



CITY COUNCIL ACTION FORM

DEPARTMENT Administration	PRESENTED BY Christy Doon - City Administrator	DATE January 2, 2024
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ITEM

Ordinance 2024-02, **AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO, APPROVING THE MANAGEMENT AGREEMENT WITH INTERSTATE PARKING MANAGEMENT. FIRST READING AND SETTING A PUBLIC HEARING**

BACKGROUND

The City of Salida is interested in establishing a parking management program in the downtown. Understanding that the program requires substantial set up, monitoring and on-going operational maintenance, the City is interested in contracting with a third-party to manage the program.

Per the contract, Interstate Parking will employ a sufficient number of personnel capable of managing and maintaining the parking facilities.

Interstate Parking will work with City staff and residents to ensure vehicles are properly registered, based on residency and/or employment, and will assist the City in education and community engagement.

FISCAL NOTE

Per the contract, the City will compensate Interstate Parking fifty percent (50%) of all net revenue, on a monthly basis based upon the prior month's Net Revenue.

STAFF RECOMMENDATION

Staff recommends that the City Council approve Ordinance 2024-02.

SUGGESTED MOTION

A City Councilmember should state, "I move to approve Ordinance 2024-02 An Ordinance of the City Council for the City of Salida, Colorado, Approving the Management Agreement with Interstate Parking Management on First Reading and Setting a Public Hearing for February 6, 2024" followed by a second and a roll call vote.

**CITY OF SALIDA, COLORADO
ORDINANCE NO. 2
(Series of 2024)**

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA,
COLORADO, APPROVING THE MANAGEMENT AGREEMENT WITH
INTERSTATE PARKING MANAGEMENT**

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

WHEREAS, Interstate Parking provides municipalities with parking services, including infrastructure, employees, and parking enforcement; and

WHEREAS, the City will benefit from hiring an outside company to manage and enforce parking within the City to free the Police Department to deal with other calls and ordinance enforcement; and

WHEREAS, the City recognizes that activities in its downtown necessitate public parking and having reliable enforcement of parking restrictions would benefit the residents, local businesses, customers, and tourists alike; and

WHEREAS, the Salida City Council now approves the execution of the Management Agreement between the City of Salida and Interstate Parking, attached hereto as **Exhibit A**.

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

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

Section 2. The Salida City Council hereby approves the City to enter into the Management Agreement, attached hereto as **Exhibit A**.

Section 3. The Salida City Council hereby approves and authorizes the City to enter into the Management Agreement attached hereto as **Exhibit A**.

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

INTRODUCED, ON SECOND READING FINALLY ADOPTED AND ORDERED PUBLISHED IN FULL by the City Council this ___ day of _____, 2024.

CITY OF SALIDA

By: _____
Mayor Dan Shore

ATTEST:

(SEAL)

By: _____
City Clerk Erin Kelley

Exhibit A

Management Agreement between the City of Salida and Interstate Parking Services

PARKING MANAGEMENT AGREEMENT FOR THE CITY OF SALIDA

This MANAGEMENT AGREEMENT is executed on December 29th, 2023 by **INTERSTATE PARKING COMPANY OF COLORADO LLC** (herein called "Interstate"), and **CITY OF SALIDA** (herein called "Owner").

WHEREAS, Owner owns the parking Facilities are located in the City of Salida, in Chaffee County, Colorado containing approximately 750 parking spaces (hereinafter referred to as the "Parking Facilities");

AND WHEREAS, Owner desires to engage Interstate to manage the Parking Facilities and Interstate desires to manage the Parking Facilities.

NOW, THEREFORE, Owner and Interstate agree as follows:

1 Engagement

1.1 Owner hereby engages Interstate, and Interstate hereby accepts engagement by Owner, to manage and maintain the Parking Facilities in a first-class manner in accordance with the terms and conditions hereinafter set forth.

2 Term and Termination

2.1 The term of this Agreement will commence April 1st, 2024 (the "Commencement Date") and continue for a period of three (3) years thereafter through March 30th, 2027 (the "Initial Term") subject to annual appropriation. Upon expiration of the Initial Term, this agreement shall automatically renew for subsequent one (1) year periods (each year an "Extended Term") unless either party provides advance written notice to the other at least thirty (30) days prior to the end of the then current Extended Term. As used hereinafter, the Initial Term and Extended Term shall be referred to as the "Term." Each twelve (12) month period following the Commencement Date shall be referred to as an "Operating Year" hereinafter.

2.2 Either party will have the right to terminate this Agreement in the event the other party has failed to perform any of the terms and conditions specified herein, if said failure has been called to the attention of the responsible party in writing via certified mail and that party has not corrected said failure within fifteen days (15), or such additional time as is reasonably necessary, of its receipt of written notice. Both parties agree that if a mutually agreed upon resolution cannot be reached the matter will be taken to a binding arbitrator agreed to by both Parties.

2.3 If the whole or any portion of the Parking Facilities is:

- (a) appropriated or taken under the power of eminent domain by any public or quasi-public authority;
- (b) damaged or destroyed; or
- (c) is otherwise rendered unusable as Parking Facilities because the

City of Salida implements or creates ordinances, restrictions, laws, zoning regulations or any denial of permits or licenses to operate the parking Facilities over which neither party can repeal;

either party may, at its option, terminate this Agreement by giving written notice to the other within 30 days after the effective date of such taking, destruction or other event and this Agreement will terminate as of the date of such taking, destruction or other event. If only a portion of the Premises is effected by such taking, destruction or other event and neither party exercises its option to terminate this Agreement, this Agreement shall not terminate but shall continue in full force and effect for the remaining portion of the Parking Facilities.

- 2.4 If: (a) any law, or amendment of an existing law, ordinance, regulation, or zoning change comes into force, whether federal, state or municipal (including, without limitation, new tax legislation); or
- (b) there exists any restrictive condition (including, without limitation, gasoline rationing, gasoline shortages, construction, road work, parking reduction regulations, pandemic, price control or air quality regulations);

and in the reasonable opinion of Interstate or Owner, hinders either party from carrying on its duties under this Agreement or negatively affects either party's profitability in a material way, then either party may, by written notice to the other party, request that the Management Fee under this Agreement be modified in an equitable manner by agreement between the parties. Failing agreement within 30 days of such notice either party may, without penalty, terminate this Agreement upon a further 30 days written notice to the other party. If either party does not so terminate, this Agreement will continue in full force and effect.

- 2.5 Upon the expiration or termination of the Term of this Agreement, including any extension under Section 2.1, all compensation due Interstate shall be promptly paid to Interstate in conjunction with a complete and final accounting being made to Owner by Interstate relating to all matters set forth in Section 3.2 through 3.4 hereof.
- 2.6 Interstate shall have the right of first refusal for the continued operation of the Parking Facilities upon the expiration of the Term, provided however the Owner continues the use of the Parking Facilities for the purpose of public commercial paid parking.

3 Management Fee

- 3.1 As compensation for the services rendered by Interstate, Owner will pay Interstate a percentage management fee equal to fifty percent (50%) of all Net Revenue as is defined hereinafter (the "Management Fee"). The Management Fee shall be calculated and paid to Interstate on a monthly basis based upon the prior month's Net Revenue for each calendar month during the Operating Year.

- 3.2 On or before the 15th day of each month, Interstate will give Owner a statement for the preceding calendar month setting out the Net Revenue and calculation of the Management Fee for such month (the "Statement"), together with a check for the Balance of Revenue.

In this Agreement:

- (a) "Gross Revenue" means all revenue, excluding violation notice revenue, whether hourly, daily or monthly, collected by the Owner or Interstate in connection with the operation of the Parking Facilities, will be retained by Interstate, and the value of all Gratis Parking (as defined in Section 6.2), from the parking of vehicles in the Parking Facilities and other income approved by Owner. Any Gross Revenue, if any, collected directly by Owner will be accurately reported to Interstate.
- (b) "Credit Card Fees" means all transaction fees charged by a credit card processing institution for processing payments of Gross Revenue by a credit card.
- (c) "Taxes" means all transaction value, sales and any other taxes, rates, charges or assessments levied, rated, charged or assessed or required to be collected or paid (or both collected and paid) in the operation of the Parking Facilities .
- (d) "Net Revenue" means Gross Revenue minus Credit Card Fees, the Convenience Fee charged by the Payment Programmer to the Customer for Each Transaction, Taxes and any online sales commissions and fees from parking aggregators and applications in connection with Gross Revenue.
- (e) "Operating Expenses" means those expenses paid by Interstate without reimbursement from Owner as listed in Schedule A. All other costs in connection with the Parking Facilities are specifically excluded from the definition of Operating Expenses for the purpose of this Agreement and will be borne directly by the Owner.
- (f) "Balance of Revenue" means Net Revenue less Management Fee.
- 3.3 Taxes, if any, separately stated as required by law, will be collected by Interstate from customers and transmitted to the taxing authority as required.
- 3.4 If this Agreement commences on any date other than the first of the month, then the parties will adjust all revenues, expenses, deposits and accounts receivable as of midnight the evening before the Commencement Date.
- 4 Staff
- 4.1 Interstate will employ at, or in respect of, the Parking Facilities a sufficient number of personnel capable of managing and maintaining the Parking Facilities in accordance with the terms and conditions hereof such that the Parking Facilities will be operated in a first class manner similar to other first class Parking Facilities of similar type in the area. Personnel will be screened by Interstate before hiring and will be employed, disciplined,

discharged, promoted and directed in the performance of their duties by Interstate. Interstate will provide all necessary executive and supervisory personnel who are not stationed at the Parking Facilities but are required for the proper management of the Parking Facilities.

- 4.2 The number of persons employed at, or in respect of, the Parking Facilities will be satisfactory to Owner and will be increased or decreased as mutually agreed to by the Owner and Interstate. All personnel will wear neat and clean uniforms. Interstate will negotiate and obtain any necessary labor agreement if applicable. Owner will have the right to require the removal from the Parking Facilities of any employee whose conduct will not reasonably satisfy Owner.

5 Complaints

- 5.1 Interstate agrees to handle and record in a prompt and courteous manner all complaints by patrons of the Parking Facilities.

6 Hours of Operation, Rates and Gratis Parking

- 6.1 Subject to any laws applicable to the Parking Facilities, the Parking Facilities will be open for business and operated by Interstate under the terms and conditions of this Agreement which may be modified at any time upon mutual written agreement between Owner and Interstate, during each calendar year of the Term.
- 6.2 Owner, in its sole discretion, may direct Interstate to provide free or discounted parking at the Parking Facilities (the "Gratis Parking"). The value of such Gratis Parking shall be included in the definition of Gross Revenue and the calculation of the Management Fee pursuant to Sections 3.1 and 3.2 (a) as if such Gross Revenue was collected by Interstate.
- 6.3 Rate structures can be recommended and changed at any time by Interstate or the Owner and will be mutually agreed to by Interstate and the Owner in advance.
- 6.4 The parking Facilities will operate 24/7, 365 days a year.

7 Compliance With Laws

- 7.1 Interstate will comply with all federal, state and municipal laws, ordinances and regulations pertaining to the Parking Facilities or the business conducted therein by Interstate including, without limitation, laws relating to equal opportunity employment and federal, state and municipal tax withholding laws. Any reasonable expense incurred by Interstate by reason of this section will be included as an Operating Expense.

8 Maintenance and Operations

- 8.1 Interstate shall pay all Operating Expenses, as is defined herein, without reimbursement from Owner and will maintain its signage and the Interstate Equipment in good working order, all in a manner comparable to other first-class Parking Facilities within Chafee County.

8.2 Owner agrees to pay all other expenses, excluding those included as Operating Expenses, and maintain the sidewalks and curb cuts adjacent to the Parking Facilities in accordance with applicable municipal statutes. Owner agrees to perform all snow and all litter removal. Neither party is responsible for ice control and annual sweeping of the Parking Facilities including adjacent sidewalks and driveways. Owner will also be responsible for all Parking Facilities repairs of a structural nature, including, but not limited to: electrical, plumbing, pavement repair, painting, replacement of lighting tubes and ballasts, repairs to the Parking Facilities, sinkholes, and all other maintenance. Any structural, mechanical, electrical or other installations or any alterations required by statutes or regulations pertaining to air quality, environmental protection, provisions for persons with disabilities or other similar governmental requirements will be the sole responsibility of Owner. It is agreed that any actions, costs, claims, losses, expenses, and/or damages resulting from design or structural faults or defects are the responsibility of Owner. If for any reason Chafee County establishes that the use of the Parking Facilities can only be continued by requiring Owner to perform an act of improvement to the property under or adjacent to the Parking Facilities that the Owner deems is unsatisfactory then Owner, at Owner's sole discretion, may terminate this agreement per guidelines outlined in section 2.2. Under this provision the Parking Facilities will no longer be operated for the purpose of parking vehicles.

8.3 Interstate agrees to develop and maintain, at Interstate's cost, a community parking system brand and website, known as "ParkSalida.com" with the features listed in Schedule C which is attached hereto, and to include the Parking Facilities within such community parking system brand and website and Owner agrees to allow Interstate to include the Parking Facilities within such marketing brand and website.

8.4 Interstate and the Owner will agree before towing any vehicle. Interstate will make the phone call to the towing company with the exception of between 6 pm and 8 am when the plowing company will make the call.

9 Gross Revenue, Cash Deposits and Disbursements and Controls

9.1 Interstate will install and maintain an accurate and efficient accounting system for Gross Revenue of the Parking Facilities. All records pertaining to Gross Revenue including, without limitation, parking tickets, monthly parking records, coupon and validation stamp sales and redemption records, cash register tapes, cashier reports, daily reports and deposit slips will be available for examination and audit to Owner and its authorized representatives upon five days written notice by Owner to Interstate.

10 Insurance

10.1 Interstate will obtain and maintain the following types of insurance in not less than the indicated amounts with companies authorized to do business in the state where the Parking Facilities is located:

- (a) Commercial General Liability
\$1,000,000 combined single limit
each occurrence and \$2,000,000
aggregate for bodily injury and
property damage.
- (b) Umbrella Excess Coverage. \$5,000,000
- (c) Crime Policy Limits \$250,000 employee dishonesty
\$20,000 broad form money inside
\$20,000 broad form money
outside
- (d) Worker's Compensation Policy Limits Coverage A – Statutory
Coverage B - \$100,000
- (e) Garage Keepers Coverage. If Interstate offers valet services in the Parking
Facilities it will carry Garage keepers Legal Liability insurance in coverage limits
of not less than \$500,000 per occurrence.
- (f) With respect to the Commercial General Liability and Umbrella Excess Coverage,
Owner shall be named as an additional insured. A copy of the endorsement shall
be forwarded to Owner.

10.2 Owner shall maintain all-perils property damage (fire and casualty) insurance coverage on the Parking Facilities in amounts to cover the replacement value of the Parking Facilities .

11 Indemnities

11.1 Interstate will defend, indemnify and hold Owner harmless from and against any and all actions, costs, claims, losses, expenses and/or damages sustained by Owner attributable to the recklessness, carelessness or negligence of Interstate or any of its agents, servants, or employees from any cause, including, without limitation by specification, property damage and/or injury or death to any person or persons.

11.2 The indemnity set out in this section will survive the expiration or earlier termination of this Agreement.

12 Security

Owner expressly acknowledges that Interstate's obligations in connection with the management, operation and promotion of the Parking Facilities and employment of persons in connection therewith, do not include the rendition of service, supervision, or furnishing of personnel in connection with the personal safety and security of employees, tenants, customers, or other persons within and about the Parking Facilities. Interstate does not have knowledge or expertise as a guard or security service, and does not employ personnel for that purpose, nor do Interstate's employees undertake the obligation to guard or protect customers against the intentional acts of

third parties. Owner will determine, at Owner's discretion, whether and to what extent any precautionary warnings, security devices, or security services may be required to protect patrons in and about the Parking Facilities.

13 Assignment

13.1 Interstate will not assign its rights or delegate its duties hereunder without the prior consent of Owner which consent may withheld in Owner's sole discretion.

14 Permits and Licenses

14.1 The Owner represents and warrants that the Parking Facilities may be used for the operation and management of the Parking Facilities. Owner will apply for and secure, in its own name, all municipal permits and licenses required for the Parking Facilities and carry out the responsibility under all such permits and licenses to the public and to the agencies having jurisdiction. Any expenses incurred by Owner in discharging its responsibilities under this Section will be borne by Owner.

15 Attorney Fees

15.1 If a party defaults in the performance of its obligations herein described, the other party may seek appropriate legal relief and in connection therewith the prevailing party will be entitled to recover, in addition to any other remedy available to it, its reasonable attorneys' fees and costs, including, but not limited to, its reasonable collection fees and costs.

16 No Hiring of Employees

16.1 Owner agrees that neither it nor any of its affiliates or subsidiaries will employ, in any capacity, any person that Interstate has employed as a Supervisor, Manager or Assistant Manager during the term of this Agreement. This provision will survive the expiration or other termination of this Agreement for a period of one year.

17 Notices

17.1 Any notice required or permitted to be given pursuant to this Agreement shall be valid only if in writing or e mail. Any person required to give notice pursuant to this Agreement shall have the burden of proving the validity of the notice. All notices or other communications made pursuant hereto shall be deemed properly delivered, given or served when (a) one day after the date such notice is sent by Federal Express or similar one-day private carrier service, or (b) faxed to the following addresses and/or facsimile numbers or e mailed to the following e mail addresses:

If to Owner:

Attn:

Telephone No.: _____

E-mail: _____

With a copy to: Nina P. Williams, City Attorney
Wilson Williams LLP
1314 Main Street, Unit 101
Louisville, CO 80027

If to Interstate:

Interstate Parking Company of Colorado LLC
Attn: Gareth James Lloyd
1610 Wynkoop Street, Suite 600
Denver, Colorado
80202
Telephone No.: 720-646-0261

Email: glloyd@interstateparking.com

With a copy to:

Interstate Parking Company of Colorado LLC
Attn: Tony Janowiec
710 N. Plankinton Avenue, Suite 700
Milwaukee, WI 53203
Telephone No.: (414) 274-2861
Facsimile No.: (414) 431-6555
Email: tjanowiec@interstateparking.com

18 Equipment

- 18.1 Owner and Interstate acknowledge and agree that Interstate has installed or will install at the Parking Facilities the technology and signage, belonging to Interstate during and after the Term of this Agreement, set forth on Schedule B with such signage and technology installed at Interstate's expense (the "Interstate Equipment").
- 18.2 Interstate shall not place, make any alterations, additions or improvements to the Premises, or install or cause to be installed any exterior signs or lighting without the prior written approval of Owner or allowed by this Agreement. Interstate shall present to Owner a site plan for the Premises and plans and specifications for such work at the time approval is sought. Interstate shall be responsible for and shall pay all costs, fees, and charges of every kind due or resulting from any alterations, additions, or improvements to the Premises, and shall indemnify and hold Landlord harmless from and against any liability or damages in connection with any such alterations, additions or improvements.

18.3 Upon termination of this Agreement, Interstate shall remove the payment technology and all signage, sign posts and equipment used in conjunction with Interstate business and any improvements installed by Interstate and, if Interstate fails or refuses to do so, Owner may remove all of such items and store them, and, if Interstate does not claim them within fifteen (15) days, dispose of such items, without any liability for loss or damage to same.

19 Modification

19.1 This Agreement will constitute the entire agreement between the parties hereto, and it may not be amended except in a written document signed by each party.

20 Severability

20.1 In the event that any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this agreement, but this Agreement will be construed as if such invalid, illegal or unenforceable provisions had never been contained herein, unless the deletion of such provision or provisions would result in such a material change so as to cause completion of the transactions contemplated herein to be unreasonable.

21 Benefits and Burdens

21.1 The terms and conditions hereof will be binding upon and will inure to the benefit of Owner, Interstate and their respective successors and assigns.

22 Independent Contractor

22.1 Interstate is an independent contractor; nothing herein will be construed to create a fiduciary relationship, partnership, joint venture or other business relationship between the parties.

23 No Agency

23.1 This Agreement does not constitute a lease, a partnership or an agency and nothing contained in this Agreement is to be construed as constituting one party the agent of the other or to limit in any manner, either party in the carrying out of its own respective business or activities.

24 Governing Law and Venue

24.1 This Agreement will be governed by and construed in accordance with the laws of the state of Colorado, and venue for any action instituted pursuant to this Agreement shall be in the County of Chaffee, State of Colorado.


IN WITNESS WHEREOF, Owner and Interstate have caused this Agreement to be executed as of the date first set forth above.

OWNER:

By: _____

INTERSTATE:

INTERSTATE PARKING COMPANY OF COLORADO LLC,

By:  _____

Name: Gareth James Lloyd, President and Operating Partner

SCHEDULE A

LIST OF OPERATING EXPENSES

- (i) Wages of personnel assigned to the Parking Facilities, supervisors, attendants, cashiers, patrollers, maintenance, clerical and audit staff including worker's compensation insurance, unemployment insurance, social security tax, and health insurance
- (ii) All costs of Interstate's license plate recognition-based enforcement system including hardware, software, licensing fees and costs of processing and collections
- (iii) Interstate's costs of its owned or rented vehicles
- (iv) Cost of development and maintenance of "ParkSalida.com" website
- (v) Ticket supply, cards and decals
- (vi) Marketing and advertising
- (vii) Postage and invoicing
- (viii) Project management, ongoing monitoring and programming of the ParkSalida app and Tap n Explore
- (ix) Uniforms
- (x) Data processing
- (xi) Accounting, including costs of internal audits, if applicable
- (xii) Bank fees
- (xiii) Employee costs including recruitment, hiring, training and background checks
- (xiv) Cost of the Interstate Equipment/Technology including maintenance, repairs and replacements as needed
- (xv) Monthly software and cellular fees for the online processing of credit cards and communicating alarms from our technology

SCHEDULE B

INTERSTATE EQUIPMENT

- Wayfinding, pricing and other parking related signage
- All related costs of installation
- All payment technology
- Kiosks
- Vehicle
- License Plate Recognition Technology

If Interstate installs additional equipment or other property owned by Interstate during the Term of this Agreement, Interstate shall notify Owner in writing and such additional property belonging to Interstate shall be added to this Schedule B.

SCHEDULE C

PARKSALIDA BRANDING AND WEBSITE FEATURES

ParkSalida branding to be included in signage, uniforms and marketing material:

Website Basic Features to Include:

- Interactive Map n Park
- Information pages including information pertaining to on and off-street public and privately owned parking
- Integrated email for online communication between customers and Interstate staff
- Customizable contact forms for residential, service and construction and monthly contract parking permit application
- Link to online violation payment website
- Integration of Survey Monkey (or comparable web-based survey program) survey forms as may be created for customer surveys by Interstate
- Capability to host compatible informational videos, notices, advertisements and presentations as may be created by Interstate
- Listing of special event parking information including event information and links to event websites, if applicable
- Designed with basic SEO maximization features
- Link or integration with online prepaid parking platforms