



CITY COUNCIL REGULAR MEETING-

448 E. 1st Street, Room 190 Salida, Colorado 81201

July 02, 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>

CALL TO ORDER

Pledge of Allegiance

Roll Call

Civility Invocation

1. Civility Invocation

CONSENT AGENDA

2. Approve Agenda

3. Approve June 18, 2024 Minutes

4. Approve Heart of the Rockies Rampage/Chaffee County Community Foundation Agreement

CITIZEN COMMENT—Three (3) Minute Time Limit

LIQUOR LICENSING AUTHORITY

5. New Tavern Liquor License request for The Victoria Tavern, LLC at 143 North F Street.

6. New Hotel and Restaurant Liquor License request for La Terraza Restaurant and Bar, LLC dba La Terraza Restaurant and Bar at 122 East First Street.

UNFINISHED BUSINESS / ACTION ITEMS

NEW BUSINESS / ACTION ITEMS

7. **Resolution 2024-39** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, FINDING THE SALIDA QUALITY FARMS, LLC / MEADOWLARK DRIVE ANNEXATION PETITION TO BE IN SUBSTANTIAL COMPLIANCE WITH STATE STATUTES AND SETTING A PUBLIC HEARING ON SAID PETITION

8. **Resolution 2024-40** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, FINDING THE SUESSE ANNEXATION PETITION TO BE IN SUBSTANTIAL COMPLIANCE WITH STATE STATUTES AND SETTING A PUBLIC HEARING ON SAID PETITION

9. **Resolution 2024-41** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA EXPRESSING THE INTENT OF THE CITY TO BE REIMBURSED FOR CERTAIN EXPENSES RELATING TO THE ACQUISITION OF PROPERTY

10. **Resolution 2024-42** A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO ADOPTING AND APPROVING THE AMENDED FEE SCHEDULE FOR THE OFFICE OF THE CITY CLERK

11. **Resolution 2024-43** A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO TO ALLOW OVERNIGHT CAMPING & DOGS IN MARVIN PARK FROM JULY 26 THROUGH JULY 28 FOR THE 2024 CANINE CULTURE, LLC. DOG AGILITY EVENT

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.

- 12. Ordinance 2024-07** AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO AMENDING CHAPTER 16, ARTICLE XIII OF THE SALIDA MUNICIPAL CODE, REGARDING INCLUSIONARY HOUSING, TO FURTHER PROMOTE AND ASSIST THE DEVELOPMENT OF WORKFORCE HOUSING. **FIRST READING AND SETTING SECOND READING AND PUBLIC HEARING**
- 13. Ordinance 2024-08** AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO APPROVING A SUBSTANTIAL MODIFICATION OF THE GREEN HEART PLANNED DEVELOPMENT AND MINOR SUBDIVISION TO MODIFY THE REQUIREMENTS FOR INCLUSIONARY HOUSING FOR THE 1.23 ACRE SITE. **FIRST READING AND SETTING SECOND READING AND PUBLIC HEARING**
- 14. Ordinance 2024-09** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AMENDING THE CITY CODE TO ADD SECTION 10-7-90 ENTITLED KNOWINGLY ALLOWING UNDERAGE PERSONS TO POSSESS OR CONSUME ETHYL ALCOHOL AND/OR MARIJUANA ON PRIVATE PROPERTY TO THE SALIDA MUNICIPAL CODE. **FIRST READING AND SETTING SECOND READING AND PUBLIC HEARING**
- 15. Ordinance 2024-10** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AUTHORIZING THE EXECUTION AND DELIVERY OF A SITE LEASE, A LEASE PURCHASE AGREEMENT, AND RELATED DOCUMENTS IN CONNECTION WITH THE ACQUISITION OF CERTAIN PROPERTY FOR CITY PURPOSES; APPROVING THE FORMS OF SUCH DOCUMENTS; AND PROVIDING FOR OTHER MATTERS RELATING THERETO. **FIRST READING AND SETTING SECOND READING AND PUBLIC HEARING**
- 16. Ordinance 2024-11** AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO APPROVING A LEASE OF REAL PROPERTY LOCATED AT 348 H STREET FROM THE CITY OF SALIDA TO HYLTON LUMBER LLC. **FIRST READING AND SETTING SECOND READING AND PUBLIC HEARING**

COUNCILORS, MAYOR AND CITY TREASURER REPORTS

Council Reports

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

Mayor Report

Treasurer Report

Attorney Report

Department Updates

EXECUTIVE SESSION - TO BE HELD IN THE TENDERFOOT CONFERENCE ROOM

17. 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: **"Legal advice regarding lawsuit brought by the Town of Poncha Springs, Tailwind Group LLC and Full Views Matter, LLC against the City of Salida and related negotiations, discussions and next steps, after and in response to recent court ordered mediation."**
18. To discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under C.R.S. Section 24-6-402(4)(a), 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: **Negotiations with Visionary Communications, LLC**

ADJOURN

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.



City Clerk | Deputy City Clerk

Mayor Dan Shore



CIVILITY INVOCATION

We are here working together to create a thriving community. It is the intention of the Salida City Council to promote civil communication by adopting the following guidelines for speaking to the public in the City Council Chambers. It is our hope that by acting in this manner we can help create a safe space for people to share their perspectives and opinions:

- We honor the opportunity to be engaged in the process of governance for the benefit of our community.
- We acknowledge that each of us brings a unique perspective to this conversation and that our perspectives may differ.
- We challenge ourselves to value varying points of view and hold all contributions as equally important.
- We understand and accept that while we may sometimes disagree, we can always be courteous and kind.
- We commit to respectful language, avoiding rumor, harsh criticism or personal accusation, even when feeling emotionally charged.
- We will, to best of our ability, speak thoughtfully and listen with attention, respect, and curiosity.
- We are confident that there may be even better solutions than any of us have thought of, which may be discovered through civil conversations.
- We affirm our support for women's rights, including equal pay, equal treatment under the law and in the workplace, and the right to determine choices that impact the direction and personal values of one's life, including all individuals' reproductive health choices.
- We commit to the City of Salida being a hate-free zone and declare and affirm a policy of non-discrimination on the basis of a person's race, color, religion, ancestry, national origin, age, sexual orientation, gender, gender identity, marital status, military or veteran status, socio-economic class, medical condition, or physical or mental disability.



CITY COUNCIL REGULAR MEETING-

448 E. 1st Street, Room 190 Salida, Colorado 81201
June 18, 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:

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

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
Treasurer Ben Gilling

Civility Invocation

Civility Invocation

CONSENT AGENDA

Council Member Martin moved to combine and approve 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 June 4, 2024 Minutes

Approve Special Events Liquor License - Brewers Rendezvous

MOTION PASSED

CITIZEN COMMENT—Three (3) Minute Time Limit

Michael Marino, Adam Martinez, Paul Byars, Jacqueline Parker, Kit Rivers, Jenai Stokesbary, Sacha Halenda, Amato Halenda, Serena Wickett and Vesper spoke during public comment.

UNFINISHED BUSINESS / ACTION ITEMS

NEW BUSINESS / ACTION ITEMS

COUNCILORS, MAYOR AND CITY TREASURER REPORTS

Council Reports

Reports were given.

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.

Treasurer Report

Report was given

Attorney Report**Department Update****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: **Legal advice regarding lawsuit brought by the Town of Poncha Springs, Tailwind Group LLC and Full Views Matter, LLC against the City of Salida and related negotiations, information, discussions and next steps, and in preparation for upcoming court ordered mediation.**

Council Member Naccarato moved to enter into Executive Session, Seconded by Council Member Martin.
Voting Yea: Council Member Fontana, Council Member Naccarato, Council Member Critelli, Council Member Stephens, Council Member Pappenfort

MOTION PASSED

Council entered into Executive Session at 6:42pm and returned to the Regular Meeting at 7:41pm.

ADJOURN

Adjourned at 7:42pm



City Clerk | Deputy City Clerk

Mayor Dan Shore

**CITY OF SALIDA
RELATIONSHIP AGREEMENT**

Item 4.

THIS AGREEMENT entered into this 12 day of June, 2024, by and between the **CITY OF SALIDA, COLORADO**, a statutory city and municipal corporation, hereinafter referred to as “City”, and the **[Heart of the Rockies Rampage/Chaffee County Community Foundation]**, [P.O. Box 492, Buena Vista, Colorado 81211], hereinafter referred to as “Organization”.

WHEREAS, Organization is a community-based organization providing for the recreational or other positive benefits of the Salida community; and,

WHEREAS, the City owns and operates certain property and facilities and rights-of-way and regulates certain activities throughout the City of Salida; and,

WHEREAS, and Organization desires to host, in partnership with the City of Salida, the 3rd Annual Heart of the Rockies Rampage World Cup Skateboarding Competition on July 19-20, 2024, at Centennial Park Skatepark; and,

WHEREAS, the City and its Parks and Recreation Department wish to enter into this Agreement with Organization to memorialize the Parties’ collaborative relationship and understanding; and

WHEREAS, the City and Organization further wish to clarify within this Agreement the duties of each Party, as well as to set forth all terms and conditions between the Parties.

NOW THEREFORE, BE IT HEREINAFTER AGREED BY THE PARTIES AS FOLLOWS:

1. **Purpose and Description:** Organization plans to host, in partnership with the City of Salida, the 3rd Annual Heart of the Rockies Rampage. City agrees to allow Organization to hold the 3rd Annual Heart of the Rockies Rampage at the Centennial Park skatepark located at 1695 Holman Avenue within the City of Salida, County of Chaffee, and State of Colorado. The location shall only be accessed by the Organization for the Heart of the Rockies Rampage event 7/19-20/2024 and set up 7/18/24 scheduled and approved in advance with the City.
3. **Term:** The term of the Agreement shall be for one (1) year starting from the date of approval of this Agreement or until terminated by either Party. As long as Organization is in compliance with the terms and conditions of this Agreement, this Agreement shall be automatically renewed on an annual basis thereafter. Either Party may terminate this Agreement upon thirty (30) days written notice, with or without cause
2. **Rate:** City will charge Organization [\$0]
3. **Special Conditions:** The Parties have agreed to provide or facilitate the following components, and comply with the additional rules under this Agreement as follows:

A. Organization will:

- i. Complete special event application and attend Special Event Committee meetings related to the event
- ii. Create schedule of events and submit to Recreation manager to input in SmartRec registration
- iii. Secure and pay wages and expenses for announcers, judges, DJ, graphic designer

Form approved by City Attorney

- iv. Partner with City on marketing efforts
- v. Secure photo, filming, live stream efforts
- vi. Solicit and secure vendors
- vii. Solicit and secure volunteers to be on the committee and to work the events
- viii. Develop sponsorship package and solicit and secure sponsors
 - 1. Retain 100% of proceeds from beer/beverage sales
- ix. Create and manage placement of sponsor banners
- x. Secure location, silent auction items, and beer donation for Thursday athlete check-in, registration, kick-off party
 - 1. Retain 100% of proceeds from silent auction
- xi. Secure location and plan details for after party
- xii. Place order and pay for event t-shirts
 - 1. Sell t-shirts at event
 - 2. Retain 100% of proceeds from shirts
- xiii. Create VIP experience
 - 1. Sell VIP tickets
 - 2. Retain 100% of proceeds from VIP sales
 - 3. Manage VIP registration and check in on event days
- xiv. Provide athlete, VIP, over 21 wristbands
- xv. Provide prizes and cash purse for competitors
- xvi. Work all related events

B. The City will:

- i. Complete and submit all applicable special events permits as is required by the City of Salida (liquor, amplified sound, multiple vendor)
- ii. Develop a map of the layout of the event
- iii. Secure the Centennial Park Skatepark for exclusive use for event day
- iv. Secure food trucks and plan logistics
- v. Work with vendors to receive permits, fees, and applicable paperwork required to vend
- vi. Create registration for competitors in SmartRec
 - 1. Manage pre-event and day-of registration
 - 2. Retain 100% of proceeds from registration
- vii. Marketing
 - 1. Execute Social Media, Mountain Mail events, Mountain Mail Friday ad, Monthly P&R newsletter, Salida Standard marketing leading up to the event
- viii. Provide Parks & Recreation event equipment for events
 - 1. Tents
 - 2. Tables/chairs/tablecloths
 - 3. Registration, information, water flags
 - 4. Sandwich boards (parking information, event schedule)
 - 5. Water station
 - 6. Clipboards
 - 7. Speakers, speaker stands, microphone, megaphone
 - 8. Extension cords, cord bridges
- ix. Create competition paperwork
 - 1. Scoresheets
 - 2. Rankings

3. Athlete bio
 4. Registration/waivers
 - x. Work with Parks department to
 1. Trash service
 2. Restroom service
 3. Sprinkler, water, electrical needs
 4. Pre-event park clean
 5. Fencing
 6. Movement of bleachers
 - xi. Provide staff for event days
 1. Work set-up, tear down
 2. Registration
 3. Scorekeeping
 - xii. Create schedule of staff and volunteers
4. **Reporting:** The City will evaluate the effectiveness of this relationship after the reconciliation of the books done by Chaffee County Community Foundation. City will provide Organization any pertinent details regarding the programming and surveys taken after the fact. In August, 2024, Organization and City will have a meeting about the event and relationship and what the roles for each party will look like in the subsequent years.
 5. **Surrender of Property:** Organization shall quit and surrender any designated or utilized properties, rights-of-way or facilities to the City at the end of the term of this Agreement in the same condition as at the date of the commencement of this Agreement, ordinary wear and tear excepted.
 6. **Rules and Regulations:** Organization, and all persons whom Organization allows at the event, activity or as a result of this relationship, shall abide by and conform to all Rules and Regulations concerning their event, activity or relationship, or the use of any City properties and City facilities and City rights-of-way, as amended or adopted by the City. City may cancel this Agreement at any time for failure to do so.
 7. **Maintenance:** City reserves the right to close any applicable properties or facilities or rights-of-way for maintenance at its sole discretion. City will attempt to give reasonable notice of closure.
 8. **Indemnification:** The City shall have no responsibility for the safety and or security of any person participating in any applicable events or activities by Organization, or in the use of any City properties or facilities or rights-of way. Organization expressly agrees to indemnify and hold harmless the City, its officers, employees, and agents, from all cost, loss and expense, including attorney's fees, arising out of any liability or claim of liability for injury or damage to person resulting directly or indirectly from their participation in Organization's use of any City property or facility or right-of-way, or in or at the Organization's event or activity, regardless of whether such use was authorized or not, and regardless of whether the liability or claim of liability arises of out of the act or omission of Organization.
 9. **Insurance:** Organization agrees to procure an insurance policy with a licensed company doing business in the State of Colorado to provide a minimum amount of \$1,000,000.00 per occurrence for bodily injury and property damage combined, naming the Organization, and with the City being listed as the Additional Insured on a primary and noncontributory basis. Organization shall provide a copy of the Certificate of Insurance to the City upon the execution of this Agreement.

10. **Compliance with Law:** Organization shall comply with all laws of the United States and of the State of Colorado, all ordinances of the City of Salida, all rules and requirements of the Police and Fire Departments or other municipal authorities of the City of Salida. Organization will not do or suffer to be done anything on any used or designated City property, facility or right-of-way during the term of this Agreement in violation of any such laws, ordinances, rules, or requirements. If Organization's attention is called to any such violation on their part or of any person employed by or admitted to the designated Property by Organization, they will immediately desist from and correct or cause to be corrected such violation.
11. **Damage to City Property:** If any designated property, facility or right-of-way, or any part of buildings on designated property, or any equipment located on the designated property during the term of this Agreement shall be damaged by the act, default, or negligence of the Organization or its agents, employees, patrons, guests, or any person admitted to the designated property by Organization, the Organization will pay to the City upon demand such sum as shall be necessary to restore the designated property or equipment contained in or on the designated property to their present condition. Organization assumes full responsibility for the character, acts and conduct of all persons admitted to the designated property with the consent of the Organization or by or with the consent of any person acting for or on behalf of Organization. Organization shall be responsible to maintain order and protect persons and property.
12. **Assignment:** Organization shall not assign this Agreement without the prior written consent of the City, nor use of the Property other than as specified in this Agreement.
13. **Release:** City shall not be responsible for any damage or injury that may happen to Organization or its agents, employees, or property from any cause whatsoever prior, during, or subsequent to the period covered by this Agreement. Organization hereby expressly releases the City from and agrees to indemnify the City against any and all claims for such loss, damage, or injury.
14. **Modification:** Any modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement shall be binding only if evidenced in writing signed by each Party or an authorized representative of each Party.
15. **Contact Information:** The current contact information of the Parties is as follows:

City: City of Salida Department of Recreation

City representative: Anissa Caiazza

Position: Recreation and Aquatics Manager

Address: 448 E First St, Salida, Colorado, 81201

Telephone: 719-221-0852

E-mail: anissa.caiazza@cityofsalida.com

Organization:

Organization representative: Elizabeth Dittenber

Position: Executive Director

Address: P.O. Box 492, Buena Vista, Colorado 81211

Telephone: 719-204-4565

E-mail: betsy@chaffeecommunity.org

The undersigned hereby certifies that he/she is authorized to enter into and execute this Agreement on behalf of the Organization and the City, respectively, and that the Organization and the City acknowledge and accept the terms and conditions herein.

CITY OF SALIDA ("City")

BY: _____
Christy Doon, City Administrator

Date: _____

[Chaffee County Community Foundation] ("Organization")

BY:  _____

____ Elizabeth Dittenber, Executive Director _____

Date: 6/17/2024 _____





CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Administration	Kristi Jefferson - City Clerk	July 2, 2024

AGENDA ITEM

New Tavern Liquor License request for The Victoria Tavern, LLC, dba The Victoria Tavern at 143 North F Street.

BACKGROUND

A new Colorado Tavern Liquor License application was filed with the City Clerk on April 16, 2024. The Notice of Public Hearing was published on May 21, 2024 in the Mountain Mail and the premises was posted on June 20, 2024.

All proper fees have been remitted to the City and State of Colorado.

A Tavern license differs from a Hotel and Restaurant license as the establishment shall have sandwiches and light snacks available for consumption on the premises during business hours, but need not have meals available for consumption, like a Hotel and Restaurant license.

Individual history records and the Colorado Bureau of Investigation background checks have been reviewed by staff with no issues.

FISCAL NOTE

There is no fiscal impact

RECOMMENDATION

Staff recommends that the Liquor Licensing Authority approve a new Tavern Liquor License request for The Victoria Tavern, LLC dba The Victoria Tavern at 143 North F Street.

MOTION

Following a public hearing on the matter, a Liquor Authority Member should state "I move to _____ a new Tavern Liquor License request for The Victoria Tavern, LLC dba The Victoria Tavern", followed by a second and a roll call vote.

**PUBLIC NOTICE
PUBLIC NOTICE PURSUANT TO THE
LIQUOR LAWS OF COLORADO**

Pursuant to the Liquor Laws of the State of Colorado, The Victoria Tavern LLC, has requested the Local Licensing Authority of the City of Salida, Colorado to grant a Tavern (City) liquor license to sell malt, vinous and spirituous liquors for consumption on premises at 143 North F Street, Salida, CO 81201. A hearing on the application received April 16, 2024 will be held before the Local Licensing Authority of the City of Salida, Colorado at the hour of 6:00 p.m., or as soon thereafter as may be heard, on Tuesday, July 2nd. At said time and place, any interested persons may appear to be heard for or against the granting of said license.

LOCAL LICENSING AUTHORITY

Kristi Jefferson, City Clerk

Premises Posted by June 21, 2024

Published in The Mountain Mail May 21, 2024

NOTICE

PURSUANT TO THE LIQUOR LAWS OF COLORADO

The Victoria Tavern, LLC

143 North F Street, Ste. D

Salida, CO 81201

HAS REQUESTED THE LICENSING
OFFICIALS OF City of Salida

TO Approve a new Tavern Liquor License

LICENSE AT: 143 North F Street, Ste. D, Salida CO 81201

HEARING ON APPLICATION TO BE HELD AT:

City Council Chambers

448 E First Street, Ste. 119, Salida, CO 81201

TIME AND DATE: July 2, 2024

DATE OF APPLICATION: April 16, 2024

BY ORDER OF: City of Salida

OFFICERS: Greg Kenny and Kyle Johan

ADDRESS OF THE PLACE AT WHICH PETITIONS OR REMONSTRANCES MAY BE FILED

Colorado Liquor Retail License Application

* Note that the Division will not accept cash ☐ Paid by check ☐ Paid online

Uploaded to
Movelt on

Date
4.14.24

☒ New License ☒ New-Concurrent ☐ Transfer of Ownership ☐ State Property Only ☐ Master file			
All answers must be printed in black ink or typewritten Applicant must check the appropriate box(es) Applicant should obtain a copy of the Colorado Liquor, Beer and Wine Code: SBG.Colorado.gov/Liquor			
1. Applicant is applying as a/an ☐ Individual ☒ Limited Liability Company ☐ Association or Other ☐ Corporation ☐ Partnership (includes Limited Liability and Husband and Wife Partnerships)			
2. Applicant If an LLC, name of LLC; if partnership, at least 2 partner's names; if corporation, name of corporation <i>The Victoria Tavern, LLC</i>			FEIN Number
2a. Trade Name of Establishment (DBA) _____ _____		State Sales Tax Number 	Business Telephone <i>214-781-3583</i>
3. Address of Premises (specify exact location of premises, include suite/unit numbers) <i>143 N. F Street Ste D</i>			
City <i>Salida</i>	County <i>Gaffney</i>	State <i>CO</i>	ZIP Code <i>81201</i>
Mailing Address (Number and Street) <i>123 E ST STE 200</i>	City or Town <i>Salida</i>	State <i>CO</i>	ZIP Code <i>81201</i>
5. Email Address <i>mngmt@thevictoriatavern.com</i>			
6. If the premises currently has a liquor or beer license, you must answer the following questions			
Present Trade Name of Establishment (DBA) <i>N/A</i>	Present State License Number <i>N/A</i>	Present Class of License <i>N/A</i>	Present Expiration Date <i>N/A</i>
Section A Nonrefundable Application Fees*		Section B (Cont.) Liquor License Fees*	
☐ Application Fee for New License\$1,100.00 ☒ Application Fee for New License w/Concurrent Review\$1,200.00 ☐ Application Fee for Transfer.....\$1,100.00		☐ Liquor-Licensed Drugstore (County)\$312.50 ☐ Lodging & Entertainment - L&E (City)\$500.00 ☐ Lodging & Entertainment - L&E (County)\$500.00 ☐ Manager Registration - H & R\$30.00 ☐ Manager Registration - Tavern\$30.00 ☐ Manager Registration - Lodging & Entertainment.....\$30.00 ☐ Manager Registration - Campus Liquor Complex\$30.00 ☐ Optional Premises License (City).....\$500.00 ☐ Optional Premises License (County)\$500.00 ☐ Racetrack License (City).....\$500.00 ☐ Racetrack License (County).....\$500.00 ☐ Resort Complex License (City).....\$500.00 ☐ Resort Complex License (County).....\$500.00 ☐ Related Facility - Campus Liquor Complex (City)\$160.00 ☐ Related Facility - Campus Liquor Complex (County)\$160.00 ☐ Related Facility - Campus Liquor Complex (State).....\$160.00 ☐ Retail Gaming Tavern License (City)\$500.00 ☐ Retail Gaming Tavern License (County).....\$500.00 ☐ Retail Liquor Store License—Additional (City).....\$227.50 ☐ Retail Liquor Store License—Additional (County).....\$312.50 ☐ Retail Liquor Store (City).....\$227.50 ☐ Retail Liquor Store (County)\$312.50 ☒ Tavern License (City).....\$500.00 ☒ Tavern License (County).....\$500.00 ☐ Vintners Restaurant License (City)\$750.00 ☐ Vintners Restaurant License (County).....\$750.00	
Section B Liquor License Fees*			
☐ Add Optional Premises to H & R.....\$100.00 X _____ Total _____ ☐ Add Related Facility to Resort Complex \$75.00 X _____ Total _____ ☐ Add Sidewalk Service Area\$75.00 ☐ Arts License (City)\$308.75 ☐ Arts License (County)\$308.75 ☐ Beer and Wine License (City).....\$351.25 ☐ Beer and Wine License (County).....\$436.25 ☐ Brew Pub License (City)\$750.00 ☐ Brew Pub License (County).....\$750.00 ☐ Campus Liquor Complex (City).....\$500.00 ☐ Campus Liquor Complex (County)\$500.00 ☐ Campus Liquor Complex (State).....\$500.00 ☐ Club License (City).....\$308.75 ☐ Club License (County)\$308.75 ☐ Distillery Pub License (City).....\$750.00 ☐ Distillery Pub License (County)\$750.00 ☐ Hotel and Restaurant License (City)\$500.00 ☐ Hotel and Restaurant License (County)\$500.00 ☐ Hotel and Restaurant License w/one opt premises (City).....\$600.00 ☐ Hotel and Restaurant License w/one opt premises (County).....\$600.00 ☐ Liquor-Licensed Drugstore (City).....\$227.50			
Questions? Visit: SBG.Colorado.gov/Liquor for more information			
Do not write in this space - For Department of Revenue use only			
Liability Information			
License Account Number	Liability Date	License Issued Through (Expiration Date)	Total \$

Application Documents Checklist and Worksheet

Instructions: This checklist should be utilized to assist applicants with filing all required documents for licensure. All documents must be properly signed and correspond with the name of the applicant exactly. All documents must be typed or legibly printed. Upon final State approval the license will be mailed to the local licensing authority. Application fees are nonrefundable. **Questions? Visit:** SBG.Colorado.gov/Liquor for more information

Items submitted, please check all appropriate boxes completed or documents submitted	
I. Applicant information	☒ A. Applicant/Licensee identified ☒ B. State sales tax license number listed or applied for at time of application ☒ C. License type or other transaction identified ☒ D. Return originals to local authority (additional items may be required by the local licensing authority) ☒ E. All sections of the application need to be completed ☒ F. Master file applicants must include the Application for Master File form DR 8415 and applicable fees to this Retail License Application
II. Diagram of the premises	☒ A. No larger than 8½" X 11" ☒ B. Dimensions included (does not have to be to scale). Exterior areas should show type of control (fences, walls, entry/exit points, etc.) ☒ C. Separate diagram for each floor (if multiple levels) ☒ D. Kitchen - identified if Hotel and Restaurant ☒ E. Bold/Outlined Licensed Premises
III. Proof of property possession (One Year Needed)	☒ A. Deed in name of the applicant (or) (matching question #2) date stamped / filed with County Clerk ☒ B. Lease in the name of the applicant (or) (matching question #2) ☒ C. Lease assignment in the name of the applicant with proper consent from the landlord and acceptance by the applicant ☒ D. Other agreement if not deed or lease. (matching question #2)
IV. Background information (DR 8404-I) and financial documents	☒ A. Complete DR 8404-I for each principal (individuals with more than 10% ownership, officers, directors, partners, members) ☒ B. Fingerprints taken and submitted to the appropriate Local Licensing Authority through an approved State Vendor. Master File applicants submit results to the State using code 25YQHT with IdentGO. Do not complete fingerprint cards prior to submitting your application. The Vendors are as follows: IdentGO – https://uenroll.identgo.com/ Phone: 844-539-5539 (toll-free) Colorado Fingerprinting – http://www.coloradofingerprinting.com Appointment Scheduling Website: http://www.coloradofingerprinting.com/cabs/ Phone: 720-292-2722 Toll Free: 833-224-2227 Details about the vendors and fingerprinting in Colorado can be found on CBI's website here: https://cbi.colorado.gov/sections/biometric-identification-and-records-unit/employment-and-background-checks ☒ C. Purchase agreement, stock transfer agreement, and/or authorization to transfer license ☒ D. List of all notes and loans (Copies to also be attached)
V. Sole proprietor/husband and wife partnership (if applicable)	☐ A. Form DR 4679 ☐ B. Copy of State issued Driver's License or Colorado Identification Card for each applicant
VI. Corporate applicant information (if applicable)	☐ A. Certificate of Incorporation ☐ B. Certificate of Good Standing ☐ C. Certificate of Authorization if foreign corporation (out of state applicants only)
VII. Partnership applicant information (if applicable)	☐ A. Partnership Agreement (general or limited). ☐ B. Certificate of Good Standing
VIII. Limited Liability Company applicant information (if applicable)	☒ A. Copy of articles of organization ☒ B. Certificate of Good Standing ☒ C. Copy of Operating Agreement (if applicable) ☐ D. Certificate of Authority if foreign LLC (out of state applicants only)
IX. Manager registration for Hotel and Restaurant, Tavern, Lodging & Entertainment, and Campus Liquor Complex licenses when included with this application	☐ A. \$30.00 fee ☒ B. If owner is managing, no fee required

Name <i>Kyle Johan Deniger - Hagman</i>	Type of License <i>Tavern</i>	Account Number													
7. Is the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers under the age of twenty-one years? Yes ☐ No ☒ 8. Has the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers ever (in Colorado or any other state): a. Been denied an alcohol beverage license? ☐ ☒ b. Had an alcohol beverage license suspended or revoked? ☐ ☒ c. Had interest in another entity that had an alcohol beverage license suspended or revoked? ☐ ☒ If you answered yes to 8a, b or c, explain in detail on a separate sheet. 9. Has a liquor license application (same license class), that was located within 500 feet of the proposed premises, been denied within the preceding two years? If "yes", explain in detail. ☐ ☒ 10. Are the premises to be licensed within 500 feet, of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary? ☐ ☒ or Waiver by local ordinance? ☐ ☐ Other: _____ 11. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of greater than (>) 10,000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS. ☐ ☒ 12. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 3000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of less than (<) 10,000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS. ☐ ☒ 13. a. For additional Retail Liquor Store only. Was your Retail Liquor Store License issued on or before January 1, 2016? ☐ ☒ b. Are you a Colorado resident? ☒ ☐ 14. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership; members or manager if a Limited Liability Company; or officers, stockholders or directors if a corporation)? ☒ ☐ If yes, identify the name of the business and list any <u>current</u> financial interest in said business including any loans to or from a licensee. <i>Browns Canyon Brewing Company - No current interest / resigned.</i> 15. Does the applicant, as listed on line 2 of this application, have legal possession of the premises by ownership, lease or other arrangement? ☐ ☒ ☐ ☐ Ownership ☒ Lease ☐ Other (Explain in Detail) _____ a. If leased, list name of landlord and tenant, and date of expiration, exactly as they appear on the lease: <table border="1" style="width: 100%; border-collapse: collapse; margin-left: 20px;"> <tr> <td style="width: 40%;">Landlord <i>Andrew Fink / Thevic LLC</i></td> <td style="width: 40%;">Tenant <i>The Victoria Tavern LLC</i></td> <td style="width: 20%;">Expires <i>5/1/2029</i></td> </tr> </table> b. Is a percentage of alcohol sales included as compensation to the landlord? If yes, complete question 16. ☐ ☒ c. Attach a diagram that designates the area to be licensed in black bold outline (including dimensions) which shows the bars, brewery, walls, partitions, entrances, exits and what each room shall be utilized for in this business. This diagram should be no larger than 8½" X 11". 16. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies) will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money from this business? Attach a separate sheet if necessary. <table border="1" style="width: 100%; border-collapse: collapse; margin-left: 20px;"> <tr> <td style="width: 25%;">Last Name <i>N/A</i></td> <td style="width: 25%;">First Name</td> <td style="width: 15%;">Date of Birth</td> <td style="width: 20%;">FEIN or SSN</td> <td style="width: 15%;">Interest/Percentage</td> </tr> <tr> <td>Last Name</td> <td>First Name</td> <td>Date of Birth</td> <td>FEIN or SSN</td> <td>Interest/Percentage</td> </tr> </table> Attach copies of all notes and security instruments and any written agreement or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation. 17. Optional Premises or Hotel and Restaurant Licenses with Optional Premises: ☐ ☒ Has a local ordinance or resolution authorizing optional premises been adopted? ☐ ☒ Number of additional Optional Premise areas requested. (See license fee chart) _____ 18. For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), include a diagram of the service area and documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.			Landlord <i>Andrew Fink / Thevic LLC</i>	Tenant <i>The Victoria Tavern LLC</i>	Expires <i>5/1/2029</i>	Last Name <i>N/A</i>	First Name	Date of Birth	FEIN or SSN	Interest/Percentage	Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage
Landlord <i>Andrew Fink / Thevic LLC</i>	Tenant <i>The Victoria Tavern LLC</i>	Expires <i>5/1/2029</i>													
Last Name <i>N/A</i>	First Name	Date of Birth	FEIN or SSN	Interest/Percentage											
Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage											

Name Greg Kenney	Type of License Tavern	Account Number
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19. Liquor Licensed Drugstore (LLDS) applicants, answer the following:

a. Is there a pharmacy, licensed by the Colorado Board of Pharmacy, located within the applicant's LLDS premise? ☐ Yes ☒ No
If "yes" a copy of license must be attached.

20. Club Liquor License applicants answer the following: Attach a copy of applicable documentation Yes No

a. Is the applicant organization operated solely for a national, social, fraternal, patriotic, political or athletic purpose and not for pecuniary gain? ☐ Yes ☒ No

b. Is the applicant organization a regularly chartered branch, lodge or chapter of a national organization which is operated solely for the object of a patriotic or fraternal organization or society, but not for pecuniary gain? ☐ Yes ☒ No

c. How long has the club been incorporated?

d. Has applicant occupied an establishment for three years (three years required) that was operated solely for the reasons stated above? ☐ Yes ☒ No

21. Brew-Pub, Distillery Pub or Vintner's Restaurant applicants answer the following:

a. Has the applicant received or applied for a Federal Permit? (Copy of permit or application must be attached) ☐ Yes ☒ No

22. Campus Liquor Complex applicants answer the following:

a. Is the applicant an institution of higher education? ☐ Yes ☒ No

b. Is the applicant a person who contracts with the institution of higher education to provide food services? ☐ Yes ☒ No
If "yes" please provide a copy of the contract with the institution of higher education to provide food services.

23. For all on-premises applicants.

a. For all Liquor Licensed Drugstores (LLDS) the Permitted Manager must also submit an Manager Permit Application - DR 8000 and fingerprints.

Last Name of Manager Kenny	First Name of Manager Greg
--------------------------------------	--------------------------------------

24. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, provide name, type of license and account number. Yes No
☐ Yes ☒ No

25. Related Facility - Campus Liquor Complex applicants answer the following: ☐ Yes ☒ No

a. Is the related facility located within the boundaries of the Campus Liquor Complex?
If yes, please provide a map of the geographical location within the Campus Liquor Complex.
If no, this license type is not available for issues outside the geographical location of the Campus Liquor Complex.

b. Designated Manager for Related Facility- Campus Liquor Complex

Last Name of Manager N/A	First Name of Manager N/A
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26. Tax Information. Yes No

a. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? ☐ Yes ☒ No

b. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? ☐ Yes ☒ No

27. If applicant is a corporation, partnership, association or limited liability company, applicant must list all Officers, Directors, General Partners, and Managing Members. In addition, applicant must list any stockholders, partners, or members with ownership of 10% or more in the applicant. All persons listed below must also attach form DR 8404-I (Individual History Record), and make an appointment with an approved State Vendor through their website. See application checklist, Section IV, for details.

Name	Home Address, City & State	DOB	Position	%Owned
Greg Kenney	[REDACTED]	[REDACTED]	Owner	50
Kyle Johnson	[REDACTED]	[REDACTED]	Owner	50

Name <i>Greg Kenney</i>	Type of License <i>Tavern</i>	Account Number
** If applicant is owned 100% by a parent company, please list the designated principal officer on above. ** Corporations - the President, Vice-President, Secretary and Treasurer must be accounted for above (Include ownership percentage if applicable) ** If total ownership percentage disclosed here does not total 100%, applicant must check this box: ☒ Applicant affirms that no individual other than these disclosed herein owns 10% or more of the applicant and does not have financial interest in a prohibited liquor license pursuant to Article 3 or 5, C.R.S.		
Oath Of Applicant		
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.		
Authorized Signature <i>[Signature]</i>	Printed Name and Title <i>Kyle Johan Deniger - Hugman</i>	Date <i>4/14/24</i>
Report and Approval of Local Licensing Authority (City/County)		
Date application filed with local authority	Date of local authority hearing (for new license applicants; cannot be less than 30 days from date of application)	
For Transfer Applications Only - Is the license being transferred valid?		Yes No ☐ ☐
The Local Licensing Authority Hereby Affirms that each person required to file DR 8404-I (Individual History Record) or a DR 8000 (Manager Permit) has been: ☒ Fingerprinted ☒ Subject to background investigation, including NCIC/CCIC check for outstanding warrants That the local authority has conducted, or intends to conduct, an inspection of the proposed premises to ensure that the applicant is in compliance with and aware of, liquor code provisions affecting their class of license (Check One) ☐ Date of inspection or anticipated date _____ ☒ Will conduct inspection upon approval of state licensing authority		
☐ Is the Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1,500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of > 10,000?		Yes No ☐ ☐
☐ Is the Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 3,000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of < 10,000?		Yes No ☐ ☐
NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.		
☐ Does the Liquor-Licensed Drugstore (LLDS) have at least twenty percent (20%) of the applicant's gross annual income derived from the sale of food, during the prior twelve (12) month period?		Yes No ☐ ☐
The foregoing application has been examined; and the premises, business to be conducted, and character of the applicant are satisfactory. We do report that such license, if granted, will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants, and will comply with the provisions of Title 44, Article 4 or 3, C.R.S., and Liquor Rules. Therefore, this application is approved.		
Local Licensing Authority for		Telephone Number ☐ Town, City ☐ County
Signature	Print	Title
Signature	Print	Title
		Date

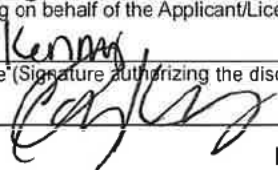
Tax Check Authorization, Waiver, and Request to Release Information

I, Greg Kenney am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of The Victoria Tavern (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101, et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and is duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

Name (Individual/Business) <u>Greg Kenney / The Victoria Tavern</u>		Social Security Number/Tax Identification Number 	
Address <u>143 N. F Street Unit D</u>			
City <u>Salida</u>		State <u>CO</u>	Zip <u>81201</u>
Home Phone Number <u>214-789-3583</u>		Business/Work Phone Number <u>214-789-3583</u>	
Printed name of person signing on behalf of the Applicant/Licensee <u>Greg Kenney</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) 			Date signed <u>4.14.24</u>

Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).

Tax Check Authorization, Waiver, and Request to Release Information

I, Kyle J. Deniger - Hagman am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of The Victoria Tavern LLC (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101, et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and is duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

Name (Individual/Business) <u>The Victoria Tavern</u>		Social Security Number/Tax Identification Number 	
Address <u>143 W. F St. Unit D</u>			
City <u>Salida, CO 81201</u>		State <u>CO</u>	Zip <u>81201</u>
Home Phone Number <u>719 407 2200</u>		Business/Work Phone Number <u>214-789-3583</u>	
Printed name of person signing on behalf of the Applicant/Licensee <u>Kyle J. Deniger Hagman</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) 			Date signed <u>4/14/2024</u>

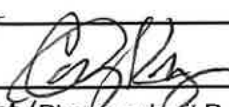
Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).

DR 8496 (03/27/23)
COLORADO DEPARTMENT OF REVENUE
 Liquor Enforcement Division
 PO Box 17087
 Denver CO 80217-0087
 Fax (303) 205-2341
 Phone (303) 205-2300

Fees Due	
Initial Application Fee	\$11.00
Renewal Fee	\$11.00

Takeout and Delivery Permit Application & Renewal (On-Premises Applicants Only)

☒ Initial Application		☐ Renewal	
Corporate Business Name The Victoria Tavern		Trade Name (DBA)	
Physical Address of Premises 143. N. F Street		Suite/Unit Number D	
City Salida	County Chaffee	State CO	ZIP Code 81201
Mailing Address (if different than Physical Address) 123 G. Street		Suite/Unit Number 200	
City Salida		State CO	ZIP Code 81201
Business Phone Number 214 789 3583		Business Email Address mta Mgmt@thevictoriatavern.com	
1. Are you applying/renewing: ☐ Delivery ☐ Takeout ☒ Both Takeout and Delivery			
2. You certify that the delivery of alcohol beverages shall only be made to a person TWENTY-ONE (21) years of age or older at the address specified in the order.			☒ Yes ☐ No
3. You certify that the delivery must be made by the licensee or the licensee's employee who is at least TWENTY-ONE (21) years of age and is using a vehicle owned or leased by the licensee to make the delivery.			☒ Yes ☐ No
4. You certify that the licensee's employee who delivers the alcohol beverages shall note and log at the time of delivery, the name and date of birth of the person the alcohol beverages are delivered to. Under no circumstances shall a person under TWENTY-ONE (21) years of age be permitted to receive a delivery of alcohol beverages.			☒ Yes ☐ No
5. You understand that a licensee must derive no more than FIFTY (50) percent of its gross annual revenues from sales of alcohol beverages that the licensee delivers.			☒ Yes ☐ No
6. Are you using a third party's ordering software to take orders?			☐ Yes ☒ No
If you answered "Yes" to question number six (6) above, upload all documents concerning the agreement between the ordering service and the licensee. Note - While a third party's ordering software may be used, physical delivery can only be accomplished by the licensee or the licensee's employee using a vehicle owned or leased by the licensee.			
7. Have you verified with your local licensing authority that no local permits are required for takeout and delivery?			☒ Yes ☐ No
8. Are you the applicant or an authorized agent of the business?			☒ Yes ☐ No
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.			☒ Yes ☐ No
Name of the applicant or an authorized agent of the business Greg Kenney		Title of the applicant or an authorized agent of the business Owner	
Signature 		Date 4.14.24	

Payment (Please submit Payment in one of the following ways):

Via mail with your application P.O. Box 17087 Denver, CO 80217-0087	Via email to: DOR_liqlicensing@state.co.us An email will be sent to you with directions on how to make a payment via our online payment portal.
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OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

The Victoria Tavern LLC

is a

Limited Liability Company

formed or registered on 04/09/2024 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20241406291 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 04/29/2024 that have been posted, and by documents delivered to this office electronically through 04/30/2024 @ 15:58:46 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 04/30/2024 @ 15:58:46 in accordance with applicable law. This certificate is assigned Confirmation Number 15996104 .



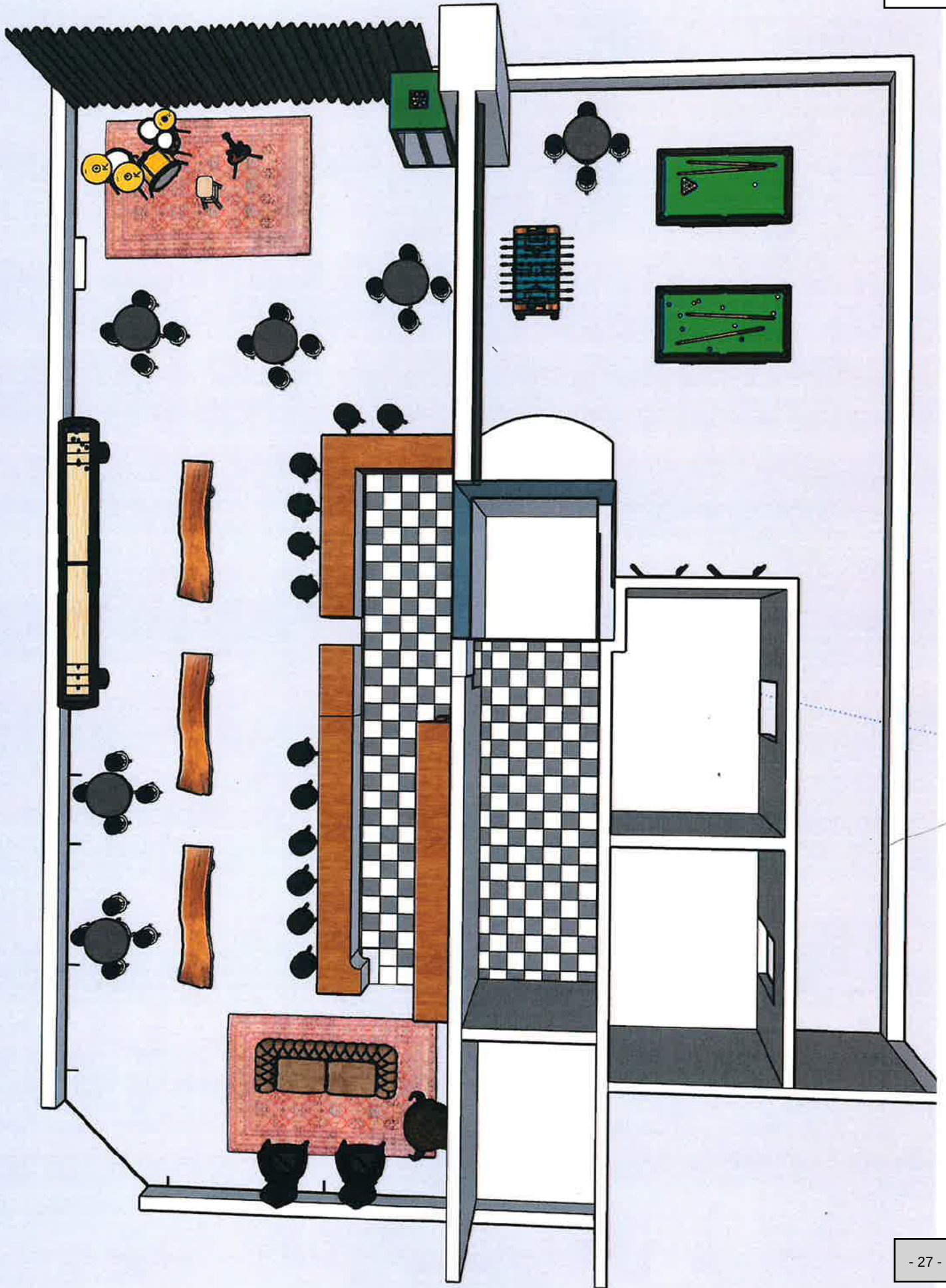
Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****
Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."



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6/19/2023 2:30 PM P:\16-17\Markis - Sandoz\15 - Grants\15 - Grants\Markis_A.S. & C.D.'s



LEASE AGREEMENT

143 N F St Unit D

Salida, CO 81201

LANDLORD: The Vic LLC, a Colorado limited liability company

TENANT: The Victoria Tavern LLC, a Colorado limited liability company

LEASE AGREEMENT

THIS LEASE AGREEMENT also referred to as "Lease", made to be effective as of this 9th day of April, 2024, by and between The Vic LLC, a Colorado limited liability company, hereinafter referred to as "Landlord", and The Victoria Tavern LLC, a Colorado limited liability company hereinafter referred to as "Tenant"; Landlord and Tenant may be referred to collectively as the "Parties" or individually as a "Party".

WITNESSETH:

In consideration of the covenants, terms, conditions, agreement and payments as hereinafter set forth, the parties hereto covenant and agree as follows:

1. LEASED PREMISES

Subject to ongoing Tenant's compliance with the covenants, terms and conditions of this Lease, Landlord hereby leases unto Tenant the following described premises: approximately 2,731 rentable square feet commonly known as 143 N F St Unit D, Salida, CO 81201, which includes a single floor of commercial space, two bathrooms, and a historic bar (the "Leased Premises" or the "Premises"). The entire building containing the Leased Premises located at 143 N F St, Salida, Colorado 81201 shall be referred to herein as "Building". Tenant shall have the right, but not the obligation, to measure the exact square footage of the Premises and/or the Building within three (3) months following the Commencement Date.

2. TERM

Tenant shall execute this Lease for a term of sixty (60) months, commencing on May 1, 2024, unless the delivery of possession of the Premises from Landlord to Tenant is delayed because of construction or any other reason beyond the reasonable control of Landlord, in which case Landlord and Tenant will agree on and document an amended date that accounts for such delay ("Commencement Date") and unless earlier terminated or extended as herein provided for, shall end at 5:00 p.m. exactly sixty (60) months later ("Expiration Date"). Provided that Tenant is in full compliance with the terms and conditions of this Lease and there are no uncured breaches or defaults existing at such time, Tenant will have two (2) options to extend the term of the Lease for an additional sixty (60) months per option, subject to the following conditions: i) Tenant must provide written notice to Landlord no less than 180 days prior to the Expiration Date of Tenant's election to extend the Lease under this section, and ii) Landlord will then provide Tenant with the Base Rent (defined below) amount for the applicable extension period, which is subject to Section 44 below, and which will be established based on current market conditions in Landlord's commercially reasonable discretion, at which point Tenant and Landlord must agree on the Base Rent amount and Tenant shall confirm its decision to exercise the extension by providing Landlord written notice of the same no less than 120 days prior to the Expiration Date.

A. Holding Over

If after expiration of the term of the Lease, Tenant shall remain in possession of the Leased Premises and continue to pay rent without a written agreement as to such possession, then Tenant shall be deemed a month-to-month Tenant and the rental rate during such holdover tenancy shall be equivalent to 125% of the monthly rental paid for the last month of tenancy under this Lease. Under such month-to-month tenancy either Party may terminate this Lease by providing thirty (30) days written notice to the other Party. No holding over by Tenant or any acceptance of rent or other consideration by Landlord shall operate to renew or extend this Lease without the express written consent of Landlord to such renewal or extension having been first obtained.

3. SECURITY DEPOSIT

Tenant and Landlord further acknowledge the sum of one month's Base Rent and Triple Net Expenses will be deposited by Tenant to be held as security for performance of all the terms and conditions of this Lease Agreement to be performed by Tenant, including payment of all rental due under the terms hereof. Deductions may be made by Landlord from the amount so retained for the reasonable cost of repairs to the Leased Premises (ordinary wear and tear excepted), for any rental

delinquent under the terms hereof, and/or any sum used in any manner to cure any default in the performance of Tenant under the terms of this Lease. In the event deductions are so made during the rental term, upon notice by Landlord, Tenant shall re-deposit such amounts so expended so as to maintain the deposit in the amount provided for, and failure to so re-deposit shall be deemed a failure to pay rent under the terms hereto. If Tenant shall fully and faithfully perform every provision of this Lease, the Security Deposit, or any balance thereof, shall be returned to Tenant (or, at Landlord's option, to the last assignee of Tenant's interest hereunder) within thirty (30) days following the expiration of the Lease Term or vacation of the Premises by Tenant, whichever event occurs last. Nothing herein contained shall limit the liability of Tenant as to any damage to the Leased Premises, and Tenant shall be responsible for the total amount of any damage and/or loss occasioned by actions of Tenant. Landlord may deliver the funds deposited hereunder by Tenant to any purchaser of Landlord's interest in the Leased Premises in the event such interest shall be sold, and thereupon Landlord shall be discharged from any further liability with respect to such deposit.

4. **BASE RENT**

Tenant shall pay to Landlord, at address as herein set forth, the following as rental for the Leased Premises:

A. **Rent Commencement**

Payment of Triple Net Expenses (as defined below) shall commence on the Commencement Date. Payment of Base Rent shall commence on the date of issuance of a liquor license by the appropriate authority. Tenant will pay Base Rent pursuant to the terms of this Lease in addition to those other amounts. Base Rent and Triple Net Expenses shall be prorated for the first month that such expenses are due if the Commencement Date does not occur on the first of the month.

B. **Base Rent**

For months 1-12 after the Commencement Date, the base rent shall be [REDACTED] per square foot ("Base Rent"), or [REDACTED] Dollars ([REDACTED] per month for the Leased Premises. The Base Rent shall escalate annually thereafter, as set forth in the table below. Base Rent shall be payable, without any abatement, deduction, counterclaim, setoff, defense, except as otherwise expressly set forth herein, in monthly installments and shall be due in advance on the 1st day of each month, and considered late after the 5th day of each month, during the term hereof, as follows:

Year	Monthly Base Rent
Months 1-12	[REDACTED]
Months 13-24	
Months 25-36	
Months 37-48	
Months 49-60	

Rental payments (including payments for Triple Net Expenses, as defined below) are to be remitted to Landlord at [REDACTED]. Checks should be made payable to The Vic LLC. No payment by Tenant or receipt by Landlord of an amount less than the full fixed monthly Base Rent, Triple Net Expenses, or other sums required of Tenant under the Lease, will be deemed anything other than a payment on account of the earliest fixed monthly Base Rent, Triple Net Expenses, or other sum due from Tenant under the Lease. No endorsements or statements on any check or any letter accompanying any check or payment of rent or other sum due from Tenant under the Lease, will be deemed an accord and satisfaction. Landlord may accept any check for payment from Tenant without prejudice to Landlord's right to recover the balance of rent or other sum due from Tenant, or to pursue any other right or remedy provided under this Lease.

5. **TRIPLE NET EXPENSES**

Upon Rent Commencement as defined herein, Tenant shall pay to Landlord, without any abatement, deduction, counterclaim, setoff, defense, except as otherwise expressly set forth herein, its

proportionate share of Triple Net Expenses. Triple Net Expenses are to be paid by Tenant on a monthly basis, in addition to the Base Rent defined herein.

Triple Net Expenses are estimated to be [REDACTED] per month for 2024, but the final amount of Triple Net Expenses will be calculated at the end of each calendar year, with reasonable supporting documentation to be provided by Landlord to Tenant to substantiate the final amount of Triple Net Expenses and Tenant's proportionate share upon written request from Tenant. Landlord also has the option to reevaluate and update estimated Triple Net Expenses on a quarterly basis throughout the calendar year if there are expected to be any significant changes to any Triple Net Expenses, and Landlord shall have the option to give written notice to Tenant regarding any expected changes and the updated estimate, in which case Tenant shall pay such updated estimate amount in all future months for the remaining calendar year until the year-end reconciliation. Following the year-end reconciliation, Tenant will pay to Landlord any net balance due, to the extent the estimated Triple Net Expenses payments did not cover Tenant's actual proportionate share, and Landlord will refund to Tenant any net balance due, to the extent the estimated Triple Net Expenses payments in fact exceeded and were more than enough to cover Tenant's actual proportionate share. Triple Net Expenses shall cover the Real Estate Taxes, Insurance and Common Area Maintenance as defined below. For purposes of Triple Net Expenses under this Lease, the Parties agree that, based on the above ground square footage of the Leased Premises as compared to the total above ground square footage of the Building, Tenant's "proportionate share" or "Pro Rata Share" shall be equal to [REDACTED].

A. Real Estate Taxes

The term "real estate taxes and assessments" as used herein shall be deemed to mean all taxes imposed upon the property and permanent improvements constituting the Building, including the Leased Premises and common areas and all assessments levied against said property and/or any portion thereof and the cost of protesting or appealing same, but shall not include personal income taxes, inheritance taxes or franchise taxes levied against Landlord, but not directly against said property, even though such taxes may or shall become a lien against said property. Tenant shall pay to Landlord each month in addition to basic monthly rent, Tenant's Pro Rata Share of 1/12th of Landlord's estimate of the Real Estate Taxes paid upon the Building for each year. Each year after Landlord receives his real estate tax bill for the Building, he shall invoice or credit (as applicable) Tenant for the difference between the monthly amount estimated and 1/12th of the actual tax bill for the preceding year, times the number of months during the calendar year that were within the lease term. Landlord will provide, on an annual basis, a copy of said Real Estate Tax bill to Tenant upon request. In the event Landlord invoices Tenant for such amount, Tenant shall pay such amount to Landlord within ten (10) days of receipt of the invoice. At such time that Landlord invoices or credits Tenant pursuant to this paragraph (the "Adjustment"), Landlord may increase or decrease the monthly estimate to be paid by Tenant each month with the goal to minimize the Adjustment necessary after receipt of the next tax bill.

Notwithstanding the foregoing or anything to the contrary herein, Tenant acknowledges and agrees that while Tenant's Pro Rata Share is based upon the size of the commercial portion of the Building, Tenant's Pro Rata Share relative to the Real Estate Taxes for which Tenant is responsible may increase due to the Chafee County Assessor's combination of the tax bill for the residential and commercial portions of the property known as 143 N F St, Salida, Colorado 81201 into one parcel for tax purposes. Specifically, Tenant acknowledges and agrees that: (i) commercial properties are taxed at a higher tax rate than residential properties; and (ii) despite combination of the tax bill for 143 N F, Tenant will be responsible for Tenant's Pro Rata Share of real estate taxes that Landlord determines in its reasonable discretion are allocable to the commercial portion of the property; and (iii) Landlord anticipates Tenant's Pro Rata Share to be [REDACTED] of the commercial property real estate taxes assessed. By way of example, if the tax bill is [REDACTED] and Landlord determines [REDACTED] of such bill is allocable to the residential portion of the property and [REDACTED] is allocable to the commercial portion of the property, Tenant shall be responsible for Tenant's Pro Rata Share of [REDACTED] of the [REDACTED]. Tenant shall pay any such amounts in accordance with the terms and conditions of this Section.

B. Property Insurance

Landlord shall carry insurance for the Leased Premises to cover such risks and in such amounts as shall be determined appropriate by Landlord in Landlord's discretion. Tenant shall reimburse Landlord for Tenant's Pro Rata Share of all costs related to such insurance. Landlord must make Tenant an additional insured on any such policy and provide proof of insurance and of Tenant's additional insured status by furnishing a certificate or proof of endorsement with policy coverage dates and amounts.

C. Common Area Maintenance

Tenant shall be responsible for Tenant's Pro Rata Share of the total costs of common area maintenance ("CAM"). "CAM" shall mean any and all costs, expenses and obligations incurred by Landlord in connection with the operation, ownership, management, repair and replacement, if necessary, of the Building and the Leased Premises or any portion thereof, including, without limitation, the following: the maintenance, repair and replacement, if necessary, of any items which Landlord elects to or is required to maintain, repair or replace under this Lease; the paving, restriping or other maintenance of any parking areas, sidewalks, access ramps and passageways; common utilities and exterior lighting; landscaping; snow removal; fire protection; exterior painting and interior painting of the common areas of the Building; property management fees; additions, alterations or replacements made by Landlord to the Building in order to comply with legal requirements (other than those expressly required herein to be made by Tenant) or that are appropriate to the continued operation of the Building in the market area, excluding all capital expenses as defined by GAAP (generally accepted accounting principles). These costs are estimated on an annual basis and shall be payable monthly along with the rent as part of the Triple Net Expenses and adjusted upwards or downwards depending on the actual costs for the preceding twelve (12) months. Tenant shall make said monthly payments to Landlord, in addition to the base monthly rent due under the terms hereof, commencing with the first month of the lease term.

6. TAXES - PERSONAL PROPERTY - RESPONSIBILITY

Tenant shall be responsible and pay for any and all taxes and/or assessments levied and/or assessed against any furniture, fixtures, equipment and items of a similar nature installed and/or located in or about the Leased Premises by Tenant.

7. INSURANCE - RESPONSIBILITY OF TENANT

Tenant shall procure, pay for and maintain comprehensive public liability insurance providing coverage from any loss or damage occasioned by an accident or casualty, about or adjacent to the Leased Premises. Said policy shall be written on an "occurrence basis" with limits of not less than \$100,000.00 property damage coverage and \$1,000,000.00 liability coverage. In addition thereto, Tenant shall, at all times, procure, pay for and maintain fire legal liability insurance coverage on the Leased Premises as well as alcohol service "dram shop" liability coverage, in each case in commercially reasonable amounts and in forms reasonably acceptable to Landlord. Tenant shall provide certificate(s) of such insurance to Landlord upon commencement of the Lease term and at any annual renewal date thereof. Such certificate(s) shall name Landlord as an additional insured, in addition to the other requirements set forth herein. The limits of such insurance shall not, under any circumstances, limit the liability of Tenant hereunder. Coverage shall not be changed, modified, reduced or canceled without (30) days prior written notice thereof being given to Landlord.

8. SUBROGATION

Notwithstanding anything to the contrary contained herein, Landlord and Tenant hereby mutually waive and release their respective rights of recovery against one another and their officers, agents and employees for any damage to real or personal property, including resulting loss of use, interruption of business, and other expenses occurring as a result of the use or occupancy of the Premises to the extent that the loss or damage is either covered by the injured party's insurance or is required to be covered by the injured party's insurance pursuant to this Lease. Landlord and Tenant agree that all policies of insurance obtained by them pursuant to the terms of this Lease shall contain provisions or endorsements thereto waiving the insurer's rights of subrogation with respect to claims against the other, and, unless the policies permit waiver of subrogation, without notice to the insurer, each shall

notify its insurance companies of the existence of the waiver and indemnity provisions set forth in this Lease.

9. **COMMON AREAS**

All Common Areas (as defined below) shall at all times be subject to the exclusive control and management of Landlord, notwithstanding that Tenant will have a non-exclusive right to the use thereof subject to the terms and conditions of this Lease. Landlord shall have the right from time to time to establish, modify, and enforce reasonable rules and regulations with respect to the use of said facilities and areas. The common areas are all areas outside of the Premises upon the Property designated by Landlord for common use of Tenant, its employees, licensees, invitees, contractors, and Landlord (the "Common Areas"). Landlord grants to Tenant, its employees, licensees, invitees and contractors a non-exclusive license over such Common Areas of the Property necessary to the use and occupancy of Premises, subject to any rules and restrictions regarding the use thereof set forth on Exhibit A. Subject to Tenant's ongoing compliance with the other terms and conditions of this Lease, this license to use the Common Areas shall be effective for the Term of the Lease. Tenant shall use the Common Areas only for the purposes expressly contemplated by this Lease and not use Common Areas for any type of storage or for any other purpose without the advance written consent of Landlord. All parking and Common Areas of Property shall at all times be subject to the management of Landlord, and are not part of the Premises. All use of the Common Areas by Tenant and parties associated with Tenant shall be at the sole risk of Tenant, and Landlord is not liable for any damages or injuries occasioned by such use. Landlord shall have the right, power, and authority to compile, promulgate, change, and modify all rules and regulations that it may, in its reasonable discretion, deem necessary for use of the Common Areas. Tenant agrees to abide by and conform with all rules and regulations pertaining to such Common Areas. Landlord shall have the right to construct, maintain, and operate lighting facilities; to from time to time change the area, location, and arrangement of the Common Areas and facilities; to restrict employee parking to certain areas; to temporarily close all or any portion of the Common Areas for any commercially reasonable purpose; and to do and perform any and all such other acts in and to said Common Areas and facilities as the Landlord shall determine in its reasonable discretion. Landlord shall use reasonable efforts to maintain and repair Common Areas of Property, including walks and parking lots. The cost of any maintenance, repairs, or replacements necessitated by the act, neglect, misuse, or abuse by Tenant, its employees, licensees, invitees, or contractors shall be paid by Tenant to Landlord. Landlord shall use reasonable efforts to cause any necessary repairs to be made promptly; provided, however, that Landlord shall have no liability whatsoever for any delays in causing such repairs to be made that are beyond Landlord's reasonable control, including, without limitation, any liability for injury to or loss of Tenant's business, nor shall any delays entitle Tenant to any abatement of Rent or damages, or be deemed an eviction of Tenant in whole or in part.

10. **PARKING**

Tenant acknowledges and agrees that Tenant has not been guaranteed any minimum number of parking spaces under this Lease, and Tenant is not relying on any representations express or implied with respect to parking. The Parties further agree that Landlord has no liability for any property damage, theft or injury of any kind in connection with the parking areas surrounding the Leased Premises except for any reckless or grossly negligent conduct of Landlord or Landlord's members, managers, employees, and agents, and Tenant assumes all risks associated with property damage, theft, or injury of any kind in connection with all parking areas, on behalf of Tenant and Tenant's members, managers, employees, agents, contractors, guests and invitees.

11. **UTILITIES**

A. Gas Service:

Tenant shall be responsible for contacting the appropriate service provider for natural gas service for the Premises and setting up an account for service in the Tenant's name. Tenant shall be responsible for and promptly pay all charges for said service. In no event shall Landlord be liable for any interruption or failure in the supply of any such gas service to the Leased Premises.

B. Electrical Service:

Tenant shall be responsible for contacting the appropriate service provider for electrical service for the Premises and setting up an account for service in the Tenant's name. Tenant shall be responsible for and promptly pay all charges for said service. In no event shall Landlord be liable for any interruption or failure in the supply of any such electrical service to the Leased Premises.

C. Waste Removal:

Trash and trash dumpster is solely the responsibility of the Tenant. In no event shall Landlord be liable for any interruption or failure in the waste removal service to the Leased Premises. Tenant acknowledges and agrees that Landlord may allow for the tenant Unit B of the Building, which consists of a retail storefront, to reasonably use and have access to the waste removal

D. Water & Sewer:

Landlord will provide Water and Sewer service to the Leased Premises, which Tenant shall be responsible for paying as part of its Pro Rata Share of CAM as long as water and sewer usage does not substantially increase above levels at time of Lease Commencement. Proportional adjustments will be made if another tenant in building substantially increases water & sewer usage such that the volume usage of such services exceeds 150% of current levels as a result of such other tenant's operations.

E. Phone/Internet Service:

Tenant shall be responsible for setting up an account for phone and/or internet service in the Tenant's name. Tenant shall be responsible for and promptly pay all charges for said service. In no event shall Landlord be liable for any interruption or failure in the supply of any such electrical service to the Leased Premises. Landlord makes no representations or warranties as to the availability of these services to the Premises, and makes no representations or warranties as to the availability of appropriate wiring throughout the Premises.

Should Landlord elect to supply all or any of the gas or electric services to be used or consumed on the Leased Premises, Tenant shall pay, within ten (10) days from the presentation of the statement for such utility service to the Leased Premises, or Tenant's shall pay the pro rata share of said statement if it includes utility service to an area greater than the Leased Premises. In no event shall Landlord be liable for any interruption or failure in the supply of any such utility to the Leased Premises. Said proration of utilities shall be reviewed by Landlord and Tenant at the end of the first year of occupancy, at which time Landlord shall determine if the present percentage of said total utilities is equitable in relation to the use of total services by all the Tenants and will be adjusted by Landlord if necessary.

12. **MAINTENANCE RESPONSIBILITY OF TENANT**

Except for Landlord's Repair Obligations set forth in Section 13 below, Tenant shall be solely responsible for the prompt performance of and for the cost of all maintenance and repairs to the Premises that are necessary or desirable to maintain the Premises in reasonably good condition throughout the term of the Lease, ordinary wear and tear excepted. Without limiting the generality of the foregoing, during the term of this Lease and any options exercised thereafter, Tenant agrees to keep and maintain the interior of the Leased Premises in good condition and repair at Tenant's cost and expense. Tenant also agrees to maintain, repair or replace all major mechanical, electrical and plumbing systems servicing the Premises, including HVAC systems. Maintenance and service of the HVAC systems shall be conducted by a maintenance and service contractor obtained by Tenant on a semi-annual basis. Tenant further agrees at the end of the term to return the Leased Premises to Landlord in substantially as good condition as when received, except for usual and ordinary wear and tear. Tenant further agrees to be responsible for any repairs and/or maintenance required for any part of the improvements of which the Leased Premises are a part where such repair and/or maintenance is necessitated by actions or inactions of Tenant and/or activities conducted by Tenant on the Leased Premises.

13. **MAINTENANCE RESPONSIBILITY OF LANDLORD**

Except as herein otherwise provided for, Landlord shall keep and maintain the roof and structure of the building in good repair and condition, except to the extent any repair, maintenance or replacement

of the roof is necessary because of the reckless or grossly negligent conduct of Tenant or any of Tenant's members, managers, employees, agents, contractors, guests and invitees, in which case Tenant shall be solely responsible for the cost of such repair, maintenance or replacement (provided that the cost of any such replacement that is required to be capitalized for federal income tax purposes shall be amortized on a straight line basis over a period equal to the lesser of the useful life thereof for federal income tax purposes or 10 years).

14. **ALTERATION - CHANGES AND ADDITIONS - RESPONSIBILITY**

Tenant shall not make any alterations to the structural portions or the historic interior portions, such as the tin ceiling, historic bar and stained glass, interior brick walls and wood flooring, of the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld or delayed. Tenant will not use or penetrate the roof or any portion of the exterior of the Premises for any purpose whatsoever without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. Subject to Landlord's prior written approval, Tenant may, during the term of this Lease, at Tenant's expense, erect inside partitions, add to the existing electric power service, add telephone outlets, add light fixtures or make such other changes or alterations as Tenant may desire. At the end of this Lease, all such fixtures, equipment, additions and/or alterations which were added after Lease Commencement (except trade fixtures installed by Tenant) shall be and remain the property of Landlord; provided, however, Landlord shall have the option to require Tenant to remove any or all such fixtures, equipment, additions and/or alterations and restore the Leased Premises to the condition existing immediately prior to such change and/or installation, normal wear and tear excepted, all at Tenant's cost and expense. All such work shall be done in a good and workmanlike manner, shall consist of new materials unless agreed to otherwise by Landlord, shall be done by licensed professionals and shall comply with all city, county, state, and federal regulations. Any and all repairs, changes and/or modifications thereto shall be the responsibility and at the cost of Tenant. Landlord may also require adequate security from Tenant assuring no mechanic's liens on account of work done on the Premises by Tenant. Landlord may also require adequate security to assure Landlord that the Premises will be restored to their original condition upon the Expiration Date of the Lease. Tenant will not permit any mechanic's lien or other lien to be filed against the Property, the Building, or any portion thereof by reason of any Tenant's work or other alterations performed by or for, or material furnished to, Tenant. If any such lien is filed at any time, Tenant will cause the same to be released, including by recording an appropriate release by way of issuance of appropriate bond, within 10 days after the date of filing the same. If Tenant fails to release any such lien within such period, then, in addition to any other right or remedy of Landlord, after 5 days prior written notice to Tenant, Landlord may, but will not be obligated to, discharge the same by paying to the claimant the amount claimed or otherwise through applicable law. Any amount paid by Landlord, or the value of any deposit or bond made by Landlord to release such lien, together with all costs, fees and expenses in connection therewith (including reasonable attorney's fees of Landlord), will be repaid by Tenant to Landlord on demand by Landlord.

15. **SIGNAGE**

Landlord must approve in advance and in writing any sign to be placed in or on the Leased Premises, regardless of size or value and/or any addition, change or alteration to the exterior of the Leased Premises; provided, however, that Landlord's consent to approve such signage will not be unreasonably withheld or delayed. All signage to be installed on or about the Leased Premises shall be in conformance with any and all existing sign codes and regulations of the City of Salida.

16. **CONDITION OF PREMISES**

Except for Landlord's qualified and limited representations and warranties in Section 13, and except for the Landlord's Work set forth on Exhibit B, Tenant agrees to accept the Leased Premises in "as is" condition. Any additional changes desired by Tenant shall be done at the sole expense of the Tenant. The Parties agree that for purposes of this Lease, "as is" means that Tenant leases the Premises AS IS and WITH ALL FAULTS, and that, except as expressly set forth in this Lease, (i) neither Landlord nor Landlord's agents or employees has agreed to undertake any alterations or construct any improvements to the Premises, (ii) nor has Landlord or its agent or employees made any representation or warranty, express or implied, as to the condition of the Premises, the applicability of any governmental requirements pertaining to the Premises, or the fitness or suitability

of the Premises for the conduct of Tenant's business or for any other purposes. Tenant has made all inquiries and investigations Tenant deems necessary, desirable or appropriate with respect to the Premises prior to entering into this Lease and Tenant is leasing the Premises based on Tenant's own inspection and examination and familiarity with the Premises. EXCEPT AS EXPRESSLY SET FORTH IN THIS LEASE, LANDLORD HEREBY DISCLAIMS, AND TENANT HEREBY WAIVES, ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND, NATURE OR TYPE WHATSOEVER WITH RESPECT TO THE PREMISES, INCLUDING WITHOUT LIMITATION THOSE OF CONDITION, TENANTABILITY, HABITABILITY, MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, AND COMPLIANCE WITH ANY APPLICABLE LAWS, CODES, REGULATIONS, OR REQUIREMENTS.

17. USE OF PREMISES

Tenant shall use the Leased Premises for a bar or café, and for no other purpose whatsoever except with the written consent of the Landlord. Landlord agrees to not lease any other space within the Building to any third party operating any other bar, or restaurant. Tenant will establish and maintain commercially reasonable hours of operation throughout the Term. Tenant will be open for business during its regular hours of operation except in the case of a Force Majeure event as set forth in Section 50(B) below

18. USE OF PREMISES AND CARE OF GROUNDS - TENANT

Tenant shall be responsible, at Tenant's sole cost and expense, for obtaining and maintaining in good standing all necessary licenses, permits, or other approvals, including without limitation all necessary and appropriate licenses for Tenant's commercial service of alcoholic beverages, for Tenant to conduct all of Tenant's business at the Premises in accordance with applicable law. Tenant, at Tenant's sole cost and expense, shall comply with and shall cause all of Tenant's contractors, agents, employees and invitees to comply with all applicable laws, ordinances, rules and regulations to the same extent Tenant is required to under this Lease. Tenant shall conform to all present and future laws and ordinances of any governmental authority having jurisdiction over the Leased Premises. Tenant shall not allow an accumulation of trash or debris on the Leased Premises or within any portion of the improvements of which the Leased Premises are a part. All receiving of goods and merchandise and all removal of garbage shall be made only by way of the rear and/or other service door provided therefor. In the event the Leased Premises shall have no such door, then these matters shall be handled in a manner satisfactory to Landlord. No storage of any material outside of the Leased Premises shall be allowed unless first approved by Landlord in writing, and then in only such areas as are designated by Landlord. Tenant shall not commit or suffer any waste on the Leased Premises nor shall Tenant permit any nuisance to be maintained on the Leased Premises or permit any disorderly conduct, common noise or other activity having a tendency to annoy or disturb any occupants of any part of the improvements of which the Leased Premises are a part and/or any adjoining property. Tenant will not use or occupy, or permit any portion of the Premises to be used or occupied, (1) in violation of any law, ordinance, order, rule, regulation, certificate of occupancy, or other governmental requirement, or (2) in any manner or for any business or purpose that creates substantial risks of fire or other hazards, or that would in any way violate, suspend, void, or increase the rate of fire or liability or any other insurance of any kind at any time carried by Landlord upon all or any part of the Premises or its contents. Tenant will, at its expense, comply with all laws, ordinances, orders, rules, regulations, and other governmental requirements relating to Tenant's use or occupancy of the Premises.

19. RULES AND REGULATIONS

Landlord reserves the right to adopt and promulgate rules and regulations applicable to the Leased Premises and the land and improvements of which the Leased Premises are a part and from time to time to amend or supplement said rules and regulations. Notice of such rules and regulations and amendments and supplements thereto shall be given to Tenant, and Tenant agrees to comply with and observe such rules and regulations and amendments and supplements thereto, provided, however the same apply uniformly to all tenants of the improvements of which the Leased Premises are a part. A copy of Landlord's rules and regulations currently in effect has been attached hereto as Exhibit A.

20. LIABILITY FOR OVERLOAD - TENANT

Tenant shall be liable for the cost of any damage to the Leased Premises, the improvements of which the Leased Premises are a part or the sidewalks and pavements adjoining the same which will result from movement of heavy articles. Tenant shall not unduly load or overload the floors or any part on any part of the Leased Premises.

21. **GLASS AND DOOR RESPONSIBILITY - TENANT**

All glass and doors on the Leased Premises shall be the responsibility of the Tenant. Any replacement or repair shall be promptly completed at the expense of the Tenant.

22. **REGULATIONS ON USE**

It shall be Tenant's sole and exclusive responsibility to meet all requirements and laws of any governmental body having jurisdiction over the Leased Premises as such regulations affect tenant's operations, all at Tenant's sole cost and expense. Tenant further agrees not to install any electrical equipment that overloads any electrical paneling, circuitry or wiring and further agrees to comply with the requirements of the insurance underwriter or any governmental authorities having jurisdiction thereof.

23. **DAMAGE TO LEASED PREMISES**

In the event the Leased Premises and/or the improvements of which the Leased Premises are a part shall be totally destroyed by fire or other casualty or so badly damaged that, in the opinion of Landlord, it is not feasible to repair or rebuild same, Landlord shall have the right to terminate this Lease upon written notice to Tenant. If the Leased Premises shall be partially damaged by fire or other casualty, except if caused by Tenant's negligence, and said Leased Premises are not rendered untenable thereby, as determined by Landlord, an appropriate reduction of the rent shall be allowed for the unoccupied portion of the Leased Premises until repair thereof shall be substantially completed. If the Leased Premises are rendered untenable thereby, except if caused by Tenant's negligence, Tenant may, at its election, terminate this Lease as of the date of the damage. If Tenant elects not to terminate the Lease, the rent shall abate in proportion to the loss of use of the Leased Premises by Tenant during such untenability.

24. **INSPECTION OF AND RIGHT OF ENTRY TO LEASED PREMISES, SALE OF LEASED PREMISES**

Landlord shall be allowed access to the area to make such repairs, alterations, improvements or additions as Landlord may deem necessary or desirable, and Landlord shall be allowed to take all materials into and upon said Leased Premises that may be required therefor without the same constituting an eviction of Tenant in whole or in part, and the rent reserved shall in no way abate while such repairs, alterations, improvements or additions are being made, by reason of loss or interruption of business of Tenant or otherwise. During the six months prior to the expiration of the term of this Lease or any renewal thereof, Landlord may place upon the Leased Premises the usual notice indicating the Leased Premises is for lease and/or sale. Landlord reserves the right to sell, assign, transfer, mortgage or otherwise encumber the Leased Premises at any time during the term of this Lease, without prior consent of the Tenant. Upon any sale or transfer, including any transfer by operation of law, of the Leased Premises, Landlord shall be relieved from all subsequent obligations under this Lease, provided that the buyer or transferee shall assume such obligations in writing.

25. **DEFAULT - REMEDIES OF LANDLORD**

If Tenant shall default in the payment of Base Rent, Triple Net Expenses, or in the keeping of any other monetary obligations under this Lease to be kept and/or performed by Tenant and if such default isn't cured within ten (10) business days after written notice of default from Landlord, or if Tenant shall default for a period not to exceed thirty (30) days, unless default cannot be reasonably cured within thirty (30) days, after written notice from Landlord for any non-monetary defaults by Tenant, Tenant shall be deemed in material breach of this Lease entitling Landlord to exercise the following rights and remedies. Landlord may upon notice, re-enter the Leased Premises, remove all personal property therefrom, without being liable to indictment, prosecution for damage therefore, or for forcible entry and detainer and repossess and enjoy the Leased Premises, together with all additions thereto or alterations and improvements thereof. Landlord may, at its option, at any time and from time to time thereafter,

relet the Leased Premises or any part thereof for the account of Tenant or otherwise, and receive and collect the rents therefore and apply the same first to the payment of such expenses as Landlord may have incurred in recovering possession and for putting the same in good order and condition for rerental, and expense, commissions and charges paid by Landlord in reletting the Leased Premises. Any such reletting may be for the remainder of the term of this Lease or for a longer or shorter period. In lieu of reletting such Leased Premises, Landlord may occupy the same or cause the same to be occupied by others. Whether or not the Leased Premises or any part thereof be relet, Tenant shall pay the Landlord the rent, and all other charges required to be paid by Tenant up to the time of expiration of this Lease or such recovered possession, as the case may be, and thereafter, Tenant, if required by Landlord, shall pay to Landlord until the end of the term of this Lease, the equivalent of the amount of all rent reserved herein and all other charges required to be paid by Tenant, less the net amount received by Landlord for such reletting, if any. In the event of any default by Tenant, and regardless of whether the premises shall be relet or possessed by Landlord, fixtures, additions, furniture, and the like then on the premises may be retained by Landlord. In the event Tenant is in default under the terms hereof and, by the sole determination of Landlord, has abandoned the Leased Premises, Landlord shall have the right to remove all the Tenant's property from the Leased Premises and dispose of said property in such a manner as determined best by Landlord, all at the cost and expense of Tenant and without liability of Landlord for the actions so taken. In the event an assignment of Tenant's business or property shall be made for the benefit of creditors, or, if the Tenant's leasehold interest under the terms of this Agreement shall be levied upon by execution or seized by virtue of any writ of any court of law, or, if application be made for the appointment of a receiver for the business or property of Tenant, or, if a petition in bankruptcy shall be filed by or against Tenant, then and in any such case, at Landlord's option, with or without notice, landlord may terminate this Lease and immediately retake possession of the Leased Premises without the same working any forfeiture of the obligations of Tenant hereunder. In addition to remedy granted to Landlord by the terms hereof, Landlord shall have available any and all rights and remedies available under the Statutes of the State of Colorado. No remedy herein or otherwise conferred upon or reserved to Landlord shall be considered exclusive of any other remedy but shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by Statute. Further, all powers and remedies given by this Lease to Landlord shall be exercised, from time to time, and as often as occasion may arise or as may be deemed expedient. No delay or omission of Landlord to exercise any right or power arising from any default shall impair any such right or power or shall be considered to be a waiver of any such default or acquiescence thereof. The acceptance of rental by Landlord shall not be deemed to be a waiver of any breach of any covenants herein contained or of any of the rights of Landlord to any remedies herein given.

26. LEGAL PROCEEDINGS - RESPONSIBILITIES

In the event of proceeding at law or in equity by either party hereto, then the non-prevailing party in such proceeding shall pay all reasonable costs and expenses, including all reasonable attorney's fees incurred by the prevailing party in pursuing such remedy.

27. HOLD HARMLESS

Tenant will indemnify and hold Landlord, and Landlord's members, managers, employees, agents, and insurers, harmless from and against any and all claims, losses, expenses, costs, judgments, and/or demands arising from the negligent conduct of Tenant on the Leased Premises or common areas and/or on account of any negligent operation or action by Tenant and/or from and against all claims caused by a breach or default on the part of Tenant or any act of negligence of Tenant, its agents, contractors, servants, employees, licensees, or invitees; or any accident, injury or death of any person or damage to any property in or about the Leased Premises or common areas.

Landlord will indemnify and hold Tenant, and Tenant's members, managers, employees, agents, and insurers harmless from and against any and all claims, losses, expenses, costs, judgments, and/or demands arising from the negligent conduct of Landlord on the Leased Premises or common areas and/or on account of any negligent operation or action by Landlord and/or from and against all claims caused by a breach or default on the part of Landlord or any act of negligence of Landlord, its agents, contractors, servants, employees, licensees, or invitees.

28. ASSIGNMENT OR SUBLETTING

Tenant may not assign, voluntarily or by operation of law, the Lease, or sublet the Leased Premises or any portion thereof, or allow any third party to use or occupy the Leased Premises, without the consent of the Landlord; such consent shall not be unreasonably withheld, provided, however, no such assignment or subletting shall relieve Tenant of any of its obligations hereunder, and performance of the covenants herein by subtenants shall be considered as performance pro tanto by the Tenant. If the rental rate agreed upon between Tenant and its Sublessee or Assignee is greater than the rental rate that Tenant must pay Landlord, then such excess rental shall be deemed additional rent owed by Tenant to Landlord and shall be minimum rent as described herein. The acceptance of rent by Landlord from any person other than Tenant will not be deemed (1) a waiver by Landlord of any provision of this paragraph, (2) the acceptance of such person as tenant, or (3) a release of Tenant from the payment and performance of its obligations under this Lease.

29. QUIET ENJOYMENT

Landlord warrants that it and no other person or entity has the right to lease the Leased Premises hereby demised, and that so long as Tenant is not in default hereunder Tenant shall have peaceful and quiet use and possession of the Premises, subject to any matters of record or other agreements to which this Lease is or may hereafter be subordinated.

30. GOVERNMENTAL ACQUISITION OF PROPERTY

The parties agree that Landlord shall have complete freedom of negotiation and settlement of all matters pertaining to the acquisition of the property by any governmental body, it being understood and agreed that any financial settlement respecting land to be taken whether resulting from negotiation and agreement or condemnation proceedings, shall be the exclusive property of Landlord, there being no sharing whatsoever between Landlord and Tenant of any sum received in settlement. In the event of any such governmental taking, Landlord shall have the right to terminate this Lease on the date possession is delivered to the governmental body. Such taking of the property by a governmental body shall not be a breach of this Lease by Landlord nor give rise to any claims by Tenant for damages or compensation from Landlord.

31. CHANGES AND ADDITIONS TO IMPROVEMENTS

Landlord reserves the right, subject to consent by Tenant, which consent may not be unreasonably withheld, at any time to make alterations or additions to the improvements of which the Leased Premises are a part and/or to build additions or other structures adjoining said improvements. Landlord also reserves the right to construct other buildings and/or improvements in the immediate area of the improvements in which the Leased Premises are located and to make alterations or additions thereto, all as Landlord shall determine. Easements for light and air are not included in the leasing of the Leased Premises to Tenant. Landlord further reserves the exclusive right to the roof of the improvements of which the Leased Premises are a part except as provided for in this Lease Agreement. Landlord also reserves the right at any time to relocate, vary and adjust the size of any of the improvements, parking areas or other common areas relating to the land and/or improvements of which the Leased Premises are a part, provided however, that all such changes shall be in compliance with the minimum requirements of governmental authorities having jurisdiction over the property.

32. ESTOPPEL CERTIFICATE

Not more than five (5) business days after receipt of written request, the Tenant shall furnish to Landlord or any prospective purchaser or lender, a certificate, duly acknowledged, certifying, to the extent true: (a) that this Lease is in full force and effect; (b) that the Tenant knows of no default hereunder on the part of Landlord, or if it has reason to believe that such a default exists, the nature thereof in reasonable detail; (c) the amount of the rent being paid and the last date to which rent or any other charges have been paid; (d) that this Lease has not been modified, or if it has been modified, the terms and dates of such modifications; (e) that the term of this Lease has been commenced; (f) that the Tenant has accepted and occupied the Leased Premises; (g) the commencement and expiration dates; (h) whether any and all work to be performed by Landlord has been completed; (i) whether any renewal term option has been exercised if applicable; (j) whether there exist any offsets, claims or

deductions from, or defenses to, the payment of rent; (k) that the Tenant is not aware of any prior assignments of this Lease by Landlord; (l) such other matters as may be reasonably requested by Landlord, or such prospective purchaser or lender. Any certificate may be relied upon by any prospective purchaser of the Premises and any prospective mortgagee or beneficiary under any deed of trust or mortgage encumbering the Premises. If Landlord submits a completed certificate to Tenant, and Tenant fails to object to its contents within thirty (30) days after its receipt of the completed certificate, the matters stated in the certificate will conclusively be deemed to be correct. Furthermore, Tenant irrevocably appoints Landlord as Tenant's attorney-in-fact to execute and deliver on Tenant's behalf any completed certificate to which Tenant does not object within thirty (30) days after its receipt.

33. **SUBORDINATION**

Tenant agrees that this Lease shall be subordinate to any mortgages, deeds of trust or ground leases that may now exist or which may hereafter be placed upon the Leased Premises and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, replacements and extensions thereof. This provision is intended to be self-effectuating and no separate instrument of subordination is required in order to rely on this subordination. However, Tenant shall execute and deliver whatever instruments may be required for the above purposes, and failing to do so within ten (10) days after demand in writing, does hereby make, constitute and irrevocably appoint Landlord as its attorney-in-fact and in its name, place and stead so to do. Tenant shall in the event of the sale or assignment of Landlord's interest in the Building of which the Leased Premises form a part, or in the event of any proceedings brought for the foreclosure of or in the event of exercise of the power of sale under any mortgage made by Landlord covering the Leased Premises, attorn to the purchaser and recognize such purchaser as Landlord under this Lease.

34. **INTEREST ON PAST DUE OBLIGATIONS**

Any amount due to Landlord not paid when due shall bear interest at one and one-half percent (1.5%) per month from the due date until paid. Payment of such interest shall not excuse or cure any default by Tenant under this Lease.

35. **LATE CHARGE**

The Landlord shall have the right to collect from Tenant, in addition to any past due interest amounts due hereunder, a monthly collection charge for any payment due to Landlord hereunder which is delinquent five days or longer, said charge being \$ [REDACTED] or three (3) percent of said payment, whichever sum shall be greater.

36. **MEMORANDUM OF LEASE - RECORDING**

The parties hereto agree this Lease shall not be recorded in the office of the Clerk and Recorder of the county in which the Leased Premises are located.

37. **NOTICE PROCEDURE**

All notices, demands, and requests which may or are required to be given by either party to the other shall be in writing and such that are to be given to Tenant shall be deemed to have been properly given if served on Tenant or an employee of Tenant or sent to Tenant by United States certified mail, return receipt requested, properly sealed, stamped, and addressed to Tenant as follows:

The Victoria Tavern LLC
143 N F St Unit D, Salida CO 81201

With a copy to:
Thomas Wagner
Anderson Law Group
7385 W Hwy 50, Salida, CO 81201

All such notices to be given to Landlord shall be deemed to have been properly given if personally served on Landlord or if sent to Landlord, United States registered mail, return receipt requested, properly sealed, stamped, and addressed to Landlord as follows:

The Vic LLC
[REDACTED]

Any notice given by mailing shall be effective as of the date of mailing as shown by the receipt given therefore.

38. **CONTROLLING LAW**

The Lease, and all terms hereunder shall be construed consistent with the laws of the State of Colorado. Any dispute resulting in litigation hereunder shall be resolved in court proceedings instituted in Chaffee County and in no other jurisdiction.

39. **BINDING UPON SUCCESSORS**

The covenants and agreements herein contained shall bind and inure to the benefit of Landlord and Tenant and their respective successors. This Lease shall be signed by the parties in duplicate, each of which shall be a complete and effective original Lease.

40. **PARTIAL INVALIDITY**

If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term, covenant, or condition to persons and circumstances other than those to which it has been held invalid or unenforceable, shall not be affected thereby, and each term, covenant, and condition of this Lease shall be valid and shall be enforced to the fullest extent permitted by law.

41. **NOTICE**

All parties acknowledge that they have not relied upon any statement or representations made by the real estate agents concerning the legal consequences of this transaction. The agents have recommended that Landlord and Tenant obtain legal advice from their respective attorneys and all parties hereby agree not to hold its agents responsible or liable as to the legal consequences of this transaction.

42. **PHONES AND COMPUTERS**

Tenant is responsible for installing, repairing and maintaining all phone and computer wiring in the Leased Premises and for all wiring run from the Leased Premises to Tenant's main phone panel or terminal equipment if located outside the Leased Premises. Landlord owns all wiring, whether installed by Tenant or not, between the Tenant's individual jacks and the main phone panel or terminal equipment; and Tenant agrees to leave all phone and computer wiring and jacks in place upon vacating the Leased Premises. Landlord shall not be liable for any interruption in Tenant's phone service. Landlord makes no representations or warranty that the building's wiring is sufficient to meet the Tenant's particular telecommunications or computer requirements. Tenant agrees not to take any action that would damage the public phone network.

43. **HAZARDOUS MATERIALS AND ENVIRONMENTAL CONSIDERATIONS**

- A. Tenant covenants and agrees that Tenant and its agents, employees, contractors and invitees shall comply with all Hazardous Materials Laws (as hereinafter defined). Without limited the foregoing, Tenant covenants and agrees that it will not use, generate, store or dispose of, nor permit the use, generation, storage or disposal of Hazardous Materials (as hereinafter defined) on, under or about the Leased Premises, or will it transport or permit the transportation of Hazardous Materials to or from the Leased Premises, except in full compliance with any applicable Hazardous Materials Laws. Any Hazardous Materials located on the Leased Premises shall be handled in an appropriately controlled environment which shall include the use of such equipment (at Tenant's expense) as is necessary to meet or exceed standards imposed by any Hazardous Materials Laws and in such a way as not to interfere with any other Tenant's use of its premises. Upon breach of any covenant contained herein, Tenant shall, at Tenant's sole expense, cure such breach by taking all action prescribed by any applicable Hazardous Materials Laws or by any governmental authority with jurisdiction over such matters.

- B. Tenant shall inform Landlord any time of (i) any Hazardous Materials it intends to use, generate, handle, store or dispose of, on or about or transport from, the Leased Premises and (ii) of Tenant's discovery of any event or condition which constitutes a violation of any applicable Hazardous Materials Loss. Tenant shall provide to Landlord copies of all communications to or from any governmental authority or any other party relating to Hazardous Materials affecting the Leased Premises.
- C. Tenant shall indemnify and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, expenses or losses (including, without limitation, diminution on value of the Leased Premises, damages for loss or restriction on use of all or part of the Leased Premises, sums paid in settlement of claims, investigation of site conditions, or any cleanup, removal or restoration work required by any federal, state or local governmental agency, attorney's fees, consultant fees and expert fees) which arise as a result of or in connection with any breach of the foregoing covenants or any other violation contained herein shall also accrue to the benefit of the employees, agents, officers, directors and/or partners of Landlord.
- D. Upon Expiration of this Lease and/or vacation of the Leased Premises, Tenant shall properly remove all Hazardous Materials. Landlord shall grant to Tenant and its agents or contractors such access to the Leased Premises as is necessary to accomplish such removal. Landlord may require Tenant, at Tenant's expense, to complete an environmental audit by a duly qualified firm to ensure that the Leased Premises are free from Hazardous Materials and in compliance with all applicable regulations.
- E. "Hazardous Materials" shall mean (a) any chemical, material, substance or pollutant which poses a hazard to the Leased Premises or to persons on or about the Leased Premises or would cause a violation of or is regulated by any Hazardous Materials Laws, and (b) any chemical, material or substance defined as or included in the definitions of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous waste", "restricted hazardous waste", "toxic substances", "regulated substances", or words of similar import under any applicable federal, state or local law or under the regulations adopted or publications promulgated pursuant thereto, including, but not limited to, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, as amended 49 U.S.C. Sec. 1801, et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Sec. 6901, et seq.; the Solid Waste Disposal Act, 42 U.S.C. Section 6991 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq.; and Sections 15-15-101, et seq.; 25-16-101, et seq.; 25-7-101, et seq.; and 25-8-101 et seq.; of the Colorado Revised Statutes. "Hazardous Materials Laws" shall mean any federal, state or local laws, ordinances, rules, regulations, or policies (including, but not limited to, those laws specified above) relating to the environmental, health and safety or the use, handling, transportation, production, disposal, discharge or storage of Hazardous Materials, or to industrial hygiene or the environmental conditions on, under or about the Leased Premises. Said term shall be deemed to include all such laws as are now in effect or as hereafter amended and all other such laws as may hereafter be enacted or adopted during the term of this Lease.

44. **OPTION TO EXTEND**

Upon full and complete performance of all the terms, covenants, and conditions herein contained by Tenant and payment of all rental due under the terms hereof, and Tenant is not in default, Tenant shall be given the option to extend this Lease for two (2) additional term of Five (5) years each. In the event Tenant desires to exercise said option, Tenant shall give written notice of such fact to Landlord not less than one-hundred eighty (180) days prior to the expiration of the then current term of this Lease. In the event of such exercise, this Lease Agreement shall be deemed to be extended for the applicable additional period; provided, however, the Base Rent amount shall be increased by no more than 4% from the prior month's basic monthly rent for the following twelve (12) month period and shall increase by not more than 4% for each successive twelve (12) month period. The chart set forth below identifies the Base Rent amount for each of the extension options, if applicable:

First five (5) year extension option Base Rent amount monthly schedule:

Year	Monthly Base Rent
Months 1-12	
Months 13-24	
Months 25-36	
Months 37-48	
Months 49-60	

Second five (5) year extension option Base Rent amount monthly schedule:

Year	Monthly Base Rent
Months 1-12	
Months 13-24	
Months 25-36	
Months 37-48	
Months 49-60	

Payment of Triple Net Expenses shall continue in accordance with this Lease for duration of any extension option term. Landlord shall further have the right to make any further adjustments and/or assessments of charges against Tenant as provided for in the Lease. In the event of exercise of said option, any funds retained by Landlord as provided for in the Lease shall be continued to be so held subject to the same terms and conditions.

45. **LANDLORD NOT A PARTNER WITH TENANT**

Nothing contained in this Lease shall be deemed, held or construed as creating Landlord as a partner, agent, associate of or in joint venture with Tenant in the conduct of Tenant's business, it being expressly understood and agreed that the relationship between the parties hereto is and shall at all times remain that of Landlord and Tenant.

46. **MODIFICATION OR EXTENSIONS**

No modification or extension of this Lease shall be binding unless in writing, signed by the parties hereto and endorsed hereon or attached hereto.

47. **LIMITATION OF LIABILITY**

Notwithstanding anything to the contrary contained in this Lease, (a) the Tenant agrees and understands that the Tenant shall look solely to the estate and property of the Landlord in the Property of which the Premises are a part for the enforcement of any judgment (or other judicial decree) requiring the payment of money by the Landlord to the Tenant by reason of any default or breach by the Landlord in the performance of its obligations under this Lease, and (b) no other assets of the Landlord any of the Landlord's present and future partners, members, managers, officers, directors, shareholders, agents and employees, or of any of their respective successors and assigns, shall be subject to levy, execution, attachment, or any other legal process for the enforcement or satisfaction of the remedies pursued by the Tenant in the event of such default or breach.

48. **PERSONAL GUARANTY OF LEASE.**

Tenant and the undersigned Guarantors agree that as a material part of the consideration under this Lease Amendment, and as a condition to Landlord entering into the arrangement contemplated hereby, the undersigned individuals guaranteeing the Lease (the "Guarantors") hereby absolutely guarantee, jointly and severally, all of Tenant's obligations and performance under the Lease and such

Guarantors shall sign the Personal Guaranty attached hereto as Exhibit C (the "Personal Guaranty"). Guarantors further agree to be bound by the same covenants and conditions of the Lease. If Tenant defaults in the performance of its obligations under the Lease, Guarantors will fully perform said obligations and are liable for any defaults or breaches of the Lease by Tenant. The Tenant shall ensure that the Guarantors identified will guarantee the faithful payment of rent and performance by the Tenant of all of the Tenant's obligations under the Lease.

49. **SECURITY INTEREST**

To secure the payment of all Rent and other payments due hereunder, as well as the faithful performance of this Lease by Tenant, Tenant hereby grants to Landlord an express first and prior lien and security interest (subject, however, to the lien of any purchase money lender of Tenant on the property of Tenant placed in the Premises) on all property (including furniture, fixtures, equipment, inventory, chattels and merchandise and all accessories thereto and all proceeds thereof) which may be placed in the Premises, and also upon all proceeds of any insurance which may accrue to Tenant by reason of destruction of or damage to any such property. Except in the ordinary course of business, such property will not be removed from the Premises without the written consent of Landlord until all payments and performance due hereunder have been paid and performed in full. To the extent permitted by Laws, all exemption laws are hereby waived in favor of such lien and security interest. Upon the occurrence of any event of default, this lien may be foreclosed with or without court proceedings by public or private sale, provided Landlord gives Tenant at least 15 days' notice of the time and place of such sale. Landlord will have the right to become the purchaser at any public sale, upon being the highest bidder at such sale. At any time after the execution of this Lease, Landlord may file uniform commercial code financing statements in sufficient form to perfect the security interest hereby granted and/or any uniform commercial code financing statement change instruments in sufficient form to reflect any proper amendment or modification in or extension of the lien and security interest hereby granted. Landlord will, in addition to all of its rights hereunder, also have all of the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State of Colorado. Landlord's rights and remedies in this section 48 will survive the termination of this Lease.

50. **MISCELLANEOUS**

- A. All marginal notations and paragraph headings are for purposes of references and shall not affect the true meaning and intent of the terms hereof. Throughout this Lease, wherever the words "Landlord" and "Tenant" are used, they shall include and imply to the singular, plural, persons both male and female, companies, partnerships and corporations, and in reading said Lease, the necessary grammatical changes required to make the provisions hereof mean and apply as aforesaid shall be made in the same manner as though originally included in said Lease.
- B. Whenever a period of time is prescribed for the taking of an action by Landlord or Tenant, the period of time for the performance of such action shall be extended by the number of days that the performance is actually delayed due to strikes, acts of God, shortages of labor or materials, war, civil disturbances, pandemics, epidemics and similar disturbances, and other causes beyond the reasonable control of the performing party ("Force Majeure"). However, events of Force Majeure shall not extend any period of time for the payment of rent or other sums payable by either party or excuse the nonpayment or late payment of any rent by Tenant.
- C. The expiration of the Term, whether by lapse of time or otherwise, shall not relieve either party of any obligations which accrued prior to or which may continue to accrue after the expiration or earlier termination of this Lease, or which expressly survive the expiration or earlier termination of this Lease, including without limitation all of the releases, disclaimers, and indemnity obligations contained in this Lease.
- D. This is a net lease and Landlord shall not be required to provide any services or do any act or thing with respect to the Premises or any improvements thereon except to the extent expressly provided in this Lease.
- E. Landlord and Tenant each represent to the other party that each is duly organized, validly existing, in good standing, and has all requisite power and authority to enter into this Lease; that each has taken all necessary and appropriate actions to approve the individuals executing this Lease on behalf of the Landlord and Tenant, respectively, such that their execution and delivery of this Lease has been duly authorized by the entity, all necessary action for the due execution and delivery of this Lease has been

taken, and this Lease is the valid, legal, and binding obligation of the entity, enforceable in accordance with its terms.

- F. This Lease may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same lease. A signed copy of this Lease delivered by facsimile, e-mail or other means of electronic transmission including PDF shall be deemed to have the same legal effect as delivery of an original signed copy of this Lease.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Lease as of the date hereof.

LANDLORD:

The Vic LLC

By: Andrew Fink
Name: Drew Fink
Its: Manager
Date: Apr 10, 2024

TENANT:

The Victoria Tavern LLC

By: Greg Kenny
By: Greg Kenny (Apr 10, 2024 13:18 MDT)
Name: Greg Kenny
Its: Managing Member
Date: Apr 10, 2024



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Administration	Kristi Jefferson - City Clerk	July 2, 2024

AGENDA ITEM

New Hotel and Restaurant Liquor License for La Terraza Restaurant and Bar, LLC, dba La Terraza Restaurant and Bar at 122 East First Street.

BACKGROUND

A new Colorado Hotel and Restaurant Liquor License application was filed with the City Clerk on May 10, 2024. The Notice of Public Hearing was published on May 31, 2024 in the Mountain Mail and the premises was posted on June 20, 2024.

All proper fees have been remitted to the City and State of Colorado. Individual history records and the Colorado Bureau of Investigation background checks have been reviewed by staff with no issues.

FISCAL NOTE

There is no fiscal impact

RECOMMENDATION

Staff recommends that the Liquor Licensing Authority approve a new Hotel and Restaurant Liquor License request for La Terraza Restaurant and Bar at 122 East First Street.

MOTION

Following a public hearing on the matter, a Liquor Authority Member should state "I move to _____ a new Hotel and Restaurant Liquor License request for La Terraza Restaurant and Bar, LLC dba La Terraza Restaurant and Bar", followed by a second and a roll call vote.

PUBLIC NOTICE
PUBLIC NOTICE PURSUANT TO THE
LIQUOR LAWS OF COLORADO

Pursuant to the Liquor Laws of the State of Colorado, La Terraza Restaurant and Bar, has requested the Local Licensing Authority of the City of Salida, Colorado grant a Hotel and Restaurant (City) liquor license to to sell malt, vinous and spirituous liquors for consumption on premises at 122 East First Street, Salida, CO 81201.

A hearing on the application, received May 10, 2024, will be held before the Local Licensing Authority of the City of Salida, Colorado at the hour of 6:00 p.m., or as soon thereafter as may be heard, on Tuesday, July 2, 2024. At said time and place, any interested persons may appear to be heard for or against the granting of said license.

LOCAL LICENSING AUTHORITY

Kristi Jefferson, City Clerk
Premises Posted by June 21, 2024
Published in The Mountain Mail May 31,
2024

NOTICE

PURSUANT TO THE LIQUOR LAWS OF COLORADO

La Terraza Restaurant and Bar, LLC

122 East First Street

Salida, CO 81201

HAS REQUESTED THE LICENSING
OFFICIALS OF City of Salida

TO Approve a new Hotel and Restaurant Liquor License

LICENSE AT: 122 East First Street, Salida CO 81201

HEARING ON APPLICATION TO BE HELD AT:

City Council Chambers

448 E First Street, Ste. 119, Salida, CO 81201

TIME AND DATE:

July 2, 2024

DATE OF APPLICATION:

May 10

, 20 24

BY ORDER OF:

City of Salida

OFFICERS:

Leticia Garcia

ADDRESS OF THE PLACE AT WHICH PETITIONS OR REMONSTRANCES MAY BE FILED

COLORADO
Department of Revenue
Specialized Business Group
Liquor & Tobacco
DO NOT REMOVE



TAKE OUT



Colorado Liquor Retail License Application

Item 6.

* Note that the Division will not accept cash ☐ Paid by check ☐ Paid online

Uploaded to
Movelt on Date
05-10-24

☐ New License ☒ New-Concurrent ☐ Transfer of Ownership ☐ State Property Only ☐ Master file			
All answers must be printed in black ink or typewritten Applicant must check the appropriate box(es) Applicant should obtain a copy of the Colorado Liquor, Beer and Wine Code: SBG.Colorado.gov/Liquor			
1. Applicant is applying as a/an ☐ Individual ☒ Limited Liability Company ☐ Association or Other ☐ Corporation ☐ Partnership (includes Limited Liability and Husband and Wife Partnerships)			
2. Applicant If an LLC, name of LLC; if partnership, at least 2 partner's names; if corporation, name of corporation La Terraza Restaurant and Bar			FEIN Number [REDACTED]
2a. Trade Name of Establishment (DBA) La Terraza Restaurant and Bar		State Sales Tax Number 96311402	Business Telephone
3. Address of Premises (specify exact location of premises, include suite/unit numbers) 122 E. 1st St			
City Salida		County Chaffee	State CO
4. Mailing Address (Number and Street) 122 E. 1st St		City or Town Salida	State CO
5. Email Address Lga12031963@gmail.com		ZIP Code 81201	
6. If the premises currently has a liquor or beer license, you must answer the following questions			
Present Trade Name of Establishment (DBA) N/A		Present State License Number N/A	Present Expiration Date N/A
Section A Nonrefundable Application Fees*		Section B (Cont.) Liquor License Fees*	
☐ Application Fee for New License.....\$1,100.00 ☒ Application Fee for New License w/Concurrent Review.....\$1,200.00 ☐ Application Fee for Transfer.....\$1,100.00		☐ Liquor-Licensed Drugstore (County).....\$312.50 ☐ Lodging & Entertainment - L&E (City).....\$500.00 ☐ Lodging & Entertainment - L&E (County).....\$500.00 ☐ Manager Registration - H & R.....\$30.00 ☐ Manager Registration - Tavern.....\$30.00 ☐ Manager Registration - Lodging & Entertainment.....\$30.00 ☐ Manager Registration - Campus Liquor Complex.....\$30.00 ☐ Optional Premises License (City).....\$500.00 ☐ Optional Premises License (County).....\$500.00 ☐ Racetrack License (City).....\$500.00 ☐ Racetrack License (County).....\$500.00 ☐ Resort Complex License (City).....\$500.00 ☐ Resort Complex License (County).....\$500.00 ☐ Related Facility - Campus Liquor Complex (City).....\$160.00 ☐ Related Facility - Campus Liquor Complex (County).....\$160.00 ☐ Related Facility - Campus Liquor Complex (State).....\$160.00 ☐ Retail Gaming Tavern License (City).....\$500.00 ☐ Retail Gaming Tavern License (County).....\$500.00 ☐ Retail Liquor Store License-Additional (City).....\$227.50 ☐ Retail Liquor Store License-Additional (County).....\$312.50 ☐ Retail Liquor Store (City).....\$227.50 ☐ Retail Liquor Store (County).....\$312.50 ☐ Tavern License (City).....\$500.00 ☐ Tavern License (County).....\$500.00 ☐ Vintners Restaurant License (City).....\$750.00 ☐ Vintners Restaurant License (County).....\$750.00	
Section B Liquor License Fees*			
☐ Add Optional Premises to H & R.....\$100.00 X _____ Total _____ ☐ Add Related Facility to Resort Complex \$75.00 X _____ Total _____ ☐ Add Sidewalk Service Area.....\$75.00 ☐ Arts License (City).....\$308.75 ☐ Arts License (County).....\$308.75 ☐ Beer and Wine License (City).....\$351.25 ☐ Beer and Wine License (County).....\$436.25 ☐ Brew Pub License (City).....\$750.00 ☐ Brew Pub License (County).....\$750.00 ☐ Campus Liquor Complex (City).....\$500.00 ☐ Campus Liquor Complex (County).....\$500.00 ☐ Campus Liquor Complex (State).....\$500.00 ☐ Club License (City).....\$308.75 ☐ Club License (County).....\$308.75 ☐ Distillery Pub License (City).....\$750.00 ☐ Distillery Pub License (County).....\$750.00 ☒ Hotel and Restaurant License (City).....\$500.00 ☐ Hotel and Restaurant License (County).....\$500.00 ☐ Hotel and Restaurant License w/one opt premises (City).....\$600.00 ☐ Hotel and Restaurant License w/one opt premises (County).....\$600.00 ☐ Liquor-Licensed Drugstore (City).....\$227.50			
Questions? Visit: SBG.Colorado.gov/Liquor for more information			
Do not write in this space - For Department of Revenue use only			
Liability Information			
License Account Number	Liability Date	License Issued Through (Expiration Date)	Total \$

Application Documents Checklist and Worksheet

Item 6.

Instructions: This checklist should be utilized to assist applicants with filing all required documents for licensure. **All** documents must be properly signed and correspond with the name of the applicant exactly. **All** documents must be typed or legibly printed. Upon final State approval the license will be mailed to the local licensing authority. Application fees are nonrefundable. **Questions? Visit:** SBG.Colorado.gov/Liquor for more information

Items submitted, please check all appropriate boxes completed or documents submitted	
I.	Applicant information ☒ A. Applicant/Licensee identified ☒ B. State sales tax license number listed or applied for at time of application ☒ C. License type or other transaction identified ☐ D. Return originals to local authority (additional items may be required by the local licensing authority) ☐ E. All sections of the application need to be completed ☐ F. Master file applicants must include the Application for Master File form DR 8415 and applicable fees to this Retail License Application
II.	Diagram of the premises ☒ A. No larger than 8½" X 11" ☒ B. Dimensions included (does not have to be to scale). Exterior areas should show type of control (fences, walls, entry/exit points, etc.) ☒ C. Separate diagram for each floor (if multiple levels) ☒ D. Kitchen - identified if Hotel and Restaurant ☒ E. Bold/Outlined Licensed Premises
III.	Proof of property possession (One Year Needed) ☐ A. Deed in name of the applicant (or) (matching question #2) date stamped / filed with County Clerk ☒ B. Lease in the name of the applicant (or) (matching question #2) ☐ C. Lease assignment in the name of the applicant with proper consent from the landlord and acceptance by the applicant ☐ D. Other agreement if not deed or lease. (matching question #2)
IV.	Background information (DR 8404-I) and financial documents ☒ A. Complete DR 8404-I for each principal (individuals with more than 10% ownership, officers, directors, partners, members) ☒ B. Fingerprints taken and submitted to the appropriate Local Licensing Authority through an approved State Vendor. Master File applicants submit results to the State using code 25YQHT with Identogo. Do not complete fingerprint cards prior to submitting your application. The Vendors are as follows: Identogo – https://uenroll.identogo.com/ Phone: 844-539-5539 (toll-free) Colorado Fingerprinting – http://www.coloradofingerprinting.com Appointment Scheduling Website: http://www.coloradofingerprinting.com/cabs/ Phone: 720-292-2722 Toll Free: 833-224-2227 Details about the vendors and fingerprinting in Colorado can be found on CBI's website here: https://cbi.colorado.gov/sections/biometric-identification-and-records-unit/employment-and-background-checks ☐ C. Purchase agreement, stock transfer agreement, and/or authorization to transfer license ☐ D. List of all notes and loans (Copies to also be attached)
V.	Sole proprietor/husband and wife partnership (if applicable) ☐ A. Form DR 4679 ☐ B. Copy of State issued Driver's License or Colorado Identification Card for each applicant
VI.	Corporate applicant information (if applicable) ☐ A. Certificate of Incorporation ☐ B. Certificate of Good Standing ☐ C. Certificate of Authorization if foreign corporation (out of state applicants only)
VII.	Partnership applicant information (if applicable) ☐ A. Partnership Agreement (general or limited). ☐ B. Certificate of Good Standing
VIII.	Limited Liability Company applicant information (if applicable) ☒ A. Copy of articles of organization ☒ B. Certificate of Good Standing ☒ C. Copy of Operating Agreement (if applicable) ☐ D. Certificate of Authority if foreign LLC (out of state applicants only)
IX.	Manager registration for Hotel and Restaurant, Tavern, Lodging & Entertainment, and Campus Liquor Complex licenses when included with this application ☐ A. \$30.00 fee ☒ B. If owner is managing, no fee required

Name La Terraza Restaurant and BAR	Type of License Hotel and Restaurant	Account Number
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7. Is the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers under the age of twenty-one years?	Yes ☐	No ☒
8. Has the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers ever (in Colorado or any other state):		
a. Been denied an alcohol beverage license?	☐	☒
b. Had an alcohol beverage license suspended or revoked?	☐	☒
c. Had interest in another entity that had an alcohol beverage license suspended or revoked?	☐	☒
If you answered yes to 8a, b or c, explain in detail on a separate sheet.		
9. Has a liquor license application (same license class), that was located within 500 feet of the proposed premises, been denied within the preceding two years? If "yes", explain in detail.	☐	☒
10. Are the premises to be licensed within 500 feet, of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?	☐	☒
Waiver by local ordinance? ☐	Other: ☐	
11. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of greater than (>) 10,000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.	☐	☒
12. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 3000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of less than (<) 10,000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.	☐	☒
13. a. For additional Retail Liquor Store only. Was your Retail Liquor Store License issued on or before January 1, 2016?	☐	☒
b. Are you a Colorado resident?	☒	☐
14. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership; members or manager if a Limited Liability Company; or officers, stockholders or directors if a corporation)? If yes, identify the name of the business and list any <u>current</u> financial interest in said business including any loans to or from a licensee. Pepe, LLC	☒	☐
15. Does the applicant, as listed on line 2 of this application, have legal possession of the premises by ownership, lease or other arrangement?	☒	☐
☐ Ownership ☒ Lease ☐ Other (Explain in Detail) _____ a. If leased, list name of landlord and tenant, and date of expiration, exactly as they appear on the lease:		
Landlord Phillip Benningfield	Tenant Leticia Garcia	Expires 04-30-2027
b. Is a percentage of alcohol sales included as compensation to the landlord? If yes, complete question 16. ☐ ☒		
c. Attach a diagram that designates the area to be licensed in black bold outline (including dimensions) which shows the bars, brewery, walls, partitions, entrances, exits and what each room shall be utilized for in this business. This diagram should be no larger than 8½" X 11".		
16. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies) will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money from this business? Attach a separate sheet if necessary.		

Last Name N/A	First Name	Date of Birth	FEIN or SSN	Interest/Percentage
Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage

Attach copies of all notes and security instruments and any written agreement or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.

17. Optional Premises or Hotel and Restaurant Licenses with Optional Premises: Has a local ordinance or resolution authorizing optional premises been adopted?	Yes ☐	No ☒
Number of additional Optional Premise areas requested. (See license fee chart) _____		

18. For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), include a diagram of the service area and documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.	
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Name La Terraza, Restaurant and Bar	Type of License Hotel and Restaurant	Account Number
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19. Liquor Licensed Drugstore (LLDS) applicants, answer the following:

a. Is there a pharmacy, licensed by the Colorado Board of Pharmacy, located within the applicant's LLDS premise? ☐ ☒ **If "yes" a copy of license must be attached.**

20. Club Liquor License applicants answer the following: Attach a copy of applicable documentation Yes No

a. Is the applicant organization operated solely for a national, social, fraternal, patriotic, political or athletic purpose and not for pecuniary gain? ☐ ☒

b. Is the applicant organization a regularly chartered branch, lodge or chapter of a national organization which is operated solely for the object of a patriotic or fraternal organization or society, but not for pecuniary gain? ☐ ☒

c. How long has the club been incorporated?

d. Has applicant occupied an establishment for three years (three years required) that was operated solely for the reasons stated above? ☐ ☒

21. Brew-Pub, Distillery Pub or Vintner's Restaurant applicants answer the following:

a. Has the applicant received or applied for a Federal Permit? (Copy of permit or application must be attached) ☐ ☒

22. Campus Liquor Complex applicants answer the following:

a. Is the applicant an institution of higher education? ☐ ☒

b. Is the applicant a person who contracts with the institution of higher education to provide food services? ☐ ☒

If "yes" please provide a copy of the contract with the institution of higher education to provide food services.

23. For all on-premises applicants.

a. For all Liquor Licensed Drugstores (LLDS) the Permitted Manager must also submit an Manager Permit Application - DR 8000 and fingerprints.

Last Name of Manager Garcia	First Name of Manager Leticia
---------------------------------------	---

24. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, provide name, type of license and account number. Yes No ☐ ☒

25. Related Facility - Campus Liquor Complex applicants answer the following: ☐ ☒

a. Is the related facility located within the boundaries of the Campus Liquor Complex?
If yes, please provide a map of the geographical location within the Campus Liquor Complex.
If no, this license type is not available for issues outside the geographical location of the Campus Liquor Complex.

b. Designated Manager for Related Facility- Campus Liquor Complex

Last Name of Manager	First Name of Manager
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26. Tax Information. Yes No

a. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? ☐ ☒

b. Has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? ☐ ☒

27. If applicant is a corporation, partnership, association or limited liability company, applicant must list all Officers, Directors, General Partners, and Managing Members. In addition, applicant must list any stockholders, partners, or members with ownership of 10% or more in the applicant. All persons listed below must also attach form DR 8404-I (Individual History Record), and make an appointment with an approved State Vendor through their website. See application checklist, Section IV, for details.

Name	Home Address, City & State	DOB	Position	%Owned
N/A				

Name <i>La Terraza, Restaurant and Bar</i>		Type of License <i>Hotel and Restaurant</i>		Account Number	
** If applicant is owned 100% by a parent company, please list the designated principal officer on above. ** Corporations - the President, Vice-President, Secretary and Treasurer must be accounted for above (Include ownership percentage if applicable) ** If total ownership percentage disclosed here does not total 100%, applicant must check this box: ☒ Applicant affirms that no individual other than these disclosed herein owns 10% or more of the applicant and does not have financial interest in a prohibited liquor license pursuant to Article 3 or 5, C.R.S.					
Oath Of Applicant					
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.					
Authorized Signature <i>Leticia Garcia</i>		Printed Name and Title <i>Leticia Garcia Sole MBR</i>		Date <i>05-10-24</i>	
Report and Approval of Local Licensing Authority (City/County)					
Date application filed with local authority		Date of local authority hearing (for new license applicants; cannot be less than 30 days from date of application)			
For Transfer Applications Only - Is the license being transferred valid? Yes No ☐ ☐					
The Local Licensing Authority Hereby Affirms that each person required to file DR 8404-I (Individual History Record) or a DR 8000 (Manager Permit) has been: ☐ Fingerprinted ☐ Subject to background investigation, including NCIC/CCIC check for outstanding warrants That the local authority has conducted, or intends to conduct, an inspection of the proposed premises to ensure that the applicant is in compliance with and aware of, liquor code provisions affecting their class of license (Check One) ☐ Date of inspection or anticipated date _____ ☐ Will conduct inspection upon approval of state licensing authority					
☐ Is the Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1,500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of > 10,000? Yes No ☐ ☐					
☐ Is the Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 3,000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of < 10,000? ☐ ☐					
NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.					
☐ Does the Liquor-Licensed Drugstore (LLDS) have at least twenty percent (20%) of the applicant's gross annual income derived from the sale of food, during the prior twelve (12) month period? ☐ ☐					
The foregoing application has been examined; and the premises, business to be conducted, and character of the applicant are satisfactory. We do report that such license, if granted, will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants, and will comply with the provisions of Title 44, Article 4 or 3, C.R.S., and Liquor Rules. Therefore, this application is approved.					
Local Licensing Authority for			Telephone Number		☐ Town, City ☐ County
Signature	Print	Title	Date		
Signature	Print	Title	Date		

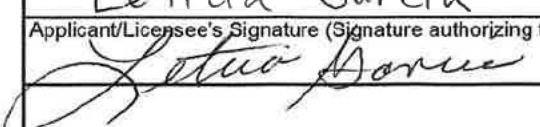
Tax Check Authorization, Waiver, and Request to Release Information

I, Leticia Garcia am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of La Terraza Restaurant and Bar (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101, et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and is duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

Name (Individual/Business) <u>La Terraza Restaurant and Bar LLC</u>		Social Security Number/Tax Identification Number 	
Address <u>122 E 2nd St</u>			
City <u>Salida</u>		State <u>CO</u>	Zip <u>81201</u>
Home Phone Number <u>N/A</u>		Business/Work Phone Number <u>719-207-4127</u>	
Printed name of person signing on behalf of the Applicant/Licensee <u>Leticia Garcia</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) 			Date signed <u>05-10-24</u>

Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

La Terraza Restaurant and Bar, LLC

is a

Limited Liability Company

formed or registered on 05/08/2024 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20241518703 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 05/10/2024 that have been posted, and by documents delivered to this office electronically through 05/13/2024 @ 14:30:27 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 05/13/2024 @ 14:30:27 in accordance with applicable law. This certificate is assigned Confirmation Number 16032019 .



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."



Colorado Secretary of State

Colorado Secretary of State

ID#: 20241518703

Document #: 20241518703

Filed on: 05/08/2024 01:35:22 PM

Paid: \$50.00

Item 6.

Articles of Organization for a Limited Liability Company

filed pursuant to § 7-90-301 and § 7-80-204 of the Colorado Revised Statutes (C.R.S.)

The domestic entity name of the limited liability company is La Terraza Restaurant and Bar, LLC

The principal office street address is

122 E 1st St
Salida CO 81201
US

The principal office mailing address is

122 E 1st St
Salida CO 81201
US

The name of the registered agent is Leticia Garcia

The registered agent's street address is

122 E 1st St
Salida CO 81201
US

The registered agent's mailing address is

122 E 1st St
Salida CO 81201
US

The person above has agreed to be appointed as the registered agent for this entity.

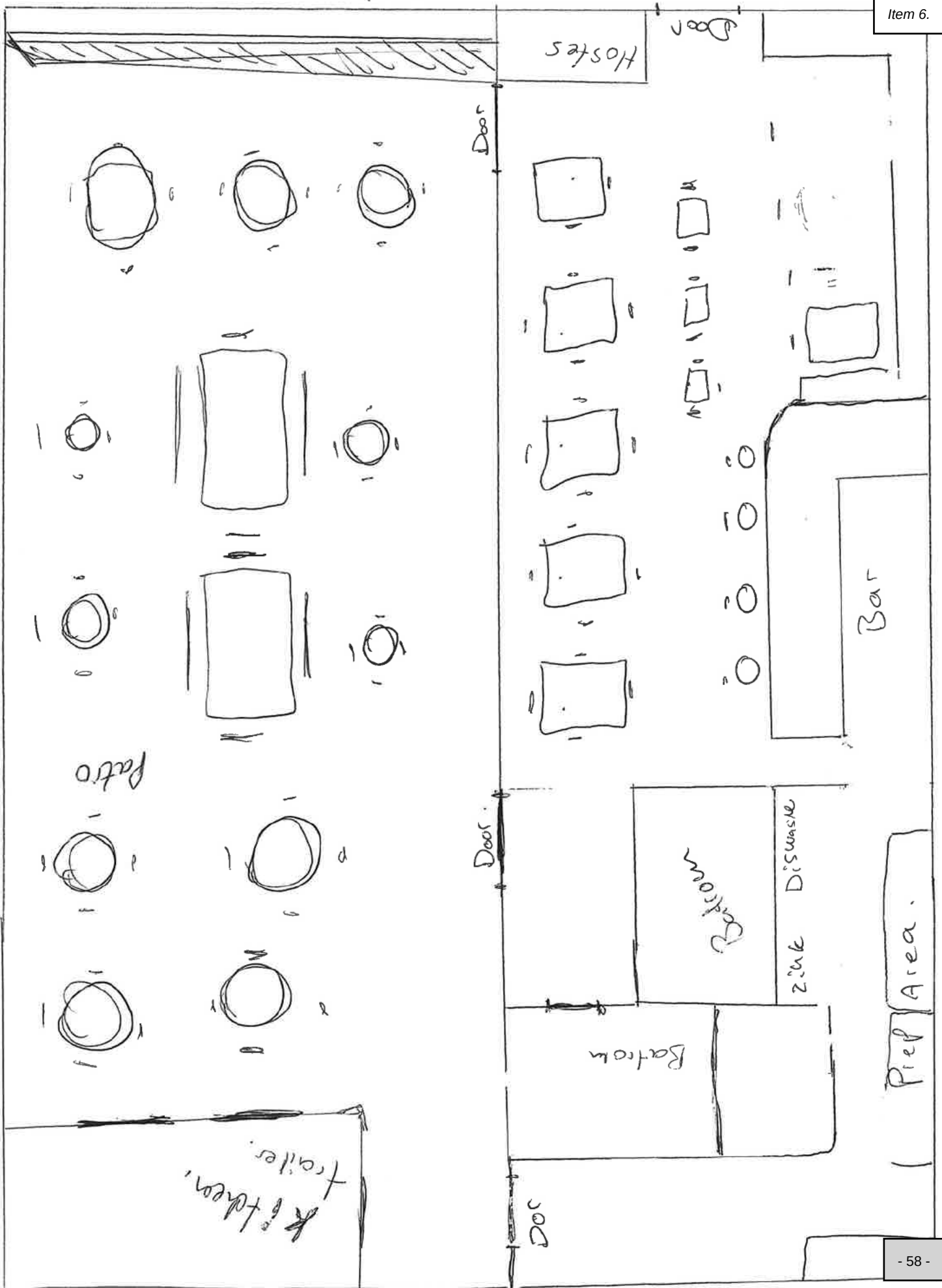
The management of the limited liability company is vested in Members

There is at least one member of the limited liability company.

Person(s) forming the limited liability company

Pete Cordova
1604 H St
Salida CO 81201
US

Causing this document to be delivered to the Secretary of State for filing shall constitute the affirmation or acknowledgment of each individual causing such delivery, under penalties of perjury, that the document is the individual's act and deed, or that the individual in good faith believes the document is the act and deed of the person on whose behalf the individual is causing the document to be delivered for filing, taken in conformity with the requirements of part 3 of article 90 of title 7, C.R.S., and, if applicable, the constituent documents, and the organic statutes, and that the individual in good faith believes the facts stated in the document are true and the document complies with the requirements of that Part, the constituent documents, and the organic statutes.



COMMERCIAL LEASE

6. Indemnification.

(a). Possession. Except as otherwise provided herein, Tenant shall be in exclusive control and possession of the Premises from the date this Lease is executed until it is terminated. Landlord shall not be liable for any injury or damages to any property or to any person on or about the Premises nor for any injury or damage to any property of the Tenant. Landlord shall not be liable to Tenant for any entry on the Premises for inspection or repair purposes.

(b). Hold Harmless. To the fullest extent permitted by applicable law, Tenant shall hold harmless and indemnify Landlord from and against all expenses, liabilities, and claims of every kind and character, including reasonable attorney fees and court costs, incurred, raised, or brought by or on behalf of any person or entity arising out of either: (1) a failure by Tenant to perform any of the terms or conditions of this Lease, (2) any injury or damage happening on or about the Premises, except for injury or damage caused solely by the negligence of Landlord, (3) Tenant's failure to comply with any law of any governmental authority, or (4) any mechanic's lien pertaining to work, services, or materials contracted for by Tenant or security interest filed against the Premises or equipment, materials, or alterations of buildings or improvements thereon which pertains to any indebtedness incurred by Tenant.

7. Inspection. Landlord or its agents shall have the right at any time to enter the Premises to examine the same, or to make such repairs as it may deem necessary or proper for the safety, improvement, or preservation thereof.

8. Alterations. The Tenant shall have the ability to make alterations to the premises with specific, written authorization from the Landlord. Any alterations to the premises must comply with federal, state and local requirements.

9. Fixtures. Any alterations made in the building located on the Premises (the "Building") by the Tenant and any equipment or fixtures built into the Premises by the Tenant shall upon the termination of this Lease be left on the Premises by Tenant unless otherwise agreed, in writing, by Landlord.

10. Use. It is understood and agreed that the primary business to be conducted from the Premises shall be a restaurant business. Tenant shall not use the Premises for any other purposes, without the prior written consent of Landlord, which consent may be withheld at the sole discretion of Landlord. Tenant also agrees not to conduct or to permit to be conducted upon the Premises any business or any act which is contrary to or in violation of the laws of the United States of America or of the State of Colorado or of any ordinances, regulations, or orders of any municipality or other public authority affecting the Premises.

11. Maintenance and Repair.

(a) Tenant's Obligation to Maintain and Repair. Tenant covenants to maintain, repair, replace and keep all equipment (see equipment list), driveways, sidewalks, signage, and lighting fixtures, as well as the interior of the Building, and all improvements, fixtures and personal property therein, including, but not limited to, all bay doors, all restrooms, and all plumbing, electrical, and mechanical systems and fixtures, in good, safe and sanitary condition, order and repair and in accordance with all applicable laws, ordinances, orders, rules and regulations of governmental authorities having jurisdiction; to pay all costs and expenses in connection therewith, including but not limited to the costs of bringing into and maintaining the Premises in compliance with the Americans with Disabilities Act of 1990, to the extent it applies to Tenants occupying the Premises; and to contract for the same in Tenant's own name. All maintenance and repairs by Tenant shall be done promptly, in a good and workmanlike fashion, and without diminishing the original quality of the Premises.

(b) No Abatement for Repairs. There shall be no allowance to Tenant for a diminution of rental value and no liability on the part of Landlord, by reason or inconvenience, annoyance or injury to, or interruption of business, arising from Landlord, Tenant or others making any repairs, restorations, replacements, alterations, additions or improvements in or to any portion of the Building or the Premises, or in or to fixtures, appurtenances or equipment thereof.

12. Landlord's Services. Landlord shall maintain, repair, replace and keep the exterior walls, roof of the building, and HVAC system in good, safe, and sanitary condition. Landlord shall pay all costs and expenses in connection with the repair and maintenance of the exterior walls, roof of the building, and HVAC. If such repairs are required due to the actions or negligence of Tenant, Tenant shall reimburse Landlord for any such repairs. In circumstances in which Landlord's consent is required by Tenant for repairs, improvement, or maintenance of the Premises. In such case, Landlord's consent will not be unreasonably withheld.

13. Other Covenants of Tenant.

(a) Compliance with Insurance Requirements. Tenant covenants and agrees that nothing shall be done or kept on the Premises which might impair or increase the cost of insurance maintained with respect to the Premises, which might increase the insured risks, or which might result in cancellation of any such insurance.

(b) No Waste or Impairment of Value. Tenant covenants and agrees that nothing shall be done or kept on the Premises which might impair the value of the Premises or which would constitute waste.

(c) No Noxious or Offensive Activity. Tenant covenants and agrees that no noxious or offensive activity shall be carried on upon the Premises.

(d) No Unsightliness. Tenant covenants and agrees that no unsightliness shall be permitted on the Premises, which is visible from any adjacent or nearby property. Without limiting the generality of the foregoing, all unsightly conditions, equipment, objects and conditions shall be kept enclosed within the Premises; no refuse, scrap, debris, garbage, trash, bulk materials, used automobile parts, or waste shall be kept, stored or allowed to accumulate on the Premises except as may be enclosed within the Premises.

(e) Environmental Compliance and Indemnity. Tenant covenants and agrees to conduct its business and operations on and from the Premises in accordance with all federal, state and local environmental laws, regulations, executive orders, ordinances and directives including, but not limited to, the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, Toxic Substances Control Act, and state law counterparts, and any amendments thereto, including, without limitation, the Colorado Hazardous Waste Management Act, C.R.S. § 25-15-101 et seq., and not to cause, suffer or permit any damage or impairment to the health, safety or comfort of any person or to the environment at or on the Premises and surrounding property, including, but not limited to, damage or threatened damage to the soil, surface or ground water resources at the Premises and surrounding property or any condition constituting a nuisance or causing a violation of or resulting in liability under any state, federal or local law, regulation or ordinance. The foregoing obligations of Tenant shall hereinafter collectively be referred to as the "Environmental Obligations." In the event of any violation of, or failure to comply with, any of the Environmental Obligations, Tenant agrees, at its sole cost and expense, promptly to remedy and correct such violation or failure, including all required or appropriate clean up, clean up- related activities and all other appropriate remedial action. Tenant covenants and agrees to protect, indemnify and save Landlord harmless from and against any and all liability, obligations, claims, including administrative claims and claims for injunctive relief, loss, cost, damage, expense or liability, including without limitation, any liability arising under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, plus reasonable attorney fees, incurred by or asserted against Landlord resulting from any failure to comply with the provisions of this Section 13(e). Landlord shall have the right to defend itself in any action, suit or proceeding commenced against Landlord as a result of Tenant's violation of or failure to comply with the provision of this Section 13(e), with attorneys and, as necessary, technical consultants chosen by Landlord, and Tenant agrees to pay to Landlord all reasonable attorney fees, consultant fees, and other costs in connection therewith incurred by Landlord. The provisions of this Section 13(e) shall survive the expiration or termination of this Lease.

(f) Restrictions on Signs. Tenant covenants and agrees that no signs or advertising devices of any nature shall be erected or maintained by or on behalf of Tenant on the Premises unless such shall be in compliance with all zoning or other applicable regulations of any governmental body or authority having jurisdiction thereof.

(g) Taxes.

Landlord PB Tenant RA
X. J.

(i) Tenant's Taxes. During the term of this Lease, Tenant shall pay in full, as and when the same become due and payable, all personal property taxes levied on or with respect to Tenant's personal property located in or used in connection with the Premises, and all sales, use, and other taxes levied on or in connection with the operation of Tenant's business in the Premises.

(ii) Real Property Taxes. During the term of this Lease, Tenant shall pay be responsible for the payment of all real property taxes and assessments payable with respect to the Premises for each lease year during the term of this Lease. Tenant's property tax payments shall be paid monthly with the rent on in the amount of [REDACTED]. If the monthly pro rata amount of property taxes is more than \$[REDACTED], then Landlord shall deduct any such amount from Tenant's Security Deposit at the end of the Lease Term. If the monthly pro rata amount of property taxes is less than \$[REDACTED], then Landlord shall pay to Tenant any overage paid by tenant at the end of the Lease Term upon return of any remaining Security Deposit.

(h) OFAC Compliance. Tenant represents and warrants to Landlord that Tenant is currently in compliance with and shall at all times during the term of this Lease (including any further extensions or renewals) remain in compliance with the regulations of the Office of Foreign Assets Control ("OFAC") of the United States Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism), or other governmental action relating thereto.

14. Condition of the Premises. The taking of possession of the Premises by the Tenant shall be conclusive evidence as against the Tenant that the Premises were in satisfactory condition when possession of the same was taken. Tenant shall be permitted to make a final walk-through inspection of the Premises prior to its taking possession thereof.

15. Right of First Refusal. In the event of a third party offer to purchase the Premises during the term of this Lease, Tenant shall have a Right of First Refusal to purchase the Premises at the offered price and at the offered terms. Tenant shall notify Landlord of its intention to exercise this Right of First Refusal within seven (7) business days of Tenant's notification of the offer to purchase the Premises.

16. Parking. During the term of this Lease, Tenant shall have the exclusive use of 11 parking spaces located on the Premises.

17. Amendment. Any terms and conditions of this Lease can be amended or modified upon written consent of both Landlord and Tenant.

PB JB

18. Security Deposit. Tenant, at (May 1, 2023) the time of execution of this Lease, shall deposit with Landlord the sum of [REDACTED] ([REDACTED]) as security for the full and faithful performance of every provision of this Lease to be performed by Tenant. If Tenant defaults with respect to any provision of this Lease, including but not limited to the provision related to the payment of rent, Landlord may, if such default is not corrected within five (5) days of written notice to Tenant, use, apply or retain all or any part of this security deposit for the payment of any rent or any sum in default, or for the payment of any other amount which the Landlord may spend or become obligated to spend by reasons of Tenant's default or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of said deposit is so used or applied, Lessee shall within five (5) days after written demand thereof deposit cash with Landlord in an amount sufficient to restore the security deposit to the original amount and Tenant's failure to do so shall be a material breach of this Lease. Said deposit shall not be considered liquidated damages and if claims of Landlord exceed said deposit, Tenant shall remain liable for the balance of such claims. The Landlord shall not be entitled to interest on such deposit. If Tenant shall fully and faithfully perform every provision of this Lease to be performed by it and if the Premises are clean and in good operating condition, the security deposit or any balance thereof shall be returned to Tenant within sixty (60) days of the expiration of the Lease.

19. Termination. Tenant may terminate this Lease only upon mutual written agreement between Landlord and Tenant.

20. Condemnation. If the whole or a substantial part of the Premises shall be taken for any public or quasi-public use, under any statute or right of eminent domain or purchase by the governmental authority in lieu of or under threat of any such taking, then, when possession shall be taken of the Premises, or any part thereof, the term herein demised and all rights of the Tenant hereunder shall immediately cease and terminate, and the rent shall be adjusted as of the time of such termination.

21. Casualty. If during the continuance of this Lease or the term hereby demised the Premises shall be so injured by fire or other casualty not arising from the fault or negligence of the Tenant, or those in its employ, so that the Premises shall thereby be rendered unfit for use or occupation, then and in such case the rent herein reserved or a just proportionate part thereof, according to the nature and extent of the injury which has been sustained, shall be abated until the Premises shall have been duly repaired and restored, which work or repair and restoration shall be done with all reasonable diligence. In case the Building shall be substantially destroyed so that the Premises cannot be repaired and restored within sixty days, it shall then be optional to either party to cancel this Lease and end the term hereof, and in case of such cancellation the rent shall be paid to the date of such fire or other casualty and all further obligations upon the part of either party hereto shall cease and the estate hereby created shall thereupon terminate.

22. Prohibition on Subletting or Assignment. The Tenant agrees that neither the Premises nor any part thereof shall be sublet nor shall this Lease be assigned by the Tenant, without the prior written consent of the Landlord. Nor shall any assignment for

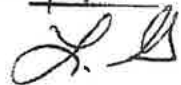
the benefit of Tenant's creditors or by operation of law be effective to transfer any rights to the said assignees without the prior written consent of the Landlord first having been obtained.

23. Insolvency. It is further agreed between the parties hereto that if the Tenant shall be declared insolvent or bankrupt, or if any assignment of the Tenant's property shall be made for the benefit of creditors or otherwise, or if the Tenant's leasehold interest herein shall be levied upon under execution, or seized by virtue of any writ of any court of law, or a Trustee in Bankruptcy or a receiver be appointed for the property of the Tenant, whether under the operation of the state or the federal statutes, then and in any such case, the Landlord may at its option immediately, with or without notice (notice being expressly waived), terminate this Lease and immediately retake possession of the Premises without the same working any forfeiture of the obligations of the Tenant hereunder.

24. Tenant's Default. The Tenant will observe and perform in all things the conditions and agreements herein set forth to be observed and performed by the Tenant, and if default be made by the Tenant in payment of said rent, or in any installment or part thereof, or if default in performance of other conditions and agreements be made by the Tenant, and such non-monetary default shall continue for a period of ten days after written notice of such default be given by the Landlord to the Tenant, then in either case, in addition to any other remedy Landlord may have against Tenant, it shall be lawful for the Landlord to terminate Tenant's right to possession under this Lease, and to re-enter and repossess the Premises, and to remove therefrom any personal property belonging to the Tenant, without prejudice to any claim for rent or for the breach of covenants hereof.

25. Abandonment and/or Default. If the Tenant shall abandon or vacate the Premises before the end of the term of this Lease or shall suffer the rent to be in arrears, or if Tenant is otherwise in default under this Lease, the Landlord may, at its option and without notice, enter the Premises, remove any sign of the Tenant therefrom and re-let the same or any part thereof as it may see fit without retaking, voiding, or terminating this Lease, and for the purpose of such re-letting, the Landlord is authorized to make any repairs, changes, alterations, or additions in or to the Premises as may be necessary or desirable, in the opinion of the Landlord, for the purpose of such re-letting, and, if a sum shall not be realized from such re-letting to equal the monthly rental above stipulated to be paid by the Tenant, the Tenant will pay such deficiency each month upon demand therefor. Landlord shall not be required to relet the subject Premises in order for Tenant to be liable for continuing obligations under the Lease, in the event that the Tenant violates any of the terms and conditions hereof.

26. Lien. The Landlord shall have at all times a valid lien for all rentals due hereunder from the Tenant upon all of the personal property of the Tenant situate in the Premises, and said property shall not be removed therefrom without the consent of the Landlord until all arrearages in rent shall have first been paid and discharged.

Landlord PB Tenant RA


27. Remedies Cumulative. No reference to nor exercise of any specific right or remedy by Landlord shall prejudice or preclude Landlord from exercising or invoking any other remedy in respect thereof, whether allowed at law or in equity or expressly provided for herein. No such remedy shall be exclusive or dependent upon any other such remedy, but Landlord may from time to time exercise any one or more of such remedies independently or in combination.

28. Condition of Premises at End of Term. The Tenant agrees to deliver up and surrender to the Landlord possession of the Premises at the expiration or termination of this Lease, by lapse of time or otherwise, in as good repair as the Tenant obtained the same at the commencement of said term, excepting only ordinary wear and tear.

29. Holding Over. It is mutually agreed that if, after the expiration of this Lease, the Tenant shall remain in possession of the Premises, without a written agreement as to such holding, then such holding over shall be deemed and taken to be a holding upon a tenancy from month to month at a monthly rental equal to the monthly rental last payable hereunder, payable in advance on the first day of each calendar month. Any month-to-month tenancy or tenancy at sufferance hereunder shall be subject to all other terms and conditions of this Lease and nothing contained in this Section 29 shall be construed to alter or impair any of Landlord's rights of re-entry or eviction or constitute a waiver thereof.

30. No Waiver. No waiver of any breach of any one or more of the conditions or covenants of the Lease by the Landlord shall be deemed to imply or constitute a waiver of any succeeding or other breach hereunder. The failure of the Landlord to insist upon the strict performance of the terms, covenants, agreements, and conditions herein contained, or any of them, shall not constitute or be construed as a waiver or relinquishment of the Landlord's right to thereafter enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect. The Tenant acknowledges and agrees that it has not relied upon any statements, representations, agreement, or warranties, except such as are expressed herein.

31. Insurance. During the term of this Lease, Tenant shall:

(a) be responsible for obtaining fire insurance in an amount sufficient to fully cover the Property, as well as Tenant's improvements, fixtures and property in the Premises which are not owned by Landlord and Landlord shall have no responsibility to obtain such insurance; and

(b) maintain at its own expense, liability insurance, with Landlord named as an additional insured, against claims for death, personal injury and property damage in or about the Premises, in an amount not less than \$1,000,000.00 for death, illness or injury to one or more persons, and \$1,000,000.00 for property damage, in respect of each occurrence.

Policies for such insurance shall be in a form and with an insurer reasonably acceptable to Landlord, shall require at least 15 days written notice to Landlord of

termination or material alteration during the term of this Lease, and shall waive any right of subrogation against Landlord and all individuals and entities for whom Landlord is responsible in law. Tenant shall deliver to Landlord, on the commencement date of the term of this Lease and on each anniversary thereof, certified copies or other evidence of such policies, or other evidence satisfactory to Landlord that all premiums thereof have been paid and that the policies are in full force and effect.

32. Successors. The covenants and agreements contained in the within Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and upon their respective heirs, executors, administrators, successors, and assigns, except as expressly otherwise hereinbefore provided.

33. General Provisions:

(a) Attorney Fees. In the event of a default by either party under the terms of this Lease, then the non-defaulting party shall be entitled to reimbursement of all reasonable costs incurred in efforts to enforce the terms of this Lease and/or collect monies owed under the Lease, including but not limited to the non-defaulting party's reasonable attorney fees.

(b) Late Charges. In the event Tenant fails to timely pay any installment of monies as required under this Lease, then and in such event, Landlord shall be entitled to collect a late fee \$50/day for any installment not paid within five days of the due date until such payment is made.

(c) Memorandum of Lease. Tenant agrees, from time to time, to complete and execute a memorandum of lease for filing with the Department of Revenue, State of Colorado, in compliance with Sections 39-22-604, 39-26-117, and 39-26-205, C.R.S., or similar laws.

(d) Brokerage Fees. Landlord shall have no liability for any brokerage or finder's fees as a result of entering into this Lease.

(f) Time of the Essence. The parties hereto agree that time is of the essence of this Lease.

34. Landlord's Assignment. Landlord may, without notice, assign this Lease in whole or in part. Any such assignment shall operate to release Landlord from liability from and after the effective date thereof upon all of the covenants, terms and conditions of this lease, express or implied, and Tenant shall thereafter look solely to Landlord's successor in interest in and to this Lease. This Lease shall not be affected by any such assignment, and Tenant shall attorn to Landlord's successor in interest thereunder.

35. Estoppel. Tenant shall, at any time and from time to time, upon not less than ten (10) days' prior notice from Landlord, execute, acknowledge and deliver a written

Landlord PB Tenant RA
J.A.

statement ratifying this Lease and certifying any information concerning Tenant's lease and occupancy of the Premises reasonably required by Landlord.

36. Payment of Rent; in General. All amounts payable by Tenant to Landlord under this Lease shall be deemed to be rent and shall be payable and recoverable as rent in the manner herein provided, and Landlord shall have all rights against Tenant for default in any such payment as in the case of arrears of rent.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

LANDLORD:

For: BENNINGFIELD AND HEIGELE LLC

TENANT:

Name:

Leticia Garcia

Payment submitted by Tenant upon execution of Lease:

Landlord hereby acknowledges the receipt of the above amount upon execution of the Lease.

Landlord

May 10, 2024



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Community Development	Carolyn Poissant - Senior Planner	July 2, 2024

AGENDA ITEM

Resolution 2024-39: A resolution declaring the Salida Quality Farms, LLC / Meadowlark Drive Annexation is in substantial compliance with city ordinances and state statutes and setting a public hearing for August 20, 2024.

BACKGROUND

On June 5, 2024, staff received an application from Salida Quality Farms, LLC represented by James L. Treat to annex a 43.02 - acre property described as Meadowlark Subdivision Exemption Plat Lots 1 and 2 (Parcel Number 380706200024), located on Meadowlark Drive between CR 120 and CR 140 adjacent to the western edge of Angelview Subdivision along with portions of County Road 120 and County Road 140, for a total of 48.98 acres. Presentations were given to City Council on May 20, 2024 and July 1, 2024 regarding the "Places to Age" senior housing concept, which is one of the proposed uses of the property.

When annexing a property, the City must follow adopted state laws which provide a framework and procedures to follow. Below is a brief summary of the steps and standards that need to be followed according to Colorado Revised Statutes, as follows:

- A minimum of 1/6th (16.67%) of the perimeter of the proposed annexation must be contiguous with the City of Salida city limits.
- Staff reviews the petition for compliance with city and state statutes.
- Council adopts a resolution stating the petition is valid and sets a public hearing date that is no less than 30 days and no greater than 60 days from the resolution date.
- The City Council public hearing is advertised in the newspaper for four consecutive weeks.
- Planning Commission holds a public hearing to review the annexation and recommend the zoning designation of the property.
- City Council holds a public hearing on the annexation petition.
- City Council reviews and acts on an annexation agreement.
- Council holds a public hearing to review and act on the proposed zoning.

RECOMMENDATION

Staff finds the proposed annexation in substantial compliance with city and state statutes and recommends City Council adopt the proposed resolution setting a public hearing for August 20, 2024.

MOTION

A City Councilmember should state, "I move to _____ Resolution 2024-39 declaring the Salida Quality Farms, LLC / Meadowlark Drive Annexation is in substantial compliance with city ordinances and state statutes and setting a public hearing for August 20, 2024," followed by a second and a roll call vote.

Attachments: A-1 Resolution 2024-39
A-2 Annexation petition and supporting documents
A-3 Annexation plats

**CITY OF SALIDA, COLORADO
RESOLUTION NO. 39
SERIES OF 2024**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO,
FINDING THE SALIDA QUALITY FARMS, LLC / MEADOWLARK DRIVE
ANNEXATION PETITION TO BE IN SUBSTANTIAL COMPLIANCE WITH STATE
STATUTES AND SETTING A PUBLIC HEARING ON SAID PETITION.**

WHEREAS, on June 5, 2024, James L. Treat representing Salida Quality Farms, LLC filed a General Development Application (the “Petition”) to commence proceedings to annex to the City of Salida (the “City”) a certain unincorporated tract of land comprised of 48.98 acres located on Meadowlark Drive and including portions of County Road 120 and County Road 140 rights-of-way in the County of Chaffee, State of Colorado (the “Property”), and being more particularly described on Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, after review of the annexation Petition and map, the City planning staff advised the City Council that the Petition and map are in substantial compliance with the state statutes, as required by C.R.S. § 31-12-101 *et seq.*; and

WHEREAS, the Petition alleges as follows:

1. It is desirable and necessary that the territory described above be annexed to the City of Salida, Colorado.
2. The requirements of C.R.S. § 31-12-104, as amended, exist or have been met, including without limitation the following:
 - a. Not less than 1/6th of the perimeter of the area proposed to be annexed is contiguous with the City of Salida, Colorado.
 - b. A community of interest exists between the area proposed to be annexed and the City of Salida, Colorado.
 - c. The area proposed to be annexed is urban or will be urbanized in the near future.
 - d. The area proposed to be annexed is integrated with or is capable of being integrated with the City of Salida, Colorado.
3. The requirements of C.R.S. § 31-12-105, as amended, exist or have been met, including without limitation the following:
 - a. In establishing the boundaries of the area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate:
 - i. has been divided into separate parts or parcels without the written consent of the landowner or landowners thereof.

- ii. comprising twenty (20) acres or more (which together with buildings and improvements situated thereon having a valuation for assessment in excess of \$200,000.00 for ad valorem tax purposes for the year preceding the proposed annexation), has been included without the written consent of the landowners.
- b. No annexation proceedings have been commenced for the annexation to a municipality other than the City of Salida, Colorado, of all or part of the territory proposed to be annexed.
- c. The annexation proposed in the Petition will not result in the detachment of area from any school district and the attachment of the same area to another school district.
- d. The annexation proposed in the Petition will not have the effect of extending the municipal boundary of the City of Salida more than three (3) miles in any direction from any point on the current municipal boundary of the City in any one year; and

WHEREAS, the City finds that the Petition is in compliance with Salida Municipal Code (SMC) §§ 16-9-10 through 16-9-40; and

WHEREAS, the City has or will have in place a plan meeting the requirements of C.R.S. §31-12-105(e) prior to the effective date of the proposed annexation; and

WHEREAS, no election for annexation of the area proposed to be annexed to the City of Salida has been held in the preceding twelve (12) months; and

WHEREAS, the signers of the Petition are the owners of one hundred percent (100%) of the territory proposed to be annexed, exclusive of public streets and alleys; and

WHEREAS, the annexation to the City of Salida, Colorado of the area proposed to be annexed will not result in a change of county boundaries; and

WHEREAS, the names and mailing addresses of the signers of the Petition and date of signing are included in the Petition, and the legal descriptions of the land owned by Petitioner is attached to the Petition. No signature on the Petition is dated more than 180 days prior to the date of filing of the Petition for annexation with the City Clerk; and

WHEREAS, the Petition is accompanied by four (4) or more copies of an Annexation Map containing, among other things, the following information:

- 1. A written legal description of the boundaries of the area proposed to be annexed to the City of Salida, Colorado;
- 2. The boundary of the area proposed to be annexed to the City of Salida, Colorado;

3. Within the annexation boundary map, a showing of the location of each ownership tract in un-platted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks; and
4. Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the City of Salida, Colorado; and

WHEREAS, none of the area proposed to be annexed to the City of Salida, Colorado, is presently a part of any incorporated city, city and county, or town, and is not contiguous to any other incorporated city, city and county, or town; and

WHEREAS, it appears that the Petition filed as aforesaid is in substantial compliance with the requirements of the Municipal Annexation Act of 1965, C.R.S. § 31-12-107(1), as amended.

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

1. The City incorporates the foregoing recitals as findings by the City Council.
2. The Petition is in substantial compliance with the requirements of the Municipal Annexation Act of 1965, C.R.S. § 31-12-107(1), as amended.
3. The City Council of the City of Salida, Colorado, will hold a hearing upon the Petition for the purpose of determining and finding whether the area proposed to be annexed meets the applicable requirements of C.R.S. § 31-12-104, § 31-12-105, and SMC §§ 16-9-10 through 16-9-40, all as amended, and is considered eligible for annexation. The hearing shall be held on August 20, 2024 commencing at the hour of 6 p.m. in the City Council Chambers, 448 East First Street, Salida, Colorado.
4. Any person may appear at such hearing and present evidence upon any matter to be determined by the City Council of the City of Salida, Colorado.

RESOLVED, APPROVED AND ADOPTED this 2nd day of July, 2024.

CITY OF SALIDA, COLORADO

Dan Shore, Mayor

[SEAL]
ATTEST:

City Clerk/Deputy City Clerk

EXHIBIT A

ANNEXATION PARCEL A – 1 - LEGAL DESCRIPTION

ANNEXATON PARCEL A – 2 - LEGAL DESCRIPTION

**LEGAL DESCRIPTION
OF
A TRACT OF LAND**

A - 1

ALL THAT TRACT OF LAND LOCATED IN THE NORTH HALF (N 1/2) OF SECTION 6, TOWNSHIP 49 NORTH, RANGE 9 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN, CHAFFEE COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT, MARKED BY A 1 1/2" ALUMINUM CAP STAMPED LS 16117, FROM WHENCE THE REFERENCE MONUMENT TO THE NORTH QUARTER CORNER OF SAID SECTION 6 BEARS NORTH 71°50'25" EAST, A DISTANCE OF 1067.19 FEET, SAID REFERENCE MONUMENT LIES 14.82 FEET DUE NORTH OF THE QUARTER CORNER AND IS MARKED BY A 2 1/2" ALUMINUM CAP WITNESS CORNER STAMPED LS 16117;
THENCE SOUTH 01°27'06" WEST, A DISTANCE OF 228.98 FEET;
THENCE NORTH 88°37'33" WEST, A DISTANCE OF 499.49 FEET;
THENCE SOUTH 09°16'37" EAST, A DISTANCE OF 993.48 FEET TO THE NORTHERLY RIGHT-OF-WAY OF CHAFFEE COUNTY ROAD NO.120;
THENCE SOUTH 35°52'34" EAST, A DISTANCE OF 78.90 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF SAID CHAFFEE COUNTY ROAD NO.120;
THENCE NORTH 54°11'52" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY, A DISTANCE OF 769.79 FEET;
THENCE NORTH 35°52'31" WEST, A DISTANCE OF 86.72 FEET TO SAID NORTHERLY RIGHT-OF-WAY OF CHAFFEE COUNTY ROAD NO.120;
THENCE SOUTH 54°14'56" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY, A DISTANCE OF 379.80 FEET;
THENCE NORTH 35°43'57" WEST, A DISTANCE OF 175.58 FEET;
THENCE NORTH 54°19'23" EAST, A DISTANCE OF 379.80 FEET;
THENCE NORTH 16°04'31" WEST, A DISTANCE OF 622.98 FEET TO THE POINT OF BEGINNING.
CONTAINING 10.99 ACRES, MORE OR LESS.



**LEGAL DESCRIPTION
OF
A TRACT OF LAND**

A-2

ALL THAT TRACT OF LAND LOCATED IN THE NORTH HALF (N 1/2) OF SECTION 6, TOWNSHIP 49 NORTH, RANGE 9 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN, CHAFFEE COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 COMMENCING AT A POINT, MARKED BY A 1 1/2" ALUMINUM CAP STAMPED LS 16117, FROM WHENCE THE REFERENCE MONUMENT TO THE NORTH QUARTER CORNER OF SAID SECTION 6 BEARS NORTH 71°50'25" EAST, A DISTANCE OF 1,067.19 FEET, SAID REFERENCE MONUMENT LIES 14.82 FEET DUE NORTH OF THE QUARTER CORNER AND IS MARKED BY A 2 1/2" ALUMINUM CAP WITNESS CORNER STAMPED LS 16117;
 THENCE SOUTH 01°27'06" WEST, A DISTANCE OF 228.98 FEET;
 THENCE NORTH 88°37'33" WEST, A DISTANCE OF 499.49 FEET TO A #5 REBAR WITH STEEL TAG STAMPED LS 6753 AND THE TRUE POINT OF BEGINNING;
 THENCE NORTH 01°14'55" EAST, A DISTANCE OF 505.90 FEET TO THE SOUTH RIGHT-OF-WAY OF CHAFFEE COUNTY ROAD 140;
 THENCE SOUTH 88°30'09" EAST ALONG SAID SOUTH RIGHT-OF-WAY, A DISTANCE OF 246.18 FEET;
 THENCE NORTH 01°00'32" EAST, A DISTANCE OF 81.14 FEET TO THE NORTH RIGHT-OF-WAY OF SAID CHAFFEE COUNTY ROAD 140;
 THENCE NORTH 88°30'31" WEST, A DISTANCE OF 60.01 FEET;
 THENCE NORTH 88°36'35" WEST, A DISTANCE OF 948.80 FEET, THIS AND THE PRECEDING COURSE ARE ALONG SAID NORTH RIGHT-OF-WAY OF CHAFFEE COUNTY ROAD 140;
 THENCE SOUTH 01°23'25" WEST, A DISTANCE OF 83.07 FEET TO SAID SOUTH RIGHT-OF-WAY OF CHAFFEE COUNTY ROAD 140 AND THE NORTHWEST CORNER OF LOT 1, MEADOWLARK SUBDIVISION EXEMPTION;
 THENCE SOUTH 01°28'16" WEST, A DISTANCE OF 529.30 FEET;
 THENCE NORTH 88°38'51" WEST, A DISTANCE OF 238.72 FEET;
 THENCE SOUTH 01°25'56" WEST, A DISTANCE OF 479.52 FEET;
 THENCE SOUTH 01°12'14" WEST, A DISTANCE OF 59.87 FEET;
 THENCE SOUTH 01°24'14" WEST, A DISTANCE OF 399.57 FEET TO THE SOUTHWEST CORNER OF LOT 2, MEADOWLARK SUBDIVISION EXEMPTION;
 THENCE SOUTH 89°41'44" EAST, A DISTANCE OF 250.09 FEET TO A POINT OF CURVATURE;
 THENCE SOUTHEASTERLY A DISTANCE OF 682.76 FEET ALONG A CURVE DEFLECTING TO THE RIGHT AND HAVING A RADIUS OF 679.60 FEET, A DELTA ANGLE OF 57°33'44", A CHORD BEARING OF SOUTH 60°54'52" EAST AND A CHORD LENGTH OF 654.41 FEET TO THE NORTHERLY RIGHT-OF-WAY OF CHAFFEE COUNTY ROAD 120;
 THENCE SOUTH 30°30'00" EAST, A DISTANCE OF 58.27 FEET TO THE SOUTH RIGHT-OF-WAY OF CHAFFEE COUNTY ROAD 120;
 THENCE NORTH 59°30'00" EAST, A DISTANCE OF 89.65 FEET;
 THENCE NORTH 54°11'52" EAST, A DISTANCE OF 375.89 FEET, THIS AND THE PRECEDING COURSE ARE ALONG SAID SOUTH RIGHT-OF-WAY OF CHAFFEE COUNTY ROAD 120;

THENCE NORTH 35°52'34" WEST, A DISTANCE OF 78.90 FEET TO THE NORTH RIGHT-OF-WAY OF CHAFFEE COUNTY ROAD 120;
THENCE NORTH 09°16'37" WEST, A DISTANCE OF 993.48 FEET TO THE POINT OF BEGINNING.
CONTAINING 37.99 ACRES, MORE OR LESS.

PREPARED BY:



To: Salida City Council

June 5, 2024

From: Salida Quality Farms LLC owner James Treat and Places to Age Board of Directors

Attached is the annexation application for 43 acres titled as Salida Quality Farms LLC on Meadowlark Drive currently in unincorporated Chaffee County. The annexation area also includes approximately 6 acres of adjacent public right of way, for a total annexation area of 49 acres. This is prime property to add to the City of Salida as it conforms to the county future land use map. It is also within the current Municipal Service Area. As indicated on the attached plat 4 acres on the east side of the property will be donated to the City for park land. This is adjacent to the 3/4 acre designated as park by the neighboring property AngelView Apartments LLC to help meet the goal of the Salida Parks and Recreation department for a large park for multi use in the area. As well as the walkways shown on the plat additional pathways and trails will be designated in future development plans to support a residential mixed use pedestrian friendly community.

Annexation application package includes:

1. Letter of Intent
2. General Development application and title/warranty deed
3. Annexation Petition (8 pages) & Petition for Exclusion from SAFPD(declined)
4. Annexation Map including Site Survey and Conceptual Plan
5. Major Impact Submittal Requirements (6 pages)
6. Public Notices including list of adjoining property owners and stamped addressed envelopes to same.
7. Special fee and Cost Reimbursement Agreement (4 pages) (to be provided by the city and given to Mr. Treat for notarized signature)

After annexation the owner has committed to donate 10 acres to Places to Age, a non profit organization bringing Assisted Living and Memory Care facilities to the county. Such age appropriate housing with a wide array of medical services is not currently available necessitating those in need to move away from a place they have called home when they would prefer to remain and contribute to the community. Four acres of land indicated on the concept plat are noted to be dedicated to city park land. Two of these acres are from the 10 acres of donated land gifted to Places to Age and two acres are from the land owner.

In alignment with the character of the community of Salida, Places to Age is planning to build several group homes housing 12 to 15 residents each rather than a large institutional style building. This type of resident oriented Assisted Living/Memory Care facility is becoming the norm in our country as it offers a better quality of life for both residents and staff. It is a plus that the property is close to the Heart of the Rockies Regional Medical Center to permit potential shared medical services and staff. The Assisted Living/Memory Care facilities will bring approximately 40 new job opportunities and Places to Age is collaborating with Colorado Mountain College to offer related training programs to enhance career growth opportunities. Places to Age is working with both the Chaffee Housing Authority and Chaffee Housing Trust to plan for affordable housing options that can support the staff for the facilities as well as the greater community.

The remaining 31 acres of the property will be open for development with an emphasis on quality and affordable housing for older adults. This complements both the Comprehensive Plan and the Recreation Master Plan of the City of Salida.

Rezoning as R-3 is requested which supports the Comprehensive Plan's goal of building to allow for economies of scale with infrastructure use. The property is designated as mixed use residential in the future county land use plan.

We encourage the Salida City Council and Salida Planning Commission to approve this annexation. In addition to providing much needed land for housing this will make possible the retention of older adults who need extended services and enhance the reality of the City of Salida being a community for all ages.



GENERAL DEVELOPMENT APPLICATION

448 East First Street, Suite 112

Salida, CO 81201

Phone: 719-539-4555 Fax: 719-539-5271

Email: planning@cityofsalida.com

Item 7.

1. TYPE OF APPLICATION (Check-off as appropriate)

- | | |
|--|--|
| ☒ Annexation | ☐ Administrative Review:
(Type) _____ |
| ☐ Pre-Annexation Agreement | |
| ☐ Appeal Application (Interpretation) | |
| ☐ Certificate of Approval | ☐ Limited Impact Review:
(Type) _____ |
| ☐ Creative Sign Permit | |
| ☐ Historic Landmark/District | ☒ Major Impact Review:
(Type) <u>Rezone</u> |
| ☐ License to Encroach | |
| ☐ Text Amendment to Land Use Code | ☐ Other: _____ |
| ☐ Watershed Protection Permit | |
| ☐ Conditional Use | |

2. GENERAL DATA (To be completed by the applicant)

A. Applicant Information

Name of Applicant: Salida Quality Farms LLC (owner James L Treat)

Mailing Address: 225 G Street, Salida, CO 81201

Telephone Number: 719-539-4391 FAX: _____

Email Address: chaffee@title@gmail.com

Power of Attorney/ Authorized Representative: _____
(Provide a letter authorizing agent to represent you, include representative's name, street and mailing address, telephone number, and FAX)

B. Site Data

Name of Development: Salida Quality Farms LLC

Street Address: Meadowlark Drive

Legal Description: Lot 1 & 2 Block _____ Subdivision Meadowlark (attach description)

Disclosure of Ownership: List all owners' names, mortgages, liens, easements, judgments, contracts and agreements that run with the land. (May be in the form of a current certificate from a title insurance company, deed, ownership and encumbrance report, attorney's opinion, or other documentation acceptable to the City Attorney)

I certify that I have read the application form and that the information and exhibits herewith submitted are true and correct to the best of my knowledge.

Signature of applicant/agent _____ Date _____

Signature of property owner: James L Treat Date 5-31-2024

WARRANTY DEED

THIS DEED, made this 27th day of December, 2012, between

James L. Treat and Wanda L. Treat

of the County of Chaffee and State of Colorado, Grantor, and

Salida Quality Farms, LLC,
a Colorado Limited Liability Company,

whose legal address is: 225 G Street, Salida, Colorado 81201
of the County of Chaffee and State of Colorado, grantee:

WITNESS, that the grantor, for and in consideration of the sum of (\$10.00) Ten dollars and Zero cents, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the grantee, its heirs and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Chaffee and State of Colorado, described as follows:

See Exhibit "A" attached hereto and incorporated by reference herein.

Also known by street and number as: 7800 County Road 120, Salida, CO 81201.

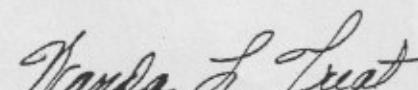
TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

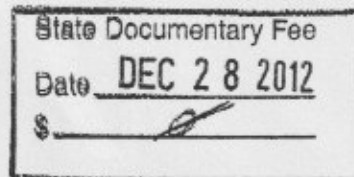
TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the grantee, its heirs and assigns forever. And the grantor, for himself, his heirs, and personal representatives, does covenant, grant, bargain, and agree to and with the grantee, its heirs and assigns, that at the time of the ensembling and delivery of these presents, he was well seized of the premises above conveyed, had good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and had good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, except general taxes for 2012 and subsequent years, and except easements, rights-of-way, restrictive covenants and reservations, if any.

The grantor shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of the grantee, its heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof. The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the grantor has executed this deed on the date set forth above.


James L. Treat


Wanda L. Treat



STATE OF COLORADO

) ss.

COUNTY OF CHAFFEE

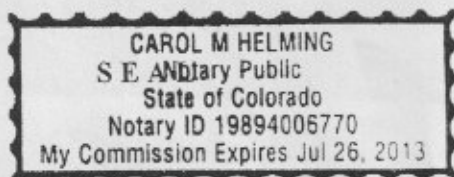
)

Item 7.

The foregoing instrument was acknowledged before me this 27th day of December, 2012, by James L. Treat and Wanda L. Treat.

My commission expires: July 26, 2013

Witness my hand and official seal.



Carol M Helming
Notary Public

EXHIBIT "A" Continued

Lots 1 and 2

Meadowlark Subdivision Exemption

as shown on Plat filed March 16, 2005

at Reception No. 349581.

Accts with Reception #s With Books and Pages by NAME

ACCT NO.	R380706200024	ACCTTYPE	Vacant Land	TAX DISTRICT	06	SHORTENED LEGAL DESCRIPTION
OWNER	SALIDA QUALITY FARMS LLC			2023 ACTUAL VALUE	\$1,213,765	LOTS 1 & 2 MEADOWLARK
				2023 ASSESSED VALUE	\$338,640	SUBDIVISION
				2023 TAX DOLLARS	\$16,286.89	EXEMPTION PLAT 349581
	225 G ST					SUB272 REC
	SALIDA	CO 812012018				404372 INCLUDES 3807062-00-025
1	MEADOWLARK DR		UNINCORPORATED CHAFFEE COUNTY			
RECEIPT NO.	BOOK	PAGE	GRANTOR	GRANTEE		SALL DATE
404372			TREAT JAMES L	SALIDA QUALITY FARMS LLC		2012-12-27

TO THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, GREETINGS:

The undersigned hereby petition(s) the City of Salida to annex to the City of Salida the territory shown on the map(s) attached hereto and described on the attachment hereto:

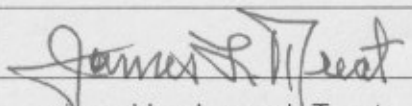
This Petition is signed by the landowners qualified to sign. It is intended that this Petition be a one hundred percent (100%) petition for annexation as described in C. R. S. 1973, Section 31-12-107(l)(g), (as amended).

In support of this petition, the undersigned state(s) and allege(s) as follows, to wit:

1. That it is desirable and necessary that the above-described territory be annexed to the City of Salida.
2. That petitioners are landowners of one hundred percent (100%) of the territory, excluding streets and alleys, herein proposed for annexation to the City of Salida.
3. That no less than one-sixth of the aggregate external boundaries of the above-described territory hereby petitioned to the City of Salida is contiguous to the City limits of the City of Salida.
4. Accompanying this petition are two mylars and twenty copies of the annexation map.
5. That a community of interest exists between the above-described territory and the City of Salida, and that the same is urban, or will be urbanized in the near future, and further that the said territory is integrated or is capable of being integrated in the City of Salida.
6. That the above-described territory does not include any area which is the same or substantially the same area in which an election for an annexation to the City of Salida, was held within the twelve months preceding the filing of this petition.
7. That the above-described territory does not include any area included in another annexation proceeding involving city other than the City of Salida.
8. That the above-described territory is not presently a part of any incorporated city, city and county, or town.
9. That the above area described will (not) result in the detachment of the area from any school district and the attachment of the same to another school district.

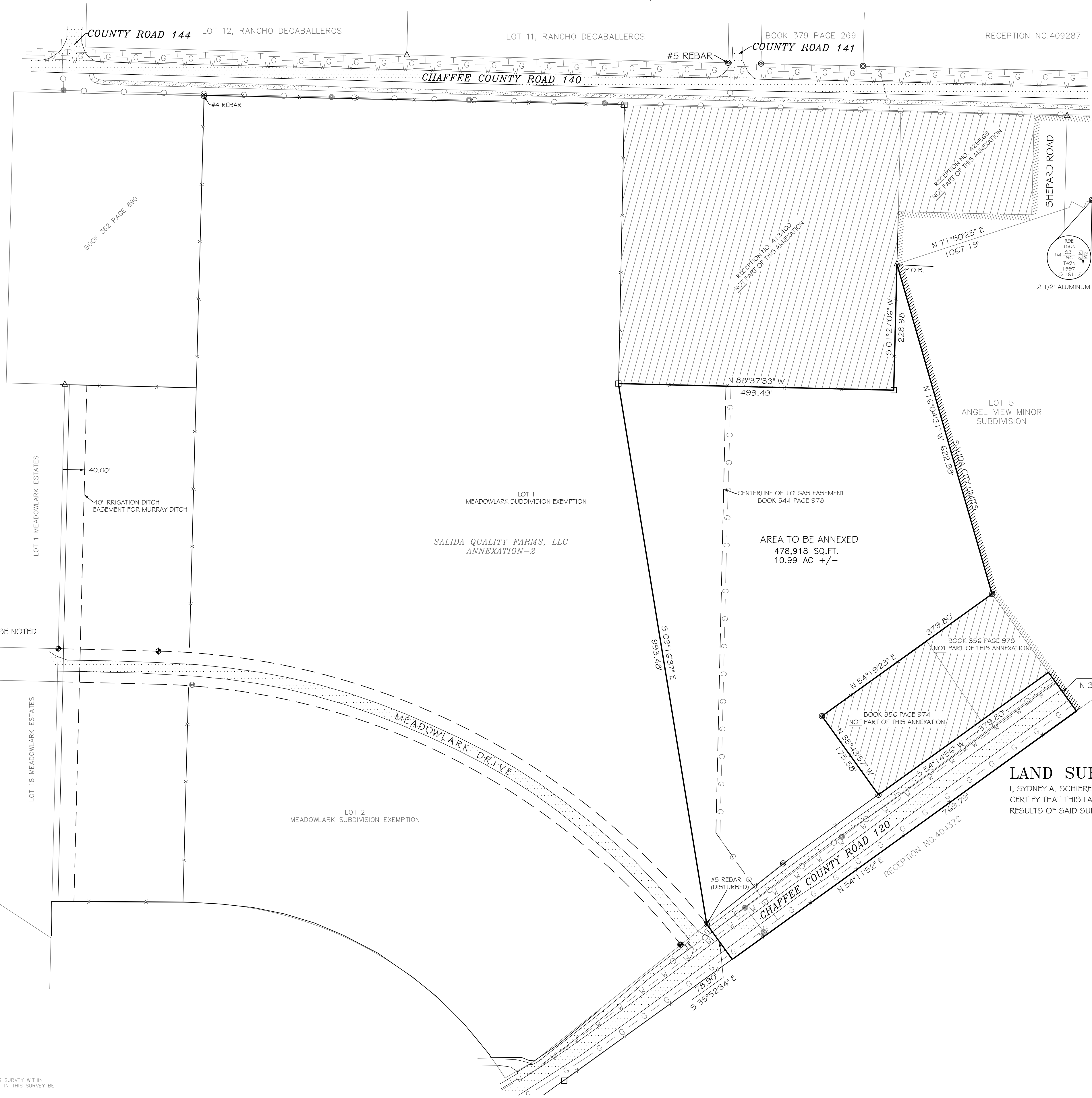
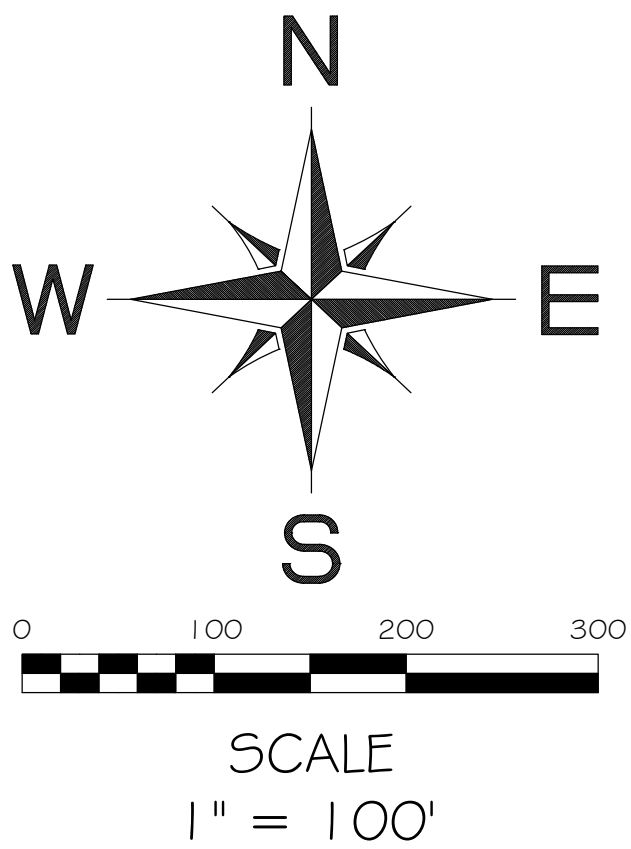
ANNEXATION PETITION

This Section must be filled out if there are multiple properties/property owners petitioning annexation.

Signature of Petitioners Requesting Annexation to the City of Salida, Colorado	Date of Signature of Each Petitioner	Mailing Address of each Petitioner	Description of Property Included the Area Proposed for Annexation Owned by Each person Signing this Petition. (Attach separate sheet, if neces
 signed by James L. Treat		225 G Street, Salida, CO 81201	
			Salida Quality Farms LLC Lots 1&2
			Meadowlark subdivision Exemption Plat
			348581 SUB 272 REC 404372 includes 380' ±

SALIDA QUALITY FARMS, LLC/MEADOWLARK DRIVE
ANNEXATION-1

A PORTION OF LOT 1, MEADOWLARK SUBDIVISION EXEMPTION AND A PORTION OF COUNTY ROAD 120,
LOCATED WITHIN THE NORTH HALF OF SECTION 6, TOWNSHIP 49 NORTH, RANGE 9 EAST OF THE
NEW MEXICO PRINCIPAL MERIDIAN,
CHAFFEE COUNTY, COLORADO



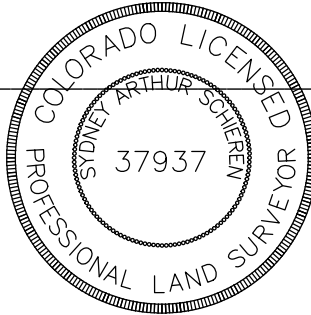
LEGEND

- FOUND 1" ALUMINUM CAP, LS 1776, UNLESS OTHERWISE NOTED
- FOUND #5 REBAR WITH STEEL TAG, LS 6753
- △ FOUND 1 1/2" ALUMINUM CAP, LS 16117
- ◆ FOUND 1 1/2" ALUMINUM CAP, LS 23904
- ⊙ WATER VALVE
- ⊙ WATER METER
- ⊙ POWER POLE
- ⊙ SEWER MAN HOLE
- ⊙ TELEPHONE PEDESTAL
- X — FENCE
- ○ — OVERHEAD UTILITY
- W — UNDERGROUND WATER LINE
- G — UNDERGROUND GAS LINE
- T — OVERHEAD TELEPHONE LINE

LAND SURVEYOR'S CERTIFICATE

I, SYDNEY A. SCHIEREN, A REGISTERED LAND SURVEYOR LICENSED TO PRACTICE IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS LAND SURVEY WAS PERFORMED UNDER MY DIRECT SUPERVISION, AND THAT THE PLAT REPRESENTS THE RESULTS OF SAID SURVEY AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SYDNEY A. SCHIEREN
COLORADO P.L.S. 37937



REVISED:
DATE: MAY 6, 2024
DATE: MAY 9, 2024
DATE: JUNE 14, 2024
JOB # 23108
DATE: SEPTEMBER 20, 2023
SHEET 2 OF 2

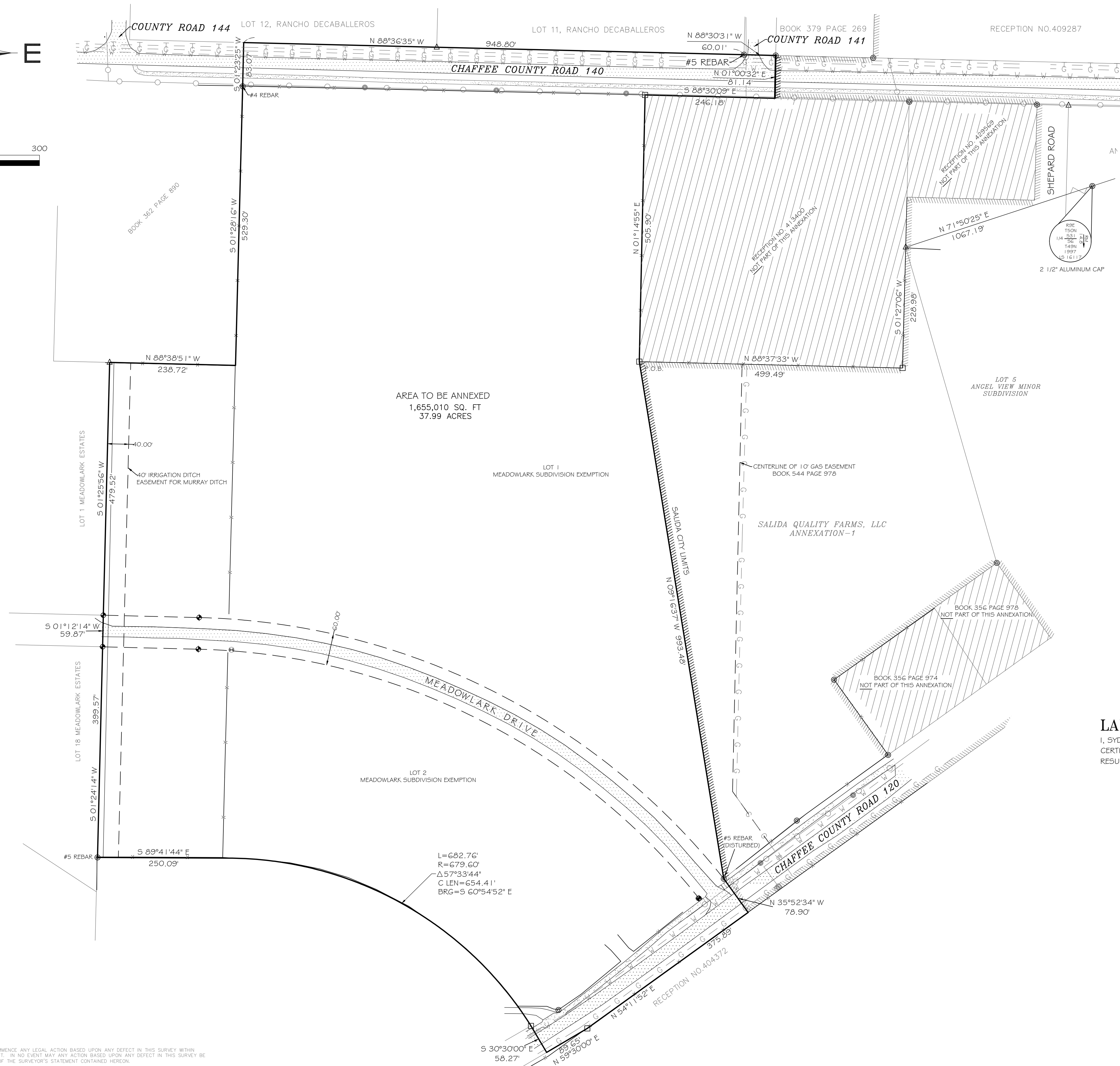
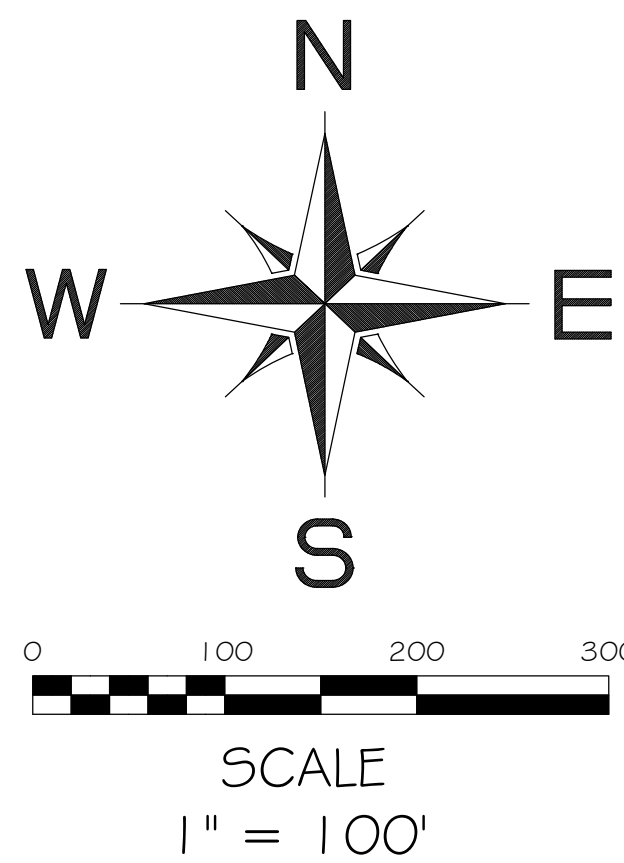
**SALIDA QUALITY FARMS, LLC
MEADOWLARK DRIVE
ANNEXATION-1**
A PORTION OF LOT 1, MEADOWLARK
SUBDIVISION EXEMPTION AND A PORTION
OF COUNTY ROAD 120,
LOCATED WITHIN THE NORTH HALF OF
SECTION 6, TOWNSHIP 49 NORTH, RANGE 9
EAST OF THE NEW MEXICO PRINCIPAL
MERIDIAN
CHAFFEE COUNTY, COLORADO



NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE SURVEYOR'S STATEMENT CONTAINED HEREON.

SALIDA QUALITY FARMS, LLC/MEADOWLARK DRIVE ANNEXATION-2

A PORTION OF LOT 1 AND LOT 2, MEADOWLARK SUBDIVISION EXEMPTION AND PORTIONS OF COUNTY ROADS 120 AND 140, LOCATED WITHIN THE NORTH HALF OF SECTION 6, TOWNSHIP 49 NORTH, RANGE 9 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN, CHAFFEE COUNTY, COLORADO



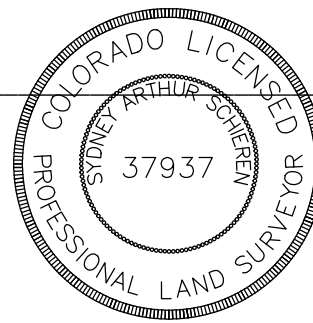
LEGEND

- ⊙ FOUND 1" ALUMINUM CAP, LS 1776, UNLESS OTHERWISE NOTED
- FOUND #5 REBAR WITH STEEL TAG, LS 6753
- △ FOUND 1 1/2" ALUMINUM CAP, LS 16117
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PRELIMINARY DRAFT
INTENDED FOR REVIEW BY CLIENT



REVISED:	SALIDA QUALITY FARMS, LLC
DATE: MAY 6, 2024	MEADOWLARK DRIVE
DATE: MAY 9, 2024	ANNEXATION-2
DATE: JUNE 14, 2024	A PORTION OF LOT 1 AND LOT 2, MEADOWLARK
	SUBDIVISION EXEMPTION AND PORTIONS OF
	COUNTY ROADS 120 AND 140,
	LOCATED WITHIN THE NORTH HALF OF SECTION 6,
	TOWNSHIP 49 NORTH, RANGE 9 EAST OF THE
	NEW MEXICO PRINCIPAL MERIDIAN,
	CHAFFEE COUNTY, COLORADO
JOB # 23108	LANDMARK
DATE: SEPTEMBER 20, 2023	SURVEYING & MAPPING
SHEET 2 OF 2	P.O. BOX 668 SALIDA, CO 81201
	PH 719.539.4021 FAX 719.539.4031



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Community Development	Carolyn Poissant - Senior Planner	July 2, 2024

AGENDA ITEM

Resolution 2024 - 40: A resolution declaring the Suesse Annexation is in substantial compliance with city ordinances and state statutes and setting a public hearing for August 20, 2024.

BACKGROUND

On May 22, 2024, staff received an application from Ned Suesse to annex a 5.71-acre property located at 6953 County Road 105 (Parcel Number 380709100081) and a 0.27-acre portion of Confluence Road right-of-way. A pre-annexation agreement regarding the property called for the annexation to once contiguity had been achieved along with right-of-way and open space dedications. The petitioner has included a portion of the Confluence Road right-of-way in this application but does not wish to provide any other dedications at this time. Additional conditions were included in the petitioner's Letter of Intent with the Annexation Petition.

When annexing a property, the City must follow adopted state laws which provide a framework and procedures to follow. Below is a brief summary of the steps and standards that need to be followed according to Colorado Revised Statutes, as follows:

- A minimum of 1/6th (16.67%) of the perimeter of the proposed annexation must be contiguous with the City of Salida city limits.
- Staff reviews the petition for compliance with city and state statutes.
- Council adopts a resolution stating the petition is valid and sets a public hearing date that is no less than 30 days and no greater than 60 days from the resolution date.
- The City Council public hearing is advertised in the newspaper for four consecutive weeks.
- Planning Commission holds a public hearing to review the annexation and recommend the zoning designation of the property.
- City Council holds a public hearing on the annexation petition.
- City Council reviews and acts on an annexation agreement.
- Council holds a public hearing to review and act on the proposed zoning.

RECOMMENDATION

Staff finds the proposed annexation in substantial compliance with city and state statutes and recommends City Council adopt the proposed resolution setting a public hearing for August 20, 2024.

MOTION

Item 8.

A City Councilmember should state, "I move to _____ Resolution 2024- 40 declaring the Salida Quality Farms, LLC / Meadowlark Drive Annexation is in substantial compliance with city ordinances and state statutes and setting a public hearing for August 20, 2024," followed by a second and a roll call vote.

Attachments: Resolution 2024-40
Annexation petition
Annexation plat

**CITY OF SALIDA, COLORADO
RESOLUTION NO. 40
SERIES OF 2024**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO,
FINDING THE SUESSE ANNEXATION PETITION TO BE IN SUBSTANTIAL
COMPLIANCE WITH STATE STATUTES AND SETTING A PUBLIC HEARING ON
SAID PETITION.**

WHEREAS, on May 22, 2024, Ned Suesse filed a General Development Application (the “Petition”) to commence proceedings to annex to the City of Salida (the “City”) a certain unincorporated tract of land comprised of 5.86 acres located at 6953 County Road 105 in the County of Chaffee, State of Colorado (the “Property”), and being more particularly described on Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, after review of the annexation Petition and map, the City planning staff advised the City Council that the Petition and map are in substantial compliance with the state statutes, as required by C.R.S. § 31-12-101 *et seq.*; and

WHEREAS, the Petition alleges as follows:

1. It is desirable and necessary that the territory described above be annexed to the City of Salida, Colorado.
2. The requirements of C.R.S. § 31-12-104, as amended, exist or have been met, including without limitation the following:
 - a. Not less than 1/6th of the perimeter of the area proposed to be annexed is contiguous with the City of Salida, Colorado.
 - b. A community of interest exists between the area proposed to be annexed and the City of Salida, Colorado.
 - c. The area proposed to be annexed is urban or will be urbanized in the near future.
 - d. The area proposed to be annexed is integrated with or is capable of being integrated with the City of Salida, Colorado.
3. The requirements of C.R.S. § 31-12-105, as amended, exist or have been met, including without limitation the following:
 - a. In establishing the boundaries of the area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate:
 - i. has been divided into separate parts or parcels without the written consent of the landowner or landowners thereof.

- ii. comprising twenty (20) acres or more (which together with buildings and improvements situated thereon having a valuation for assessment in excess of \$200,000.00 for ad valorem tax purposes for the year preceding the proposed annexation), has been included without the written consent of the landowners.
- b. No annexation proceedings have been commenced for the annexation to a municipality other than the City of Salida, Colorado, of all or part of the territory proposed to be annexed.
- c. The annexation proposed in the Petition will not result in the detachment of area from any school district and the attachment of the same area to another school district.
- d. The annexation proposed in the Petition will not have the effect of extending the municipal boundary of the City of Salida more than three (3) miles in any direction from any point on the current municipal boundary of the City in any one year; and

WHEREAS, the City finds that the Petition is in compliance with Salida Municipal Code (SMC) §§ 16-9-10 through 16-9-40; and

WHEREAS, the City has or will have in place a plan meeting the requirements of C.R.S. §31-12-105(e) prior to the effective date of the proposed annexation; and

WHEREAS, no election for annexation of the area proposed to be annexed to the City of Salida has been held in the preceding twelve (12) months; and

WHEREAS, the signers of the Petition are the owners of one hundred percent (100%) of the territory proposed to be annexed, exclusive of public streets and alleys; and

WHEREAS, the annexation to the City of Salida, Colorado of the area proposed to be annexed will not result in a change of county boundaries; and

WHEREAS, the names and mailing addresses of the signers of the Petition and date of signing are included in the Petition, and the legal descriptions of the land owned by Petitioner is attached to the Petition. No signature on the Petition is dated more than 180 days prior to the date of filing of the Petition for annexation with the City Clerk; and

WHEREAS, the Petition is accompanied by four (4) or more copies of an Annexation Map containing, among other things, the following information:

1. A written legal description of the boundaries of the area proposed to be annexed to the City of Salida, Colorado;
2. The boundary of the area proposed to be annexed to the City of Salida, Colorado;
3. Within the annexation boundary map, a showing of the location of each ownership tract in un-platted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks; and

4. Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the City of Salida, Colorado; and

WHEREAS, none of the area proposed to be annexed to the City of Salida, Colorado, is presently a part of any incorporated city, city and county, or town, and is not contiguous to any other incorporated city, city and county, or town; and

WHEREAS, it appears that the Petition filed as aforesaid is in substantial compliance with the requirements of the Municipal Annexation Act of 1965, C.R.S. § 31-12-107(1), as amended.

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

1. The City incorporates the foregoing recitals as findings by the City Council.
2. The Petition is in substantial compliance with the requirements of the Municipal Annexation Act of 1965, C.R.S. § 31-12-107(1), as amended.
3. The City Council of the City of Salida, Colorado, will hold a hearing upon the Petition for the purpose of determining and finding whether the area proposed to be annexed meets the applicable requirements of C.R.S. § 31-12-104, § 31-12-105, and SMC §§ 16-9-10 through 16-9-40, all as amended, and is considered eligible for annexation. The hearing shall be held on August 20, 2024 commencing at the hour of 6 p.m. in the City Council Chambers, 448 East First Street, Salida, Colorado.
4. Any person may appear at such hearing and present evidence upon any matter to be determined by the City Council of the City of Salida, Colorado.

RESOLVED, APPROVED AND ADOPTED this 2nd day of July 2024.

CITY OF SALIDA, COLORADO

Dan Shore, Mayor

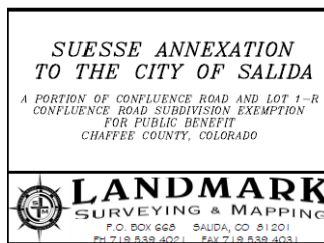
[SEAL]
ATTEST:

City Clerk/Deputy City Clerk

EXHIBIT A

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BEGINNING AT THE WITNESS CORNER TO THE NORTH QUARTER CORNER OF SAID SECTION 9, BEING MARKED BY A 3 1/4" B.L.M. BRASS CAP, FROM WHENCE THE TRUE NORTH QUARTER CORNER OF SAID SECTION 9 BEARS SOUTH 88°48'25" EAST, A DISTANCE OF 74.51 FEET;
 THENCE SOUTH 88°48'25" EAST ALONG THE NORTH LINE OF SAID SECTION 9, A DISTANCE OF 380.68 FEET TO THE WEST RIGHT-OF-WAY OF CHAFFEE COUNTY ROAD 105;
 THENCE SOUTH 25°25'46" EAST, A DISTANCE OF 16.62 FEET TO A POINT OF CURVATURE;
 THENCE SOUTHERLY A DISTANCE OF 16.89 FEET ALONG THE ARC OF A CURVE DEFLECTING TO THE RIGHT, HAVING A RADIUS OF 820.00 FEET, A DELTA ANGLE OF 1°10'48", A CHORD LENGTH OF 16.89 FEET AND A CHORD BEARING OF SOUTH 25°08'57" EAST;
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 THENCE SOUTH 13°53'16" EAST, A DISTANCE OF 268.86 FEET;
 THENCE SOUTH 12°48'58" EAST A DISTANCE OF 60.18 FEET, THIS AND THE PRECEDING 4 COURSES ARE ALONG SAID WEST RIGHT-OF-WAY OF CHAFFEE COUNTY ROAD 105;
 THENCE SOUTH 73°55'54" WEST A DISTANCE OF 466.73 FEET;
 THENCE NORTH 15°21'10" WEST A DISTANCE OF 343.21 FEET;
 THENCE NORTH 03°10'18" EAST A DISTANCE OF 300.18 FEET TO THE POINT OF BEGINNING.
 CONTAINING 5.98 ACRES, MORE OR LESS.



To: Salida City Council
 RE: Letter of Intent – Annexation of 6953 CR 105

Salida City Council:

My name is Ned Suesse and I own the property located at 6953 CR 105, Salida CO 81201. Attached, you will find an annexation application for my property. The City is requiring this annexation due to a pre-annexation agreement that was executed prior to my purchase of the property. I have no development plans for the property once annexed.

Following are a list of conditions for my annexation that will need to be incorporated into an Annexation Agreement that is approved concurrently with the approval of the annexation.

1. R3 Zoning for the property;
2. No requirement to cost share for any non-contiguous road or bridge improvements;
3. Acknowledgment and documentation of the City's intent to serve my property with utilities;
4. Acknowledgment and documentation of all existing cost recovery agreements and agreement that no cost recovery will be required of improvements made by other parties beyond those specifically referenced in an Annexation Agreement;
5. Expressly allow use of the existing well until failure, after which time the owner shall connect to city water;
6. Existing agricultural uses are allowed to continue and associated structures may remain on the property;
7. Existing structures and a surrounding envelope of 200' or the property boundary, whichever is greater, as pre-existing, non-conforming structures, are exempt from future minimum density calculations; and
8. Acknowledgment that .27 acre Confluence Road dedication was made by the owner free from any compensation.
9. Short term rental permit made available at the time of annexation for the primary residence;

Because I have no current plans for development, the following issues will be tabled until such time that a future owner or myself move forward with a development plan since these items will be based on the requested units and density and subject to the city code requirements at time of development:

1. Dedication of rights-of-way;
2. Dedication of parks and open space;
3. Affordable and inclusionary housing requirements; and
4. Building envelopes and plans.

These items have been discussed with City staff over the course of several years. You will find an application fee included with this application as well as the most recent plat of the property. Feel free to reach out to me with any questions.

Sincerely,

Ned Suesse



GENERAL DEVELOPMENT APPLICATION

448 East First Street, Suite 112

Salida, CO 81201

Phone: 719-539-4555 Fax: 719-539-5271

Email: planning@cityofsalida.com

1. TYPE OF APPLICATION (Check-off as appropriate)

- | | |
|--|--|
| ☒ Annexation | ☐ Administrative Review:
(Type) _____ |
| ☐ Pre-Annexation Agreement | ☐ Limited Impact Review:
(Type) _____ |
| ☐ Appeal Application (Interpretation) | ☒ Major Impact Review:
(Type) <u>Rezoning</u> |
| ☐ Certificate of Approval | ☐ Other: _____ |
| ☐ Creative Sign Permit | |
| ☐ Historic Landmark/District | |
| ☐ License to Encroach | |
| ☐ Text Amendment to Land Use Code | |
| ☐ Watershed Protection Permit | |
| ☐ Conditional Use | |

2. GENERAL DATA (To be completed by the applicant)

A. Applicant Information

Name of Applicant: NED SUESSE

Mailing Address: 6953 CR 105, SALIDA, CO 81201

Telephone Number: 719-338-4077 FAX: _____

Email Address: NED @ NED SUESSE, COM

Power of Attorney/ Authorized Representative: _____
(Provide a letter authorizing agent to represent you, include representative's name, street and mailing address, telephone number, and FAX)

B. Site Data

Name of Development: SUESSE ANNEXATION

Street Address: 6953 CR 105

Legal Description: Lot _____ Block _____ Subdivision _____ (attach description)

Disclosure of Ownership: List all owners' names, mortgages, liens, easements, judgments, contracts and agreements that run with the land. (May be in the form of a current certificate from a title insurance company, deed, ownership and encumbrance report, attorney's opinion, or other documentation acceptable to the City Attorney)

I certify that I have read the application form and that the information and exhibits herewith submitted are true and correct to the best of my knowledge.

Signature of applicant/agent _____ Date 5/22/24

Signature of property owner _____ Date _____

TO THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, GREETINGS:

The undersigned hereby petition(s) the City of Salida to annex to the City of Salida the territory shown on the map(s) attached hereto and described on the attachment hereto:

This Petition is signed by the landowners qualified to sign. It is intended that this Petition be a one hundred percent (100%) petition for annexation as described in C. R. S. 1973, Section 31-12-107(l)(g), (as amended).

In support of this petition, the undersigned state(s) and allege(s) as follows, to wit:

1. That it is desirable and necessary that the above-described territory be annexed to the City of Salida.
2. That petitioners are landowners of one hundred percent (100%) of the territory, excluding streets and alleys, herein proposed for annexation to the City of Salida.
3. That no less than one-sixth of the aggregate external boundaries of the above-described territory hereby petitioned to the City of Salida is contiguous to the City limits of the City of Salida.
4. Accompanying this petition are two mylars and twenty copies of the annexation map.
5. That a community of interest exists between the above-described territory and the City of Salida, and that the same is urban, or will be urbanized in the near future, and further that the said territory is integrated or is capable of being integrated in the City of Salida.
6. That the above-described territory does not include any area which is the same or substantially the same area in which an election for an annexation to the City of Salida, was held within the twelve months preceding the filing of this petition.
7. That the above-described territory does not include any area included in another annexation proceeding involving city other than the City of Salida.
8. That the above-described territory is not presently a part of any incorporated city, city and county, or town.
9. That the above area described will (not) result in the detachment of the area from any school district and the attachment of the same to another school district.

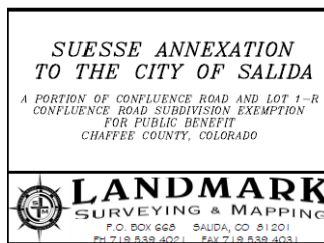

Signature

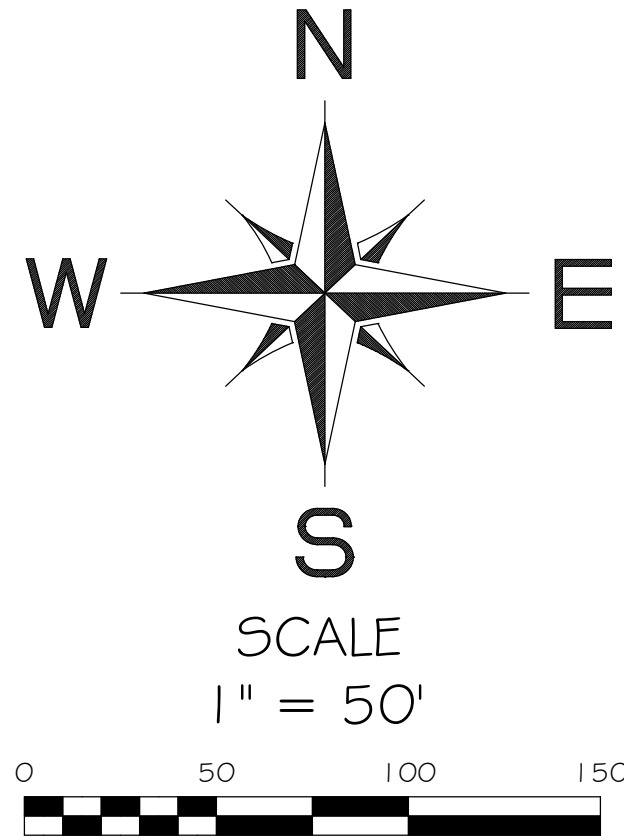

Date

EXHIBIT A

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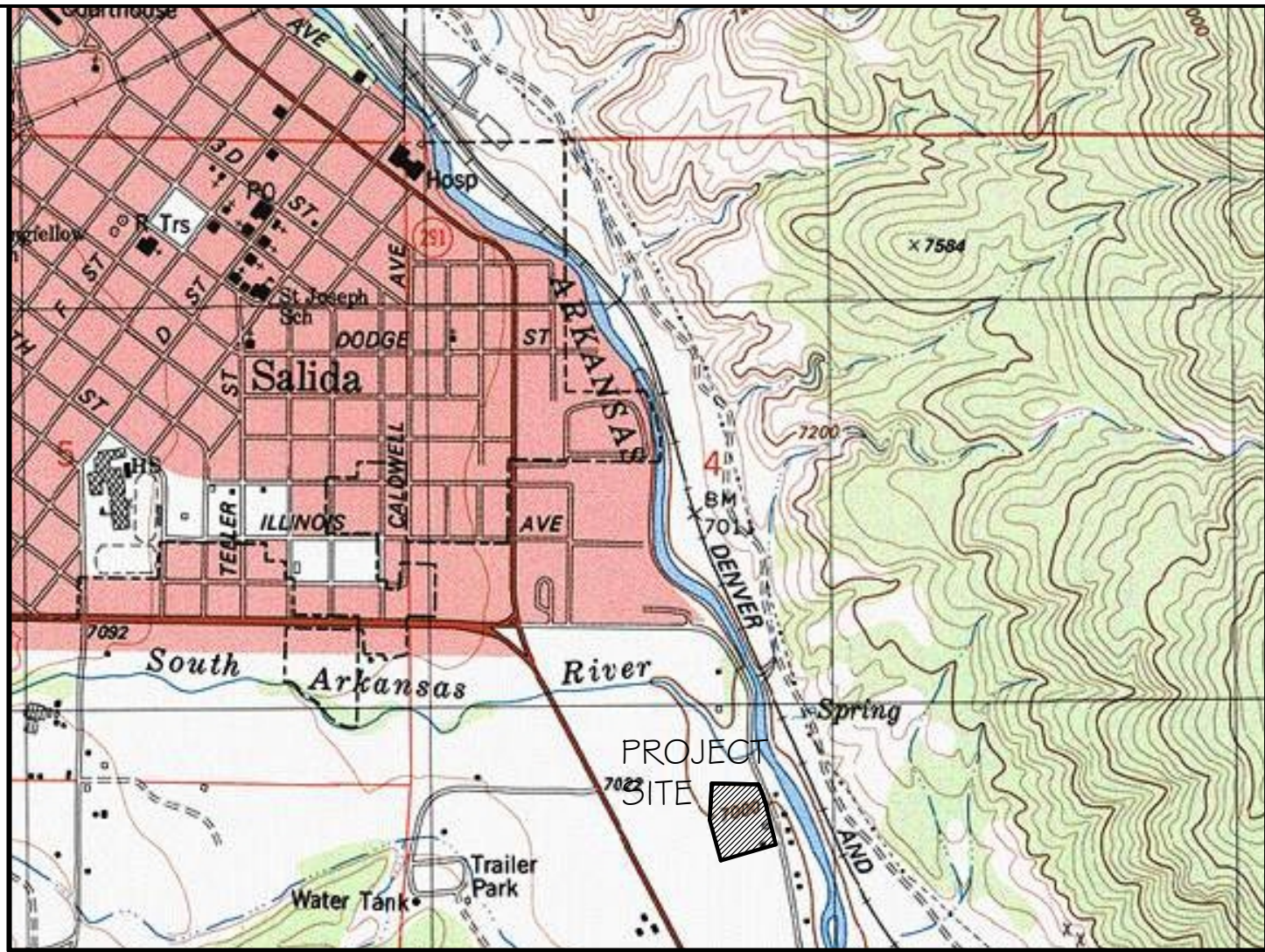


SUESSE ANNEXATION TO THE CITY OF SALIDA

A PORTION OF CONFLUENCE ROAD AND LOT 1-R CONFLUENCE ROAD SUBDIVISION EXEMPTION FOR PUBLIC BENEFIT CHAFFEE COUNTY, COLORADO

LEGEND

- ⊙ FOUND MONUMENT AS NOTED
- ◆ SET 1 1/2" ALUMINUM CAP LS 37937
- ▲ PREVIOUSLY SET 1 1/2" ALUMINUM CAP LS 37937
- FOUND 1 1/2" ALUMINUM CAP LS 16117
- POWER POLE
- SEWER MAN HOLE
- WATER VALVE
- WATER METER
- FENCE
- OVERHEAD UTILITY
- S—S— UNDERGROUND SEWER



VICINITY MAP
NOT TO SCALE

CITY COUNCIL APPROVAL

WHEREAS, THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO HAS BEEN PRESENTED WITH AN APPLICATION TO ANNEX TERRITORY AS DESCRIBED HEREIN BY NED SUESSE, AS OWNER OF 100 PERCENT OF THE AREA TO BE ANNEXED, EXCEPTING PUBLIC STREETS; AND WHEREAS, THE CITY COUNCIL BY RESOLUTION ADOPTED ON _____, 2024, DETERMINED THAT THE ANNEXATION APPLICATION SUBSTANTIALLY COMPLIES WITH THE REQUIREMENT OF SECTION 31-12-107(1), WHEREAS, AFTER NOTICE AND PUBLIC HEARING ON _____, 2024, AS REQUIRED BY SECTION 31-12-108, C.R.S., THE CITY COUNCIL ADOPTED RESOLUTION NO. _____ (SERIES 2018), DETERMINING THAT THE ANNEXATION ELECTION WAS NOT REQUIRED; AND WHEREAS, ON _____, 2024 THE CITY COUNCIL ADOPTED ORDINANCE NO. _____ (SERIES 2018) APPROVING AND ANNEXING 'SUESSE ANNEXATION'. NOW, THEREFORE, THE CITY COUNCIL OF SALIDA, COLORADO DOES HEREBY APPROVE AND ACCEPT THE 'SUESSE ANNEXATION' AS DESCRIBED HEREIN, TO WIT:

ALL THAT TRACT OF LAND LOCATED WITHIN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 49 NORTH, RANGE 9 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN, ALSO BEING LOT 1-R 'CONFLUENCE ROAD SUBDIVISION EXEMPTION FOR PUBLIC BENEFIT', CHAFFEE COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
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THENCE NORTH 03°10'18" EAST A DISTANCE OF 300.18 FEET TO THE POINT OF BEGINNING.
CONTAINING 5.98 ACRES, MORE OR LESS.

SIGNED THIS ____ DAY OF _____, 2024.

CITY OF SALIDA

BY: _____
MAYOR

CERTIFICATE OF DEDICATION AND OWNERSHIP

THIS IS TO CERTIFY THAT NED SUESSE IS THE OWNER OF 100% OF THE LAND DESCRIBED AND SET FORTH HEREIN, EXCEPT STREETS, AND THAT SUCH OWNER DESIRES AND APPROVES THE ANNEXATION OF THE TERRITORY DESCRIBED HEREIN TO THE CITY OF SALIDA, COLORADO.

EXECUTED THIS ____ DAY OF _____, 2024.

OWNERS:

NED SUESSE

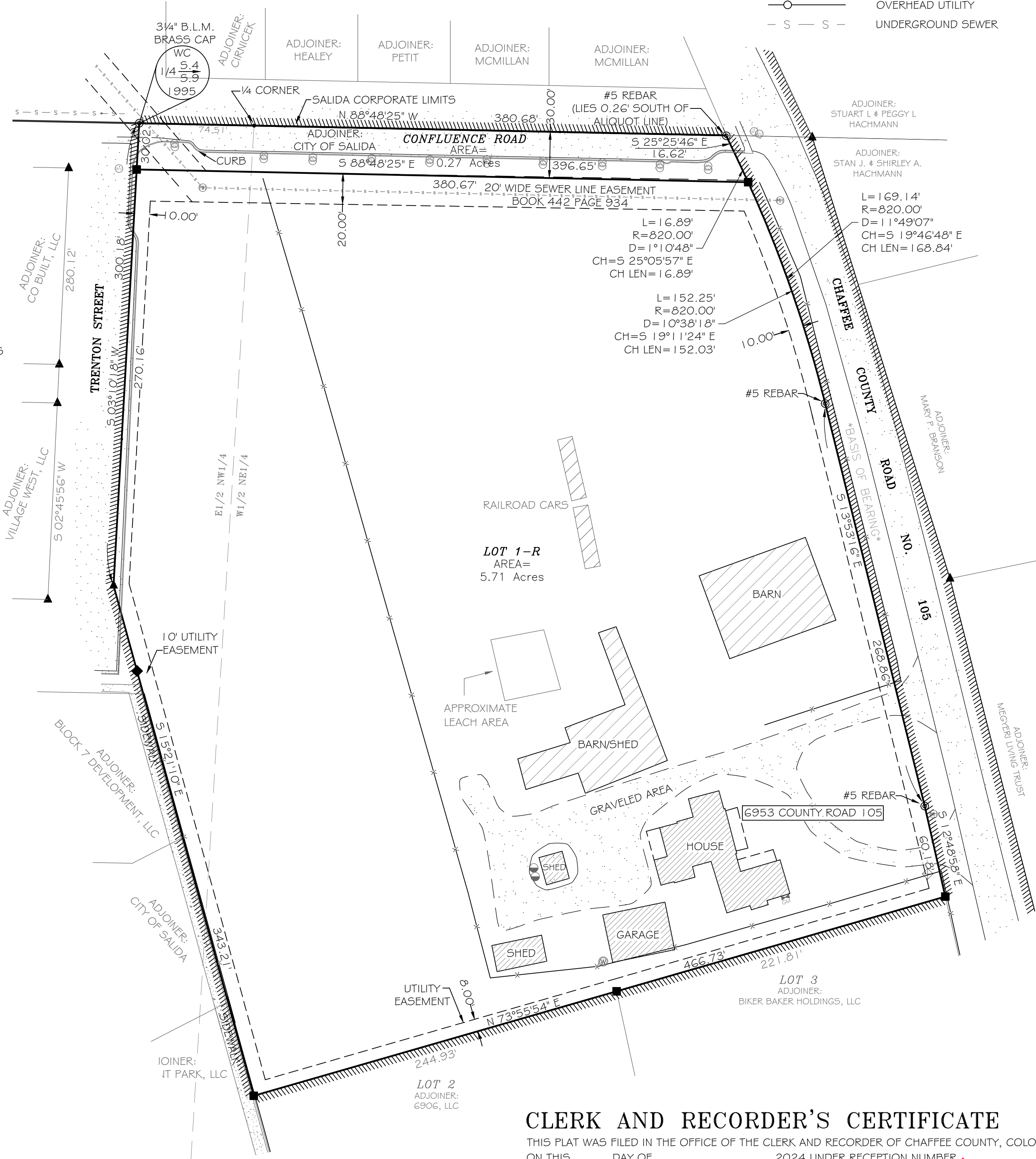
COUNTY OF CHAFFEE)
STATE OF COLORADO) ss.

THE FORGOING DEDICATION WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 2024, BY NED SUESSE. WITNESS MY HAND AND SEAL.

MY COMMISSION EXPIRES _____.

NOTARY PUBLIC

TOTAL PERIMETER OF LAND TO BE ANNEXED	2005.61'
CONTIGUOUS BOUNDARY WITH CITY OF SALIDA	2005.61'
CONTIGUOUS BOUNDARY REQUIREMENT 1/G=16.7%	100%



CLERK AND RECORDER'S CERTIFICATE

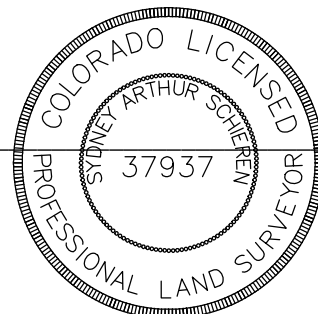
THIS PLAT WAS FILED IN THE OFFICE OF THE CLERK AND RECORDER OF CHAFFEE COUNTY, COLORADO, AT _____ M. ON THIS ____ DAY OF _____, 2024 UNDER RECEPTION NUMBER _____.

CHAFFEE COUNTY CLERK AND RECORDER

LAND SURVEYOR'S CERTIFICATE

I, SYDNEY A. SCHIEREN, A REGISTERED LAND SURVEYOR LICENSED TO PRACTICE IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS LAND SURVEY WAS PERFORMED UNDER MY DIRECT SUPERVISION, AND THAT THE PLAT REPRESENTS THE RESULTS OF SAID SURVEY AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SYDNEY A. SCHIEREN
COLORADO P.L.S. 37937



PRELIMINARY DRAFT
INTENDED FOR REVIEW BY CLIENT

REVISED: MARCH 4, 2024	SUESSE ANNEXATION TO THE CITY OF SALIDA A PORTION OF CONFLUENCE ROAD AND LOT 1-R CONFLUENCE ROAD SUBDIVISION EXEMPTION FOR PUBLIC BENEFIT CHAFFEE COUNTY, COLORADO
REVISED: JUNE 26, 2024	
JOB # 18112	LANDMARK SURVEYING & MAPPING P.O. BOX 668 SALIDA, CO 81201 PH 719.539.4021 FAX 719.539.4031
DATE: JANUARY 16, 2024	
SHEET 1 OF 1	



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Finance	Aimee Tihonovich - Finance Director	July 2, 2024

AGENDA ITEM

Resolution 2024-41, Reimbursement resolution related to acquisition of property.

BACKGROUND

The City plans to utilize a direct placement lease purchase to finance the purchase of property located at 325 Hwy 50 in Salida. This type of financing agreement is legally available to the City. Annually appropriated rental payments under a lease/purchase financing will be made with existing revenue streams and will not increase taxes or fees.

The closing date on the purchase of this property is anticipated to be July 9, 2024. The City will front the money necessary for closing and will need to be reimbursed by the lender under the lease purchase agreement. This is anticipated to be the most cost effective method of financing the property purchase and will maintain general fund reserves at a sufficient level necessary for good cash flow management.

FISCAL NOTE

Approving this would allow the City to reimburse itself up to \$1,400,000 from the lease purchase proceeds, such amount to be paid back over time via annual appropriation.

RECOMMENDATION

Staff recommends approval of this resolution.

MOTION

A City Councilmember should state "I move to _____ Resolution 2024-41 expressing the intent of the City to be reimbursed for certain expenses relating to the acquisition of property", followed by a second and a roll call vote.

**CITY OF SALIDA, COLORADO
RESOLUTION NO. 41
(Series 2024)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA
EXPRESSING THE INTENT OF THE CITY TO BE REIMBURSED FOR CERTAIN
EXPENSES RELATING TO THE ACQUISITION OF PROPERTY**

WHEREAS, the City of Salida (the “City”), in the County of Chaffee and State of Colorado, is a political subdivision of the State of Colorado (the “State”), duly organized and existing as a statutory city under the laws of the State; and

WHEREAS, the members of the City Council of the City (the “Council”) have been duly appointed and qualified; and

WHEREAS, it is the current intent of the City to purchase property to be utilized for future needs of the City (the “Property”); and

WHEREAS, the City has determined that it is in the best interest of the City to finance the Property through the execution and delivery of a lease purchase agreement; or by any other means legally available to the City; and

WHEREAS, the Council has determined that it is necessary to make capital expenditures to acquire and construct the Project prior to the time that the City arranges for the specific financing of such Property; and

WHEREAS, it is the City’s reasonable expectation that when such financing occurs, the capital expenditures will be reimbursed with the proceeds of the financing; and

WHEREAS, in order to comply with the provisions of the Internal Revenue Code of 1986, as amended (the “Code”), it is the City’s desire that this resolution shall constitute the “official intent” of the Council to reimburse such capital expenditures within the meaning of Treasury Regulation §1.150-2.

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

Section 1. All action (not inconsistent with the provisions of this resolution) heretofore taken by the Council and the officers, employees and agents of the City directed toward the Bonds is hereby ratified, approved and confirmed.

Section 2. The City intends to finance up to \$1,400,000 to pay the costs of the Project, including the reimbursement of certain costs incurred by the City prior to the receipt of any proceeds of a financing, upon terms acceptable to the City, as authorized in a

resolution to be hereafter adopted and to take all further action which is necessary or desirable in connection therewith.

Section 3. The officers, employees and agents of the City shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to finance the Project and to otherwise carry out the transactions contemplated by the resolution.

Section 4. The officers and employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provision of this resolution.

Section 5. The City shall not use reimbursed moneys for purposes prohibited by Treasury Regulation §1.150-2(h).

Section 6. This resolution is intended to be a declaration of “official intent” to reimburse expenditures within the meaning of Treasury Regulation §1.150-2

Section 7. If any section, paragraph, clause or provision of this resolution shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

Section 8. All acts, orders and resolutions of the City, and parts thereof, inconsistent with this resolution be, and the same hereby are, repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 9. The resolution shall be in full force and effect upon its passage and approval.

RESOLVED, APPROVED, AND ADOPTED this 2nd day of July, 2024.

CITY OF SALIDA, COLORADO

By _____
Mayor

[SEAL]

Attest:

By _____
City Clerk



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Administration	Kristi Jefferson - City Clerk	July 2, 2024

AGENDA ITEM

Resolution 2024-42 A Resolution of the City Council of the City of Salida, Colorado Approving and Adopting the updated 2024 fee schedule for the Office of the City Clerk.

BACKGROUND

On June 12, 2024 Legislation Council published the updated Colorado Open Records Act (CORA) research and retrieval fee maximum effective July 1, 2024.

Pursuant to Section 24-72-205 (6), C.R.S., the maximum hourly fee for the research and retrieval of public documents in response to a Colorado Open Records Act will increase from \$33.58 to \$41.37 as of July 1, 2024.

State law allows government agencies to charge a fee for the research and retrieval of public documents that shall not exceed this amount, although they shall not charge a fee for the first hour of time expended on each request. Before increasing the fee, government entities must revise and publish their Colorado Open Records Act policies to include the new fee.

FISCAL NOTE

The updated fees will assist with covering Staff and Attorney's time for research and retrieval of public documents for each CORA request.

RECOMMENDATION

Staff recommends City Council adopt Resolution 2024-42 updating the fee schedule for the Office of the City Clerk.

MOTION

A City Councilmember should state "I move to _____ Resolution 2024-42 approving and adopting the updated fee schedule for the office of the City Clerk", followed by a second and a roll call vote.



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Memorandum

June 12, 2024

TO: Interested Persons

FROM: Natalie Castle, Director, 303-866-4778

SUBJECT: Colorado Open Records Act Maximum Hourly Research and Retrieval Fee

Summary

Pursuant to Section 24-72-205 (6), C.R.S., the maximum hourly fee for the research and retrieval of public documents in response to a Colorado Open Records Act will increase from \$33.58 to \$41.37 as of July 1, 2024.

State law allows government agencies to charge a fee for the research and retrieval of public documents that shall not exceed this amount, although they shall not charge a fee for the first hour of time expended on each request. Before increasing the fee, government entities must revise and publish their Colorado Open Records Act policies to include the new fee.

Methodology

The \$7.79 increase resulted from inflating \$33.58 by the percentage change in the Denver-Aurora-Lakewood consumer price index for all items and all urban consumers, published by the U.S. Bureau of Labor Statistics, between the first half of calendar year 2019 and the first half of calendar year 2024. Because the index for the first half of 2024 has not yet been released, the index used for the first half of 2024 represents the average of indices published for January, March, and May 2024. Each year's contribution toward the total \$7.79, or 23.2 percent, change is shown in Figure 1.

Figure 1
Annual Contributions Toward the Total \$7.79 (23.2%) Increase
 First Half of 2019 to First Half of 2024



Source: Staff calculations using the CPI-U for Denver-Aurora-Lakewood published by the U.S. Bureau of Labor Statistics.

**CITY OF SALIDA, COLORADO
RESOLUTION NO. 42
(Series 2024)**

**A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO
ADOPTING AND APPROVING THE AMENDED FEE SCHEDULE FOR THE OFFICE
OF THE CITY CLERK**

WHEREAS, the Salida Municipal Code (“Code”) establishes rules and regulations for the operations of the City of Salida (“City”) and provides for the establishment of fees; and,

WHEREAS, the City relies upon fees to provide many services to its customers and citizens; and,

WHEREAS, fees associated with Colorado Open Records Act State law Section 24-72-205 (6) (b), C.R.S., requires the Director of Research of the Legislative Council Staff to adjust the Colorado Open Records Act maximum hourly fee for the research and retrieval of public documents every five years. Effective July 1, 2024, the maximum hourly fee will increase to \$41.37; and,

WHEREAS, the City Council wishes to adopt the amended fee schedule attached hereto as Exhibit A as the official fee schedule for the office of the City Clerk of the City of Salida; and,

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

1. The Salida City Council incorporates the foregoing recitals as its conclusions, facts, determinations and findings.
2. This resolution and accompanying Fee Schedule is intended to supersede the previous fee schedule adopted by the City Council.
3. Effective upon approval, the City hereby adopts the amended 2024 Fee Schedule (attached hereto as Exhibit A).

RESOLVED, APPROVED, AND ADOPTED this 2nd day of July, 2024.

CITY OF SALIDA

By: _____
Dan Shore, Mayor

[SEAL]

ATTEST: _____
City Clerk/Deputy City Clerk



Updated 2024 Fees and Charges for City Clerk's Office:

TYPE OF LICENSE	FEE
Liquor/Tobacco	
New License	\$1,000.00
New License with Concurrent Review	\$1,000.00
Transfer of Ownership	\$750.00
Application Late Renewal Fee (Not more than 90 days of license expiration date)	\$500.00
Application Reissue Fee (More than 90 days but less than 180 days of license expiration date)	\$500.00
Application Reissue Fine (More than 90 days but less than 180 days of license expiration date)	\$ 25.00/day beyond the 90 day expiration date
Annual Renewal Application Fee	\$100.00
Annual Art Gallery Fee	\$100.00
Fire Inspection Fee	\$50.00 (first inspection \$35.00 thereafter)
Tobacco	\$100
Types of Permits	
Art	\$41.25
Art Gallery Permit	\$3.75
Bed & Breakfast Permit	\$3.75
Beer & Wine	\$48.75
Brew Pub	\$75.00
Club	\$41.25
Distillery Pub	\$75.00
Hotel & Restaurant	\$75.00
Liquor-Licensed Drugstore	\$22.50
Lodging & Entertainment	\$75.00
Mini Bar Permit with Hotel Restaurant	\$48.75
Optional Premises	\$75.00
Retail Liquor Store	\$22.50

Tavern	\$75.00	Item 10.
Vintner's Restaurant	\$75.00	
Fermented Malt Beverage On Premises	\$3.75	
Fermented Malt Beverage Off Premises	\$3.75	

Fermented Malt Beverage On/Off Premises	\$3.75
Special Event Permit	\$100.00
Other Charges to Existing Liquor Licenses	
Change of Location	\$750.00
Change of Trade Name/Corporate Name	N/A
Corporate/LLC Change (Per Person)	\$100.00
Campus Liquor Complex	\$30.00
Modification of Premises	N/A
Multiple Vendor and Outdoor Vendor Permit	
Multiple Vendor Event Permit	\$75.00
Additional Fee Per Participating Vendor	\$20.00
Outdoor Vending Permit – 10 Day	\$50.00
Outdoor Vending Permit – 45 Day	\$100.00
Outdoor Vending Permit – 180 Day	\$200.00
Outdoor Vending Permit – 365 Day	\$400.00
Retail Marijuana	
Annual Operating Fee	\$1,000.00
Transfer of Ownership	\$750.00
Change of Location	\$750.00
Primary Contact/Manager Registration	\$75.00
Background Check (per person)	\$100.00
Corp/LLC Changer (per person)	\$100.00
Local Fire Inspection Fee	\$50.00 (initial visit) \$35.00 thereafter
Change of Primary Contact/Manager	\$75.00
Modification of Premises	\$100.00

EXHIBIT A

Item 10.

Change of Trade Name/Corp. Name	\$100.00
Arborist License (SMC 6-4-10)	
Arborist License	\$100.00
Penalty for Operating No License	\$100.00
Short-Term Rental Business License	
Short-term Rental Business License – New	\$1,000.00
Short-term Rental Business License – New Administrative Review	\$200.00
Short-term Rental Business License – Renewal	\$1,000.00
Penalty for Operating without a Business License	\$2,650.00/Day
Late Fee on Occupation Lodging Tax & Interest	\$50.00/quarter, .833% per month Interest
Open Records Requests	\$41.37 per hour after the first hour



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Parks and Recreation	Diesel Post - Parks and Recreation Director	July 2, 2024

AGENDA ITEM

Resolution 2024-43 A resolution to allow overnight camping and dogs in Marvin Park from July 26th through July 28th, for the 2024 Gone to Dogs dog agility event.

BACKGROUND

A part of the 2024 Gone to the Dogs dog agility event proposal included a request for overnight camping at Marvin Park. City of Salida Municipal code 11-6-20 prohibits overnight camping in City of Salida Parks. The code also states:

Permission to camp by resolution, the City Council may grant an individual or group of individuals permission to camp within a City park. The resolution shall specify the group, park and days during which the camping is allowed.

Resolution 2024-43 would allow for overnight camping for this event.

Another part of the Gone to the Dogs event goes against Salida municipal code Sec. 11-6-70. - Prohibited acts and conditions.

(a) Dogs in park.

(1) It is unlawful for any person who owns, harbors or keeps a dog to permit that dog to enter any City park, except areas specifically identified as "dogs permitted" or by motion of the City Council for special events.

(2) The Public Works Director shall post all City parks with clear, legible signs reading "No Dogs Allowed," which signs shall be posted in such a manner as to give all persons entering the parks notice that dogs are not permitted therein.

Resolution 2024-43 would allow dog in parks for this event.

RECOMMENDATION

At the 6/5/24 Special events meeting, all department heads discussed and approved this event and therefore resolution.

FISCAL IMPACT

There is no fiscal impact.

MOTION

A City Councilmember should state "I move to _____ resolution 2024-43, to allow overnight camping and dogs in Marvin Park from July 26th through July 28th, for the 2023 Gone to the Dogs Inc. dog agility event", followed by a second and a roll call vote.

**CITY OF SALIDA, COLORADO
RESOLUTION NO. 43
(Series 2024)**

**A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO TO
ALLOW OVERNIGHT CAMPING & DOGS IN MARVIN PARK FROM JULY 26 THROUGH
JULY 28 FOR THE 2024 CANINE CULTURE, LLC. DOG AGILITY EVENT.**

WHEREAS, City of Salida Municipal Code 11-6-20 and 11-6-70 prohibit overnight camping and dogs in city parks; and

WHEREAS, the City of Salida desires to collaboratively work with Canine Culture LLC. to hold a dog agility event from July 26th to July 28th, 2024; and

WHEREAS, the City of Salida Municipal Code 11-6-20 section(b) states: "Permission to camp by resolution, the City Council may grant an individual or group of individuals permission to camp within a City park. The resolution shall specify the group, park and days during which the camping is allowed".

WHEREAS, the City of Salida Municipal code Sec. 11-6-70 section(a) states: "Prohibited (a)

Dogs in park.

(1) It is unlawful for any person who owns, harbors or keeps a dog to permit that dog to enter any City park, except areas specifically identified as "dogs permitted" or by motion of the City Council for special events.

(2) The Public Works Director shall post all City parks with clear, legible signs reading "No Dogs Allowed," which signs shall be posted in such a manner as to give all persons entering the parks notice that dogs are not permitted therein.

WHEREAS, event applications, assurances and paperwork is in order.

WHEREAS, the event application materials have been reviewed by City staff and presented to City Council on 07/02/2024.

NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Salida that:

Section 1. The participants in the Canine Culture LLC. agility event on July 26th through July 28th, 2024 are allowed to have dogs in the park and to overnight camp in the Sackett St. parking lot at Marvin Park.

RESOLVED, APPROVED, AND ADOPTED on this 2ND day of JULY, 2024.

CITY OF SALIDA, COLORADO

Mayor Dan Shore

(SEAL)

ATTEST:

Deputy City Clerk/City Clerk



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Community Development	Kathryn Dunleavy - Associate Planner	July 2, 2024

AGENDA ITEM

Ordinance 2024-07: An Ordinance of the City Council for the City of Salida, Colorado amending Chapter 16, Article XIII of the Salida Municipal Code regarding inclusionary housing.

BACKGROUND

The City originally adopted its Inclusionary Housing requirements and regulations in 2018. The City has periodically modified the Inclusionary Housing requirements to be responsive to changes in the market as well as practicalities in enforcement of the regulations. However, the purpose of the Inclusionary Housing Ordinance remains the same:

- (a) Promote the construction of housing that is affordable to the community's workforce;
- (b) Retain opportunities for people that work in the City to also live in the City;
- (c) Maintain a balanced community that provides housing for people of all income levels; and
- (d) Ensure that housing options continue to be available for very low-income, low-income, moderate, and middle-income residents, for special needs populations and for a significant proportion of those who work and live in the City.

PROPOSAL:

The proposed amendments to Chapter 16, Article XIII of the Code, consist of:

- (a) Minor clarifications, edits or added/modified verbiage that do not change the substance of the Ordinance; such as clarifying the utility allowance; and
- (b) Addition of language to address inclusionary housing scenarios not clearly identified in the current ordinance, such as LIHTC projects, community land trusts, and other scenarios; and
- (c) Four substantive updates that address current market trends and align with administrative realities:

- 1) **Increase the ownership unit AMI income buffer from 10% (currently) to 19%.** Current interest rates are proving to be a challenge to finding qualified buyers. The larger buffer is intended to offset that challenge. With this change, a household earning up to 119% AMI would qualify for a unit restricted to 100% AMI maximum sales price; a household earning up to 139% AMI would qualify to for a unit restricted to 120% AMI maximum sales price; and a household earning up to 159% AMI would qualify for a unit restricted to 140% AMI maximum sales price;

- 2) Modification of the AMI range targeted by the ownership units.** With the increases in the Chaffee County AMI (14.6% over last 2 years), and with some market rate housing being offered in the 150% and up AMI range, units at the 160% AMI range are competing with the lower end of market prices, and therefore are not a critical component of missing-middle housing at this time. Additionally, continuing deed-restrictions at the 160% AMI level may be setting unrealistic sales price expectations for developers who commit to building the IH units, or for the qualified owners who purchase them and resell in the future. (This has proven to be an issue in other communities similar to Salida). Therefore, this update proposes adjusting the AMI range to 100% through 140%, but with a 130% maximum average that takes effect after the first built IH unit.

Because this proposal incorporates 100% AMI into the required range, it removes the current incentive for a 100% AMI unit to count as 1.5 units. (Note that the incentive for rental units at 60% AMI remains; they will still count as 1.5 units). With this modification, coupled with the increase in the allowed income buffer noted in item 1, the intention is to provide criteria that would create favorable conditions for a pool of qualified buyers for the 100% AMI units. The chart below represents how this proposal differs from the current ordinance:

Current Ordinance		Proposed Ordinance	
AMI Range:	120% to 160%	AMI Range:	100% to 140%
Required Avg:	140% or less	Required Avg:	130% or less after 1 st unit
First 5 built units:	1 st : 140% 2 nd : 120% 3 rd : 160% 4 th : 140% 5 th : 120%	First 5 built units:	1 st : 140% 2 nd : 120% 3 rd : 100% 4 th : 140% 5 th : 120%

- 3) Timing of Fee-in-lieu Payment.** The fee schedule has always required that the fee-in-lieu of a built unit be set at the time of building permit application, and this was always the intent of the ordinance. However, due to some vagaries of the language in the Ordinance, as well as language utilized in IH agreements, this has not been the practice. The proposed updates are to provide clarity on timing of payment, and to provide two different scenarios for payment of the FIL:

- For projects of 5 or fewer units, the FIL is set at the time a complete building permit application is received. Half of the payment would be due at the time of building permit and the remaining half at time of C.O. This is the same payment structure that is currently utilized for System Development Fees and that structure is well understood and works well, therefore we suggest replicating what is working.
- For developments of 6 or more units, the entire FIL (which is the fractional payment of any fractional unit required) would be required to be paid no later than the first building permit being issued in the development. The FIL could be paid as early as recordation of the plat, but Staff believes requiring that would be unnecessarily burdensome; this timeline offers flexibility while

ensuring that payment does not wait until the very last lots apply for permits, as it is not unusual for developments to have a handful of vacant lots decades after initial construction begins.

- 4) **Reduce maximum household AMI for renting an ownership unit.** The current code specifies that when an ownership unit is rented (per conditions allowable in the code and/or deed restriction), it can be rented at a price affordable to a household making 100% AMI. This proposal changes that to 80% AMI.

FISCAL IMPACT

Fiscal Impact statement does not apply to this application.

RECOMMENDATION

Planning Commission voted 6-0 to recommend City Council approve the proposed text amendments in Ordinance 2024-07.

Staff recommends approval of Ordinance 2024-07.

MOTION

A City Councilmember should state “I move to _____ Ordinance 2024-07 on first reading and set the second reading and public hearing for July 16, 2024”, followed by a second and a roll call vote.

ATTACHMENTS

Draft Ordinance 2024-07

CITY OF SALIDA, COLORADO
ORDINANCE NO. 07
(Series of 2024)

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA,
 COLORADO AMENDING CHAPTER 16, ARTICLE XIII OF THE SALIDA
 MUNICIPAL CODE, REGARDING INCLUSIONARY HOUSING, TO FURTHER
 PROMOTE AND ASSIST THE DEVELOPMENT OF WORKFORCE HOUSING**

WHEREAS, the City of Salida, Colorado (the “City”) is a statutory city, duly organized and existing under the laws of the State of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-23-301 *et seq.*, the City, by and through its City Council, possesses the authority to adopt and enforce zoning regulations; and

WHEREAS, under such authority, the City Council previously adopted regulations related to inclusionary housing, codified as Chapter 16, Article XIII of the Salida Municipal Code (the “Code”); and

WHEREAS, the City Council remains committed to the promotion of inclusionary housing, such that all residents and workforce have a meaningful opportunity to afford housing in the City; and

WHEREAS, the City of Salida still recognizes the need for affordable housing across a diversity of income levels to be addressed by the inclusionary housing policy; and

WHEREAS, deed restrictions remain the primary tools to ensure permanent affordability so that units will not go from affordable to unaffordable with a simple sale of property; and

WHEREAS, since the adoption and subsequent amendments to Chapter 16, Article XIII, recent changes in the market as well as practicalities in enforcement of the regulations has prompted City staff to evaluate and recommend where certain updates could be made to the Code, especially now that new affordable units are becoming available; and

WHEREAS, the Planning Commission held a public hearing on the code changes on June 24, 2024, and recommends the amendments set forth in this Ordinance; and

WHEREAS, after consideration at a public hearing held on July 16, 2024, the City Council finds it desirable and appropriate, and in the best interest of the general health, safety, and welfare of its residents, workforce, local businesses and customers to amend Chapter 16, Article XIII of the Code, as it relates to the promotion of inclusionary housing in the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE
 CITY OF SALIDA, COLORADO AS FOLLOWS:**

Section 1. The foregoing recitals are hereby incorporated as conclusions, facts, determinations, and findings by the City Council.

Section 2. Chapter 16, Article XIII. of the Code, concerning inclusionary housing requirements, is hereby amended to read as follows:

ARTICLE XIII. INCLUSIONARY HOUSING

Sec. 16-13-10. Purpose and objectives.

- (a) Promote the construction of housing that is affordable to the community's workforce;
- (b) Retain opportunities for people that work in the City to also live in the City;
- (c) Maintain a balanced community that provides housing for people of all income levels; and
- (d) Ensure that housing options continue to be available for very low-income, low-income, mode rate, and middle-income residents, for special needs populations and for a significant proportion of those who work ~~or~~ and live in the City.

Sec. 16-13-20. General inclusionary housing requirements.

- (a) Any application brought under the annexation or planned development sections of this Code; condominium plats of any size; duplex conversion subdivisions; and minor and major subdivision sections of this Code, as well as multi-family residential rental projects of five (5) or more units are required to ~~include~~ provide at least sixteen and seven-tenths (16.7) percent (i.e. 1/6th) of the total number of new residential dwelling units or lots as affordable dwelling units, pursuant to requirements set forth in this Article, and subject to the following standards:
 - (1) The prices for sale or rents charged for permanently affordable priced dwelling units shall not exceed a price that is affordable to a household earning the applicable percentage of Area Median Income (AMI) for Chaffee County as defined annually by the Colorado Housing Finance Authority (CHFA), at the time such unit is sold or rented, and as further specified in Sections 16-13-60 and 16-13-70.
 - (2) Affordable dwelling units shall be permanently restricted unless a different timeframe is required as a part of a Low Income Housing Tax Credit project or otherwise time restricted by federal or state grant funds.
 - (3) If the calculation for inclusionary housing results in a fraction of a dwelling unit, the fraction of the unit shall be provided as a complete affordable unit or a fee-in-lieu shall be provided per Section 16-13-40.
 - (4) The proportion of required affordable units, whether for-sale or for-rental, shall follow the proportion of for-sale and for-rental market rate units, unless otherwise approved by the decision-making body. For example, if the project includes ~~one hundred (100) percent~~ all for-sale units, then ~~one hundred (100) percent~~ all of the required affordable units shall be for-sale units. If the project includes ~~fifty (50) percent~~ half for-sale units and ~~fifty (50) percent~~ half for-rental units, that same percentage of for-sale and for-rental affordable units shall be provided.
- (b) Units built as affordable in the project should be comparable to the market rate housing units in exterior finish and design and integrated into the overall project.
- (c) Income Eligibility Required. ~~No person shall sell, rent, purchase or lease a~~ An affordable dwelling unit created pursuant to this Article ~~except~~ shall be purchased, owned, leased or occupied exclusively by or to a program eligible household. A private owner of a single affordable unit may rent the unit in accordance with the provisions of this Article as set

forth in Section 16-13-60 "Program Requirements for For-Sale Units." All sales, rentals, purchases and leases shall comply with the provisions of this Article.

- (d) Deed Restriction Required. No person offering an affordable dwelling unit for rent or sale pursuant to this Article shall fail to lawfully reference in the grant deed conveying title of any such unit, and record with the Chaffee County Clerk and Recorder, a deed restriction in a form provided and approved by the City Attorney ~~and applicable Housing Authority~~. Such deed restriction shall reference applicable contractual arrangements, deed restrictions and resale restrictions as are necessary to carry out the purposes of this Article.
- (e) Good Faith Marketing Required. All sellers or owners of affordable dwelling units shall engage in good faith marketing and public advertising efforts each time an affordable dwelling unit is rented or sold such that members of the public who are qualified to rent or purchase such units have a fair chance to become informed of the availability of such units.
- (f) Required Agreements. Those applicants creating residential developments under this Chapter shall enter into an inclusionary housing development agreement with the approving body ~~City Council~~. Such agreements may be part of a development agreement, annexation agreement, ~~or subdivision agreement,~~ and/or noted on the recorded plat or planned development plan, and shall document how the applicant will meet the requirements of this Article including:
 - (1) Defining the inclusionary housing development, including the total number of units or lots; the total number of affordable housing units required; and the total number of affordable housing units provided;
 - (2) The application of ~~allowed~~ density, parking and development standards allowed for projects that provide one hundred (100) percent of the inclusionary housing requirements, as provided in Section 16-13-50;
 - (3) ~~Where applicable,~~ design standards to assure the affordable units will be comparable to market rate units and are integrated into the development;
 - (4) The requirement that each required affordable housing unit must receive its certificate of occupancy before development of every sixth market-rate housing unit within the development, unless an alternative schedule is approved by the City; and
 - (5) The deed restrictions and additional agreements, in a form acceptable to the City, as necessary to carry out the purposes of this Article.
- (g) Accessory dwelling units shall not be considered inclusionary housing for the purpose of compliance with the requirements of this Article.
- (h) An applicant shall not be eligible to submit for a building permit until the applicable affordable housing agreement is approved by the ~~City Council~~ applicable approving body and such agreement is recorded with the Chaffee County Clerk and Recorder. Additionally, a property shall not receive a certificate of occupancy until the required deed restrictions are recorded with the Chaffee County Clerk and Recorder.

Sec. 16-13-30. Options for satisfaction of inclusionary housing requirement.

An applicant may seek an alternative to providing the required percentage of affordable housing under this Article by any of the following methods:

- (a) Providing the Required Housing Off-Site. This may be met only through the dedication of land, if approved by the City, to the City or a qualified non-profit housing developer for the required development of such units ~~as approved by the City~~, with the guarantee that the land to be dedicated will allow for, and be developed with a minimum number of twenty-five (25) percent of the total units in the subject development as affordable housing. Each lot shall have sufficient area devoid of environmental or other constraints to allow construction of the required development of such units. All public infrastructure improvements to support development of the required units shall be in place prior to conveyance, or sufficient security in accordance with the Municipal Code shall be provided. Dedication of the lots shall occur at the same time as plat or other applicable recordation of the development.
- (b) Dedicating Land Within the Project. Provided it is large enough and located appropriately to accommodate at least the minimum number of required affordable units, land within a project may be dedicated to the City or a qualified non-profit housing developer for the required development of such units, as approved by the City. The units to be built within the project shall be comparable to the market rate housing units in exterior finish and design to blend into the overall project. Each lot shall have sufficient area devoid of environmental or other constraints to allow construction of the required development of such units. All public infrastructure improvements to support development of the required units shall be in place prior to conveyance, or sufficient security in accordance with the Municipal Code shall be provided. Dedication of the lots shall occur at the same time as plat or other applicable recordation of the development.
- (c) Paying a Fee in Lieu of Providing Units as Defined in Section 16-13-40. This alternative is only available if the calculation for inclusionary housing results in a fraction of a dwelling unit above a whole number, or if the development is for five (5) units or lots or less.
- (d) ~~P~~ For rental units only, providing fewer units, but which are affordable to households earning sixty (60) percent or less of the AMI for Chaffee County for rental projects, ~~or one hundred (100) percent or less of the AMI for Chaffee County for for sale projects~~. For the purposes of this option, an affordable dwelling rental unit at 60% AMI or less shall equal one and one-half (1.5) inclusionary housing units at any other AMI level specified in Sections 16-13-60 and 16-13-70 below.

Sec. 16-13-40. In-lieu fee.

- (a) For developments of five (5) or fewer lots or units. If an in-lieu fee is permitted and chosen for all or part of the inclusionary housing required for the project, the applicable fee shall be calculated at the time of complete building permit submittal as described in the City's fee schedule, established, adopted and amended by City Council from time

to time, and be due prior to issuance of the certificate of occupancy. **No building permit shall be issued until one-half (1/2) of the in-lieu fee required has been paid. The remaining half of the in-lieu fee shall be paid prior to issuance of the Certificate of Occupancy.**

(b) For developments of six (6) or more lots or units. When an in-lieu fee is being paid to meet a fractional unit requirement, the entire fee shall be paid prior to the first building permit being issued for the development, and where applicable, shall be based upon the average single-family dwelling size in Salida as utilized in the current Fee Schedule fee-in-lieu calculation.

Sec. 16-13-50. Density, parking and development incentives for inclusionary housing developments.

Residential development within the zoning districts of C-1, R-2, R-3, R-4 and RMU; and portions of a planned development with the underlying zoning districts of C-1, R-2, R-3, R-4 and RMU; that are subject to inclusionary housing development requirements and are providing one hundred (100) percent of the required affordable housing within the development, may increase the allowed density and utilize the lowered dimensional standards stated in Table 16-F, Schedule of Dimensional Standards, within these districts and utilize the reduced parking requirements for multi-family dwellings stated in Table 16-J, Off-Street Parking Standards by Use. To ensure the integration of the affordable residential units into the development, these standards shall apply to all of the residential units of the subject development within parcels with the above zoning or underlying zoning, that include a minimum of sixteen and seven-tenths (16.7) percent affordable housing.

Sec. 16-13-60. Program requirements for for-sale (ownership) units.

(a) Affordable Unit Price. The prices charged for any affordable **for-sale (ownership)** units shall not exceed prices greater than what is affordable to households earning **one hundred (100) percent**, one hundred twenty (120) percent, **or** one hundred forty (140) percent, ~~or one hundred sixty (160) percent~~ of the Area Median Income (AMI) for Chaffee County. Furthermore, for-sale affordable units shall be subject to the following additional requirements:

- (1) **After the first provided inclusionary housing unit, t**~~The~~ average sales price of all affordable housing units **provided in a project** shall not exceed a price affordable to households earning one hundred ~~forty~~ **thirty (40/130)** percent or less of the AMI for Chaffee County;
- (2) For projects providing multiple affordable **for-sale** units, and to create parity across levels of affordability, the total number of affordable units deed-restricted at one of the applicable AMI levels shall not exceed the total number of affordable units deed-restricted at any of the other applicable AMI levels by more than one unit, **with the exception of units built on land dedicated to the City or to a qualified non-profit developer, as part of a LIHTC project, or unless otherwise specifically approved by City Council;**

- (3) ~~No~~ Studio units above one hundred twenty (120) percent AMI for Chaffee County ~~and one-bedroom units above one hundred forty (140) percent AMI for Chaffee County shall not~~ be eligible to satisfy inclusionary housing requirements; and
- (4) The specific affordable unit price charged for the applicable AMI level shall be based on the current maximum sale price as identified by the Chaffee Housing Authority and/or the City Administrator or their designee, and as annually published on the City of Salida's website and on file with the Community Development Department in City Hall.
- (b) Approved Purchasers for Affordable ~~Dwelling~~ For-Sale Units. A developer or owner shall sell to a qualified purchaser after completing a good faith marketing and selection process approved by the City and applicable housing authority.
- (c) Sale Restriction. No person shall sell an affordable ~~dwelling~~ for-sale unit except to a person that meets the income, asset and other eligibility requirements of this Article or any asset and income eligibility requirement that is included in any applicable contract or deed restriction or any other agreements to which the City is a party or beneficiary.
- (d) Resale Restrictions. All affordable for-sale/ownership ~~dwelling~~ units developed under this Article shall be subject to the resale restrictions itemized within the deed restriction required pursuant to Section 16-13-20~~(e)~~(d).
- (e) Ownership Associations. When accepting an affordable for-sale unit as meeting the inclusionary housing obligation, the City Administrator and/or applicable housing authority will review the homeowner or condominium association declarations to assess the impact on buyers of affordable units. The City Administrator and/or applicable housing authority is authorized to establish rules regarding allowable terms in condominium declarations in order to ensure that the purposes of this Article are accomplished.
- (f) Rental Restriction. The qualified-owner of an affordable unit may rent the unit to an income eligible renter by a method that complies with the applicable deed restriction and/or regulations. At no point shall such rent price exceed a price that is affordable to a household earning ~~one hundred eighty~~ eighty (100~~80~~) percent of the Area Median Income (AMI) for Chaffee County, as defined annually by CHFA.
- (g) Income Cap. The City shall allow a ~~ten~~ nineteen (10~~19~~) percent buffer between the price cap and the income cap to provide flexibility for homebuyers to qualify for financing without being cost burdened. For example, if a unit shall not exceed a price greater than what is affordable to households earning one hundred twenty (120) percent of the Area Median Income for Chaffee County, households earning incomes of up to one hundred thirty nine (139~~0~~) percent of the AMI can qualify for such unit.

Sec. 16-13-70. Program requirements for rental units.

Maximum Rent. Rents charged for any affordable unit shall not exceed a price greater than what is affordable to households earning eighty (80) percent or one hundred (100) percent of the AMI for Chaffee County, as defined by CHFA. Maximum rental rates provided by CHFA are inclusive of utilities, as defined by CHAF's utility allowance policy. Furthermore, affordable rental units shall be subject to the following additional requirements:

- (a) At least ~~fifty (50) percent~~ **half** of all provided units shall be rented at prices affordable to households earning eighty (80) percent or less of the AMI for Chaffee County.
- (b) **No** Studio units rented above eighty (80) percent AMI for Chaffee County shall ~~not~~ be eligible to satisfy inclusionary housing requirements.

(c) Qualified Household. Rental units shall only be rented to or occupied by an income-qualified household as defined in the deed restriction and as approved by the City and/or the applicable housing authority.

Sec. 16-13-80. Administrative regulations.

To the extent the City Administrator deems necessary, rules and regulations pertaining to this Article will be developed and approved by the City Council, and thereby maintained and enforced in order to assure that the purposes of this Article are accomplished. No person shall violate any rule or regulation issued by the City Administrator under this Article.

Section 3. *Severability.* The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

INTRODUCED ON FIRST READING on this 2nd day of July, 2024, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation by the City Council on this 5th day of July, 2024, and set for second reading and public hearing on the 16th day of July, 2024.

INTRODUCED ON SECOND READING FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY, by the City Council on this 16th day of July, 2024.

City of Salida

Mayor Dan Shore

ATTEST:

City Clerk/Deputy City Clerk



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Community Development	Glen Van Nimwegen - Associate Planner	July 2, 2024

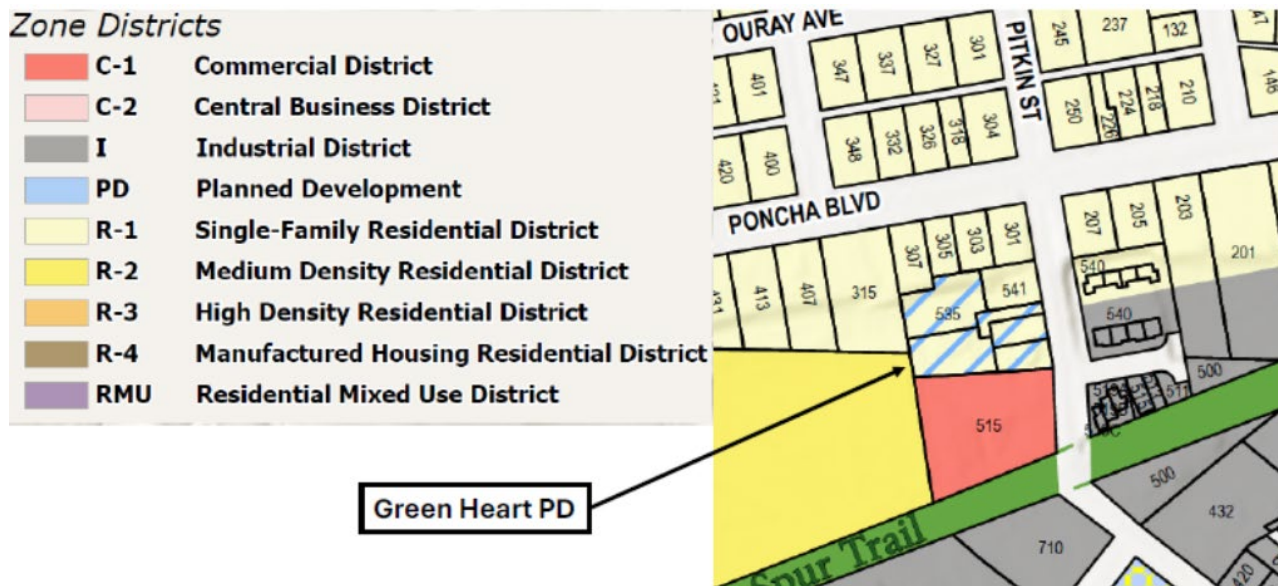
AGENDA ITEM

- A. Ordinance 2024-08: First Reading and Setting the Public Hearing of a Substantial Amendment to the Green Heart Planned Development and Minor Subdivision, located at 535 West Seventh Street.
- B. Consideration of request to waive zoning application fees.

BACKGROUND

The applicant, Robin NeJame of Green Heart LLC, is requesting a major impact review for an amendment to the Green Heart Planned Development and Minor Subdivision located at 535 W. 7th Street. The amendment to the planned development is regarding the assessment of inclusionary housing fees-in-lieu (FIL). The project is a 1.23 acre site of four lots with the underlying zoning of Single Family (R-1).

The Inclusionary Housing Fee-In-Lieu (FIL) is one option of meeting the requirement that 16.7% of homes within a subdivision must be “affordable” as defined by the ordinance. A formula is used to determine the fee which is based on the difference between an affordable home price versus the current market price. The Planned Development overlay allows changes to the underlying zoning standards. More details on the Green Heart PD are described below. A home is under construction on Lot 2; and Lot 4 recently received a Certificate of Occupancy.



A substantial amendment to a Planned Development is a Major Impact Review which requires a hearing and recommendation by the Planning Commission; and adoption of an ordinance by City Council after a 1st Reading, 2nd Reading and Public Hearing. Conditions regarding the inclusionary housing FIL for the Green Heart project are addressed in Ordinance 2022-08 and are stated in Section Three under the Planned Development and Minor Subdivision (Exhibit 1).

Per Section 16-7-150 (c)(6), insubstantial modifications to a PD may be approved by the Administrator. However, one of the criteria for NOT being an administrative change states “Other significant changes which involve policy questions or issues of overriding importance to the community.” Staff believes, which has been confirmed by previous Council direction, the proposed change to the inclusionary housing requirements for this project meets this test.

Also, subparagraph (d) of the above section authorizes the Council to add new conditions “...as are necessary to ensure the new development will be compatible with the current community standards and regulations.”

Purpose of PD for Green Heart

A Planned Development is an overlay which allows flexibility in the underlying zoning district standards to “...permit the application of more innovative site planning and design concepts than may not be possible under the application of standard zone districts.” The Green Heart Planned Development allowed the use of a private road for required street frontage (instead of a public street as required by code) and reduced R-1 lot and site standards for the two lots (#3 and #4) that are fronting Seventh Street. The result of the flexibility was the creation of additional housing on a complicated infill parcel.

As part of the PD approval process in 2022, the applicant agreed to the following condition as an additional public benefit to warrant the code deviations:

1. Applicant agrees to give a preference to current Chaffee County residents or workforce for Lots 3 and 4 on the Property, to the extent permitted by law. Such marketing and vetting shall be the Applicant’s responsibility, with guidance provided by City staff and the Chaffee Housing Authority. The applicant will need to show a good faith effort to find local residents to purchase the property.

Applicant’s Request and Justification for PD Amendment

The applicant is requesting a reconsideration of the amount and assessment timing of the required Inclusionary Housing FIL as described in their submittal (Exhibit 1). Staff is paraphrasing the applicant’s request and justification below:

- The current fees are excessive and not in line with what similar projects were required to pay prior to Green Heart being approved (Cherry Grove is the example cited and is discussed below). This has the effect of making housing less affordable for local workers.

Staff: Cherry Grove is a major subdivision approved in 2021. The housing agreement set the FIL at the lessor of \$7.87 per square foot or \$15,748 for a period of five years. These amounts were consistent with the Inclusionary Housing ordinance at the time. At the time the Green Heart PD was submitted, the FIL was \$20.46 per square foot.

- They kept their project to a scale that fit the neighborhood. Therefore, they could not take advantage of the economies of scale a higher density project would provide.
- They were not aware of the ability to request a different fee-in-lieu as part of the Planned Development; so are making their arguments now.
- They have recently learned from bankers that the fee-in-lieu cannot be financed. This may be partly due to the housing fees and system development fees put the loan to value above recommended levels.
- Does the potential of approval of a county-wide sales tax for affordable housing mean they will be charged twice?
- The result of increasing the rate of fees-in-lieu as the number of units increase in a project result in higher costs for smaller developers.

Recent History of Fee-In-Lieu Amounts

On December 21, 2021 Council adopted Resolution 2021-43 which repeated the FIL from July 6, 2021 which required \$16.51 per square foot for every unit within a major subdivision, planned development, annexation or five or more condominiums. When Council adopted Resolution 2022-04 on February 1, 2022, the FIL increased to \$20.46 per square foot for these projects. Minor subdivisions costs were reduced to \$10.23 per square foot.

The Green Heart Planned Development team had their conceptual review by the Planning Commission and City Council on November 15, 2021. From this point they worked on development plans, including civil engineering documents, to make a formal submittal to the City. The applications were signed and submitted on February 1, 2022, the same date the FIL increased to \$20.46 per square foot. But the applications were not determined to be complete until February 14, 2022.

On May 7, 2024 the City Council adopted Resolution 2024-32 to amend the schedule for the Inclusionary Housing Fee-in-Lieu amounts (Exhibit 3). The new schedule does two things:

- Reduces the overall cost per square foot of new principal homes from \$20.46 per square foot to \$13.59 per square foot.
- Instituted a graduated scale for FIL for smaller projects in response to Council's desire to level the field for project with five and fewer units. This further reduces the FIL in a 4-Lot subdivision to 80% of the above.

These two changes reduced the FIL for Green Heart from \$20.46 per square foot to \$10.87 per square foot.

Required Findings for Approval of a Substantial Modification of a PD

Per Section 16-7-150 (2) no substantial amendment to a PD maybe granted unless the City Council determines the following findings have been met for the proposed change:

1. It is consistent with the efficient development and preservation of the entire PD;
2. Does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across the street from the PD or the public interest; and
3. Is not granted solely for a special benefit upon any person.

Staff Evaluation

The proposed cap would freeze the fee-in-lieu for any proposed principal residence above 1,449 square feet. Currently only Lot 2 is under construction. Lot 4 was recently issued a Certificate of Occupancy and their FIL was paid.

Lot #	Lot Size (square feet)	Principal Home Size (square feet)	Current FIL Total	Proposed FIL Total	Difference
1	19,117				
2	16,268	2,274	\$24,718	\$15,748	\$8,970
3	6,589				
4	7,088	1,400	\$15,218	\$15,218	PAID

Staff recommends the Council focus on the unique benefits provided and constraints that were solved by the Green Heart Planned Development for guidance on whether the FIL change should be made. For instance, it was a difficult site that required the added expense of private street infrastructure. They have agreed to give preference to local homebuyers that are a part of the community's workforce who make their home on Lots 3 and 4. The Council may consider other conditions or changes to potentially help make that happen.

The arguments about the FIL making housing less affordable and more challenging for smaller projects/developers are best made as part of a larger discussion. Staff have committed to evaluating the fees for Council adoption on a bi-annual basis.

A. Proposed Fee-In-Lieu for Green Heart Planned Development

Keep the fee at the current rate (\$10.87 per square foot of each unit) but cap the fees at a max of \$15,748 per unit for three years. The cap is consistent with what was approved for the Cherry Grove subdivision.

B. Proposed Application Fees for PD Amendment

The applicant is asking for consideration of a refund of the application fees for this amendment as they were not aware they could discuss alternatives to the FIL at the time the PD was approved. The fees are:

- PD Substantial Modification \$1,500
- Cost Reimbursement Deposit 3,000
- \$4,500

FISCAL NOTE

Item 13.

- A. If approved, the initial reduction to the Housing Affordability Fund would be \$8,970. The future reductions cannot be calculated because we do not know the size of the home to be built on the two remaining lots. However, the proposed cap is for only three years, so if the remaining lots are not built on until after that date, the fee that is current at that time will be paid.
- B. The applications fee waiver would mean \$1,500 would not be added to the General Fund, plus the extraneous expenses covered by the deposit. The unused portion of the deposit is returned to the applicant.

PLANNING COMMISSION RECOMMENDATION

On May 28, 2024 the Planning Commission held a public hearing and found the request met the criteria for approval of a substantial amendment to the Planned Development and made the following recommendations:

- A. Ordinance 2022-08 should be revised by amending the conditions regarding inclusionary housing FIL to generally state:
 - 1. The owner shall pay a fee-in-lieu for each principal residential unit constructed equal to the lesser of \$10.87 per habitable square feet; \$15,748; or an amount established by a subsequently adopted fee schedule; and
 - 2. The fee-in-lieu amounts shall remain at the above for three (3) years from the date of this ordinance. After the three (3) year period the fee-in-lieu shall be the amount that is in effect at the time of issuance of a building permit for a principal residence.
 - 3. The minor subdivision shall be amended to note the temporary FIL reduction; and
- B. The application fees should be refunded to the applicant.

MOTIONS

- A. A City Councilmember should state "I move to _____ Ordinance 2024-08 on First Reading and Set the Public Hearing for July 16, 2024", followed by a second and a roll call vote.
- B. A City Councilmember should state "I move to _____ the applicant's request to waive the Green Heart PD amendment application fees", followed by a second and a roll call vote.

Attachments

Ordinance 2024-08
Exhibit 1: Ordinance 2022-08
Exhibit 2: Applicant Statement
Exhibit 3: IH FIL Fee Schedule adopted May 7, 2024
Submitted Public Comments

**CITY OF SALIDA, COLORADO
ORDINANCE NO. 08
(Series 2024)**

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO APPROVING A SUBSTANTIAL MODIFICATION OF THE GREEN HEART PLANNED DEVELOPMENT AND MINOR SUBDIVISION TO MODIFY THE REQUIREMENTS FOR INCLUSIONARY HOUSING FOR THE 1.23 ACRE SITE

WHEREAS, the City Council approved the Development Plan, Planned Development and Minor Subdivision for the Green Heart Planned Development on May 17, 2022 by Ordinance 2022-08; and

WHEREAS, Section Three of said Ordinance includes as a condition to the Planned Development and Minor Subdivision approvals the requirements that preference be given to local Chaffee County residents or workforce to purchase lots within the subdivision and that new residential units shall meet the Inclusionary Housing requirements of Chapter 16, Article XIII of the Salida Municipal Code; and

WHEREAS, Section 16-7-150 of the Salida Municipal Code (SMC) states the provisions of a PD Development Plan that are significant and involving policy questions or issues of overriding importance of the community may be amended by the City Council after a public hearing and subject to certain criteria; and

WHEREAS, the landowner, Green Heart LLC, as represented by Robin NeJame, has made an application to amend the conditions within the Planned Development in accordance with the SMC, to allow a cap on the maximum Inclusionary Housing Fees-in-Lieu required per lot for a time period of three years; and

WHEREAS, the City of Salida Planning Commission held a duly noticed public hearing on May 28, 2024 to review the proposed changes and made a recommendation that the City Council approve the proposed substantial modification of the Planned Development, with conditions, as it met the criteria stated in Section 16-7-150; and

WHEREAS, the proposal for the subject territory is consistent with the policies and goals of the City's land use regulations and Comprehensive Plan, and will advance the public interest and welfare; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO as follows:

Section One

That the Green Heart Planned Development, Development Plan and Minor Subdivision as defined in Ordinance 2022-08 be amended by amending the conditions of Section Three of said ordinance as follows:

Conditions for the Planned Development:

1. Applicant agrees to give a preference to current Chaffee County residents or workforce for Lots 3 and 4 on the Property, to the extent permitted by law. Such marketing and vetting shall be the Applicant's responsibility, with guidance provided by City staff and the Chaffee Housing Authority. The applicant will need to demonstrate their good faith effort in finding local residents to purchase the property(ies).
2. Access to all of the lots must be off of the private road. No access will be allowed off of Seventh Street for any of the lots.

Conditions for the Minor Subdivision:

1. A name for the private road be added to the plat and "out-lot" removed.
2. The applicant must meet the requirements of the Public Works Director and City Engineering Consultants.
3. A plat note shall be added that states that "Fees-in-lieu for Open Space shall be paid at the time of building permit submittal of any residential units."
4. The following plat note must be added: ~~"New residential dwelling units constructed on the Property shall meet the inclusionary housing requirements of Chapter 16, Article XIII of the Salida Municipal Code. The applicants volunteer and agree to provide an in-lieu fee at the rate in effect prior to issuance of certificate of occupancy of any new residential dwelling units on any of the lots, unless an IH unit is provided".~~
~~of any new residential dwelling units on any of the lots, unless an IH unit is provided".~~
 1. Until August 30, 2027, THE OWNER SHALL BE PERMITTED TO PAY AN INCLUSIONARY HOUSING FEE-IN-LIEU FOR EACH PRINCIPAL RESIDENTIAL UNIT CONSTRUCTED EQUAL TO THE LESSOR OF: (1) \$10.87 PER HABITABLE SQUARE FEET; (2) \$15,748; OR (3) A LOWER AMOUNT ESTABLISHED BY A SUBSEQUENTLY ADOPTED FEE SCHEDULE; AND
 2. Until August 30, 2027, THE FEE-IN-LIEU AMOUNTS SHALL REMAIN AT THE ABOVE-STATED AMOUNTS. AFTER August 30, 2027, THE FEE-IN-LIEU SHALL BE THE AMOUNT THAT IS IN EFFECT AT THE TIME OF ISSUANCE OF A BUILDING PERMIT FOR A PRINCIPAL RESIDENCE.
5. That the applicant meet all applicable requirements of Atmos Energy.

Section Two

The applicant shall cause the Minor Subdivision to be amended and re-recorded with the above change to the language.

Section Three

This Ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of any ordinance repealed or amended as herein provided, and the same shall be construed and concluded under such prior ordinances.

Section Four

The provisions of this Ordinance are severable and the invalidity of any section, phrase, clause or portion of the Ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the Ordinance.

INTRODUCED ON FIRST READING on this 2nd day of July, 2024, **ADOPTED and ORDERED PUBLISHED IN FULL** in a newspaper of general circulation by the City Council on this 5th day of July, 2024, and set for second reading and public hearing on the 16th day of July, 2024.

INTRODUCED ON SECOND READING, FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY, by the City Council on the 16th day of July, 2024.

CITY OF SALIDA

By: _____
Mayor Dan Shore

(SEAL)

ATTEST:

By: _____
City Clerk/Deputy City Clerk

EXHIBIT 1

**CITY OF SALIDA, COLORADO
ORDINANCE NO. 08
SERIES OF 2022**

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA,
COLORADO APPROVING THE GREEN HEART LLC MAJOR IMPACT REVIEW
FOR A PLANNED DEVELOPMENT OVERLAY AND MINOR SUBDIVISION OF THE
1.23 ACRE PARCEL LOCATED AT 535 WEST SEVENTH STREET**

WHEREAS, the City of Salida Planning Commission conducted a public hearing on the Major Impact Review Application request for a Planned Development Overlay and Minor Subdivision for the property located at 535 West Seventh Street on March 28, 2022 and forwarded to the City Council its recommendation that the subject property be approved, with conditions, as a Planned Development Overlay pursuant to the attached Green Heart Planned Development Plat (Exhibit A); and

WHEREAS, the City of Salida Planning Commission reviewed and recommended approval, with conditions, the Green Heart Minor Subdivision a four-lot subdivision within the planned development overlay, illustrated on Exhibit B; and

WHEREAS, the project is consistent with the purpose, conditions and evaluation standards for planned development districts; and

WHEREAS, the proposal for the subject property is consistent with the policies and goals of the City's land use regulations and Comprehensive Plan, and will advance the public interest and welfare; and

WHEREAS, after the positive recommendation was forwarded to the City Council, a public hearing was held by the Salida City Council on May 17, 2022.

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

Section One

That the entirety of the property comprising the Green Heart Planned Development, to wit, the 1.23 acres is hereby zoned Single-Family Residential (R-1) with a Planned Development Overlay as shown on the Green Heart LLC Planned Development plat and Minor Subdivision attached to this ordinance as Exhibit A and Exhibit B.

Section Two

Upon this approval by the City Council, the Green Heart LLC Planned Development Overlay shall be considered a site specific development plan and granted a vested property right. The City Council is approving the vested property right subject to the terms and conditions contained in the development plan and this ordinance and failure to abide by such terms and conditions may, at the option of the City Council, after a public hearing, result in the forfeiture of vested property rights.

Section Three

Upon this approval by the City Council, the applicant shall submit a final Mylar of Exhibit A and Exhibit B; and incorporating the following conditions of approval for the Mayor's signature and recordation.

Conditions for the Planned Development:

1. Applicant agrees to give a preference to current Chaffee County residents or workforce for Lots 3 and 4 on the Property, to the extent permitted by law. Such marketing and vetting shall be the Applicant's responsibility, with guidance provided by City staff and the Chaffee Housing Authority. The applicant will need to show a good faith effort to find local residents to purchase the property.
2. Access to all of the lots must be off of the private road. No access will be allowed off of Seventh Street for any of the lots.

Conditions for the Minor Subdivision:

1. A name for the private road be added to the plat and "out-lot" removed.
2. The applicant must meet the requirements of the Public Works Director and City Engineering Consultants
3. A plat note shall be added that states that "Fees-in-lieu for Open Space shall be paid at the time of building permit submittal of any residential units."
4. The following plat note must be added: "New residential dwelling units constructed on the Property shall meet the inclusionary housing requirements of Chapter 16, Article XIII of the Salida Municipal Code. The applicants volunteer and agree to provide an in-lieu fee at the rate in effect prior to issuance of certificate of occupancy of any new residential dwelling units on any of the lots, unless an IH unit is provided".
5. That the applicant meet the requirements of Atmos Energy.

Section Four

The City Clerk is hereby directed to undertake the following actions upon the adoption of this Ordinance:

1. Publish this Ordinance in a newspaper of general circulation in the City of Salida.
2. Following recording of the Mylar, the Clerk shall promptly amend the official city zoning district map to incorporate and reflect the planned development overlay of the subject property.

Section Five

This Ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of any ordinance repealed or amended as herein provided, and the same shall be construed and concluded under such prior ordinances.

Section Six

The provisions of this Ordinance are severable and the invalidity of any section, phrase, clause or portion of the Ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the Ordinance.

INTRODUCED ON FIRST READING, on May 3, 2022, ADOPTED and set for second reading and public hearing on the 17th day of May, 2022.



ATTEST:

Erin Kelley
City Clerk/Deputy Clerk

CITY OF SALIDA, COLORADO

Dan Shore
Dan Shore, Mayor

PUBLISHED IN FULL in the Mountain Mail after First Reading on the 6th day of May, 2022, and BY TITLE ONLY, after final adoption on the 20th day of May, 2022.

Erin Kelley
City Clerk/Deputy City Clerk

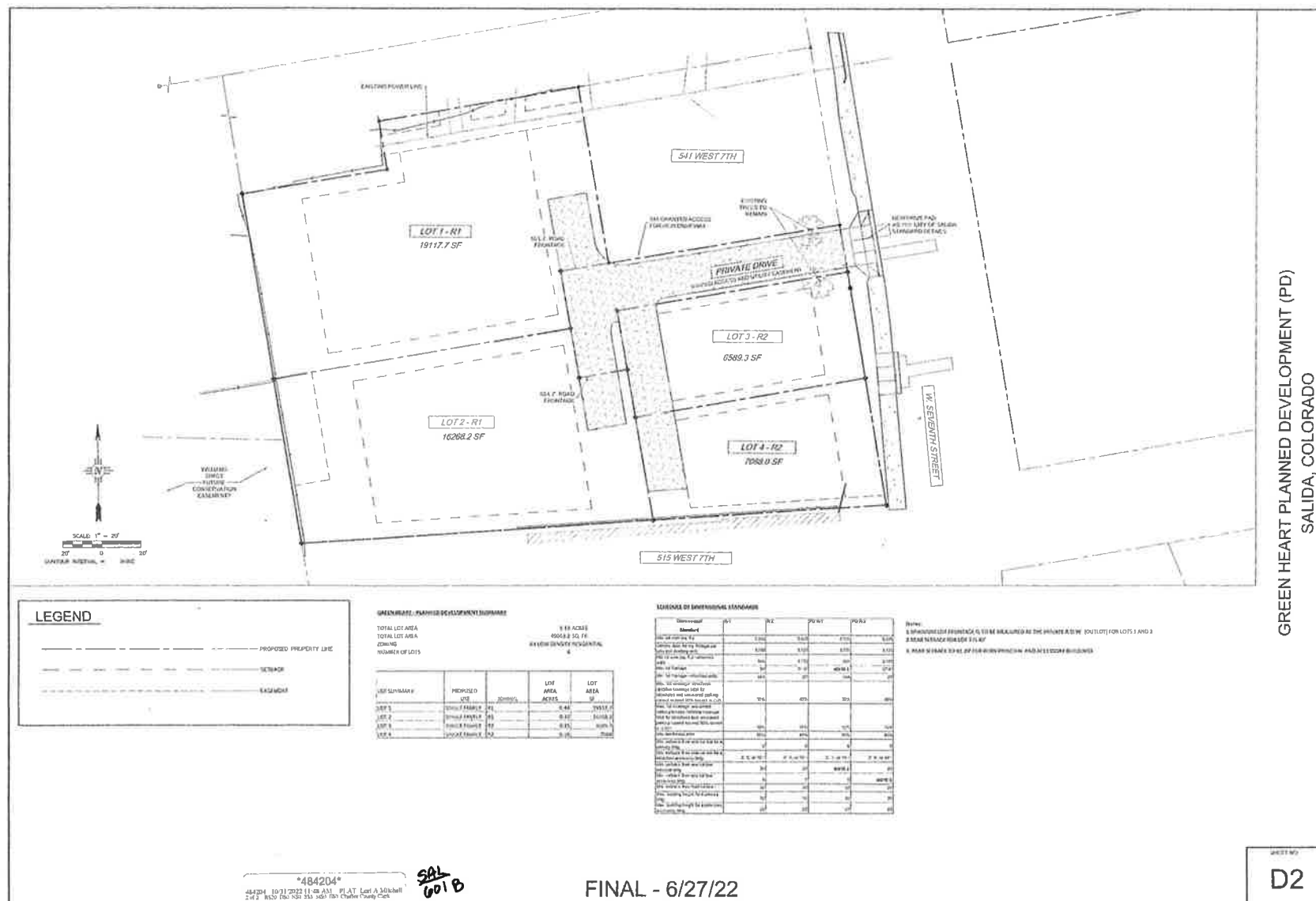


EXHIBIT 2

As an introduction, Green Heart LLC, the applicant, consists of Andy Riemenschneider, Zack Zeiset, Annie Ruiter, and myself, Robin NeJame. We are a partnership of two families who joined forces to purchase the parcel of land at 535/541 7th Street. We are all long-time residents of Salida, each with over 20 years of residency. Zack even grew up here and attended the old LES just a half block away. With families of our own, we are excited to live on this property and grow old with our community.

We would like to formally request a renegotiation of our planned development and minor subdivision agreement. We feel the fees in lieu for Inclusionary Housing we are required to pay are excessive and not in line with what other developers have been asked to pay. These additional fees only hurt locals' ability to purchase local lots and are limiting the affordable housing opportunities in our subdivision.

Throughout the Planned Development process, simplicity had been our guiding principle. We never aspired to be developers of large condo complexes; rather, our aim has always been to foster a community of families and neighbors.

The Green Heart Planned Development doubled the number of lots compared to the Use by Right and provides access to 541 7th Street to allow for an Accessory Dwelling Unit (ADU). Including the lot at 541 7th Street, the number of additional units for these two lots can be 10 if you count the ADUs. All four new lots are accessed from Two Wheel Drive.

As per our original Planned Development we requested the following deviations from the Dimensional Standards:

- Lots 1 and 2: The minimum lot frontage to be measured from the new private road.
- Lots 3 and 4: The minimum lot frontage, lot area, lot coverage, landscape area, and setbacks to match R2. Because of the rear access across the lot, the rear setback will be 20'. Lot 2, the rear setback, was increased to 40' to allow Lot 1 to have a less obstructed view corridor.

Presently, Zack and I are building on Lot 2, while Annie and Andy are planning to build on Lot 1 soon. We recently sold Lot 3 to a couple from Chaffee County, affording their children the opportunity to walk to school and the park, starting in May. You heard from Bethany the other day. She and her partner are a family of four and make approximately \$50k per year. She works for an orthodontist and Dustin works from home. He has built their family home, working tirelessly. This family qualifies for affordable housing, but chose not to enter into the program. It made more sense for them to save, skipping birthdays and holidays, to own their house and not be limited by any deed restrictions. On our end, we waited over 440 days for a Bethany, Dustin and their family to purchase a lot. We have yet to sell Lot 3. We have been told time and time again that people have interest, but they are unable to pay the fee in lieu. Those that have shown serious interest include a non-certified school district employee, a teacher that wants to relocate here. Note, there are two positions open in the school district which she could potentially fill, two local kids who I used to teach along with their families, an emergency room doctor that considered relocating, and one of your employees, someone that works for the City of Salida.

We would like to formally request a renegotiation of our planned development and minor subdivision agreement. As we have learned very few people are willing to purchase a deed-restricted home, and with the cost of these deed-restricted units right now, it is sometimes a better investment for locals to go in a different direction.

The biggest hindrances to our situation are as follows:

1) We did not fully understand what the term negotiating meant. It wasn't until last month's meeting that we learned of the possibilities. We learned that each PD is unique, and we should have considered negotiating the Inclusionary Housing fees.

2) The banks will not loan given your terms. Assuming a lot price of \$250k, and building costs at \$375 per sq foot, a 1500 sq foot home costs \$812,500. This does not include the fee in lieu, permit fees, and tap fees. This person cannot see this potential residence at 120 percent AMI (or even 140 percent AMI). This would be a loss for anyone that did this, and the bank will not offer a loan. The math doesn't work.

We greatly care about affordable housing. For 20 years, Zack and I have had affordable housing units at 60% AMI. We just raised them to 80 % AMI with the latest property tax increase. We are now being asked to provide nearly \$40,000 in fees to build our home, our neighbors will be asked something similar. I will add that if the Chaffee Housing Authority tax initiative passes, we will not only be giving back to affordable housing through our rentals and through the fee in lieu, but also through every taxable dollar we spend in Chaffee County. It almost feels like being triple taxed. There are zero rewards to keep affordable rentals just that, and it is not something that I ever thought of considering until this fee in lieu and these tax measures kept coming up. But when those who are trying to be part of the solution, continue to be burdened, unintended consequences are inevitable. For example, I sold one of my affordable units. We have one less affordable rental in Salida because of that. We are in a financial pickle because of these unintended consequences and can no longer take on all these financial burdens.

After talking to Bill Almquist on April 19, 2024, he mentioned that he thought the fee in lieu cost could potentially be going down to \$13.76. He also let me know that there was talk of changing ordinances in the future, one of which might include lowering this fee for minor subdivisions based on how many lots are made. He said that this fee could go up based on how many lots are made, and since we created four lots, that possibly that \$13.76 could be cut by about twenty percent. His rationale for more lots costing more, I hear, but I don't necessarily agree with.

1) He claims that more lots could actually hurt the affordable housing issue because of formulas and averaging.

2) The city still has a policy that hurts locals from purchasing in Salida city limits. Tacking any more fees on to these lots does not help in any way put the working class in our community, especially since we have proven to the city that our intent is to get working class families on these lots with the sale of Lot four to the Dustin and Bethany. I also think that if you create more lots in city limits that penalizing these small developers is unfair. If we were trying to make this a business, it would be one thing, but we were actually just trying to create space for neighbors. Every time we sell a lot we

are also penalized with significant capital gains, even though we prove losses. Ask our accountant about this.

I was asked at the last P and Z meeting why we did not negotiate, and I felt like I was staring at everyone like a deer in the headlights. The concept was foreign to us. We would like to negotiate now:

Under the previous Inclusionary Housing Ordinance, the Cherry Grove subdivision had a fee in lieu of \$7.87 per sq. ft., this was for seven lots. It also reads that there is a max, not to exceed \$15,748 per unit. Furthermore, the fee at this time was \$16.51.

We are aware that the City needs funding for affordable housing, so our request is that we receive a cap equal to Cherry Grove's at \$15,748 per unit under the existing inclusionary housing fee of 80 percent of 13.56. Should this go down, this rate would also go down. And this would be for a three-year period at time that the new ordinance is effective to issuance of CO. Per current standards if an affordable unit is built the fee does not apply and all fees paid to date are returnable to payees if they are the current owner.

I am including \$4500 and would like to request one more thing...that you consider a reimbursement of this fee as we did not know when we first entered into an agreement with the City of Salida that "negotiating" was an option and that each project that came before you was "unique". Again, this could have been dealt with had we known that negotiating was an option

We encourage you to consider what we have contributed to housing in Salida and will continue to contribute through rentals and maybe even a potential sales tax increase. We honestly cannot contribute in three different ways, and it really does not feel equitable to be hit in three different ways.

In conclusion, we urge the City to reconsider the terms of the planned development and minor subdivision, recognizing the tangible benefits our project offers to the community. We are open to constructive dialogue and eager to find mutually beneficial solutions that address both the City's needs and our goals. Thank you!

Robin NeJame on behalf of Green Heart LLC

719-221-4726



Inclusionary Housing In-Lieu Fees:

Inclusionary housing requirements apply to Annexations, Planned Developments, Minor and Major Subdivisions, Condominium Plats, Duplex Conversion Subdivisions, and Multi-Family rental projects of five (5) or more units. The in-lieu fee option is only available for the fractional portion above the number of inclusionary housing units required to be built and deed-restricted in a development, and where the total number of proposed units or lots in a development is five (5) or fewer.

If an applicant opts to pay an in-lieu fee to satisfy the inclusionary housing requirement as permitted by Sec. 16-13-30 of the Salida Municipal Code, the fees shall be calculated as described here, and based upon the date of building permit application submittal.

- (a) The in-lieu fee for each for-sale unit within the applicable development shall be:

\$13.59 per square foot of the principal unit (excluding garages), which equates to the following amounts applicable to projects or to the fractional remainder based on unit/lot count:

5 new units/lots created, or remainder of 5 = .9 FIL/SF = \$12.23 / SF for each unit
 4 new units/lots created, or remainder of 4 = .8 FIL/SF = \$10.87 / SF for each unit
 3 new units/lots created, or remainder of 3 = .7 FIL/SF = \$9.51 / SF for each unit
 2 new units/lots created, or remainder of 2 = .6 FIL/SF = \$8.15 / SF for each unit
 1 new unit/lot created, or remainder of 1 = .5 FIL/SF = \$6.80 / SF for each unit

- (b) The in-lieu fee for each unit within a multi-family RENTAL project of five (5) or more units under single ownership and on the same lot (whether attached or not) shall be:

\$3.00 per square foot of the rental unit (excluding garages)*

*Should such a unit be converted to a saleable unit (via subdivision, condominiumization, etc.), the applicant shall be responsible for paying the difference between the rental unit in-lieu fee originally paid and the for-sale unit in-lieu fee applicable at the time of such conversion, unless the requisite number of inclusionary housing units are then deed-restricted.

Updated 05/07/24

PLEASE READ OUT LOUD AND MAKE PART OF RECORD AT 5/28 HEARING

senate@brucecairns.org <senate@brucecairns.org>

Tue 5/28/2024 11:37 AM

To:Glen Van Nimwegen <glen.vannimwegen@cityofsalida.com>;Robin.NeJame@highcountrybank.net
<Robin.NeJame@highcountrybank.net>

[You don't often get email from senate@brucecairns.org. Learn why this is important at
<https://aka.ms/LearnAboutSenderIdentification>]

Dear Sir and Planning Commission Members:

RE: Your notice of Public Hearing...

Three page letter by Robin NeJame.

After reading please distribute to ...Planning... Members.

I agree with Robin's letter. We appreciate that they chose to build housing commensurate with the neighborhood. Please waive fees so that they can sell the last lot to someone who can build a reasonable price home; yet, that a worker in our community can afford it and that they have no fees to pass on or that the new owner would have to pay.

If the previous ownership had existed on that property you would have likely condemned it and it still would not be cleaned up. They have done a marvelous job.

Commentary: If Salida wants more affordable housing - housing can not be taxed multiple ways. Like- property tax, sales tax increases, excessive tap fees for small development, rental taxes and Regs, Housing authority increases, etc, etc.

Please grant them full concessions so more affordable homes can be built in Salida.

Thanks, Neighbor, Bruce Cairns
540 W. 7th St. Unit 4.
720 936 5344

PS. Green Heart LLC did not ask me to write this, I volunteered for what they have done to improve the neighborhood and the City!!



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Police	Russ Johnson - Police Chief	July 2, 2024

AGENDA ITEM

Ordinance 2024-09: An ordinance for the City of Salida adding a Social Host Ordinance to the Municipal Code.

BACKGROUND

A local initiative was created several years ago to address teen drinking in Chaffee County. Data collected from the “Healthy Kids Survey” showed an above average use of alcohol by teens in our area. This survey also showed that teens in Chaffee County start drinking at an earlier age than the state average.

Over the past few years, Family Youth Initiative (FYI) worked on marketing and education campaigns against teen alcohol use. There has also been a committee working on adding a new ordinance to help curb underage parties at residences in our community. The police can currently charge a felony for people providing alcohol to a minor. However, it is not utilized very often and is a very lengthy process.

The working group which included Salida PD personnel, created a new local ordinance that allows police to issue a summons to a homeowner, tenant, lessee, or person organizing an underage party at their house. Under this ordinance, the person that knowingly allows this to happen will be cited into Municipal Court. If found guilty, the court will issue a fine, educational material, and require a person to attend a class. The courts will issue a tiered approach for subsequent violations.

The hope is to give the police a lesser charge to utilize in these situations and educate violators about the dangers of teen alcohol use. The County Commissioners and Buena Vista Trustees will also be asked to adopt similar ordinances to keep consistency throughout Chaffee County.

FISCAL NOTE

There is no fiscal impact at this time.

RECOMMENDATION

Staff and FYI recommend adopting Social Host Ordinance 2024-09 into the Municipal Code.

MOTION

A City Councilmember should state “I move to _____ Ordinance 2024-09 on first reading and setting second reading and public hearing for July 16, 2024”, followed by a second and a roll call vote.

CITY OF SALIDA, COLORADO
ORDINANCE NO. 09
(Series of 2024)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO,
 AMENDING THE CITY CODE TO ADD SECTION 10-7-90 ENTITLED KNOWINGLY
 ALLOWING UNDERAGE PERSONS TO POSSESS OR CONSUME ETHYL ALCOHOL
 AND/OR MARIJUANA ON PRIVATE PROPERTY TO THE SALIDA MUNICIPAL
 CODE**

WHEREAS, the City of Salida (the “City”), is a statutory city, duly organized and existing under the laws of the State of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-15-401, the City possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety, and welfare; and

WHEREAS, the consumption of alcoholic beverages and marijuana by persons under the age of twenty-one (21) is known to be harmful to their health and development; and

WHEREAS, gatherings of person under the age of twenty-one (21) in which alcoholic beverages and/or marijuana are consumed are known to correlate with an increase of hospitalizations, emergency service responses, and illegal behaviors such as impaired driving, assault, and violence; and

WHEREAS, previous gatherings of underage persons in the City have been facilitated by adults who have provided private property of which to host the gatherings, and also the alcoholic beverages or marijuana which was consumed by the underage persons present, either directly or through lack of reasonable precaution; and

WHEREAS, therefore, the City prohibits any responsible person from knowingly allowing or permitting any person under twenty-one (21) years of age, except for those exempt under C.R.S. § 18-13-122, to possess or consume an alcoholic beverage or marijuana at a residence or other private property under their control.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, ORDAINS:

Section 1. The City Council incorporates the foregoing recitals as conclusions, determinations and findings by the City Council.

Section 2. Code Section 10-7-90. Knowingly allowing underage persons to possess or

consume ethyl alcohol and/or marijuana on private property is hereby added to read as follows:

Sec. 10-7-90. – Knowingly allowing underage persons to possess or consume ethyl alcohol and/or marijuana on private property.

(a) Definitions

(1) “Responsible Person” means a person with control of the residence or other private property where underage consumption occurs, which may include but is not limited to:

- a) an owner of the residence or other private property;
- b) a tenant, lessee, or short-term renter of the residence or other private property;
- c) the person(s) in charge of the residence or other private property;
- d) the person(s) who organizes, supervises, conducts, or controls the gathering or any other person(s) accepting responsibility for the gathering.

(b) Violations

(1) It is a violation of this ordinance for any responsible person to knowingly allow or permit any person under twenty-one (21) years of age, except those exempt under C.R.S. § 18-13-122, to possess or consume an alcoholic beverage or marijuana at a residence or other private property under their control.

(c) Penalties

(1) A first violation of this section shall be punishable by a fine of up to \$250. A copy of the “Social Host Ordinance Pamphlet” shall be provided by the City to the responsible person, with details about consequences for further violations.

(2) A second violation of this section by the same responsible person within a three-year period shall be punishable by a fine of \$1,000 and 20 hours of community service. The fine and community service will be imposed but suspended upon voluntary completion by the responsible person of an educational course on youth substance use, which will be provided by the Chaffee County Department of Human Services or another suitable

organization as designated by the Chaffee County Department of Human Services. If the course is not completed within one year from the date of the second violation the fine and community service will be imposed.

(3) A third or subsequent violation of this section by the same responsible person within a three-year period shall be punishable by a fine of no less than \$2,650 and no less than 40 hours or community service.

Section 3. Severability. The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

INTRODUCED ON FIRST READING on this 2nd day of July, 2024, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation by the City Council on this 5th day of July, 2024, and set for second reading and public hearing on the 16th day of July, 2024.

INTRODUCED ON SECOND READING, FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY, by the City Council on the 16th day of July, 2024.

CITY OF SALIDA

By: _____

Mayor Dan Shore

ATTEST:

(SEAL)

By: _____

City Clerk/Deputy City Clerk



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Finance	Aimee Tihonovich - Finance Director	July 2, 2024

AGENDA ITEM

First reading of ordinance 2024-10 authorizing the execution and deliver of a site lease, a lease purchase agreement, and related documents in connection with the acquisition of certain property for City purposes; approving the forms of such documents; and providing for other matters related thereto.

BACKGROUND

At the regular meeting of June 4, 2024; Council approved a contract to buy real estate located at 325 W. Hwy 50 in Salida with the expectation of utilizing a direct placement lease purchase agreement to finance the cost of the purchase. This ordinance outlines the parameters of this financing mechanism and provides the necessary authorizations to staff to carry out activities necessary to accomplish this transaction.

FISCAL NOTE

Section 3 of the ordinance constitutes maximum thresholds for the purposes of establishing parameters and delegating authority to award the site lease lender. Staff will be authorized to enter into a lease within these parameter but have no authority to do so outside of those parameters. It is anticipated that the maximum principal amount payable by the city under the Lease shall not exceed \$1,400,000 and that the tax-exempt interest rate shall not exceed 5.0% and the taxable interest rate shall not exceed 6.65%. The maximum total amount of the rent payable by the City under the Lease shall not exceed \$2,267,197.

The lender will be selected in a competitive process by issuing a Request for Information (RFI) The amounts stated in the above paragraph are “high” estimates to allow for some flexibility in pricing, but these are amounts that cannot be exceeded without additional council action.

RECOMMENDATION

Staff recommends approval of the ordinance on first reading.

MOTION

A City Councilmember should state “I move to _____ Ordinance 2024-10 on first reading and setting second reading and public hearing for July 16, 2024”, followed by a second and a roll call vote.

**CITY OF SALIDA, COLORADO
ORDINANCE NO. 10
(Series of 2024)**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO,
AUTHORIZING THE EXECUTION AND DELIVERY OF A SITE LEASE, A LEASE
PURCHASE AGREEMENT, AND RELATED DOCUMENTS IN CONNECTION WITH
THE ACQUISITION OF CERTAIN PROPERTY FOR CITY PURPOSES; APPROVING
THE FORMS OF SUCH DOCUMENTS; AND PROVIDING FOR OTHER MATTERS
RELATING THERETO**

WHEREAS, the City of Salida (the “City”), in the County of Chaffee and State of Colorado, is a political subdivision of the State of Colorado (the “State”), duly organized and existing as a statutory city under the laws of the State; and

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

WHEREAS, the City is authorized by Section 31-15-101(1)(d), Colorado Revised Statutes (“C.R.S.”), to acquire, hold, lease, and dispose of property, both real and personal; and

WHEREAS, the City is authorized by Section 31-15-713(1)(c), C.R.S., to lease any real estate, together with any facilities thereon, owned by the City when deemed by the governing body to be in the best interest of the City; and

WHEREAS, the City is authorized by Section 31-15-801, C.R.S., to enter into rental or leasehold agreements in order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes; and

WHEREAS, for the functions or operations of the City, it is necessary that the City finance the acquisition of property and the building located thereon for a police facility extension for use in the City’s governmental operations (the “Project”); and

WHEREAS, the City Council has determined, and now hereby determines, that it is in the best interests of the City and its residents and taxpayers that the City lease certain property of the City (the “Leased Property”) to a lender hereafter named (the “Lender”) pursuant to the terms of a Site Lease Agreement (the “Site Lease”), and lease that same property back from the Lender pursuant to the terms of a Lease Purchase Agreement (the “Lease”), and utilize the proceeds of such Site Lease to finance the Project; and

WHEREAS, the City owns, in fee title, the Leased Property; and

WHEREAS, the Lender shall be (a) an “accredited investor,” as defined in Rule 501(A)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act of 1933, as amended (an “Institutional Accredited Investor”) or (b) a “qualified institutional buyer,” as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (a “Qualified Institutional Buyer”); and

WHEREAS, pursuant to the Lease, and subject to the right of the City to terminate the Lease and other limitations as therein provided, the City will pay certain rental payments (“Rent” as such terms are defined in the Lease) in consideration for the right of the City to use the Leased Property; and

WHEREAS, pursuant to the terms of the Lease, the Lender will advance funds for the Project to the City; and

WHEREAS, the City’s obligation under the Lease to pay Rent shall be from year to year only; shall constitute currently budgeted expenditures of the City; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of the City in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect; and

WHEREAS, there has been presented to the City Council and is on file at the City offices a form of Site Lease and a proposed form of Lease; and

WHEREAS, a copy of the Site Lease and Lease, in substantially the forms to be executed by the Town and the Lender, are on file with the Town; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Lease and the Site Lease; and

WHEREAS, Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes (the “Supplemental Act”), provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act to the Lease and the financing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, ORDAINS:

Section 1. Ratification and Approval of Prior Actions. All action heretofore taken not inconsistent with the provisions of this Ordinance by the City Council, or the officers or agents of the City Council or the City, relating to the Site Lease, the Lease, or to the acquisition, installation or financing of the Project, is hereby ratified, approved and confirmed.

Section 2. Finding of Best Interest. The City Council hereby finds and determines, pursuant to the Supplemental Act, Constitution and laws of the State, that the acquisition of the Project and the financing of the costs thereof pursuant to the terms set forth in the Lease is necessary, convenient, and in furtherance of the purposes of the City and is in the best interests of the City and its citizens and inhabitants, and the City Council hereby authorizes and approves the same.

Section 3. Supplemental Act; Parameters. The City Council hereby elects to apply all of the provisions of the Supplemental Act to the Lease and in connection therewith delegates to the Mayor, any other member of the City Council, the City Administrator and the Finance Director of the City the independent authority to make any determination delegable pursuant to Section 11-57-205(1)(a-i) of the Supplemental Act in relation to the Lease, including without limitation the date of the Lease, the rental amount to be paid by the City pursuant to the Lease and the term of the Lease, subject to the following parameters and restrictions:

- (a) the Lease Term shall not extend beyond December 31, 2039;
- (b) the Site Lease term shall not extend beyond December 31, 2049;
- (c) the principal amount Rent payable by the City under the Lease shall not exceed \$1,400,000;
- (d) the tax-exempt interest rate shall not exceed 5.00%, and the taxable interest rate shall not exceed 6.65%;
- (e) the maximum total amount of the Rent payable by the City under the Lease shall not exceed \$2,267,197; and
- (f) the Lease shall be subject to prepayment at the option of the City as specified in the Lease.

Section 4. Approval of Documents. The Site Lease and the Lease, in substantially the forms presented to this meeting of the City Council, with such changes as approved by the City Administrator and Finance Director, is in all respects approved, authorized and confirmed, and the Mayor and City Clerk are hereby authorized and directed, for and on behalf of the City, to execute and deliver the Site Lease, the Lease and related documents (collectively, the “Financing Documents”) in substantially the forms on file with the City, with such changes thereto as are not inconsistent with the provisions of this Ordinance. The approval hereby given to the Financing Documents includes an approval of such additional details therein as may be necessary and appropriate for their completion, deletions therefrom and additions thereto as may be approved by bond counsel prior to the execution of the Financing Documents. The execution of any instrument by the appropriate officers of the City herein authorized shall be conclusive evidence of the approval by the City of such instrument in accordance with the terms hereof.

Section 5. Authorization to Execute Collateral Documents and to Perform Additional Acts. The Mayor, the City Administrator, the Finance Director, the City Clerk, and other appropriate officials or agents of the City Council or the City, are hereby authorized and directed to execute and deliver for and on behalf of the City any and all additional certificates, documents, instruments and other papers, and to perform all other acts that they may deem necessary or appropriate, in order to implement and carry out the transactions and other matters authorized by this Ordinance. The execution of any instrument by the aforementioned officers or members of the City Council shall be conclusive evidence of the approval by the City of such instrument in accordance with the terms hereof and thereof.

Section 6. No General Obligation Debt. No provision of this Ordinance or the Financing Documents shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year direct or indirect City debt or other financial obligation whatsoever of the City within the meaning of any home rule charter, constitutional or statutory provision, nor a mandatory charge or requirement against the City in any ensuing fiscal year beyond the then current fiscal year. The City shall not have any obligation to make any payment with respect to the Lease except in connection with the payment of the Rent (as defined in the Lease) and certain other payments under the Lease, which payments may be terminated by the City in accordance with the provisions of the Lease. Neither the Site Lease or the Lease shall

constitute a mandatory charge or requirement of the City in any ensuing fiscal year beyond the then current fiscal year, or constitute or give rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any constitutional or statutory debt limitation and shall not constitute a multiple fiscal year direct or indirect City debt or other financial obligation whatsoever. No provision of the Financing Documents shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the City within the meaning of Sections 1 or 2 of Article XI of the Colorado Constitution. None of the Financing Documents shall directly or indirectly obligate the City to make any payments beyond those budgeted and appropriated for the City's then current fiscal year.

Section 7. Reasonableness of Rentals. The City Council hereby determines and declares that the Rent, as provided in the Lease and as subject to the parameters set forth in Section 3 hereof, does not exceed a reasonable amount so as to place the City under an economic compulsion to renew the Lease or to exercise its option to prepay the Lease. The City Council hereby determines and declares that the period during which the City has an option to prepay the Lease (i.e., the entire maximum term of the Lease) does not exceed the useful life of the Leased Property.

Section 8. No Recourse Against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the City Council, or any officer or agent of the City acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the Rent. Such recourse shall not be available either directly or indirectly through the City Council or the City, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise.

Section 9. Severability. If any one or more sections, sentences, clauses or parts of this Ordinance shall for any reason be held invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, but shall be confined in its operation to the specific sections, sentences, clauses or parts of this Ordinance so held unconstitutional or invalid, and the inapplicability and invalidity of any section, sentence, clause or part of this Ordinance in any one

or more instances shall not affect or prejudice in any way the applicability and validity of this Ordinance in any other instances.

Section 10. Repealer. All bylaws, orders, and Ordinances of the City, or parts thereof, inconsistent with this Ordinance or with any of the Financing Documents hereby approved, are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, or Ordinance of the City, or part thereof, heretofore repealed.

Section 11. Electronic Signatures; Electronic Transactions. In the event the Mayor, City Clerk, City Administrator, Finance Director or other employee or official of the City that is authorized or directed to execute any agreement, document, certificate, instrument or other paper in accordance with this Ordinance (collectively, the “Authorized Documents”) is not able to be physically present to manually sign any such Authorized Document, such individual or individuals are hereby authorized to execute the Authorized Documents electronically via facsimile or email signature. Any electronic signature so affixed to any Authorized Document shall carry the full legal force and effect of any original, handwritten signature. This provision is made pursuant to Article 71.3 of Title 24, C.R.S., also known as the Uniform Electronic Transactions Act. It is hereby determined that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other productions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 12. Effective Date and Disposition. This Ordinance shall be in full force and effect 30 days following publication after adoption on second and final reading.

INTRODUCED ON FIRST READING on this 2nd day of July, 2024, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation by the City Council on this 5th day of July, 2024, and set for second reading and public hearing on the 16th day of July, 2024.

INTRODUCED, ON SECOND READING FINALLY ADOPTED AND ORDERED PUBLISHED BY TITLE ONLY by the City Council this ____ day of _____, 2024.

CITY OF SALIDA

By: _____

Mayor Dan Shore

ATTEST:

(SEAL)

By: _____

City Clerk/Deputy City Clerk

SITE LEASE AGREEMENT

SITE LEASE AGREEMENT (together with any amendments hereto made in accordance herewith, this “Site Lease”), made as of [CLOSING DATE] (the “Dated Date”), between the CITY OF SALIDA, COLORADO, as lessor hereunder having its main office and place of business at 448 E. First Street, Suite 112, Salida, Colorado 81201, (the “City”), and COLLEGIATE PEAKS BANK, DIVISION OF GLACIER BANK, as lessee hereunder, having an office and place of business at 540 W. Highway 50, P.O. Box 1226, Salida, Colorado 81201 (the “Lender”).

RECITALS:

A. The City is the owner of certain land described in **Exhibit A** attached hereto and made a part hereof (the “Land”), and the premises, buildings and improvements situated or to be situated on the Land as described in **Exhibit A** attached hereto (collectively, the “Leased Property”).

B. The Lender desires to lease the Leased Property from the City pursuant to this Site Lease.

C. Immediately after the lease of the Leased Property under this Site Lease, the City will sublease the Leased Property from the Lender under that certain Lease Purchase Agreement dated as of the Dated Date (the “Lease”), by and between the Lender, as sublessor, and the City, as sublessee.

D. All capitalized terms used herein and not otherwise defined shall have the meanings given to them in the Lease.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

ARTICLE I REPRESENTATIONS AND WARRANTIES

Section 1.1 Representations and Warranties of the City. The City represents and warrants to the Lender:

- (a) The City has good and merchantable fee simple title to the Land;
- (b) Except to the extent reflected in the title insurance policy to be delivered to the Lender in accordance with the Lease, to the best knowledge of the City, the Land is not subject to any dedication, easement, right of way, reservation in patent, covenant, condition, restriction, lien or encumbrance that would prohibit or would interfere materially with the use of or operations being conducted on the Leased Property;

- (c) All taxes, assessments or impositions of any kind with respect to the Land, except current taxes, have been paid in full; and
- (d) The Land is properly zoned or approved for the uses thereof contemplated by the Lease.

Section 1.2 Reference to Lease Representations and Warranties. Reference is made to the representations and warranties made by the City and the Lender in Article 2 of the Lease. Those representations and warranties are incorporated herein and will have the same force and effect as if they were fully set forth in this Site Lease.

ARTICLE II LEASE OF PROPERTY

The City hereby demises and leases to the Lender and the Lender hereby accepts and leases from the City for the sum of \$[_____], as and for all rent due hereunder, and other good and valuable consideration, the receipt and the sufficiency of which are hereby acknowledged, the Leased Property, for a term commencing on the Dated Date and ending on the date the term of this Site Lease is terminated in accordance with Section 3.1 hereof. The City hereby acknowledges that the rent paid by the Lender hereunder shall be used to effectuate the Project, in accordance with the terms of the Lease. The City Council hereby determines that such amount is reasonable consideration for the leasing of the Leased Property to the Lender for the lease term as provided herein.

ARTICLE III TERMINATION

Section 3.1 Termination. Subject to the other provisions of this Site Lease, this Site Lease shall terminate upon the occurrence of the earliest of any one of the following events:

- (a) The payment by the City of all Rent owing to the Lender under the Lease.
- (b) The exercise by the City of its option to prepay the Lease by payment of the scheduled After Payment Termination Value and other sums due in accordance with the terms and conditions of the Lease as set forth in Section 4.05 thereof.
- (c) The termination of the Lease Term upon the occurrence of an Event of Nonappropriation pursuant to Section 4.6 of the Lease or the occurrence of an Event of Default by the City under Article X of the Lease and the receipt by the Lender of amounts from the New Sublease (as defined in Section 3.2 below) sufficient to:
 - (1) Reimburse the Lender for all reasonable administrative costs and expenses, including reasonable attorneys' fees, incurred by the Lender as a result of the Event of Default and the termination of the Lease and the sublease of the Leased Property by the Lender, including without limitation costs and expenses incurred by the Lender pursuant to Sections 6.6, 6.7 and 6.8 hereof (the "Administrative Costs"); and

- (2) Reimburse the Lender for all reasonable capital costs and expenses incurred by the Lender with respect to making the Leased Property suitable for sublease for commercial or other lawful purposes; and
- (3) Pay to the Lender the After Payment Termination Value and other sums due in accordance with the terms and conditions of the Lease.

(d) [_____].

Notwithstanding the foregoing, if the Lender has subleased the Leased Property pursuant to a New Sublease and has received payment of the Administrative Costs and of the amounts referred to in numbered paragraphs (2) and (3) of Subsection 3.1(c) above (the “Reimbursement Amount”), this Site Lease shall nevertheless continue for such period of time as is contemplated in the New Sublease.

Section 3.2 New Subleases. In the event that the Lease is terminated based on an Event of Default or an Event of Non-Appropriation prior to the payment to the Lender of the After Payment Termination Value, the Lender shall be free to sublease the Leased Property to a third party on commercially reasonable terms for any purpose authorized by applicable zoning laws and permitted by the restrictions applicable to the Land, including restrictions on use imposed by any land use code (a “New Sublease”), provided that such New Sublease shall not extend beyond the date this Site Lease would otherwise terminate pursuant to Section 3.1(d) hereof, without the prior written consent of the City, which consent shall not be unreasonably withheld.

Use of the Leased Property by the Lender or any subsidiary or affiliate of the Lender, other than for the purpose of assuming control, making necessary changes in the Leased Property, and the initial subleasing thereof, shall be treated as a New Sublease thereof on a monthly basis at the Fair Market Rental Value of the Leased Property. The “Fair Market Rental Value” of the Leased Property means what a landlord under no compulsion to lease the Leased Property and a tenant under no compulsion to lease the Leased Property would determine as fair rent at the time of the occupancy of the Leased Property by the Lender, or its subsidiary or affiliate, taking into consideration the uses permitted, the quality, size, design and location of the Leased Property, the duration of the occupancy by the Lender, or its subsidiary or affiliate, and the rent for comparable buildings located in the vicinity of the Leased Property. Any such use by the Lender or a subsidiary or affiliate shall terminate within sixty days after recovery by the Lender of its Administrative Costs and the Reimbursement Amount.

Section 3.3 Use of New Sublease Rentals. The Lender shall apply any rentals under a New Sublease first to recover any Administrative Costs. Thereafter, the Lender shall be entitled to interest on the outstanding Reimbursement Amount at the Applicable Rate. Any amounts received by the Lender pursuant to this Section after payment of the Administrative Costs and interest on the Reimbursement Amount shall be credited to the payment of the Reimbursement Amount. To the extent that the Lender receives an amount in excess of the Reimbursement Amount, whether as a result of its sublease of the Leased Property or its assignment or sale of its rights hereunder, any such excess shall be remitted by the Lender to the City.

Section 3.4 Reports. In the event that the Lease Term is terminated by the City because of an Event of Nonappropriation pursuant to Section 4.06 of the Lease or terminated by the Lender as a result of the occurrence of an Event of Default by the City thereunder, the Lender shall keep complete and accurate records regarding any New Sublease of the Leased Property and shall, within sixty days after the end of each Fiscal Year of the City, deliver a written report to the City showing: (a) all amounts received by the Lender from any New Sublease of all or any part of the Leased Property; (b) a statement of Administrative Costs incurred by the Lender during the same period; (c) a statement of any capital costs and expenses incurred in accordance with Subsection 3.1(c) above, (d) an analysis as to whether the Lender has received the Reimbursement Amount, with all supporting calculations; and (e) the date, if any, in the next Fiscal Year of the City on which the Lender expects to receive the Reimbursement Amount. The City shall have the right, at its own expense, to examine the Lender's records insofar as they relate to the Leased Property, and to contest the amount of Administrative Costs assessed, the costs and expenses incurred in accordance with Subsection 3.1(c), and/or the Lender's calculation of the Reimbursement Amount. Such examination shall be made at the Lender's offices during normal business hours.

ARTICLE IV EASEMENT, USE

Section 4.1 Granting Easements. Upon the request of the Lender, and subject to the terms of the Lease, the City shall promptly grant such licenses, rights of way or easements in the Land and in such form and content as are determined by the Lender to be reasonably necessary:

- (a) To maintain the Leased Property; and
- (b) To exercise the Lender's rights and obligations under the Lease and this Site Lease including, but not limited to, its rights to exercise its remedies under the Lease and its rights in the event of termination of the Lease.

Section 4.2 Quiet Use and Enjoyment. Subject to the terms of the Lease, the City hereby covenants to provide the Lender during the term of this Site Lease with quiet use and enjoyment of the Leased Property, and the Lender shall during such term peaceably and quietly have and hold and enjoy the Leased Property, without suit, trouble or hindrance from the City.

Section 4.3 Owner in Fee. The City represents that it is the owner in fee of the Leased Property. The Lender acknowledges that it is obtaining only a leasehold interest in the Leased Property pursuant to this Site Lease, and that the City shall retain possession of the Leased Property pursuant to the Lease and continue to utilize the Leased Property for City purposes (assuming no Event of Default or Event of Nonappropriation has occurred and is continuing).

ARTICLE V USE OF LEASED PROPERTY; SURRENDER, ASSIGNMENT

Section 5.1 Use of Leased Property. The Lender agrees to use the Leased Property solely for the purpose of leasing the Leased Property pursuant to the Lease unless the Lease Term is terminated by the City because of an Event of Nonappropriation or is terminated by the Lender as a result of an Event of Default by the City, in which event the Lender may enter into a New Sublease of the Leased Property.

Section 5.2 Surrender of Leased Property. The Lender agrees that upon the termination of this Site Lease it will surrender the Leased Property to the City free and clear of all liens and encumbrances, except Permitted Encumbrances (other than this Site Lease), and all right, title and interest of the Lender or any sublessee or assignee in and to the Leased Property, including any and all improvements and fixtures which shall at the time be situated thereon or attached thereto, shall vest in the City. The Lender and any sublessee or assignee shall execute and deliver, upon request by the City, any instrument of transfer, conveyance or release necessary or appropriate to confirm the vesting of such right, title and interest in the City. If the Leased Property has been subleased by the Lender pursuant to a New Sublease, upon termination of this Site Lease any New Sublease, by the terms thereof, shall also terminate.

ARTICLE VI COMPLIANCE WITH REQUIREMENTS; OTHER COVENANTS

Section 6.1 Further Assurances and Corrective Instruments. The City and the Lender agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property or for otherwise carrying out the intention hereof.

Section 6.2 Use, Compliance with Laws, Waste. The Lender or its sublessee or assignee shall use the Leased Property only in a careful, safe and proper manner in compliance with all applicable federal, State, county and municipal laws, ordinances, resolutions, rules or regulations, and in a manner that would not reasonably give rise to liability pursuant to any environmental laws. The Lender or its sublessee or assignee shall not commit any waste or nuisance on the Leased Property.

Section 6.3 Inspection, Access, Records. The City shall have the right at reasonable business hours (or at any hour if necessary in an emergency) to enter upon the Leased Property for the purposes of inspecting the Leased Property or performing obligations of the Lender or its sublessee or assignee under this Site Lease which the Lender or its sublessee or assignee neglects to perform and which the City elects to undertake. The City agrees that, after an Event of Nonappropriation or an Event of Default under the Lease, and if this Site Lease has not been terminated pursuant to Section 3.1 hereof, the Lender or any sublessee or assignee shall have full rights of ingress and egress to the Leased Property, and the City hereby agrees to execute and deliver any licenses, easements or rights-of-way that may be reasonably necessary to confirm such rights. The City agrees that the Lender and its duly authorized agents shall have the right at all reasonable times to examine the books, records, reports and other papers of the City with respect to the Leased Property. The Lender or its sublessee or assignee agree that the City and its duly authorized agents shall have the right at all reasonable times to examine the books, records, reports and other papers of the Lender or its sublessee or assignee with respect to the Leased Property. The City may, at its own cost, not more frequently than once in any twelve-month period, cause an audit to be made of the books, records, reports and other papers of the Lender or its sublessee or assignee with respect to the Leased Property.

Section 6.4 Compliance with Environmental Laws. Any person who subleases the Leased Property pursuant to a New Sublease shall covenant that its use and operation of the Leased

Property, and all activities conducted on the Leased Property during the term of the New Sublease, shall be in compliance with, and conducted in a manner so as not to give rise to liability under, any applicable environmental law. Further, any sublessee under a New Sublease shall covenant that, in the event the City reasonably believes (i) the sublessee is conducting or has conducted activities on the Leased Property which are or were in violation of applicable environmental laws, or (ii) the sublessee's use or operation of the Leased Property has resulted or may result in environmental conditions on or emanating from the Leased Property which could give rise to liability under applicable environmental laws, such sublessee shall promptly undertake all appropriate response actions necessary to come into compliance with and mitigate any potential liability arising under applicable environmental laws.

Section 6.5 Restrictions on Mortgage or Sale of Land. Except as provided in the Lease and except for Permitted Encumbrances, the City and the Lender and any sublessee or assignee of the Lender agree that neither the City, the Lender, nor any sublessee or assignee of the Lender will sell, mortgage or encumber the Leased Property or any portion thereof during the term of this Site Lease.

Section 6.6 Taxes, Utilities. Prior to an Event of Nonappropriation or an Event of Default under the Lease, the payment of taxes and utility charges shall be governed by the Lease. After an Event of Nonappropriation or an Event of Default under the Lease and if this Site Lease has not been terminated, the Lender or its sublessee or assignee shall promptly pay or cause to be paid when due all taxes and assessments which may be imposed on the Leased Property and all costs or charges for utility service supplied to the Leased Property.

Section 6.7 Maintenance. Prior to an Event of Nonappropriation or an Event of Default under the Lease, the maintenance of the Leased Property shall be governed by the Lease. After an Event of Nonappropriation or an Event of Default under the Lease and if this Site Lease has not been terminated, the Lender or its sublessee or assignee shall maintain the Leased Property in good condition, provided that on the date of such an Event of Nonappropriation or an Event of Default, the Leased Property was in good condition.

Section 6.8 Insurance. Prior to an Event of Nonappropriation or an Event of Default under the Lease, the provisions of the Lease shall govern with respect to the maintenance of insurance with respect to the Leased Property. After an Event of Nonappropriation or an Event of Default under the Lease and if this Site Lease has not been terminated, the Lender or its sublessee or assignee shall obtain and keep in force, at its own expense (i) comprehensive general public liability insurance against claims for personal injury, death or property damage occurring on the Leased Property in an amount not less than \$1,000,000, and (ii) fire and extended coverage insurance in an amount not less than the replacement cost of the Leased Property (excluding foundations). All such insurance shall name the City, the Lender, and any sublessee or assignee as insureds. Proceeds of such fire and extended coverage insurance shall be payable to the City, the Lender, and any sublessee or assignee as their respective interests may appear. All such insurance policies shall provide that the insurance company shall not cancel such insurance without first giving at least 30 days' advance written notice to the City and the Lender and any sublessee of any portion of the Leased Property. Each insurance policy required by this Section shall contain a waiver of subrogation by the issuer of such policy with respect to the City, the Lender, and any sublessee or assignee, and their officers, agents and employees, while acting within the scope of

their employment. Each such insurance policy may have a deductible clause in an amount not to exceed \$250,000.

Section 6.9 Advances by the City. In the event that the Lender or its sublessee or assignee shall fail to make any payments required by, or perform any of its obligations under Sections 6.6, 6.7 or 6.8 hereof, the City may (but shall be under no obligation to) make such payments or perform any of such obligations; and any payments so made or costs or expenses so incurred by the City, together with interest thereon at the Applicable Rate per annum, shall be reimbursed to the City by any sublessee or assignee, or by the Lender from any proceeds of subleasing of the Leased Property or any portion thereof or sale or assignment of its interest in this Site Lease.

Notwithstanding any other provision of this Site Lease, any obligations of the Lender to make payments pursuant to Sections 6.6, 6.7 or 6.8 hereof shall be limited to any proceeds of subleasing of the Leased Property or any portion thereof or sale or assignment of its leasehold interest in this Site Lease.

ARTICLE VII MISCELLANEOUS

Section 7.1 Definitions. All capitalized terms not otherwise defined in this Site Lease shall have the meanings set forth therein in the Lease.

Section 7.2 Damage, Destruction, Condemnation. The provisions of Article VI of the Lease shall govern with respect to any damage, destruction or condemnation of the Leased Property during the term of this Site Lease.

Section 7.3 Severability. If any term or provisions of this Site Lease or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Site Lease or the application of such term or provision to persons or to circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 7.4 Doctrine of Merger. The Doctrine of Merger shall not apply.

Section 7.5 Notices and Demands. Any notice, demand or other communication under this Site Lease by either party to the other shall be sufficiently given or delivered if dispatched by registered or certified mail, postage prepaid and return receipt requested or delivered personally and, in the case of either the City or the Lender, at the address for such party set forth in the Lease.

Section 7.6 Binding Effect. This Site Lease shall inure to the benefit of and shall be binding upon the Lender and the City and their respective successors and assigns. In the event that the Lender subleases all or any portion of the Leased Property or sells or assigns its leasehold interest in the Leased Property and this Site Lease, the Lender shall require its sublessee or assignee to consent in writing to, and to undertake compliance with, all provisions of this Site Lease.

Section 7.7 Counterparts. This Site Lease may be executed in counterparts, each of which shall constitute one and the same instrument.

Section 7.8 Amendments, Changes and Modifications. This Site Lease may not be effectively amended, changed, modified or altered without the prior written consent of the City and the Lender.

Section 7.9 Assignment. Neither party may assign its rights and obligations under this Site Lease without the prior written consent of the other party, which consent shall not be unreasonably withheld.

Section 7.10 Applicable Law. This Site Lease shall be governed by and construed in accordance with the laws of the State of Colorado.

Section 7.11 Electronic Transactions. The parties agree that in the event that any individual or individuals who are authorized to execute this Site Lease on behalf of the City of the Lender are not able to be physically present to manually sign this Site Lease, that such individual or individuals are hereby authorized to execute this Site Lease electronically via facsimile or email signature. This agreement by the parties to use electronic signatures is made pursuant to Article 71.3 of Title 24, C.R.S., also known as the Uniform Electronic Transactions Act. Any electronic signature so affixed to this Site Lease shall carry the full legal force and effect of any original, handwritten signature.

The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action, or suit in the appropriate court of law.

IN WITNESS WHEREOF, the parties hereto have executed this Site Lease Agreement as of this _____ day of _____, 2024.

CITY OF SALIDA, COLORADO,
as Lessor

By: _____
Mayor

(SEAL)

ATTEST:

By: _____
City Clerk

Address of Lessor:

448 E. First Street

Suite 112

Salida, Colorado 81201

COLLEGIATE PEAKS BANK, DIVISION
OF GLACIER BANK, as Lessee

By: _____
[_____]

STATE OF COLORADO)
)
 COUNTY OF CHAFFEE) SS.
)
 CITY OF SALIDA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Dan Shore and Kristi Jefferson, as Mayor and City Clerk, respectively, of City of Salida, Colorado.

WITNESS my hand and official seal.

(SEAL)

Notary Public

STATE OF COLORADO)
)
COUNTY OF CHAFFEE) SS.
)
CITY OF SALIDA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____, as _____ of Collegiate Peaks Bank, Division of Glacier Bank.

WITNESS my hand and official seal.

(SEAL)

Notary Public, State of Colorado

EXHIBIT A

DESCRIPTION OF THE LEASED PROPERTY

The Land that is subject to the Site Lease is as set forth in the following legal description:

LEGAL DESCRIPTION:

325 W. Highway 50, Salida, Colorado 81201

DESCRIPTION OF PREMISES, BUILDINGS AND IMPROVEMENTS CONSTITUTING THE LEASED PROPERTY:

LEASE PURCHASE AGREEMENT

LEASE PURCHASE AGREEMENT (this “Lease”), made as of [CLOSING DATE] (the “Dated Date”) between COLLEGIATE PEAKS BANK, DIVISION OF GLACIER BANK, having an office and place of business at 540 W. Highway 50, P.O. Box 1226, Salida, Colorado 81201 (the “Lender”), as sublessor, and CITY OF SALIDA, COLORADO, as sublessee hereunder, having its main office and place of business at 448 E. First Street, Suite 112, Salida, Colorado 81201 (the “City”).

RECITALS:

- A. The City is a political subdivision of the State of Colorado (the “State”), duly organized and existing as a statutory city under the laws of the State.
- B. The City is authorized by Section 31-15-101(1)(d), Colorado Revised Statutes (“C.R.S.”), to acquire, hold, lease, and dispose of property, both real and personal.
- C. The City is authorized by Section 31-15-713(1)(c), C.R.S., to lease any real estate, together with any facilities thereon, owned by the City when deemed by the governing body to be in the best interest of the City.
- D. The City is authorized by Section 31-15-801, C.R.S., to enter into rental or leasehold agreements in order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes.
- E. The City Council of the City (the “City Council”) has determined that for the functions or operations of the City, it is necessary that the City provide funds for the purpose of financing the acquisition of property for a police facility extension for use in the City’s governmental operations and other capital improvements authorized by law (the “Project”).
- F. In order to facilitate the financing of the costs of the Project, the City has entered into that certain Site Lease Agreement, dated the date hereof (the “Site Lease”) between the City, as lessor, and the Lender, as lessee, whereby the Lender has acquired a leasehold interest in certain real property of the City (the “Land”) and the premises, buildings and improvements situated or to be situated on the Land as described in Exhibit B attached hereto (collectively, the “Leased Property”).
- G. The City owns, in fee title, the Leased Property.
- H. The City desires to sublease the Leased Property from the Lender pursuant to this Lease.
- I. In consideration for the sublease of the Leased Property under this Lease, the City agrees to pay the Lender certain annually appropriated rental payments (“Rent”), subject to annual City Council review and appropriation, at such times and in such amounts set forth herein and otherwise in accordance with the terms hereof, and Rent shall be comprised of principal and/or interest components as set forth herein.

J. It is the intention of the parties to this Lease that the obligation of the City hereunder to pay Rent shall apply only to the current fiscal year in which such Rent is due and payable hereunder; shall constitute currently budgeted expenditures of the City; shall not constitute a mandatory charge or requirement in any ensuing fiscal year; and shall constitute neither a general obligation, nor a direct or indirect multiple-fiscal year financial obligation or other indebtedness of the City within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness, nor a mandatory payment obligation of the City in any ensuing fiscal year beyond any fiscal year during which this Lease shall be in effect, and should the City fail, for any reason, to appropriate funds to pay Rent or any other obligations arising hereunder for any ensuing fiscal year, such event of non-appropriation shall not result in the imposition of any obligations whatsoever on the City hereunder.

K. It is the further intention of the parties to this Lease that neither this Lease nor the Site Lease shall directly or indirectly obligate the City to make any payments beyond those appropriated for any fiscal year during which this Lease and the Site Lease shall be in effect.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Defined Terms Generally. In addition to the words and terms elsewhere defined in this Lease, including the Recitals hereto, the following words and terms as used in this Lease shall have the following meanings unless the context or use indicates another or different meaning or intent and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined:

“Additional Rent” means the cost of all taxes, assessments, insurance premiums, utility charges, maintenance, upkeep, repairs, and replacements with respect to the Leased Property and all other charges (together with all interest and penalties that may accrue thereon in the event that the City shall fail to pay the same, as specifically set forth in this Lease) which the City agrees to assume or pay as Additional Rent under this Lease.

“After Payment Termination Value” has the meaning given that term in Section 4.05 hereto.

“Applicable Rate” means the rate per annum set forth in Exhibit A hereto, representing the embedded rate per annum used to determine the interest portion of Rent.

“Authorized City Representative” means (i) the Mayor, (ii) the Finance Director, or (iii) such other person duly authorized to act on behalf of the City, who shall be designated by written certification of the Mayor furnished to the Lender and containing the specimen signature of such other person.

“Business Day” means any day other than a Saturday, a Sunday, a day on which banking institutions or governmental offices are authorized by law to close for general banking purposes in Denver, Colorado or a day on which the principal office of the Lender or the City is unable to open or be open for reasons not related to its financial condition.

“City” means City of Salida, Colorado.

“City Administrator” means the City Administrator of the City, or his or her successor in function.

“City Clerk” means the City Clerk of the City, or his or her successor in function.

“City Council” means the City Council of the City.

“Certification” or “Certificate” means a written certification required or permitted by the provisions of this Lease or the Site Lease, signed and delivered to the Lender or other proper person or persons.

“Dated Date” means the date set forth in Exhibit A hereto.

“Default” means default by the City in the performance or observance of any of the covenants, agreements or conditions on its part contained in this Lease or the Site Lease, exclusive of any notice or period of grace required to constitute a default an “Event of Default” as described in Section 10.01 of this Lease.

“Event of Default” means an Event of Default described in Section 10.01 of this Lease, which has not been cured or waived in accordance with the terms hereof.

“Event of Nonappropriation” has the meaning given that term in Section 4.06 hereof.

“Exhibit A” means Exhibit A attached to this Lease, which is incorporated in and made a part of this Lease and given the same force and effect as if the same were fully set forth herein.

“Exhibit B” means Exhibit B attached to this Lease, which is incorporated in and made a part of this Lease and given the same force and effect as if the same were fully set forth herein.

“Exhibit C” means Exhibit C attached to this Lease, which is incorporated in and made a part of this Lease and given the same force and effect as if the same were fully set forth herein.

“Federal Securities” means only direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States and which are not callable prior to their scheduled maturities by the issuer thereof (or an ownership interest in any of the foregoing).

“Finance Director” means the Finance Director of the City, or his or her successor in function.

“Fiscal Year” means the City’s fiscal year, and shall initially mean the 12-month period commencing on the first day of January in each year and ending on the thirty-first day of December of the calendar year.

“Force Majeure” means, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America, the State of Colorado or any of their departments, agencies or officials or any civil or military authority; insurrection; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accidents to machinery, transmission pipes or canals; or any other cause or event not within the control of the City or the Lender.

“Hazardous Materials” means, without limitation, any substance, material or waste, including radon gas, asbestos, petroleum and petroleum products (including crude oil), that is or becomes designated, classified or regulated as “toxic” or “hazardous” or a “pollutant,” or that is or becomes similarly designated, classified or regulated, under any federal, state or local law, regulation or resolution, but does not include any such substance that is a customary and ordinary cleaning or office product used on the Leased Property by the City or an agent of the City, or any customary or ordinary product for use by the City in the ordinary course in the exercise of its powers and in furtherance of its purposes under applicable laws.

“Independent Counsel” means any attorney who (i) is duly admitted to practice law before the highest court of the State of Colorado, (ii) is not an officer or an employee of the Lender or the City, (iii) is engaged by the City at its sole expense and (iv) is acceptable to the Lender.

“Independent Engineer” means a person who is not an employee, or a firm comprised of persons who are not employees, of the City, engaged by the City at the sole expense of the City and satisfactory to the Lender, and qualified to provide engineering advice concerning the construction, use and operations of structures and improvements of similar kind and nature to the Leased Property.

“Initial Term” has the meaning given to such term in Section 3.02 hereof.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as amended from time to time and the rules and regulations from time to time promulgated thereunder.

“Land” has the meaning given to such term in the Recitals hereto. A legal description of the Land is set forth in Exhibit B.

“Lease” means this Lease Purchase Agreement, as the same may be amended from time to time pursuant to Section 12.06 hereof.

“Lease Term” means, together, the Initial Term and each Renewal Term, comprising the period during which this Lease is in effect, as specified in Section 3.02 hereof.

“Leased Property” means the Leased Property described in Exhibit B hereto.

“Lender” means Collegiate Peaks Bank, Division of Glacier Bank, and its successors and assigns.

“Mayor” means the Mayor of the City, or his or her successor in function.

“Net Proceeds,” when used with respect to any insurance or condemnation award, means the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all reasonable expenses (including attorney’s fees and any extraordinary expenses of the City or the Lender) incurred in the collection of such gross proceeds.

“Notice Address” means, with respect to the Lender, the Lender’s address set forth in Section 12.04 hereof and, with respect to the City, the City’s address set forth in Exhibit A hereto, and, in either case, such further or different address as an authorized officer or representative of the Lender may designate to the City or an Authorized City Representative may designate to the Lender, as the case may be.

“Opinion of Counsel” means a written opinion of counsel (who need not be Independent Counsel unless so specified) appointed by the City or the Lender.

“Ordinance” means the ordinance duly adopted by the City Council authorizing the execution and delivery of the Site Lease and this Lease, as the same may be amended, modified or supplemented by any amendments or modifications thereof.

“Payment Date” means each June 1 and December 1 during the Lease Term, commencing [_____].

“Permitted Encumbrances” means, as of any particular time, (i) the Site Lease, this Lease, and the liens and encumbrances relating to the Leased Property on the Dated Date, set forth in Exhibit C hereto, (ii) any utility, access and other easements and rights-of-way, mineral rights, restrictions and exceptions to the leasehold interest demised herein, arising after the Dated Date, that will not materially interfere with or impair the use of or operations being conducted on the Leased Property, (iii) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on the leasehold interest demised herein, arising after the Dated Date, as normally exist with respect to properties similar in character to the Leased Property and as do not in the aggregate materially impair the property affected thereby for the purposes for which it was acquired or is held by the City and (iv) any other encumbrances or defects to the leasehold interest demised herein approved in writing by the Lender at its sole discretion.

“Project” means the provision of funds to be used for the purpose of financing the acquisition of property for a policy facility extension for use in the City’s governmental operations and other capital improvements authorized by law.

“Purchase Option Price” means the amount payable on any date, at the option of the City, to prepay Rent, terminate the Lease Term and purchase the Lender’s leasehold interest in the Leased Property, as provided herein.

“Renewal Term” has the meaning given to such term in Section 3.02 hereof.

“Rent” has the meaning given to such term in the Recitals hereto.

“Schedule I” means Schedule I attached to this Lease, which is incorporated in and made a part of this Lease and given the same force and effect as if the same were fully set forth herein.

“Servicer” means the Lender, and its successors or assigns as Servicer hereunder.

“Site Lease” has the meaning given to that term in the Recitals to this Lease, as the same may be amended from time to time in accordance with its terms.

“State” means the State of Colorado.

“Tax Certificate” means the Tax Certificate, dated as of the Dated Date and executed by the City, as the same may be amended from time to time in accordance with its terms.

Section 1.02 Additional Provisions as to Interpretation.

The words “herein” and “hereof” and words of similar import, without reference to any particular section or subdivision, refer to this Lease as a whole rather than to any particular section or subdivision hereof.

References herein to any particular section or subdivision hereof are to the section or subdivision of this instrument as originally executed.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01 Representations and Warranties by the City. The City makes the following representations and warranties:

(a) The City is a political subdivision of the State, duly organized and existing as a statutory city under the laws of the State. The City is authorized by statute and otherwise to enter into the transactions contemplated by this Lease and to carry out the obligations of the City hereunder. The execution, delivery and performance of this Lease have been duly authorized and approved.

(b) The City has fee simple title to the Land.

(c) The City has the full right, power and authority (i) to adopt the Ordinance, (ii) to execute and deliver, and to perform any obligations under, and to accept the benefits conferred to the City under this Lease, (iii) to undertake and complete the Project and to use and operate the Leased Property, and (iv) to carry out and consummate all other transactions contemplated by the Ordinance, the Site Lease and this Lease, and the City has complied and is in compliance with all provisions of applicable law in all matters relating to such transactions.

(d) The City (i) has duly adopted the Ordinance, and the Ordinance remains in full force and effect and has not been amended, modified, waived, rescinded, cancelled, revoked, terminated

or determined to be invalid in whole or in part, and (ii) has duly executed and delivered the Site Lease and this Lease.

(e) The Ordinance, the Site Lease, and this Lease constitute valid and binding obligations, under applicable law, of the City, and, assuming due authorization, execution and delivery of the Site Lease and the Lease by the Lender, are enforceable against the City in accordance with their respective terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally.

(f) No event of default has occurred and is continuing, and there has not occurred nor is there continuing any event or condition which with the passage of time or giving of notice or both would constitute an event of default under, any indenture, mortgage, note, lease agreement or other agreement or instrument to which the City is a party or by which it is bound, and the City has not committed any violation that is continuing, and the City has not taken any action or allowed any action or inaction or is aware of any condition affecting the City which in any of such instances with the passage of time or giving of notice or both would constitute a violation of, any provision of the Colorado Constitution or any existing law, rule, regulation, resolution, judgment, order or decree to which the City is subject.

(g) Neither the adoption of the Ordinance nor the execution and delivery of, or performance by the City of its obligations under, or acceptance by the City of the benefits conferred by, the Site Lease or this Lease or the consummation of the transactions contemplated herein or therein or the compliance with the provisions hereof or thereof conflicts with, or constitutes on the part of the City a violation of, or a breach of or default under (i) any indenture, mortgage, note, lease agreement or other agreement or instrument to which the City is a party or by which it is bound, (ii) any provision of the Colorado Constitution or (iii) any existing law, rule, regulation, resolution, judgment, order or decree to which the City is subject.

(h) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, which has been served on the City or, to the best knowledge of the City, threatened, which in any way questions the existence of the City or the powers of the City referred to in paragraph (b) above, or the validity of the Ordinance or any other proceeding taken by the City in connection with the execution and delivery of the Site Lease or this Lease, or wherein an unfavorable decision, ruling or finding could materially adversely affect the transactions contemplated hereby or thereby, or which, in any way, could adversely affect the validity or enforceability of the Ordinance, the Site Lease or this Lease, or, to the best knowledge of the City, which in any way questions the excludability from gross income of the recipients thereof of the interest portion of the Rent for federal income tax purposes.

(i) The Leased Property and the Project will not be used in a manner that causes that portion of the Lease payments or any interest thereon designated as tax-exempt to be a “private activity bond” within the meaning of Section 141 of the Internal Revenue Code.

(j) The City is not relying on any warranty of the Lender, either express or implied, as to the title or condition of the Leased Property or that it will be suitable to the City’s needs and

recognizes that the Lender is not obligated to operate or maintain the Leased Property or to expend any funds thereon, except as provided in the Site Lease.

(k) To the best of the City's knowledge, no bankruptcy proceedings, liquidation proceedings or dissolution proceedings are pending or threatened against the City; and no such proceedings have been commenced or are expected to be commenced by the City.

Section 2.02 Representations and Warranties by the Lender. The Lender makes the following representations and warranties:

(a) The Lender is a national banking association, duly organized and validly existing under the laws of the United States.

(b) The Lender is an "accredited investor," as defined in Rule 501(A)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act of 1933, as amended (an "Institutional Accredited Investor") or (b) a "qualified institutional buyer," as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (a "Qualified Institutional Buyer").

(c) Neither the execution and delivery of the Site Lease or this Lease, nor the covenants, agreements or obligations of the Lender under the Site Lease or this Lease constitute a material default (or an event which, with notice or the lapse of time, or both, would constitute a material default) under any contract, agreement or other instrument or document to which the Lender is a party or by which the Lender or its property is bound.

(d) The Lender possesses all requisite authority, power, licenses, permits and franchises to conduct all business contemplated in the Site Lease or this Lease to be conducted by it, to execute and deliver the Site Lease or this Lease and to observe and perform its covenants, agreements and obligations under the Site Lease and this Lease.

(e) The execution and delivery of the Site Lease and this Lease by the Lender and the observance and performance by the Lender of its covenants, agreements and obligations under the Site Lease and this Lease do not require the consent or approval of any governmental authority which has not been obtained.

(f) The Lender has duly authorized by proper action its execution, delivery, observance and performance of the Site Lease and this Lease.

(g) Assuming the due authorization, execution and delivery thereof by the City, this Lease and all instruments and documents contemplated in this Lease, including without limitation, the Site Lease, which are executed and delivered by the Lender constitute and will constitute legal, valid, binding and enforceable obligations or representations, as the case may be, of the Lender, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally.

(h) Neither the Site Lease or this Lease, nor the covenants, agreements or obligations of the Lender under the Site Lease or this Lease contravene the Lender's charter documents, or violate in any material respect any statute, rule, regulation or other law, or any court or administrative order, applicable to the Lender.

(i) The Lender acknowledges and recognizes that this Lease will be terminated in the event that funds are not specifically budgeted and appropriated by the City Council to continue paying Rent during the next occurring Fiscal Year, and any succeeding Fiscal Years during the term of this Lease; and that the acts of budgeting and appropriating funds are legislative acts and, as such, are solely within the discretion of the City Council.

ARTICLE III

LEASE OF THE LEASED PROPERTY

Section 3.01 Demise of the Leased Property. The Lender hereby demises and leases to the City, and the City hereby accepts and leases from the Lender, the Leased Property, according to the provisions of this Lease, subject only to Permitted Encumbrances, to have and to hold for the Lease Term. The Lender and the City acknowledge that (i) the City owns fee title to the Leased Property, subject only to Permitted Encumbrances, (ii) the City has leased the Leased Property to the Lender under the Site Lease, and (iii) this Lease constitutes a sublease of the Leased Property from the Lender, as sublessor, to the City, as sublessee.

Section 3.02 Term. The Lease Term shall commence on the Dated Date. The initial Lease Term shall be terminated on December 31, 2024 (the “Initial Term”). The Lease Term may be extended at the option of the City, for additional one-year terms commencing on the day immediately following the end of the Initial Term; *provided, however*, the Lease Term may be continued, solely at the option of the City, for no more than [] additional terms, each ending on and not later than the next December 31 following the end of the Initial Term or the then-current Renewal Term, as the case may be, but not later than the final expiration date set forth in Exhibit A hereto (each additional one-year term after the Initial Term being referred to herein as a “Renewal Term”). The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Initial Term. Any appropriation of amounts due hereunder shall be deemed a determination by the City to exercise its option to renew the Lease for the next ensuing Renewal Term. Notwithstanding the foregoing, this Lease will terminate upon the occurrence of the earliest of the following events:

- (a) Termination hereof by the City because of an Event of Nonappropriation pursuant to Section 4.06 hereof.
- (b) The exercise by the City of its option to prepay this Lease in whole pursuant to Article XI hereof.
- (c) The occurrence of an Event of Default and termination of this Lease by the Lender pursuant to Article X hereof.
- (d) The payment by the City of all Rent and other amounts required to be paid by the City hereunder.

ARTICLE IV

RENT, PREPAYMENT; NONAPPROPRIATION

Section 4.01 Rent. During the Lease Term, in consideration for the use and occupancy of the Leased Property, the City agrees to pay and shall pay as Rent, except as provided in Section 4.06 hereof and except to the extent the Rent may be prepaid under Sections 4.05 and 11.01 hereof, on the following terms:

(a) The City shall pay to the Servicer in immediately available funds the amounts set forth as the Rental Schedule in Schedule I hereto on the respective Payment Dates therein set forth, said amounts to represent payment of principal and interest thereon as designated in said Schedule I; and

(b) The City shall pay such amounts, if any, as and when the same may become payable under Sections 6.02 or 6.03 hereof, subject to appropriation by the City Council; and

(c) The City shall pay into any fund designated by the Servicer or to the United States (with respect to any rebate obligations) moneys in the amount determined by the Servicer to be necessary to comply with the City's obligations under Section 7.10(b) hereof.

Section 4.02 Place of Payment of Rent. The parties acknowledge and agree that the Rent provided for in Section 4.01 hereof shall be paid to the Servicer, at its principal corporate office located at 540 W. Highway 50, P.O. Box 1226, Salida, Colorado 81201, or in accordance with written instructions for wire transfer of funds to the Servicer for the account of the Lender, for deposit in the accounts held by the Servicer for the benefit of the Lender.

Section 4.03 Net Lease. This is a net lease, and the Lender shall not be required to make any expenditures whatsoever in connection with this Lease or the Leased Property. The obligations of the City to make the payments of Rent required in Section 4.01 hereof and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, except as provided in Section 4.06 hereof; and the City (i) will not, subject to the provisions of Sections 4.05 and 4.06 hereof, suspend or discontinue any payments of Rent provided for in Section 4.01 hereof, and shall not withhold any payment of Rent or other payment required hereunder pending resolution of any dispute or assert any right of set-off or counterclaim against its obligation to make such payment of Rent or other payments required under this Lease; (ii) will perform and observe all of its other agreements contained in this Lease; and (iii) except as provided in Sections 4.06 and 11.01 hereof or under Article III herein, will not terminate the Lease Term for any cause including, without limiting the generality of each of the foregoing, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Leased Property, frustration of purpose, any change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the State or any political subdivision of either, or any failure of the Lender to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Lease. Nothing contained in this Section shall be construed to release the Lender from the performance of any of

the agreements on its part contained in this Lease; and in the event the Lender should fail to perform any such agreement on its part, the City may institute such action against the Lender as the City may deem necessary to compel the performance of such agreement or to recover damages therefor, so long as no judgment or court order sought or obtained in such action shall result in the termination hereof or interfere with the prompt and full payment of the Rent as contemplated hereby.

Section 4.04 Interest on Unpaid Rent. In the event the City shall fail to make any payment of Rent required to be paid under Section 4.01 and an Event of Default under Section 10.01(a) hereof results, the item or installment so in Default shall continue as an obligation of the City until the amount in Default shall have been paid to the extent of funds appropriated therefor, and the City agrees to pay interest on any Rent in Default at the rate borne by the Lease to the extent of funds appropriated therefor.

Section 4.05 Prepayment of Rent. The City may prepay Rent under this Lease, in whole or in part, at any time upon payment of the principal amount so prepaid plus accrued interest to the prepayment date.

The City shall provide written notice of any such prepayment to the Lender not less than 30 days prior to the prepayment date.

Whenever in this Lease reference is made to prepayment of all Rent or payment of an amount sufficient to prepay all Rent to become due, the amount required to effect such prepayment shall be deemed to be the After Payment Termination Value set forth in Schedule I hereto.

Upon the City exercising its option to prepay the Rent in whole under this Lease, the provisions of Article XI hereof shall apply.

Section 4.06 Renewal of Lease; Nonappropriation. This Lease shall terminate at the end of the Initial Term, subject to the City's right to renew this Lease for Renewal Terms as set forth in Section 3.02 hereof. In the event that the City Council fails to appropriate money sufficient for the continued performance of this Lease by the City in respect of any next succeeding Fiscal Year (an "Event of Nonappropriation"), and the City shall not cure the Event of Nonappropriation by the last day of the then-current Renewal Term, this Lease shall automatically terminate and the City shall give the Lender written notice of an Event of Nonappropriation and pay to the Lender any Rent and other amounts which are due and have not been paid at or before the end of the then current Renewal Term. In the event of non-renewal of this Lease as provided in this Section, the City shall deliver possession of the Leased Property to the Lender within forty-five days after the end of the then current Renewal Term.

Upon termination of this Lease as provided in this Section, the City shall not be responsible for the payment of any Rent coming due with respect to succeeding Fiscal Years, but if the City has not delivered possession of the Leased Property to the Lender upon the termination of this Lease, the termination shall nevertheless be effective, but the City shall be responsible for the payment of damages in an amount equal to the amount of the Rent thereafter coming due during the current Fiscal Year under Section 4.01 hereof which is attributable to the number of days during

which the City fails to surrender possession of the Leased Property, subject to appropriation by the City Council.

Section 4.07 Payments to Constitute Currently Budgeted Expenditures; Certain Findings. The City and the Lender acknowledge and agree that the Rent due hereunder shall constitute currently budgeted and appropriated expenditures of the City and may be paid from any legally available funds. The City's obligations under this Lease shall be subject to the City's annual right to terminate this Lease, and shall not constitute a mandatory charge or requirement in any ensuing Fiscal Year beyond the then current Fiscal Year. No provision of this Lease shall be construed or interpreted as creating a general obligation, multiple fiscal year financial obligation, or other indebtedness of the City within the meaning of any constitutional or statutory debt limitation. No provision of this Lease shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the City within the meaning of Sections 1 or 2 of article XI of the Constitution of the State. Neither this Lease nor the Site Lease shall directly or indirectly obligate the City to make any payments beyond those duly budgeted and appropriated for the City's then current Fiscal Year. No provision of this Lease shall be construed to pledge or to create a lien on any class or source of City moneys, nor shall any provision of this Lease restrict the future issuance of any City bonds or obligations payable from any class or source of City moneys.

The City hereby determines that the Rent due hereunder during the Lease Term represents the fair value of the use of the Leased Property. The City hereby determines that the Rent does not exceed a reasonable amount so as to place the City under an economic compulsion to renew this Lease. In making such determinations, the City has given consideration to the estimated current value of the Leased Property, the uses and purposes for which the Leased Property will be employed, the benefit to the citizens and inhabitants of the City, and the use and occupancy of the Leased Property pursuant to the terms and provisions of this Lease and the Site Lease.

ARTICLE V

USE, MAINTENANCE, CHARGES AND INSURANCE

Section 5.01 Use of Leased Property. The City covenants that throughout the term hereof, it will use and operate the Leased Property as public property in furtherance of its essential governmental functions, as further provided herein, and in compliance with all laws, regulations applicable thereto.

Section 5.02 Quiet Enjoyment. The City acknowledges that it is now in possession of the Leased Property. The Lender agrees that the City upon paying the Rent and performing the covenants herein agreed by it to be performed and any subtenant claiming under the City shall and may peaceably and quietly have, hold, and enjoy the said Leased Property for the term specified. The Lender or its agents shall have the right at all reasonable times during the Lease Term to enter the Leased Property, subject to compliance with all security requirements, for the purpose of examining or inspecting the Leased Property, and upon two days prior notice by electronic means. Nothing in this Section shall imply any duty upon the part of the Lender to examine the Leased Property or to do or pay for any work which under any provision of this Lease the City is required

to perform, and the performance thereof by the Lender shall not constitute a waiver of the City's default in failing to perform the same.

Section 5.03 Maintenance of Leased Property by City. The City agrees that during the Lease Term it will keep the Leased Property, including all appurtenances thereto, in good repair and good operating condition at its own cost.

Section 5.04 Alterations. The City shall have the privilege of remodeling or making alterations, additions, modifications and improvements to the Leased Property from time to time as the City, in its discretion, may deem to be desirable for its uses and purposes, provided that such alterations, additions, modifications and improvements shall not in any way damage the Leased Property or materially adversely affect the value of the Leased Property. The cost of such alterations, additions, modifications and improvements shall be paid by the City, and the same shall be the property of the City and be included under the terms of this Lease as and shall become part of the Leased Property.

Section 5.05 Liens. The City will not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, charge, lien, encumbrance or claim, except the respective rights of the Lender and the City as herein provided and Permitted Encumbrances, to be established or remain on or against the Leased Property, including any mechanics' liens for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements; provided, however, that if the City shall first notify the Lender of its intention so to do, the City may in good faith contest any mechanics' or other liens filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom if the City delivers to the Lender an opinion of Independent Counsel stating that by nonpayment of any such items the rights or interest of the Lender will not be materially endangered and the Leased Property or any part thereof will not be subject to loss or forfeiture, otherwise the City shall promptly pay and cause to be satisfied and discharged all such unpaid items. The Lender will cooperate promptly and fully with the City in any such contest. Except as expressly provided in this Section, the City will promptly, at its own expense, take such action as may be necessary duly to discharge or remove any such mortgage, pledge, charge, lien, encumbrance or claim if the same shall arise at any time and shall reimburse the Lender for any expense incurred by the Lender in order to discharge or remove any such mortgage, pledge, charge, lien, encumbrances or claim. Nothing herein shall be deemed to require City to deal with statutory claims other than in the manner prescribed by statute.

Section 5.06 Certification as to Alterations. The City agrees that it will file with the Lender, from time to time upon written request of the Lender, a Certification of the Authorized City Representative setting forth a description of any additions, remodeling, modifications or improvements which have become a part of the Leased Property, which have been made during the Fiscal Year next preceding the filing of such Certification.

Section 5.07 Taxes, Other Governmental Charges and Other Charges. The City is tax-exempt and does not expect that any taxes, special assessments or governmental charges will be levied against the Leased Property. However, the City agrees that it will pay, as the same respectively become due, all taxes, special assessments, and governmental charges of any kind

whatsoever that may at any time be lawfully assessed or levied against or with respect to the Leased Property or any furnishings, equipment or other property installed or brought by the City therein or thereon, including sales, use and other excise taxes, and all claims for rent, royalties, labor, materials, supplies, utilities and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Leased Property.

The City may, at its expense and in its own name and behalf or in the name and behalf of the Lender, in good faith contest any such taxes, payments in lieu of taxes, assessments and other charges and, in the event of any such contest, may permit the taxes, payments in lieu of taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom if the City delivers to the Lender an opinion of Independent Counsel stating that by nonpayment of any such items the rights or interest of the Lender in the Leased Property will not be materially endangered and the Leased Property or any part thereof will not be subject to loss or forfeiture, otherwise such taxes, payments in lieu of taxes, assessments or charges shall be paid promptly. The Lender will cooperate with the City in permitting the City to conduct any such contest.

Section 5.08 Insurance.

(a) Property and Liability Insurance. Upon the execution and delivery of this Lease, the City shall, at its own expense, cause casualty and property insurance to be carried and maintained with respect to the Leased Property in an amount equal to the greater of the Outstanding amount of the Rent obligations under this Lease or the estimated replacement cost of the Leased Property. Such insurance policy or policies may have a deductible clause in an amount deemed reasonable by the City Council. The City may, in its discretion, insure the Leased Property under blanket insurance policies which insure not only the Leased Property, but other buildings as well, as long as such blanket insurance policies comply with the requirements hereof. If the City shall insure against similar risks by self-insurance, the City may, at its election provide for property damage insurance with respect to the Leased Property, partially or wholly by means of a self-insurance fund. If the City shall elect to self-insure, the Authorized City Representative shall annually furnish to the Lender a certification of the adequacy of the City's reserves. The Lender shall be named additional insured and loss payee on any property insurance with respect to the Leased Property.

Upon the execution and delivery of this Lease, the City shall, at its own expense, cause public liability insurance to be carried and maintained with respect to the activities to be undertaken by and on behalf of the City in connection with the use of the Leased Property, in an amount not less than the limitations provided in the Colorado Governmental Immunity Act (Article 10, Title 24, Colorado Revised Statutes, as heretofore or hereafter amended). Such insurance may contain deductibles and exclusions deemed reasonable by the City Council. The public liability insurance required by this Section may be by blanket insurance policy or policies. If the City shall insure against similar risks by self-insurance, the City, at its election may provide for public liability insurance with respect to the Leased Property, partially or wholly by means of a self-insurance fund. If the City shall elect to self-insure, the Authorized City Representative shall annually furnish to the Lender a certification of the adequacy of the City's reserves. The Lender shall be named as additional insured on any public liability insurance.

Any property damage insurance policy required by this Section shall be so written or endorsed as to make payments over \$20,000 under such insurance policy payable to the City and the Lender. Claims under that amount shall be payable directly to the City. Each insurance policy provided for in this Section shall contain a provision to the effect that the insurance company shall not cancel the policy without first giving written notice thereof to the City and the Lender at least 30 days in advance of such cancellation.

The City shall provide certificates of insurance or other appropriate evidence of self-insurance to the Lender, with appropriate endorsements attached demonstrating that the Lender has been named as an additional insured or loss payee and that the 30-day required notice of cancellation provision is in effect. A certificate of insurance from the City or the City's insurance agent will be acceptable evidence of insurance. Certificates evidencing all insurance policies issued pursuant to this Section shall be deposited with the Lender.

(b) Additional Provisions Respecting Insurance. Any insurance policy issued pursuant to Article V hereof shall be so written or endorsed as to make losses, if any, payable to the City and the Lender as their respective interests may appear. All such policies shall be obtained from companies authorized to conduct insurance business in the State of Colorado. Each insurance policy procured in accordance with this Section 5.08 shall contain a provision to the effect that the insurance company shall not cancel the same without first giving written notice thereof to the Lender at least thirty days in advance of such cancellation, and the City shall deliver to the Lender duplicate copies of certificates of insurance pertaining to each such policy of insurance procured by the City and agrees to keep such duplicate copies of certificates up to date.

Should the Leased Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, the City agrees to obtain and maintain Federal Flood Insurance, if available, for the full unpaid principal balance of the Lease, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by the Lender, and to maintain such insurance for the term of the Lease.

(c) Indemnity. The City shall, to the extent permitted by applicable law, indemnify the Lender for, from and against any loss, damage or expense incurred, paid or suffered by the Lender as a result of a suit or claim of a nature covered by the insurance required herein.

Section 5.09 Title Insurance. In connection with the execution and delivery of this Lease, the Lender shall receive a standard leasehold title insurance policy, issued to the Lender, insuring the Lender's leasehold interest in the Leased Property pursuant to the Site Lease, subject only to Permitted Encumbrances, in an aggregate amount not less than \$[_____]. Such commitment for such policy shall be delivered to the Lender concurrently with delivery of this Lease and the policy shall be delivered to the Lender as soon as practicable thereafter.

ARTICLE VI

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 6.01 Damage, Destruction and Condemnation. If, during the Lease Term,

(a) the Leased Property shall be destroyed (in whole or in part), or damaged by fire or other casualty; or

(b) title to, or the temporary or permanent use of, the Leased Property or the estate of the City or the Lender in the Leased Property is taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or entity acting under governmental authority; or

(c) a breach of warranty or a material defect in the construction, manufacture or design of the Leased Property becomes apparent; or

(d) title to or the use of all or a portion of the Leased Property is lost by reason of a defect in title thereto.

then the City shall be obligated to continue to pay Rent and Additional Rent (subject to nonappropriation provisions hereof).

Section 6.02 Obligation to Repair and Replace the Leased Property. The City and the Lender, to the extent Net Proceeds are within their respective control, shall cause such Net Proceeds of any insurance policies, performance bonds or condemnation awards, to be deposited in a separate trust fund. All Net Proceeds so deposited shall be applied to the prompt repair, restoration, modification, improvement or replacement of the Leased Property by the City, upon receipt of requisitions and written approval for payment by the Lender, each such requisition stating with respect to each payment to be made:

(a) the requisition number;

(b) the name and address of the person, firm or entity to whom payment is due;

(c) the amount to be paid; and

(d) that each obligation mentioned therein has been properly incurred, is a proper charge against the separate trust fund and has not been the basis of any previous withdrawal and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation.

The City and the Lender shall agree to cooperate and use their best reasonable efforts to enforce claims which may arise in connection with material defects in the construction, manufacture or design of the Leased Property or otherwise. The Lender may rely conclusively upon any such requisition received and shall have no obligation to make an independent investigation in connection therewith. If there is a balance of any Net Proceeds allocable to the Leased Property remaining after such repair, restoration, modification, improvement or replacement has been completed, this balance shall be used by the City, to:

(a) add to, modify or alter the Leased Property or add new components thereto,
or

(b) prepay the Rent with a corresponding adjustment in the amount payable under **Schedule I** to this Lease or

(c) accomplish a combination of (a) and (b).

Any repair, restoration, modification, improvement or replacement of the Leased Property paid for in whole or in part out of Net Proceeds allocable to the Leased Property shall be the property of the City, subject to the Site Lease and this Lease and shall be included as part of the Leased Property under this Lease.

Section 6.03 Insufficiency of Net Proceeds. If the Net Proceeds (plus any amounts withheld from such Net Proceeds by reason of any deductible clause) are insufficient to pay in full the cost of any repair, restoration, modification, improvement or replacement of the Leased Property required under this Lease, the City may elect to:

(a) complete the work or replace such Leased Property (or portion thereof) with similar property of a value equal to or in excess of such portion of the Leased Property and pay as Additional Rent, to the extent amounts for Additional Rent which have been specifically appropriated by the City are available for payment of such cost, any cost in excess of the amount of the Net Proceeds allocable to the Leased Property, and the City agrees that, if by reason of any such insufficiency of the Net Proceeds allocable to the Leased Property, the City shall make any payments pursuant to the provisions of this paragraph, the City shall not be entitled to any reimbursement therefor from the Lender, nor shall the City be entitled to any diminution of the Rent, for which a specific appropriation has been effected by the City for such purpose; or

(b) apply the Net Proceeds allocable to the Leased Property to the payment of the Purchase Option Price in accordance with this Lease, or an appropriate portion thereof. In the event of an insufficiency of the Net Proceeds for such purpose, the City shall, subject to the limitations of Article IV hereof, pay such amounts as may be necessary to equal that portion of the Purchase Option Price which is attributable to the Leased Property for which Net Proceeds have been received (as certified to the Lender by the City); and in the event the Net Proceeds shall exceed such portion of the Purchase Option Price; or

(c) if the City does not timely budget and appropriate sufficient funds to proceed under either (a) or (b) above, an Event of Nonappropriation will be deemed to have occurred and, subject to the City's right to cure, the Lender may pursue remedies available to it following an Event of Nonappropriation.

The above referenced election shall be made by the City within 30 days of the occurrence of an event specified above. It is hereby declared to be the City's present intention that, if an event described above should occur and if the Net Proceeds shall be insufficient to pay in full the cost of repair, restoration, modification, improvement or replacement of the Leased Property, the City would use its best efforts to proceed under either paragraph (a) or paragraph (b) above; but it is also acknowledged that the City must operate within budgetary and other economic constraints applicable to it at the time, which cannot be predicted with certainty; and accordingly the foregoing declaration shall not be construed to contractually obligate or otherwise bind the City.

ARTICLE VII

SPECIAL COVENANTS

Section 7.01 No Warranty of Condition or Suitability; Indemnification. The Lender has not made and does not make any representation or warranty whatsoever, either express or implied, as to the merchantability, condition, fitness, design, operation, workmanship, performance, capability or capacity of the Leased Property; as to the suitability for operation of the Leased Property; or as to the condition of the Leased Property or that it will be suitable for the City's purposes or needs. The City assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Leased Property, for any repair, maintenance or operating costs of any part of the Leased Property and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of the City or to third parties, and whether such property damage be to the City's property or the property of others, which is proximately caused by the negligent conduct of the City, its officers, employees, agents and sublessees of the City. The Lender and its officers, employees and agents shall have no liability for any claims or damages arising out of or as the result of (a) the entering into of the Site Lease or this Lease, (b) any injury, actual or claimed, of whatsoever kind or character, to property or persons, occurring or allegedly occurring in, on or about the Leased Property during the Lease Term or otherwise arising during the Lease Term, (c) the breach of any covenant by the City herein or any material misrepresentation by the City contained herein and/or (d) any negligence or willful misconduct of the City, its officers, employees and agents.

Section 7.02 City to Maintain its Existence or Assure Assumption of Obligations. The City agrees that during the Lease Term it will maintain its existence or assure the assumption of its obligations under this Lease by any public body succeeding to its powers.

Section 7.03 Granting Easements. If the City is not then in default, the Lender at the request of the City from time to time shall grant easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to the Land, or may release existing easements, licenses, rights-of-way and other rights or privileges with or without consideration, and the Lender agrees that it shall execute and deliver any instrument necessary or appropriate to grant or release any such easement, licenses, right-of-way or other right or privilege upon receipt of: (a) a copy of the instrument of grant or release; and (b) a written application signed by the Authorized City Representative requesting such instrument, and certifying that (i) such grant or release is not detrimental to the proper use or operation of the Leased Property, and (ii) such grant or release will not impair the character or productive capacity, or fair market value of the Leased Property. The Lender will not grant or release any easements, licenses, rights-of-way or other rights or privileges in the nature of easements with respect to the Leased Property, without the prior written consent of the City. No release or grant effected under the provisions of this Section shall entitle the City to any abatement of the Rent payable under Section 4.01 hereof, except that any moneys payable to the Lender pursuant to this Section shall be paid to the Servicer and credited against subsequent Rent due or to become due hereunder. Neither the City nor the Lender will grant any easement without the prior written consent of the other party.

Section 7.04 Reports. The City agrees to obtain and to furnish to the Lender such reports concerning the repair, maintenance and condition of the Leased Property as the Lender may from time to time reasonably request, including, but not limited to (1) annual budgets within 30 days of approval by the City Council; and (2) audited financial statements prepared in accordance with generally accepted accounting principles consistently applied, in reasonable detail and audited by a firm of independent certified public accountants, within 270 days of the end of the Fiscal Year.

Section 7.05 City to Maintain Machinery and Movable Equipment. The City agrees that during the Lease Term it will provide and maintain all machinery, personal property and movable equipment necessary in the judgment of the City to permit the full use, operation and occupancy of the Leased Property, and the Lender shall be under no obligation to provide or maintain any such equipment. The City may from time to time, for that purpose and at its own expense, install additional movable personal property, equipment and machinery on the Leased Property which shall remain the sole property of the City and not be subject to this Lease. Nothing contained in the preceding provisions of this Section shall prevent the City from purchasing, after delivery hereof, movable personal property, equipment, furniture or fixtures, notwithstanding that such movable personal property may be subject to a purchase money security interest, as security for the unpaid portion of the purchase price thereof.

Section 7.06 Compliance with Laws and Regulations. The City will comply with all applicable laws, regulations, and orders of the United States of America, the State and agencies and political subdivisions thereof and each department or agency thereof, applicable to this Lease and the Leased Property. The City shall have the right to contest by appropriate procedures the adoption, validity or applicability of any laws, regulations, and orders referred to in this Section and to delay compliance therewith, without violating the provisions of this Section, if (a) the Lender shall consent to such delay in writing, or (b) a court of competent jurisdiction shall so order or determine, or (c) in the opinion of Independent Counsel furnished to the Lender, the procedures taken by the City to contest the validity or applicability of any such law, regulation, or order are appropriate and have the effect of staying the finality and enforceability thereof against the City.

Section 7.07 Further Assurances. The City will execute or cause to be executed any and all further instruments that may reasonably be requested by the Lender and be authorized by law to evidence the transaction contemplated by this Lease and the Site Lease, and the Lender's rights provided or intended to be provided hereby or thereby, or to vest in the Lender or any participant with or assignee of the Lender or any agent of either the right to receive and apply the payments of Rent required hereunder, and will cause this Lease (or short form lease) and the Site Lease and any supplemental instruments to be filed, registered or recorded in the real estate records of the City in which the Land is located, and shall pay or cause to be paid all expenses incidental to the preparation, execution, acknowledgment, filing, registering and recording of this Lease and the Site Lease.

Section 7.08 Participations. The City hereby acknowledges the right of the Lender to create and sell participations or other interests in this Lease, and to assign its rights hereunder to any purchasers of such participations or other interests; *provided, however*, that no assignment of rights or sale of participations herein by the Lender may occur without prior written notice to the City that discloses the name and address of the assignee, and any such assignment of rights or sale of participations may only be made to: (i) an affiliate of the Lender, (ii) a "Bank" as defined in

Section 3(a)(2) of the Securities Act of 1933 as amended (the “Securities Act”); (iii) an “Accredited Investor” as defined in Regulation D under the Securities Act; or (iv) a “Qualified Institutional Buyer” as defined in Rule 144A under the Securities Act. The City agrees to cooperate with the Lender in the creation and sale of any such participations or other interests herein and to execute such instruments and documents as are reasonably requested by the Lender to accomplish such creation and sale or to evidence the succession of any servicer to the rights of the Lender hereunder.

Section 7.09 Notices as to Hazardous Materials. The City agrees promptly:

- (i) to transmit to the Lender copies of any governmental citations, orders or notices received with respect to Hazardous Materials which may result in a penalty, liability, or cost greater than \$1,000;
- (ii) to observe and comply with any and all applicable laws, ordinances, rules, regulations, licensing requirements or conditions relating to the use, maintenance or disposal of Hazardous Materials and all orders or directives from any official, court, or governmental agency of competent jurisdiction relating to the use or maintenance or requiring the removal, treatment, containment, or other disposal of such Hazardous Material; and
- (iii) to pay or otherwise dispose of any lawfully due and owing fine, charge, or imposition relating thereto which, if unpaid, would constitute a lien upon Leased Property or any part thereof.

Section 7.10 Tax Covenants. It is the intention of the parties hereto that all or a portion of the interest component of the Rent payable under Section 4.01(a) and designated in Schedule I hereof will be excludable from gross income of the recipients thereof for federal income tax purposes.

(a) The City covenants that it will not take any action or omit to take any action with respect to this Lease, the proceeds of the Site Lease or this Lease, any other funds of the City or any facilities financed or refinanced with the proceeds of the Site Lease or this Lease (except for the possible exercise of the City’s right to terminate this Lease as provided herein) if such action or omission (i) would cause the designated interest component of the Rent to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code, or (ii) would cause the designated interest component of the Rent to become a specific item of tax preference for purposes of the federal alternative minimum tax, however, such interest is taken into account in determining the annual adjusted financial statement income of applicable corporations (as defined in Section 59(k) of the Internal Revenue Code) for the purpose of computing the alternative minimum tax imposed on corporations, or (iii) would cause the designated interest component of the Rent to lose its exclusion from Colorado taxable income or to lose its exclusion from Colorado alternative minimum taxable income under present Colorado law. Subject to the City’s right to terminate this Lease as provided herein, the foregoing covenant shall remain in full force and effect, notwithstanding the payment in full of the Lease, until the date on which all obligations of the City in fulfilling the above covenant under the Internal Revenue Code and Colorado law have been met

(b) The City hereby acknowledges and confirms its obligations under Section 148(f) of the Internal Revenue Code. Specifically, the City agrees to comply with the rebate requirements imposed under said Section 148(f) and regulations thereunder, including (if applicable) the requirement to make or cause to be made annual calculations of the amount subject to rebate thereunder (at least once every year and upon termination of this Lease), and to maintain or cause to be maintained records of such determinations until six years after the termination hereof, and the requirement to make all required rebates to the United States of America not later than 30 days after the end of the fifth year and no later than each fifth anniversary thereof, to and until the date which is 30 days after the termination hereof. In construing the City's obligations hereunder, all terms used in this paragraph shall have the meanings provided in said Section 148(f) and regulations thereunder. Notwithstanding any other provision of this paragraph, no requirement shall be imposed hereunder if an Opinion of Counsel is rendered, by nationally recognized bond counsel engaged by the City subject to the prior written consent of the Lender or engaged by the Lender, at the expense of the City, and acceptable to the Lender and the City, to the effect that the failure to impose such requirement will not adversely affect the excludability of such designated interest component from gross income for federal income tax purposes. The City agrees to make all required rebate payments to the United States, as and when required, and such payments shall constitute Additional Rent under Section 4.01 hereof.

(c) The City shall comply with the Tax Certificate.

(d) [The City hereby determines that neither the City nor any entity subordinate thereto reasonably anticipates issuing more than \$10,000,000 face amount of tax-exempt governmental bonds (including bonds issued on behalf of a 501(c)(3) organization, but not other private activity bonds) or any other similar obligations during the calendar year 2024, which obligations are taken into account in determining if the City can designate the Lease as a qualified tax-exempt obligation as provided in the following sentence. The City hereby designates this Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3)(B) of the Internal Revenue Code.]

(e) The City shall be the registrar for this Lease. The Lender shall be the initial "Registered Owner" of the rights to receive Rent hereunder. If the Lender assigns and transfers its rights to receive the Rent hereunder, it shall so notify the City of such assignment or transfer and the City shall note on the registration records for this Lease the name and address of the assignee or transferee.

ARTICLE VIII

ASSIGNMENT, SUBLEASING AND SELLING

Section 8.01 Assignment and Subleasing by City. This Lease may be assigned in whole or in part, and the Leased Property may be subleased as a whole or in part, by the City, upon prior written consent of the Lender, only upon the conditions that:

(a) No assignment (other than pursuant to this section hereof) or subletting shall relieve the City from primary liability for any of its obligations hereunder, and in the event of any such assignment or subletting the City shall continue to remain primarily liable for the payment of the Rent specified in Section 4.01 hereof and for performance and

observance of the other agreements on its part herein provided to be performed and observed by it; and

(b) Any assignment or sublease from the City must retain for the City such rights and interests as will permit it to perform its obligations under this Lease, and any assignee from the City shall assume the obligations of the City hereunder to the extent of the interest assigned; and

(c) In the opinion of nationally recognized bond counsel engaged by the City or engaged by the Lender, at the expense of the City, and in either case acceptable to the Lender and the City, such assignment or sublease shall not adversely affect the excludability of the interest component of the Rent payable under Section 4.01(a) from gross income for federal income tax purposes.

Section 8.02 Assignment by the Lender. The Lender may only assign its rights and interest in, and pledge any moneys receivable under or pursuant to this Lease to: (i) an affiliate of the Lender, (ii) a “Bank” as defined in Section 3(a)(2) of the Securities Act of 1933 as amended (the “Securities Act”); (iii) an “Accredited Investor” as defined in Regulation D under the Securities Act; or (iv) a “Qualified Institutional Buyer” as defined in Rule 144A under the Securities Act. No assignment or pledge of any moneys receivable under or pursuant to this Lease shall be effective unless and until prior written notice that discloses the name and address of the assignee has been delivered to the City.

Section 8.03 Restrictions on Transfer and Encumbrances of Leased Property by the City. The City agrees that, except as otherwise provided in this Lease, it will not sell, assign, transfer, convey or otherwise dispose of the Leased Property or any portion thereof during the Lease Term without the prior written consent of the Lender, which consent shall not be unreasonably withheld, and which consent may be reasonably conditioned upon receipt by the Lender of an opinion of nationally recognized bond counsel engaged by the City or engaged by the Lender, at the expense of the City, and in either case acceptable to the Lender and the City, that such sale shall not adversely affect the validity and enforceability of this Lease or adversely affect the excludability of the interest portion of Rent designated in Schedule I from gross income for federal tax purposes. The City further agrees that it will not, to the extent permitted by law, create or suffer to be created any debt, lien or charge thereon, or make any pledge or assignment of or create any lien or encumbrance upon the rents, revenues and receipts derived from the sale, lease or other disposition of the Leased Property other than the Permitted Encumbrances and other than as provided in Section 8.01 hereof.

ARTICLE IX

ACQUISITION OF THE PROJECT

Section 9.01 Agreement to Undertake the Project. The City shall cause the Project to be undertaken as provided in this Article IX. Title to any upgrades or improvements which constitute part of the Project shall be held by the City and will not be subject to the Site Lease or this Lease.

Title to the Leased Property shall also be held by the City, but shall be subject to the Site Lease and this Lease.

Section 9.02 Deposit of Moneys to Effect the Project. On the Dated Date, moneys which are to be used to finance the Project shall be deposited by the Lender with the City.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.01 Events of Default. The following shall be “Events of Default” under this Lease and the term “Event of Default” shall mean, whenever used in this Lease, any one or more of the following events:

(a) If the City fails to pay the Rent required to be paid under Section 4.01 hereof when due; or

(b) Failure by the City to materially comply with the terms of the Site Lease; or

(c) If the City shall default in the due and punctual performance of any of the other covenants, conditions, agreements and provisions contained in this Lease or in any instrument supplemental hereto on the part of the City to be performed, and such Default shall have continued for a period of thirty days after written notice, specifying such Default and requiring the same to be remedied, shall have been given to the City by the Servicer or the Lender; or

(d) The filing by the City of a voluntary petition in bankruptcy, or failure by the City to promptly lift any execution, garnishment or attachment of such consequence as would impair the ability of the City to carry on its essential functions, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of any applicable federal bankruptcy law.

The provisions of paragraph (c) of this Section are subject to the following limitations: If by reason of force majeure the City is unable in whole or in part to carry out its agreements on its part contained herein, the City shall not be deemed in default during the continuance of such disability. The term “force majeure” as used herein includes the following: acts of God; strikes, lockouts or other employee disturbances; acts of public enemies; orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes, storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions, breakage or accident to machinery, transmission pipes or canals; partial or entire failure of utilities; fuel shortage; unavailability of materials; or any other cause or event not reasonably within the control of the City. The provisions of paragraph (c) of this Section are subject to the further limitation that if the Default can be remedied but not within a period of 30 days after notice and if the City has taken

all action reasonably possible to remedy such default within such 30 day period, the default shall not become an Event of Default for so long as the City shall diligently proceed to remedy such Default and in accordance with any directions or limitations of time made by the Lender. The City agrees, however, to use good faith and reasonable efforts to remedy with all reasonable dispatch any cause or causes preventing the City from carrying out its agreements.

Section 10.02 Remedies on Default. Whenever any Event of Default referred to in Section 10.01 hereof shall have happened and be continuing, the Lender or a receiver may (i) enter the Leased Property and take possession of the Leased Property without terminating this Lease, holding the City liable for the difference in the net income derived from such possession and the rents and other amounts payable by the City hereunder during the then-current Renewal Term, or (ii) terminate the Lease Term and give notice to the City to vacate the Leased Property within 45 days from the date of such notice, and proceed to use its best efforts to again lease the Leased Property or sell the Lender's leasehold interest in the Leased Property in accordance with applicable law, but holding the City liable for all Rent and other payments otherwise due under this Lease during the then-current Renewal Term, or (iii) take whatever action at law or in equity may appear necessary or desirable to collect the Rent then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the City under this Lease. Notwithstanding the foregoing or any other provision of this Lease, the maximum amount of contractual payments or damages that the Lender may recover from the City under this Lease is limited to the amount duly budgeted and appropriated by the City for the payment of Rent in the Fiscal Year in which the Event of Default occurs.

Any amounts collected pursuant to action taken under this Section shall be applied first to advances and expenses as provided in Section 10.05 hereof, and next to the payment or prepayment of Rent (principal and interest), and any excess to the City.

Whenever any Event of Default shall occur, the Lender may take any action at law or in equity which may appear necessary or desirable to collect the payments then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the City under this Lease.

Upon termination of this Lease as provided in this Section, the City shall not be responsible for the payment of any Rent coming due with respect to succeeding Fiscal Years, except that if the City has not delivered possession of the Leased Property to the Lender by December 31 in the year in which an Event of Nonappropriation has occurred, the Lender shall be entitled to recover from the City, to the extent permitted by applicable law, an amount equal to the amount of the Rent thereafter coming due during the current Fiscal Year under Section 4.01 hereof which is attributable to the number of days after December 31 during which the City fails to surrender possession of the Leased Property, which amount is hereby determined and stipulated to be just compensation for the occupancy or use of the Leased Property for any such period.

The provisions of this Section 10.02 and the exercise of any remedy by the Lender or a receiver pursuant to this Section 10.02 are expressly subject to the provisions of Sections 4.06 and 11.03 hereof.

Section 10.03 Remedies Cumulative, Delay Not to Constitute Waiver. No remedy conferred upon or reserved to the Lender or a receiver by this Lease is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, and any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lender or a receiver to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. In the event any agreement contained in this Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to a particular breach so waived and shall not be deemed to waive any other breach hereunder. In case the Lender shall have proceeded to enforce any right under this Lease and such proceedings shall have been determined adversely to the Lender, the Lender shall be restored to its former position and rights hereunder and all rights, remedies and powers of the Lender shall continue as if no such proceedings had been taken.

Section 10.04 Agreement to Pay Attorney's Fees and Expenses. In the event of default by either party under any of the provisions of this Lease and should either party employ attorneys or incur other expenses for the collection of Rent or the enforcement of performance or observance of any obligation or agreement contained in this Lease, both the Lender and the City agree that, unless a court of competent jurisdiction orders otherwise, the prevailing party will be entitled to the award of attorney fees. Notwithstanding the foregoing, the obligation of the City to pay attorneys fees and expenses is subject to appropriation by the City Council.

Section 10.05 Advances. In the event the City shall fail to maintain or repair, rebuild or restore any of the Leased Property, or shall fail to maintain any insurance as required by the provisions of this Lease, or to do any other thing or make any other payment required to be done or made by any other provision of this Lease, the Lender, in its sole discretion, may do or cause to be done any such thing or make or cause to be made any such payment at the expense or as an advance for the account of the City, and the City shall pay to the Lender, upon demand, and subject to appropriation by the City Council, all costs and expenses so incurred and advances so made, with interest at a rate equal to the rate borne by the Lease.

Section 10.06 Waiver of Appraisalment, Valuation, Etc. In the event the City should default under any of the provisions of this Lease, the City agrees and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Lender, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE XI

OPTION TO PREPAY; DEFEASANCE; RELEASE AND SUBSTITUTION
OF LEASED PROPERTY

Section 11.01 Option to Prepay Lease; Defeasance. This Lease may be prepaid, in whole or in part at any time, as provided in Section 4.05.

This Lease shall be considered to be paid in full within the meaning and with the effect expressed in the preceding paragraph if there shall have been deposited in trust or with the Lender either moneys in an amount which shall be sufficient, or Federal Securities the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, concurrently deposited in trust or with the Lender, shall be sufficient to pay the amount set forth in the second paragraph of Section 4.05 hereof.

In the event of the exercise of the option to prepay in whole granted in this Section or in the event that this Lease shall be deemed to have been paid in full any Net Proceeds of insurance or condemnation shall be paid to the City, notwithstanding any provision of Sections 6.01 and 6.02 hereof, and the Lender will deliver to the City the documents referred to in Section 11.02 hereof.

The mutual agreements contained in this Section 11.01 are independent of, and constitute an agreement separate and distinct from, any and all provisions of this Lease and shall be unaffected by any fact or circumstance which might impair or be alleged to impair the validity of any other provisions.

Section 11.02 Release of Leased Property. Upon any prepayment in whole of this Lease, or if the Lease is deemed to be paid in full in accordance with the provisions of Section 11.01 hereof, or upon the expiration of all Renewal Terms available hereunder and if full payment or prepayment of all Rent has been made or provided for in accordance with the provisions hereof and any other conditions precedent to the termination of the Lease Term have been fulfilled and all payments other than Rent payable hereunder shall have been paid, the Site Lease and this Lease shall terminate and the Leased Property shall be released from the provisions thereof. Thereupon, the Lender shall deliver or cause to be delivered to the City such documents as the City may reasonably require releasing the Leased Property from the provisions of the Site Lease and this Lease, subject to the following: (i) Permitted Encumbrances, other than this Lease or the Site Lease; (ii) those liens and encumbrances created by the City or to the creation or suffering of which the City consented; and (iii) those liens and encumbrances resulting from the failure of the City to perform or observe any of the agreements on its part contained in this Lease.

Section 11.03. Substitution of Leased Property. So long as no Event of Default or Event of Nonappropriation shall have occurred and be continuing, the City may, upon prior written consent of the Lender, substitute any improved or unimproved real estate (collectively, the "Replacement Property"), for any Leased Property then subject to the Site Lease and this Lease, upon receipt by the Lender of a written request of the Authorized City Representative requesting such release and substitution, provided that:

- (a) the City shall provide evidence satisfactory to the Lender that such Replacement Property shall have an equal or greater value and utility (but not necessarily the same function) to the City as the Leased Property proposed to be released;
- (b) the City shall provide evidence satisfactory to the Lender that the fair market value of the Replacement Property shall be not less than the fair market value of the Leased Property proposed to be released from this Lease or, in the alternative, the fair market value of the Leased Property remaining after the proposed release shall be at least equal to the aggregate principal amount of the due and owing under this Lease;
- (c) the execution and delivery of such supplements and amendments to the Site Lease, as applicable and this Lease and any other documents necessary to subject any Replacement Property to be substituted for the portion of the Leased Property to be released to the lien of the Indenture; and
- (d) an opinion of nationally recognized bond counsel that such substitution shall not impact the tax-exempt status of the Lease.

The Lender shall cooperate with the City in implementing the City's rights to release and substitute property pursuant to this Section 11.03 and shall execute any and all conveyances, releases or other documents necessary or appropriate in connection therewith.

ARTICLE XII

MISCELLANEOUS

Section 12.01 Surrender of Leased Property. In the event the City should default under this Lease and the Lease Term is terminated or in the event of a termination of this Lease pursuant to Section 4.06 hereof, the City agrees to surrender possession of the Leased Property peaceably and promptly to the Lender in as good condition as prevailed at the time it was put in full possession thereof; loss by fire or other casualty covered by insurance, ordinary wear and tear, obsolescence and acts of God excepted.

Section 12.02 Amounts Remaining. It is agreed by the parties hereto that any amounts remaining on deposit with the Lender or the Servicer for the account of the City hereunder upon termination of the Lease Term, as provided in this Lease, after payment in full of all Rent and all other amounts required to be paid hereunder, shall belong to and be paid to the City as overpayment of rents.

Section 12.03 Doctrine of Merger. The Doctrine of Merger shall not apply.

Section 12.04 Notices. All notices, certificates, requests or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered mail, return receipt requested, postage prepaid, addressed as follows:

- A. To the Lender - Collegiate Peaks Bank, Division of Glacier Bank
540 W. Highway 50
P.O. Box 1226

Salida, Colorado 81201

Attention: _____

Email: _____

B. To the City -

City of Salida, Colorado

448 E. First Street

Suite 112

Salida, Colorado 81201

Attention: Finance Director

The City or the Lender may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 12.05 Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Lender, the City and their respective successors and assigns, subject, however, to the limitations contained in Sections 7.02, 8.01, 8.02 and 8.03 hereof.

Section 12.06 Amendments, Changes and Modifications. Except as otherwise provided in this Lease, this Lease may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the City and the Lender.

Section 12.07 Governing Law. This Lease shall be interpreted and enforced in accordance with and governed by the laws of the State of Colorado.

Section 12.08 Counterparts. This Lease may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Lease.

Section 12.09 Severability. In case any section or provision of this Lease, or in case any covenant, stipulation, obligation, agreement, act, or action, or part thereof, made, assumed, entered into, or taken under the Lease, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable by reason of any law, or actions thereunder, such illegality or invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Lease or any other covenant, stipulation, obligation, agreement, act, or action, or part thereof, made, assumed, entered into, or taken under this Lease, which shall at the time be construed and enforced as if such illegal or invalid or inoperable portion were not contained therein, nor shall such illegality or invalidity or inoperability or any application thereof affect any legal and valid and operable application therefor from time to time, and each such section, provision, covenant, stipulation, obligation, agreement, act, or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

Section 12.10 Captions. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

Section 12.11 Electronic Transactions. The parties agree that in the event that any individual or individuals who are authorized to execute this Lease on behalf of the City, or the Lender are not able to be physically present to manually sign this Lease, that such individual or individuals are hereby authorized to execute this Lease electronically via facsimile or email signature. This agreement by the parties to use electronic signatures is made pursuant to Article 71.3 of Title 24, C.R.S., also known as the Uniform Electronic Transactions Act. Any electronic signature so affixed to this Lease shall carry the fully legal force and effect of any original, handwritten signature.

The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other productions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action, or suit in the appropriate court of law.

IN WITNESS WHEREOF, the Lender and the City have caused this Lease to be executed in their respective names and attested by duly authorized officers all as of the date first above written.

COLLEGIATE PEAKS BANK, DIVISION OF
GLACIER BANK,
as Sublessor

By: _____
[]

CITY OF SALIDA, COLORADO,
as Sublessee

By: _____
Mayor

(SEAL)

ATTEST:

By: _____
City Clerk

STATE OF COLORADO)
) ss.
 CITY OF SALIDA)
)
 COUNTY OF CHAFFEE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____, as _____ of Collegiate Peaks Bank, Division of Glacier Bank.

WITNESS my hand and official seal.

(SEAL)

Notary Public, State of Colorado

STATE OF COLORADO)
) ss.
 CITY OF SALIDA)
)
 COUNTY OF CHAFFEE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by Dan Shore and Kristi Jefferson, as Mayor and City Clerk, respectively, of the City of Salida, Colorado.

WITNESS my hand and official seal.

(SEAL)

 Notary Public

SCHEDULE I

Rental Schedule

EXHIBIT A

GENERAL TERMS

1. Name of Sublessee: City of Salida, Colorado
2. Notice Address of City: 448 E. First Street
Suite 112
Salida, Colorado
3. Dated Date of this Lease: [CLOSING DATE]
4. Final Expiration Date: [_____]
5. Payment Dates: semi-annually on June 1 and December 1, commencing [_____].
6. Applicable Rate: [_____]%. Interest is calculated based on a 30/360 calculation.

EXHIBIT B

DESCRIPTION OF THE LEASED PROPERTY

The Land that is subject to the Lease is as set forth in the following legal description (the “Land”):

LEGAL DESCRIPTION:

325 W. Highway 50, Salida, Colorado 81201

**DESCRIPTION OF PREMISES, BUILDINGS AND IMPROVEMENTS CONSTITUTING
THE LEASED PROPERTY:**

EXHIBIT C

PERMITTED ENCUMBRANCES ON THE DATED DATE

1. Liens for ad valorem taxes and special assessments not then delinquent, if applicable.
2. The Site Lease.
3. This Lease.
4. All other encumbrances appearing of record on the date hereof.



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Administration	Christy Doon - City Administrator	July 2, 2024

AGENDA ITEM

Ordinance 2024-11, An Ordinance of the City Council for the City of Salida, Colorado, Approving A Lease of Real Property Located at 348 H Street From the City of Salida to Hylton Lumber LLC, First Reading and Setting A Public Hearing

BACKGROUND

In July 2003, the City of Salida entered into a 20-year lease with Hylton Lumber Company for .96 acre of property between 3rd and 5th Streets. The term of the lease was \$200 per month. Staff have been meeting with the owners of Hylton Lumber to renegotiate the lease. The new lease is proposed to have an incremental payment increase each year for the next 5 years.

RECOMMENDATION

After working with the owners of Hylton Lumber, and receiving their approval of the attached, staff is recommending Council approve Ordinance 2024-11 and the associated lease.

FISCAL IMPACT

The fiscal impact of this Ordinance is a continuation of the \$200 per month payment through the end of 2024 and an incremental, \$400 per month increase, for the next 5 years.

MOTION

A City Councilmember should state "I move to _____ Ordinance 2024-11, An Ordinance of the City Council for the City of Salida, Colorado, Approving A Lease of Real Property Located at 348 H Street From the City of Salida to Hylton Lumber LLC, on First Reading and Setting A Public Hearing", followed by a second and a roll call vote.

CITY OF SALIDA, COLORADO
ORDINANCE NO. 11
(Series of 2024)

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA,
 COLORADO APPROVING A LEASE OF REAL PROPERTY LOCATED AT 348 H
 STREET FROM THE CITY OF SALIDA TO HYLTON LUMBER LLC**

WHEREAS, the City of Salida, Colorado (the “City”) is a statutory city, duly organized and existing under the laws of the state of Colorado;

WHEREAS, the City owns certain real property within the City that consists of approximately 41,756.30 square feet and/or .96 acres and that is commonly known as 348 H Street, Salida, Colorado 81202 (the “Property”);

WHEREAS, the City is authorized by C.R.S. § 31-15-713(1)(c) to lease any real estate, together with any facilities thereon, that are owned by the City when deemed by the governing body to be in the best interest of the City;

WHEREAS, C.R.S. § 31-15-713(1)(c) requires any lease of City property for a period of more than one year to be approved by ordinance; and

WHEREAS, the City Council finds that it is presently in the best interest of the City to lease the Property to Hylton Lumber LLC in accordance with the terms and conditions set forth in the Lease, attached hereto as **Exhibit A**.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE
 CITY OF SALIDA, COLORADO AS FOLLOWS:**

Section 1. The foregoing recitals are hereby incorporated as conclusions, facts, determinations, and findings by the City Council.

Section 2. *Lease Approved.* Pursuant to C.R.S. § 31-15-713, the City Council hereby accepts and approves the Lease for the Property between the City and Hylton Lumber LLC, attached hereto as **Exhibit A**.

Section 3. *Execution of Lease.* The City Council authorizes the Mayor and/or City Administrator on behalf of the City to execute the Lease, attached hereto as **Exhibit A**.

Section 4. *Severability.* The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

INTRODUCED ON FIRST READING on this ____ day of _____, 2024,
 ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation by the
 City Council on this _____ day of _____, 2024, and set for second reading and
 public hearing on the _____ day of _____, 2024.

INTRODUCED ON SECOND READING FINALLY ADOPTED and ORDERED
PUBLISHED IN FULL, by the City Council on this _____ day of _____, 2024.

City of Salida

Mayor Dan Shore

ATTEST:

City Clerk

EXHIBIT A

Lease between the City of Salida and Hylton Lumber LLC
for the Premises located at 348 H Street, Salida, Colorado 81201

See Attached

LEASE

THIS LEASE (the “Lease”) is entered into by and between the City of Salida, a Colorado statutory city (the “Landlord”), on the one hand, and Hylton Lumber LLC, a Colorado limited liability company (the “Tenant”), on the other hand.

In consideration of the payment of the Rent and the performance of the covenants and agreements by the Tenant set forth in this Lease, the Landlord does hereby lease to Tenant the following described property (the “Premises”) in Chaffee County, Colorado consisting of approximately 41,756.30 square feet and/or .96 acres:

See the Attached Exhibit A

The Premises are commonly known as 348 H Street, Salida, Colorado 81201.

TO HAVE AND TO HOLD the same with all the appurtenances thereto pursuant to the following terms and conditions:

1. Term. The term of this Lease shall begin on July 1, 2024 (the “Lease Commencement Date”) and shall end at midnight on December 31, 2029 (the “Lease Expiration Date”); provided, however, and subject to the other terms and conditions set forth in this Lease, either Landlord or Tenant may terminate the Lease upon three hundred sixty five (365) days prior written notice to the other party.

2. Rent. During the term of the Lease, Rent shall be payable in monthly amounts as follows:

July 1, 2024 to December 31, 2024	\$200.00 per month
January 1, 2025 to December 31, 2025	\$600.00 per month
January 1, 2026 to December 31, 2026	\$1,000.00 per month
January 1, 2027 to December 31, 2027	\$1,400.00 per month
January 1, 2028 to December 31, 2028	\$1,800.00 per month
January 1, 2029 to December 31, 2029	\$2,200.00 per month

Rent is due in advance on the 1st day of each calendar month during the term of this Lease, commencing on the Lease Commencement Date and continuing each subsequent month thereafter. Notwithstanding the foregoing, if the Lease Commencement Date falls on a day of the month other than the first day of such month, then the Rent for such fractional month shall be a proportionate amount of a full calendar month’s rental based on the proportion that the number of days in such fractional month bears to the number of days in the calendar month during which such fractional month occurs. Rent shall be paid without any reduction, abatement,

counterclaim, or setoff to Landlord, at the following address (or at such other place as the Landlord may designate in writing from time to time), 448 E. First Street, Suite 112, Salida, Colorado 81201, Attention: Finance Office, without further notice.

3. Landlord and Tenant, in consideration of the leasing of the Premises, agree as follows:

a. Tenant agrees to pay the Rent for the Premises on a timely basis.

b. Tenant agrees to pay those items listed below, without further notice from Landlord:

i. Tenant shall pay the real property taxes together with all other taxes, assessments, and other governmental charges which are levied against and may create a statutory lien upon the Premises during the term of this Lease on a timely basis;

ii. during the term of this Lease, Tenant, at its sole cost and expense and for the mutual benefit of Landlord and Tenant, shall carry and maintain the following types of insurance in the amounts specified: Tenant shall at all times keep in force (1) a comprehensive general liability insurance policy providing protection of at least One Million Dollars and 00/100 (\$1,000,000.00) per occurrence and Two Million Dollars and 00/00 (\$2,000,000.00) annual aggregate, which provides coverage against claims and liability for personal injury, bodily injury, property damage, and death; (2) automobile liability insurance in the amount of not less than One Million Dollars and 00/100 (\$1,000,000.00) per occurrence covering all owned, non-owned and hired vehicles; and (3) workers' compensation insurance insuring against and satisfying Tenant's obligations and liabilities under the workers' compensation laws of the State of Colorado. Landlord shall be named as an additional insured on both the comprehensive general liability and automobile liability insurance policies and protected under the terms and conditions of the foregoing policies as the lessor of the Premises. The foregoing insurance policies shall be written with an insurance company licensed to do business within the State of Colorado and approved by Landlord (which approval shall not be unreasonably withheld). Tenant shall provide Landlord with the original insurance policies or a certificate of insurance (with proof of payment thereon), which shall provide that the insuring company shall give notice in writing to Landlord at least thirty (30) days (ten (10) days for non-payment of premium) prior to cancellation, termination or, in the event of a material change in such insurance, for any reason whatsoever. In addition, Tenant shall be responsible for insuring any and all personal property that may be owned by Tenant. The parties agree that all of the foregoing insurance policies shall include a clause or endorsement which shall waive the right of subrogation on the part of the insurance carrier against the Landlord;

iii. all costs and expenses of repairing and maintaining the Premises and all of its components (including, without limitation, any sidewalks and sewer lines); and

iv. all utility charges directly to the utility provider, including, without limitation, electricity, water, gas, and any other utilities furnished to the Premises.

c. Tenant agrees to keep the improvements upon the Premises, including sewer connections, plumbing, wiring and glass in good repair all at Tenant's expense. At the expiration or earlier termination of this Lease the Tenant agrees to surrender the Premises in as good a condition as when Tenant entered the Premises, ordinary wear and tear excepted. Tenant agrees to keep all sidewalks on and around the Premises free and clear of ice and snow, and to keep the Premises free from all litter, dirt, debris and obstructions. Tenant agrees to keep the Premises in a clean and sanitary condition as required by the ordinances of the city and county in which the property is situated. In furtherance of the foregoing obligations, Tenant agrees that it will not store any materials within twenty (20) feet of the waterway adjacent to the Premises.

d. Tenant agrees to use the Premises solely for the storage and sale of lumber and related materials. Tenant may not use the Premises for any other business or purpose whatsoever. Notwithstanding the foregoing, Tenant shall not use the Premises for any purposes prohibited by the laws of the United States or the State of Colorado nor shall Tenant use the Premises for any improper or questionable purposes whatsoever, and will neither permit nor suffer any disorderly conduct, noise or nuisance having a tendency to annoy or disturb any persons occupying adjacent premises.

e. Tenant agrees to neither hold nor attempt to hold Landlord liable for any injury or damage, either proximate or remote occurring through or caused by repairs, alterations, injury or accident to or about the Premises nor to hold the Landlord liable for any injury or damage occasioned by defective electric wiring, or the breakage or stoppage of plumbing or sewerage upon the Premises, whether breakage or stoppage results from freezing or otherwise. Tenant agrees that the Premises will not be used for any purpose which would render the insurance thereon void or the insurance risk more hazardous, nor to make any alterations in or changes in, upon, or about the Premises without first obtaining the written consent of Landlord. In connection with the foregoing prohibition, Tenant acknowledges that the real property it owns that is adjacent to the Premises contains a building that is encroaching on the Premises. Consequently, Tenant agrees that any changes, alterations, or additions to the subject building require the Landlord's written approval prior to being made, and should such encroachment interfere with the Landlord's right to later develop or use the Premises Tenant agrees to remedy such encroachment.

f. Tenant agrees to allow the Landlord to enter upon the Premises during the Tenant's normal business hours.

g. Tenant's failure to comply with any of the requirements, restrictions, prohibitions, or obligations contained in this Section 3 shall be deemed a default under this Lease.

IT IS EXPRESSLY UNDERSTOOD AND AGREED BETWEEN THE LANDLORD AND TENANT AS FOLLOWS:

4. Possession. Tenant is already in possession of the Premises and accepts the Premises "AS IS". Tenant acknowledges that neither Landlord nor its agents have made any representations or warranties as to the suitability or fitness of the Premises for the conduct of Tenant's business or for any other purpose, nor has Landlord or its agents agreed to undertake any alterations or to construct any tenant improvements to the Premises.

5. No assent, express or implied, to any breach of any one or more of the provisions hereof shall be deemed or taken to be a waiver of any succeeding or other breach. Any payment by Tenant, or acceptance by Landlord, of a lesser amount than due shall be treated only as a payment on account.

6. Maintenance. It is acknowledged and agreed that Landlord shall not have any maintenance obligations with respect to the Premises. Instead, any such maintenance obligations shall be the sole responsibility of the Tenant and completed at Tenant's sole cost and expense.

7. Holding Over. If, after the Lease Expiration Date, Tenant shall remain in possession of the Premises and continue to pay Rent without a written agreement as to such possession, then such continuing tenancy shall be regarded as a month-to-month tenancy, at a monthly rental, payable in advance, equivalent to one hundred fifty percent (150%) of the last month's Rent paid under this Lease, and subject to all of the other terms, covenants and conditions hereof.

8. Default or Breach. In the event of an occurrence of default as set forth in this Lease, other than a default concerning the payment of Rent, or a material breach hereunder, other than a material breach concerning the payment of Rent, and Tenant does not cure such default within twenty (20) days after receiving written notice thereof, or, if such default cannot be cured completely within the twenty (20) day period, if Tenant does not promptly commence within such period and thereafter proceed with due diligence to cure the same, then the parties acknowledge and agree that Landlord shall have the rights described below. The parties acknowledge and agree that Tenant shall have a three (3) day grace period, after Rent is due under the Lease, with regard to the payment of Rent hereunder. If Rent is not paid prior to expiration of the three (3) day grace period then the parties acknowledge and agree that Landlord shall have the rights described below.

Landlord shall have the right to:

a. Sue Monthly for Rent. Without resuming possession of the Premises or terminating this Lease to sue monthly for and recover all Rents due under this Lease as well as any late charges and other sums including legal fees; or

b. Terminate Lease. To give Tenant written notice of Landlord's intention to terminate this Lease on the date such notice is given or on any later date specified therein, whereupon, on the date specified in such notice, Tenant's right to possession of the Premises shall cease and this Lease shall thereupon be terminated; provided however, all of Tenant's obligations, including but not limited to, the payment of Rent and other obligations reserved in this Lease for the balance of the term hereof, shall immediately be accelerated and due and payable; or

c. Repossess Premises. Without terminating this Lease, re-enter and take possession of the Premises or any part thereof and repossess the same as of Landlord's former estate or expel Tenant and those claiming through or under Tenant and remove the effects of both or either (forcibly, if necessary) without being deemed guilty in any manner of trespass and without prejudice to any remedies for Rent delinquencies or preceding Lease defaults, in which event Landlord may from time to time without terminating this Lease relet the Premises or any part thereof for such term or terms and at such rental or rentals and upon such other terms and conditions as Landlord may, in its sole discretion, deem advisable, with the right to make alterations and repairs to the Premises, and neither the serving of a demand for possession nor the re-entry or taking of possession of the Premises by Landlord shall be construed as an election on Landlord's part to terminate this Lease unless a written notice of termination is given to Tenant. In the event of Landlord's election to proceed under this subsection, then such repossession shall not relieve Tenant of its obligations and liabilities under this Lease, all of which shall survive such repossession, and Tenant shall pay to Landlord as current damages, the basic rental sums which would be payable hereunder if such repossession had not occurred, less the net proceeds (if any) of reletting the Premises after deducting all of Landlord's expenses in connection therewith, including but without limitation all repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration costs and expenses of preparation of such reletting. Tenant shall pay such current damages to Landlord on the days on which the basic Rent would have been payable hereunder and as if possession had not been retaken, and Landlord shall be entitled to receive the same from Tenant on each such day.

d. Timing of Suit. Suit or suits for the recovery of the amounts and damages set forth above may be brought by Landlord, from time to time, at Landlord's election and nothing herein shall be deemed to require Landlord to await the date whereon this Lease would have expired had there been no such default or material breach or no such termination, as the case may be.

9. No Waiver. The failure of Landlord to declare any default upon the occurrence thereof, or delay in taking any action in connection therewith, shall not waive such default, but instead Landlord shall have the right to declare any such default at any time thereafter.

10. Improvements and Alterations. Tenant shall have the right, at its sole cost and expense, to make changes or alterations to the Premises; provided, however, that in all cases any

such changes or alterations shall be made subject to the following conditions, which Tenant agrees to observe and perform:

a. Tenant shall make no alterations in or additions to the Premises without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld; and Tenant shall notify Landlord at least thirty (30) days in advance of any alterations in or additions to the Premises which Tenant proposes to make. Tenant shall post notice pursuant to the Colorado Mechanics Lien Act so that any lien recorded against the Premises does not attach to Landlord's interest.

b. If Landlord permits persons requested by Tenant to perform any alterations, modifications or additions to the Premises, then prior to the commencement of any such work, Tenant shall deliver to Landlord certificates issued by insurance companies qualified to do business in Colorado evidencing that workers' compensation insurance, general liability insurance and property damage insurance, all in amounts, with companies and on forms satisfactory to Landlord, are in force and maintained by all such contractors and subcontractors engaged by Tenant to perform such work. All such policies shall name Landlord as an additional insured and shall provide that the same may not be canceled or modified without thirty (30) days (ten (10) days for non-payment of premium) prior written notice to Landlord.

c. All such alterations, additions or improvements shall be made at Tenant's sole cost and expense and, except as otherwise provided herein, shall become the property of Landlord and shall be surrendered with the Premises, as a part thereof, at the end of the term hereof. Landlord and Tenant agree to walk through the Premises on a date which is not more than sixty (60) days prior to the end of the term, to examine the improvements and alterations made by Tenant in the Premises. Landlord may within ten (10) days after such examination of the Premises by written notice to Tenant require Tenant to remove all or any part of the improvements or alterations installed by Tenant and to repair any damage to the Premises resulting from such removal. Tenant shall construct such improvements or alterations in conformance with any and all applicable rules and regulations of any federal, state, or municipal code or ordinance. At least ten (10) days before the commencement of any such work, Tenant agrees to provide Landlord with lien waivers from all persons performing such work and materialmen providing materials used in connection therewith, which waivers may be conditioned upon payment.

d. Tenant shall, at Tenant's sole cost and expense, be responsible for any alterations, modifications or improvements to the Premises, and the acquisition of any auxiliary aids, required under Title III of the Americans With Disabilities Act ("ADA"), including all alterations, modifications, or improvements required: (i) as a result of Tenant being a "Public Accommodation" (as defined in the ADA); (ii) as a result of the Premises being a "Commercial Facility" (as defined in the ADA); (iii) as a result of any leasehold improvements made to the Premises by, or on behalf of, Tenant (whether or not Landlord's consent to such leasehold improvements was obtained); or (iv) as a result of the employment by Tenant of any individual with a disability.

11. Liens. Should any mechanics' or other liens be filed against the Premises by reason of Tenant's acts or omissions or because of a claim against Tenant or its subcontractors, Tenant shall cause the same to be canceled or discharged of record, or shall file a bond sufficient to discharge such lien. In the event any lien shall be filed for labor performed or materials supplied, Tenant shall cause such lien to be released within twenty (20) days. Failure to do so will be considered a material breach of this Lease.

12. Assignment and Sublease. Tenant agrees not to assign this Lease in whole or in part, nor sublet all or any part of the Premises, nor mortgage nor encumber this Lease or any part of the Premises, nor enter into licenses or concession agreements or in any other manner permit the occupation of or sharing of possession of any part of the Premises, or any assignment of this Lease or any estate or interest therein (all of the foregoing being hereafter referred to as an "Assignment") without the prior written consent of Landlord. Any Assignment by operation of law, or if Tenant is a corporation or other entity, the transfer, assignment or hypothecation of any stock or interest therein in excess of 50%, shall be deemed an Assignment. An Assignment consummated in violation of the provisions of this Section 12 shall be a material breach of this Lease, null and void, and of no force or effect. If Tenant shall enter into any approved sublease hereunder, Tenant shall pay to Landlord the Sublease Premium. The "Sublease Premium" shall mean in the event of a subletting, one-half (1/2) of all rent, additional rent or other consideration payable by such subtenant to Tenant or on behalf of Tenant in connection with the subletting. In determining whether to grant consent, Landlord may consider, without limitation, (a) whether the Assignment is consistent with Tenant's permitted use under this Lease and (b) whether the Assignment is to an assignee who, in Landlord's opinion, lacks adequate reputation, successful business experience in Tenant's type of business and/or means and/or financial capacity to conduct such a business. Consent by Landlord to one or more Assignments shall not constitute a waiver or consent to any subsequent Assignment; nor shall acceptance of any Rent or any other payment from any assignee be deemed a waiver or consent by Landlord or an acceptance of such Assignment. The consent of Landlord to any Assignment shall not relieve Tenant from continuing liability under this Lease, including liability for Rent, for which Tenant shall remain obligated. Tenant shall pay all reasonable costs and attorneys' fees incurred by Landlord in connection with any requested Assignment, regardless of whether such Assignment is consummated.

13. Transfers by Landlord. Landlord shall have the right to transfer and assign, in whole or in part, all of its rights and obligations hereunder and in the Premises referred to herein, and in such event and upon such transfer Landlord shall be released from any further obligations hereunder, and Tenant agrees to look solely to such successor in interest of Landlord for the performance of such obligations.

14. Abandonment. Tenant's abandonment of the Premises shall be deemed a default under this Lease. Abandonment of the Premises is deemed to have occurred if Tenant has abandoned or permanently vacated the Premises for a period of ten (10) consecutive days.

15. Signs. Tenant shall not erect any sign visible from the exterior of the Premises without first obtaining the written consent of Landlord. Tenant shall be responsible, at its sole

cost and expense, for obtaining all necessary approvals and permits for the installation of such signage and shall pay all costs relating to such installation, maintenance and removal of such signage and any damage that may occur to the Premises as a result of such installation, maintenance and removal. Tenant shall make all repairs to any such signage within ten (10) days after written notice from Landlord. Tenant agrees not to use any advertising media that shall be deemed objectionable to Landlord, such as loud speakers, phonographs, or radio broadcasts in a manner to be heard outside the Premises.

16. Subordination. This Lease and the rights of Tenant hereunder shall be subject and subordinate to the lien of any mortgage or deed of trust now or hereafter placed upon, affecting or encumbering the Premises, or any part thereof or interest therein, and to any and all advances made thereunder, interest thereon or costs incurred and any modifications, renewals, supplements, consolidations and replacements thereof; provided, however, that as a condition to any such subordination, the holder of or beneficiary under any such encumbrance shall agree that Tenant shall not be disturbed in its possession (provided Tenant is not in breach or default under this Lease) nor shall its obligations be enlarged or its rights abridged hereunder by reason of any such mortgage or deed of trust. Without the consent of Tenant, the holder of any such mortgage or deed of trust or the beneficiary thereunder shall have the right to elect to be subject and subordinate to this Lease, such subordination to be effective upon such terms and conditions as such holder or beneficiary may direct which are not inconsistent with the provisions hereof. Notwithstanding any foreclosure or sale under any such mortgage or deed of trust (or deed in lieu thereof) this Lease shall remain in full force and effect, but Tenant shall attorn to the purchaser at any such sale or foreclosure or the grantee of any such deed.

17. Estoppel Certificate. Within ten (10) days after Landlord's request, Tenant shall execute estoppel certificates addressed to (i) any mortgagee or prospective mortgagee of Landlord or (ii) any purchaser or prospective purchaser of all or any portion of, or interest in, the Premises, on a form specified by Landlord, certifying as to such facts (if true) and agreeing to such notice provisions and other matters as such mortgagee(s) or purchaser(s) may reasonably require; provided, however, that in no event shall any such estoppel certificate require an amendment of the provisions hereof or otherwise affect or abridge Tenant's rights hereunder.

18. Attorneys Fees. In the event any dispute arises in connection with this Lease, the prevailing party in such dispute shall be entitled to receive its reasonable attorneys' fees and costs from the other party.

19. Late Charges and Interest. In the event any payment required hereunder is not made within three (3) days after the payment is due, a late charge in the amount of five percent (5%) of the payment will be paid by the Tenant. In addition, should any payment required hereunder remain unpaid for a period of thirty (30) days after it was due then the parties agree that such amounts shall accrue interest at the rate of eighteen percent (18%) per annum.

20. Condemnation.

a. Complete Taking. If, during the term of this Lease, the whole or substantially all of the Premises shall be taken as a result of the exercise of power of

eminent domain or transferred under threat of condemnation, this Lease shall terminate as of the date of vesting of title of the Premises or delivery of possession, whichever event shall first occur, pursuant to such proceeding or transfer. For purposes of this Section 20(a), “substantially all of the Premises” shall be deemed to have been taken if a taking under any such proceeding shall involve such an area that Tenant cannot reasonably operate in the remainder of the Premises the business being conducted on the Premises at the time of such proceeding.

b. Partial Taking. If, during the term of this Lease, less than substantially all of the Premises shall be taken in any such proceeding, this Lease shall not terminate. Instead, the Rent thereafter due and payable by Tenant shall be reduced in such proportion as the nature, value and extent of the part so taken bears to the whole of the Premises.

c. Award. Any award granted for either partial or complete taking of the real property and improvements shall be the sole property of Landlord. Tenant shall be entitled to negotiate with the taking party for compensation due to loss of business or other losses associated with the taking, and retain any such award, provided it does not reduce the Landlord’s award. Notwithstanding the foregoing, Tenant shall have no claim against Landlord for any loss or damage resulting from such taking.

21. Destruction of Premises. In the event of a partial or total destruction of the Premises, including improvements thereto, during the term hereof, from any cause covered by insurance, Landlord shall be entitled to all insurance proceeds resulting from such partial or total destruction (except business interruption insurance proceeds) and Landlord shall repair and/or rebuild all of the improvements, to the same or better level of size and quality as was present at the time of destruction; provided, however, Landlord shall not be required to expend monies in excess of the insurance proceeds received. The rebuilding/repair process shall commence and be completed within a reasonable time.

22. Laws and Regulations.

a. General. At its sole cost and expense, Tenant will promptly comply with all laws, statutes, ordinances, and governmental rules, regulations, or requirements now in force or in force after the date of execution of this Lease, with the requirements of any board of fire underwriters or other similar body constituted now or after that date, with any direction or occupancy certificate issued pursuant to any law by any public officer or officers, as well as with the provisions of all recorded documents affecting the Premises, insofar as they relate to the condition, use, or occupancy of the Premises.

b. Hazardous Materials.

i. For purposes of this Lease, “Hazardous Materials” means any explosives, radioactive materials, hazardous wastes, or hazardous substances, including without limitation substances defined as “hazardous substances” in the Comprehensive Environmental Response, Compensation and Liability Act of

1980, as amended, 42 U.S.C. §9601-9657; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. §1801-1812; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6901-6987; or any other federal, state, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning hazardous materials, waste, or substances now or at any time hereafter in effect (collectively, “Hazardous Materials Laws”).

ii. Tenant will not cause, permit or allow the storage, use, generation, or disposition of any Hazardous Materials in, on, or about the Premises. Tenant will not cause, permit or allow the Premises to be used or operated in a manner that may cause the Premises to be contaminated by any Hazardous Materials in violation of any Hazardous Materials Laws. Tenant will immediately advise Landlord in writing of (1) any and all enforcement, cleanup, remedial, removal, or other governmental or regulatory actions instituted, completed, or threatened pursuant to any Hazardous Materials Laws relating to any Hazardous Materials affecting the Premises and (2) all claims made or threatened by any third party against Tenant, Landlord, or the Premises relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from any Hazardous Materials on or about the Premises. Without Landlord’s prior written consent, Tenant will not take any remedial action or enter into any agreements or settlements in response to the presence of any Hazardous Materials in, on, or about the Premises.

iii. Tenant will be responsible for and will defend, indemnify and hold Landlord, its agents, and each of their respective successors and assigns harmless from and against all claims, costs, and liabilities, including attorneys’ fees, arising out of or in connection with Tenant’s breach of this Section 22. Tenant will be responsible for and will defend, indemnify, and hold Landlord, its agents, and each of their respective successors and assigns harmless from and against any and all claims, costs, and liabilities, including attorneys’ fees, arising out of or in connection with the removal, cleanup, and restoration work and materials necessary to return the Premises and any other property of whatever nature located in, on, or about the area, to their condition existing prior to the introduction of Hazardous Materials. Tenant’s obligations under this Section 22 will survive the expiration or other termination of this Lease.

c. Certain Insurance Risks. Tenant will not do, permit or allow to be done any act or thing upon the Premises which would (i) jeopardize or be in conflict with insurance policies covering the Premises or (ii) subject Landlord to any liability or responsibility for injury to any person or persons or to property by reason of any business or operation being carried on upon the Premises.

23. Indemnification. Tenant shall indemnify, defend and hold Landlord, its agents, and each of their respective successors and assigns harmless from and against all claims, losses, damages, liabilities, expenses (including reasonable attorneys’ fees and costs), penalties and charges arising from or in connection with (i) Tenant’s use of the Premises, (ii) the conduct of

Tenant's business, or (iii) any activity, work or things done, permitted or suffered by Tenant in or about the Premises. Tenant shall further indemnify, defend, and hold Landlord harmless from and against any and all claims, losses, damages, liabilities, expenses (including reasonable attorneys' fees and costs), penalties or charges arising from any default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any negligence of Tenant, or any of Tenant's agents, contractors, employees or invitees, and from and against all costs, attorneys' fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. If any action or proceeding should be brought against Landlord by reason of any such claim, Tenant, upon written notice from Landlord, shall defend the same at Tenant's expense with legal counsel reasonably satisfactory to Landlord. Tenant, as a material part of its consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in or upon the Premises arising from any cause and Tenant hereby waives all claims in respect thereof against Landlord. Notwithstanding the foregoing, Tenant shall not be required to defend, save harmless or indemnify Landlord from any liability for injury, loss, accident or damage to any person or property resulting from Landlord's gross negligence or willful acts or omissions. Tenant's indemnity is not intended to nor shall it relieve any insurance carrier of its obligations under policies required to be carried by Tenant pursuant to the provisions of this Lease to the extent that such policies cover the results of negligent acts or omissions of Landlord or its agents, or the failure of Landlord to perform any of its obligations under this Lease. Tenant's obligations under this Section 23 will survive the expiration or other termination of this Lease.

24. Covenant of Quiet Enjoyment. Landlord covenants that Tenant, upon paying the amounts required under the Lease, and observing and performing all the other terms, covenants, conditions, provisions and agreements herein contained on the part of Tenant to be kept, observed and performed, shall during the term hereof, peaceably and quietly have, hold and enjoy the Premises subject to the terms, covenants, conditions, provisions and agreements hereof without interference by any persons lawfully claiming by or through Landlord.

25. Notice. Any notice, request, instruction, demand or other communication given hereunder by either party to the other party shall be given in writing and shall be delivered either by hand, or by registered or certified mail, postage prepaid, return receipt requested, as follows:

- a. If to Tenant, addressed to:

Hylton Lumber LLC
348 H Street
Salida, CO 81201

- b. If to Landlord, addressed to:

City of Salida, Colorado
448 E. First Street, Suite 112
Salida, CO 81201
Attention: City Administrator

or to such other address as either party shall have previously designated by written notice given to the other party in the manner hereinabove set forth. Notices given hereunder shall be deemed given, in the case of personal delivery, on the date delivered, and in the case of delivery by certified mail, on the third (3rd) business day after delivery to the United States Postal Service.

26. Recordation. Tenant shall not record this Lease without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion. Recordation of this Lease by Tenant without the prior written consent of Landlord shall be deemed a material breach of this Lease.

27. Bankruptcy. This Lease is made with the express understanding and agreement that, in the event the Tenant becomes insolvent, or is declared bankrupt, then, in either event, the Landlord may declare this Lease ended, and all rights of the Tenant hereunder shall terminate and cease.

28. Entire Agreement. This Lease is fully integrated and constitutes the entire agreement and understanding between and among the parties with respect to the matters addressed herein and, except as set forth in this Lease, no representations, warranties or promises have been made or relied upon by the parties to this Lease.

29. Amendment. Any amendment or modification of this Lease shall be effective only if set forth in a written document executed by a duly authorized representative of each of the parties.

30. Severability. If any term, provision, covenant or condition of this Lease is held by any court of competent jurisdiction to be invalid, void or unenforceable in any respect, the remainder of such term, provision, covenant or condition in every other respect and the remainder of the terms, provisions, covenants or conditions of this Lease shall continue in full force and effect and shall in no way be affected, impaired or invalidated.

31. No Joint Venture. This Lease shall not be deemed or construed to create or establish any relationship of partnership or joint venture between Landlord and Tenant, the sole relationship between the parties being that of landlord and tenant.

32. Counterparts and Signatures. This Lease may be executed in any number of counterparts and by the parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. Signatures by the parties on this Lease that are delivered by facsimile or electronically in a portable document format (pdf) shall be deemed original signatures.

33. Headings. The headings in this Lease are for convenience of reference only, and shall not be considered a part hereof or be given any effect in the construction or interpretation of this Lease.

34. Representations and Warranties. Landlord represents and warrants that the execution of this Lease by it has been duly authorized. Tenant represents and warrants that the execution of this Lease by it has been duly authorized.

35. Gender. Words used herein regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context requires.

36. Inurement. This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

37. Governing Law; Venue. The provisions of this Lease shall be governed by the laws of the State of Colorado, without giving effect to any conflict of law provisions. Any judicial proceeding brought hereunder shall be brought exclusively in Chaffee County, Colorado. Each party hereby consents to the jurisdiction of such county and waives any defense or objection to such jurisdiction and/or venue.

38. Governmental Immunity Act. No term or condition of this Lease shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*

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IN WITNESS WHEREOF, the parties have executed this Lease as of the date of the last signature below.

LANDLORD
City of Salida, Colorado

DATE: _____

By: _____
Print Name: _____
City Administrator

TENANT
Hylton Lumber LLC,
a Colorado limited liability company

DATE: _____

By: _____
Print Name: _____
Title: _____

EXHIBIT A

Premises

See Below and Attached

A portion of the abandoned Denver and Rio Grande Western Railroad (Monarch Branch) right-of-way located in the Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4) and the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section 32, Township 50 North, Range 9 East of the New Mexico Principal Meridian, in the City of Salida, Chaffee County, Colorado, being more particularly described as follows:

Beginning at the point of intersection of the Southeasterly boundary of said abandoned railroad right-of-way with the Northeasterly boundary of Fifth Street in said City of Salida; thence proceeding around the tract herein described along said southeasterly railroad right-of-way boundary the following: first North 68°17'54" East 253.11 feet to the beginning of a curve to the left, said curve having a central angle of 04°59' and a radius of 2908.27 feet; thence along the arc of said curve a distance of 252.95 feet to the end of said curve; thence North 63°19'54" East 278.8 feet more or less to the Southwesterly boundary of Third Street in the said City of Salida; thence leaving said railroad right-of-way boundary North 40°05'18" West along the approximate Southwesterly boundary of said Third Street a distance of 70.48 feet; thence leaving said Southwesterly street boundary South 59°59'46" West 193.46 feet; thence South 67°38'06" West 31.06 feet; thence South 64°14'00" West 99.59 feet; thence South 31°24'02" East 12.22 feet; thence South 66°23'27" West 297.81 feet; thence South 69°10'16" West 70.54 feet; thence South 71°32'03" West 75.21 feet to a point on a curve on the said Northeasterly boundary of Fifth Street, said curve having a central angle of 08°87'49", a radius of 320.0 feet and a chord which bears South 23°44'12" East 50.01 feet; thence along the arc of said curve a distance of 50.06 feet to the point of beginning.

Containing 41,756.3 Square feet or 0.96 acres

