



**MEETING OF THE CITY COUNCIL**  
**City Council Chambers**  
**448 East 1<sup>st</sup> Street, Room 190**  
**City of Salida, Colorado**  
**Tuesday, July 6, 2010, 6:00 p.m.**

*The City Council may take action on any of the following agenda items as presented or modified prior to or during the meeting, and items necessary or convenient to effectuate the agenda items.*

- I. MEETING CALLED TO ORDER**
- II. PLEDGE OF ALLEGIANCE** – Led by Mayor Charles Rose
- III. ROLL CALL**
- IV. CITIZEN PARTICIPATION** – 3 minute time limit
- V. PRESENTATIONS**
- VI. SCHEDULED ITEMS**
  - 1. Consent Agenda** (Janella Martinez) **Section 1**
    - a. Approval of Agenda
    - b. Approval of Minutes: June 1, 2010
    - c. City Property requests: None
    - d. Special Events Liquor Permit request: 1.) Salida Fine Arts Festival
  - 2. Colorado Drinking Water Revolving Fund Loan- 2<sup>nd</sup> reading** (Jan Schmidt) **Section 2**  
Ordinance 2010-05 an ordinance of the City Council for the City of Salida, Colorado approving a loan from the Colorado Drinking Water Revolving Fund
  - 3. Skatepark revisions to include bicycle use – 1<sup>st</sup> reading** (Theresa Casey) **Section 3**  
Ordinance 2010-07 allowing bicycles without pegs in the Skate Park.
  - 4. Water Shed Protection District – 1<sup>st</sup> reading** (Karl Hanlon) **Section 4**  
Ordinance 2010-06 designating a Water Shed Protection District and adding a new Article VII “Watershed Protection” to Chapter 13 of the Salida Municipal Code.
  - 5. Natural Resource Center Development Corp. Agreement -** (Dara MacDonald) **Section 5**  
Resolution 2010- 38 entering into a Development Agreement for the Salida Natural Resources Center.

*Agenda July 6, 2010*

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*The order of agenda items listed above are approximate and intended as a guideline for the City Council. Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting the City Clerk, 448 E. 1<sup>st</sup> Street, Ste. 112, Salida, CO 81201, 719-539-2311 at least 48 hours in advance.*

6. **Extension of Vandaveer Ranch Overall Development Plan** (Dara MacDonald) **Section 6**  
Resolution 2010- 39 extending the time for the Vandaveer Ranch Overall Development Plan.
7. **Harriet Alexander Field Capital Improvement Plan –** **Section 7**  
Resolution 2010- 40 to certify to the State of Colorado and to the FAA the Capital Improvement Program for Harriet Alexander Field .
8. **Medical Marijuana Moratorium exception request.** (Karl Hanlon) **Section 8**
9. **Final Settlement Y & K /Water Meter Replacement Project** (Rob Vance) **Section 9**
10. **Final Settlement Lowry/Whitewater Park & Greenway Phase 4** (Rob Vance) **Section 10**
11. **Administrator/City Attorney/Deputy City Clerk**
  - a. Administrator’s Report – (Jack Lewis)
  - b. City Attorney Report – Karp, Neu, Hanlon, PC
  - c. Deputy City Clerk Report – Janella Martinez
12. **Elected Official Reports**
  - a. City Treasurer – Eileen Rogers
  - b. Mayor – Charles Rose
  - c. City Council- Keith Baker, Scott Damman, Jim McCormick, Jay Moore, Steven Stewart, and Tom Yerkey.

**VII. ADJOURN –**

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**Mayor**

[SEAL]

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**City Clerk**



CITY COUNCIL AGENDA ITEM

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MEETING DATE: July 6, 2010  
AGENDA ITEM TITLE: Consent Agenda Items  
PRESENTED BY: Janella Martinez, Deputy City Clerk  
AGENDA SECTION: Scheduled Items

REQUESTS:

- a. Approval of Agenda
- b. Approval of Minutes: June 1, 2010
- c. City Property requests: None
- d. Special Events Liquor Permit requests: 1.) Salida Fine Arts River Festival

BACKGROUND:

**d. Special Events Liquor Permit requests:**  
(Public Hearing, if needed)

- 1.) Salida ArtWorks is requesting a Special Events Liquor Permit to be granted on Saturday, August 15, & Sunday, August 16, 2010.

Salida ArtWorks is requesting the Liquor Licensing Authority to grant a Special events Liquor Permit on Saturday, August 14, 2010 from 9:30 a.m. – 7:00 p.m. and on Sunday, August 15, 2010 from 9:30 a.m. – 4:00 p.m. in Riverside Park to hold the Salida Riverside Fine Arts Festival.

- The liquor area will be separated from the rest of the park activities. (The diagram showing the liquor premises is included in the packet for Council review.)
- Food options will be provided by the several vendors.
- A completed events Check list by City Departments is attached for Council review.
- To date no public comments have been submitted.

ACTION:

If Council wishes to approve the items on the consent agenda;

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

Followed by a second, and then a simple voice vote.



**MINUTES REGULAR MEETING  
CITY COUNCIL CHAMBERS  
448 E. 1<sup>st</sup> Street**

**Salida, Colorado**

**June 1, 2010**

**6:00 p.m.**

The meeting was called to order at 6:01 p.m.

**PLEDGE OF ALLEGIANCE –**

Led by Mayor Chuck Rose.

**ROLL CALL -**

Present at roll call were Mayor Chuck Rose and Council Members Scott Damman, Jim McCormick, Jay Moore, Steven Stewart, and Tom Yerkey. Also present were City Administrator Jack Lewis, City Clerk Betty Schwitzer, City Treasurer Eileen Rogers, Deputy City Clerk Janella Martinez, and City Attorney Karl Hanlon.

Absent was Council Member Keith Baker.

**CITIZEN PARTICIPATION -**

No one signed up to speak.

**PRESENTATIONS –**

Michael Brown, Eco Depot told Council Members that there is a grant available and the deadline for submission is June 4<sup>th</sup>. \$60,000 is available to put PV on public buildings, with no match required. A discussion followed regarding the short time frame required for submission.

Administrator Lewis said in order for Council to make a decision on this offer, they would need to call a Special Meeting. Because the Toubert Building is co-owned by Chaffee County and the City of Salida, both entities would have to approve the request. It doesn't appear feasible for the City to support this request due to the extremely short notice of the submission deadline.

**SCHEDULED ITEMS-**

**Consent Agenda –**

Deputy City Clerk Janella Martinez presented written materials that are included in the packet for the record.

- a. **Approval of Agenda**
- b. **Approval of Minutes: Special Meeting May 24, 2010**
- c. **City Property requests: 1.) Omnium**
- d. **Special Events Liquor Permit requests: 1.) GARNA/Omnium 2.) Elks 3.) Community**

Center (Public Hearing, if needed)

**c. City Property requests:**

1.) Salida Omnium 2010

South Central racing is requesting to use Riverside Park on July 30, 31, and August 1, 2010 to hold the Salida Omnium 2010.

- This request includes numerous street closures. The applicant has agreed to go door to door prior to the event and distribute flyers to the effected area. The applicant has included a completed street closure petition that is attached for Council review. (Please review the attached map.)
- An amplified sound permit is included in the request for Saturday, July 31, from 7:00 a.m. – 6:00 p.m.
- The use of the Scout Hut is included.
- Police assistance is requested.
- Angela Damman is the event coordinator for the Salida Omnium 2010.
- A Special Events Liquor Permit is requested for one day of the three day event, which is defined in the next section of the consent agenda.
- A completed Events Check list by City Departments is attached for Council review.

**d. Special Events Liquor Permit requests:** 1.) GARNA/Omnium 2.) Elks  
3.) Community Center (Public Hearing, if needed)

1.) GARNA/ Salida Omnium 2010

Greater Arkansas River Nature Association is requesting the Liquor Licensing Authority to grant a Special events Liquor Permit for Saturday, July 31, 2010 from 11:30 a.m. – 7:00 p.m. in Alpine Park on the corner of F & 4<sup>th</sup> Streets.

- The liquor area will be fenced off and will have one entry and exit point. (Please, see the attached map.)
- Food will be provided by Amicas mobile pizza oven.
- A completed events Check list by City Departments is attached for Council review.
- To date no public comments have been submitted.

2.) The Salida Elks Lodge

The Salida Elks Lodge holds a Club Liquor License. The Elks members are planning to open the club to allow public access over FIBArk weekend. A club license allows only members and guest to consume alcohol on the premises. To be eligible to apply for a Special Events Liquor Permit the applicant must be a non-profit entity that is in Good Standing with the Colorado Secretary of State. If granted a Special Events Liquor Permit the Elks would be allowed to sell and serve alcohol to the general public.

In 2006 the Elks lodge applied for an outdoor area, which was approved by City Council with the stipulation that when an event is held in the extended outdoor area, members and guests only are allowed to consume alcohol. The current management is aware of the stipulation and will comply with this stipulation.

- This event is being held on private property.
- To date no public comments have been submitted.

3.) The Salida Senior Citizens Center, Inc. has applied for a Special Events Liquor Permit to host a Class Reunion on Saturday, July 19, 2010 from 4:00 – 8:30 p.m.

- The Senior Center, locally known as the Community Center is a non-profit entity and is eligible to hold a Special Events Liquor Permit.
- The event will be held in the upstairs portion of the center, excluding the main kitchen area. (Please see the attached diagram.)
- The downstairs area is not included in the liquor area.
- To date no public comments have been submitted.

A motion was made by Yerkey to combine and approve the items on the consent agenda. The motion was seconded by Moore. With all in consensus, THE MOTION CARRIED.

**2. Reducing the Parkway Permit fee –**  
Resolution 2010- 36 reducing the parkway permit fee

Rob Vance presented written information that is included in the packet for the record.

The request is to change the permit fee for parkway landscaping from \$30.00 to \$5.00.

The Public Works Department has required persons working within the Right-of-Way (ROW) to obtain a permit prior to beginning work. In 2006, Council adopted the various fees for the different types of work that occurs in the R.O.W. Council at the time instructed staff to set the fees to cover associated costs. The fee for landscaping the parkway was set at \$30.00. An issue has arisen with the permit as many of the residents do not feel that the fee is just. The parkway is City owned property but the adjacent owner must maintain it. Many feel that the fee is excessive.

Historically, the Public Works Department has only collected an average of \$270 annually from the parkway landscaping fee. The department has had many issues trying to get people to obtain the permit and those that have feel it is excessive. The department does not believe the fee is the important part of this; the important aspect of the permit is to notify our residents of the approved materials for parkway construction. Therefore we feel it is in the best interest of the Department and to our citizens to reduce the fee for parkway landscaping to \$5.00. The department recommends that all other fees remain the same, as the current fee does not cover all of the costs. By trying to streamline the process to make it easier for the citizen, permits are available at Public Works.

Councilor Stewart asked Vance if there would need to be a follow-up inspection with the new procedure. Mr. Vance said there would be. Our citizens want to do things to improve the parkway and tend to put things in the R.O.W. that are against code, such as concrete. We would like to create a green buffer. If we have to go in and cut we are responsible for replacing the concrete. Gravel larger than 2” becomes a trip hazard if put in the parkway. Some people have put in boulders and these become an issue when opening car doors.

Councilor Stewart discussed this issue with Councilor Damman and they wonder if the Land Use Code might be able to address this situation better if the fine for violating the code covered the costs. If citizens put in concrete that has to be removed than they should cover the cost to replace it.

A motion was made by Yerkey to approve RESOLUTION 2010-36 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, APPROVING THE REDUCTION OF THE FEE FOR LANDSCAPING FROM \$30.00 TO \$5.00. The motion was seconded by McCormick.

Vance said even with him writing several articles people still don't understand or know about the

permit. Administrator Lewis said staff still believes that the permit should remain in the process but doesn't believe there would be a problem lowering the fee. Vance said it makes his job difficult when he is required to issue a citation to those who don't follow code. Council discussion continued. The consensus was that citizens should be required to get a permit free, and the deterrent factor would be a fine.

Councilor Stewart said he supports Councilor Moore's idea to increase the penalty and for staff to draft an ordinance making this change.

Councilor Damman feels the fee would be better at no cost than \$5.

An amendment was made to the motion by Moore to reduce the fee to \$0 and direct staff to draft an ordinance for increasing the penalty for those not complying with code. The motion was seconded by Damman. Those voting YEA were Stewart, Damman, McCormick, and Moore. Voting Nay was Yerkey. THE MOTION CARRIED.

Mayor Rose asked for a roll call vote on the original motion. With all in consensus, THE MOTION CARRIED.

**3. Extension of Salida Sewer Service to Poncha Springs – (Jan Schmidt)**

Ordinance 2010-04 amending Chapter 13 of the Salida Municipal Code to reflect extension of Salida sewer service to Poncha Springs as Regional Provider.

Jan Schmidt presented written materials that are included in the packet for the record.

The request is to approve changes to the Municipal Utilities code to adopt changes necessary to implement the agreement reached with the Town of Poncha Springs to settle the sewer dispute.

A new agreement between the City of Salida and Town of Poncha Springs was reached earlier this year. Certain provisions of the City's Utility code contradict the wording in that agreement, so this ordinance makes changes to facilitate implementation of the new agreement. This ordinance states that as a regional provider we would treat the customers of Poncha Springs the same way as Salida customers.

Staff would suggest passing the ordinance.

A motion was made by Moore to approve Ordinance 2010-04 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AMENDING CHAPTER 13 OF THE SALIDA MUNICIPAL CODE TO REFLECT EXTENSION OF SALIDA SEWER SERVICE TO PONCHA SPRINGS AS REGIONAL PROVIDER, setting the public hearing as June 15, 2010 and to publish the Ordinance in full. The motion was seconded by Damman. With all in consensus, THE MOTION CARRIED.

**4. Bensons –**

**a. Request to amend the Amplified Sound Permit - (Jack Lewis)**

Resolution 2010-37 approving an amended amplified Sound Permit by Benson's Tavern.

Benson's Tavern is requesting an Amplified Sound Permit during the weekend of FIBArk events. Benson's has a decibel meter to monitor the sound throughout the event assuring compliance with the Salida Municipal Code. Benson's is requesting the extended permit on Thursday, June 17, Friday, June 18, Saturday, June 19, and Sunday, June 20<sup>th</sup>, 2010 from 10:00 p.m. - 1:30 a.m.

Attorney Hanlon stated that the decibel level permitted according to the Municipal Code from 10 PM to 1:30 AM are emanating into a residence are allowed at 55 decibels. Council is trying to understand what the rules are. Councilor Damman asked where the decibel levels are measured, at the source of noise, or at the residence. Hanlon said the levels are measured at the residence.

Mayor Rose noted that this exception is requested during FIBArk weekend, which is a large event in Salida. Councilor McCormick said he doesn't like the idea of allowing this noise on Sunday when people have to work on Monday.

Mayor Rose asked if there was anyone proponents present wishing to speak about this request.

Brad Smith, Benson's manager, said Benson's has acquired two decibel meters and the band will be located in a tent. Mr. Smith clarified that the request is not for Sunday night, only the morning hours from Saturday night that go beyond midnight into Sunday morning. They have hired a sound guy from the Front Range to assist Benson's Tavern with this event. Mr. Smith said after hearing the discussion he will modify the request for Friday, June 18<sup>th</sup>, Saturday, June 19<sup>th</sup> through Sunday morning until 1:30 a.m. Mr. Smith sat down, but remained at the meeting to answer any questions posed.

Next to speak was Merrell Bergin, 126 1/2 F Street, does have a sound meter and he will be measuring the decibels. He feels that an increase from 50 to 55 is a substantial difference. He does recognize the fact that noise seems to bounce off the buildings downtown. He said last year on November 20 he noticed noise coming from Bensons. He measured the decibels on the sidewalk outside of the facility at 92 decibels. Mr. Bergin walked to the corner of 1<sup>st</sup> & F and measured the sound at 76 decibels. From his house it measured 62 decibels.

Mr. Bergin submitted an email from the owner of Eliza's Bed that is included in the packet. He spoke for Eliza Collins who owns Eliza's Bed. Ms. Collins closes her business for the weekend and left town during this busy weekend. The business, if any, generated during this festival, is minimal.

A discussion followed about reasonable decibel levels. Police Chief Terry Clark said he can sit on the street and get about a 90 decibel reading from a diesel vehicle. Normal downtown noise can easily measure 55 decibels.

Councilor Moore feels that 1:30 a.m. is way too late and that Midnight is a reasonable time to have the amplified music shut down. He understands that Salida has a multi-purpose downtown.

A motion was made by Moore to approve RESOLUTION 2010-37 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AUTHORIZING THE CITY ADMINISTRATOR TO SIGN THE AMEND AMPLIFIED SOUND PERMIT FOR BENSON'S for 6/18, 19, 20/2010, from 10:00 p.m. to 1:30 a.m., amending the time as 10:00 p.m. until 12:00 a.m. Midnight. The motion was seconded by Stewart. More discussion followed.

A brief discussion followed.

Councilor Yerkey asked Mr. Smith if stopping the music at midnight would put a crimp in Benson's plan. He respects Mr. Bergin's position. However from a business standpoint the FIBArk festival is a very busy time for Salida. Perhaps there might be a compromise at 1:00 a.m.

A motion was made by Yerkey to amend the motion by Moore changing the RESOLUTION 2010-37 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AUTHORIZING THE CITY ADMINISTRATOR TO SIGN THE AMEND AMPLIFIED SOUND PERMIT FOR BENSON'S for 6/18, & 6/19/2010, from 10:00 p.m. to 1:00 a.m. The motion was seconded by Damman.

Mayor Rose asked for a roll call vote.

Those voting Yea were Damman, McCormick, Stewart, and Yerkey. Voting Nay was Moore.  
THE MOTION CARRIED.

Mayor Rose request a roll call vote on the original motion.

Those voting Yea were Damman, McCormick, Stewart, and Yerkey. Voting Nay was Moore.  
THE MOTION CARRIED.

**b. Modification of Premises/Bensons – (Janella Martinez)**

Deputy City Clerk Janella Martinez presented written materials that are included in the packet for the record. The request is to modify the liquor premises by Volkmann Enterprises, LLC dba Bensons Tavern & Beer Garden from June 1, 2010 to September 1, 2010. Please see the attached diagram. The applicant will put additional porta-potties in the modified area during FIBArk weekend only.

According to Regulation 47-302 of the Colorado Liquor Code, without the prior consent of the local and state licensing authorities, a licensee may not make any “physical change, alteration or modification of the licensed premises which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license.”

Because a licensee may not sell alcoholic beverages except within the “duly licensed establishment,” any expansion of licensed facilities for the sale of alcoholic beverages requires prior written consent of local and state licensing authorities, lest the licensee be found to be illegally selling alcohol in a materially altered (and thereby unlicensed) facility.

City Council as the liquor licensing authority may choose to approve or deny the application.

If permission to change, alter, or modify the licensed premises is denied, the licensing authority shall give notice in writing and shall state the grounds for denial. The licensee shall be entitled to a hearing on the denial if a request in writing is made to the local authority within fifteen days after the date of notice.

If Council wishes to approve or deny the presented request they should make a motion stating this action.

A motion was made by Moore to approve the Modification of Premises for Volkmann, LLC dba Benson's. The motion was seconded by Stewart. A brief discussion followed.

Council Member Moore asked if the porta potties would be used for FIBArk weekend only. Benson's Manager Smith confirmed that they would only be there for FIBArk. The temporary area is fenced, not covered. Although where the band will be located, on the existing patio area, is covered. There will be a beer bar in the temporary area. Lieutenant Hall is okay with the proposed area.

Downtown resident Merrell Bergin said he appreciates the compromise by Benson's. He feels the police department has enough to do without trying to enforce the decibel level allowed in the current code. Bergin thinks the levels need to be modified so it will be more enforceable.

Councilor Damman asked Bergin if he could call him and come to his home with another member of Council to measure the regular weekend night sound levels. Bergin said he was welcome to come and listen and Chief Clark is also welcome. Bergin said the larger issue is, if you don't enjoy FIBArk festivities you can make other plans for this weekend, and it is anticipated these festivals will continue to grow.

Mayor Rose requested a vote.

With all in consensus, THE MOTION CARRIED.

**5. Administrator/City Attorney/Deputy City Clerk**

**a. Administrator's Report –**

**1.) Geothermal Grant Update**

City Administrator Jack Lewis complimented our Geothermal consultant Fred Henderson. Mr. Henderson put together all of the technical data and applied for just short of \$50,000 in grant money for a geothermal study at the Poncha Hot Springs site. The application was submitted three days in advance of the deadline. When notified of the status of the application, Lewis will update City Council.

**2.) Salida Hot Spring Pool letters of appreciation**

This week at the pool Theresa Casey, Recreation Manager and her fine staff offered students a free day to celebrate the end of the school season. A little over 200 people attended that session. Several positive comments were submitted and are included in the packet for Council review. Administrator Lewis thanked Theresa Casey and her staff.

**b. City Attorney Report – Karp, Neu, Hanlon PC**

Attorney Hanlon had no more to report this evening.

**c. Deputy City Clerk -**

Deputy Clerk Janella Martinez had nothing to report.

**7. Elected Official Reports -**

**a. Treasurer-**

There was no Treasurer's report this evening.

**b. Mayor –**

Mayor Rose thanked everyone who participated in Memorial Day services, especially those actively

serving. Mayor Rose wanted to make people aware that on Monday June 7, 2010 at 6:00 p.m. there will be a work session to discuss the county wide sales and use tax. This session will be held at the Chaffee County Commissioners Chambers. He also wishes to thank Merle Baranczyk for his helpful Editorial that was printed last Friday about the Countywide Sales and Use Tax. It is not necessarily easy to understand. Mayor Rose hopes citizens will attend in order to understand whether or not they are for or against it. The City needs to find a way to fund existing services.

Councilor Damman asked Mayor Rose to clarify his statement regarding the tax proposal. Mayor Rose said within the municipalities there will basically be no change in sales tax. If a Countywide Sales Tax is put in place the only change would be to those living in unincorporated areas. The residents in an unincorporated area would see a 2% increase, which would equal what the citizens of the municipalities already pay. If this is approved it would level tax collection county wide. Those who pay taxes are paying to cover the increased services to all areas. Support is needed in order to continue to provide needed services.

Mayor Rose said it is apparent that many citizens aren't reading the City articles that are published in the Mountain Mail on Fridays and that it is bothersome to him.

c. City Council-

There were no Council reports.

**EXECUTIVE SESSION –**

Councilor Damman made a motion to go into Executive Session for a conference with the City attorney for the purpose of receiving legal advice on specific legal questions under C. R. S. Section 24-6-402(4)(e); AND THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES: To discuss pending litigation. And for the purpose of determining positions relative to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R. S. Section 24-6-402 (4)(e); AND THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES: To discuss pending litigation.

**ADJOURNMENT –**

A motion was made by Moore to adjourn the meeting at 8:45 p.m. The motion was seconded by Baker. With all in consensus, THE MOTION CARRIED.

\_\_\_\_\_  
Mayor

[SEAL]

\_\_\_\_\_  
Deputy City Clerk

Respectfully submitted by Janella S. Martinez, Deputy City Clerk

# APPLICATION FOR A SPECIAL EVENTS PERMIT

Department Use Only

IN ORDER TO QUALIFY FOR A SPECIAL EVENTS PERMIT, YOU MUST BE NONPROFIT AND ONE OF THE FOLLOWING (See back for details.)

- SOCIAL       ATHLETIC       PHILANTHROPIC INSTITUTION  
 FRATERNAL       CHARTERED BRANCH, LODGE OR CHAPTER       POLITICAL CANDIDATE  
 PATRIOTIC       OF A NATIONAL ORGANIZATION OR SOCIETY       MUNICIPALITY OWNING ARTS FACILITIES  
 POLITICAL       RELIGIOUS INSTITUTION

LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:  
 2110  MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY  
 2170  FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY

DO NOT WRITE IN THIS SPACE

LIQUOR PERMIT NUMBER

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE

Salida ArtWORKS

State Sales Tax Number (Required)

2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE (include street, city/town and ZIP)

PO BOX 672  
 SALIDA CO 81201

3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT (include street, city/town and ZIP)

RIVERSIDE PARK  
 SACKETT ST. SALIDA, CO 81201

NAME

DATE OF BIRTH

HOME ADDRESS (Street, City, State, ZIP)

PHONE NUMBER

4. PRES. SECY OF ORG. or POLITICAL CANDIDATE

Janet Engel

0308 Arrowhead Ln #22  
 POKL DME CO 81222  
 (719) 211-4238

5. EVENT MANAGER DANNA TULLIS

2095 N. INCA ST DENVER CO 80202  
 (719) 321-1566

6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR?

NO  YES HOW MANY DAYS? \_\_\_\_\_

7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE?

NO  YES TO WHOM? \_\_\_\_\_

8. DOES THE APPLICANT HAVE POSSESSION OR WRITTEN PERMISSION FOR THE USE OF THE PREMISES TO BE LICENSED?  Yes  No

LIST BELOW THE EXACT DATE(S) FOR WHICH APPLICATION IS BEING MADE FOR PERMIT

Date	Hours From	To	Date	Hours From	To	Date	Hours From	To	Date	Hours From	To
8/14/10	9:30 a.m.	7 p.m.	8/15/10	9:30 a.m.	4 p.m.						

### OATH OF APPLICANT

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

SIGNATURE

x Janet Engel

TITLE

x Secretary

DATE

x 6/21/10

### REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.

**THEREFORE, THIS APPLICATION IS APPROVED.**

LOCAL LICENSING AUTHORITY (CITY OR COUNTY)

- CITY  
 COUNTY

TELEPHONE NUMBER OF CITY/COUNTY CLERK

SIGNATURE

TITLE

DATE

DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

### LIABILITY INFORMATION

License Account Number

Liability Date

State

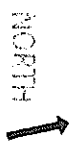
TOTAL

-750 (999) \$

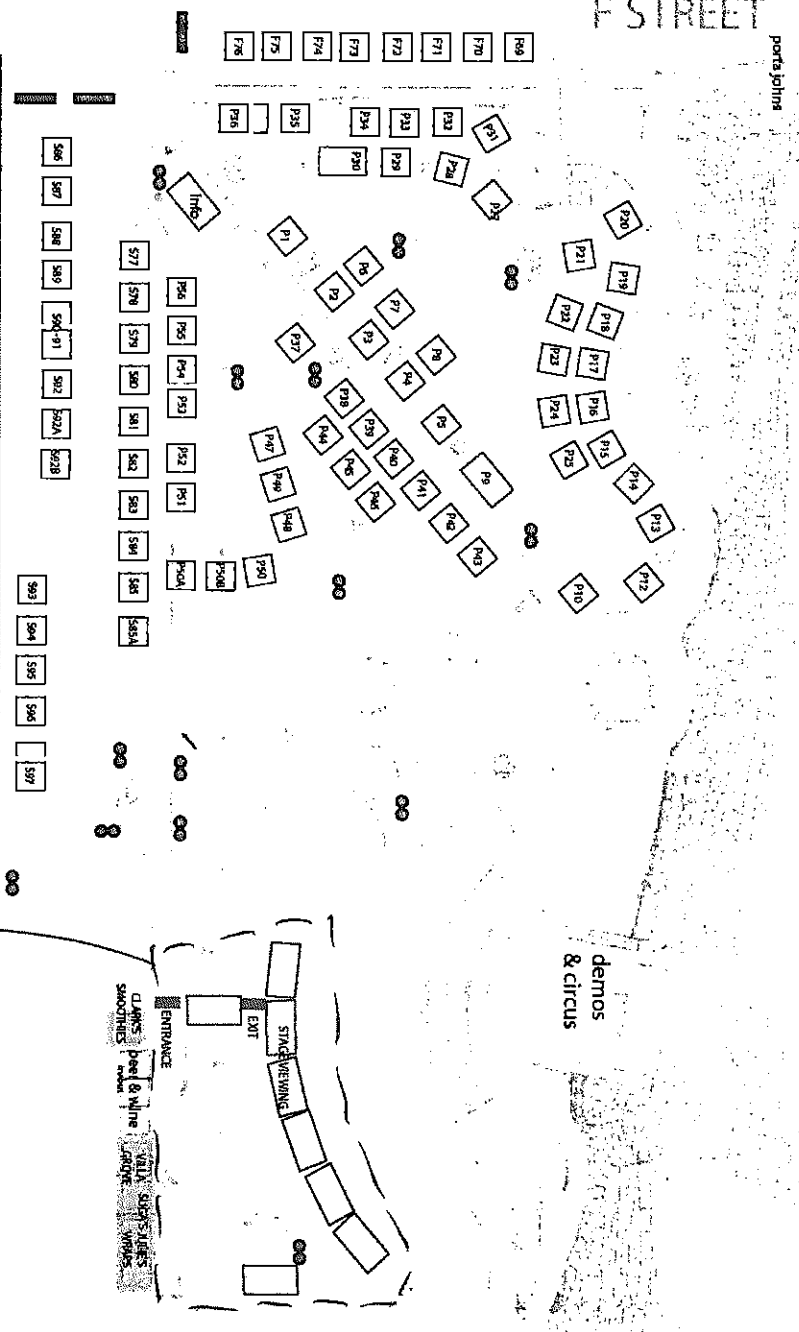
# SALIDA RIVERSIDE FINE ARTS FESTIVAL

ARKANSAS RIVER

F STREET



- trash/recycle
- porta johns
- dumper
- artist's booth
- food vendor's booth
- barricade



CREATIVE STATION  
(scour hut)

SALIDA RIVERSIDE FINE ARTS FESTIVAL  
August 14 and 15, 2010  
WWW.SALIDAARTFESTIVAL.COM  
Danna & Clyde Tullis (719)221-1566, 3255

FENCING

E STREET

SACKETT STREET

RECEIVED  
CITY CLERK



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**CITY COUNCIL AGENDA ITEM**

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MEETING DATE: July 6, 2010

AGENDA ITEM TITLE: Colorado Drinking Water Revolving Fund Loan

PRESENTED BY: Jan Schmidt

**REQUEST:**

The request is to approve a loan from the Colorado Department of Public Health & Environment (CDPHE) through their revolving loan fund program.

**BACKGROUND:**

This loan is needed to pay for a Water Storage Facility project that addresses health risks and water conservation. The project consists of two phases. The work included in the first phase replaced the failed roof over the treated water tank for the South Arkansas Gallery System (Galleries) of the City of Salida. The Galleries consist of an infiltration gallery, chlorination system and a 1.25 million gallon water tank. Water from this tank is pumped into the City's distribution system. Prior to replacing the roof, one could lift up failed sections of the built up roof covering and see spaces where water, dirt and debris could potentially enter directly into the water tank. Improvements to the security fencing is also planned. Phase two consists of attaching a liner to the concrete interior to stop the leakage currently being experienced.

The approved loan amount is \$545,000. The fixed rate of interest over the 20-year term is 2%. Annual debt service will be approximately \$33,500. Capital reserves are not sufficient to pay for the necessary improvements.

This ordinance was passed on first reading at the June 15<sup>th</sup> meeting.

**RECOMMENDATION:**

Staff would suggest passing the ordinance approving the loan.

**ACTION:**

A Council person should make a motion to approve "Ordinance 2010-05 an ordinance of the City Council for the City of Salida, Colorado approving a loan from the Colorado Drinking Water Revolving Fund and ordering the ordinance to be published by title only."

Followed by a second and roll call vote.

**ORDINANCE NO. 05**  
**(Series of 2010)**

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND GOVERNMENTAL AGENCY BOND BY THE CITY OF SALIDA, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, TO THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY, SUCH GOVERNMENTAL AGENCY BOND TO BE IN A PRINCIPAL AMOUNT NOT EXCEEDING \$545,000, FOR THE PURPOSE OF FINANCING EXTENSIONS AND IMPROVEMENTS TO THE WATER SYSTEM OPERATED BY SUCH ENTERPRISE; PROVIDING FOR APPLICATION OF THE NET REVENUES OF SUCH SYSTEM TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SUCH GOVERNMENTAL AGENCY BOND AND PROVIDING OTHER DETAILS IN CONNECTION THEREWITH.

**WHEREAS**, the City of Salida, in the County of Chaffee and State of Colorado (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; and

**WHEREAS**, the City has acted pursuant to Colorado Constitution Article X, Section 20 (“TABOR”) and Ordinance No. 20 (Series of 1996) (the “Enterprise Ordinance”) duly enacted by the City Council and codified as Article D of Chapter 5, Title 7 of the Salida City Code (the “Code”), to create a water activity enterprise (the “Enterprise”) to operate the municipal water and sewer system serving the inhabitants of the City; and

**WHEREAS**, under the Enterprise Ordinance the City Council acts as the governing body of the Enterprise; and

**WHEREAS**, the Enterprise presently qualifies as an “enterprise” for purposes of TABOR; and

**WHEREAS**, the Colorado Water Resources and Power Development Authority (“CWRPDA” or the “Authority”) has offered to make a loan to the City, acting by and through the Enterprise, in an amount not to exceed \$545,000 (the “Loan”) at an interest rate of 2.0%, for the purpose of financing a program of improvements to the water system now owned or hereafter to be acquired by the City (the “System” or the “Water System”) operated by the Enterprise (such improvements being referred to herein as the “Project”); and

**WHEREAS**, there has been filed with the City Clerk and presented to the City Council a proposed form of loan agreement between the City, acting by and through the Enterprise, and the Authority (the “Loan Agreement”), including the proposed form of bond (the “Governmental Agency Bond”) to be delivered to the Authority by the City, acting by and through the Enterprise (the Loan Agreement and the Governmental Agency Bond being referred to collectively herein as the “Loan Documents”); and

**WHEREAS**, the City Council, as the governing body of the Enterprise, has determined and hereby declares that, due to the immediate need for the Project and the present historically

favorable interest rates, it is in the best interests of the City and its inhabitants that the Loan be obtained from the Authority as soon as practicable; and

**WHEREAS**, the City Council, as the governing body of the Enterprise, has determined that it is necessary and advisable at this time to authorize the contracting of the Loan and the execution and delivery of the Loan Documents as provided herein;

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

**Section 1. Authorization of Loan.** The City hereby elects to apply the provisions of Part 2 of Article 57, Title 11, Colorado Revised Statutes (the "Supplemental Public Securities Act") to the Loan Agreement and the Governmental Agency Bond. The Loan, in a principal amount not to exceed \$545,000, maturing in not more than 40 years from the date of issuance of the Governmental Agency Bond and bearing interest at a stated interest rate not to exceed 2.0% and a maximum net effective interest rate not to exceed 2.0% per annum, is hereby authorized. The Loan shall be made subject to prepayment as provided in the Loan Agreement. The execution and delivery of the Loan Documents are hereby authorized. Before the Loan Documents are delivered to the Authority, the final details of the Loan shall be approved by the City Administrator or the Director of Finance. To the fullest extent permitted by the Supplemental Public Securities Act, any such approval may include such additional details pertaining to the Loan and not inconsistent herewith as may be reasonably required.

**Section 2. Form and Execution of Loan Documents.** The Loan Documents shall be in substantially the forms presented to this meeting of the City Council, with such appropriate variations as are necessary to conform to the final Loan terms approved by the City Administrator.

**Section 3. Disposition of Governmental Agency Bond.** When the Governmental Agency Bond has been duly executed as authorized by this ordinance, and the Authority has certified in writing that the moneys to be deposited in the Project Loan Subaccount created under the Loan Agreement have been deposited, the Governmental Agency Bond shall be delivered to the Authority.

**Section 4. Disposition of Loan Proceeds.** The Loan Proceeds shall be requisitioned by the City, acting by and through the Enterprise, in the manner provided in the Loan Agreement. The funds deposited in the Project Loan Subaccount and disbursed on such requisitions are hereby appropriated for the Project. This appropriation shall be deemed a continuing appropriation and shall be effective until such funds are expended or such purpose is accomplished.

**Section 5. Payment of Principal and Interest.** The Loan Agreement defines the Pledged Property to mean the user rates, fees (including connection fees) and other charges from the operation of the System and from other funds of the System legally available therefor after the payment of operations and maintenance expenses of the System. The City, acting by and through the Enterprise, pledges and covenants to apply the Pledged Property to meet the interest accruing on the Governmental Agency Bond and to pay the principal of the Governmental

Agency Bond as the same respectively become due and payable; provided that the obligation of the City, acting by and through the Enterprise, is not a general obligation and does not constitute a debt, indebtedness or multiple-fiscal year financial obligation of the City within the meaning of any constitutional or statutory limitation.

**Section 6. Budget and Appropriation.** Sums herein provided to pay the interest on the Governmental Agency Bond and to discharge the principal thereof when due, and an amount necessary to pay all costs and expenses incidental to the issuance of said Governmental Agency Bond, are hereby appropriated for that purpose, and said amounts for each year shall also be included in the annual budget and appropriation ordinance and bills to be adopted and passed by the City Council of said City in each year, respectively, until the Project is completed and the Governmental Agency Bond has been fully paid, satisfied, and discharged.

**Section 7. Special, Limited Obligations; No Covenant to Levy Taxes.** The Loan Documents and the provisions of this Ordinance shall be special, limited obligations of the City, acting by and through the Enterprise. Nothing herein shall be construed to authorize the levying of any taxes for the payment of the principal of the Governmental Agency Bond or interest thereon, the obligations thereunder being payable solely from the Pledged Property and from no other source.

**Section 8. Repealer.** All orders, bylaws, ordinances and resolutions, or parts thereof, inconsistent with or in conflict with this ordinance are hereby repealed to the extent only of such inconsistency or conflict.

**Section 9. Ordinance Irrepealable; Expiration.** After the Loan Agreement is executed and delivered, and the Governmental Agency Bond is issued, this ordinance shall be and remain irrepealable until the Loan and the interest thereon shall have been fully paid, satisfied and discharged. This ordinance shall expire by its terms if and to the extent that the Loan Agreement is not executed and delivered or the Governmental Agency Bond is not issued within one year of the final adoption hereof.

**Section 10. Severability.** Should any one or more sections or provisions of this ordinance be judicially determined invalid or unenforceable, such determination shall not affect, impair or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

**Section 11. Publication.** This ordinance, immediately on its final passage, shall be recorded in the Book of Ordinances kept for that purpose, authenticated by the signatures of the Mayor and the City Clerk, and shall be published as required by law.

**Section 12. Incidental Action.** The Mayor, the City Clerk, the Director of Finance and the other officials of the City are hereby authorized and directed to take all such actions as may be necessary or appropriate in order to accomplish the transactions contemplated hereby.

**Section 13. Effective Date.** This ordinance shall take effect 30 days after publication following final passage.

**Section 14. Second Publication by Ordinance Title.** The second publication of this ordinance shall be by reference, utilizing the ordinance title.

**INTRODUCED ON FIRST READING, ADOPTED AND ORDERED PUBLISHED IN FULL**, published in a newspaper of general circulation in the City of Salida by the City Council on the 15<sup>th</sup> day of June, 2010, and set for second reading and public hearing on the 3<sup>rd</sup> day of August, 2010.

**INTRODUCED ON SECOND READING, FINALLY ADOPTED AND ORDERED PUBLISHED BY TITLE ONLY, OR IN FULL**, by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2010.

By \_\_\_\_\_  
Charles Rose, Mayor

Attest:

\_\_\_\_\_  
City Clerk

**PUBLISHED IN FULL**, in the Mountain Mail after First Reading on the 18<sup>th</sup> day of June, 2010, and **BY TITLE ONLY, OR IN FULL**, after Final Adoption on the \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Deputy City Clerk

**ORDINANCE NO. 07**  
**(Series of 2010)**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO,  
AMENDING SECTION 11-3-90 OF THE SALIDA MUNICIPAL CODE REGARDING  
THE USE OF BMX BICYCLES IN THE SALIDA SKATEBOARD PARK.**

WHEREAS, Section 11-3-90 of the Salida Municipal Code establishes rules and regulations for the Salida Skateboard Park located between the Salida Trail, F Street, Sackett Street, and G Street; and

WHEREAS, currently all types of bicycles are prohibited in the Skateboard Park; and

WHEREAS, users of the Skateboard Park have requested that BMX type bicycles outfitted with non-metal pegs or no pegs be permitted, and staff agrees that use of such equipment is appropriate and will not detract from the skateboarding experience at the Park; and

WHEREAS, the Salida City Council supports broadening the array of recreational opportunities available to its citizens and wishes to amend Section 11-3-90 of the Salida Municipal Code accordingly.

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

Section 1. The aforementioned recitals are hereby fully incorporated herein.

Section 2. Subsection 11-3-90(d)(4) of the Salida Municipal Code is hereby amended to read as follows, with revisions shown in bold, double-underlined and strike-out text.

**11-3-90. Skateboard Park.**

\* \* \*

(d) No person shall perform any of the following actions upon or within the Salida Skating Park:

\* \* \*

(4) Bring or ride a bicycle in or upon the skating park, except for authorized special events **BMX bikes outfitted with non-metal pegs or no pegs.**

INTRODUCED ON FIRST READING, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation in the City of Salida by the City Council on the 6<sup>th</sup> day of July, 2010 and set for second reading and public hearing on the 20<sup>th</sup> day of July, 2010.

INTRODUCED ON SECOND READING, FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY, by the City Council on the 20<sup>th</sup> day of July, 2010.

CITY OF SALIDA, COLORADO

\_\_\_\_\_  
Charles Rose, Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
City Clerk

PUBLISHED IN FULL in the Mountain Mail after First Reading on the \_\_\_ day of \_\_\_\_\_, 2010, and BY TITLE ONLY, after final adoption on the \_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
City Clerk

## MEMORANDUM

TO: Mayor Rose and Salida City Council

FROM: Karp Neu Hanlon, P.C.

DATE: July 1, 2010

RE: Watershed Protection District Ordinance

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Pursuant to its authority under C.R.S. § 31-15-707(1)(b), the City of Salida ("City" or "Salida") is considering adopting an ordinance which creates a Watershed Protection District (the "District") to maintain and protect its watershed and waterworks from injury and pollution. This memo identifies the key provisions of the ordinance and function of the District.

- **District Area.** The District shall extend over the territory occupied by the City's waterworks and all reservoirs, streams, trenches, pipes, and drains used in and necessary for the construction, maintenance, and operation of the same over the stream or source from which the water is taken for five miles above the City's intake point on the Little Arkansas River.
- **Permitting.** The District acts as an information gathering and monitoring tool, by requiring persons who wish to engage in potentially damaging activities to obtain a permit from the City.
  - ▶ Typical activities requiring a permit: excavating, grading, timber harvesting, drilling, mining, discharging any pollutant into any watercourse, using pesticides and herbicides within 100 feet of a watercourse, and other activities that will cause material injury, damage or harm to City's water works or water supply.
  - ▶ Typical activities not requiring a permit: normal farming and ranching activities; normal maintenance of ponds, ditches, and related structures; noxious weed control; dead tree removal; construction or maintenance of wetlands; and soil disturbances less than a ½ acre in size.
- **Permit Application.** The permit application shall be made available by the City and requires basic activity information including a property description, proposed activity, map of activity area, as well as identification and description of all water use necessary, impacts, and preventative measures of the proposed activity. Permits shall be valid for two years.

**ORDINANCE NO. 06**  
**(Series of 2010)**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO,  
ADOPTING A NEW ARTICLE VII, "WATERSHED PROTECTION," TO CHAPTER 13 OF  
THE SALIDA MUNICIPAL CODE.**

WHEREAS, the City of Salida operates its water and sewer facilities using water rights derived in part from and collected by the City at a surface intake on the Little Arkansas River; and

WHEREAS, pursuant to C.R.S. §31-15-707(1)(b), the Salida City Council has the authority enact an ordinance to carry out its power to maintain and protect its watershed and waterworks from injury and water pollution, and for purposes of this authority, the City's jurisdiction extends over the territory occupied by its waterworks and all reservoirs, streams, trenches, pipes, and drains used in and necessary for the construction, maintenance, and operation of the same and over the stream or source from which the water is taken for five miles above the point from which it is taken; and

WHEREAS, in accordance with this grant, the Salida City Council wishes to exercise its statutory authority to create a watershed protection district within and without its boundaries and to adopt regulations pertaining to activities in that defined area as set forth herein; and

WHEREAS, the City Council adopts the following regulations in order to promote the health, welfare and safety of the inhabitants of the City of Salida by maintaining and protecting the City's watershed and waterworks from damage, harm or injury, and to prevent pollution of the City's water supply without creating an undue hardship on activities that promote the protection of the City's watershed and waterworks.

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

Section 1. The aforementioned recitals are hereby fully incorporated herein.

Section 2. A new Article VII, "Watershed Protection," to Chapter 13 of the Salida Municipal Code is hereby adopted to read as follows.

**CHAPTER 13**  
**MUNICIPAL UTILITIES**

**Article VII**  
**Watershed Protection**

**13-7-10. Purpose.**

The purpose of this Article is to promote the health, welfare and safety of the inhabitants of the City of Salida by maintaining and protecting the City's watershed and waterworks from damage, harm or injury, and preventing pollution of the City's water supply, without creating an undue hardship on activities that promote the protection of the City's watershed and waterworks.

**13-7-20. Definitions**

(a) As used in this Article, the following terms shall have the following meanings:

*Best Management Practice* means an effective means of preventing or reducing harmful effects of land use activities, and include recommended methods, structures and practices designed to prevent or reduce pollution of the air, land and/or water from these activities. Best Management Practices may be found in various publications, manuals and documents of the Colorado Department of Public Health and Environment, Colorado Department of Transportation, and other sources that may be acceptable to the City of Salida.

*Director* means the City Administrator or his/her designee or representative.

*Diversion or divert* means removing water from its natural course or location, or controlling water in its natural course or location by means of a ditch, canal, flume, reservoir, bypass, pipeline, conduit, well, pump, or any other structure or device.

*Exigent circumstances* means any situation where there is imminent danger of loss of life, harm by injury or damage to or destruction of property, or any other dangerous or harmful situation regarding the public health, safety and well being.

*Mining or mineral resource extraction*

(1) *Mineral* means an inanimate constituent of the earth in a solid, liquid, or gaseous state which, when extracted from the earth, is useable in its natural form or is capable of conversion into a useable form as a metal, metallic compound, or compound, or chemical, an energy source or a raw material for manufacturing or construction material, but does not include surface or subsurface water.

(2) *Mining and extraction* mean any removal or development of a mineral from its natural occurrence on affected land or from a water course and includes, but is not limited to, drilling, blasting, scaling, crushing, tunneling, excavating, dredging, panning, or sluicing, and includes any tailings piles, tailing ponds, waste dumps or concentration, milling, evaporation or other on-site processing activities or any buildings, structures or machinery used in such operation. "Mining" and "extraction"

do not include hand panning or the use of battery powered concentrate wheels or mini-sluices.

*Permit* means any permit issued pursuant to this Article.

*Permittee* means a person issued a permit.

*Person* means and shall include a firm, company, organization, partnership, entity, agency, corporation, association, or other organization acting as a group or unit as well as an individual. It shall also include an executor, administrator, trustee, receiver, or other representative appointed according to law. Whenever the word "person" is used in any section of this chapter prescribing a penalty or fine, as to firms, associations, and other organizations, the word shall include the partners, members, or agents who are responsible for any violation of such section hereof, and as to corporations, shall include the officers, agents, or members thereof who are responsible for any violation of this chapter. "Person" includes the singular and the plural.

*Pollutant* means dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, chemicals, chemical waste, biological nutrient, biological material, temperature changes, radioactive material, heat, wrecked or discarded equipment, rock, sand, cellar dirt or any industrial, municipal or agricultural waste.

*Pollution* means the people-made, people-induced or natural alteration of the physical, chemical, biological, or radiological integrity of water.

*Watercourse* means any and all rivers, streams, creeks, intermittent washes, gullies, tributaries, reservoirs, lakes, ponds, wetlands or other types of natural or people-made water bodies, including structures or devices to channel water to, or control or retain water within the watercourse, and further includes all groundwater tributary thereto.

*Waterworks* means all components of the City's water supply system, including but not limited to all equipment, diversion structures, dams, canals, ditches, flumes, pipelines, conduits, reservoirs, drains, wells, pumps, buildings, structures, roads, watercourses and other facilities necessary for the construction, maintenance and operation of the water supply system.

*Wetland* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands includes by illustration swamps, marshes, bogs and similar areas.

**13-7-30. Jurisdiction.**

Pursuant to Section 31-15-707(1)(b) C.R.S., the City's jurisdiction under this Article shall extend over the territory occupied by the City's waterworks and over the stream or source from which the water is taken for a distance of five (5) miles upstream from and/or above the point(s) at which water is diverted or impounded by the City.

**13-7-40. Map.**

The City shall prepare, maintain, and update a map known as the "Waterworks Permit Map" designating the area(s) subject to the City's jurisdiction pursuant to this Chapter. The Waterworks Permit Map is incorporated herein by reference and shall be available for inspection at City Hall.

**13-7-50. Interpretation and construction.**

Nothing in this Article shall infringe upon the authority of any other municipality, county, or other governmental entity to regulate land use or activities within their respective jurisdictions on lands outside the corporate limits of the City of Salida that are also within the City's jurisdiction pursuant to this Article. Notwithstanding, any lawful regulations, permits or approvals issued by any state or federal agency, municipality, county, or any other governmental entity concerning land use or activities on land that is also within the City's jurisdiction described in this Article shall not, in any way, infringe upon, limit, or supersede the terms and conditions of any permit validly issued pursuant to the provisions of this Article and the authority hereunder to regulate such activities and land use.

**13-7-60. Regulated activities**

The City has determined that the activities set forth below may harm the City's waterworks or pollute the City's water supply. Subject to the exceptions provided for in Section 13-7-70 below, it shall be unlawful for any person to engage in any of the specified activities within the area of the City's jurisdiction as defined in this Article without first obtaining a permit from the City authorizing such activity:

- (1) Excavation, dredging, filling, grading, or compaction of any topsoil, sand, rock, dirt, or other material over an area in excess of 0.5 acre. The area disturbed by the construction and maintenance of a driveway to a single family residence shall not be included in the calculation of the 0.5 acre threshold under this section;
- (2) Any surface or subsurface mining or mineral resource extraction, including any and all oil and/or natural gas extraction or mining;
- (3) Use of any restricted use pesticide (RUP), herbicide, fungicide, rodenticide,

insecticide or any other chemical for eradication or control of any plants or animals that is within one hundred (100) feet of any watercourse;

- (4) Removal of any vegetation or trees by any method over an area in excess of 0.5 acre;
- (5) Construction, maintenance and/or operation of any sewage treatment disposal system with an average design capacity greater than 2,000 gallons per day; provided that any sewage disposal system with an average design capacity less than 2,000 gallons per day is also subject to regulation under this Article if it is not installed, operated and maintained in compliance with all applicable laws, rules, regulations, permits, and Best Management Practices or is located within one hundred (100) feet of any watercourse;
- (6) Any of the activities prohibited in this section regardless of the amount of acreage affected if such activities are located in or within one hundred (100) feet of any water course, and/or if such activity is associated with the construction of any water diversion, storage or conveyance structure, including but not limited to such structures as diversion headworks, dams, canals, ditches, flumes, pipelines, conduits, reservoirs, drains, wells, and pumps, and further including any equipment, buildings, structures, roads, and other facilities necessary for the construction, maintenance and operation of the structures.
- (7) Alteration, improvements or modifications of any watercourse;
- (8) Dumping, depositing or discharging any pollutant into any watercourse, or dumping, depositing or storing any pollutant on land within 100 feet of any watercourse;
- (9) Construction, maintenance and/or operation of a surface or subsurface tank that stores chemicals, chemical waste, biological nutrient or material, radioactive material, petroleum product, or any industrial, municipal or agricultural waste, excepting residential propane tanks and septic systems not covered under subsection (5) above;
- (10) Construction of any impervious surface greater than 25,000 square feet that could direct any contamination or pollutant toward a watercourse or City waterworks;
- (11) Construction and operation of a feedlot unrelated to current farming and ranching operations;
- (12) Any other activity that will cause material injury, damage or harm to the City's water works or pollution of the City's water supply as reasonably determined by the City based upon the written recommendation of a licensed engineer or qualified

professional which specifies the cause and extent of such injury, damage, harm or pollution.

Any limitation on acreage imposed by this section includes the cumulative amount of acreage encompassed by any and all proposed activities by any person on any contiguous or noncontiguous parcels of land that are part of the same plan, project or development.

**13-7-70. Activities which require no permit.**

This Article shall not apply to and no permit shall be required for the following activities:

- (1) Any activity that is a lawful use of any land or structure, where such use and such structure existed prior to the time this Article was adopted by the City. Any change or enlargement of any pre-existing use of land, or changes to any pre-existing structure, made after adoption of this Article, including any modification, alteration or expansion, except ordinary maintenance, as determined by the City, is subject to the provisions of this Article. For purposes of clarification, any portion of any activity that has obtained approval from any state or federal agency, municipality, county or any other governmental entity, but that has not yet commenced, is not a pre-existing activity or use.
- (2) The following activities are allowed within the area of the City's jurisdiction as defined in this Article, provided that there is adherence to Best Management Practices:
  - (a) Road maintenance by governmental entities.
  - (b) Construction or maintenance of farm or ranch roads, irrigation ditches or ponds, where such roads or ponds are constructed and maintained to assure that flow and circulation patterns and chemical and biological characteristics of all surface and groundwater resources are not impaired, and that any adverse effect on the aquatic environment will be otherwise minimized;
  - (c) Normal farming, silviculture, and ranching activities such as plowing, haying, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, upland soil and water conservation practices, or livestock grazing;
  - (d) Normal maintenance of ponds, bridges, riprap, and drainage and irrigation ditches and related structures, including ditch burning;
  - (e) Noxious weed or insect control:

- (f) Removal of dead, insect infected or diseased trees;
- (g) Construction of a livestock water tank as defined in C.R.S. §35-49-105 (2006);
- (h) Construction or maintenance of wetlands;
- (i) Modifications to any watercourse for fisheries improvements or riparian habitat creation and/or restoration permitted by the Army Corps of Engineers;
- (j) Emergency riparian work, provided that any permanent work shall be regulated if otherwise regulated by this ordinance; and
- (k) Wildland fire mitigation and emergency firefighting activities.

**13-7-80. Permit application.**

Any person proposing to undertake a regulated activity as set forth in Section 13-7-60 hereof shall file an application for a watershed permit with the office of the director on a form provided by the City Clerk. The application shall contain the following information:

- (1) Name, address, and verified signature of the applicant;
- (2) Name and address of the owner of the property on which the activity is proposed;
- (3) Verified consent of the owner of the property if different than that of the applicant;
- (4) The address and/or legal description of the property on which the activity is proposed;
- (5) A full and complete description of the proposed activity, including but not limited to, the acreage of the property, the acreage affected by the proposed activity, the proposed amount of diversion and/or storage, and any activity that may result in a discharge, spill or release of any pollutant into the City's waterworks or water supply;
- (6) A map explicitly depicting the location of the property and the proposed activity;
- (7) Identification and description of all water use anticipated to be necessary for the proposed activity, including but not limited to all water rights owned or to be used by the applicant, amount of consumptive use, location and timing of any expected return flows resulting from diversions, and the amount and type of discharge;

- (8) Identification and description of any impact that the activity may reasonable have on the City's waterworks and on the quality of the City's water supply;
- (9) Identification and description of all measures that shall be taken to prevent injury, damage or harm to the City's waterworks and pollution of the City's water supply, including compliance with all applicable Best Management Practices; and
- (10) Any other information required by the director to properly evaluate the application, as reasonably determined by the director.

**13-7-90. Permit fee.**

Each application for a permit shall be accompanied by payment in full or a fee, as established by resolution of City Council, and as may be adjusted from time to time.

**13-7-100. Permit duration.**

A permit issued pursuant to this Article shall be valid for two years from the date of issuance.

**13-7-110. Permit suspension or revocation; temporary suspension.**

A permit may be suspended or revoked at any time for a violation of any compliance order issued by the director or for a violation of any of the terms or conditions of the permit or the provisions of this Article, subject to notice to the permit holder and a hearing by the City Council. If exigent circumstances exist that require immediate suspension, as determined by the director, the director may immediately suspend a permit for a period not to exceed fourteen (14) days. In the case of such a summary suspension by the director, the permittee, upon written request, shall be entitled to a hearing before City Council as soon as is reasonable possible.

**13-7-120. Permit transfer.**

Permits issued hereunder are to a specific user for a specific activity. No permit shall be transferred or assigned to any other person, different premises or a new, different or changed operation. Any such change shall require a new permit application.

**13-7-130. Permit review; burden; issuance or denial.**

(a) Within thirty (30) days following the filing of a completed application, which shall not be considered complete until all necessary information required by this Article is provided, the Director shall review the application and classify the proposed activity according to its impact on either the City's waterworks and/or the quality of the City's water supply. In evaluating each application, the Director may consider, but is not limited to, the following factors:

- (1) Nature and type of the proposed activity;
- (2) Proximity of the proposed activity to a watercourse and whether it is located within a floodway;
- (3) Nature and type of the soils, rock or other material;
- (4) Nature and type of vegetation;
- (5) Scope and stability of the land;
- (6) Any increase of effect in or on the fire hazard;
- (7) Nature, type and amount of effluents or pollutants reasonably anticipated from the proposed activity discharged either into a watercourse or underground;
- (8) Nature, type and amount of each regularly processed new material;
- (9) Nature, type and amount of each regularly produced product;
- (10) Nature and type of any and all erosion control measures;
- (11) Any anticipated impact on the waterworks or water quality of the City's water supply resulting in any way from the activity, including but not limited to direct discharges, nonpoint or indirect discharges, reduction in flows within a watercourse, or the concentration of any pollutant.
- (12) Amount and type of mechanized or motorized vehicles associated with the activity;
- (13) Any water rights obtained, needed, necessary or related to the proposed activity;
- (14) Any permits or other governmental or private approval required to proceed with the proposed activity or already obtained where such permits or approvals are based on standards at least as stringent; and
- (15) Economic impact in relation to the risks and benefits to watershed protection; and
- (16) Cumulative effect of the proposed activity with other activities.

(b) The burden shall be upon the applicant to demonstrate, by a preponderance of the evidence and in compliance with the provisions of this Article, that the activity will not harm, damage or injure the City's waterworks or pollute the City's water supply.

(c) If the Director determines that the proposed activity will not have any harmful impact on the City's waterworks or water supply, then the Director shall recommend to City Council or its designee that a permit be issued, and whether any conditions should apply. If the Director determines that the applicant has not met its burden with respect to the impact on either the City's waterworks and/or the City's water supply, then the Director shall identify such negative impact(s) and shall state the reasons for recommending denial of a permit. City Council or its designee shall consider such recommendation and may issue the permit, with or without conditions, upon a determination that the requirements of this Article have been satisfied, or may deny the permit application.

(d) Any person whose permit application is denied, or who is not satisfied with any conditions of approval, shall be entitled to a hearing as provided in this Article.

**13-7-140. Permit terms and conditions.**

The City Council may prescribe any terms and conditions in the issuance of any permit in accordance with any provisions of this Article and as the City Council deem necessary to prevent harm, damage or injury to the City's waterworks and/or the pollution of the City's water supply, including compliance with all applicable Best Management Practices. The City Council may also make any permit conditional upon the applicant obtaining any and all necessary permits and other governmental or private approvals or obtaining financial security for performances or requirements of the permit. This Article allows the City to limit discharge of water pollutants to prevent nuisances and prevent damage, harm or injury to the City's waterworks or pollution of the City's water supply. It does not allow the City to authorize a discharge of pollutants into State waters, which is the jurisdiction of the Water Quality Control Commission.

**13-7-150. Performance bond.**

The City Council may require as a condition of any permit issued hereunder that the permittee obtain a performance bond in an amount necessary to ensure completion of all measures required to prevent both injury to the City's waterworks and the pollution of the City's water supply. The City Council may also require as a part of the performance bond an additional amount necessary to clean up or mitigate the effects of any spill, release or discharge by the permittee. This section shall not apply to or have any effect upon the provisions of Section 34-32-109(6) C.R.S.

**13-7-160. Containment facilities; reporting requirements.**

Each permittee shall provide and maintain at its expense any facilities necessary to prevent and contain any spill, release or discharge of any pollutant that may cause damage, harm or injury to the City's waterworks or pollution to the City's water supply. Any such spill, release or discharge shall be reported immediately to the Director and to all other persons or entities that may be affected thereby. The permittee shall inform the Director as to the location, the nature and type of the

pollutant, concentration, volume, and any measures taken to contain or remediate the spill, release or discharge and to assure that such discharge does not occur again. Within five (5) days of such discharge the permittee shall submit a written report to the Director explaining the spill, release or discharge including a description of measures which have and shall be taken to prevent recurrence.

**13-7-170. Site inspections.**

Whenever necessary to assure compliance with any terms or conditions of the permit or the provisions of this Article, the Director has the right to enter the property to make an inspection. Refusal by the permittee to allow such right of entry to inspect the property shall constitute sufficient grounds to suspend or revoke the permit by the Director. Upon such refusal, or if exigent circumstances are present that require immediate entry, the Director may obtain a search warrant from a court of competent jurisdiction, including the municipal court of the City, entitling the Director to enter and inspect the property. Upon obtaining a search warrant, or if exigent circumstances exist, the Director may use such reasonable force as is necessary to enter and inspect the property.

**13-7-180. Hearings by the City Council on applications.**

(a) Any applicant whose application for a permit is denied, or who is otherwise aggrieved by any conditions of approval may, within fourteen (14) days of the City Council's action on the permit, file with the City clerk a written request for a public hearing before City Council on the application.

(b) The City Council shall schedule a hearing and publish notice of a hearing at least fourteen (14) days prior to the date set for hearing. At such hearing, the applicant (and/or the applicant's attorney, consultants, and representatives) and the Director (and/or City attorney, special counsel, consultants and representatives) may make a presentation and/or present information and evidence. All interested parties may also testify or present information and evidence. The applicant shall have the burden of establishing by a preponderance of the evidence that the proposed activity will not injure, harm or damage the City's waterworks or pollute the City's water supply. The City Council shall, within thirty (30) days of the close of the hearing issue a decision on the permit, including findings related to such decision. The council's decision shall be the final action by the City.

**13-7-190. Hearings.**

Testimony, evidence and information presented at all hearings held pursuant to this Article shall be open to the public and quasi-judicial in form, under oath and recorded.

**13-7-200. Compliance order.**

Whenever the Director determines that any permittee has violated or is violating any terms or

conditions of a permit or the provisions of this Article, the Director may issue an order requiring the permittee to comply within a specified period of time. Any violation of the compliance order by the permittee shall be cause for the suspension or revocation of the permit. Whenever the Director determines that a person is proceeding with a prohibited activity under Section 13-7-60 hereof without permit, the Director may issue an order requiring the person to cease and desist such activity until such a time as a permit is obtained pursuant to this Article.

**13-7-210. Legal action.**

If any person violates any provision of this Article, in addition to utilization of the enforcement and penalty powers of the City, the City may commence an action for appropriate legal or equitable relief in a court of competent jurisdiction, including the municipal court. In addition to the penalties provided herein, the City shall be entitled to reasonable expert fees and attorneys' fees and costs of litigation.

**13-7-220. Judicial review of City Council's decision.**

An applicant or permittee may appeal any final decision of City Council to the municipal court in accordance with applicable judicial appeals procedure.

INTRODUCED ON FIRST READING, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation in the City of Salida by the City Council on the 6<sup>th</sup> day of July, 2010 and set for second reading and public hearing on the 20<sup>th</sup> day of July, 2010.

INTRODUCED ON SECOND READING, FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY, by the City Council on the 20<sup>th</sup> day of July, 2010.

CITY OF SALIDA, COLORADO

\_\_\_\_\_  
Charles Rose, Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
Janella Martinez, City Clerk

City of Salida, Colorado  
Ordinance No. 06, Series of 2010  
Page 13 of 13

PUBLISHED IN FULL in the Mountain Mail after First Reading on the \_\_\_\_ day of \_\_\_\_\_, 2010, and BY TITLE ONLY, after final adoption on the \_\_\_\_ day of \_\_\_\_\_, 2010.

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Janella Martinez, City Clerk



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## CITY COUNCIL AGENDA ITEM

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**MEETING DATE:** July 6, 2010

**AGENDA ITEM TITLE:** Resolution for Development Agreement – A resolution of the City Council of the City of Salida, Colorado, to enter into a Development Agreement for the Salida Natural Resources Center

**PRESENTED BY:** Dara MacDonald, Community Development Director

**REQUEST:**

The request is to enter into a Development Agreement with the 63-20 not for profit corporation known as the Salida Natural Resources Center Development Corporation.

**BACKGROUND:**

There has been interest for several years in the creation of a Natural Resource Center (“NRC”) in the Salida area. The NRC would provide for the collocation of federal, state and local agencies allowing for operational efficiencies for each agency and an enhanced visitor experience for the traveling public and local residents.

The U.S. Forest Service has recently issued a Solicitation for Offers (“SFO”) seeking new office and shop space for their facilities in southern Chaffee County. The U.S. Forest Service facility would serve as the cornerstone for the larger NRC. The Salida Natural Resource Center Development Corporation (“NRCDC”) was formed at the direction of City Council in November of 2009 with the sole purpose of pursuing development of the NRC. The NRCDC is in the process of responding to the U.S. Forest Service SFO. The response is due by July 30, 2010.

A site on the Vandaveer Ranch east of U.S. Highway 50 is being proposed for the site of the NRC. One of the requirements of the U.S. Forest Service SFO is that the site be under the ownership or control of the developer responding to the SFO. In this case the NRCDC will be responding and must show control of the property which this Development Agreement will allow.

If the NRCDC is not selected by the U.S. Forest Service to construct their new facility the Development Agreement is void. The property would not actually transfer to the NRCDC until after the NRCDC has been selected as the successful respondent to the SFO as noted in Section 3 of the Development Agreement.

There are a variety of additional Sections in the Development Agreement that address funding for the project and reversion of the property and improvements to the City once all debt related to the development has been paid.

The NRC is a priority acknowledged by both the City of Salida and Chaffee County in the MOU executed by both parties in August, 2009. The potential economic impact for both Salida and southern Chaffee County would have lasting positive effects and the site and proposed zoning both lend themselves to this type of development.

**RECOMMENDED MOTION:**

A Council person should make a motion to approve “Resolution 2010-38 a resolution of the City Council of the City of Salida, Colorado, to enter into a Development Agreement for the Salida Natural Resources Center and authorizing the Mayor to said the Agreement.”

Followed by a second and then roll call vote.

Attachments: Resolution 2010-38

**RESOLUTION NO. 38**  
**(Series 2010)**

**A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO  
ENTERING INTO A DEVELOPMENT AGREEMENT FOR THE SALIDA NATURAL  
RESOURCES CENTER**

**WHEREAS**, the City of Salida, (“Owner”) is the owner of certain real property located in the City of Salida, Colorado, known as Parcel A of the Vandaveer Ranch (“Property”); and

**WHEREAS**, on November 3, 2009 the City Council approved Resolution 2009-56 approving the formation of the Salida Natural Resource Center Development Corporation (“NRCDC”) as a 63-20 not for profit entity whose sole purpose is the development of a natural resource center; and

**WHEREAS**, in pursuit of creation of a natural resource center, the NRCDC is responding to the U.S. Forest Service Solicitation for Offers (“SFO”) for new office and shop space in Salida; and

**WHEREAS**, as part of the response to the SFO the NRCDC must show control of the Property; and

**WHEREAS**, on July 6, 2010, the Salida City Council reviewed the request to enter into a Development Agreement with the Salida Natural Resource Center Development Corporation and found this request to be consistent with the goals for long-term economic development and creation of a Natural Resource Center; and

**WHEREAS**, the City Council desires to enter into a Development Agreement with the Salida Natural Resource Center Development Corporation.

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

1. The City Council incorporates the foregoing recitals as findings by the City Council.
2. That the Mayor is authorized to sign the Development Agreement on behalf of the City.

**RESOLVED AND APPROVED, by the City Council of the City of Salida on the 6<sup>th</sup> day of July, 2010.**

\_\_\_\_\_  
Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
City Clerk

**DEVELOPMENT AGREEMENT  
SALIDA NATURAL RESOURCES CENTER**

This DEVELOPMENT AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, 2010 between the SALIDA NATURAL RESOURCE CENTER DEVELOPMENT CORPORATION, a Colorado non-profit corporation (the "Corporation"), and the CITY OF SALIDA, COLORADO, a Colorado municipal corporation (the "City").

RECITALS:

WHEREAS, the Corporation has been organized under the Colorado Nonprofit Corporations Act to acquire, construct, operate, and maintain public improvements, specifically the Salida Natural Resources Center Campus, for the benefit and on behalf of the City and its residents; and

WHEREAS, the Corporation shall issue Revenue Bonds, or such other financing mechanisms as it deems appropriate ("Alternate Financing"), for the purpose of acquiring and constructing real and personal property for a natural resources center as more particularly described below located on a portion of the City-owned property known as Parcel A of the Vandaveer Ranch and described in Exhibit A hereto, as the same may be amended or supplemented as provided in Section 10 hereof (the "Project Site"); and

WHEREAS, the Bonds shall be issued pursuant to a Trust Indenture, as amended and supplemented from time to time (the "Indenture") between the Corporation and a lending institution to be selected by the Corporation as Trustee. The Bonds and any additional bonds issued from time to time under the Indenture to refinance the Bonds or to finance additional costs of the Projects are referred to hereinafter as the "Bonds;" and

WHEREAS, in addition to the Indenture, the Corporation shall secure entitlements as necessary including, but not limited to, development approvals for the Natural Resources Center Campus and subdivision of the Project Site from the Vandaveer Ranch property, and manage construction on the Project Site, including, but not limited to, utility extension and vertical development (collectively, the "Projects"); and

WHEREAS, the City and the Corporation wish to establish the relationship between the two entities and create a framework and completing the Projects as set forth herein.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Scope of Projects. The parties agree that the Projects are anticipated to include site planning, entitlements, site preparation including, but not limited to, sewer service extension from a main on the Vandaveer property, water service extension from a location on U.S. Highway 50 approximately 1/4 mile from the Project Site, other utility extensions necessary to serve the project,

and construction of an improved access to U.S. Highway 50, to be planned by the development team on behalf of the Corporation in cooperation with the Colorado Department of Transportation. Additionally, the Projects will include vertical construction including office, retail warehouse and parking for multiple state and federal agencies (collectively the "Salida Natural Resource Center Campus").

2. Projects Operation. The Corporation hereby covenants and agrees to construct, operate and maintain the Projects, or cause the Projects to be constructed, operated and maintained, in a safe and workmanlike manner in accordance with City regulations and standards. In addition, the Corporation covenants that it will not, without the prior consent of the City, materially alter or modify any aspect of the Projects as originally constructed, other than as may be temporarily necessary in connection with ordinary and customary maintenance, capital repairs, and replacements. Nothing herein or in any resolution of the City shall be interpreted to require the City to undertake responsibility for operation and maintenance of the Projects. Prior to conveyance of the Projects to the City pursuant to this Agreement, the Corporation shall provide evidence reasonably satisfactory to the City that the Projects are in compliance with the standards established for City facilities and any other applicable government laws.

3. Ownership of the Vandaveer Property. The parties acknowledge that the Vandaveer property as described on Exhibit A is currently owned by the City of Salida. The City, pursuant to this Agreement, is authorizing the Corporation to use the property for all of the purposes described herein. Additionally, the City agrees to transfer title to the property to the Corporation in the event that the Corporation is the successful respondent to the U.S.F.S. SFO.

4. City Benefit. The Corporation covenants and agrees that all activities of the Corporation in owning and operating the Projects shall be undertaken for the benefit of the City. Upon termination of this Agreement, the City shall be entitled to acquire all of the Corporation's right, title and interest in and to the Projects without cost, as provided herein and in the Indenture or Alternate Financing.

5. Right to Acquire. As will be further provided in the Indenture or Alternate Financing, the City is hereby granted the right to obtain, at any time, all of the Corporation's right, title and interest, including fee title and exclusive possession of the property (including the Projects or portions thereof) financed by obligations of the Corporation (including the Bonds) free from liens and encumbrances created by the Corporation (but subject to the permitted encumbrances, as will be defined in the Indenture or Alternate Financing), any additions to such property, and all rights or interests of the Corporation necessary for the possession and quiet enjoyment of such property, by (1) placing into escrow an amount that will be sufficient to defease the Bonds or portion thereof in accordance with the Indenture or Alternate Financing, (2) paying reasonable costs incident to the defeasance, and (3) complying with all other requirements of the Indenture or Alternate Financing relating to such defeasance and acquisition. In addition, by notice to the Corporation and the Trustee, the City may, at any time and from time to time, acquire title to individual Projects when principal Bonds for such Project have been fully retired. The City, at any time before it defeases such obligations or otherwise acquires title to individual Projects, shall not agree or otherwise be

obligated to convey any interest in such property to any person (including the United States of America or its agencies or instrumentalities) for any period extending beyond or beginning after the City defeases such obligations or otherwise acquires title to individual Projects. In addition, the City shall not agree or otherwise be obligated to convey a fee interest in such property to any person who was a user thereof (or a related person) before the defeasance or acquisition within ninety (90) days after the City defeases such obligations or otherwise acquires title. This provision shall not prevent the City from making arrangements with the Corporation or others for the continued maintenance and operation of such property prior to the expiration of such 90-day period.

6. Unencumbered Title. If the City exercises its option under Section 4, the Corporation shall immediately cancel all encumbrances on such property, including all leases and management and management agreements on the Projects or portions thereof being acquired by the City (subject to the Permitted encumbrances as aforesaid). Any lease, management contract, or similar encumbrance on such property will be considered immediately cancelled if the lessee, management company, or other user vacates such property within a reasonable time, not to exceed ninety (90) days, after the date the City exercises its rights under Section 4, as provided in Section 8 hereof.

7. Default Rights. Upon the occurrence of an event of default as will be defined in the Indenture or Alternate Financing, the Corporation shall cause the Trustee, within five (5) days of such occurrence, to provide notice to the City, and the City shall have the option, but not the obligation, to cure such default within ninety (90) days after receipt of such notice, provided that Bonds may still be declared due and payable under the Indenture or Alternate Financing prior to the expiration of such 90-day period, but such declaration shall be immediately annulled in the event the City cures the default within such 90-day period. As provide in the Indenture or Alternate Financing, amounts advanced by the City as a result of the exercise of this option to cure monetary defaults hereunder and reasonable, direct expenses of the City advanced to cure nonmonetary defaults hereunder shall be deemed to be indebtedness of the Corporation to the City. Such indebtedness shall be secured by the Indenture or Alternate Financing on a basis subordinate to the Bonds, and, so long as the Bonds are outstanding, the City shall not sue for unpaid amounts on such indebtedness without the written consent of a Majority Interest.

In addition to the foregoing and consistent with the Indenture or Alternate Financing, in the event that the Indenture or Alternate Financing provides for the pledge of any interests in the Projects and acceleration of the Bonds, if the Trustee or other creditor of the Corporation declares the principal of any Bonds or other obligations of the Corporation then outstanding to be due and payable and any foreclosure proceeding or other action is commenced under the Indenture or Alternate Financing which could lead to the sale or other disposition of the Projects pledged hereunder, the City is hereby granted an exclusive option to purchase all such property (including the Projects), for the amount of the outstanding Bonds and other indebtedness of the Corporation and accrued interest to the date of default. The City shall have not less than ninety (90) days from the date it is notified by the Trustee or other creditor of such action in which to exercise the option, and not less then ninety (90) days from the date it exercises the option to purchase the property. The Trustee or any Bondholders or other creditor responsible for commencing such foreclosure proceeding or other action shall be required to take any action necessary, including submission of

requests for continuance of foreclosure to the Public Trustee of Chaffee County, Colorado, in order to ensure that the City has the full ninety (90) day period referred to herein to exercise its option (which option shall be exercised by giving written notice of such exercise to the Trustee or other creditor and the Corporation) and purchase the Projects and such other property, including ensuring that the foreclosure sale does not occur prior to the expiration of the 90-day period referred to herein.

Other than the foregoing requirement, the foregoing provisions are not intended and shall not be interpreted so as to limit the Bondholders' or other creditors' rights to pursue their remedies. **Nothing herein shall be construed to create any obligation of the City to cure any default or create any liability of the City regarding the Bonds.**

In the event that the lien of any deed of trust recorded in the records of the Clerk and Recorder of Chaffee County, Colorado, subsequent to this Agreement (or any replacement thereof), is foreclosed, either through public trustee's sale or judicial foreclosure, then upon compliance with the provisions of this Section 6 and the related provisions of the Indenture or Alternate Financing and expiration of all cure and redemption periods provided for under this Agreement or by statute, (i) this Agreement shall terminate and be of no further force or effect; (ii) neither the City nor the Corporation shall have any right, title or interest in and to the Projects arising out of this Agreement; (iii) any provisions of this Agreement permitting the City to acquire title to the Projects, including, without limitation, the provisions of Section 4 hereof, shall be void and of no force or effect and (iv) the purchaser of title to the Projects shall take title free and clear of this Agreement.

8. Funds in Indenture or Alternate Financing. As will be more particularly described in the Indenture or Alternate Financing, in the event the City exercises its options under Section 4 or 6 hereof, the City shall receive a credit toward its defeasance or purchase costs in the amount of any fund or account balances held under the Indenture or Alternate Financing with the exception of (1) excess investment funds, and (2) any amount needed to pay additional interest in the Bonds or expenses in connection with such defeasance under the Indenture or Alternate Financing.

9. Title. Unencumbered fee title (subject to certain permitted encumbrances as aforesaid) to the Projects and any additions thereto and exclusive possession and use thereof, and all related rights or interests of the Corporation necessary for the possession and quiet enjoyment of such property, will vest in the City without demand or further action on its part when all obligations issued under the Indenture or Alternate Financing (including the Bonds) are discharged. As provided in Section 4 hereof, the City may also acquire title to individual Projects from time to time as Bond principal is retired. Title shall be conveyed to the City by special warranty deed, subject only to permitted encumbrances. For purposes of this Section 8, such obligations will be discharged when: (a) cash is available at the place of payment on the date that the obligations are due (whether at maturity or upon call for redemption), and (b) interest ceases to accrue on the obligations, or (c) as otherwise provided in the Indenture or Alternate Financing. All management contracts and similar encumbrances on the Projects shall terminate upon discharge of said obligations, and leases previously held by the Corporation as lessor shall transfer to the City. Encumbrances that do not significantly interfere with the enjoyment of such property, such as the permitted encumbrances, are not considered encumbrances for purposes of this Section. Nothing in this Section shall prevent the City from entering into arrangements with the Corporation or others for the continued maintenance

and operation of the Projects.

10. Leases to Third Party Tenants. The parties acknowledge that the commercial space in the buildings comprising a portion of the Projects will be leased to third party entities, most immediately to federal and state governmental agencies as part of the natural resources center. The Corporation shall act as lessor to the leases with any and all third party lessees until such time as all obligations issued under the Indenture or Alternate Financing (including the Bonds) are discharged. Upon transfer of title in the Projects to the City, the City shall assume the terms and conditions of all transferred third party leases as lessor.

11. Amendment to or Modification of Project Site. The City and the Corporation recognize that the Project Site as described on Exhibit A hereto is subject to adjustment based upon the final location of the natural resource center facilities and subdivision approvals. In the event that the boundaries of the Project Site are altered upon construction of the Projects, the Corporation (at its sole cost and expense) shall cause a surveyor to confirm the exact location of the Project Site and deliver to the City a survey and legal description describing such location, in accordance with the Corporation's direction. Upon receipt of such survey and legal description, the City and Corporation shall cause this Agreement to be amended or supplemented to conform the description of the Project Site to the legal description then provided and shall substitute such legal description for the description for such area in the attached Exhibit A.

12. Indenture or Alternate Financing Rights; Approval of Issuance of Bonds. The Corporation hereby covenants and agrees that the provisions of the Indenture or Alternate Financing granting any rights to the City shall not be amended or modified without the consent of the City.

13. Burden on Property. This Agreement is a burden upon and runs with the property described in Exhibit A hereto, as amended or supplemented pursuant to Section 10 hereof, and this Agreement shall be binding upon the Corporation and upon all persons or entities with any right, title or interest to such property or any part thereof, subject to release by the City.

14. Term. This Agreement shall terminate upon the vesting of title to all Projects in the City as herein provided.

15. Indemnification of the City. The Corporation shall indemnify and hold harmless the City, its officers, agents and employees and members of its City Council with respect to any liability or damages arising under actions or claims against the City as a result of the operation of the Projects by the Corporation.

16. Construction. In the event of any conflict between the terms and provisions of this Agreement and the terms and provisions of this Indenture or Alternate Financing, the terms and provisions of the Indenture or Alternate Financing shall govern.

17. Notices. All notices to be given hereunder shall be in writing, and may be given, served or made by depositing the same in the United States mail properly addressed, postpaid and

registered or certified with return receipt requested or by delivering the same in person to the said authorized representative of such party. Notice deposited in the mail in accordance with the provisions hereof shall be effective unless otherwise stated in this Agreement from and after the third day next following the date post-marked on the envelope containing such notice, or when actually received, whichever is earlier.

18. Headings. The headings of the various paragraphs of this Agreement have been inserted for reference only and shall not have the effect of modifying, amending or changing the express terms and provisions of this Agreement.

19. Severability. In any of the provisions of this Agreement or any paragraph, sentence, clause, phrase, word or section, or the application thereof, is in any circumstances invalidated, such invalidity shall not affect the validity of the remainder of this Agreement and the application of such provision in any other circumstances shall not be affected thereby.

20. Governing Law. It is the intention of the undersigned hereto that all questions with respect to the construction and interpretation of this Agreement and the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of Colorado. Any action related to this Agreement shall be brought in Chaffee County, Colorado.

IT WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

CITY OF SALIDA, COLORADO

By: \_\_\_\_\_  
Charles P. Rose, Mayor

ATTEST:

\_\_\_\_\_  
Janella Martinez, Deputy City Clerk

SALIDA NATURAL RESOURCES CENTER  
DEVELOPMENT CORPORATION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



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## CITY COUNCIL AGENDA ITEM

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**MEETING DATE:** July 6, 2010

**AGENDA ITEM TITLE:** Resolution on Vandaveer zoning extension – A resolution of the City Council of the City of Salida, Colorado, extending the time period for the Vandaveer Ranch Overall Development Plan.

**PRESENTED BY:** Dara MacDonald, Community Development Director

**REQUEST:**

The request is to extend for one additional year the Overall Development Plan adopted for the Vandaveer Ranch in December, 2006.

**BACKGROUND:**

There has been interest for several years in the creation of a Natural Resource Center (“NRC”) in the Salida area. The NRC would provide for the collocation of federal, state and local agencies allowing for operational efficiencies for each agency and an enhanced visitor experience for the traveling public and local residents.

The U.S. Forest Service has recently issued a Solicitation for Offers (“SFO”) seeking new office and shop space for their facilities in southern Chaffee County. The U.S. Forest Service facility would serve as the cornerstone for the larger NRC. The Salida Natural Resource Center Development Corporation (“NRCDC”) was formed at the direction of City Council in November of 2009 with the sole purpose of pursuing development of the NRC. The NRCDC is in the process of responding to the U.S. Forest Service SFO. The response is due by July 30, 2010.

A site on the Vandaveer Ranch east of U.S. Highway 50 is being proposed for the site of the NRC. One of the requirements of the U.S. Forest Service SFO is that the site be in compliance with local zoning requirements. The Vandaveer Ranch Overall Development Plan was adopted by the City Council on December 18, 2006 with Ordinance 2006-19. Typically vesting for development plans lasts for three years.

Section 16-10-90 of the Salida Municipal Code addresses expiration of development approval. The code allows that, “...the approving body may reconfirm and extend the time period for compliance or approve modification to such development plan, upon good cause shown by the owner. Such reconfirmation, extension or modification shall be at the discretion of the approving body.”

In this case, the owner of the property remains the City of Salida. The property was under contract in 2007 for sale to Courageux Development. That sale fell through with the economic collapse that began in 2007. There have been no additional offers on the property since that time.

The NRC is a priority acknowledged by both the City of Salida and Chaffee County in the MOU executed by both parties in August, 2009. The potential economic impact for both Salida and southern Chaffee County would have lasting positive effects and the site and proposed zoning both lend themselves to this type of development.

**RECOMMENDED MOTION:**

A Council person should make a motion to approve “Resolution 2010-39 a resolution of the City Council of the City of Salida, Colorado, extending the time period for the Vandaveer Ranch Overall Development Plan.”

Followed by a second and then roll call vote.

Attachments: Resolution 2010-39

**RESOLUTION NO. 39**  
**(Series 2010)**

**A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO  
EXTENDING THE TIME PERIOD FOR THE VANDAVEER RANCH OVERALL  
DEVELOPMENT PLAN**

**WHEREAS**, the City of Salida, (“Owner”) is the owner of certain real property located in the City of Salida, Colorado, known as Vandaveer Ranch (“Property”); and

**WHEREAS**, after a duly-noticed public hearing the Vandaveer Ranch Overall Development Plan was approved by the City Council with Ordinance 2006-19 on December 18, 2006; and

**WHEREAS**, Section 16-10-90 of the Salida Municipal Code (“SMC”) sets forth the provisions for expiration of development approval as well as the mechanism for reconfirmation, extension or modification at the discretion of the approving body; and

**WHEREAS**, on July 6, 2010, the Salida City Council reviewed the request for a one-year extension of the Overall Development Plan for the Property and found this request to be consistent with the provisions of SMC Section 16-10-90; and

**WHEREAS**, the City Council desires to allow a one-year extension of the Vandaveer Ranch Overall Development Plan until July 5, 2011 pursuant to SMC Section 16-10-90.

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

1. The City Council incorporates the foregoing recitals as findings by the City Council.
2. That the time period for compliance of the Vandaveer Ranch Overall Development Plan is extended until July 5, 2011.

**RESOLVED AND APPROVED**, by the City Council of the City of Salida on the 6<sup>th</sup> day of July, 2010.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



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**CITY COUNCIL AGENDA ITEM**

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MEETING DATE: July 6, 2010

AGENDA ITEM TITLE: A resolution of the City Council of the City of Salida authorizing the Mayor or City administrator to certify to the State of Colorado the Capital Improvement Program for Harriet Alexander Field, Salida Municipal Airport.

PRESENTED BY: Jack D. Lewis, City Administrator

**REQUEST:**

The City of Salida and Chaffee County as owners of Harriet Alexander Field the Salida Municipal Airport are required to certify the Capital Improvement Program (CIP) to the State of Colorado and the FAA in order to secure funding for the projects listed in the plan. Over the next six years \$4,263,158 is scheduled to be allocated to the project list. The local match for the projects is currently projected to be \$157,894. The City and County would split that match with each contributing \$78,947 towards the projects. We are applying for additional State grants that may reduce that match amount. The bulk of the expense will be in budget year 2011 and will have to be allocated or the projects may not proceed.

**RECOMMENDATION:**

Staff recommends approving the resolution authorizing the Mayor or City Administrator to certify the CIP to the State and FAA

**ACTION:**

A Council person should make a motion "to approve Resolution No.40, 2010 a resolution of the City Council of the City of Salida authorizing the Mayor or City Administrator to certify the Capital Improvement Program" followed by a second then a roll call vote.

**City of Salida, Colorado  
RESOLUTION NO. 40  
Series of 2010**

**A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO, AUTHORIZING THE MAYOR OR CITY ADMINISTRATOR TO CERTIFY TO THE STATE OF COLORADO AND TO THE FAA THE CAPITAL IMPROVEMENT PROGRAM FOR HARRIET ALEXANDER FIELD.**

**WHEREAS**, the City of Salida, Colorado (“the City”) and Chaffee County (the “County”), two distinct government bodies, own and operate Harriet Alexander field,

**WHEREAS**, from time to time it is necessary to submit a Capital Improvement Program (CIP) to the State of Colorado and the FAA

**WHEREAS**, the City and County are interested in making certain improvements to Harriet Alexander Field and are seeking funding from both the State of Colorado and the FAA,

**WHEREAS**, the City and County recognizes that funds will need to be allocated in future budgets or the projects may not proceed.

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

1. That the Salida City Council recognizes the Six Year Capital Improvement Program (CIP) worksheet.
2. Gives the Mayor or City Administrator the authority to certify to the State of Colorado and the FAA the Capital Improvement Program.

**RESOLVED, APPROVED AND ADOPTED THIS 6<sup>th</sup> DAY OF JULY 2010**

**CITY OF SALIDA, COLORADO**

[SEAL]

**BY** \_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

## SIX YEAR CAPITAL IMPROVEMENT PROGRAM (CIP) WORKSHEET

Airport Name: Harriet Alexander Field (ANK) Airport Manager: Carl Hasslebrink / Dan Strong Airport Sponsor: Chaffee County Address: P.O. Box 699, Salida CO Phone: 719-539-2218 FAX: 719-539-7442		CIP UPDATE: April 2009 Airport Engineer/ Consultant: ADG ADO Contact: Chris Shaffer	
Project Description: FAA State Airport GA Entitlement: 60,000.00 State: 60,000.00 Local: 15,000.00 Total: 75,000.00		Comments: Carryover	
Historical Year 2009 Airfield maint vehicle GA Ent			
Total - Year 2009 Year 2010 GA Ent. TBD		60,000.00 60,000.00 7,895.00 7,895.00 75,000.00 315,790.00	
Total - Year 2010 Year 2011 Rwy 6/24 rehab		300,000.00 300,000.00 300,000.00 94,737.00 3,789,474.00	
Total - Year 2011 Year 2012 Rwy 6/24 rehab		3,000,000.00 3,000,000.00 3,000,000.00 94,737.00 3,789,474.00	
Total - Year 2012 Year 2013 GA Ent.		600,000.00 600,000.00 600,000.00 94,737.00 3,789,474.00	
Total - Year 2013 Year 2014 GA Ent		150,000.00 150,000.00 150,000.00 3,947.00 157,894.00	
Totals - Year 2014 Year 2015 Fence and automatic gate modifications		150,000.00 150,000.00 150,000.00 3,947.00 157,894.00	
Totals - Year 2015 TOTALS - 6-Year Costs NPIAS projects for long-term completion - by priority Expand apron Construct add hangars and access road Complete parallel T/Rwy to end of R/Way 24 Construct auto parking		150,000.00 1,050,000.00 150,000.00 106,579.00 3,947.00 157,894.00 4,263,158.00 833,333.00	

Natures Medicine Salida  
230 W. 16<sup>th</sup> Street  
Salida, CO 81201  
Martin and Betty Woods

June 24, 2010

City Of Salida  
Salida City Council  
Attn: Jack Lewis, City Administrator  
Janella Martinez, Deputy City Clerk  
448 E. 1st Street  
Salida, CO 81201

Dear Mayor and City Council Members,

Due to the recently signed Colorado HB10-1284, Colorado Medical Marijuana Code, our attorneys, and Salida City Staff, have advised us to contact you in writing. Thank you for your time.

From the bill, **12-43.3-103. Applicability. (1) (a)**, we need a License, or something, from the City of Salida saying that we are operating an established, locally approved business.

We are aware that you are currently working on these issues and appreciate the time involved in these processes. Our wish is, simply to know that we will be completely compliant with the new State Laws as of July 1, 2010.

We would also respectfully request that you lift only the portion of the recent moratorium concerning the application process for a Special Use Permit on the Optional Grow Facility in commercial space. We are only asking that you let existing, established, dispensaries within the Salida City Limits apply for the Special Use Permit, or move an existing Special Use Permit for Growing Medicinal Cannabis, in order to be compliant under **12-43.3-103. Applicability. (1) (a)**.

A Dispensary, or what now will be called a MMC, or Medical Marijuana Center, will have to prove that they grow 70% of everything that they sell by September 1, 2010. For this reason, they need Special Use Permits on their Optional Grow Facilities. It takes time to produce quality medicine, and the September 1, 2010 deadline is almost surly unattainable for someone starting a new grow.

The City Of Durango just did the same thing for their dispensary owners to become compliant under new state law. On June 22, 2010, they lifted that portion of the moratorium for 5 days to allow the legal people to get the applications in prior to the July 1, 2010, deadline.

The City Of Denver did not impose a moratorium on such applications until July 1, 2010, in order for business to get all their applications in before that deadline.

Thank you for your time and consideration. Natures Medicine would like to continue to be an active member in the local community and economy.

Thank you,



Martin Woods  
EcoMed, LLC dba Natures Medicine Salida  
970-946-1728

RECEIVED

KJ 6/24/10  
4:35

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**CITY COUNCIL AGENDA ITEM**

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**MEETING DATE:** July 6, 2010

**AGENDA ITEM TITLE:** Final Settlement for the Water Meter Replacement Project—  
contractor Y&K Excavation Inc.

**PRESENTED BY:** Robert Vance, Public Works Director

**REQUEST:**

The request is to authorize final payment to Y & K Excavation Inc. for the work they performed for the Water Meter Replacement Project. The final payment is for retainage and totals \$1057.70.

**BACKGROUND:**

The City of Salida went to bid in November 2009 to replace the water meters in the city with Orion radio read meters. This project was awarded to Y&K Excavation Inc. The project was completed in April. The Public Works Department conducted a final inspection and held read session and find that the meters are installed per bid specifications. Notice of Final Settlement was published in the Mountain Mail on June 9, 2010 and has ran twice a week until July 2, 2010. The City has not received any notice of claims against Y&K and therefore requests authorization to make final settlement with Y & K Excavation INC.

**RECOMMENDED MOTION:**

A Council person should make a motion to “Authorize City Staff to make final payment to Y & K Excavation, INC. for \$1057.70; which is the retainage being held.”

Followed by a second and then roll call vote.

Attachments: NONE



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**CITY COUNCIL AGENDA ITEM**

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**MEETING DATE:** July 6, 2010

**AGENDA ITEM TITLE:** Final Settlement for the Whitewater Park and Greenway Phase 4—contractor Lowry Contracting, Inc.

**PRESENTED BY:** Robert Vance, Public Works Director

**REQUEST:**

The request is to authorize final payment to Lowry Contracting, Inc. for the work they performed for the Whitewater Park and Greenway Phase 4 Project. The final payment is for retainage and totals \$11,332.00.

**BACKGROUND:**

The City of Salida went to bid in February 2010 on the Whitewater Park and Greenway Phase 4 Project. This project consisted of installing Whitewater drop features and repairs to existing river features in the Arkansas River. This project was awarded to Lowry Contracting, Inc. The project was completed in April. The Public Works Department conducted a final inspection and all corrective actions were completed satisfactorily. Notice of Final Settlement was published in the Mountain Mail on June 9, 2010 and has ran twice a week until July 2, 2010. The City has not received any notice of claims against Lowry Contracting Inc. and therefore requests authorization to make final settlement with Lowry Contracting, Inc.

**RECOMMENDED MOTION:**

A Council person should make a motion to “Authorize City Staff to make final payment to Lowry Contracting Inc. for \$11,332.00; which is the retainage being held.”

Followed by a second and then roll call vote.

Attachments: NONE