-72-204(5), C.R.S., on April 29, 2026, prior to filing this Complaint and Application for Order to Show Cause.

37. Plaintiff is entitled to an award of its reasonable attorney’s fees and costs in enforcing their right of public access to these public records, pursuant to § 24-72-204(5)(b), C.R.S., should the Court find that Defendant’s denial was improper.

**Prayer for Relief**

WHEREFORE, pursuant to § 24-72-204(5), C.R.S., Plaintiff prays that:

- a. The Court enter an Order directing Defendant to show cause why the government should not allow Plaintiff to inspect the requested public record as described in this Complaint and Application for Order to Show Cause;
- b. If necessary, the Court review the relevant documents *in camera* to determine whether such documents are subject to disclosure;
- c. The Court, at the conclusion of the Show Cause Hearing, enter an Order declaring that the Preliminary Limited Offering Memo and related documents are not exempted from disclosure under CORA;
- d. The Court enter an Order directing Defendant to provide Plaintiff access to the Preliminary Limited Offering Memo and related documents, at no cost, and attorney's fees if Plaintiff prevails pursuant to § 24-72-204(5)(b), C.R.S.; and
- e. The Court award such other and further relief as the Court deems proper and just.

Respectfully submitted this 4<sup>th</sup> day of September, 2026.

/s/ Rachael Johnson  
Rachael Johnson  
Reporters Committee for Freedom of the Press  
*Attorney for Plaintiff*  
*BusinessDen*

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of September, 2026, a true and correct copy of the foregoing **COMPLAINT (With Application for Order to Show Cause)** was served on the following counsel through the Colorado Courts E-File & Serve electronic court filing system, pursuant to C.R.C.P. 121(c), § 1-26:

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/s/Rachael Johnson  
Rachael Johnson