



CITY COUNCIL ACTION FORM

Department Parks and Recreation	Presented by Diesel Post - Parks and Recreation Director	Date September 21, 2021
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ITEM

Mountain Heritage Park (MHP) Independent Contractor Services Agreement approval

BACKGROUND

Resolution 2019-52 resolved to support the Chipeta Mountain Project (CMP) in their attempts to apply for a GOCO grant for the creation of Mountain Heritage Park at the gate on Tenderfoot Drive. GOCO awarded the City and CMP \$41,500. The City and CMP entered into an MOU whereas the City would act as the fiscal agent and CMP would ask as the project manager for the MHP project.

The original total cost of the project was \$60,000. The CMP raised funds to offset the remaining need after the GOCO grant to fully fund the project. City staff worked with CMP to request fencing and Porta-Potty screens become a part of the scope of the project to be paid for by the City at an estimated cost of \$10,000.

CMP then received an additional \$18,850 in donations to increase the project total to \$78,850.

CMP solicited bids from contractors for the site work and pavilion fabrication for the project which is to be paid for by GOCO funds, therefore managed by the City.

FISCAL NOTE

Chipeta Mountain Project received 2 bids for the metal and dirt work for Mountain Heritage Park

- | | |
|---|----------|
| 1. H & T Construction and JC Ironworks LLC. | \$35,870 |
| 2. Shavano Sign and Fixtures | \$50,900 |

Bid Alternates received at the request of City staff –	
Porta Potty Screens	\$7,059.65
Fence	\$9,746.72



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CASH	Use of Funds	Number of Units	Cost Per Unit	GOCO Funds	Applicant Funds	Partner Funds	Total Funding (\$)
SITE WORK							
<i>H&T Construction, LLC</i>	Park Site Work: grubbing, leveling, pathway and fill for final grade	1.00	9,500.00	9,500.00			\$9,500.00
PEAK VIEW PAVILIONS							
<i>H&T Construction, LLC</i>	Pavilion holes and concrete	6.00	600.00	3,600.00			\$3,600.00
<i>JC Ironworks, LLC</i>	Fabrication and installation of pavilions	3.00	4,341.05	13,023.15			\$13,023.15
<i>Structural Support, LLC</i>	Engineering Review/Stamping of Pavilion design	1.00	5,000.00			5,000.00	\$5,000.00
<i>Contingency (15 percent)</i>	Pavilion contingency (metal price increases)	1.00	2,493.47	2,493.47			\$2,493.47
WELCOME AND INTERPRETIVE SIGNAGE							
<i>Salida High School</i>	Student art work for panels	3.00	150.00			450.00	\$450.00
<i>Peter Anderson</i>	Welcome and interpretive panel text editing	24.00	50.00			1,200.00	\$1,200.00
<i>LD Haynes Design</i>	Ute Heritage Panel design	1.00	2,500.00			2,500.00	\$2,500.00
<i>LD Haynes Design</i>	Sangre, Sawatch and Welcome Panel design	3.00	1,333.00			3,999.00	\$3,999.00
<i>LD Haynes Design</i>	Panel image acquisitions	1.00	901.00			901.00	\$901.00
<i>Jon MacManus</i>	Local art work acquisition	4.00	300.00			1,200.00	\$1,200.00
<i>Chipeta Mountain Project Volunteers</i>	Welcome sign installation	1.00	500.00			500.00	\$500.00
<i>Envirosigns</i>	Exhibit frames	3.00	790.86	2,372.58			\$2,372.58



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<i>Envirosigns</i>	Welcome sign exhibit base and frame	1.00	888.00	888.00			\$888.00
<i>Envirosigns</i>	Welcome sign panel fabrication	1.00	438.00	438.00			\$438.00
<i>Envirosigns</i>	Display panel fabrication	3.00	580.00	1,740.00			\$1,740.00
<i>Envirosigns</i>	Shipping Panel, Frames and Bases	1.00	1,314.00	1,314.00			\$1,314.00
<i>Contingency (15 percent)</i>	Fabrication contingency (metal price increases)	1.00	815.80	815.80			\$815.80
LANDSCAPING AND BENCHES							
<i>Brady's West Garden Center</i>	Native plants and materials	40.00	25.00			1,000.00	\$1,000.00
<i>Chipeta Mountain Project Volunteers</i>	Bench installation	2.00	250.00			500.00	\$500.00
<i>Pannier</i>	Interpretive plant identifier signs	12.00	128.25	1,539.00			\$1,539.00
<i>Envirosigns</i>	Whale 6' flat bench	2.00	388.00	776.00			\$776.00
OFF-SITE IMPROVEMENTS							
<i>H&T Construction, LLC</i>	Parking lot rail fence holes and concrete	1.00	3,600.00		3,600.00		\$3,600.00
<i>JC Ironworks, LLC</i>	Parking lot rail fence labor and materials	1.00	6,146.72		6,146.72		\$6,146.72
<i>H&T Construction, LLC</i>	Porta-potty screening excavation	1.00	3,500.00		253.28		\$253.28
<i>JC Ironworks, LLC</i>	Porta-potty screening labor and materials	1.00	3,890.96		-		\$0.00
GRANT ADMINISTRATION	Grant Administration Fee to CMP	120.00	25.00	3,000.00			\$3,000.00
USE OF FUNDS - CASH SUBTOTAL				\$41,500.00	\$10,000.00	\$17,250.00	\$68,750.00



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IN-KIND	Use of Funds	No. of Units / Hours / Acres	Cost Per Unit / Hour / Acre	GOCO Funds	Applicant Funds	Partner Funds	Total Funding (\$)
Professional Services							\$0.00
Green Edge Design	Site Design (50 percent of value)	40.00	75.00			3,000.00	\$3,000.00
	USE OF FUNDS - IN-KIND SUBTOTAL			\$0.00	\$0.00	\$3,000.00	\$3,000.00
	<i>Contingency 10% (not required, cannot be GOCO funds)</i>				\$0	\$7,100	\$7,100
	TOTAL PROJECT COST			\$41,500.00	\$10,000.00	\$27,350.00	\$78,850.00

STAFF RECOMMENDATION

Staff recommends entering into a contract with H&T Construction for \$16,700 and JC Ironworks LLC. for \$19,169.86 for completion of the dirt and metal work, as well as the addition of a metal fence (eliminating the Porta-Potty screens), for the Mountain Heritage Park project.

SUGGESTED MOTION

A Council member should move to approve the Consent agenda.

INDEPENDENT CONTRACTOR SERVICES AGREEMENT

THIS AGREEMENT FOR INDEPENDENT CONTRACTOR SERVICES (“Agreement”) is made and entered into this 21 day of September, 2021 by and between the CITY OF SALIDA, COLORADO, a Colorado municipal corporation (“City”), and H&T Construction LLC (“Contractor”).

WHEREAS, the City desires that Contractor perform the Services of [Excavation for pavilions and fence for Mountain Heritage Park] as an independent contractor, in accordance with the provisions of this Agreement, and more fully described in **Section 1** of this Agreement; and

WHEREAS, Contractor desires to perform such duties pursuant to the terms and conditions provided for in this Agreement; and

WHEREAS, the parties hereto desire to set forth certain understandings regarding the services in writing.

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

1. Services. The City agrees to retain Contractor to provide the services set forth herein, further specified as [Excavation for pavilions and fence for Mountain Heritage Park] (“Services”), and Contractor agrees to so serve. Contractor warrants and represents that it has the requisite authority, capacity, experience, and expertise to perform the Services in compliance with the provisions of this Agreement and all applicable laws and agrees to perform the Services on the terms and conditions set forth herein.

2. Consideration. The City agrees to compensate Contractor, in the following amount/rate [\$16,700]. The City shall make payment within thirty (30) days of receipt and approval of invoices submitted by Contractor, which invoices shall be submitted to the City not more frequently than monthly and which shall identify the specific Services performed for which payment is requested.

3. Term. The Term of this Agreement shall be effective as of the date of its execution by both parties, as dated above until the Agreement is terminated pursuant to Section 8 of this Agreement; provided, however, that to the extent that the term of this Agreement exceeds one fiscal year, the obligations described herein shall be subject to annual appropriation by the City Council, at its sole discretion.

4. Outside Support Services and Sub-Contractor. Any sub-contractors shall be pre-approved by the City. A rate sheet for each sub-contractor shall be provided to the City.

5. Independent Contractor. The parties agree that the Contractor is an independent contractor and shall not be considered an employee, agent, or servant of the City for any purpose. Contractor is not entitled to workers' compensation benefits from the City and is obligated to pay federal and state income tax on any money earned pursuant to this Agreement. The parties further agree and understand that as an independent contractor, Contractor does not receive the protections of the Colorado Government Immunity Act, that the Contractor is responsible for their own liability insurance, and that the City's insurance coverage does not extend to independent contractors or to the Contractor.

6. Insurance Requirements. Contractor shall procure and keep in force during the duration of this Agreement a policy of comprehensive general liability insurance insuring Contractor and naming the City as an additional insured against any liability for personal injury, bodily injury, damages to property, or death arising out of the performance of the Services with at least One Million Dollars (\$1,000,000) each occurrence. The limits of said insurance shall not, however, limit the liability of Contractor hereunder.

7. Indemnification. Contractor hereby covenants and agrees to indemnify, save, and hold harmless the City, its officers, employees, and agents from any and all liability, loss, costs, charges, obligations, expenses, attorney's fees, litigation, judgments, damages, claims, and demands of any kind whatsoever arising from or out of any negligent act or error and omission or other tortious conduct of Contractor, its officers, subcontractors, employees, or agents in the performance or nonperformance of its obligations under this Agreement.

8. Termination. The City or the Contractor may terminate this Agreement at any time by providing a minimum thirty (30) calendar days' written notice to the other party. If the parties have mutually determined that the work has become infeasible, the parties agree to terminate the Agreement in accordance with this Section. In the event this Agreement is terminated, the Contractor shall be compensated for all work performed to date based on estimate percentage of completion, including the percentage of any and all work items begun but not completed.

9. Entire Agreement. This Agreement, along with any addendums and attachments hereto, constitutes the entire agreement between the parties. The provisions of this Agreement may be amended at any time by the mutual consent of both parties. The parties shall not be bound by any other agreements, either written or oral, except as set forth in this Agreement.

10. Governing Law and Venue. This Agreement shall be governed by 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.

11. Authority. Each person signing this Agreement, and any addendums or attachments hereto, represents and warrants that said person is fully authorized to enter into and execute this Agreement and to bind the party it represents to the terms and conditions hereof.

12. Governmental Immunity Act. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*

13. Assignability. Contractor shall not assign this Agreement without the City's prior written consent.

14. Binding Effect. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, personal representatives, successors, and assigns.

15. Survival Clause. The "Indemnification" provision set forth in this Agreement shall survive the completion of the Services and the satisfaction, expiration, or termination of this Agreement.

17. Severability. In the event a court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

17. Notices. Any written notices required to be given under this Agreement shall be delivered as follows:

To the City:

City Administrator

City of Salida
448 E. 1st Street, Suite 112
Salida, CO 81201
(719) 530-2629

Copy to:

Salida City Attorney Nina P. Williams
c/o Wilson Williams LLP
15306 W 93rd Avenue
Arvada, CO 80007

To the Contractor:

[H&T Construction LLC
11845 C.R 140
Salida Co 81201]

18. Authority. Each person signing this Agreement, and any addendums or attachments hereto, represents and warrants that said person is fully authorized to enter into and execute this Agreement and to bind the party it represents to the terms and conditions hereof.

19. Attorneys' Fees. Should this Agreement become the subject of litigation between the City and Contractor, the prevailing party shall be entitled to recovery of all actual costs in connection therewith, including but not limited to attorneys' fees and expert witness fees. All rights concerning remedies and/or attorneys' fees shall survive any termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CITY OF SALIDA, COLORADO

By: _____
City Administrator

ATTEST:

City Clerk/Deputy City Clerk

CONTRACTOR:

By: _____
[Name]
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF CHAFFEE)

The foregoing Independent Contractor Services Agreement was acknowledged before me this ____ day of _____, 2021 by _____.

Witness my hand and official seal.

My commission expires _____.

Notary Public

Addendum A

Contractor will:

- use a Brush hog to clear grass and weeds from spectator and runner areas

INDEPENDENT CONTRACTOR SERVICES AGREEMENT

THIS AGREEMENT FOR INDEPENDENT CONTRACTOR SERVICES (“Agreement”) is made and entered into this 21 day of September, 2021 by and between the CITY OF SALIDA, COLORADO, a Colorado municipal corporation (“City”), and JC Ironworks_LLC (“Contractor”).

WHEREAS, the City desires that Contractor perform the Services of [Mountain Heritage Park metal work] as an independent contractor, in accordance with the provisions of this Agreement, and more fully described in **Section 1** of this Agreement; and

WHEREAS, Contractor desires to perform such duties pursuant to the terms and conditions provided for in this Agreement; and

WHEREAS, the parties hereto desire to set forth certain understandings regarding the services in writing.

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

1. Services. The City agrees to retain Contractor to provide the services set forth herein, further specified as [Pavilion, sign and fence fabrication and installation] (“Services”), and Contractor agrees to so serve. Contractor warrants and represents that it has the requisite authority, capacity, experience, and expertise to perform the Services in compliance with the provisions of this Agreement and all applicable laws and agrees to perform the Services on the terms and conditions set forth herein.

2. Consideration. The City agrees to compensate Contractor, in the following amount/rate [\$19,169.86], The City shall make payment within thirty (30) days of receipt and approval of invoices submitted by Contractor, which invoices shall be submitted to the City not more frequently than monthly and which shall identify the specific Services performed for which payment is requested.

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City Administrator

City of Salida
448 E. 1st Street, Suite 112
Salida, CO 81201
(719) 530-2629

Copy to:

Salida City Attorney Nina P. Williams
c/o Wilson Williams LLP
15306 W 93rd Avenue
Arvada, CO 80007

To the Contractor:

[JC Ironworks LLC
P.O. Box 614
Poncha Springs, CO 81242

]

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CITY OF SALIDA, COLORADO

By: _____
City Administrator

ATTEST:

City Clerk/Deputy City Clerk

CONTRACTOR:

By: _____
[Name]
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF CHAFFEE)

The foregoing Independent Contractor Services Agreement was acknowledged before me this ___ day of _____, 2021 by _____
_____.

Witness my hand and official seal.

My commission expires _____.

Notary Public

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Contractor will:

- use a Brush hog to clear grass and weeds from spectator and runner areas