CITY COUNCIL REGULAR MEETING

448 E. 1st Street, Room 190 Salida, Colorado 81201
November 05, 2024 - 6:00 PM

AGENDA

Please register for Regular City Council Meeting
https://attendee.gotowebinar.com/register/3742005742374996822.

After registering, you will receive a confirmation email containing information about joining the webinar. To watch live meetings:

http://www.youtube.com/@cityofsalidacolorado

CIVILITY INVOCATION

CALL TO ORDER

Pledge of Allegiance

Roll Call

CONSENT AGENDA

1. Approve Agenda
2. Approve October 15, 2024 Minutes
3. Approve October 21, 2024 Special Meeting Minutes
4. Approval of Airport Ground Lease Termination for Salida Soaring CO
5. Approval of Airport Ground Lease Termination for Stephen Bush
6. Approval of an Airport Ground Lease for Ray Plumb
7. Approve Consulting Services Agreement with Dibble & Associates Consulting Engineers, Inc. for the Airport
8. Approve Final Settlement for the 2024 Concrete Maintenance Project
9. Approve Final Settlement for the 2024 Asphalt Maintenance Project
10. Approve Final Settlement for the Pasquale Water Treatment Plant Improvement Project
11. Approval of the 2025 Salida Tree Board Action Plan
12. Approve Professional Service Contract with EnB Janitorial for cleaning services at the SteamPlant and Scout Hut
13. Approve Contract with Douglass Colony Group for the Salida Fire Department Solar Solutions Project

CITIZEN COMMENT–Three (3) Minute Time Limit

PROCLAMATIONS

14. National Native American Heritage Month

AMPLIFIED SOUND PERMIT

15. Amplified Sound Permit for the Veterans Day Parade and Ceremony -**Public Hearing**

UNFINISHED BUSINESS / ACTION ITEMS

NEW BUSINESS / ACTION ITEMS

16. **Resolution 2024-67** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AMENDING ITS EMPLOYMENT AGREEMENT WITH CITY CLERK KRISTI JEFFERSON

Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting the City Clerk at 448 E. 1st Street, Ste. 112, Salida, CO 81201, Ph.719-530-2630 at least 48 hours in advance.

17. **Resolution 2024-68** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, APPROVING CITIZEN APPOINTMENTS TO THE PLANNING COMMISSION PURSUANT TO SECTION 2-7-10 OF THE SALIDA MUNICIPAL CODE.

COUNCILORS, MAYOR AND CITY TREASURER REPORTS

Council Reports

- Critelli, Fontana, Naccarato, Martin, Pappenfort, Stephens

Mayor Report

Treasurer Report

Attorney Report

Department Updates

ADJOURN

CITY OF SALIDA
SEAL
COLORADO

_____ _____

City Clerk | Deputy City Clerk Mayor Dan Shore

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CITY COUNCIL REGULAR MEETING

448 E. 1st Street, Room 190 Salida, Colorado 81201
October 15, 2024 - 6:00 PM

MINUTES

Please register for Regular City Council Meeting
https://attendee.gotowebinar.com/register/3742005742374996822.

After registering, you will receive a confirmation email containing information about joining the webinar. To watch live meetings:

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CIVILITY INVOCATION

CALL TO ORDER

Pledge of Allegiance

Roll Call

PRESENT
Council Member Suzanne Fontana
Council Member Dominique Naccarato
Council Member Justin Critelli
Council Member Aaron Stephens
Council Member Alisa Pappenfort
Council Member Wayles Martin
Mayor Dan Shore

ABSENT
Treasurer Ben Gilling

Mayor Shore announced that there will be an amendment to the agenda under New Business

CONSENT AGENDA

Council Member Critelli moved to combine and approve items on the consent agenda, Seconded by Council Member Fontana.
Voting Yea: Council Member Fontana, Council Member Naccarato, Council Member Critelli, Council Member Stephens, Council Member Pappenfort, Council Member Martin

Approve Agenda

Approve October 1, 2024 Minutes

Approve Elks Special Event Liquor License Charity Ball November 16th

Approve Elks Special Event Liquor License Christmas Mtn Parade of Lights November 29th & 30th

MOTION PASSED

CITIZEN COMMENT–Three (3) Minute Time Limit

Adam Martinez and Dave Hinman spoke during public comment

UNFINISHED BUSINESS / ACTION ITEMS

Resolution 2024-64 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, SUMMARIZING REVENUES AND EXPENDITURES FOR EACH FUND AND ADOPTING A BUDGET FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY 2025 AND ENDING ON THE LAST DAY OF DECEMBER 2025- **Continued from the October 1, 2024 Council meeting**

The Mayor re-opened the public hearing. Hearing no further comments the Mayor closed the public hearing.

Council Member Pappenfort moved to approve Resolution 2024-64, Seconded by Council Member Critelli. Voting Yea: Council Member Fontana, Council Member Naccarato, Council Member Critelli, Council Member Stephens, Council Member Pappenfort, Council Member Martin

MOTION PASSED

Ordinance 2024-19 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO AMENDING SECTION 2-8-30 OF THE SALIDA MUNICIPAL CODE CONCERNING THE PLANNING COMMISSION – MEMBERSHIP AND ORGANIZATION. **Second Reading & Public Hearing**

The Mayor opened the public hearing. Hearing no further comments the Mayor closed the public hearing.

Council Member Pappenfort moved to approve Ordinance 2024-19, Seconded by Council Member Stephens. Voting Yea: Council Member Fontana, Council Member Naccarato, Council Member Critelli, Council Member Stephens, Council Member Pappenfort, Council Member Martin

MOTION PASSED

NEW BUSINESS / ACTION ITEMS

A motion was made by Council Member Pappenfort, Seconded by Council Member Fontana to schedule a Special City Council meeting for October 21, 2024 at 6:00 pm to discuss two items.

The first item is for review and approval of the two (2) IGA's with the Chaffee Housing Authority. The second item is to review and take action on the Poncha Springs Sewer Litigation Term Sheet.

Voting Yea: Council Member Fontana, Council Member Naccarato, Council Member Critelli, Council Member Stephens, Council Member Pappenfort, Council Member Martin

MOTION PASSED

COUNCILORS, MAYOR AND CITY TREASURER REPORTS

Council Reports

Reports were given.

Mayor Report

Report was given.

Treasurer Report

Finance Director, Aimee Tihonovich gave the Treasurer report.

Attorney Report

Department Updates

ADJOURN

Meeting adjourned at 6:42pm

CITY OF SALIDA
SEAL
COLORADO

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City Clerk | Deputy City Clerk

_____

Mayor Dan Shore

CITY COUNCIL SPECIAL MEETING

448 E. 1st Street, Room 190 Salida, Colorado 81201
October 21, 2024 - 6:00 PM

MINUTES

Please register for the Special City Council Meeting https://attendee.gotowebinar.com/register/4295397647695494492. After registering, you will receive a confirmation email containing information about joining the webinar. To watch live meetings: http://www.youtube.com/@cityofsalidacolorado

CALL TO ORDER

Pledge of Allegiance

Roll Call

PRESENT

Council Member Justin Critelli
Council Member Dominique Naccarato
Council Member Suzanne Fontana
Council Member Aaron Stephens
Council Member Wayles Martin

Council Member Pappenfort was not present during Roll Call.

ABSENT
Mayor Dan Shore

NEW BUSINESS / ACTION ITEMS

Resolution 2024-65 A RESOLUTION APPROVING A REVISED FIRST AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT ESTABLISHING THE CHAFFEE COUNTY MULTIJURISDICITONAL HOUSING AUTHORITY AND REPEALING RESOLUTION NO. 61, SERIES 2024.

Council Member Stephens moved to approve Resolution 2024-65, Seconded by Council Member Naccarato. Voting Yea: Council Member Critelli, Council Member Naccarato, Council Member Fontana, Council Member Stephens, Council Member Martin

MOTION PASSED

Resolution 2024-66 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, APPROVING THE SECOND INTERGOVERNMENTAL FUNDING AGREEMENT FOR THE CHAFFEE HOUSING AUTHORITY AND ITS MEMBER JURISDICTIONS AND REPEALING RESOLUTION NUMBER 62, SERIES OF 2024.

Council Member Martin moved to approve Resolution 2024-65, Seconded by Council Member Naccarato. Voting Yea: Council Member Critelli, Council Member Naccarato, Council Member Fontana, Council Member Stephens, Council Member Martin

MOTION PASSED

Council Member Pappenfort joined the Council Meeting at 6:13 pm

EXECUTIVE SESSION

Executive Session-For the purpose of conferencing with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S Section 24-6-402(4)(b), and for the purpose of determining positions relative to matters that may be subject to negotiation, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e), and the following additional details are provided for identification purposes: **To receive legal advice and instruct negotiators regarding settlement of lawsuit brought by the Town of Poncha Springs, Tailwind Group LLC and Full Views Matter, LLC against the City of Salida.**

A motion to enter into Executive Session was made by Council Member Critelli, Seconded by Council Member Naccarato.

Voting Yea: Council Member Critelli, Council Member Naccarato, Council Member Fontana, Council Member Stephens, Council Member Martin, Council Member Pappenfort

MOTION PASSED

Council entered into Executive Session at 6:14pm and returned to the Regular Meeting at 6:48pm.

Reconvene in Open Session to take any actions deemed necessary.

A motion was made by Council Member Fontana to direct city attorneys to provide settlement terms regarding litigation to the Plaintiffs' counsel containing elements as discussed in executive session, Seconded by Council Member Pappenfort.

Voting Yea: Council Member Critelli, Council Member Naccarato, Council Member Fontana, Council Member Stephens, Council Member Martin, Council Member Pappenfort

MOTION PASSED

City Attorney Nina Williams recapped Council's direction to provide the settlement terms to the Plaintiffs' Counsel regarding the litigation as discussed in executive session. This should produce a formal action that all the parties will agree to. The settlement term will then be approved at a public meeting in the near future by all parties.

ADJOURN - Meeting adjourned at 6:50pm

CITY OF SALIDA
SEAL
COLORADO

_____

City Clerk | Deputy City Clerk

_____

Mayor Dan Shore

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Notice of Intent to Terminate Lease

This Notice of Intent to Terminate Lease is dated 10/17/24, 2024 and is by and between Salida Soaring Co ("Lessee") and the City of Salida/Chaffee County Colorado (Lessors).

1. The parties entered into a Ground Lease Agreement (Lease) dated 6/23/23, for hangar spaces at Harriet Alexander Field (Airport) as more particularly described as "Leased Premises" in the Ground Lease, attached and incorporated by reference

2. The Lessee desires to terminate the Lease for convenience and not due to any fault of the parties.

3. The Lessors agree to early termination of the Lease effective as of 10/23, 2024.

4. Lessee remain responsible for complying with the terms of the Lease up to the date of termination.

5. Lessee hereby releases, cancels and forever discharges the Lessors from all claims, complaints, causes of action, costs or expenses of any kind arising out of or relating to the Lease.

6. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado notwithstanding its choice of law provisions and that any claims or actions by one party against the other arising out of or related to this Agreement shall be commenced and maintained in Chaffee County, Colorado.

7. This Notice of Intent to Terminate Lease may be executed by the parties electronically and in counterparts, and as executed shall be fully valid and enforceable.

SIGNATURES ON THE FOLLOWING PAGE

Lessors:

Lessee: Casey Marks 10/17/24

Chaffee County

_____

_____

_____

P.T. Wood, Chair of the Board
Of County Commissioners

City of Salida

_____

By:
Title:

Notice of Intent to Terminate Lease

This Notice of Intent to Terminate Lease is dated 10/22/2024, 2024 and is by and between Stephen BUSH ("Lessee") and the City of Salida/Chaffee County Colorado (Lessors).

1. The parties entered into a Ground Lease Agreement (Lease) dated 1/3/2006, for hangar spaces at Harriet Alexander Field (Airport) as more particularly described as "Leased Premises" in the Ground Lease, attached and incorporated by reference

2. The Lessee desires to terminate the Lease for convenience and not due to any fault of the parties.

3. The Lessors agree to early termination of the Lease effective as of 12/31, 2024.

4. Lessee remain responsible for complying with the terms of the Lease up to the date of termination.

5. Lessee hereby releases, cancels and forever discharges the Lessors from all claims, complaints, causes of action, costs or expenses of any kind arising out of or relating to the Lease.

6. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado notwithstanding its choice of law provisions and that any claims or actions by one party against the other arising out of or related to this Agreement shall be commenced and maintained in Chaffee County, Colorado.

7. This Notice of Intent to Terminate Lease may be executed by the parties electronically and in counterparts, and as executed shall be fully valid and enforceable.

Lessors:

Chaffee County

_____

_____

_____

P.T. Wood, Chair of the Board
Of County Commissioners

City of Salida

_____

By:
Title:

Lessee:

10/22/24

Lessee (name):	Lessee's mailing address:
Ray PLUMB HANGAR H	12163 Saddle Ridge LANE SALIDA, CO. 81201
Lessee's email: raypluma007@gmail.com	**Lessee's phone:** 714-469-5047
Date of Agreement: 10/22/2024	Hangar Site: H

Note to Lessee: As this Agreement requires approval from both the City of Salida and Chaffee County, please note that any revisions or modifications to this Ground Lease by the Lessee may result in significant delays.

GROUND LEASE

This Ground Lease ("Lease") is entered into by and between the City of Salida, Colorado, a municipal corporation, and Chaffee County Colorado/the Board of Commissioners of Chaffee County (collectively "Lessors"), and Lessee (identified above), as of this 1st day of JAN., 2025.

RECITALS

A. Lessors are the owners of land known as the Salida/Chaffee County Airport, also known as Harriet Alexander Field (hereinafter "Airport") located at 9255 County Road 140, Salida, Colorado, 81201;

B. Lessee desires to lease from Lessors a portion of the Airport for the purpose of constructing and/or occupying an aircraft hangar as more particularly described below; and

C. Lessors are willing to lease to Lessee the below described portion of Airport pursuant to the terms and conditions also set forth below.

AGREEMENT

In consideration of the terms, conditions and promises as set forth herein, the parties incorporate the above recitals by reference and agree as follows:

1. **Leased Premises**. Lessors hereby lease to Lessee that portion of the Airport property described on the attached Exhibit A (the "Leased Premises"). THE LEASED PREMISES CONSIST OF THE FOOTPRINT OF THE BUILDING ALREADY CONSTRUCTED OR TO BE CONSTRUCTED BY THE LESSEE PLUS A MAINTENANCE/ACCESS EASEMENT OF FIVE FEET AROUND SAID FOOTPRINT.

2. **Hangar and Improvements - requirements.** Structures on the Leased Premises must conform to all current and future FAA regulations and to the current commercial building, fire, mechanical, electrical,

plumbing and any other applicable codes and airport architectural standards. Improvements or modifications to the Leased Premises must also be in compliance with the same regulations. Any construction, improvements or modifications to the Leased Premises must be approved in writing in advance by the Lessors, acting through their designated agent, the Airport Manager.

3. **Breach.** If Lessee breaches any provision of this Lease, including without limitation failure to comply with all applicable laws, rules and regulations, Lessor shall provide a written notice of default to the Lessee with a 10 calendar day notice to cure unless the Lessor otherwise agrees in writing to extend the 10 day cure period. Lessee shall be solely responsible for remedying the breach to the reasonable satisfaction of the Airport and at Lessee's sole cost. A Lease may be terminated by the Lessor immediately and without notice in the event Lessee's use of the Leased Premises or conduct at the Airport constitutes an emergency or substantial threat to the safe and lawful operations of the Airport. Lessor will not be responsible for any costs, damages or penalties to the Lessee in the event a Lease is terminated.

4. **No Improvements by Lessor.** Lessors have no obligation to provide Lessee any improvements, services, fixtures or utilities to the Leased Premises, except as expressly provided in this Ground Lease or as subsequently needed in order for the Lessors to comply with existing laws or regulations.

5. **Use of the Leased Premises.**
(a) Lessee shall use the Leased Premises solely for the parking, storage and maintenance of Lessee's personal private aircraft as identified here: LUSCOMBE _____. (VIN, make model etc.,) . "Maintenance" shall not include welding, open flame operations, or the use of Class I or Class II liquids as defined in the most recent edition of the Chaffee County Uniform Building Code.

(b) Lessee shall not operate or allow commercial or business operations of any kind to be performed on the Leased Premises absent Lessors' express written consent and with such additional documentation as may be required by Lessor. By way of example only, commercial flying operations would require execution of a Commercial Operator's Agreement by the Lessee.

(c) Lessee shall install and properly maintain not less than one fire extinguisher and shall comply with all applicable fire code regulations.

(d) Lessee may not store any fuel, gasoline or other hazardous or dangerous substances on the Leased Premises with the following exceptions:

i. Fuel present in the aircraft identified above
ii. Lessee may store up to five gallons of aviation fuel or gasoline on the Leased Premises in an OSHA or UL approved container.

(e) Lessee may install antennae not exceeding six feet in height above the highest point on any hangar or structure constructed or placed on the premises by Lessee, with the prior written approval of the Airport Manager and so long as such antennae comply in all respects with Federal Aviation Administration ("FAA") regulations and applicable building and zoning codes and do not create an obstruction or threat to air navigation.

(f) The Leased Premises may not be used for short term rentals or any overnight use (other than as contemplated by an approved flight plan).

4. **Maintenance of Leased Premises**. Lessee shall at all times maintain the Leased Premises and all improvements to the Leased Premises in good condition and state of repair and shall not allow fire hazards, ice and snow, weeds, trash, debris or other unsightly objects to accumulate or be stored on or around the Leased Premises or otherwise interfere with the safe and lawful operation of the Airport. Vehicles and trailers may be stored outside the Lease Premises only upon payment of an applicable fee. No other outside storage is allowed, including equipment and vehicles.

5. **Signs.** Lessee shall not place any signs, logos or emblems on the Leased Premises or on any improvements to the Leased Premises, except for a sign not larger than four square feet in size that identifies Lessee as the occupant of the Leased Premises. All signs shall be installed in compliance with the building and/or sign regulations of Chaffee County and/or other governing jurisdiction.

6. **Term and Option to Renew.**

(a) Subject to earlier termination as provided for in this Lease, the initial term of this Lease shall begin on 1/1/2025 and terminate on 1/1/2045.

(b) Provided Lessee is not in violation or breach of any terms or conditions of this Lease and provided the Lease complies with the then current Airport master plan, Lessee may renew and extend this Lease for up to an additional twenty years (the "Option Term") upon written notice to Lessor submitted at least 120 calendar days prior to the expiration of the initial term. The Option Term shall be subject to the same terms and conditions as set forth in this Lease, except that the rent for the first year of the Option Term shall be adjusted to the prevailing rates, based upon the most recently executed ground lease, adjusted for the then current CPI-U (defined below). The rent for subsequent years of the Option Term shall be adjusted as provided below. In the event Lessee remains in possession of the Leased Premises for any period after the expiration of the 20-year initial lease term, without a written agreement between the parties for an Option Term, a new month-to-month tenancy shall be created subject to the same terms and conditions of this Lease at a monthly rental rate to be determined as provided below, unless otherwise agreed by the parties in writing. Such month-to-month tenancy shall be terminable on thirty (30) days' notice by either party or on longer notice if required by law.

7. **Reversion.** Should Lessee fail or refuse to exercise the option to extend the Lease, or if the Lease is terminated for any reason, then the title and ownership of the Leased Premises, including all Improvements, fixtures and personal property thereon, shall revert back to the Lessors.

8. **Rent.**

(a) Lessee shall pay to Lessors total annual rent of $693.75 for a total of 2250 sq. ft. As of May 1, 2023, the lease rate was $0.3039 per square foot, which is adjusted annually as of May 1. Beginning April 30th, and every year thereafter for the lease term, the rate adjusts in accordance with subparagraph (b), below. The CPI adjusted rate effective May 1 each year. Lessee shall pay the rent annually, in advance, without notice or demand, with the first payment due on the first day of the lease term, except that for the first year of this Ground Lease, rent shall be prorated, if necessary, from the beginning date of this Ground Lease through the following April 30, 2025. For subsequent years, rent shall be due on May 1.

(b) Rent shall be adjusted annually in accordance with any increase in the United States Bureau of Labor Statistics Consumer Price Index for all items and urban consumers (the CPI-U) for the Denver-Boulder area. The adjustment shall reflect any increase in the CPI-U for the annual period beginning from the time rent was last set or adjusted. Should the United States Bureau of Labor Statistics cease publication of the CPI-U for the Denver-Boulder area, then future rent adjustments shall be based upon and correspond to the rate of "local growth" for the annual period as defined in Article X, § 20(2)(g) of the Colorado Constitution and determined by the Chaffee County Assessor pursuant to C.R.S. § 39-5-121(2)(b). In no event shall the rental rate be reduced absent the prior written consent of Lessors, regardless as to any decrease in the CPI-U or local growth rate from the time rent was last set or adjusted. Lessors shall use their best efforts to advise Lessee of the adjusted rent amount at least one month prior to the rent payment due date, but failure of Lessors to notify Lessee shall not relieve Lessee of its obligation to pay the increased rent.

(c) Lessee shall make and/or direct all rent payments to the location and/or to the person or entity designated by the Airport Manager in writing. If no such designation is made, rent shall be paid

to: Chaffee County Airport Fund, c/o Chaffee County, Attention Finance Department, P. O. Box 699, Salida Colorado 81201.

(d) Interest shall accrue on any past due rent payment at the rate of 1.5% per month or 18% per annum. Such interest shall in no event constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent Lessors from exercising any of the other rights and remedies under this Ground Lease.

9. **Common Airport Facilities/ CLOSURES.** Lessee is granted in common with other lessees, or persons similarly authorized, the non-exclusive use of all common Airport facilities including, but not limited to, the landing field, runways and taxiways (inclusive of any future enlargement or extensions thereof), roadways, aprons, fueling facilities, flood lights, landing lights, beacons, radio aids, and such other airport facilities as may exist and are available for use by the general aviation public. LESSEE ACKNOWLEDGES THAT REPAIRS OR IMPROVEMENTS TO RUNWAYS OR OTHER AIRPORT FACILITIES OR STATE OR FEDERAL MANDATES MAY REQUIRE THE CLOSURE OF THE AIRPORT OR THE TEMPORARY OR PERMANENT RESTRICTION OF ITS USE. SUCH ACTIVITIES SHALL NOT CAUSE ANY REDUCTION IN THE RENT DUE HEREUNDER. LESSEE FURTHER ACKNOWLEDGES THAT THIS LEASE IS SUBJECT TO THE LESSORS CONTINUING TO OPERATE THE AIRPORT FACILITIES IN THEIR CURRENT LOCATION AND LESSORS MAY TERMINATE THIS LEASE, WITHOUT RECOURSE TO LESSORS, IF LESSORS, FOR WHATEVER REASON NO LONGER OPERATE THE AIRPORT IN ITS CURRENT LOCATION.

10. **Right of Ingress and Egress.** Lessee shall at all times have a right of reasonable ingress to and egress from the Leased Premises, which right shall extend to Lessee's guests and other invitees. Such right shall also extend to persons or businesses supplying materials or services to Lessee, and shall include access and egress for vehicles, machinery and equipment reasonably required by Lessee and those persons or entities specified in this paragraph. Lessee shall provide license plate numbers for all vehicles to be used at the Leased Premises and notify the Airport Manager in writing in advance with this information for all guests/invitees. THE RIGHT OF INGRESS AND EGRESS SHALL NOT BE EXERCISED IN A WAY THAT INTERFERES WITH THE USE OF THE AIRPORT BY OTHERS OR THAT IS IN VIOLATION OF ANY FAA RULES/REGULATION, DULY ADOPTED AIRPORT RULES OR POLICIES. LESSEE ACKNOWLEDGES SUCH RIGHT MAY NOT INCLUDE VEHICLE ACCESS TO HANGARS, AS DETERMINED BY THE AIRPORT MANAGER.

11. **Hangar Construction and Improvements.**

(a) If there are no improvements on the Leased Premises, Lessee shall be required to install, improvements on the Leased Premises, such improvements to be limited to one aircraft storage hangar and any accessory hard surfaces (ramp/access taxiway), and/or such other structures as specifically authorized in writing in advance by the Airport Manager and approved by the Lessors. The design and materials to be used in the construction repair, other than routine maintenance, or restoration of any hangar, structure or hard surface shall be approved in advance in writing by Lessors. Within thirty days from the beginning of this Ground Lease, Lessee shall submit a detailed description, inclusive of engineered drawings/plans, to Lessors together with a cost estimate for all structures or other improvements Lessee desires to install, repair or rebuild on the Leased Premises. No installation or construction shall occur on the Leased Premises or upon common Airport property until the Airport Manager has specifically approved same in writing and all necessary third-party permits have been issued, including local building permits and such permits or approvals as may be necessary from the Federal Aviation Administration (e.g., FAA Form 7460, Notice of Proposed Construction). All improvements must be completed per building and zoning permitting timeframes. Airport Manager has the final authority to determine that as- built construction conforms to drawings and plans prepared by a professional engineer. Any variances or corrections needed shall be borne solely by the Lessee.

(b) The installation/construction of all structures and hard surfaces shall comply with the then-current Commercial Building Code, Airport Master Plan, the Minimum Standards for Hangar Construction and the

Airport Storm Water Management Plan then in effect for the Airport. No structure shall be constructed within five feet of the perimeter boundary of the Leased Premises. Lessee shall maintain the Leased Premises in a safe and orderly condition during any and all construction/installation activities, and shall not allow construction materials, activities or debris to invade or impinge upon common Airport facilities (e.g., ramps, taxiways or roadways) or other leased premises. The Airport Manager may, upon request by Lessee and/or in order to minimize the disruption of normal Airport operations, allow or direct the temporary use by Lessee of non-leased Airport property for construction staging and/or material storage during any period of construction/installation. Lessee's installation or extension of any utility lines or services (i.e., water, sewer, electricity or gas) as part of any construction or improvement must be approved in advance and in writing by Lessors.

(c) Lessee shall affirmatively notify all persons or entities undertaking any work on the Leased Premises, including persons engaged in planning, design, construction or repair, and/or persons supplying any labor, materials or equipment pursuant to such work, that as publicly-owned property, the Leased Premises are not subject to lien for a failure to pay for such work, labor or materials, and Lessee shall, in accordance with C.R.S. § 38-22-105(2), post and keep posted a written notice to the same effect in some conspicuous place upon the Leased Premises during any and all such work.

(d) Except as otherwise provided for in this Ground Lease, all hangars, buildings, fixtures, structures or other improvements bought, installed, erected, constructed or placed on the Leased Premises by Lessee shall be deemed to be personal property for purposes of this lease and shall remain the property of Lessee; and Lessee shall, unless otherwise authorized in writing in advance by Lessors, remove such property upon the expiration or termination of the lease, subject to Lessee's obligation to repair all damage, if any, resulting to the Leased Premises or Lessors' property by such removal. Lessee shall be allowed up to sixty days after the expiration or termination of the lease to remove any and all such property, during which time Lessee shall be obliged to continue to pay rent on a prorated basis until such removal is completed. In the discretion of the Lessors, any and all property, inclusive of hangars, buildings and fixtures, not removed by Lessee within the time allotted for same may become part of the Leased Premises and title to such property shall automatically vest in Lessors, individually or jointly, to the extent that Lessors individually or jointly own the land underlying such property. If Lessee abandons any improvement or property on the Leased Premises or fails to remove such improvement or property as required, above, Lessors may, in its sole discretion, take title to or remove the same, at any time Lessors may determine, at Lessee's cost.

(e) Any aircraft hangar constructed by Lessee may be used for the temporary storage of motor vehicles while Lessee's aircraft is in use. Lessee may also allow other aircraft owners to temporarily occupy Lessee's hangar while performing maintenance or repairs on their personal aircraft. Collection of rental or sublease fees shall constitute a commercial operation and require a commercial operators agreement.

12. **Utilities.** Lessee shall timely and fully pay for all utility services installed and used on the Leased Premises. In no event shall a septic system be installed or used on the Leased Premises absent Lessors' written consent and the issuance of all necessary permits. Lessors may require Lessee, at Lessee's cost, to connect any water-using facility on the Leased Premises to a sanitary sewer system if a sanitary sewer main line becomes available within 400 feet of the Leased Premises and to remove any leach fields

13. **Taxes and Assessments**. Lessee shall timely pay all real and personal property taxes and assessments, including without limitation possessory interest assessments, levied or imposed against the Leased Premises as the result of Lessee's occupancy and/or use of same, and upon any improvements installed and owned by Lessee thereon.

14. **No Assignment Subletting, Sale or Conveyance.** Lessee may not assign, sublet, sell or otherwise convey any area, space, structure or interest on the Leased Premises to any third party, including an entity controlled in whole or part by Lessee, without the prior written consent of Lessors, which consent may be granted or withheld solely within the reasonable discretion of Lessors. If Lessors grants an assignment, sublet, conveyance or sale of the Leased Premises to a third-party will require the third-party

to execute a separate Ground Lease. Any assignment, subletting or conveyance in violation of this section shall be null and void and constitute grounds for termination of this Lease.

15. **Compliance with Laws and Regulations.**
(a) Lessee shall faithfully and timely comply with all laws and governmental orders, rules and regulations, including future amendments thereto, that control or in any manner affect the use, operations or maintenance of the Airport or the Leased Premises. This includes, without limitation FAA orders and regulations, local ordinances, the Airport Manual or its Rules and Regulations and instructions or requests issued by the Airport Manager for the safe and lawful operation of the Airport.

(c) Lessee does hereby covenant and agree that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises and/or improvements to the Leased Premises, (2) that in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee shall use the Leased Premises and improvements on the Leased Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended.

(d) Lessee shall not discriminate against any persons or businesses on the grounds of race, color, national original (including limited English Proficiency), creed, sex (including sexual orientation and gender identity), age, or disability regarding any activity arising from or related to this Ground Lease or Lessee's use of the Leased Premises.

16. **Insurance.**

(a) Lessee shall at its sole cost and expense procure and maintain in force insurance policies insuring the Leased Premises against loss or injury to any person or property arising from Lessee's use and/or occupancy of the Leased Premises and any improvements thereon. Such insurance policy shall be issued by a company authorized to do business in Colorado. Required insurance:

i. Premises Liability insurance of $1,000,000.00 per occurrence and $2,000,000.00 aggregate.
ii. Automobile CSL insurance of $1,000,000 per occurrence and $2,000,000 aggregate

The City of Salida and Chaffee County, at Lessee's sole expense, shall be named co-insureds or additional insureds on all insurance policies required under this lease, and such insurance shall act as primary insurance with respect to all claims, injuries or casualties occurring on or to, or arising from, the Lessee's occupancy and/or use of the Leased Premises. Insurance requirements may increase from time to time at the discretion of the Lessor but no more than bi-annually unless otherwise required by law. Lessors' failure to inform Lessee of any increased coverage requirements shall not affect Lessee's obligation.

(b) Lessee shall annually furnish the Airport Manager with certificates of insurance evidencing required coverage, from companies authorized to do business in Colorado. Such certificates shall contain a provision requiring notification to the Lessors in writing 30 calendar days in advance of any amendment or cancellation of such policy or policies.

17. **Release and Indemnification.** Lessee forever releases, waives and discharges Lessors and all persons acting on Lessors' behalf from all claims, suits and causes of action relating to any injury or loss Lessee or its invitees may sustain in any way connected with the Leased Premises, including personal injuries, death or property damage, or injury or loss in connection with Lessee's presence on the Leased Premises, common Airport facilities or other Airport facilities or property. Lessee shall indemnify and hold harmless Lessors and all persons acting on Lessors' behalf against all claims and losses (including interest

and attorneys' fees and expenses) resulting from Lessee's use or occupancy of the Airport facilities or property or the Leased Premises; Lessee agrees that if the Lessors, without any fault on their part, shall be made a party to any litigation commenced by or against the Lessee arising from Lessee's use or occupancy of the Airport facilities or property or the Leased Premises, then Lessee shall pay and/or advance all costs in connection with such litigation, including reasonable attorney fees and litigation costs paid by either Lessor.

18. **Damage to Leased Premises.** If the Leased Premises or any improvements thereon are damaged or destroyed, in whole or in part, Lessee shall, within sixty days of the damage or destruction, perform one of the following:

- repair, restore or rebuild same to their condition and operational status as existed prior to such damage or destruction; OR
- furnish a performance and payment bond, in an amount at least equal to the cost of removing all damaged or destroyed improvements and any other debris and restoring the Leased Premises to the conditions existing at the time Lessee first entered onto the Leased Premises, as security for the faithful performance and payment of Lessee's obligations under this Ground Lease.

Rent shall not be reduced or abated during any period in which the Leased Premises or any improvements, or parts of same, are not available for use by Lessee.

19. **Right to Mortgage.** Lessee may mortgage or otherwise encumber all or any portion of its owned improvements and its leasehold interests under this Ground Lease. Lessors, upon request, may subordinate their interests herein to any lending or financing agency for the term of the lease, provided such subordination cannot and shall not have the effect of permitting a mortgagee or trustee to own or claim an ownership interest in the Leased Premises, and that such mortgagee or trustee is approved in writing in advance by Lessors, which approval shall not be unreasonably withheld. IF, DUE TO FORECLOSURE OR OTHER DEFAULT UNDER THE TERMS OF SUCH MORTGAGE, ANY MORTGAGEE BECOMES THE OWNER OF THE IMPROVEMENTS CONSTRUCTED HEREUNDER, SUCH MORTGAGEE SHALL BE SUBJECT TO THE TERMS AND OBLIGATIONS OF THE LESSEE HEREUNDER.

20. **Lessors' Reserved Rights**. Lessors, on behalf of themselves and the Federal Aviation Administration, reserve the right and privilege during the term of this agreement to place on the Airport, inclusive of the Leased Premises, whatever instruments and/or equipment they or the FAA may determine are necessary or convenient to the safe and efficient operation of the Airport, so long as said instruments or equipment do not substantially interfere with Lessee's use of the Leased Premises or reduce the structural integrity of Lessee's hangar or such other building as Lessee may have constructed on the Leased Premises. Lessors additionally reserve the right to further develop and otherwise change or improve the Airport, inclusive of all landing areas, taxiways, or access ways, as it deems necessary, and to take such other actions with respect to the Airport as Lessors see fit without hindrance or interference from Lessee, provided all of such developments or improvements are required by law, federal regulation, and/or are approved by the FAA. Lessors further reserve the right to from time to time temporarily or permanently close the Airport, or parts thereof, for any reason, including without limitation maintenance, construction or public safety purposes, immediately prior to which Lessors will make reasonable efforts to notify Lessee in advance thereof.

21. **Subordination.** This Ground Lease shall be subordinate to the provisions of any existing or future agreement between Lessors and the United States and/or the State of Colorado for the funding, operation or maintenance of the Airport.

22. **Inspection.** Lessors or their duly authorized representative shall have the right to inspect the Leased Premises and any improvements at all reasonable times upon reasonable prior notification to Lessee. Lessors shall also be entitled to enter the Leased Premises and any improvements, without prior notice, to make emergency repairs or to take emergency action necessary to protect or preserve human life or the property of the Airport.

23. **Notices.** In every case where notice is required or permitted in this lease, notice shall be deemed sufficient if (1) personally delivered or (2) mailed by certified mail, postage prepaid, properly addressed to the address contained herein, or such other address as shall be given in writing by one party to the other according to the provisions hereof.

If to Lessors: Chaffee County Commissioners
P.O. Box 699
Salida, CO 81201

With copy to:

Chaffee County Attorney
P.O. Box 699
Salida, CO 81201

If to Lessee, to the person and address listed at the beginning of this Lease.

Notices shall be deemed to be given on the date of receipt, except that if delivery is refused, such notice shall be deemed given on the fifth day after it is sent.

24. **Liens.** Lessee shall not allow liens of any kind or duration to be asserted or maintained on the Leased Premises. The existence of any lien on the Leased Premises shall constitute grounds for termination of this Lease for breach under Section 3, above..

25. **Attorney Fees.** If either party brings an action to enforce the terms of this Lease or declare rights under this Lease, the prevailing party in such action shall be entitled to its reasonable attorney fees and costs against the non-prevailing party.

26. **Binding Effect.** This Lease shall bind and benefit the parties hereto and their representatives, successors, and permitted assigns.

27. **Venue and Severability**. This Lease shall be construed under the laws of the State of Colorado. Venue for any legal action between the parties brought to interpret or enforce the provisions of this agreement shall be the Colorado District Court in and for Chaffee County. Any covenant, condition, or provision herein which is held to be invalid by any court of competent jurisdiction shall be considered deleted from the lease, but such deletion shall in no way affect any other covenant, condition, or provision herein so long as such deletion does not materially prejudice Lessors or Lessee in their respective rights and obligations contained in the valid covenants, conditions, or provisions of the lease,

28. **Waivers.** One or more waivers by Lessors of any term or condition of this agreement, or of Lessee's breach or violation thereof, shall not be construed or have the effect as a forgiveness or waiver of any other term or condition, or of any future or different breach or violation of the agreement by Lessee.

29. **Entire Agreement and Amendments**. This Lease reflects and contains the entire agreement of the parties and supersedes all previous agreements entered into or contemplated by the parties with regard to the Airport. No negotiations, understandings, agreement or promises, verbal or otherwise, exist or are enforceable between the parties except as expressly set forth in this agreement, the provisions of which may only be amended, modified, or superseded by written agreement signed by both parties.

30. **Counterpart and Electronic Signature Pages.** This Lease may be executed in two or more counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument. This Lease may

also be signed by the parties electronically and such signatures shall have the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law.;

LESSEE:

By: Ray PLUMB Date: 10/25/2024
Name:
Title: Ray A Plumb

LESSORS:

CHAFFEE COUNTY COLORADO.
acting by and through the Board of County Commissioners:

_____ Date: _____
P.T. Wood, Board Chair

CITY OF SALIDA, COLORADO

_____ Date: _____
Mayor

AIRPORT ENGINEERING DESIGN AND CONSTRUCTION MANAGEMENT

CONSULTING SERVICES AGREEMENT

This Agreement, entered into as of this 30th day of October 2024, by and between:

CITY OF SALIDA and CHAFFEE COUNTY
Harriet Alexander Field - Salida Airport
P.O. Box 699
104 Crestone Ave.
Salida, CO 81201

hereinafter also referred to as the **Sponsor**

AND:

Dibble & Associates Consulting Engineers, Inc. (dba Dibble)
2696 South Colorado Blvd., Suite 330
Denver, CO 80222

hereinafter also referred to as the **Consultant**

For the purpose of the Sponsor to retain the Consultant to provide professional airport consulting services for the development of the Harriet Alexander Field - Salida Airport, including, but not necessarily limited to: assistance in programming, planning and development of the annual Airport Capital Improvement Program (ACIP); engineering/design services, including development of plans/construction drawings, specifications, special provisions, design reports, studies, and other documents as required, for airside and landside improvements at Harriet Alexander Field - Salida Airport; bid phase services, including coordination and attending pre-bid meetings and bid opening meetings, responding to contractor questions, issuing addenda to contract documents, and providing bid analysis and tabulations; and construction phase services including on-site construction inspection/observation, construction contract administration, contractor document responses, and project close-out activities, including final construction reports and Record Drawings.

The Sponsor and Consultant hereby mutually agree to the following:

ARTICLE ONE - SERVICES AND RESPONSIBILITIES

1.1 **Engagement of the Consultant.** In consideration of the mutual promises contained in this Agreement, the Sponsor engages the Consultant to render professional airport consulting services in furtherance of the development, operation, and management of airports under the control of the City of Salida and Chaffee County, in accordance with all the terms and conditions contained in this Agreement.

1.2 **Scope of Services.** The Consultant shall do, perform and carry out in a satisfactory and proper manner, as determined by the Sponsor, and other Sponsoring agencies such as the Federal Aviation Administration (FAA) and Colorado Department of Transportation (CDOT) Aeronautics Division, the services generally outlined below and/or incorporated by reference hereto. The Consultant is authorized

to utilize the services of independent contractors, subconsultants, and subcontractors, when such service are warranted and agreed upon by the Sponsor.

(a) The Consultant shall render services as the Sponsor's professional airport Consultant, giving consultation and advice as needed. The Consultant shall provide general project administration, fiscal planning and management services; including but not necessarily limited to: Assist the Sponsor in the preparation of the pre-application, program sketch, program narrative, and engineer's estimate, required statements and notifications, the environmental documentation, and state and regional review as required;

(b) Consult/coordinate with the airport authority, airport staff, the Federal Aviation Administration (FAA), Colorado Department of Transportation (CDOT) - Aeronautics Division, airport users, city, county, and other interested parties;

(c) Review, and revise as necessary, the airport drawings which provide the basis for the project design;

(d) Prepare preliminary Plans and Specifications and cost estimates for the design and construction;

(e) Provide an acceptable airport layout plan, including exhibits and associated drawings, as required;

(f) Prepare and submit final Plans and Specifications and other contract documents for approval by the Sponsor for projects that may be funded by the Sponsor, FAA, and/or CDOT Aeronautics (project list included below);

(g) Prepare a design engineer's report, including estimates of final quantities and opinion of probable construction costs. The report will be submitted with the final Plans and Specifications to the Sponsor and when applicable to the FAA and or CDOT Aeronautics;

(h) Prepare or assist in the preparation of an application for federal funds and a property map;

(i) Coordinate the establishment of bid proposals into schedules to allow flexibility of award to match the funds available;

(j) Provide complete sets of approved Plan and Specifications and other contract documents for the bidding of the project;

(k) Arrange for and conduct a pre-bid conference and job showing;

(l) Assist with the bid opening and processing of bid documents and make recommendations to the Sponsor for award of contract schedules;

(m) Perform miscellaneous engineering services, e.g. non-AIP funded projects, as requested by airport management; and

(n) Field engineering services with approval of each project by the Sponsor.

The list of projects below has been identified to be included in this contract. These projects may be funded by the Sponsor, FAA, and/or CDOT Aeronautics:

- Airfield pavement rehabilitation and/or reconstruction (Runway, Taxiway, and Apron)
- Landside pavement rehabilitation including parking lot, roads, service roads, etc.
- Utility projects including stormwater, water, sewer, electrical, communications, etc.
- Taxiway A Extension
- Land Acquisition(s)
- Fuel Facility Upgrade(s)
- AWOS Relocation
- New Beacon Light Tower
- Hangar Development(s)
- Update(s) to the ALP and other Master Plan documents as needed
- Airport Overlay and other associated planning projects

- Environmental actions as needed to accomplish the above-mentioned projects includin Federal Categorical Exclusions (CATEX), Federal Environmental Assessments (EA), etc.
- Upgrades and/or modifications to the existing Terminal Building
- Capital Improvement Planning and Programming (CIP)
- Disadvantaged Business Enterprise (DBE) development, planning, and programming
- Development and preparation of FAA and CDOT Grant Applications

1.3 **Responsibility of the Consultant.** Consultant shall faithfully perform the work in accordance with the standards of professional care, skill, training, diligence and judgment provided by highly competent contract professionals performing services of a similar nature to those described in this Contract. Consultant shall further be responsible for the timely completion and acknowledges that a failure to comply with the Project Documents may result in Sponsor's decision to withhold payment or to terminate this Contract. Consultant shall be responsible for the technical accuracy of its services, data and documents resulting therefrom and Sponsor shall not be responsible for discovering deficiencies therein. Consultant shall correct such deficiencies without additional compensation, except to the extent that such action is directly attributable to deficiencies in Sponsor-furnished information that is not verifiable through outside sources.

Consultant shall secure at Consultant's own expense all necessary certificates, licenses and permits required in connection with the work contemplated by this Contract or any part of this Contract, and shall give all notices required by law, ordinance or regulation.

Federal Compliance: Consultant represents and covenants to Sponsor that all services performed shall be in conformance with any and all applicable rules and regulations of the FAA.

1.4 **Responsibility of the Sponsor.** The Sponsor shall cooperate with the Consultant by making a diligent effort to provide everything reasonably necessary for the Consultant to be able to provide its services, including all previous plans, drawings, specifications and design and construction standards; assistance in obtaining necessary access to public and private lands; legal, accounting, and insurance information required for various projects and necessary permits and approval of governmental authorities or other individuals.

1.5 **Subconsultants.** At the time subconsultant services are anticipated, the Consultant shall notify the Sponsor of the nature of and need for such services and identify the proposed subconsultant firm. The Consultant must receive approval in writing from the Sponsor prior to utilization of a subconsultant. Consultant shall be responsible for the work of all subconsultants notwithstanding Sponsor's approval of the subconsultant.

1.6 **Time of Performance.** The general services of the Consultant shall be available on a continuous basis for a period of two (2) years commencing as of the date of this Agreement. Except to the extent otherwise provided in this Agreement, this Agreement shall automatically renew, subject to the termination sections below, on the same terms and conditions as in effect just before the then-current end of the term, for up to three (3) successive periods of twelve (12) months each. Specific services outlined in all attached Authorization of Services shall be undertaken and completed in the sequence and timeframe specified in each Authorization of Services. It is understood that specific services, begun during the Time of Performance as outlined above, may require the services of the Consultant beyond the termination date of this contract, in which case, the provisions of this contract will remain in effect for the completion of that specific service.

1.7 **Independent Contractor.** Consultant is an independent contractor and is responsible for all taxes (including employment taxes) and insurance applicable under existing laws with respect to the fees paid under this Contract. Consultant shall not have authority to bind the Sponsor in any contract or agreement. Consultant will not participate in any retirement, bonus, welfare or benefit plans of the Sponsor. Consultant acknowledges that it is not entitled to unemployment insurance benefits or workers' compensation benefits from Sponsor, its elected officials, agents, or any program administered or funded by Chaffee County or the City of Salida. Consultant shall be entitled to unemployment insurance or workers' compensation insurance only if unemployment compensation coverage or workers' compensation coverage is provided by Consultant, or some other entity that is not a party to this Contract.

ARTICLE TWO - COMPENSATION AND METHOD OF PAYMENT

2.1 **Compensation.** All compensation for services rendered by the Consultant shall be based upon criteria established below which relate to the type of services provided and must be billed through the Consultant. The Consultant shall adhere to the hourly rate fee schedules attached as **Exhibit A** to this agreement; however, Consultant may request reasonable annual adjustment of billing rates described in **Exhibit A** subject to Consultant providing Sponsor sixty (60) day notice in writing of fee revisions and negotiation with, and agreement by the Sponsor.

(a) Compensation for services authorized by the Sponsor, that are tied to a project or a Capital Improvement, shall be based upon actual hours and expenses incurred by the Consultant. The Consultant and any of its subconsultants must provide hourly rate schedules, as described in **Exhibit A,** which will be approved by and placed on file with the Sponsor. Such hourly rate schedules will establish a billing rate for each employee category which includes direct salary, overhead and profit and shall constitute the full and complete compensation per hour of services performed by the Consultant. Eligible expenses shall be reimbursed by the Sponsor based upon submittal of expense reports and/or receipts if requested. All eligible expenses will be outlined and generally approved by the Sponsor beforehand and will include only non-overhead items directly related to the services performed, such as, but not limited to, transportation, subsistence, reproduction of documents, computer costs, and all purchases which become the property of the Sponsor. For reimbursable travel expenses under a federal grant, the expenses will comply with the federal travel policy rates. The Consultant may submit revised hourly rate schedules when changes occur and adjustments are necessary, provided that such changes are approved by the Sponsor and no other adjustments have been approved during a period of no less than six months prior to the requested adjustment.

2.2 **Method of Payment.** The Sponsor shall pay to the Consultant the appropriate rate or fixed price amount for services rendered as described in Paragraph 2.1 of this Agreement only after the Consultant has specified that he has performed the services and is entitled to the amount requisitioned under the terms of this Agreement.

(a) For services, the Consultant shall submit a requisition for payment outlining actual hours and expenses incurred once the services are performed or at monthly intervals. Payments shall be subject to receipt of requisitions for payment from the Consultant specifying that he has performed the services and is entitled to the full amount requisitioned under the terms of this Agreement.

2.3 **Consultant Responsibilities for Compensation.** The Consultant shall prepare monthly invoices and progress reports which indicate the progress to date and the amount of compensation due by virtue of

that progress. All requisitions for payment shall be for work completed unless otherwise agreed to by Sponsor. The Consultant shall also prepare the necessary forms and Requisitions for Payment under the State of Colorado and/or Federal project grant application requirements.

2.4 **Billing Address.** All billings will be sent to the attention of:

Chaffee County Administrator
PO Box 699
Salida, CO 81201.

2.5 **Sponsor Responsibilities for Compensation.** The Sponsor agrees to pay the Consultant's invoices thirty (30) days after receipt of invoices. At no time will payment of requisitions exceed thirty (30) days from the date of Sponsor's receipt of the invoice without notification to the Consultant, however, for services eligible for federal funding, the Sponsor shall not be responsible for payment to the Consultant until Sponsor receives funding for such payment. Only at such time as the necessary funds are received by the Sponsor pursuant to federal grants shall the Sponsor tender payments to the Consultant as set forth herein. It is expressly understood that the payment process outlined above builds in provisions for the Consultant to carry Consulting costs for no more than sixty (60) days to minimize interest overheads. It is also expressly understood that the Sponsor has the right to withhold payment on any invoice if Sponsor feels that the Consultant has not performed the requisitioned work efforts in a satisfactory manner. If the Sponsor does decide to withhold payments to the Consultant for any reason, the Sponsor must provide written notifications and an explanation to the Consultant within ten (10) days of the date of the invoice. If any payments are not made when due, then the Consultant may suspend services under this Agreement until payment has been made in full or other satisfactory arrangements have been made.

ARTICLE THREE - CHANGES TO THE SCOPE OF SERVICES

The Sponsor may, at any time, and by written order, make changes in the services to be performed under this Agreement. If such changes cause an increase or decrease in the Consultant's fee or time required for performance of any services under this contract, an equitable adjustment shall be made, and the contract shall be modified in writing accordingly. Any claim of the Consultant for adjustment under this clause must be submitted in writing within thirty (30) days from the date or receipt by the Consultant of the notification of change. Consultant acknowledges that any work it performs beyond that specifically authorized by Sponsor is performed at Consultant's risk and without authorization under this Contract. Sponsor shall not be liable for the payment of taxes, late charges or penalties of any nature other than the compensation stated herein.

ARTICLE FOUR - TERMINATION OF THE AGREEMENT

The Sponsor may, at its sole discretion, by written notice to the Consultant, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of the failure of the Consultant to fulfill his contract obligations. Upon receipt of such notice, the Consultant shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Sponsor all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Consultant in performing this contract, whether completed or in process.

This Agreement may be terminated in whole or in part by the Consultant in the event of substantial failure by the Sponsor to fulfill its obligations.

If the termination is for the convenience of the Sponsor, the Sponsor shall pay the Consultant for the services rendered prior thereto in accordance with percent completion at the time work is suspended minus previous payments.

If the termination is due to the failure of the Consultant to fulfill his contract obligations, the Sponsor may take over the work and prosecute the same to completion, by contract or otherwise. If Sponsor terminates this contract because Consultant has breached this Contract, Consultant may be required to refund Sponsor the compensation paid pursuant to this Contract for work (or projects) found to be insufficient or incomplete. A breach of this Contract shall include the failure by Consultant to perform the work within the applicable time frames set forth in the respective project scope of work. In addition, Sponsor shall have all rights and remedies available at law or equity.

ARTICLE 5 - ASSURANCES

5.1 **Compliance with Laws.** It is assumed that Consultant and Subconsultant are familiar with all applicable federal, state, and local laws, codes, ordinances, and regulations which in any manner affect those engaged or employed in the Work or the material or equipment used in or upon the site, or in any way affect the conduct of the work or construction of the project. No pleas or claims of misunderstanding or ignorance by Consultant or Subconsultant shall in any way serve to modify the provisions of the Contract. Consultant and Subconsultant shall at all times observe and comply with all applicable federal, state, county, local, and municipal laws, codes, ordinances, and regulations in any manner affecting the conduct of the Work or the project.

5.2 **Affirmative Action.** The Consultant has formulated, adopted, and actively maintains an affirmative action plan in compliance with Executive Order No. 11246 entitled, "Equal Employment Opportunity."

The Consultant shall, in all hiring or employment made possible by or resulting from this Contract, take affirmative action to ensure that there shall be no unlawful discrimination against any employee or applicant for employment because of sex, race, age, color, creed, national origin, marital status or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification, and this requirement shall apply to but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

No person shall be denied or subjected to discrimination in the receipt of the benefit of any services or activities made possible by or resulting from this Contract on the grounds of sex, race, color, creed, national origin, age (except minimum age and retirement provisions), marital status, or the presence of any sensory, mental or physical handicap.

5.3 **Solicitations for Subconsultants.** In all solicitations by the Consultant for work to be performed under a subcontract each potential subconsultant shall be notified by the Consultant of the Consultant's obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color, or national origin. Subconsultants used in AIP related projects are required to follow the bid solicitation requirements.

5.4 **Sanctions for Noncompliance.** In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Sponsor shall impose such contract sanctions as it, the FAA, or CDOT may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the Consultant under the contract until the Consultant complie and/or

(b) cancellation, termination, or suspension of the contract, in whole or in part.

5.5 **Information and Reports.** The Consultant shall provide information and reports as required by the specific AIP project, regulations and directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Sponsor, FAA, or CDOT to be pertinent to ascertain compliance with such regulations, orders, and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Sponsor, FAA, or CDOT as appropriate, and shall set forth what efforts it has made to obtain the information.

5.6 **Incorporation of Provisions.** The Consultant shall include the provisions of the above paragraphs 5.1 through 5.5 in every subcontract unless exempt by the regulations or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontract as the Sponsor, the FAA, or CDOT may direct as a means of enforcing such provisions including sanctions for noncompliance.

5.7 **Breach of Contract Terms.** Any violation or breach of the terms of this contract on the part of the Consultant or subconsultant(s) may result in the suspension or termination of this contract or such other action which may be necessary to enforce the rights of the parties of this agreement.

5.8 **Suspension and Debarment.** The Consultant confirms by acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal or State department or agency. It further agrees that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the Consultant or any lower tier participant is unable to confirm to this statement, it shall attach an explanation to this solicitation/proposal.

5.9 **Inspection of Records.** The Consultant shall maintain an acceptable cost accounting system. The Sponsor, FAA and CDOT shall have access to any books, documents, paper, and records of the Consultant which are directly pertinent to the specific contract for the purposes of making an audit, examination, excerpts, and transcriptions. The Consultant shall maintain all required records for five (5) years after the Sponsor makes final payment and all other pending matters are closed.

5.10 **Ownership of Documents and Other Data.** In accordance with FAA guidelines, all documents, including but not limited to, field notes, design notes, tracings, data compilations, studies and reports in any format, including but not limited to, written or electronic media, which are prepared/partially prepared under this contract are to be and remain the sole property of the Sponsor and are to be delivered to the Sponsor before final payment is made to the Consultant. The Sponsor agrees to hold harmless and release the Consultant from any liability arising out of, or resulting from, the Sponsor's use of such documents for other projects, or use in completing documents furnished by the Consultant, related to the preparation of final construction plans by others.

5.11 **Disadvantaged Business Enterprise {DBE) Assurances.** The Consultant agrees to ensure that disadvantaged business enterprises have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with any Federal funds provided under this Agreement. The Consultant shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of contracts.

5.12 **Lobbying and Influencing Federal Employees.** No Federal appropriated funds shall be paid, or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant.

ARTICLE SIX - SUSPENSION OF WORK

The Sponsor may order the Consultant, in writing, to suspend all or any part of the work for such period of time as it may determine to be appropriate for the convenience of the Sponsor.

If the performance of all or any part of the work is, for any unreasonable period of time, suspended or delayed by an act of the Sponsor in the administration of this contract, or by its failure to act within the time specified in this contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this contract necessarily caused by such unreasonable suspension or delay, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension or delay to the extent (1) that performance would have been suspended or delayed by any other cause, including the fault or negligence of the Consultant, or (2) for which an equitable adjustment is provided for or excluded under any other provision of this contract.

ARTICLE SEVEN - INSURANCE

The Consultant or any subconsultant shall maintain during the life of this Agreement, the following minimum public liability and property damage insurance which shall protect the Consultant from claims for injuries including accidental death, as well as from claims for property damages which may arise from the performance of work under this Agreement and the limit of liability for such insurance shall be as follows:

(a) Comprehensive general liability, including personal injury liability, blanket contractual liability, and broad form property damage liability. The combined single limit for bodily injury and property damage shall be not less than $1,000,000.

(b) Automobile bodily injury and property damage liability insurance covering owned, non-owned, rented, and hired cars. The combined single limit for bodily injury and property damage shall not be less than $1,000,000.

(c) Statutory workers compensation and employer's liability insurance for the State of Colorado

The Consultant shall submit to the Sponsor certificates of insurance with assurances that the Sponsor will be notified at least 30 days prior to cancellation or any policy changes. The certificate or insurance shall name the Sponsor as additionally insured.

ARTICLE EIGHT- STANDARD OF CARE AND INDEMNIFICATION

The Consultant shall perform its services using that degree of care and skill ordinarily exercised under the same conditions by design professional practicing in the same field at the same time in the same or similar locality.

Consultant shall be liable and responsible for damages to persons or property caused by or arising out the negligent actions, obligations, or omissions of Consultant, its employees, agents, representatives or other persons acting under Consultant 's direction or control in performing or failing to perform the work under this Contract. Consultant will defend, indemnify and hold harmless Sponsor, its elected and appointed officials, employees, agents and representatives (the "indemnified parties"), from liability, claims, demands, actions, damages, losses, judgments, costs or expenses, including but not limited to attorneys' fees, which may be made or brought or which may result against any of the indemnified parties as a result or on account of the actions or omissions of Consultant, its employees, agents or representatives, or other persons acting under Consultant's direction or control. In addition, the parties reserve the right to bring tort claims in the event of the discovery of an intentional fraud committed during contract performance. Nothing in this indemnification agreement shall be construed in any way to be a waiver of Sponsors' immunity protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.,* as amended and as may be amended from time to time.

ARTICLE NINE - INTERESTS AND BENEFITS

9.1 **Interest of Consultant.** The Consultant covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Consultant further covenants that in the performance of this Agreement, no person having any such interests shall be employed.

9.2 **Interest of Sponsor Members and Others.** No officer, member, or employee of the Sponsor and no member of its governing body, who exercise any functions or responsibilities in the review or approval of the undertaking or carrying out of the services to be performed under this Agreement, shall participate in any decision relating to this Agreement which affects his personal interest or have any personal or pecuniary interests, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE TEN - ASSIGNMENT

The Consultant shall not assign any interest in this contract and shall not transfer any interest in the same without the prior written consent of the Sponsor thereto: provided, however, that claims for money due or to become due to the Consultant from the Sponsor under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Sponsor.

ARTICLE ELEVEN MISCELLANEOUS

11.1 **Governing Law and Jurisdiction.** The interpretation and performance of this Contract shall be construed under the laws of Colorado, without regard to choice of law principles. In the event of litigation, jurisdiction and venue shall be in the Chaffee County District Court.

11.2 **Amendment.** This Contract shall not be amended, except by subsequent written Contract of the parties.

11.3 **Work By Unauthorized Worker Prohibited.**

a. Consultant shall not knowingly employ or contract with an unauthorized worker to perform work under the Contract; or enter into a contract with a subcontractor who fails to certify to

Consultant that the subcontractor shall not knowingly employ or contract with an unauthorized worker to perform work under the Contract.

b. Consultant has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Contract through participation in either the E-Verify Program or Department Program.

c. Consultant shall not use either the E-Verify Program or Department Program to undertake pre-employment screening of job applicants while the Contract is in effect.

d. If Consultant obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an unauthorized worker, Consultant shall be required to:

1. notify the subcontractor and Sponsor within three days that Consultant has actual knowledge that the subcontractor is employing or contracting with an unauthorized worker ("Notice"); and

11. terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this subparagraph the subcontractor does not stop employing or contracting with the unauthorized worker; except that Consultant shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an unauthorized worker.

e. Consultant shall comply with any reasonable request by the Colorado Department of Labor and Employment ("Department") made in the course of an investigation that the Department is undertaking pursuant to the authority established in subsection 8-17.5- 102(5), C.R.S.

f. If Consultant violates this Paragraph, Sponsor may terminate this Contract for breach of contract. If this Contract is so terminated, Consultant shall be liable for actual and consequential damages to County arising out of said violation.

11.4 **Certification Regarding Employing or Contracting with an Unauthorized Worker.** If Consultant has any employees or subcontractors, Consultant shall comply with §8-17.5-101 C.R.S., *et seq.,* regarding unauthorized worker - Public Contracts for Services, and this Contract. By execution of this Contract/Addendum, Consultant certifies that it does not knowingly employ or contract with an unauthorized worker who will perform work under the Contract and that Consultant will participate in either the E- Verify Program or Department Program to confirm the eligibility of all employees who are newly hired for employment to perform work under the Contract.

11.5 **Prohibition on Acceptance of Gifts.** Pursuant to Section 3 of Art. XXIX of the Constitution of the State of Colorado, County Employees or contractors cannot accept any gifts, meals, theatre or sporting event tickets unless:

a. the aggregate value of things received from a single source does not exceed $75/calendar year; or
b. the County employee/elected official gave the donor consideration of equal or greater value; or

c. an enumerated exception applies.

11.6 **Statutory and Regulatory Requirements.** This Contract is subject to all statutory and regulatory requirements that are or may become applicable to counties or political subdivisions of the State of Colorado generally. Without limiting the scope of this provision, the Contract is specifically subject to the following:

a. Contract payments may be withheld pursuant to C.R.S. § 38-26-107 if the County receives a verified statement that Contractor has not paid amounts due to any person who has supplied labor or materials for the Project.
b. Consultant shall comply with all requirements of 23 CFR Part 172 and 23 CFR 172.5 and with any procedures implementing those requirements as provided by the State of Colorado (the "State.")
c. Contractor shall comply with all applicable standards, orders and regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).

11.7 **Priority of Provisions**. In the event that any terms of this Contract and any Exhibit, attachment, or other referenced document are inconsistent, the terms of this Contract shall prevail.

11.8 **Binding Effect.** This Contract shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns.

11.9 **Survival.** All express representations, indemnifications or limitations of liability included in this Contract will survive its completion or termination for any reason.

11.10 **Waiver.** Any waiver of a breach of this Contract shall not be held to be a waiver of any other or subsequent breach of this Contract. All remedies afforded in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law.

11.11 **Third Party Beneficiary.** The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement shall be strictly reserved to Sponsor and Contractor, and nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other or third person, except the State of Colorado, the FAA and any other applicable state or federal regulatory agency. It is the express intent of the parties to this Contract that any person receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.

11.12 **Authority.** Each person signing this Contract represents and warrants that he is fully authorized to enter into and execute this Contract, and to bind the party it represents to the its terms and conditions.

11.13 **Counterparts.** This Contract may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed one and the same instrument.

IN WITNESS WHEREOF, the Sponsor and the Consultant have executed this Agreement as of the date first written.

FOR THE Consultant

Dibble and Associates
Consulting Engineers, Inc. (dba Dibble)

Signed: _____

Name: Jared Bass, P.E.

Title: Vice President - Group Leader

Date: 10/30/2024

FOR THE Sponsor

City of Salida

Signed: _____

Name: _____

Title: _____

Date: _____

Notice Address:

_____

_____

Chaffee County

Signed: _____

Name: P.T. Wood

Title: Chair

Date: _____

Notice Address:

Attention: County Attorney

P.O. Box 699

Salida, Colorado 81201

EXHIBIT A

DIBBLE

FEE SCHEDULE

STANDARD BILLING RATES*

Principal Engineer	$ 267.50
Senior Project Manager	$ 246.10
Senior Planner	$ 230.05
Project Manager	$ 224.70
QA/QC Manager	$ 224.70
Senior Engineer	$ 224.70
Project Engineer	$ 184.04
Planner	$ 181.90
Assistant Project Engineer	$ 149.80
Engineering Technician	$ 165.85
Senior Designer	$ 160.50
Designer	$ 139.10
Senior Technician	$ 153.01
Technician	$ 127.33
Project Coordinator	$ 136.96
Land Survey Manager	$ 205.44
Land Surveyor	$ 184.04
Senior Project Surveyor	$ 160.50
Project Surveyor	$ 136.96
Senior Survey Technician	$ 130.54
Survey Technician	$ 114.49
Survey Crew	$ 214.00
Senior Construction Inspector	$ 156.22
Construction Inspector	$ 145.52
GIS Analyst	$ 149.80
Technical Writer	$ 128.40
Senior Administrative Assistant	$ 112.35
Administrative Assistant	$ 90.95
Network Administrator	$ 125.19
Marketing Specialist	$ 128.40
Managing Principal	$ 315.65

Expenses
Mileage, reproduction, etc. Direct Costs at Federal Fiscal Year Rates

Overtime Rates
Client authorized Billing Rate x 1.5
* Dibble can honor these rates through Calendar Year 2026. We respectfully request the ability to re-negotiate new rates at the beginning of Calendar Year 2027 consistent with the terms of the Contract.

CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Public Works	David Lady - Public Works Director	November 5, 2024

AGENDA ITEM

Council Action – Approve Final Settlement for the 2024 Concrete Maintenance Project

Consent Agenda

BACKGROUND

The 2024 Concrete Maintenance Project included sidewalk improvements and repairs at various locations. Concrete maintenance is necessary to improve community walkability, reduce life cycle costs, and maintain a higher level of service.

RECOMMENDATION

City Council awarded a Construction Contract to Jarrco Construction, LLC on September 3, 2024. The retainage final payment in the amount of $7,730.90 has been withheld pending approval of final settlement by the City Council. Public Notice of Final Settlement was advertised on October 18th and October 22nd, 2024.

Jarrco Construction, LLC provided excellent quality of work and coordination with the City throughout the project.

FISCAL IMPACT

To approve final settlement to Jarrco Construction, LLC in the amount of $7,730.90 for the 2024 Concrete Maintenance Project.

MOTION

A City Councilmember should state “I move to combine and approve the items on the consent agenda”, followed by a second and a roll call vote.

CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Public Works	David Lady - Public Works Director	November 5, 2024

AGENDA ITEM

Council Action – Approve Final Settlement for the 2024 Asphalt Maintenance Project

Consent Agenda

BACKGROUND

The 2024 Asphalt Maintenance Project included the milling and overlaying of asphalt as well as paving of Routt Street, Adams Street, Eaton Street, and a portion of Old Stage Road. Asphalt maintenance is necessary to reduce life cycle costs and maintain a higher level of service.

RECOMMENDATION

City Council awarded a Construction Contract to Pavement Maintenance Services, Inc. April 2, 2024. The retainage final payment in the amount of $35,585.38 has been withheld pending approval of final settlement by the City Council. Public Notice of Final Settlement was advertised on October 18th and October 22nd, 2024.

Pavement Maintenance Services, Inc. provided excellent quality of work and coordination with the City throughout the project.

FISCAL IMPACT

To approve final settlement to Pavement Maintenance Services, Inc. in the amount of $35,585.38 for the 2024 Asphalt Maintenance Project.

MOTION

A City Councilmember should state “I move to combine and approve the items on the consent agenda”, followed by a second and a roll call vote.

CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Public Works	David Lady - Public Works Director	November 5, 2024

AGENDA ITEM

Council Action – Approve Final Settlement for the Pasquale Water Treatment Plant Improvement Project

Consent Agenda

BACKGROUND

The Pasquale Water Treatment Plant Improvement Project included the replacement of the water treatment equipment, storage, onsite generator, and pumping infrastructure at the site. The size of the project warranted Colorado Water Resources and Power Development Authority (CWRPDA) financing and was subsequently awarded a DOLA Tier II Energy Impact Grant to help support the improvements. This project was also considered during the 2021 Water Rate Study adopted by the City Council.

The improvements provided additional treatment capacity at the site and replaced aging infrastructure nearing the end of its useful life. System resiliency will be improved through the completion of these improvements.

RECOMMENDATION

City Council awarded a Construction Contract to Moltz Construction, Inc. June 21, 2022. The retainage final payment in the amount of $99,945.05 has been withheld pending approval of final settlement by the City Council. Public Notice of Final Settlement was advertised on October 18th and October 22nd, 2024.

Moltz Construction, Inc. provided excellent quality of work and coordination with the City throughout the project.

FISCAL IMPACT

To approve final settlement to Moltz Construction, Inc. in the amount of $99,945.05 for the Pasquale Water Treatment Plant Improvement Project.

MOTION

A City Councilmember should state “I move to combine and approve the items on the consent agenda”, followed by a second and a roll call vote.

CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Public Works	David Lady - Public Works Director	November 5, 2024

ITEM

Council Action – Approval of the 2025 Salida Tree Board Action Plan

Consent Agenda

BACKGROUND

The Salida Tree Board has prepared the attached Action Plan for 2025.

FISCAL NOTE

The Parks and Recreation 2025 budget includes $25,000 for pruning and plantings located in parks and open spaces.

The Public Works 2025 budget includes $55,000 for pruning and adopt-a-tree plantings located in street rights-of-ways.

STAFF RECOMMENDATION

Staff recommends that Council approve the 2025 Salida Tree Board action plan.

SUGGESTED MOTION

A Council person should make a motion to “combine and approve the items on the consent agenda.”

SALIDA TREE BOARD

2025 Annual Work Plan

General Activities	Date to be Accomplished	Responsibility
1. Tree Board Meetings		
a. Announcements	1 week prior	City
b. Meeting	1/month or as needed	TB, PW, Parks, City
c. Minutes	each meeting	City, TB
d. Record of TB Volunteer Hours	on-going	TB
2. Public Education		
a. Education and Outreach Events	two/year	City, TB
b. Print, On-line Tree Articles	as needed	TB
c. Radio News Releases, PSA's	as needed	TB
d. Letters to Arborists re Workshops, Changes in Ordinances, EAB Monitoring, etc.	as needed	City, TB
3. Tree Board Recruitment	January	TB
a. Appointment of Members	January	City Council
4. Recruit Tree Stewards	January	
5. Prepare/Submit Annual Work Plan	November	TB
6. Update Arborist List	as licensed/renewed	City Clerk, TB
7. Review/Recommend changes in City Tree Ordinances to Council	as necessary	TB
7. Tree City USA		
a. Tree City USA Application	Dec.	TB
b. Tree City Growth Award	as appropriate	TB, Parks and Rec
c. Tree City USA ceremony-Arbor Day	May 14	TB, Mayor, 4th Graders
8. Fund-raising		
a. Grants		
CSFS Urban & Community Forestry Grant	2024-2028	City
Colorado Tree Coalition	Dec.	TB
Colorado Parks & Rec	April	TB
Grant Reporting	as required	City, TB
9. Planting, Renovation, Maintenance Projects		
a. Arbor Day Program		
Radio, Newspaper Publicity	April, May	TB

Arrange 4th Grade Class Participation	April	TB
City Council Proclamation	May 5	
Arbor Day Ceremony	May 14	TB, 4th Grade Class Mayor, Public
b. Adopt-a-Tree Program		
Publicity	Mar, April	City, TB
Planting Site Evaluations	May - August	TB
Order, Plant Trees	May - July	TB
Tree Care Instructions to Adopters	May - July	TB
Water stipend to Adopters	May – July	City
c. Update GIS Inventory Park Trees	ongoing	PW
d. Update GIS Inventory Street Trees	on-going	PW
e. Large Street Trees, Pruning, Removal	as identified and funded	Arborist, PW
f. Park Trees, Pruning, Removals	as identified and funded	Arborist, Parks and Rec
g. Clearance Prune for Business Signs	as needed	PW, Arborist
h. Prune Young Street Trees	Spring, Summer	PW, Arborist
i. Merit Soil Drench (Soft Scale on Elms)	Late April, Early May	Front Range Arborists
j. Monitor for EAB	As needed	Arborists, TB

CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Parks and Recreation	Diesel Post - Parks and Recreation Director	11/5/24

ITEM

Consent agenda

Professional Service Contract with EnB Janitorial for cleaning services at the SteamPlant and Scout Hut

BACKGROUND

EnB Janitorial has been cleaning the SteamPlant and Scout Hut for 3 years. We recently adjusted their scope to include the entryways and the facilities.

FISCAL NOTE

This additional service costs an additional $140 per month for a totasl fee of $990 per month for weekly Janitorial services at the SteamPlant and Scout Hut.

STAFF RECOMMENDATION

To approve entering into a contract with EnB Janitorial for cleaning services at the SteamPlant and Scout Hut.

SUGGESTED MOTION

A Councilperson should move to approve the consent agenda.

Salida Professional Service Agreement For Steamplant Event Center and Scout Hut Bathrooms and Kitchen Weekly Cleaning

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") dated as of November 11, 2024, is entered into by and between **EnB Janitorial, an LLC of the State of Colorado**, whose business address is ("**Contractor**") and the City of Salida, Colorado, **a statutory municipality of the State of Colorado** ("**City**" and, together with the Contractor, "**Parties**").

RECITALS AND REPRESENTATIONS

WHEREAS, the City desires to have performed certain professional services as described in this Agreement; and

WHEREAS, the Contractor represents that the Contractor has the skill, ability, and expertise to perform the services described in this Agreement and within the deadlines provided by the Agreement; and

WHEREAS, the City desires to engage the Contractor to provide the services described in this Agreement subject to the terms and conditions of the Agreement.

NOW, THEREFORE, in consideration of the benefits and obligations of this Agreement, the Parties mutually agree as follows:

1. SERVICES AND CONTRACTOR PERFORMANCE

1.1. Services and Work Product. As directed by and under the supervision of the City Administrator for the City of Salida, the Contractor shall provide the City with the services described in **Exhibit A, attached hereto and incorporated herein** ("**Services**"). For purposes of this Agreement, "**Work Product**" shall consist of deliverables and/or product to be created, provided, or otherwise tendered to the City as described in the Services.

1.2. Changes to Services. At any time, the City may request a change or changes in the Services. Any changes that are mutually agreed upon between the City and the Contractor shall be made in writing and upon execution by both Parties shall become an amendment to the Services described in this Agreement. To be effective, any written change must be signed by the Contractor and by the Salida City Council ("**City Council**").

1.3. Independent Contractor. The Contractor shall perform the Services as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee, or other relationship with the City other than as a contracting party and independent contractor. The City shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Contractor or the Contractor's employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: local, state, or federal income or other tax contributions; insurance contributions (e.g., FICA);

workers' compensation; disability, injury, or health; professional liability insurance, errors, and omissions insurance; or retirement account contributions.

1.4. **Standard of Performance**. In performing the Services, the Contractor shall use that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by members of the same profession practicing in the State of Colorado. Contractor represents to the City that the Contractor is, and its employees performing such Services are, properly licensed and/or registered within the State of Colorado for the performance of the Services (if licensure and/or registration is required by applicable law) and that the Contractor and employees possess the skills, knowledge, and abilities to competently, timely, and professionally perform the Services in accordance with this Agreement.

1.5. **Patent Indemnification**. Contractor shall indemnify, defend and hold City harmless from any and all claims, demands, and causes of action (including reasonable attorneys' fees and costs of suit) for actual or asserted infringement or actual or asserted appropriation or use by City of trade secrets, proprietary information, know-how, copyright rights, or patented inventions included in any design or specification furnished by Contractor or arising from the use or sale of materials, equipment, methods, processes, designs, and information, furnished by Contractor in connection with the Services. Contractor shall include the foregoing indemnification provision as a term of each agreement utilized by it in the performance of its work which shall extend expressly from the vendor or subcontractor to City.

1.6. **Safety**. When and to the extent that Contractor or any of its employees, agents, or subcontractors are working under the terms of this Agreement, Contractor will comply, and cause all its employees, agents, and subcontractors to comply, with applicable safety rules and security requirements.

1.7. **Qualified Personnel**. Contractor will make available all qualified Contractors, drafters, technical and clerical personnel necessary to fulfill its obligations under this Agreement. Prior to commencement of work, Contractor will provide City with the names of all Contractor personnel and their then current hourly rates, if applicable, whose services are to be employed in performance of the Services. Removal or re-assignment of personnel by Contractor will only be done with prior written approval of City.

1.8. **Removal of Personnel by City**. City may, in its discretion, require Contractor to dismiss from performance of the Services any personnel of Contractor or any subcontractor for any reason, effective upon written notice from City of such dismissal. City will not be required to pay salary, or any other costs associated with dismissed personnel effective upon Contractor's receipt of notice to dismiss from City.

1.9. **Representations and Warranties**. Contractor represents and warrants that the Services will be performed in a manner consistent with other reasonable professionals providing similar services under similar circumstances. Contractor will complete the Services in accordance with the Agreement and applicable United States laws, regulations, ordinances, and codes in existence at the time the Agreement is executed.

1.10. **Maintenance of and Access to Records**. Contractor will maintain detailed records of all matters relating to the Services during the term of the Agreement and for a period after its cancellation or termination of not less than five (5) years. City will have the right to copy and audit during regular business

hours all records of any kind which in any way related to the Services, whether created before, during, or after the termination of this Agreement. Access to such records will be provided to City at no cost.

1.11. Colorado Open Records Act. The parties understand that all material provided or produced under this Agreement may be subject to the Colorado Open Records Act, § 24-72-201, et seq., C.R.S. In the event of the filing of a lawsuit to compel such disclosure, the City shall inform the Contractor and will tender all such material to the court for judicial determination of the issue of disclosure and the Contractor agrees to intervene in such lawsuit to protect and assert its claims of privilege and against disclosure of such material or waive the same

1.12. Disclosure of Adverse Information. Contractor will promptly disclose to City any and all information which Contractor may learn, or which may have a material adverse impact on the Services or the Work Product or City's ability to utilize the Work Product in the manner and for the purpose for which the Work Product is intended.

2. COMPENSATION

2.1. Commencement of and Compensation for Services. Following execution of this Agreement by the City, the Contractor shall be authorized to commence performance of the Services as described in **Exhibit A** subject to the requirements and limitations on compensation as provided by this **Section 2.0 COMPENSATION** and its Sub-Sections.

A. For Lump sum Task Orders. The CONTRACTOR shall perform Services as a Task Order described in **Exhibit B** and shall invoice the CITY for work performed based on percent complete the specific task.

B. For Time and Materials Task Orders. The CONTRACTOR shall perform the Services and shall invoice the CITY for work performed based on the rates described in **Exhibit B.**.

C. Reimbursable Expenses. The following shall be considered "Reimbursable Expenses" for purposes of this Agreement and may be billed to the City without administrative mark-up but which must be accounted for by the Contractor and proof of payment shall be provided by the Contractor with the Contractor's monthly invoices:

- Vehicle Mileage (billed at not more than the prevailing per-mile charge permitted by the Internal Revenue Service as a deductible business expense)
- Printing and Photocopying Related to the Services
- Charges incidental to securing needed information (e.g., charges imposed to obtain recorded documents)
- Postage and Delivery Services
- Lodging and Meals (*only* with prior written approval of the City as to dates and maximum amount permitted)

D. **Non-reimbursable Costs, Charges, Fees, or Other Expenses**. Any fee, cost, charge, penalty, or expense incurred by the Contractor not otherwise specifically authorized by this Agreement shall be deemed a non-reimbursable cost and shall be borne by the Contractor and shall not be billed or invoiced to the City and shall not be paid by the City.

E. **Increases in Compensation or Reimbursable Expenses**. Any increases or modification of compensation or Reimbursable Expenses shall be subject to the approval of the City and shall be made only by written amendment of this Agreement executed by both Parties.

2.2. **Payment Processing**. The Contractor shall submit invoices and requests for payment in a form acceptable to the City. Invoices shall not be submitted more often than once each month unless otherwise approved by this Agreement or in writing by the City. Unless otherwise directed or accepted by the City, all invoices shall contain sufficient information to account for all Contractor time (or other appropriate measure(s) of work effort) and all authorized Reimbursable Expenses for the Services during the stated period of the invoice. Following receipt of a Contractor's invoice, the City shall promptly review the Contractor's invoice.

2.3. **City Dispute of Invoice or Invoiced Item(s)**. The City may dispute any Contractor time, Reimbursable Expense, and/or compensation requested by the Contractor described in any invoice and may request additional information from the Contractor substantiating any and all compensation sought by the Contractor before accepting the invoice. When additional information is requested by the City, the City shall advise the Contractor in writing, identifying the specific item(s) that are in dispute and giving specific reasons for any request for information. The City shall pay the Contractor within forty-five (45) days of the receipt of an invoice for any undisputed charges or, if the City disputes an item or invoice and additional information is requested, within thirty (30) days of acceptance of the item or invoice by the City following receipt of the information requested and resolution of the dispute. To the extent possible, undisputed charges within the same invoice as disputed charges shall be timely paid in accordance with this Agreement. Payment by the City shall be deemed made and completed upon hand delivery to the Contractor or designee of the Contractor or upon deposit of such payment or notice in the U.S. Mail, postage prepaid, addressed to the Contractor.

3. CONTRACTOR'S GENERAL RESPONSIBILITIES

3.1. The Contractor shall become fully acquainted with the available information related to the Services. The Contractor is obligated to affirmatively request from the City such information that the Contractor, based on the Contractor's professional experience, should reasonably expect is available and which would be relevant to the performance of the Services.

3.2. The Contractor shall perform the Services in accordance with this Agreement and shall promptly inform the City concerning ambiguities and uncertainties related to the Contractor's performance that are not addressed by the Agreement.

3.3. The Contractor shall provide all the Services in a timely and professional manner.

3.4. The Contractor shall promptly comply with any written City request from the City or any of the City's duly authorized representatives to reasonably access and review any books, documents, papers, and records of the Contractor that are pertinent to the Contractor's performance under this Agreement for the purpose of the City performing an audit, examination, or other review of the Services.

3.5. The Contractor shall comply with all applicable federal, state, and local laws, ordinances, regulations, and resolutions.

3.6. The Contractor shall be responsible at the Contractor's expense for obtaining, and maintaining in a valid and effective status, all licenses and permits necessary to perform the Services unless specifically stated otherwise in this Agreement.

4. TERM AND TERMINATION

4.1. **Term**. The provision of services under this Agreement shall commence on November 10, 2024 (the "**Effective Date**") and will terminate on December 31, 2024 (cumulatively, the "**Term**")**;** provided, however, under no circumstances will the Term exceed the end of the current City Fiscal year (January 1 – December 31). The Contractor understands and agrees that the City has no obligation to extend this Agreement's Term or contract for the provision of any future services, and makes no warranties or representations otherwise. Notwithstanding the foregoing; the Parties may mutually agree in writing to the monthly extension of this Agreement for up to twelve (12) consecutive calendar months if such extension is approved by the City Council and the Contractor and such extension do not alter or amend any of the terms or provisions of this Agreement.

4.2. **Continuing Services Required**. The Contractor shall perform the Services in accordance with this Agreement commencing on the Effective Date until such Services are terminated or suspended in accordance with this Agreement. The Contractor shall not temporarily delay, postpone, or suspend the performance of the Services without the written consent of the City Council.

4.3. **City Unilateral Termination**. This Agreement may be terminated by the City for any or no reason upon written notice delivered to the Contractor at least ten (10) days prior to termination. In the event of the City's exercise of the right of unilateral termination as provided by this paragraph:

A. Unless otherwise provided in any notice of termination, the Contractor shall provide no further services in connection with this Agreement after receipt of a notice of termination; and

B. All finished or unfinished documents, data, studies, and reports prepared by the Contractor pursuant to this Agreement shall be delivered by the Contractor to the City and shall become the property of the City, subject to the ownership restrictions in **Section 6.0** of this Agreement; and

C. The Contractor shall submit to the City a final accounting and final invoice of charges for all outstanding and unpaid Services and Reimbursable Expenses performed prior to the Contractor's receipt of notice of termination and for any services authorized to be performed by the notice of termination as provided by **Sub-Section 4.3(A)** above. Such final accounting and final invoice shall be delivered to the City within thirty (30) days of the date of termination; thereafter, no other

invoice, bill, or other form of statement of charges owing to the Contractor shall be submitted to or accepted by the City.

4.4. **Termination for Non-Performance**. Should a party to this Agreement fail to materially perform in accordance with the terms and conditions of this Agreement, this Agreement may be terminated by the performing party if the performing party first provides written notice to the non-performing party which notice shall specify the non-performance, provide both a demand to cure the non-performance and reasonable time to cure the non-performance and state a date upon which the Agreement shall be terminated if there is a failure to timely cure the non-performance. For purposes of this **Sub-Section 4.4**, "reasonable time" shall be not less than five (5) business days. In the event of a failure to timely cure a non-performance and upon the date of the resulting termination for non-performance, the Contractor shall prepare a final accounting and final invoice of charges for all performed but unpaid Services and authorized Reimbursable Expenses. Such final accounting and final invoice shall be delivered to the City within fifteen (15) days of the date of termination; thereafter, no other invoice, bill, or other form of statement of charges owing to the Contractor shall be submitted to or accepted by the City. Provided that notice of non-performance is provided in accordance with this **Sub-Section 4.4**, nothing in this **Sub-Section 4.4** shall prevent, preclude, or limit any claim or action for default or breach of contract resulting from non-performance by a Party.

4.5. **Unilateral Suspension of Services**. The City may suspend the Contractor's performance of the Services at the City's discretion and for any reason by delivery of written notice of suspension to the Contractor which notice shall state a specific date of suspension. Upon receipt of such notice of suspension, the Contractor shall immediately cease performance of the Services on the date of suspension except: (1) as may be specifically authorized by the notice of suspension (e.g., to secure the work area from damage due to weather or to complete a specific report or study); (2) for the submission of an invoice for Services performed prior to the date of suspension in accordance with this Agreement or (3) as required by law.

4.6. **Reinstatement of Services Following City's Unilateral Suspension**. The City may at its discretion direct the Contractor to continue performance of the Services following suspension. If such direction by the City is made within thirty (30) days of the date of suspension, the Contractor shall recommence performance of the Services in accordance with this Agreement. If such direction to recommence suspended Services is made more than thirty-one (31) days following the date of suspension, the Contractor may elect to: (1) provide written notice to the City that such suspension is considered a unilateral termination of this Agreement pursuant to **Sub-Section 4.3**; or (2) recommence performance in accordance with this Agreement; or (3) if suspension exceeded sixty (60) consecutive days, request from the City an equitable adjustment in compensation or a reasonable re-start fee and, if such request is rejected by the City, to provide written notice to the City that such suspension and rejection of additional compensation is considered a unilateral termination of this Agreement pursuant to **Sub-Section 4.3**. Nothing in this Agreement shall preclude the Parties from executing a written amendment or agreement to suspend the Services upon terms and conditions mutually acceptable to the Parties for any period of time.

4.7. **Delivery of Notice of Termination**. Any notice of termination permitted by this **Section 4.0 TERM AND TERMINATION** and its subsections shall be addressed to the persons identified in **Section 9.17** herein and at the addresses provided therein or such other address as either party may notify the other of

and shall be deemed given upon delivery if personally delivered, or forty-eight (48) hours after deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested.

5. INSURANCE

5.1. **Insurance Generally**. The Contractor shall obtain and shall continuously maintain during the Term of this Agreement insurance of the kind and in the minimum amounts specified in this **Sub-Section 5.1**. The Required Insurance shall be procured and maintained with insurers with an A- or better rating as determined by Best's Key Rating Guide. All Required Insurance shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor.

The Contractor shall secure and maintain the following ("**Required Insurance**"):

A. Worker's Compensation Insurance in the minimum amount required by applicable law for all employees and other persons as may be required by law. Such policy of insurance, if any, shall be endorsed to include the City as a Certificate Holder.

B. Comprehensive General Liability insurance with minimum combined single limits of One Million Dollars ($1,000,000.00) Dollars for each occurrence and of Two Million Dollars ($2,000,000.00) aggregate. The policy shall be applicable to all premises and all operations of the Contractor. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision. Coverage shall be provided on an "occurrence" basis as opposed to a "claims made" basis. Such insurance shall be endorsed to name the City as Certificate Holder and name the City, and its elected officials, officers, employees, and agents as additional insured parties.

C. Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury of not less than of One Hundred Thousand Dollars ($100,000.00) each person and each accident and for property damage of not less than Fifty Thousand Dollars ($50,000.00) each accident with respect to each of the Contractor's owned, hired and non-owned vehicles assigned to or used in performance of the Services. The policy shall contain a severability of interests provision. Such insurance coverage must extend to all levels of subcontractors. Such coverage must include all automotive equipment used in the performance of the Agreement, both on the work site and off the work site, and such coverage shall include non-ownership and hired cars coverage. Such insurance shall be endorsed to name the City as Certificate Holder and name the City, and its elected officials, officers, employees, and agents as additional insured parties.

D. Professional Liability (errors and omissions) Insurance with a minimum limit of coverage of One Million Dollars ($1,000,000.00) per claim and annual aggregate. Such policy of insurance shall be obtained and maintained for one (1) year following completion of all Services under this Agreement. Such policy of insurance shall be endorsed to include the City as a Certificate Holder.

5.2. **Additional Requirements for All Policies**. In addition to specific requirements imposed on insurance by this **Section 5.0 INSURANCE** and its subsections, insurance shall conform to all of the following:

A. For Required Insurance and any other insurance carried by Contractor ("**Contractor Insurance**"), all policies of insurance shall be primary insurance, and any insurance carried by the City, its officers, or its employees shall be excess and not contributory insurance to that provided by the Contractor; provided, however, that the City shall not be obligated to obtain or maintain any insurance whatsoever for any claim, damage, or purpose arising from or related to this Agreement and the Services. The Contractor shall not be an insured party for any City-obtained insurance policy or coverage.

B. For both Required Insurance and Contractor Insurance, the Contractor shall be solely responsible for any deductible losses.

C. For Required Insurance, no policy of insurance shall contain any exclusion for bodily injury or property damage arising from completed operations.

D. For Required Insurance, every policy of insurance shall provide that the City will receive notice no less than thirty (30) days prior to any cancellation, termination, or a material change in such policy.

5.3. **Failure to Obtain or Maintain Insurance**. The Contractor's failure to obtain and continuously maintain policies of insurance in accordance with this **Section 5.0 INSURANCE** and its subsections shall not limit, prevent, preclude, excuse, or modify any liability, claims, demands, or other obligations of the Contractor arising from performance or non-performance of this Agreement. Failure on the part of the Contractor to obtain and to continuously maintain policies providing the required coverage, conditions, restrictions, notices, and minimum limits shall constitute a material breach of this Agreement upon which the City may immediately terminate this Agreement, or, at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City immediately upon demand by the City, or at the City's sole discretion, the City may offset the cost of the premiums against any monies due to the Contractor from the City pursuant to this Agreement.

5.4. **Insurance Certificates**. Prior to commencement of the Services, the Contractor shall submit to the City applicable certificates of insurance for all Required Insurance. Insurance limits, terms of insurance, insured parties, and other information sufficient to demonstrate conformance with this **Section 5.0 INSURANCE** and its subsections shall be indicated on each certificate of insurance. Certificates of insurance shall reference the "Project Name" as identified on the first page of this Agreement. The City may request, and the Contractor shall provide within three (3) business days of such request a current certified copy of any policy of Required Insurance and any endorsement of such policy. The City may, at its election, withhold payment for Services until the requested insurance policies are received and found to be in accordance with the Agreement.

6. OWNERSHIP OF DOCUMENTS

6.1. **Work Product is Property of City**. Upon complete payment for services rendered, the Work Product, as defined in **Sub-Section 1.1**, shall be deemed work made for hire and made in the course of Services performed under this Agreement and will be the exclusive property of the City. City will have unlimited right to make, have made, use, reconstruct, repair, modify, reproduce, publish, distribute and sell the Work Product, in whole or in part, or combine the Work Product with other matter, or not use the Work Product at all, as it sees fit. Any reuse of the Work Product produced under this Agreement for any purpose not directly related to this Agreement will be at the sole risk of City.

6.2. **Obligations of Contractor's Personnel and Subcontractors**. Contractor warrants it has enforceable written agreements with all of its personnel and subcontractors to be involved in performing the Services that:

A. assign to Contractor ownership of all patents, copyrights, and other proprietary rights created in the course of their employment or engagement; and

B. obligate such personnel or subcontractors, as the case may be, upon terms and conditions no less restrictive than are contained in this **Section 6.0 OWNERSHIP OF DOCUMENTS**, not to use or disclose any proprietary rights or information learned or acquired during the course of such employment or engagement including, without limitation, any Work Product, all Contractor property and any other information pursuant to this **Section 6.0 OWNERSHIP OF DOCUMENTS**.

6.3. **Assignment of Proprietary Rights**. To the extent that any title to any Work Product may not, by operation of law, vest in City, or such Work Product may not be considered to be work made for hire, Contractor hereby irrevocably transfers and assigns to City in perpetuity all worldwide right, title and interest in and to the patent rights, copyrights, trade secrets, and other proprietary rights in and ownership of, the Work Product.

6.4. **City Furnished Information**. Title to all materials and all documentation furnished by the City to Contractor will remain in the City. Contractor will deliver to the City any all Work Products and property, including copies thereof on whatever media rendered, upon the first to occur of:

A. the City's written request; or

B. completion of the Services under this Agreement; or

C. termination of this Agreement.

6.5. The Contractor waives any right to prevent its name from being used in connection with the Services.

6.6. Notwithstanding the foregoing, the Contractor shall retain all rights, titles, and interests, including but not limited to all ownership and intellectual property rights, in all inventions, improvements, discoveries, methodologies, models, formats, software, algorithms, processes, procedures, designs, specifications,

findings, and other intellectual properties developed, gathered, compiled or produced by the Contractor prior to or independently of any of its services under this Agreement ("Background IP"), including such Background IP that the Contractor may employ in the performance of this Agreement, or may incorporate into any part of the Work Product. The Contractor grants the City an irrevocable, non-exclusive, transferable, royalty-free license in perpetuity to use, disclose, and derive from such Background IP, but only as an inseparable part of the Work Product. Third-party content that may be used or incorporated in the Work Product shall not become the property of the City. The Contractor shall secure all licenses necessary to any third-party content incorporated into the Contractor's Work Product for the City to utilize the Contractor's services and the Work Product for their intended purposes.

7. CONFLICT OF INTEREST

The Contractor shall refrain from providing services to other persons, firms, or entities that would create a conflict of interest for the Contractor with regard to providing the Services pursuant to this Agreement. The Contractor shall not offer or provide anything of benefit to any City official or employee that would place the official or employee in a position of violating the public trust as provided by C.R.S. §24-18-109, as amended, the Salida City Code of Ethics, as amended or the City's ethical principles.

8. REMEDIES

In addition to any other remedies provided for in this Agreement, and without limiting its remedies available at law, the City may exercise the following remedial actions if the Contractor substantially fails to perform the duties and obligations of this Agreement. Substantial failure to perform the duties and obligations of this Agreement shall mean a significant, insufficient, incorrect, or improper performance, activities, or inactions by the Contractor. The remedial actions include:

8.1. Suspend the Contractor's performance pending necessary corrective action as specified by the City without the Contractor's entitlement to an adjustment in any charge, fee, rate, price, cost, or schedule; and/or

8.2. Withhold payment to the Contractor until the necessary services or corrections in performance are satisfactorily completed; and/or

8.3. Deny payment for those services which have not been satisfactorily performed, and which, due to circumstances caused by the Contractor, cannot be performed, or if performed would be of no value to the City; and/or

8.4. Terminate this Agreement in accordance with this Agreement.

The foregoing remedies are cumulative and the City, in its sole discretion, may exercise any or all of the remedies individually or simultaneously.

9. MISCELLANEOUS PROVISIONS

9.1. **No Waiver of Rights**. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party. The City's approval or acceptance of, or payment for, services shall not be construed to operate as a waiver of any rights or benefits to be provided under this Agreement. No covenant or term of this Agreement shall be deemed to be waived by the City except in writing signed by the City Council or by a person expressly authorized to sign such waiver by resolution of the City Council of the City of Salida, and any written waiver of a right shall not be construed to be a waiver of any other right or to be a continuing waiver unless specifically stated.

9.2. **No Waiver of Governmental Immunity.** Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the City, its officials, employees, contractors, or agents, or any other person acting on behalf of the City and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.

9.3. **Affirmative Action.** Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor will take affirmative action to ensure applicants are employed, and employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

9.4. **Americans with Disabilities Act.** Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract. As a condition of accepting and executing this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. §35.130, and all other regulations promulgated under Title II of The Americans with Disabilities Act.

9.5. **Binding Effect.** The Parties agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives, and assigns; provided that this **Section 9.5** shall not authorize assignment.

9.6. **No Third-Party Beneficiaries.** Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, sub-consultant, or sub-contractor of Contractor. Absolutely no third-party beneficiaries are intended by this Agreement. Any third-party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.

9.7. **Article X, Section 20/TABOR.** The Parties understand and acknowledge that the City is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The Parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all payment obligations

of the City are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the City's current fiscal period ending upon the next succeeding December 31. Financial obligations of the City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the City, and other applicable laws. Upon the failure to appropriate such funds, this Agreement shall be terminated.

9.8. Governing Law, Venue, and Enforcement. This Agreement shall be governed by and interpreted according to the law of the State of Colorado. Venue for any action arising under this Agreement shall be in the appropriate court for Chaffee County, Colorado, and the parties consent and agree to the jurisdiction of such courts. To reduce the cost of dispute resolution and to expedite the resolution of disputes under this Agreement, the Parties hereby waive any and all right either may have to request a jury trial in any civil action relating primarily to the enforcement of this Agreement. The Parties agree the rule providing ambiguities in a contract are to be construed against the drafting party shall not apply to the interpretation of this Agreement. If there is any conflict between the language of this Agreement and any exhibit or attachment, the language of this Agreement shall govern.

9.9. Survival of Terms and Conditions. The Parties understand and agree that all terms and conditions of the Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.

9.10. Assignment and Release. All or part of the rights, duties, obligations, responsibilities, or benefits set forth in this Agreement shall not be assigned by Contractor without the express written consent of the City Council. Any written assignment shall expressly refer to this Agreement, specify the particular rights, duties, obligations, responsibilities, or benefits so assigned, and shall not be effective unless approved by resolution or motion of the City Council. No assignment shall release the Applicant from performance of any duty, obligation, or responsibility unless such release is clearly expressed in such written document of assignment.

9.11. Paragraph Captions. The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

9.12. Integration and Amendment. This Agreement represents the entire and integrated agreement between the City and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. Any amendments to this must be in writing and be signed by both the City and the Contractor.

9.13. Severability. Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

9.14. Incorporation of Exhibits. Unless otherwise stated in this Agreement, exhibits, applications, or documents referenced in this Agreement shall be incorporated into this Agreement for all purposes. In the

event of a conflict between any incorporated exhibit and this Agreement, the provisions of this Agreement shall govern and control.

9.15. **Non-Liability of City for Indirect or Consequential Damages or Lost Profits**. Parties agree that the City shall not be liable for indirect or consequential damages, including lost profits that result from the City's declaration that the Contractor is in default of the Agreement, so long as the City acts in good faith.

9.16. **Indemnity**. To the fullest extent permitted by law, Contractor shall indemnify and defend the City, its members, affiliates, officers, directors, partners, employees, and agents (collectively referred to as the "City" for the purposes of this **Section 9.16**) from and against all claims, damages, losses, and expenses, including but not limited to reasonable attorney's fees (collectively referred to "Losses"), arising out of the performance of the Services, provided that (a) any such claim, damage, loss or expense is caused by any negligent act or omission of (i) Contractor, (ii) anyone directly or indirectly employed by Contractor or (iii) anyone for whose acts Contractor may be liable; and (b) such indemnification shall not apply to the extent that such Losses are caused by the negligence of the City or other party indemnified hereunder. If Contractor is providing architectural, engineering, or surveying services; design; construction; alteration; repair; or maintenance of any building, structure, highway, bridge, viaduct, water, sewer, or gas distribution system, or other works dealing with construction, or any moving, demolition, or excavation connected with such construction, the extent of Contractor's obligation to indemnify and defend the City is enforceable only to the extent and for an amount represented by the degree or percentage of negligence or fault attributable to the Contractor or the Contractor's agents, representatives, subcontractors, or suppliers. If the Contractor is a person or entity providing architectural, engineering, surveying, or other design services, then the extent of Contractor's obligation to indemnify and defend the City may be determined only after the Contractor's liability or fault has been determined by adjudication, alternative dispute resolution, or otherwise resolved by mutual agreement between the Contractor and City. The indemnification in this **Section 9.16** shall be construed to comply with C.R.S. § 13-50.5-102(8) et. seq.

9.17. **Notices**. Unless otherwise specifically required by a provision of this Agreement any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given at the address set forth below or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States Mail and properly addressed to the intended recipient. Written notice may also be provided by electronic mail which shall be deemed delivered when receipt is acknowledged by reply of the recipient.

If to the City:

City of Salida
Christy Doon, City Administrator
448 E. First Street, Suite 112
Salida, CO 81201
christy.doon@cityofsalida.com

If to the Contractor:

EnB Janitorial LLC
Ethan Gallegos, Owner
310 Crestone Ave, Apt #2
Salida, CO 81201
enbjan@gmail.com

With Copy to:
City Attorney
Nina P. Williams
Wilson Williams Fellman Dittman
1314 Main Street, Suite 101
Louisville, CO 80027
nina@wwfdlaw.com

Diesel Post
448 E. First Street, Suite 112
Salida, CO 81201
diesel.post@cityofsalida.com

10. AUTHORITY

The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of City of Salida and the Contractor and bind their respective entities.

[***REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK-SIGNATURE PAGE FOLLOWS***]

THIS AGREEMENT is executed and made effective as provided above.

CITY OF SALIDA	**CONTRACTOR**
By: _____	**By:** EnB Janitorial LLC
Name: Christy Doon	**Name:** Ethan Gallegos
Title: City Administrator	**Title:** Owner

APPROVED AS TO FORM:

_____
Nina P. Williams, City Attorney

EXHIBIT A

("Services")

Frequency: Once per week anytime between Sunday-Monday.

EnB Janitorial LLC agrees to complete the Janitorial work as follows:

Steam Plant Bathrooms Tasks:

- Deep clean all 6 bathrooms
- Clean/sanitize all sinks
- Polish all chrome
- Clean all glass
- Sanitize all light switches, door handles
- Sanitize all toilets/urinals
- Clean all stall partitions including dusting on top of partitions
- Dust any horizontal surface
- Polish any stainless steel
- Refill all paper products and soap
- Dump all trash
- Dust mop/sweep floors
- Wet mop floors

Steam Plant Kitchen Tasks:

- Deep Clean kitchen
- Polish all stainless-steel fixtures
- Clean/sanitize stove tops
- Clean/sanitize ovens
- Dump all trash
- Dust mop/sweep floors
- Wet mop floors

Steam Plant & Entryways Tasks:

- Vacuum/sweep all entryway floors & rugs
- Wet mop all entryway hard floors
- Dust entryway surfaces, clean cobwebs in entryways
- Disinfect door handles and push bars
- Clean entryway glass

Scout Hut Bathrooms Tasks:

- Deep clean all 3 bathrooms
- Clean/sanitize all sinks
- Polish all chrome
- Clean all glass
- Sanitize all light switches, door handles
- Sanitize all toilets/urinals
- Clean all stall partitions including dusting on top of partitions
- Dust any horizontal surface
- Polish any stainless steel
- Refill all paper products and soap
- Dump all trash
- Dust mop/sweep floors
- Wet mop floors

Scout Hut Kitchen Tasks:

- Deep Clean kitchen
- Polish all stainless-steel fixtures
- Clean/sanitize stove tops
- Clean/sanitize ovens
- Dump all trash
- Dust mop/sweep floors
- Wet mop floors

Scout Hut Entryways Tasks (3)

- Vacuum/sweep all entryway floors & rugs
- Wet mop all entryway hard floors
- Dust entryway surfaces, clean cobwebs in entryways
- Disinfect door handles and push bars
- Clean entryway glass

Supplies/Equipment

EnB Janitorial LLC agrees to provide all cleaning agents and equipment including but not limited to disinfectants, rags, dusters, mops, vacuums, etc.

Customer agrees to provide all paper products including but not limited to: Toilet paper, paper towels, trash can liners, soap, etc.

EXHIBIT B

("Rates")

Compensation

Complete scope of work detailed below $990.00 per month, to be paid by the 1st of each month before cleaning commences, with an option of renewal by each party at the end of each contract year.

This contract shall renew automatically annually. A new price may be negotiated at any time by either party. Each party reserves the right to terminate the contract if specifications are not met by either party.

Customer shall be considered delinquent after one full month from start date of service of no pay to EnB Janitorial LLC or Ethan and Briana Gallegos owners and operators of EnB Janitorial LLC. A late charge of $50.00 per month until paid, collection fees (payable by customer) or cancellation of service may result if delinquency persists.

If customer requests a change of service, a new price may be negotiated.
If Customer decides to cancel job at any point during a job, EnB Janitorial LLC is not required to give a full refund. EnB Janitorial LLC reserves the right to determine the amount of refund if any. EnB Janitorial LLC holds a 30-day refund

CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Fire	Aaron Jonke - Fire Chief	November 5, 2024

AGENDA ITEM

Consent Agenda

BACKGROUND

To meet the sustainability goals of the city of Salida, the Salida Fire Department will be utilizing sustainable solar solutions. Five companies bid on the RFP for the solar installation at the new fire house, and one was awarded. After a thorough review of all proposals using a scoring system, we recommend awarding the contract to Douglass Colony. This decision was based on various factors such as overall lowest bid, responsiveness, and the company's proven track record in completing municipal projects.

The city has been awarded a grant from the Colorado Department of Local Affairs (DOLA) to help fund this important project. Overall cost for this project amounts to $515,000. The DOLA grant, which totals to $386,250, will generously cover 75% of the project costs, providing crucial financial support, while the city will be responsible for funding the remaining 25%. This partnership will enable the city to successfully complete the project while minimizing the financial burden on local resources.

RECOMMENDATION

Overall recommendation would be to award Douglass Colony the RFP to complete the Salida Fire Department solar solutions project.

FISCAL IMPACT

The financial impact to the city of Salida will be $128,750.

MOTION

A Councilmember should make a motion to “combine and approve the items on the consent agenda”, followed by a second and a roll call vote.

Proclamation

DECLARING NOVEMBER 2024 NATIVE AMERICAN HERITAGE MONTH

Whereas, Native American Heritage Month celebrates the accomplishments of the peoples who were the original inhabitants, explorers, stewards, and settlers of the land in the United States; and

Whereas, the native history of Colorado is an important part of the state's identity and tribal people are still a strong and vibrant part of its culture; and

Whereas, Native Americans have moving stories of tragedy, triumph, and perseverance that need to be shared with future generations; and

Whereas, Native American individuals contribute to all areas of life in Colorado, including government, business, arts and sciences, medicine, education, law enforcement, and the military; and

Whereas, the City of Salida is committed to equity and inclusion, and recognizes that our community is better because of the diversity of our population; and

Whereas, Native American Heritage Month is a time to celebrate the cultural traditions and proud ancestry of Native Americans and recognize the vital contributions they have made and continue to make.

Now, therefore, the City of Salida does hereby proclaim November 2024, as NATIVE AMERICAN HERITAGE MONTH in the City of Salida.

_____ _____

Mayor Date

CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Administration	Kristi Jefferson - City Clerk	November 5, 2024

AGENDA ITEM

Amplified Sound Permit — Public Hearing

BACKGROUND

Per City Council direction, certain amplified Sound Permits are subject to public hearings as they relate to dates, hours of operation, and decibel levels. The City has received an application from Dennis Hunter on behalf of the American Legion/VFW/Marine Corp League, for the Annual Veterans Day Parade and Ceremony in Riverside Park on November 11th . The parade will begin at 10:00 am and the Ceremony will begin at approximately 11:00 am in the Park.

Amplified Sound Permits are allowed to be approved by the City Administrator between the dates of May 1 and November 1 annually; as the proposed date is outside of that window, a public hearing shall be held to receive feedback from the public.

Public notice was posted at the property. The permit application is also attached for review.

RECOMMENDATION

Staff recommends approval of the amplified Sound Permit for annual Veterans Day Parade and Ceremony in Riverside Park to be held on November 11, 2024, between the hours of 10:00 am and 12:00 pm.

FISCAL IMPACT

None

MOTION

Following a public hearing, a City Councilmember should state, “I move to _____ an amplified Sound Permit for the Veterans Day Parade and Ceremony, to be held on November 11, 2024, between the hours of 10:00 am and 12:00 pm.”, followed by a second and a roll call vote.

TO A[illegible] THE PUBLIC AND INTERESTED PER[illegible]

NOTIC[illegible] ber 5, 2024 at or about the hour of 6:0[illegible] g will be conducted by the City of Sa[illegible] at City Council Chambers, 448 East First Stree[illegible] 190, Salida, Colorado and online at the following link:

https://attendee.gotowebinar.com/register/6382995264411204366.

The hearing concerns an Amplified Sound Permit Application filed by Dennis Hunter of American Legion/ VFW / Marine Corp League, for the Bandshell in Riverside Park located at 170 E. Sackett Ave, Salida, CO, 81201.

The applicant is requesting to provide amplified sound outdoors at Riverside Park from 10:00 am to 12:00 pm on November 11th which cannot be administratively approved since it is out of season. As such, it must go to a Council public hearing.

Interested persons are encouraged to attend the public hearings. Further information on the application may be obtained from the City Clerk at 719 530 2626.

*Please note that it is inappropriate to personally contact individual City Councilors or Planning Commissioners, outside of the public hearing, while an application is pending. Such contact is considered ex parte communication and will have to be disclosed as part of the public hearings on the matter. If you have any questions/comments, you should email or write a letter to staff, or present your concerns at the public meeting via the above GoToWebinar link so your comments can be made part of the record.

CITY OF SALIDA

OVERVIEW OF LOCAL NOISE REGULATIONS & PERMITTING

Chapter 10, Article IX of the Salida Municipal Code (the "Code") establishes regulations and standards for noise within the City of Salida (the "City") to reduce and eliminate unnecessary and excessive noise which would otherwise be detrimental to residents and the community in the enjoyment of life, property, and the conduct of business. Of note, Section 10-9-30(c) of the Code provides that it is "unlawful for any person to emit or cause to be emitted any noise which leaves the premises on which it originates, inclusive of a public premises, crosses a property line and enters onto any other premises in excess" of the specified levels.

Pursuant to Sections 10-9-40(14) and 10-9-80 of the Code, however, the City may specifically exempt a particular noise from this prohibition through the issuance of a noise permit. Such a permit may include limitations and conditions to minimize the adverse impacts of the proposed noise may have on the community or surrounding neighborhood. Such limitations and conditions include, but are not limited to, the following: the hours of operation, maximum decibels, the type of sound amplification equipment, and the type of sound that may be amplified. No permit shall be issued for noise after 10:00 PM, with allowances to go until midnight on the Fridays and Saturdays of Memorial Day weekend, 4th of July weekend, and Labor Day weekend, and on the Thursday, Friday, and Saturday during the FIBArk Festival.

The issuance of a noise permit is at the sole discretion of the City Administrator or City Council, and the issuance of such permit does not confer any rights upon the permittee other than those expressly authorized by the permit. Violation of any of the conditions or limitations set forth in the noise permit may result in immediate revocation of the permit. Revocation of the noise permit does not preclude the City from seeking any remedies otherwise available under federal, state, or local law.

Applications for a noise permit must be submitted on the attached "Application for a Noise Permit" form and submitted at least five (5) working days prior to the date for which the permit is sought.

CITY OF SALIDA

NOISE PERMIT APPLICATION

Please fill out the form completely, including by signing and dating the application. Submitting an incomplete application is a basis for denial of a noise permit. Listing a particular type of audio amplification equipment, hours of operation, or any other information below does not guarantee the applicant's right to use such equipment or have an event at a particular time. Whether such application requests have been granted will be indicated in the issued permit.

Applicants may apply for events which are recurring (*i.e.*, live music every Thursday). Any such events should be clearly described as recurring in the event description and should identify all dates on which the event will occur.

Completed applications should be submitted via email to deputyclerk@cityofsalida.com. If that is not possible, they can be submitted in-person to 448 E 1st Street Suite 112. Applications must be submitted at least five (5) working days prior to the date for which the permit is sought.

I. Applicant Information.

Applicant Name: Dennis Hunter

Applicant Business/Organization: American Legion / VFW / Marine Corp League

Applicant Phone: 303-884-2934

Applicant Email: dennis@dhunterinc.com

Applicant Address: 235 10th Street
Salida, Co

Sound Supervisor[1]: Dennis Hunter

Sound Supervisor Phone: 303-884-2934

II. Event Information.

Description of Event: Annual Veterans Day Parade and Ceremony - Riverside Park

Estimated Attendance: 60

Date(s): November 11, 2024

Hours of Event: 10:00 am Parade - 11:00 am Ceremony

Location of Event: Riverside Park
Salida Colorado

[1] The sound supervisor will be responsible for responding to and immediately addressing noise or other complaints in the absence of the applicant/permittee.

III. Noise Information.

Type of Noise (*e.g.*, live music, parade):
Ceremony speaker(s) and Remeberance

Type of Sound Amplification Equipment:
Portable Speaker and Bluetooth Mic

IV. Agreement.

As the applicant for this noise permit, I, Dennis Hunter, hereby agree and understand that it is my responsibility to ensure compliance with the conditions and limitations set forth in the permit and all laws, rules, and regulations of the City of Salida, the state, and the federal government. I further agree and understand that any violations of the permit or applicable laws may result in the immediate revocation of the permit. Violations of the conditions and limitations set forth in the permit or applicable laws shall also be grounds for denial of future permit applications. I further understand and agree that the permit and application fee are non-refundable and non-transferrable.

Signature: DRHunter (Typed or Digital signature accepted)

Date: Oct 9, 2024

For use by the City Clerk only:

Application fee received: [ ] Yes [ ] No [ ] N/A

Signature: Kristi Jefferson

Date: Oct 17, 2024

CITY OF SALIDA
NOISE PERMIT

Signature by the City Administrator on this noise permit indicates that the noise permit has been deemed granted to the applicant and the requested noise has been so authorized, subject to the conditions and limitations set forth below. Where the conditions or limitations set forth below contradict or conflict with the information contained in the application, the conditions and limitations will control.

I. Conditions and Limitations Applicable to All Permits.

The following conditions and limitations are applicable to all noise permits:

- No noise is permitted after 10:00 PM, unless specifically authorized by the City Council following a public hearing. No noise is permitted after midnight on the Fridays and Saturdays of Memorial Day weekend, 4th of July weekend, and Labor Day weekend. No noise is permitted after midnight on the Thursday, Friday, and Saturday during the FIBArk festival.
- No noise is authorized in excess of the maximum limit of 85 dB(A), as measured from any point along the property line or within the property line of the receiving premises. Measuring devices shall be those specifically utilized by the City of Salida.
- All amplification equipment shall be arranged so as to minimize the disturbance to neighboring properties, and permittees shall take reasonable measures to baffle or reduce noise impacts to neighbors.
- No outdoor amplified sound shall be permitted between November 1 through May 1.
- A maximum of sixty (60) amplified sound permits may be granted to same location during a single calendar year, unless additional permits are specifically authorized by the City Council following a public hearing.

II. Conditions and Limitations Applicable to this Permit.

The following conditions and limitations are applicable to this noise permit:

- _____
  _____
- _____
  _____
- _____
  _____

III. Expiration.

This noise permit is issued for the following dates and expires on the following date:

Date(s): _____

Expiration: _____

For use by the City Administrator only:

Application granted: [ ] Yes [ ] No

Signature: _____

Date: _____

CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Administration	Christy Doon - City Administrator	October 21, 2024

AGENDA ITEM

Resolution 2024 – 67, A Resolution of the City Council of the City of Salida, Colorado, Amending its Employment Agreement with City Clerk Kristi Jefferson

BACKGROUND

City Council, pursuant to its authority in Salida Municipal Code 2-3-40, appointed Kristi Jefferson as Salida City Clerk on March 5, 2024, after serving the City of Salida for 23 years, in a number of roles over that time, including as. Finance Clerk, Planning Technician, and Senior Planner.

City Council held a six-month performance check-in with City Clerk Kristi Jefferson on October 1, 2024, which was very positive and productive. At that time, Council expressed the desire to increase Jefferson's maximum permitted accrual Paid Time Off (PTO) hours to 350, from the standard 300 maximum hours. This would ensure that Jefferson continued to work more as City Clerk, train her deputy clerk, and not be forced to take a day off every other week to ensure not losing this employment benefit.

This increase in maximum permitted accrual PTO hours, found in Section IX of the Employment Agreement, is the only update or change in the attached agreement from the City's March 5, 2024, Employment Agreement with City Clerk Jefferson.

STAFF RECOMMENDATION

Per City Council direction, staff is bringing this resolution forward for action.

FISCAL IMPACT

The PTO balance will be paid out in the event of City Clerk Jefferson's separation from the City (retirement, resignation).

MOTION

A City Councilmember should state "I move to _____ A Resolution of the City Council of the City of Salida, Colorado, Amending its Employment Agreement with City Clerk Kristi Jefferson", followed by a second and a roll call vote.

CITY OF SALIDA, COLORADO
RESOLUTION NO. 67
(Series of 2024)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AMENDING ITS EMPLOYMENT AGREEMENT WITH CITY CLERK KRISTI JEFFERSON

WHEREAS, Salida Municipal Code § 2-3-40 provides that the City Council possesses the authority to, and appoints a City Clerk who shall serve at the pleasure of the City Council ("Council"); and

WHEREAS, Council appointed Kristi Jefferson as City Clerk on March 5, 2024, after having served the City of Salida for 23 years, in a number of roles over that time including as Finance Clerk, Planning Technician, and as Senior Planner; and

WHEREAS, after Council's six-month performance check-in with City Clerk Jefferson on October 1, 2024, Council finds it necessary and desirable to amend its employment agreement with Jefferson to update her maximum permitted accrual PTO hours, in order to facilitate additional working hours from Jefferson and maintain the organizational and operational priorities of the City.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO THAT:

1. The City Council incorporates the foregoing recitals as findings by the City Council.

2. The updated Employment Agreement between the City and City Clerk Kristi Jefferson, attached hereto was "Exhibit A," which sets forth in detail the current terms and conditions of City Clerk Kristi Jefferson's employment and appointment with the City, is hereby approved, and replaces in its entirety the March 4, 2024 Employment Agreement between the City and Jefferson.

RESOLVED, APPROVED AND ADOPTED this 5th day of November, 2024.

CITY OF SALIDA, COLORADO

[SEAL]

By_____
Mayor

[ATTEST]

_____

City Clerk/Deputy City Clerk

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement") is entered into and effective as of the 5th day of November, 2024, by and between the **CITY OF SALIDA, COLORADO**, a Colorado municipal corporation, hereinafter referred to as "City" and **KRISTI JEFFERSON**, hereinafter referred to as "Jefferson", together referred to as the "Parties."

WITNESSETH:

WHEREAS, City desires to continue to employ the services of Kristi Jefferson to serve as City Clerk; and

WHEREAS, it is the desire of the Salida City Council, hereinafter called "City Council," to continue to provide certain benefits, establish certain conditions of employment, and to set the working conditions of Jefferson; and

WHEREAS, Jefferson desires to continue to serve as City Clerk of the City of Salida;

WHEREAS, the Parties desire to continue to express the employment relationship in written form;

NOW, THEREFORE, in consideration of the premises, and the mutual covenants and promises hereinafter set forth, the Parties agree as follows:

SECTION I
DUTIES

City hereby agrees to employ Jefferson as City Clerk of the City of Salida to perform the functions and duties specified in the City Clerk job description and to perform other legally permissible and proper duties and functions as City Council shall from time to time assign.

SECTION II
TERM

(a) Without waiving any rights to renegotiate and/or terminate this Agreement, Jefferson's term of appointment shall begin on March 5, 2024, and continues indefinitely until terminated by the City or Jefferson as provided for in Section III or IV of this Agreement.

(b) The City Clerk is an appointed City officer who serves at the pleasure of the City Council. Jefferson may therefore be removed from office at any time, for any reason or for no reason (for convenience), upon a majority vote of the City Council, at which time this Agreement would terminate, subject only to the provisions set forth in Section III of this Agreement. The City Council and Jefferson specifically agree that Jefferson's employment with the City is "at will" notwithstanding any personnel or employment rule or policy of the City to the contrary.

(c) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Jefferson to resign at any time from her position with City, subject only to the provisions set forth in Section III of this Agreement.

SECTION III
TERMINATION AND SEVERANCE COMPENSATION

(a) For the purposes of this Agreement, termination shall occur when:

(1) a majority of the City Council votes to terminate Jefferson at a duly authorized public meeting; or

(2) the City Council, or the citizens by initiative, acts to amend any provisions of the Salida Municipal Code pertaining to the role, powers, duties, authority, responsibilities of Jefferson's position that substantially changes the form of government, in which case the following shall apply: within ten (10) days following the effective date of such change in the form of government, Jefferson must inform the City Council in writing of her election of one of the following two (2) options: (1) that she elects to accept such changes in the form of government and agrees to continue as the City Clerk (or equivalent title under such changed form of government), in which case no termination shall be deemed to have occurred and no Severance Compensation shall be paid; or (2) that she elects to consider the same a termination, in which case she shall leave the employ of the City and Severance Compensation shall be paid; or

(3) the City Council reduces the base salary, compensation or any other financial benefit of Jefferson, unless it is applied in no greater percentage than the average reduction of all City employees; or

(4) Jefferson resigns.

(b) In the event that Jefferson is terminated pursuant to Section III(a)(1), (2), or (3), and provided that Jefferson is willing and able to perform her duties under this Agreement, the City shall pay to Jefferson "Severance Compensation" in the form of a lump sum payment the amount of one (1) months' aggregate salary. In addition to the applicable Severance Compensation owed hereunder, Jefferson shall be paid for all accrued, unused Personal Time Off (PTO) leave, and one (1) month's health insurance premiums under the insurance policy in force at the time of such termination.

(c) Notwithstanding anything herein to the contrary, the City Council may terminate Jefferson upon a finding by the City Council of an Improper Action. For purposes of this paragraph, "Improper Action" shall mean (i) conduct by Jefferson which is fraudulent or dishonest, or (ii) Jefferson's conviction of a felony or serious crime involving moral turpitude under any federal or state law. In the event Jefferson is terminated for Improper Action, the City shall have no obligation to pay any severance amount or any Severance Compensation. Any termination for Improper Action shall require five (5) days' notice to Jefferson of the reasons for termination, an opportunity for a hearing before the City Council and a majority vote by the entire City Council.

(d) In the event Jefferson voluntarily resigns her position with the City at any time during the term of this Agreement, then Jefferson shall give the City at least two (2) weeks written notice in advance, unless the Parties otherwise agree. Voluntary resignation by Jefferson

will result in a loss of all Severance Compensation, if any, that would otherwise be due and owing to her by the City under this Agreement, unless otherwise determined by the City Council in its sole and absolute discretion.

SECTION IV
DISABILITY

(a) If Jefferson is permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health for a period of four (4) successive weeks beyond any accrued sick leave, or for twenty (20) working days over a thirty (30) working day period, the City shall have the option to terminate this Agreement, subject to the payment of Severance Compensation set forth in paragraph (b) of Section III.

(b) As used herein, "permanently disabled or otherwise unable to perform her duties" shall be defined as: (1) if Jefferson is receiving total permanent disability payments pursuant to any disability program under which she is covered, whether owned by the City or otherwise; or (2) in the absence of such disability program, if (a) Jefferson's attending physician certifies that Jefferson is unable to perform her duties as set forth herein for the City and that such condition is total and permanent; and (b) in the event that Jefferson does not timely consult such attending physician and the City reasonably believes Jefferson to be so disabled, the City may require such an examination from a properly qualified physician who shall conduct such examination(s) as is appropriate to determine whether or not Jefferson is so totally and permanently disabled; and (c) such condition continues for the period stated in this Section IV.

SECTION V
SALARY

(a) City agrees to initially pay Jefferson for her services rendered hereunder at an annual rate of Ninety One Thousand Seven Hundred Dollars ($91,700.00), which sum shall be payable in installments at the same times as other employees of the City are paid.

(b) In addition, City agrees to consider and adjust the base salary and other benefits to Jefferson based upon the performance evaluation process described in Section VI of this Agreement; PROVIDED, HOWEVER, that said consideration and salary adjustment shall be solely within the discretion of the Mayor and City Council, and shall be merit based.

SECTION VI
PERFORMANCE EVALUATION

(a) The Mayor and City Council shall review and evaluate the performance of Jefferson at least annually, commencing in or around March of each year.

(b) All such reviews and evaluations shall be in accordance with specific criteria developed jointly by the Mayor, City Council and Jefferson. The criteria may be added to or deleted from as the Mayor and City Council may from time to time determine, in consultation with Jefferson. The Mayor and City Council shall provide Jefferson with an adequate opportunity for Jefferson to discuss her evaluation with the Mayor and City Council.

(c) The City agrees to annually increase Jefferson's compensation, conditioned upon the positive results of the performance evaluation conducted under the provisions of this Section. Increased compensation can be in the form of a salary increase and/or a cost of living adjustment ("COLA") and/or performance incentive and/or an increase in benefits.

(d) The Parties agree that the Mayor and City Council has the right, in its sole discretion, in addition to and not in replacement of the procedures set forth in this Section, to consider Jefferson's performance in executive session in compliance with the Colorado Sunshine Law and the City Code.

SECTION VII
HOURS OF WORK

It is recognized that this is a full-time position for which Jefferson must devote a great deal of time outside normal office hours to business of the City and will necessarily be engaged in work during certain evening and weekend hours. As such, Jefferson shall be entitled to arrange and organize her work schedule to best achieve her duties and responsibilities.

SECTION VIII
AUTOMOBILE MILEAGE REIMBURSEMENT

Jefferson shall be reimbursed at the then existing I.R.S. rate for mileage incurred using her personal automobile for all trips expended in the performance of her duties as City Clerk which require travel in excess of ten (10) miles in one direction from the corporate limits of the City.

SECTION IX
PERSONAL TIME AND OTHER LEAVE

In all respects, Jefferson shall be subject to, entitled to and governed by the general policies of the City identified in its Personnel Manual, as amended from time to time, regarding Personal Time Off ("PTO"), and other leaves, unless otherwise provided for herein, or otherwise required by law, and except for that Jefferson's maximum permitted accrual PTO hours shall be 350 hours as of the effective date of this Agreement. Any accrued PTO or other leave from Jefferson's previous role with the City shall carry over and continue.

SECTION X
BENEFITS AND PERSONNEL POLICIES

Except as otherwise provided herein, or otherwise required by law, Jefferson shall enjoy the benefits of, be entitled to, and be subject to, all the general City policies for all full-time employees listed within the City personnel manual, as amended from time to time, regarding all benefits and policies, including, but not limited to, medical, dental and life insurance and long-term disability insurance. Notwithstanding the foregoing, the City shall match the equivalent of up to five percent (5%) of Jefferson's salary to Jefferson's 457 Plan if she chooses to enroll in such Plan, at such times as it makes such Plan contributions for City employees generally, and Jefferson shall become immediately vested in the balance of her Plan account. Jefferson shall receive a City-issued cell phone for her business use, or a stipend for use of her personal phone for business use, at Jefferson's option, under the same terms and conditions that such phones are provided to other City employees.

SECTION XI
INDEMNIFICATION

Jefferson shall enjoy the benefits of City employees provided in the City of Salida Personnel Policies and Procedures and in the Colorado Revised Statutes regarding tort, professional liability claims or demands, and any other legal actions, arising out of an alleged act or omission occurring in the performance of her duties as City Clerk.

SECTION XII
GENERAL AND MISCELLANEOUS PROVISIONS

(a) **Binding Effect; Enforcement.** This Agreement shall be and become binding upon, and inure to the benefit of, the Parties hereto, their heirs and personal representatives. This Agreement shall be construed and interpreted according to the laws of the State of Colorado, and any action necessary to enforce, construe, or interpret the within shall be maintained in the District Court in and for Chaffee County, Colorado. Nothing in this Agreement shall prevent or preclude the Parties' mutual agreement to submit any dispute arising from this Agreement to mediation or arbitration.

(b) **Facilities and Equipment**. The City shall furnish office facilities, equipment and assistance for Jefferson as the City deems appropriate for the performance of Jefferson's duties.

(c) **Compliance with TABOR**. It is the intent of the City and Jefferson to comply with the provisions of Article X, Section 20 of the Constitution of the State of Colorado, including in particular subsection 4(b), as approved by the voters on November 3, 1992. Therefore, the Parties agree that this Agreement is subject to an annual appropriation by the City Council and that the failure to make such appropriation, unless such action is the result of a prior termination for Improper Action under Section III(c) of this Agreement, will be deemed a termination within the meaning of Section III(a). The Parties further agree and acknowledge that the City has established and shall maintain an adequate present cash reserve held for future payments, if required, in an amount sufficient to pay any severance compensation required by this Agreement. It is the intent of this Section that the City shall be entitled to reasonable notice and a reasonable opportunity to cure any failure to appropriate sufficient funds prior to any determination that Jefferson's employment is terminated.

(d) **Assignment**. The rights and obligations of the City under this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the City. Jefferson shall not assign or otherwise convey any of her rights and obligations hereunder without the express written permission of the City Council.

(e) **Notices**. All notices provided for herein shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, to the Parties at the addresses given below or at such other addresses that may be specified by written notice in accordance with this paragraph:

If to the City: Mayor, City of Salida
The Touber Building
448 E. First Street, Suite 112
Salida, CO 81201

With a copy to: City Attorney Nina P. Williams
c/o Wilson Williams Fellman Dittman
1314 Main Street, Suite 101
Louisville, CO 80027

If to Jefferson: Kristi Jefferson
P.O. Box 352
Salida, CO 81201

(f) **Entire Agreement**. This instrument contains the entire agreement of the parties and it may not be changed orally, but only by written agreement signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought. No action by one or more City Council members may amend, modify, alter, or change this Agreement unless approved by majority vote of the entire City Council.

(g) **Approval**. By execution of this Agreement, the City acknowledges that all required approvals have been obtained by the City Council so that this Agreement shall be fully effective and binding upon the parties hereto.

(h) **Multiple Counterparts; Electronic Signature**. This Agreement may be executed in any number of counterparts, each of which together shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument. The signatures required for execution may be transmitted by facsimile or electronically (scan and e-mail), and such facsimile or electronic signature shall be deemed a duplicate original, shall be effective upon receipt, may be admitted in evidence, and shall fully bind the party making such signature.

IN WITNESS WHEREOF, the parties have affixed their signatures as of the date and year first above written.

CITY OF SALIDA, COLORADO

ATTEST:

_____
Deputy City Clerk

_____
Dan Shore, Mayor

City Clerk Kristi Jefferson

_____

CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Community Development	Carolyn Poissant - Senior Planner	November 5, 2024

AGENDA ITEM

Resolution 2024-68 Citizen Appointments to the Planning Commission

BACKGROUND

The Planning Commission is made up of seven regular members and two alternate members. Currently, five regular positions are filled. The two vacancies are those of Michelle Walker and Judith Dockery, both of whom submitted resignations. The two alternate positions are also currently filled.

Advertisement and postings for openings regarding city boards and commissions were distributed beginning August 30th with a final deadline of October 7th. Four applications were received for two regular Planning Commission vacancies, including applications from the two current alternates and two citizens. The selection committee was comprised of Mayor Dan Shore, Councilmember Wayles Martin, Planning Commission Chair Greg Follet, Vice Chair Francie Bomer and staff Senior Planner Carolyn Poissant.

The current makeup of the Commission is as follows:

Member	Term Expires
Greg Follet, Chair	06/04/2028
Francie Bomer, Vice Chair	04/21/2027
Giff Kriebel	01/01/2027
Brian Colby	08/16/2026
Aaron Derwingson	05/07/2028
Vacancy (Michelle Walker)	Did not seek re-appointment
Vacancy (Judith Dockery)	04/21/2027
Dan Bush, Alternate	02/15/2026
Kenny Layton, Alternate	02/15/2026

RECOMMENDATION

The selection committee recommended that City Council appoint current alternates Dan Bush and Kenny Layton as regular members of the Planning Commission, filling the two vacancies, and Sara Baris and Cory Riggs as alternate members, subject to Council approval.

FISCAL IMPACT – n/a

MOTION

A City Councilmember should state, “I move to _____ Resolution 2024-68, a resolution of the City Council for the City of Salida, Colorado approving the following appointments to the Planning Commission,” (per below) followed by a second and a roll call vote:

1. Appoint Dan Bush as a regular member, term to expire November 5, 2028 (filling the vacancy left following the resignation of Michelle Walker)

2. Appoint Kenny Layton as a regular member, term to expire April 21, 2027 (filling the vacancy left upon the early resignation of Judith Dockery)

3. Appoint Sara Baris as an alternate member, term to expire February 15, 2026 (filling the vacancy left by Dan Bush)

4. Appoint Cory Riggs as an alternate member, term to expire February 15, 2026 (filling the vacancy left by Kenny Layton)

CITY OF SALIDA, COLORADO
RESOLUTION NO. 68
(Series of 2024)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, APPROVING CITIZEN APPOINTMENTS TO THE PLANNING COMMISSION PURSUANT TO SECTION 2-7-10 OF THE SALIDA MUNICIPAL CODE.

WHEREAS, in accordance with Section 2-7-10 of the Salida Municipal Code ("SMC"), the City Council shall select, appoint, and reappoint person(s) to serve as members of the City of Salida Planning Commission; and

WHEREAS, two vacancies for regular members need to be filled; and

WHEREAS, vacancies for alternate members would result with the appointments of current alternate members as regular members; and

WHEREAS, four applications were received and all four applicants were interviewed by a selection committee, which has provided recommendations for the appropriate appointments; and

WHEREAS, the City Council appreciates the service members of the community have devoted to bettering Salida through participation on the Planning Commission; and

WHEREAS, in accordance with Section 2-7-10 of the Salida Municipal Code ("SMC"), the City Council shall confirm appointments by majority vote.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO THAT:

The City Council hereby appoints the following individuals to serve on the Planning Commission in the following capacity and term:

1. Appoint Dan Bush as a regular member, term to expire November 5, 2028 (filling the vacancy left following the resignation of Michelle Walker)

2. Appoint Kenny Layton as a regular member, term to expire April 21, 2027 (filling the vacancy left upon the early resignation of Judith Dockery)

3. Appoint Sara Baris as an alternate member, term to expire February 15, 2026 (filling the vacancy left by Dan Bush)

4. Appoint Cory Riggs as an alternate member, term to expire February 15, 2026 (filling the vacancy left by Kenny Layton)

RESOLVED, APPROVED AND ADOPTED this 5th day of November, 2024.

CITY OF SALIDA, COLORADO

By_____
Mayor

[SEAL]

[ATTEST]_____
City Clerk/Deputy City Clerk