

**RESOLUTION NO. 06**  
**(Series 2017)**

**A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO APPROVING AN AGREEMENT FOR PROFESSIONAL SERVICES WITH STEVEN G. RABE TO FULFILL THE FUNCTION OF INTERIM CITY ADMINISTRATOR**

**WHEREAS**, in accordance with Section 2-3-10 of the Salida Municipal Code, the City Council appointed Steven G. Rabe as Interim City Administrator for the City of Salida, Colorado; and

**WHEREAS**, the City Council solicited candidates for City Administrator and has selected the individual they feel is best qualified to fulfill the function of City Administrator; and

**WHEREAS**, the City Council wishes to extend the Interim City Administrator's contract and appointment until the newly appointed City Administrator can assume the position; and

**WHEREAS**, the City Council desires to enter into an Agreement for Professional Services with Steven G. Rabe to fulfill the function of Interim City Administrator for the City of Salida.

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

1. The aforementioned recitals are hereby fully incorporated herein.
2. Approving the Mayor to execute an Agreement for Professional Services with Steven G. Rabe.

**RESOLVED, APPROVED, AND ADOPTED this 7<sup>th</sup> day of February, 2017.**



CITY OF SALIDA

By: James LiVecchi  
James LiVecchi, Mayor

ATTEST:

By: Betty Schwidger  
City Clerk/Deputy City Clerk

## AGREEMENT FOR PROFESSIONAL SERVICES

This AGREEMENT FOR PROFESSIONAL SERVICES is made this 7<sup>th</sup> day of February 2017 between the CITY OF SALIDA, a Colorado municipal corporation ("City"), and Steven G. Rabe ("Contractor").

WHEREAS, the City desires that Contractor continue to perform certain administrative services as an independent contractor, in accordance with the provisions of this Agreement, and more fully described in Exhibit A; and

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

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

In consideration of the mutual covenants and agreements contained in this Agreement, the parties agree as follows:

1. Scope of Agreement. Contractor agrees to provide administrative services for the City of Salida under the terms of this Agreement and Exhibit A. 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.

2. Consideration. The City agrees to compensate the Contractor for all fees and expenses, in accordance with the Fee Schedule detailed in Exhibit B, hereby incorporated by reference. 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 bi-weekly and which shall identify the specific Services performed for which payment is requested.

3. Term and Renewal. This Agreement shall commence on or before January 18, 2017 and extend month-to-month for a period of up to six (6) months. A six (6) month extension may be granted by mutual, written consent of both parties. This Agreement may also be terminated pursuant to Section 10 of this Agreement; provided, however, that to the extent that the term of this Agreement exceeds one (1) fiscal year, the obligations described herein shall be subject to annual appropriation by the City Council, in its sole discretion.

4. Status. It is expressly agreed and understood by and between the parties that Contractor is an independent contractor, and as such, Contractor is not a City employee and is not entitled to payment or compensation from the City or to any fringe benefits to which other City employees are entitled other than as set forth herein. As an independent contractor, Contractor further acknowledges that he is solely responsible for the payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Agreement. As an independent contractor, Contractor will not make any claim, demand of application to or for any right or privilege applicable to any officer or employee of the City, including but not limited to worker's compensation coverage, unemployment insurance benefits, social security coverage or retirement.

5. Outside Support Services and Sub-Contractor. Contractor shall not assign, or otherwise retain, any sub-Contractors on behalf of the City without prior written consent from the City. A rate sheet for all such sub-Contractors shall be provided to the City.

6. Ownership of Instruments of Service. With the exception of personal work product or as otherwise excepted under the applicable professional rules, the Contractor's work product prepared under this Agreement, including electronic files, is the property of the City irrespective of any independent records maintained by the City.

7. Standard of Care. The standard of care applicable to the Contractor's services will be the same degree of care, skill, and diligence normally employed by professionals performing the same or similar services. No other warranty, express or implied, is included in this Agreement or in any opinion produced pursuant to this Agreement. The Contractor does not guaranty that the documents and products are without error; however, the Contractor will re-perform any services not meeting this standard without additional compensation.

8. Indemnity, Insurance and Governmental Immunity Act. In addition to those payments set forth above, the City will be responsible to provide and pay for all appropriate bonding and liability coverage for actions taken by Contractor when performed within the scope of his services as Interim City Administrator. The City will cause that said Contractor be included within the scope of coverage for the City's liability coverage and shall provide confirmation reflecting said coverage and status from the City's insurer to Contractor.

Further, the City agrees to pay all reasonable litigation expenses of Contractor throughout the pendency of any litigation to which Contractor is a party, witness or advisor to the City. Such expense payments shall continue beyond Contractor's service to the City as long as litigation is pending. Further, the City agrees to pay Contractor reasonable consulting fees and travel expenses when Contractor serves as a witness, advisor or consultant to City regarding pending litigation.

9. Work By Illegal Aliens Prohibited. Pursuant to Section 8-17.5-101, C.R.S., *et. seq.*, Contractor warrants, represents, acknowledges, and agrees that:

A. Contractor does not knowingly employ or contract with an illegal alien.

B. Contractor shall not knowingly employ or contract with an illegal alien to perform work or enter into a contract with a sub-Contractor that fails to verify to Contractor that the sub-Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

C. Contractor has participated in or attempted to participate in or is exempt from the basic pilot employment verification program created in Public Law 208, 104<sup>th</sup> Congress, as amended, and expanded in Public Law 156, 108<sup>th</sup> Congress, as amended, administered by the Department of Homeland Security (hereinafter, "E-Verify") in order to verify that Contractor does not employ illegal aliens. If Contractor is not accepted into E-Verify prior to entering into this Agreement but intends on having employees who could be subject to

E-Verify, Contractor shall forthwith apply to participate in E-Verify and shall submit to the District written verification of such application within five (5) days of the date of the application. If Contractor intends on having employees who could be subject to E-Verify then Contractor shall continue to apply to participate in E-Verify, and shall certify such application to the City in writing, every three (3) months until Contractor is accepted or this Agreement is completed, whichever occurs first. This paragraph shall be null and void if E-Verify is discontinued.

D. Contractor shall not use E-Verify procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

E. If Contractor obtains actual knowledge that a sub-Contractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall be required to:

(a) notify the sub-Contractor and the District within three (3) days that Contractor has actual knowledge that the sub-Contractor is employing or contracting with an illegal alien; and

(b) terminate the subcontract with the sub-Contractor if within three (3) days of receiving the notice required pursuant to this subparagraph the sub-Contractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the sub-Contractor if during such three (3) days the sub-Contractor provides information to establish that the sub-Contractor has not knowingly employed or contracted with an illegal alien.

F. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment (“Department”) made in the course of an investigation that the Department is undertaking pursuant to the authority established in subsection 8-17.5-102(5), C.R.S.

G. If Contractor violates this paragraph, the City may terminate this Agreement for breach of contract. If this Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the City arising out of said violation.

H. Contractor has provided an Affidavit pursuant to C.R.S. Section 24-76.5-103 regarding lawful presence in the United States, attached as Exhibit C.

10. Termination. This Agreement may be terminated by either party with or without cause upon thirty (30) days written notice. If the parties have mutually determined that the work has become infeasible, the parties agree to terminate the Agreement in accordance with this Section.

11. Agreement Administration and Notice. For purposes of administering this Agreement, the Mayor will represent the City in carrying out the purposes and intent of this

Agreement. Any notices required to be given pursuant to this Agreement shall be delivered as follows:

To the City: Mayor Jim LiVecchi  
City of Salida  
448 E. 1<sup>st</sup> Street, Suite 112  
Salida, CO 81201

To the Contractor: Steven G. Rabe  
700 Ridgewood Road  
Cañon City, CO 81212

12. Responsibilities. The Contractor shall be responsible for all damages to persons or property caused by the Contractor, its agents, employees or sub-Contractors, to the extent caused by its negligent acts, errors and omissions hereunder, and shall indemnify and hold harmless the City from any claims or actions brought against Contractor by reason thereof.

13. 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.


14. Governing Law. The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Venue for any action instituted pursuant to this agreement shall lie in Chaffee County, Colorado.

15. 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.

16. 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 hereto have hereunto set their hands this 7<sup>th</sup> day of February, 2017.

CITY OF SALIDA, COLORADO

By:   
James LiVecchi, Mayor

ATTEST:

Betty Schwelger  
City Clerk/Deputy City Clerk



CONTRACTOR

By: Steven G. Rabe  
Steven G. Rabe

**EXHIBIT A**  
**SCOPE OF SERVICES**

Contractor shall perform, but not be limited to, the following:

- A. Day-to-day operation and management duties in accordance with the "Scope of Work for the City Administrator of Salida, Colorado" as adopted by City Council on May 17, 2016 until February 20, 2017;
- B. An "on-site" work schedule as determined by either the Mayor or City Administrator;
- C. Telephone/email availability to the Mayor, City Council, and key employees;
- D. Special projects, duties and assignments, as approved by a majority of City Council; and
- E. Administrative services as determined by either the Mayor or City Administrator;

**EXHIBIT B  
SCHEDULE OF RATES AND EXPENSES**

<b>CLASSIFICATION</b>	<b>HOURLY RATE</b>
On-site or other locations designated for City business	\$50.00
Off-site	\$50.00
Travel time	\$20.00
<b>OTHER BILLABLE EXPENSES</b>	<b>RATE</b>
Sub-Contractors and expenses	Cost plus 5%
Vehicle Mileage	\$0.54 per mile
Travel Expenses (i.e. hotels, meals, etc.)	Cost



**INDEPENDENT CONTRACTOR INSURANCE STATUS**

*Must be completed for Workman's Compensation Waiver*

The undersigned performs contractual work for the City of Salida, Colorado (herein referred to as the owner) as an "independent contractor" and claims to be exempt from Worker's Compensation Insurance coverage by virtue of meeting the following provisions of CRS 8-41-401, as may be amended:

1. I own the assets of a business, company or service known as Steven G. Rabe located at 700 Ridgewood Road, Cañon City, CO 81212.
2. I manage and control such business, company and service.
3. I have ultimate responsibility for all decisions affecting such business, company or service.
4. I am subject to realize any profit or loss from such business, company or service as evidenced by my being required to file a Tax Schedule C, or Schedules A and L (Form 1065) of the Partnership Tax Return with the Federal Internal Revenue Service annually.

Because I am exempt, I understand that if I am injured while performing contractual work for the owner, I will not be covered for such injury under the owner's insurance policy unless I have been previously notified by the owner. I further understand that I am still required to provide worker's compensation insurance for all of my employees.

Having read and understood the above provisions, I certify under the penalty of perjury that I meet all of the above requirements and am thereby exempt from the Workman's Compensation Act.

\_\_\_\_\_  
Steven G. Rabe  
Name of Business

\_\_\_\_\_  
Owner  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
SS# or Federal Tax ID#

**EXHIBIT C**  
AFFIDAVIT PURSUANT TO C.R.S. 24-76.5-103

I, Steven G. Rabe, swear or affirm under penalty of perjury under the laws of the State of Colorado that (check one):

- I am a United States citizen, or
- I am a Permanent Resident of the United States, or
- I am lawfully present in the United States pursuant to Federal law.

I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under Colorado Revised Statute 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**INTERNAL USE ONLY      Valid forms of identification**

- current Colorado driver's license, minor driver's license, probationary driver's license, commercial driver's license, restricted driver's license, instruction permit
- current Colorado identification card
- U.S. military card or dependent identification card
- U.S. coast guard merchant mariner card
- Native American tribal document

The following forms of identification may be accepted through February 28, 2007\*

- original birth certificate from any state of the United States
- certificate verifying naturalized status by U.S. with photo and raised seal
- certificate verifying U.S. citizenship by U.S. government, e.g., U.S. passport
- order of adoption by a U.S. court with seal of certification
- valid driver's license from any state of the U.S. or the Dist. of Columbia excluding AK, HI, IL, MD, MI, NE, NM, NC, OR, TN, TX, UT, VT and WI
- valid immigration documents demonstrating lawful presence, e.g., current foreign passport with current I-551 stamp or visa, current foreign passport with I-94, I-94 with asylum status, unexpired Resident Alien card, Permanent Resident card or Employment Authorization card

\*A waiver may be available where no identification exists or can be obtained due to a medical condition, homelessness, or insufficient documentation to receive a Colorado I.D. or driver's license. Contact your department director.