



CITY COUNCIL ACTION FORM

DEPARTMENT Planning	PRESENTED BY Kathryn Dunleavy - Planner	DATE March 19, 2024
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ITEM

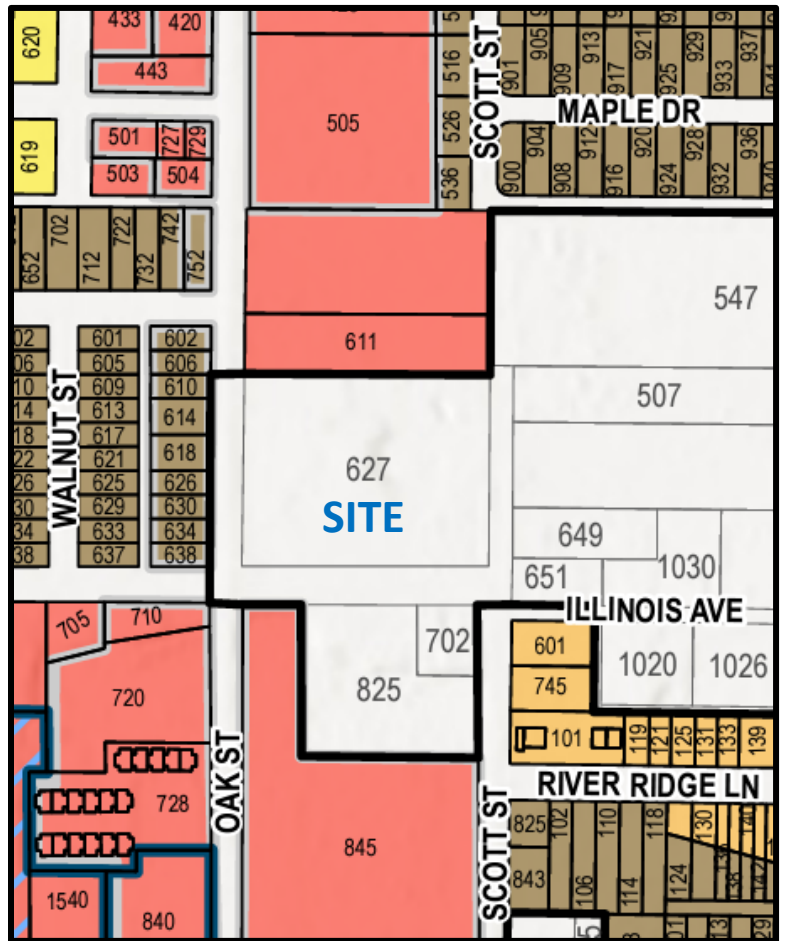
Resolution 2024-13 – Approving an Amended Pre-Annexation Agreement with Salida School District for the property located at 627 Oak Street.

REQUEST/BACKGROUND

The subject parcel is in Chaffee County and consists of 3 acres. A school and school district offices already exist on the property. This property is currently served by municipal sewer services but is on well water. The property is eligible for annexation. The school district has applied to the State for a building permit to remodel a portion of the school. That permit requires fire flows for sprinklers that cannot be achieved using the current well and therefore the school district seeks connection to municipal water service.

DISCUSSION

This property is located in the Municipal Services Area. The City of Salida and Chaffee County entered into an intergovernmental agreement (IGA) in 2010 which puts in place the process for development within the Municipal Services Area (MSA), which consists of unincorporated areas adjacent to our municipal border that could be served by our utilities.



The previous owner of the property entered into a pre-annexation agreement on September 18, 2012. Prior to the recording of that agreement it was amended by an “Amended and Restated Pre-Annexation Agreement Diesslin Subdivision” on October 3, 2012, which is included in this packet. That agreement requires annexation in order to provide municipal water services. The site is eligible for annexation and is already served by municipal sewer service.



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Planning	Kathryn Dunleavy - Planner	March 19, 2024

The school district has applied to the State for a building permit to remodel a portion of its facility at this site, with completion anticipated by the start of the 2024-2025 school year. This remodel necessitates connection to municipal water service to provide required fire flows for sprinklers. Due to the timing required by the building permit for the applicant to demonstrate adequate fire flows, and the timing required by State Statute for the annexation process, it may not be possible for an annexation to take effect in time. Therefore, the school district has applied to amend the annexation agreement to allow for connection to municipal water services prior to the effective date of an annexation. The terms of this agreement include, but are not limited to:

- A complete application for annexation shall be received by the City by May 1, 2024.
- Payment of System Development Fees.
- Dedication of sufficient right-of-way for Scott Street such that it aligns with the current Scott Street right-of-way to both the north and south of the property.
- A fee-in-lieu for sidewalks along Illinois Avenue and Scott Street, and a fee-in-lieu of sidewalk, curb and gutter along Oak Street.
- The landscaping requirements have been reduced from the Code requirement of 43 trees and 60% live cover, to a fee-in-lieu for 30 trees.

FISCAL NOTE

The applicant is required to pay the appropriate Water System Development and Associated Fees, to be determined once the water line and meter size is known. It should be noted that this fee goes to an enterprise fund and is charged to all applicants, including the City itself on the adjacent fire station property.

STAFF RECOMMENDATION

Staff recommends the City Council approve the pre-annexation agreement with Salida School District.

SUGGESTED MOTION

A council person should make the motion to “Approve Resolution No. 2024-13 approving the pre-annexation agreement with Salida School District for 627 Oak Street.”

Attachments:

Resolution 2024-13

627 Oak Street Amended Pre-Annexation Agreement

Amended and Restated Pre-Annexation Agreement Diesslin Subdivision

CITY OF SALIDA, COLORADO
RESOLUTION NO. 13
(Series of 2024)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO
AUTHORIZING THE MAYOR TO SIGN AN AMENDED PRE-ANNEXATION
AGREEMENT WITH SALIDA SCHOOL DISTRICT FOR 627 OAK STREET.

WHEREAS, Salida School District R-32-J is the owner of certain real property in unincorporated Chaffee County, which property is more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, the Property is currently eligible for annexation, lies within the City of Salida Municipal Services Area, and is already serviced by municipal sewer services; and

WHEREAS, the City is capable of providing municipal water service to the Property, and the parties desire to enter into an Amended Pre-Annexation Agreement pursuant to C.R.S. §31-12-121 to set forth the terms and conditions for the provision of municipal water services by the City.

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

1. The Salida City Council incorporates the foregoing recitals as its conclusions, facts, determinations, and findings.
2. The Amended Pre-Annexation Agreement by and between the City and Salida School District R-32-J, attached as Exhibit B, is hereby approved, and the Mayor is authorized to sign the Agreement on behalf of the City.

RESOLVED, APPROVED, AND ADOPTED this 19th day of March, 2024.

CITY OF SALIDA, COLOADO

By

Dan Shore, Mayor

[SEAL]
ATTEST:

City Clerk/Deputy Clerk

EXHIBIT A

A tract of land in the North Half of the Southwest Quarter (N1/2 SW1/4) of Section 4, Township 49 North, Range 9 East of the New Mexico Principal Meridian, Chaffee County, Colorado, being described as follows:

Beginning at a point on the east boundary of State Highway No. 291 and on the north side of county road (being an extension of Illinois Avenue of Salida, Colorado) from whence the southeast corner (brass cap) of said Section 4 bears South 63°36.1' East 4757.8 feet;

thence proceeding around the tract North 00°05' East 322.0 feet along said highway boundary;

thence South 89°38' East 408.5 feet;

thence South 00°16' East 318.0 feet;

thence South 89°48' West 410.5 feet to the point of beginning.

(Each of the four corners of the above tract is marked by a 5/8 inch steel reinforcing bar 2 feet long driven in the ground and having a one-inch aluminum cap.) Directions were determined by solar observation.

Also known by street address as: 627 Oak Street, Salida, CO 81201

And assessor's schedule or parcel number: 380704300006

EXHIBIT B

**AMENDED, AMENDED AND RESTATED PRE-ANNEXATION AGREEMENT
DIESSLIN SUBDIVISION**

THIS AGREEMENT is made and entered into this _____day of March, 2024, by and between the CITY OF SALIDA, COLORADO, a municipal corporation (hereinafter "City"), and Salida School District R-32-J, a Colorado public school district as the owner of the real property described hereafter (hereinafter "Owner");

W I T N E S S E T H:

WHEREAS, Owner is the owner of certain real property located in unincorporated Chaffee County, which property is known as 627 OAK STREET, more particularly described on **Exhibit A** (attached hereto and incorporated herein by this reference (the "Property")); and

WHEREAS, the previous pre-annexation agreement, the AMENDED AND RESTATED PRE-ANNEXATION AGREEMENT DIESSLIN SUBDIVISION dated October 3rd, 2012, reception #402776, allowed the then owner connection to the City's sewer system but required the Property to be annexed prior to requesting municipal water service; and

WHEREAS, the Property is currently eligible for annexation and lies within the City of Salida Municipal Services Area; and

WHEREAS, Owner desires to obtain municipal water services in order to construct an addition to the school building currently on the Property, and wishes for that addition to be completed prior to the start of the 2024-25 school year; and

WHEREAS, following the timeline required by State Statute for annexation of properties, it may not be possible for an annexation to be effective in time to then obtain municipal water services after annexation and complete the construction of an addition prior to the start of the 2024-25 school year; and

WHEREAS, the parties desire to enter into this Agreement pursuant to C.R.S. §31-12-121 to set forth the terms and conditions of the extension of services and annexation of the Property by the City; and

WHEREAS, "Owner" shall be defined in this Agreement to include Salida School District R-32-J, as well as their successors and assigns, and any subsequent owners of the Property, who shall be obligated under the covenants of this Agreement, until terminated upon Annexation of the Property.

NOW THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties agree as follows:

1. Services to be Provided. The City shall allow connection to municipal water service on the Property prior to annexation subject to the following being completed prior to connection to municipal water service, or as specified below:

- a. Owner shall submit a complete application for annexation and zoning to the City by May 1, 2024, unless the City approves an extension in writing. The annexation plat submitted shall dedicate sufficient Scott Street right-of-way to align with the westerly side of the Scott Street right-of-way to the north of the Property, and to the south of the Property across Illinois Avenue.
- b. Site Improvements. The following are required as additional consideration for connecting the Property to municipal water:
 - i. Illinois Avenue and Scott Street: The Owner shall pay a fee-in-lieu (FIL) of constructing required site improvements fronting the Property along Illinois Avenue and along Scott Street, including construction of sidewalks, in the amount of Twenty Six Thousand One Hundred Twenty Five Dollars (\$26,125.00). The FIL shall be paid to the City prior to allowing connection to municipal water services.
 - ii. Oak Street: Owner shall pay a fee-in-lieu (FIL) of providing the required Oak Street streetscape improvements including sidewalk, curb, and gutter in the amount of Thirty Eight Thousand Two Hundred Seventy Five Dollars (\$38,275.00) The FIL shall be paid to the City prior to allowing connection to municipal water services.
 - iii. Trees: Owners shall pay a fee-in-lieu (FIL) of landscaping standards of Nine Thousand Dollars (\$9,000.00) prior to allowing connection to municipal water services. The Parties acknowledge and agree that the FIL amount is based on the reduced requirement of Thirty (30) trees multiplied by Three Hundred Dollars (\$300.00) per tree. The City shall reimburse the Owner at the rate of Three Hundred Dollars (\$300.00) for every tree (up to 30 trees) that are alive, healthy and adequately irrigated during the next planting season subsequent to site improvements.
- c. Prior to connection to municipal water service, the Owner shall:
 - i. Provide an engineering drainage report for the entire Property that meets City requirements and is approved by the Public Works Director.

2. Costs. The City will provide said service subject to the rules, regulations, charges, fees, and ordinances of the City of Salida as are now in effect, or as they may hereafter be amended. All costs of extending services to the Property shall be borne by the Owner. Prior to the first delivery of municipal service pursuant to this Agreement, the Owner agrees to pay all system improvement fees at the then applicable in-City rate as provided in the Salida Municipal Code.

3. No Precedential Value. Nothing herein shall obligate the City to extend additional service to the Owner or to the Property, other than that service described in Paragraph 1, above. There shall be no expansion of such service without the express written consent of the City. The Owner and its agents, employees, and tenants shall be bound by all of the ordinances of the City of Salida insofar as they may pertain to the conditions of pre-annexation herein described. Notwithstanding anything to the contrary in this Agreement, the City acknowledges and agrees that to the extent Salida School District R-32-J develops the Property, it is subject to and shall comply with C.R.S. 22-32-124. City further acknowledges and agree that to the extent said statute conflicts with any City ordinances or resolutions now in existence, and as may be adopted or

changed from time to time, C.R.S. 22-32-124 shall control with respect to the District, other than the terms agreed upon by the Parties in this Agreement.

4. Annexation. To the maximum extent permitted by law, the parties agree that this Agreement, pursuant to C.R.S. §31-12-121, constitutes an enforceable obligation upon the Owner, its successors, and assigns to file a petition for annexation no later than May 1, 2024.

5. Existing Uses. The structure on the Property is currently used as a school and school district offices. It is within unincorporated Chaffee County and the Owner intends to continue to use it for these purposes.

6. Termination Upon Annexation. This Agreement shall terminate automatically on the effective date of the annexation to the City of the Property; provided, however, that nothing in this paragraph shall limit any other rights of termination provided in this Agreement.

7. Failure or Refusal to Annex. In the event the Owner fails to annex their Property to the City as required by this Agreement, the City may, at its sole option and without otherwise limiting its legal rights, bring an action at law or equity, including an action for specific performance, to enforce the terms of this Agreement.

8. Miscellaneous. The parties agree time is of the essence in the implementation of this Agreement. All of the terms and conditions of this Agreement shall bind the heirs, successors, assigns, or personal representatives of the parties hereto. This Agreement constitutes a covenant which runs with the real Property. This Agreement sets forth the entire understanding between the parties, and any previous agreements, promises, or understandings have been included in this Agreement.

9. Recording; Benefit; Fees. The City shall record this Agreement upon execution with the Chaffee County Clerk and Recorder. The Owner shall simultaneously with the execution of this Agreement tender to the City the actual amount of recording fees (Checks shall be payable to the Chaffee County Clerk and Recorder). This Pre-Annexation Agreement shall run with the land, and shall obligate, be binding upon and shall inure to the benefit of the Parties and up and to their respective successors, grantees and assigns, until terminated upon Annexation of the Property.

WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

[Signatures appear on next page]

CITY OF SALIDA, COLORADO

By _____
Dan Shore, Mayor

ATTEST:

City Clerk/Deputy City Clerk

SALIDA SCHOOL DISTRICT R-32-J

President, Board of Education

STATE OF)
) ss.
COUNTY OF CHAFFEE)

Acknowledged, subscribed, and sworn to before me this ____ day of _____, 202, by
_____, as _____ of
Salida School District R-32-J.

WITNESS my hand and official seal.

My Commission expires: _____.

Notary Public

**AMENDED AND RESTATED PRE-ANNEXATION AGREEMENT
DISSLIN SUBDIVISION**

THIS AMENDED AND RESTATED AGREEMENT is made and entered into this 3rd day of October, 2012, by and between the CITY OF SALIDA, COLORADO, a municipal corporation (hereinafter "City"), and JOHN D. DISSLIN as the owner of the real property described hereafter (also known as the DSI Property) (hereinafter "Owner");

WITNESSETH:

WHEREAS, Owner is the owner of certain real property located at 7410 Highway 291 in unincorporated Chaffee County, which property is more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, the Property is currently eligible for annexation and lies within the City of Salida Municipal Services Area, and the office building on the Property is served by City sewer; and

WHEREAS, Owner desires to obtain the municipal services hereinafter described from the City at such time, and the City is capable of providing such service and will agree to annex the Property to the City; and

WHEREAS, the Owner and City wish to amend and restate the Pre-Annexation Agreement approved September 18, 2012; and

WHEREAS, the parties desire to enter into this Agreement pursuant to C.R.S. §31-12-121 to set forth the terms and conditions of the future extension of services by the City.

NOW THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties agree as follows:

1. Service to be Provided. The City agrees to provide Owner with municipal sewer service on the Property. Owner may request municipal water service in the future as part of an annexation request and pursuant to such terms as may be negotiated.

2. Costs. The City will provide said service subject to the rules, regulations, charges, fees, and ordinances of the City of Salida as are now in effect, or as they may hereafter be amended. Owner further agrees to reimburse the City for all engineering, legal, and associated fees and costs it incurs in the review and implementation of this Agreement. The Owner and its agents, employees, and tenants shall be bound by all of the ordinances of the City of Salida insofar as they may pertain to the conditions of pre-annexation herein described.

3. Service Charges. Once connected, during the term of this Agreement, Owner agrees to pay for municipal water and sewer service to the existing commercial office building at the rate and in the manner which may be provided by the Salida Municipal Code for municipal utility consumers residing outside the City limits. The City reserves the right to modify these charges or regulations.

4. No Precedential Value. Nothing herein shall obligate the City to extend additional service to the Owner or to the Property, other than that service described in Paragraph 1, above. There shall be no expansion of such service without the express written consent of the City.

5. Annexation. To the maximum extent permitted by law, the parties agree that this Agreement, pursuant to C.R.S. §31-12-121, constitutes an enforceable obligation upon the Owner, its successors, and assigns to annex the Property as required under the terms hereof at such time as a development application is submitted or Owner requests additional municipal services. At such time as the Owner submits a development application or requests additional municipal services, the Owner shall submit a petition for annexation to the City to annex the Property to the City. The Owner shall pay all costs for review of the annexation petition, as required by the Salida Municipal Code. The passage of time between the eligibility of the Property for annexation and the time the City requests the Owner file a petition for annexation shall not constitute a waiver of the City's right to enforce, or estop the City from enforcing, the Owner's' obligations under this paragraph.

6. Use of Existing Wells. The parties agree that Owner shall be entitled to the continued use of existing wells on the Property for domestic and other uses until such time as the Property is annexed.

7. New Development. Owner agrees that during the term of this Agreement all new development or construction on the Property shall be in accordance with the requirements of the Salida Municipal Code.

8. Payment of Impact Fees. Owner agrees to pay at the time of annexation all applicable open space dedication and fair contribution to public school sites fees for the Property in the amounts set forth pursuant to the Salida Municipal Code, or as hereafter amended, and any other fees prescribed by Resolution or Ordinance as may apply to annexations.

9. Termination Upon Annexation. This Agreement shall terminate automatically on the effective date of the annexation to the City of the Property; provided, however, that nothing in this paragraph shall limit any other rights of termination provided in this Agreement.

10. Failure or Refusal to Annex. In the event the Owner fails to annex their Property to the City as required by this Agreement, the City may, at its sole option and without otherwise limiting its legal rights, bring an action at law or equity, including an action for specific performance, to enforce the terms of this Agreement or treat this Agreement as a petition for annexation and annex the Property without consent after thirty (30) days' written notice to Owner. The rights and remedies under this paragraph shall be cumulative. To the extent permitted by law, the Owner hereby appoints the City Clerk as their attorney-in-fact to execute and deliver all documents necessary to annex Owner's Property to the City, should the Owner fail or refuse to annex as required under this Agreement. If the City proceeds to annex the Owner's Property as permitted under this paragraph, it may advance all fees and costs related to the annexation, and shall be entitled to recover the same as a personal obligation of the Owner. Such fees and costs shall also constitute a lien against the Owner's Property, which may be foreclosed as provided by

law.

11. Lien Rights. The City shall be entitled to prepare and record a lien against the Owner's Property for the amount of any costs, fees, and other expenses which it has advanced or which the Owner is required to be pay pursuant to this Agreement and/or the Salida Municipal Code.

12. No Guarantee of Fire Flows. Nothing herein shall be construed to obligate the City to provide adequate fire flows for residences or developments outside the City.

13. Miscellaneous. The parties agree time is of the essence in the implementation of this Agreement. All of the terms and conditions of this Agreement shall bind the heirs, successors, assigns, or personal representatives of the parties hereto. This Agreement constitutes a covenant which runs with the real Property. This Agreement sets forth the entire understanding between the parties, and any previous agreements, promises, or understandings have been included in this Agreement.

14. Recording; Fees. The City shall record this Agreement upon execution. The Owner shall simultaneously with the execution of this Agreement tender to the City the actual amount of recording fees. (Checks shall be payable to the Chaffee County Clerk and Recorder.)

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

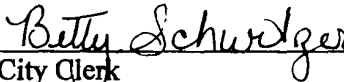
CITY OF SALIDA, COLORADO

By



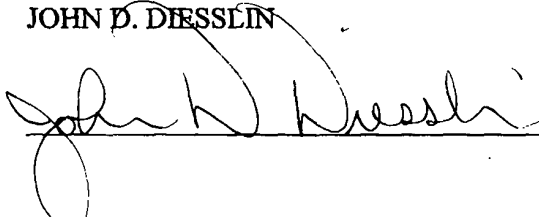
Mayor

ATTEST:



City Clerk

JOHN D. DISSLIN

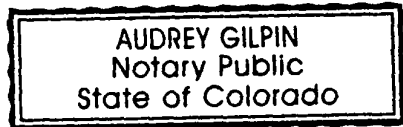


STATE OF COLORADO)
) ss.
COUNTY OF CHAFFEE)

Acknowledged, subscribed, and sworn to before me this 2nd day of October, 2012, by Don Stephens, Mayor, and Betty Schwitzer, City Clerk, on behalf of the City of Salida, Colorado.

WITNESS my hand and official seal.

My Commission expires: 2/7/16



My Commission Expires _____

Audrey Gilpin
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF CHAFFEE)

Acknowledged, subscribed, and sworn to before me this 3 day of October, 2012, by John D. Diesslin.

WITNESS my hand and official seal.

My Commission expires: 9/25/15



Kathleen Davis-Peter
Notary Public

EXHIBIT "A"

A tract of land in the North Half of the Southwest Quarter (N1/2 SW1/4) of Section 4, Township 49 North, Range 9 East of the New Mexico Principal Meridian, Chaffee County, Colorado, being described as follows:

Beginning at a point on the east boundary of State Highway No. 291 and on the north side of county road (being an extension of Illinois Avenue of Salida, Colorado) from whence the southeast corner (brass cap) of said Section 4 bears South 63°36.1' East 4757.8 feet;
thence proceeding around the tract North 00°05' East 322.0 feet along said highway boundary;
thence South 89°38' East 408.5 feet;
thence South 00°16' East 318.0 feet;
thence South 89°48' West 410.5 feet to the point of beginning.

(Each of the four corners of the above tract is marked by a 5/8 inch steel reinforcing bar 2 feet long driven in the ground and having a one-inch aluminum cap.) Directions were determined by solar observation.

