

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF SALIDA

By:\_\_\_\_\_

Mayor Dan Shore

ATTEST:

(SEAL)

By:\_\_\_\_\_

City Clerk/Deputy City Clerk