



1309 Elkhorn Drive
Vail, Colorado 81657
vailgov.com

Public Works/Transportation Department
970.479.2158
970.479.2166 fax

**TOWN OF VAIL
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
1309 Elkhorn Drive
Vail, CO 81657**

**REQUEST FOR PROPOSALS
FOR
LANDSCAPE BUFFER WORK - FIRE FREE FIVE**

August 19, 2022

The Town of Vail Department of Public Works is seeking a qualified contractor to perform landscaping services near town-owned buildings. The work will include removal of combustible grasses and wood mulch, removal or relocation of shrubs, and installation of non-combustible mulch such as gravel or cobble. The work will be performed during the fall of 2022.

BACKGROUND

The Vail Town Council is considering legislation, known as the *Fire Free Five*, that would create a five-foot non-combustible zone around every structure in Vail, both public and private. Prior to requiring compliance for private structures, the Council has requested that all town-owned structures undergo the work required to be compliant with the proposed ordinance. The components of compliance are as follows:

Arbor Work (by others)

- Remove trees where the tree trunk is within 5' of the structure
- Prune branches from trees where the branches are within 2' of the roof structure
- Trees planted outside the 5' zone that hang over into the zone must be limbed up to a height of 6' or 1/3 the total height whichever is less and must be trimmed to leave at least a 2' gap between the nearest branch and the building
- Remove shrubs where any branches/vegetation are within 5' of the structure

Landscape Buffer Work

- Remove combustible wood mulch within 5' of the structure
- Remove non-irrigated "native" grass within 5' of the structure
- Within the 5' non-combustible zone, the following are allowed:
 - Hardscaping such as on-grade patios, walkways, driveways, etc.
 - Non-combustible mulches such as cobble, gravel, pea gravel, etc
 - Well-maintained and irrigated lawn
 - Perennial flower beds and groundcovers

REQUIRED LANDSCAPE BUFFER WORK

Town staff has evaluated each town-owned structure. They are prioritized as Priority 1,2 or 3. The work under this Proposal shall be Priority 1 and several Priority 2 structures. Additional structures may be added depending on cost, schedule, and contractor availability.

Town staff will:

1. Attach color-coded flagging on each shrub to be removed or relocated
2. Walk each structure/project site with the selected contractor prior to any work
3. Provide project management assistance to establish staging areas, parking and safe work areas as needed to perform the work at each public facility.

The selected contractor will:

1. Work with Town of Vail staff including the town landscape architects and the wildland program manager during the project, and coordinate with the selected Arbor Work contractor since work areas overlap.
2. Provide work areas and traffic control as needed to ensure public safety. This may include vehicular and pedestrian traffic control.
3. Work with town staff to develop a project schedule
4. Remove and dispose of combustible grasses, mulches and shrubs in indicated areas. Installation of non-combustible mulches.

SCHEDULE

It is anticipated that landscape work can begin on or around Monday, September 26. The sequence of work shall be determined by the selected contractor in coordination with the Town of Vail. It is important to note that the Arbor Work will likely be occurring during the same timeframe. The majority of Landscape Work this year will include removal of combustible grasses/mulch and the installation of gravel/cobble buffers. Most planting work will occur in 2023. Coordination with the selected arbor contractor may be required.

| | |
|------------------|---|
| August 19, 2022 | Request for Proposals advertised |
| August 23, 11 am | Pre-Bid Meeting and Sample Walkthrough |
| August 30 | Last Day for Questions |
| August 31 | Proposals Due , 12:00 pm via email |
| September 26 | Work may begin pending a signed contract |
| October 28 | General Completion of the Priority 1 facilities |

UNIT COST PROPOSAL

This project shall be paid on a Unit Price Basis for most items. This will allow for flexibility in the way the work proceeds and will ensure the selected contractor is paid for the work completed. The Proposal Form provides estimated quantities for the various bid items, however final quantities may increase or decrease depending on how the work proceeds. Areas will be measured during a walkthrough with the Town of Vail Project Manager and the Contractor's designated representative.

PRE-BID MEETING

A pre-bid meeting will be held at the Vail Municipal Building. The intent of the meeting is to walk through one of the project areas to help bidders understand the scope of work. The meeting will be on **Tuesday, August 23 at 11:00 am**. The address is 75 South Frontage Road West.

TOWN OF VAIL CONTACT INFORMATION

Town of Vail
Attn: Gregg Barrie
1309 Elkhorn Drive
Vail, CO 81657

Email: gbarrie@vailgov.com
Office: (970) 479-2337
Mobile: (970) 390-3286

PROPOSAL REQUIREMENTS

Proposals are due by Wednesday, August 31, 2022 by 12:00 p.m

All Proposals shall be submitted in PDF format by email to Gregg Barrie at gbarrie@vailgov.com. An email confirming receipt will be sent prior to reviewing proposals. Proposals will be opened and reviewed at the date and time they are due.

1. Contractor/company information including name, primary contact, address, and phone
2. Provide a list of experience with similar types of work, including references
3. A statement describing crew size, equipment types, work methods, and an anticipated schedule including general start/end dates.
4. Completed Proposal Form

End of Section

Attachments:

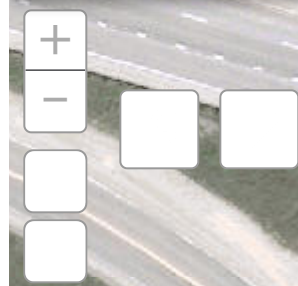
1. List of Priority 1 Structures
2. Maps of each work area
3. Bid Item Descriptions
4. Proposal Form
5. Sample General Services Agreement

Appendix A

Town of Vail Priority 1 Structures

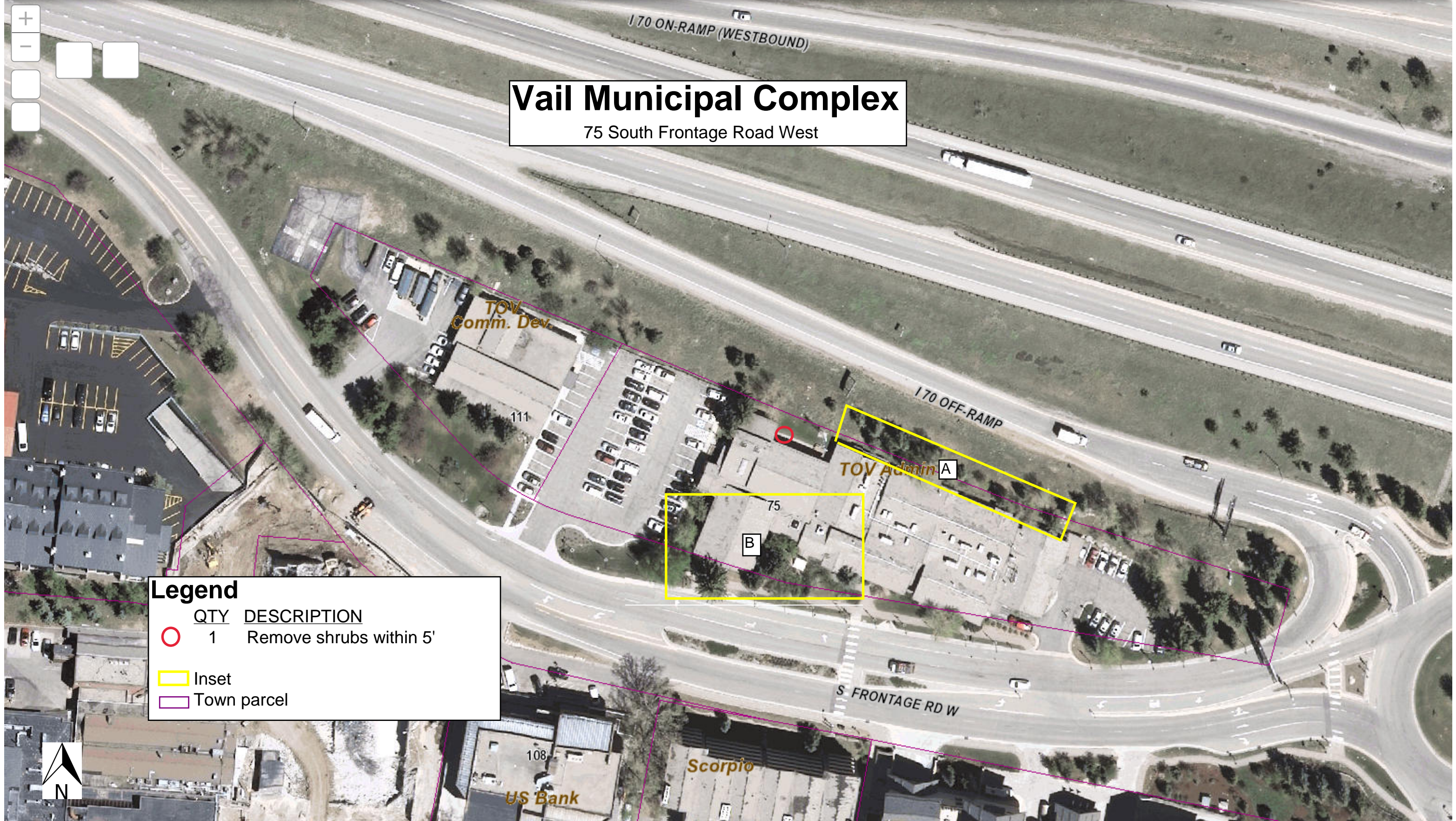
This list shows town-owned structures that are to be included in this project.

| Facility | Address | Add'l Description |
|-------------------------------|-----------------------------|--|
| <u>Municipal Facilities</u> | | |
| Vail Municipal Complex | 75 South Frontage Road West | Administration, Police and Community Development |
| Fire Station 1 (East Vail) | 4116 Columbine Drive | |
| Fire Station 2 (Vail Village) | 42 West Meadow Drive | |
| Fire Station 3 (West Vail) | 2399 Arosa Drive | |
| Vail Library | 292 West Meadow Drive | |
| Lionshead Welcome Center | 395 South Frontage Rd West | |
| Village Parking Structure | 241 South Frontage Rd East | |
| Public Works Administration | 1309 Elkhorn Drive | |
| Public Works Housing | 1309 Elkhorn Drive | |



Vail Municipal Complex

75 South Frontage Road West



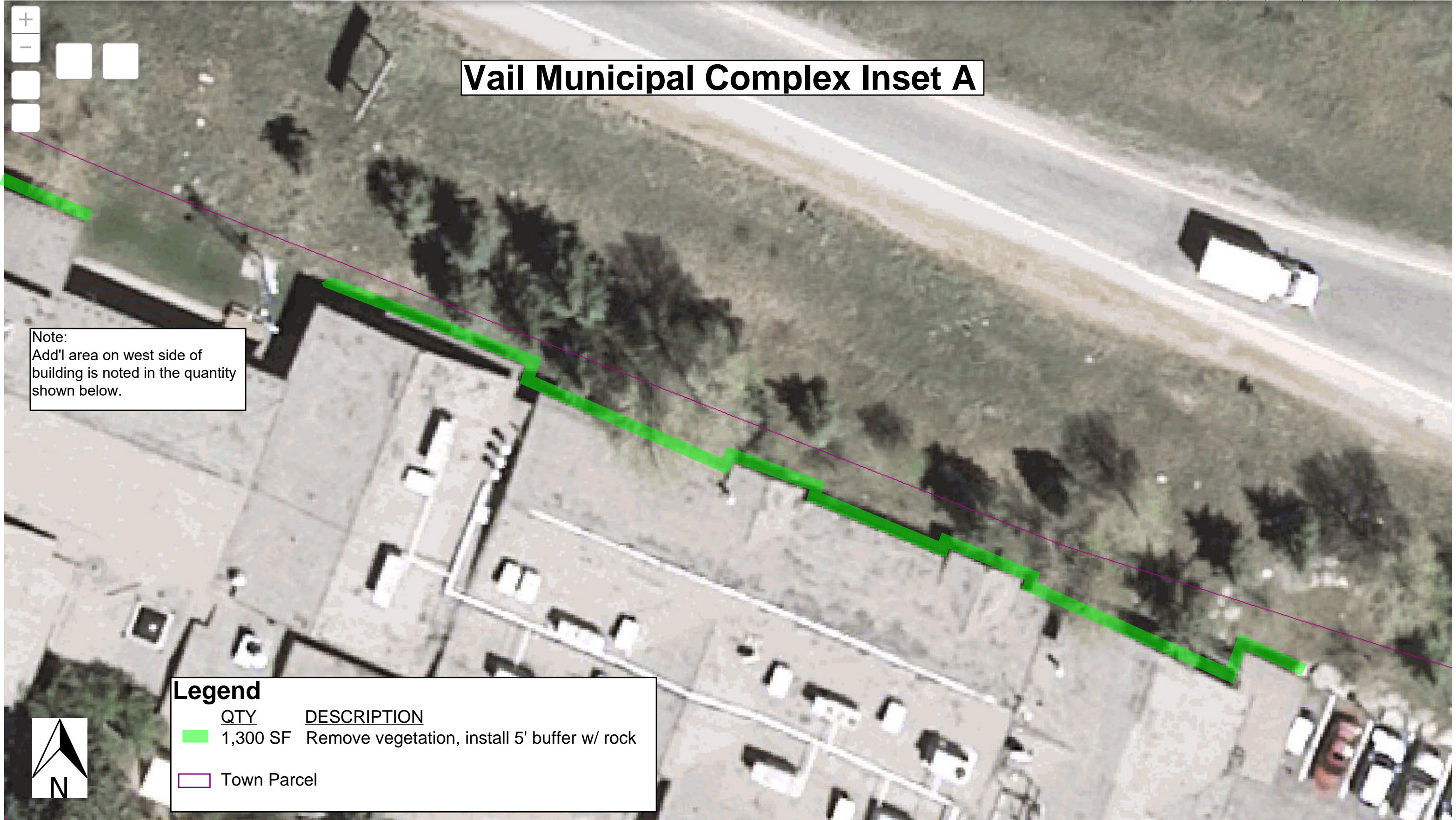
Legend

| QTY | DESCRIPTION |
|-----|-------------------------|
| 1 | Remove shrubs within 5' |
| | Inset |
| | Town parcel |



60ft
-106.379 39.643 Degrees

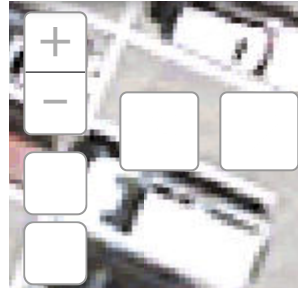
Vail Municipal Complex Inset A



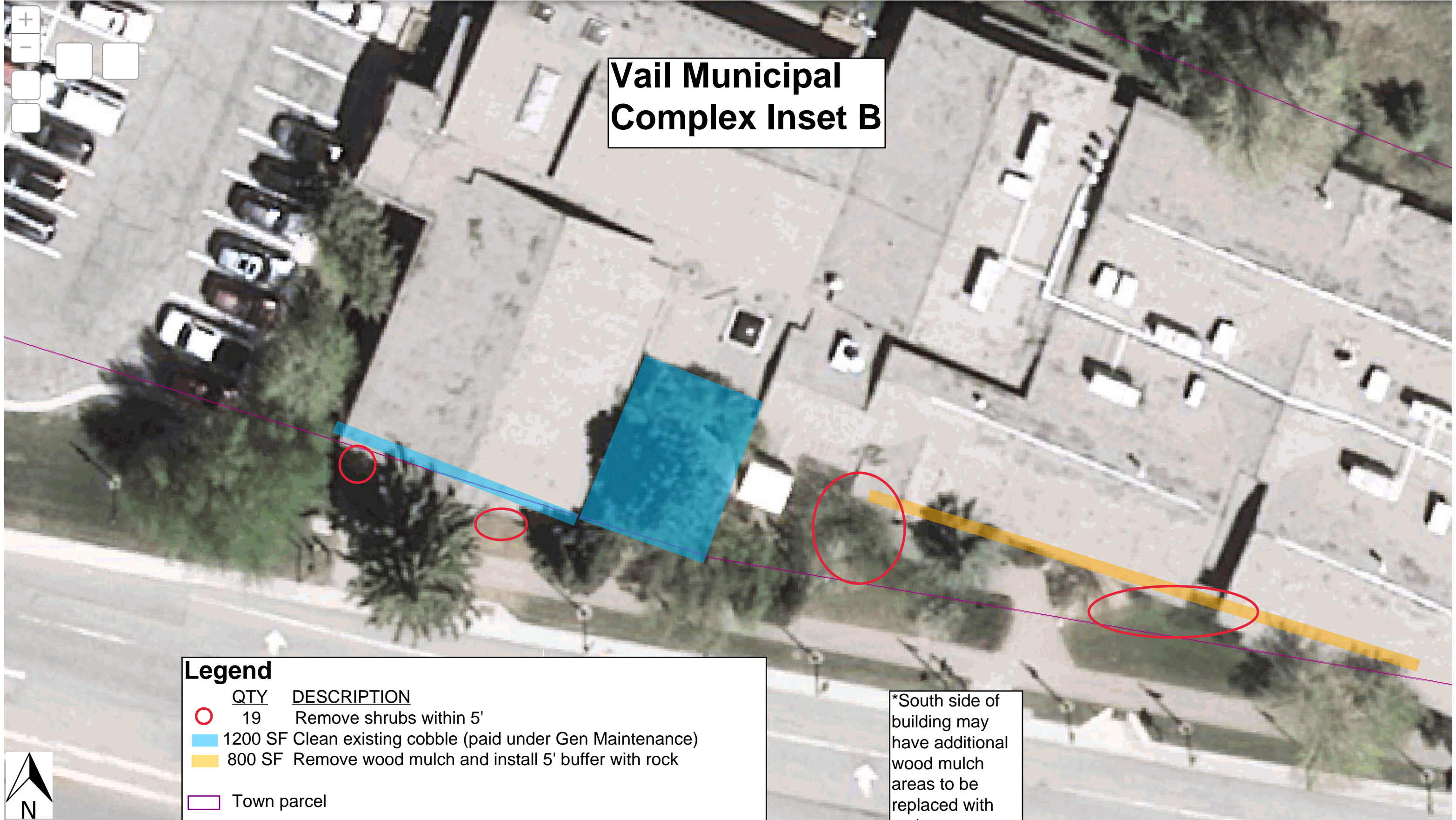
Note:
Add'l area on west side of building is noted in the quantity shown below.

| Legend | |
|----------|--|
| QTY | DESCRIPTION |
| 1,300 SF | Remove vegetation, install 5' buffer w/ rock |
| | Town Parcel |

20ft
-106.379 39.644 Degrees



Vail Municipal Complex Inset B



Legend

| QTY | DESCRIPTION |
|---------|--|
| 19 | Remove shrubs within 5' |
| 1200 SF | Clean existing cobble (paid under Gen Maintenance) |
| 800 SF | Remove wood mulch and install 5' buffer with rock |
| | Town parcel |

*South side of building may have additional wood mulch areas to be replaced with rock



20ft




-106.380 39.644 Degrees

Fire Station 1 (East Vail)

4116 Columbine Drive

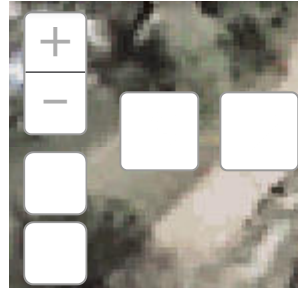


Legend

| | <u>QTY</u> | <u>DESCRIPTION</u> |
|---|------------|--|
|  | 6 | Remove shrubs within 5' |
|  | 400 SF | Clean existing gravel (Paid under General Maintenance) |
|  | | Town parcel |

40ft

-106.300 39.637 Degrees



Fire Station 2 (Vail Village)

42 West Meadow Drive



Legend

| | QTY | DESCRIPTION |
|--|--------|--|
| | 1 | Remove shrub within 5' |
| | 3 | Relocate shrubs within 5' |
| | 330 SF | Remove wood mulch, install 5' buffer w/ rock |
| | | Town Parcel |



20ft

-106.379 39.642 Degrees



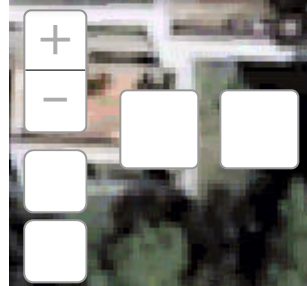
Fire Station 3 (West Vail)
2399 Arosa Drive

Legend

| QTY | DESCRIPTION |
|--------|--|
| 2 | Remove shrubs within 5' |
| 3 | Relocate shrubs within 5' |
| 540 SF | Remove wood mulch, install 5' buffer w/ rock |
| 25 SF | Remove vegetation, install 5' buffer w/ rock |
| | Town Parcel |

*There may be additional wood mulch areas to be replaced with rock

-106.420 39.629 Degrees



Vail Library
292 West Meadow Drive

Legend

| | QTY | DESCRIPTION |
|--|--------|--|
| | 20 | Remove shrub within 5' |
| | 865 SF | Remove wood mulch, install 5' buffer w/ rock |
| | | Town Parcel |

Fill planter with cobble after removal of junipers

*There may be additional wood mulch areas to be replaced with rock

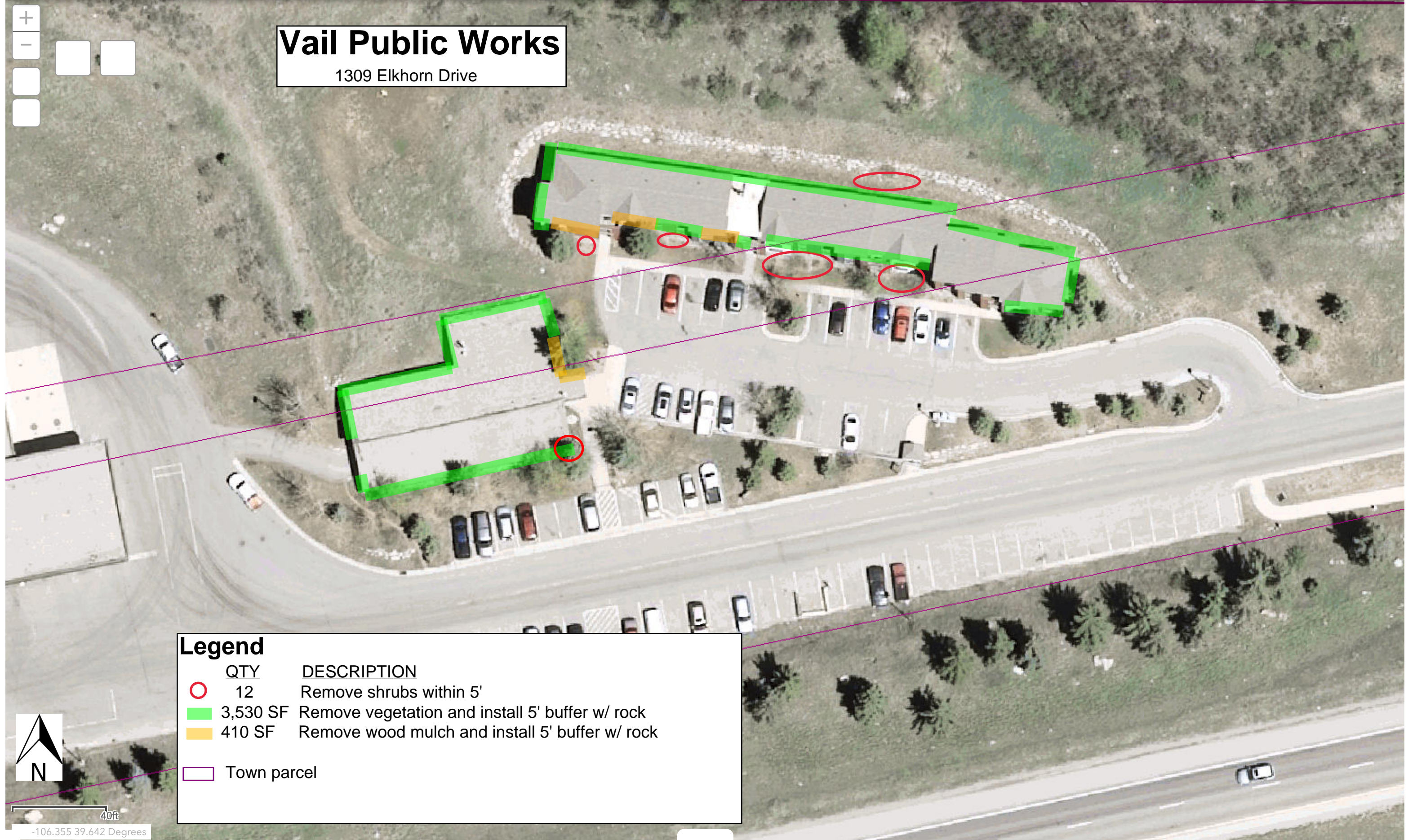


20ft

-106.384 39.644 Degrees

Vail Public Works

1309 Elkhorn Drive



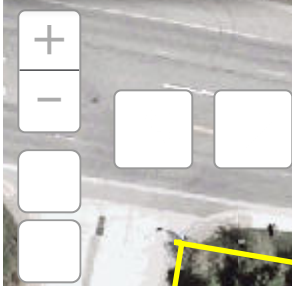
Legend

| | QTY | DESCRIPTION |
|--|----------|---|
| | 12 | Remove shrubs within 5' |
| | 3,530 SF | Remove vegetation and install 5' buffer w/ rock |
| | 410 SF | Remove wood mulch and install 5' buffer w/ rock |
| | | Town parcel |



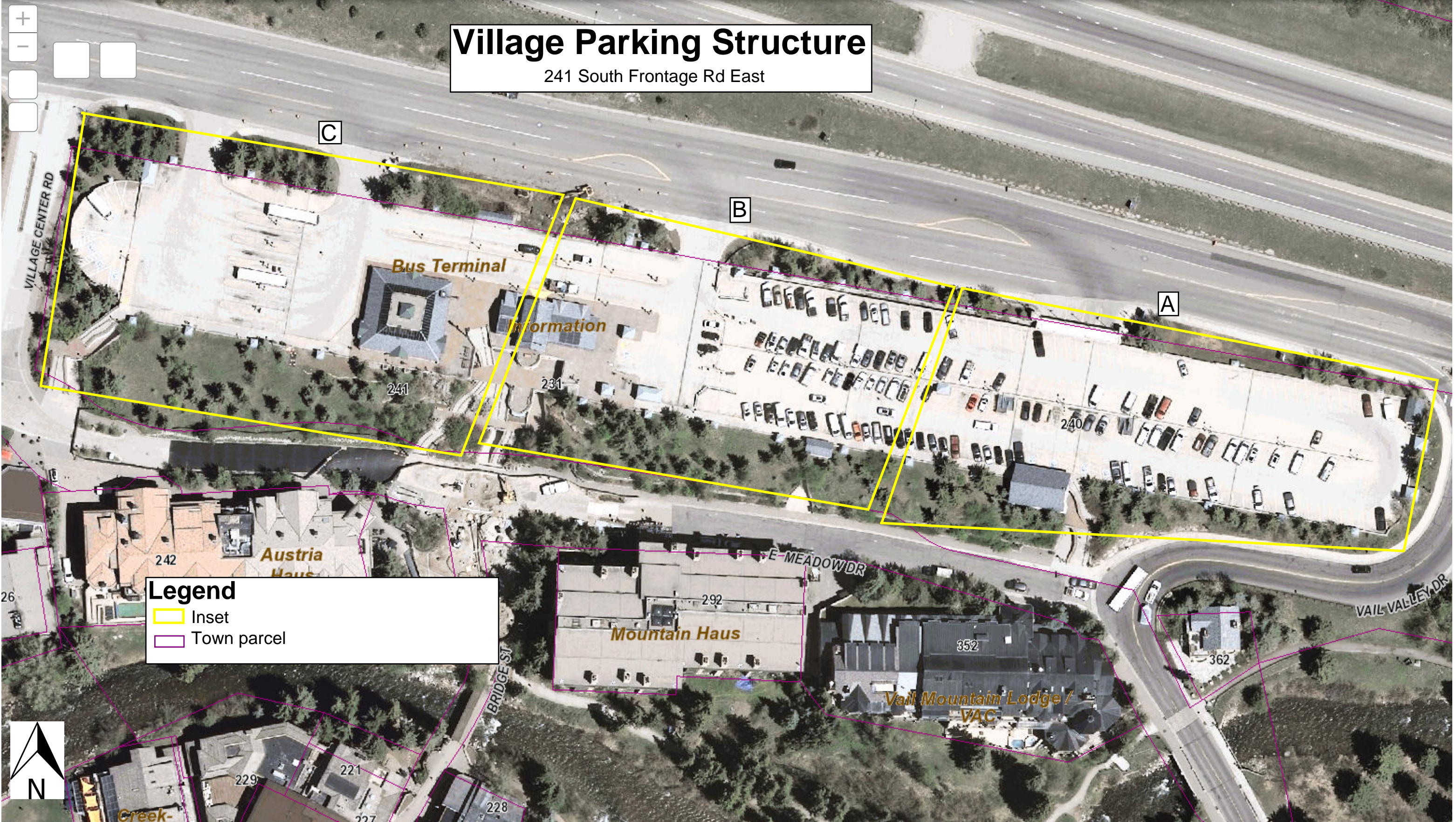
40ft

-106.355 39.642 Degrees



Village Parking Structure

241 South Frontage Rd East



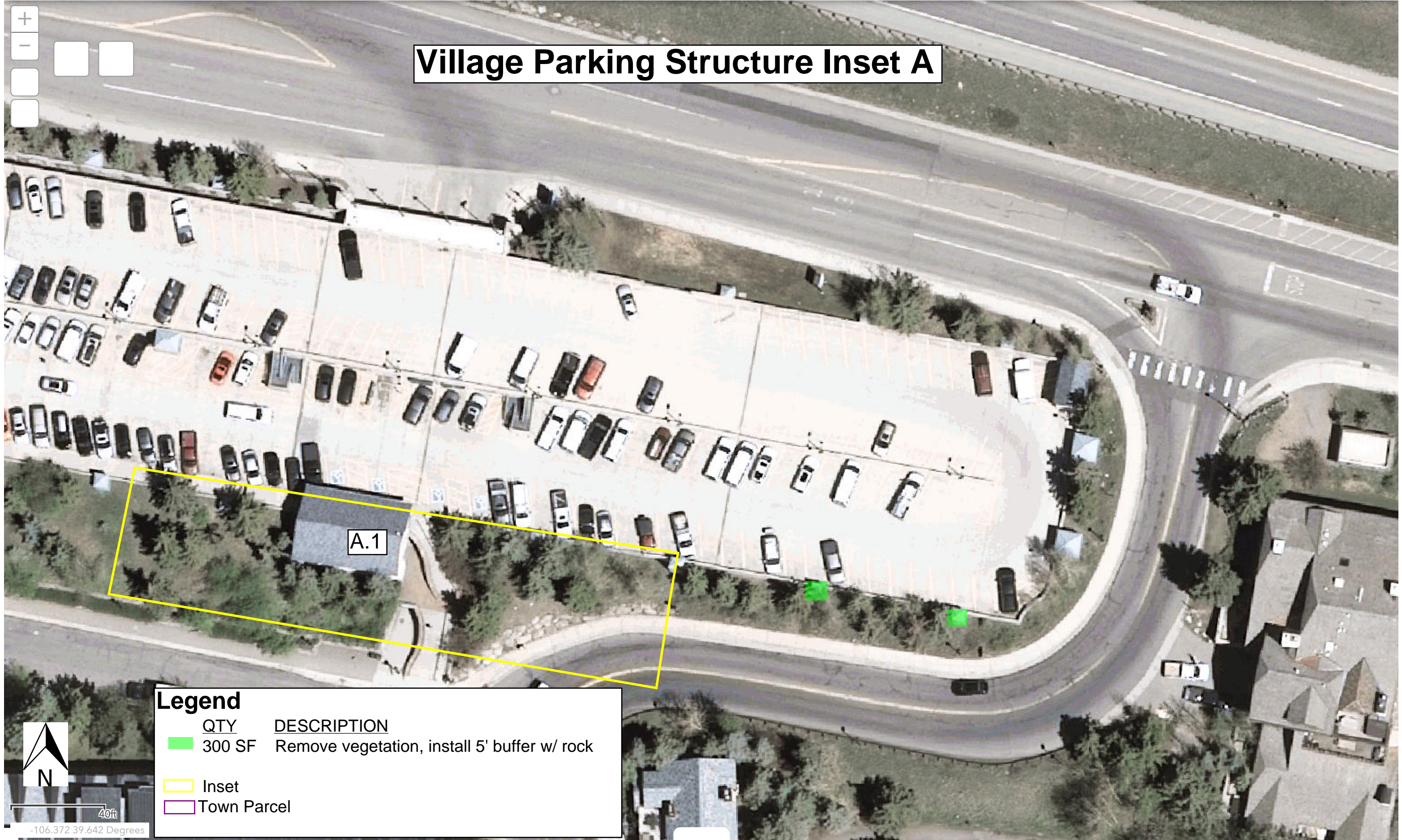
Legend

- Inset
- Town parcel



60ft
-106.371 39.641 Degrees

Village Parking Structure Inset A



Legend

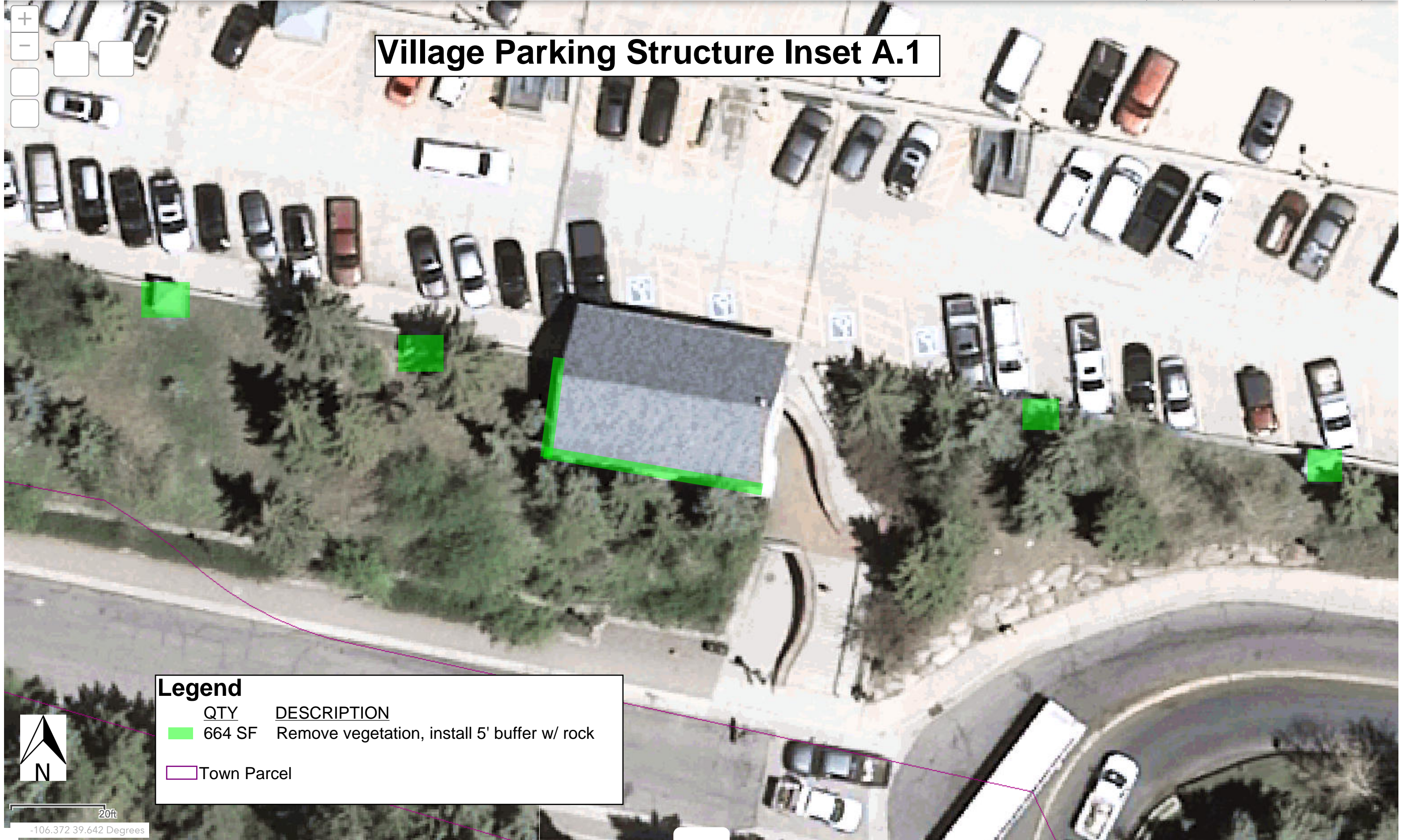
| QTY | DESCRIPTION |
|--------------|--|
| 300 SF | Remove vegetation, install 5' buffer w/ rock |
| [Yellow Box] | Inset |
| [Purple Box] | Town Parcel |



40ft

-106.372 39.642 Degrees

Village Parking Structure Inset A.1



Legend

| QTY | DESCRIPTION |
|--------|--|
| 664 SF | Remove vegetation, install 5' buffer w/ rock |
| | Town Parcel |



20ft

-106.372 39.642 Degrees

Village Parking Structure Inset B

Remove organic mulch and non-irrigated grass within 5' of structure and replace with non-combustible 1" round rock

Legend

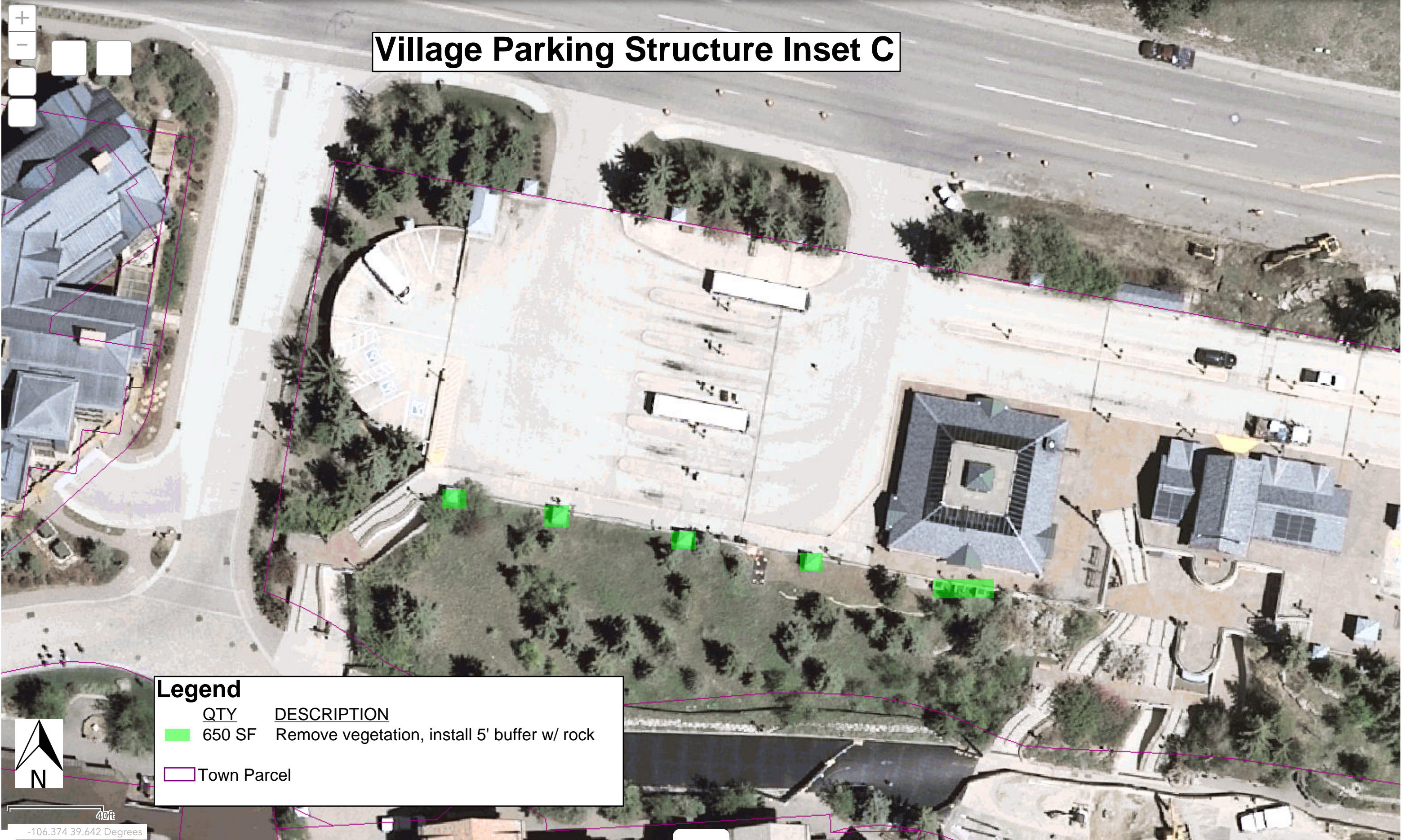
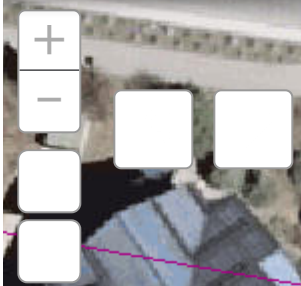
| QTY | DESCRIPTION |
|--------|--|
| 900 SF | Remove vegetation, install 5' buffer w/ rock |
| | Town Parcel |



40ft

-106.372 39.642 Degrees

Village Parking Structure Inset C



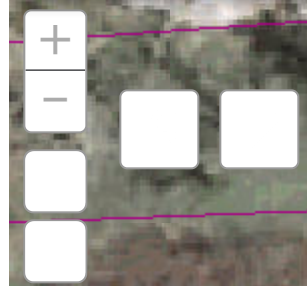
Legend

| QTY | DESCRIPTION |
|--------|--|
| 650 SF | Remove vegetation, install 5' buffer w/ rock |
| | Town Parcel |



40ft

-106.374 39.642 Degrees



The Covered Bridge

227 Bridge st



Legend

| QTY | DESCRIPTION |
|-------|--|
| 65 SF | Remove wood mulch, install 5' buffer w/ rock |
| | Town Parcel |



20ft

-106.373 39.641 Degrees



Lionshead Welcome Center

395 South Frontage Rd West



Legend

| | QTY | DESCRIPTION |
|--|--------|---|
| | 10 | Remove shrubs within 5' |
| | 3 | Relocate shrubs within 5' |
| | 70 SF | Remove vegetation and install 5' buffer w/ rock |
| | 250 SF | Remove wood mulch and install 5' buffer w/ rock |
| | | Town parcel |



20ft

-106.387 39.644 Degrees

BID ITEM DESCRIPTIONS
LANDSCAPE BUFFER WORK – FIRE FREE FIVE 2022

August 19, 2022

Item Descriptions listed below correlate with the Items on the Proposal Form. Additional detail is provided in the Drawings.

- 1. General Conditions** **Lump Sum**
Includes coordination with town staff, establishment of safe work areas, equipment move-on and move-off, traffic control (pedestrian and vehicular if needed), traffic control plan for each site as required by the Town of Vail, utility locates if required, temporary utilities, Best Management Practices, staging area setup/cleanup, site cleanup, overhead and profit, and all incidentals.
- 2. Excavate 5' Buffer** **Linear Foot**
This item includes all labor and materials required to excavate a 5' x 4" deep buffer strip along building structures. The work may include but is not limited to removal of vegetation, soil, gravel and other materials. Materials shall be moved, hauled and disposed of properly. The excavated area shall be graded smooth and to drain away from the building. In some areas, existing cobble shall be removed and can be reused once dirt has been sifted away from the rock. Work may be completed by hand or by machine if there is adequate access.
- 3. Remove Wood Mulch** **Square Foot**
This item includes all labor and materials required to rake up, remove and dispose of existing wood mulch from shrub/landscape areas as shown on the Drawings or as directed by the TOV Project Manager.
- 4. 2-4" Cobble w/ Fabric** **Square Foot**
This item includes all labor and materials required to install Mirifi MScape (or equal) landscape fabric and 2-4" rock cobble to a depth of approximately 4". This material can be purchased at Tower Pit in Gypsum, or equal.
- 5. 1" Round Rock w/ Fabric** **Square Foot**
This item includes all labor and materials required to install Mirifi MScape (or equal) landscape fabric and 1" round rock to a depth of approximately 3". This material can be purchased at Tower Pit in Gypsum, or equal.
- 6. Remove Shrub (<4')** **Each**
This item includes all labor, tools, and equipment to remove and dispose of existing landscape shrubs less than 4' in height/width as indicated in the Drawings or as directed by the TOV Project Manager. Removal shall include removal of root systems, branches, leaves, etc. A count of shrubs shall be conducted prior to removals. All shrubs slated for removal shall be marked by the TOV Project Manager.
- 7. Remove Shrub (>4')** **Each**
This item includes all labor, tools, and equipment to remove and dispose of existing landscape shrubs less than 4' in height/width as indicated in the Drawings or as directed by the TOV Project Manager. Removal shall include removal of root systems, branches, leaves,

etc. A count of shrubs shall be conducted prior to removals. All shrubs slated for removal shall be marked by the TOV Project Manager.

8. Relocate Shrub (<4')

Each

This item shall be for tools, labor and materials required to remove and replant existing plant materials. The contractor shall excavate around the shrub, generally the diameter of the rootball shall match the diameter of the plant. Shrubs slated for relocation will generally be replanted in the same site, or another nearby site. Shrubs shall be watered immediately after replanting.

9. Weed Pulling and General Maintenance

Hour

This item shall be for labor required to perform general landscape maintenance work such as pruning, cleaning combustible debris out of existing cobble areas, weed pulling, etc. This work shall be paid on an hourly basis.

End of Section

**PROPOSAL FORM
LANDSCAPE WORK – FIRE FREE FIVE 2022**

To: Town of Vail
Attn: Gregg Barrie
1309 Elkhorn Drive
Vail, CO 81657

Pursuant to the request for Bids for the above-named work and being familiar with all contractual requirements, the undersigned Bidder hereby proposes to furnish all labor, materials, tools, supplies, equipment, transportation, services, and all other necessary items for the completion of the contractual work.

| Bid Item # | Description | Quantity | Unit | Unit Cost | Total Cost |
|------------------|-------------------------|----------|------|-----------|------------|
| 1 | General Conditions | 1 | LS | | |
| 2 | Excavate 5' Buffer | 7,500 | SF | | |
| 3 | Remove Wood Mulch | 3,200 | SF | | |
| 4 | 2-4" Cobble w/ Fabric | 2,500 | SF | | |
| 5 | 1" Round Rock w/ Fabric | 750 | SF | | |
| 6 | Remove Shrub (<4') | 62 | EA | | |
| 7 | Remove Shrub (>4') | 12 | EA | | |
| 8 | Relocate Shrub (<4') | 6 | SF | | |
| 9 | General Maintenance | 80 | HR | | |
| BID TOTAL | | | | \$ | |

Bidder acknowledges receipt of the following Addenda:

Name of Bidder: _____

Address: _____

Telephone Number: _____

Email: _____

Continued next page...

Bidder acknowledges receipt of the following Addenda:

Total Base Price: \$ _____

(written)

Signed: _____ Date: _____

AGREEMENT FOR SERVICES

THIS AGREEMENT FOR SERVICES (the "Agreement") is made and entered into this ____ day of _____, 2022 (the "Effective Date"), by and between the Town of Vail, a Colorado home rule municipal corporation with an address of 75 South Frontage Road, Vail, CO 81657, (the "Town"), and _____, an independent contractor with an address of _____, ("Contractor") (each a "Party" and collectively the "Parties").

WHEREAS, the Town requires services; and

WHEREAS, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required services.

NOW THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. SCOPE OF SERVICES

A. Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services set forth in **Exhibit A**, attached hereto and incorporated herein by this reference.

B. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

II. TERM AND TERMINATION

A. This Agreement shall commence on the Effective Date, and shall continue until Contractor completes the Scope of Services to the satisfaction of the Town, or until terminated as provided herein.

B. Either Party may terminate this Agreement upon 30 days advance written notice. The Town shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.

III. COMPENSATION

In consideration for the completion of the Scope of Services by Contractor, the Town shall pay Contractor \$_____. This amount shall include all fees, costs and expenses incurred by Contractor, and no additional amounts shall be paid by the Town for such fees, costs and expenses. Contractor shall not be paid until the Scope of Services is completed to the satisfaction of the Town.

IV. RESPONSIBILITY

A. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and licenses in good standing, required by law. The work performed by Contractor shall be in accordance with generally accepted practices and the level of competency presently maintained by other practicing contractors in the same or similar type of work in the applicable community. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

B. The Town's review, approval or acceptance of, or payment for any services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

C. Contractor shall at all times comply with all applicable law, including without limitation all current and future federal, state and local statutes, regulations, ordinances and rules relating to: the emission, discharge, release or threatened release of a Hazardous Material into the air, surface water, groundwater or land; the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a Hazardous Material; and the protection of human health, safety or the indoor or outdoor environmental, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.* ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; the Clean Water Act, 33 U.S.C. § 1251, *et seq.*; the Clean Air Act; the Federal Water Pollution Control Act; the Occupational Safety and Health Act; all applicable environmental statutes of the State of Colorado; and all other federal, state or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, in effect now or anytime hereafter.

V. OWNERSHIP

Any materials, items, and work specified in the Scope of Services, and any and all related documentation and materials provided or developed by Contractor shall be exclusively owned by the Town. Contractor expressly acknowledges and agrees that all work performed under the Scope of Services constitutes a "work made for hire." To the

extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving consent from Contractor; provided that Contractor shall have no liability for any work that has been modified by the Town.

VI. INDEPENDENT CONTRACTOR

Contractor is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is a Town employee for any purposes.

VII. INSURANCE

A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Agreement. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.
2. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers, employees, and contractors as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees, or its contractors shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

VIII. INDEMNIFICATION

Contractor agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor.

IX. WORKERS WITHOUT AUTHORIZATION

A. *Certification.* Contractor hereby certifies that, as of the Effective Date, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement and that Contractor will participate in either the E-Verify Program administered by the U.S. Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment to confirm the employment eligibility of all employees who are newly hired to perform work under this Agreement.

B. *Prohibited Acts.* Contractor shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement, or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.

C. *Verification.*

1. If Contractor has employees, Contractor has confirmed the employment eligibility of all employees who are newly hired to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.
2. Contractor shall not use the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.
3. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization who is performing work under this Agreement, Contractor shall:

notify the subcontractor and the Town within 3 days that Contractor has actual knowledge that the subcontractor is employing or contracting with a worker without authorization who is performing work under this Agreement; and terminate the subcontract with the subcontractor if within 3 days of receiving the notice required pursuant to subsection 1 hereof, the subcontractor does not stop employing or contracting with the worker without authorization who is performing work under this Agreement; except that Contractor shall not terminate the subcontract if during such 3 days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization who is performing work under this Agreement.

D. *Duty to Comply with Investigations.* Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Contractor is complying with the terms of this Agreement.

E. *Affidavits.* If Contractor does not have employees, Contractor shall sign the "No Employee Affidavit" attached hereto. If Contractor wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Contractor shall sign the "Department Program Affidavit" attached hereto.

X. MISCELLANEOUS

A. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Eagle County, Colorado.

B. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

E. *Notice.* Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class U.S. Mail to the Party at the address set forth on the first page of this Agreement.

F. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. *Modification.* This Agreement may only be modified upon written agreement of the Parties.

H. *Assignment.* Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

I. *Governmental Immunity.* The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

J. *Rights and Remedies.* The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

K. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

L. *Force Majeure.* No Party shall be in breach of this Agreement if such Party's failure to perform any of the duties under this Agreement is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this Agreement due to acts of God, floods, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government or pandemics.

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF VAIL, COLORADO

Stan Zemler, Town Manager (acting)

ATTEST:

Stephanie Bibbens, Town Clerk (acting)

CONTRACTOR

By: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 2022, by _____ as _____ of _____.

My commission expires:

(SEAL)

Notary Public

NO EMPLOYEE AFFIDAVIT

[To be completed only if Contractor has no employees]

1. Check and complete one:

I, _____, am a sole proprietor doing business as _____ . I do not currently employ any individuals. Should I employ any employees during the term of my Agreement with the Town of Vail (the "Town"), I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

OR

I, _____, am the sole owner/member/shareholder of _____, a _____ [specify type of entity – *i.e.*, corporation, limited liability company], that does not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the Town, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

2. Check one.

I am a United States citizen or legal permanent resident.

The Town must verify this statement by reviewing one of the following items:

- *A valid Colorado driver's license or a Colorado identification card;*
- *A United States military card or a military dependent's identification card;*
- *A United States Coast Guard Merchant Mariner card;*
- *A Native American tribal document;*
- *In the case of a resident of another state, the driver's license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card; or*
- *Any other documents or combination of documents listed in the Town's "Acceptable Documents for Lawful Presence Verification" chart that prove both Contractor's citizenship/lawful presence and identity.*

OR

I am otherwise lawfully present in the United States pursuant to federal law.

Contractor must verify this statement through the federal Systematic Alien Verification of Entitlement ("SAVE") program, and provide such verification to the Town.

Signature

Date

DEPARTMENT PROGRAM AFFIDAVIT

[To be completed only if Contractor participates in the Department of Labor Lawful Presence Verification Program]

I, _____, as a public contractor under contract with the Town of Vail (the "Town"), hereby affirm that:

1. I have examined or will examine the legal work status of all employees who are newly hired for employment to perform work under this public contract for services ("Agreement") with the Town within 20 days after such hiring date;

2. I have retained or will retain file copies of all documents required by 8 U.S.C. § 1324a, which verify the employment eligibility and identity of newly hired employees who perform work under this Agreement; and

3. I have not and will not alter or falsify the identification documents for my newly hired employees who perform work under this Agreement.

Signature _____
Date

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ___ day of _____, 2022, by _____ as _____ of _____.

My commission expires:

(SEAL) _____
Notary Public