MANITOU SPRINGS CITY COUNCIL
REGULAR MEETING AGENDA

City Council meetings are held in hybrid form by Zoom (remote) or in-person at Memorial Hall.
Memorial Hall
606 Manitou Avenue
Manitou Springs, CO 80829
Remote: www.manitouspringsgov.com; click on meeting link under "Government; City Council" page

Position	Name	Term Expires
Mayor	John G. Graham	January 2, 2026
At-Large	Judith Chandler	January 2, 2028
At-Large	John Shada	January 2, 2028
At-Large	Julie Wolfe	January 2, 2028
Ward 1	Mayor Pro Tem Natalie Johnson	January 6, 2026
Ward 2	Nancy Fortuin	January 6, 2026
Ward 3	Michelle Whetherhult	January 6, 2026

February 4, 2025 **6:00 PM**

THE CITY COUNCIL MAY TAKE ACTION ON ANY OF THE FOLLOWING AGENDA ITEMS AS PRESENTED OR MODIFIED PRIOR TO OR DURING THE MEETING, AND ITEMS NECESSARY TO EFFECTUATE THE AGENDA ITEMS

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

D. APPROVAL OF AGENDA

E. PUBLIC COMMENT ON NON-AGENDA ITEMS

F. CONSENT CALENDAR

1. January 21, 2025 City Council Regular Meeting Minutes

2. January 28, 2025 City Council Special Meeting Minutes

G. BUSINESS

1. First Reading of Ordinance No. 0125, An Ordinance Approving a Lease Purchase Agreement with Clayton Holdings, LLC

2. Mobility & Parking Enterprise Loan Amounts and Project Costs

H. RECEIVE OR ACT ON COUNCIL CORRESPONDENCE

I. CITY ADMINISTRATOR REPORT

J. EXECUTIVE SESSION

1. An Executive Session to hold a conference with the City Attorney for legal advice pursuant to Section 5.1(c) of the Manitou Springs Municipal Charter. This executive session concerns the Manitou Springs Metropolitan District Election.

2. An Executive Session to discuss a Personnel Matter regarding an employee, pursuant to 5.1(a) of the Manitou Springs Municipal Charter. This executive session concerns the annual performance review of the City Administrator.

ADJOURN

The City of Manitou Springs does not discriminate on the basis of disability in the admission to, access to, or operations of programs, services or activities. Reasonable accommodation will be provided to ensure equal access to all. Individuals who would like to request auxiliary aids or services should contact the ADA Coordinator at (719) 685-5481 or jfryer@manitouspringsco.gov. You may also contact the City Clerk's Office at cityclerk@manitouspringsco.gov or (719) 685-2554. Please provide a minimum of 3-5 days advance notice.

Memorandum

Title: January 21, 2025 City Council Regular Meeting Minutes
From: City Clerk's Office
To: Mayor and City Council
CC: City Administrator Denise Howell
Allocated Time: 5 Minutes

February 4, 2025

Purpose:

To review and approve the meeting minutes from the January 21, 2025, City Council meeting.

Background:

The City Council met in a regular session on January 21, 2025.

Pros and Cons:

N/A

Fiscal Impact:

None.

Workload Impact:

Approximately two hours of staff time to attend the meeting and to prepare and review the minutes.

Recommended Action:

Approve the January 21, 2025, City Council regular meeting minutes through the approval of the consent calendar.

CITY OF MANITOU SPRINGS
CITY COUNCIL

Regular Meeting Minutes
606 Manitou Avenue
January 21, 2025

The City Council of Manitou Springs met in Regular Session on Tuesday, January 21, 2025, at 606 Manitou Avenue, in the City of Manitou Springs, County of El Paso, and State of Colorado.

COUNCIL MEMBERS PRESENT FOR ROLL CALL:

Mayor John Graham
Mayor Pro Tem Natalie Johnson
Councilor Judith Chandler
Councilor John Shada
Councilor Julie Wolfe
Councilor Nancy Fortuin
Councilor Michelle Whetherhult

A. CALL TO ORDER

Mayor Graham called the meeting to order at 6:01 PM.

B. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

C. ROLL CALL

All members of the City Council were present for the roll call.

D. APPROVAL OF AGENDA

Mayor Pro Tem Johnson moved to approve the agenda as presented. The motion was seconded by Councilor Fortuin. The motion carried unanimously (7-0).

E. PUBLIC COMMENT ON NON-AGENDA ITEMS

Peggy Dlugas, 18 Kreg Lane, expressed concern about fire mitigation. She requested more communication regarding fire evacuation plans to create better awareness and preparedness in the community.

Mayor Graham announced that the Manitou Springs Kiwanis Club will have a presentation on fire safety and fire hazards, presented by Lieutenant Mike Willie from the Manitou Springs Fire Department on February 3, 2025, at 7:00 PM, at the Community Congregational Church.

Ila Quinn, 257 Pilot Knob Avenue, expressed concern about road safety. She requested a traffic plan related to anticipated changes in traffic with the upcoming Ruxton Avenue Project. She stated that the new parking system, which requires her to go online to allow visitors to park in her neighborhood, does not work for her. She requested that the city bring back the parking passes.

Linda Morland, 37 Minnehaha Avenue, shared concerns about speeding in her neighborhood. She stated that the contractor vehicles and city vehicles on the road have increased hazardous conditions. She requested that the city monitor Minnehaha Avenue daily. Ms. Morland echoed Ms. Quinn's concerns about online processes, specifically relating to parking.

Mike Essam, 372 Pilot Knob Avenue, stated that he has major concerns about the residential parking permit (RPP) program going completely online. He stated that he believes it is discriminatory, a violation of privacy and a burden, under penalty of a ticket if he doesn't comply. He added that he attempted to go to the parking department earlier in the day to be entered into the system, but they were closed.

F. CONSENT CALENDAR

1. Presentation of Warrants

2. January 7, 2025 City Council Regular Meeting Minutes

3. Consider Reappointing Colin McAllister to the Parks and Recreation Advisory Board

4. Consider Reappointing Jan Johnson to the Parks and Recreation Advisory Board

5. Requesting Approval of a Professional Services Agreement for Design Services with Rocksol Consulting Group Inc. for Emergency Repairs on Lover's Lane

Note for the Record – This item was pulled from the consent calendar as requested by Mayor Graham.

6. Requesting Approval of a General Services Agreement with Thorcon Shotcrete and Shoring LLC for Emergency Repair Construction on Lover's Lane

Note for the Record – This item was pulled from the consent calendar as requested by Mayor Graham.

Councilor Wolfe moved to approve the consent calendar as amended. The motion was seconded by Mayor Pro Tem Johnson. The motion carried unanimously (7-0).

F5. Requesting Approval of a Professional Services Agreement for Design Services with Rocksol Consulting Group Inc. for Emergency Repairs on Lover's Lane

F6. Requesting Approval of a General Services Agreement with Thorcon Shotcrete and Shoring LLC for Emergency Repair Construction on Lover's Lane

Mayor Graham stated that the prices proposed in the contracts seemed high and that he didn't know if it was because the work was for emergency repairs.

City Engineer Andrew Morren referred to a quote obtained for Sandra Lane for comparison and stated that he finds the price from Rocksol Consulting Group to be fair. City Engineer Morren shared that three different contractors were considered for the construction and that he believes the Thorcon Shotcrete and Shoring LLC price is fair as well.

Councilor Fortuin moved to approve items F5 and F6. The motion was seconded by Councilor Chandler. The motion was carried unanimously (7-0).

PRESENTATION

1. Proclamation No. 0125, A Proclamation to Support the Infectious Generosity Movement

Ken Jaray, 304 Michigan Avenue, explained the Infectious Generosity Movement. He added that a new "Beacon of Generosity" award would be presented at The Mani Awards on March 19, 2025.

Councilor Fortuin read Proclamation No. 0125 into the record declaring the City Council's support for the infectious generosity movement.

G. BUSINESS

1. Consider Appointing Nathan Nassif to the Housing Advisory Board

Alison Gerbig, Housing Advisory Board (HAB) Chair, shared that Mr. Nassif has attended a couple HAB meetings and that she is excited for him to join the board.

Mr. Nassif expressed interest in housing and a desire to serve the community. He shared his personal experience with housing impacted through local government.

Councilor Fortuin moved to approve appointing Nathan Nassif to the Housing Advisory Board. The motion was seconded by Councilor Chandler. The motion was carried unanimously (7-0).

2. Consideration of Resolution No. 0325, A Resolution of the City of Manitou Springs, Colorado, Adopting an Amended Employee Handbook

Kelly Padilla, Human Resources Director, presented the employee handbook and noted the change to the Administrative Vacation, which will require new employees to be with the city for 90 days prior to using the additional 40 hours of vacation.

There was a general discussion about the Day after Thanksgiving Day Holiday and the total number of hours of time off that the city offers for exempt and non-exempt personnel.

Mayor Pro Tem Johnson moved to approve Resolution No. 0325, A Resolution of the City of Manitou Springs, Colorado, Adopting an Amended Employee Handbook. The motion was seconded by Councilor Fortuin. The motion was carried unanimously (7-0).

H. RECEIVE OR ACT ON COUNCIL CORRESPONDENCE

Councilor Wolfe shared that she has received complaints regarding the RPP program, including the inability to report cars that are parked on the street illegally and the inconvenience of allowing guests and service providers to park on the street through the online system. She suggested returning to the old system.

Councilor Chandler added that she received many phone calls about the RPP program as well. She expressed frustration with the fact that the City Council was not involved in the decision to transition the program to an online platform and concern that the Parking Department was closed due to cold weather.

Mayor Graham echoed concerns about the RPP program and agreed that bringing back hang tags for the RPP program would be best. He suggested giving grace and not penalizing residents who haven't had the opportunity to transition to the online platform. Mayor Graham announced that the Council will be joining the City Planning Commission on February 12, 2025 for a joint work session and that the Council will have retreat on February 22, 2025.

I. CITY ADMINISTRATOR REPORT

City Administrator Denise Howell reported on the following items:

- Plan Manitou meeting in Memorial Hall on January 22, 2025 from 6:00 PM to 8:00 PM.
- The Fruitcake Toss is postponed due to the weather.
- The RFP for the Dillon Mobility Hub Restrooms will be posted on January 24, 2025.

J. EXECUTIVE SESSION

1. An Executive Session for the purposes of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators, pursuant to Section 5.1(d) of the Manitou Springs Municipal Charter, regarding the COG Railway and the reimbursement payments set forth in the Tax Incentive Program Agreement dated November 20, 2018.

2. An Executive Session for the purposes of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators, pursuant to Section 5.1(d) of the Manitou Springs Municipal Charter, regarding the Intergovernmental Agreement with the City of Colorado Springs concerning the Incline.

3. An Executive Session to hold conference with the City Attorney for legal advice pursuant to Section 5.1(c) of the Manitou Springs Municipal Charter and for the purposes of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators, pursuant to Section 5.1(d) of the Manitou Springs Municipal Charter, concerning the Manitou Springs Metropolitan District's parking lots and restroom facilities.

4. An Executive Session to discuss a Personnel Matter regarding an employee, pursuant to 5.1(a) of the Manitou Springs Municipal Charter. This executive session concerns the annual performance review of the City Administrator.

Mayor Graham read the purpose of the Executive Session into the record at 6:51 PM.

Mayor Pro Tem Johnson moved to enter the Executive Session for the stated purpose. The motion was seconded by Councilor Fortuin. The motion was carried unanimously (7-0).

The City Council moved back to Regular Session at 10:21 PM. Mayor Graham confirmed the Executive Session was held solely for the stated purpose and that no formal decision was made.

K. ADJORN

With no other items to discuss, Councilor Chandler moved to adjourn the meeting. The motion was seconded by Councilor Whetherhult. The motion was carried (7-0).
The meeting adjourned at 10:22 PM.

Attest:

John Graham, Mayor

Elena Krebs, City Clerk

Memorandum

Title: January 28, 2025 City Council Special Meeting Minutes
From: City Clerk's Office
To: Mayor and City Council
CC: City Administrator Denise Howell
Allocated Time: 5 Minutes

February 4, 2025

Purpose:
To review and approve the meeting minutes from the January 28, 2025, City Council meeting.

Background:
The City Council met in a special meeting on January 28, 2025.

Pros and Cons:
N/A

Fiscal Impact:
None.

Workload Impact:
Approximately two hours of staff time to attend the meeting and prepare and review the minutes.

Recommended Action:
Approve the January 28, 2025, City Council special meeting minutes through the approval of the consent calendar.

CITY OF MANITOU SPRINGS
CITY COUNCIL

Special Meeting Minutes
606 Manitou Avenue
January 28, 2025

The City Council of Manitou Springs met in Special Session on Tuesday, January 28, 2025, by remote access via Zoom.

COUNCIL MEMBERS PRESENT FOR ROLL CALL:

Mayor John Graham
Mayor Pro Tem Natalie Johnson
Councilor Judith Chandler
Councilor Nancy Fortuin

COUNCIL MEMBERS ABSENT FOR ROLL CALL:

Councilor John Shada (Arrived at 6:08 PM)
Councilor Julie Wolfe (Excused)
Councilor Michelle Whetherhult (Excused)

A. CALL TO ORDER

Mayor Graham called the meeting to order at 6:05 PM.

B. ROLL CALL

All members of the City Council were present for the roll call, except Councilor Shada, Councilor Wolfe and Councilor Whetherhult.

C. APPROVAL OF AGENDA

Mayor Pro Tem Johnson moved to approve the agenda as presented. The motion was seconded by Councilor Chandler. The motion carried unanimously (4-0).

D. BUSINESS

1. <u>Consideration of a Letter of Support for Paragon Realty, LLC to Apply for Low Income Housing Tax Credit Funding at 123 Manitou Ave.</u>

Rick Block, 8700 North Street, Suite 310, Fishers Indiana, with Paragon Realty LLC, expressed appreciation for the Council’s time and consideration. He explained that they had purchased the La Fun Property two years before with the goal of creating affordable housing and that their request for a density variance was denied. He added that they have decreased the unit count to 43 units to meet the density requirement. Mr. Block presented a concept design of the proposed development.

John Block with Paragon Realty LLC, shared that the application for low income housing tax credit funding is due February 3, 2025. He stated that two key items are required for the application, including connecting the rent to the Area Median Income (AMI) and city support.

Planning Director Fred Rollenhagen, stated for the record that there is no application submitted for the property at this time and planning staff has not reviewed any application related to the proposal being presented. He added that he reviewed the drafted letter of support, which gives general support for development on the property. He explained moving forward, Paragon would need to work with the city to get the appropriate permits and approvals in compliance with the Municipal Code, which would determine the specifics. He suggested that if the City Council had any concerns, they could address compliance with permits and approvals in the letter.

There was a general discussion about the required criteria for the tax credit funding, in which it was determined that there is an initial 15 year commitment for the tax credits and oftentimes the commitment for low income housing extends out to 30 or 40 years. Additionally, Mr. Block shared that there is a local government contribution requirement, which could potentially be in the form of the city waiving or discounting permit fees.

City Administrator Denise Howell commented that she believes the municipal code does not currently allow the city or the City Council to waive any tap fees.

Councilor Shada noted that the city budgeted over two million dollars for the Urban Renewal Authority (URA) which is a substantial investment in the La Fun property. He suggested outlining in the application the funds already provided through the city's allocation of funds to the URA that have supported the project.

Mayor Graham recommended adding verbiage to the letter of support to acknowledge the money provided by the URA that originated from the city, a statement regarding the permitting and approvals process through the planning department and a note that the city has only seen conceptual plans.

Councilor Chandler stated that she is in favor of supporting the grant process, but she would not support future funds through permit fees, as it would require changing the municipal code.

Councilor Fortuin stated that she agreed with the suggested changes to the letter of support, with the exception that she would suggest the Council consider adding that the city would be willing to entertain proposals for in-kind or monetary incentives, which may not require code changes.

The City Council held a discussion to edit the letter of support.

Note for the record – The final version of the letter is attached to these minutes for reference.

Councilor Chandler moved to approve the letter of support with the amendments as discussed by the City Council. The motion was seconded by Councilor Shada. The motion was carried unanimously (5-0).

E. ADJORN

With no other items to discuss, Councilor Chandler moved to adjourn the meeting. The motion was seconded by Mayor Graham. The motion was carried (5-0).
The meeting adjourned at 7:05 PM.

Attest:

John Graham, Mayor

Elena Krebs, City Clerk

CITY OF MANITOU SPRINGS

OFFICE OF THE MAYOR
John G. Graham

606 Manitou Avenue • Manitou Springs, CO 80829
Phone: (719) 400-8106 Email: jgraham@manitouspringsco.gov

January 28, 2025

Kathryn Grosscup, Manager, Tax Credits
Colorado Housing and Finance Authority 1981 Blake Street
Denver, CO 80202

RE: **Support for 9% LIHTC Funding for 123 Manitou Ave**

Dear Ms. Grosscup:

Manitou Springs is a historic mountain town that currently suffers from a severe lack of affordable housing. Our comprehensive plan supports affordable housing, but a more diverse range of affordable rental options is needed, with a particular focus on low income, workforce, entry-level, family, and senior housing.

This is a letter of support for the proposed new construction of approximately 43 housing units including for families with children in Manitou Springs, Colorado.

This development is a public/private partnership between Paragon, TWG Development, and the El Paso County Housing Authority as Special Limited Partner. The new housing will serve residents who have incomes from 30% AMI to 60% AMI. The 2+ acre site will include a community center, small library, in-unit washers and dryers, a playground, a small dog area, and picnic tables. The site is located at 123 Manitou Ave, near downtown Manitou Springs, the Manitou Incline, and Garden of the Gods.

The City strongly supports affordable housing, a critical need in our community. Through the Manitou Springs Urban Renewal Authority, funding of $2.1 million has been provided to Paragon Development to develop this project. While no specific project has been presented for actual discussion, we believe the City would support such a project. It would need to conform with the City's Municipal Code and apply for the appropriate permits and approvals. All such support is contingent upon City Council review and approval, as well as CHFA's award of 9% Low-Income Housing Tax Credits.

We look forward to CHFA's support of this venture.

The City of Manitou Springs strongly supports this proposed development to serve additional low-income families and individuals. Please contact Denise Howell, City Administrator, at dhowell@manitouspringsco.gov for further questions.

Sincerely,

John G. Graham

Memorandum

Title: First Reading of Ordinance No. 0125, An Ordinance Approving a Lease Purchase Agreement with Clayton Holdings, LLC

From: Rebecca Davis CPFO, Finance Director

To: Mayor and City Council

CC: City Administrator Denise Howell

Allocated Time: 20 Minutes

February 4, 2025

Purpose:

Clayton Holdings, LLC, an equity subsidiary of Commerce Bank, has offered a 4.465% interest rate for 5 and 10 years for the 2025 Lease Purchase. The entire lease package is for $708,732, with annual payments for the first five years of $145,171.14 and $11,470.97 for the remaining five years. The final payment will be on 2/27/2034.

Per the City Charter, debt must be approved by Ordinance, per Chapter 5.7:
In addition to such acts of the Council as are required by other provisions of this Charter to be by ordinance, every act making an appropriation, creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation for which a penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance.

Background:

A Lease Purchase program with five and ten year leasing was included in the 2025 budget for the following capital equipment/vehicles:

5 Year Lease purchase:

Public Service department:

2024 Chevrolet Silverado $69,555
Polaris Track System $15,000

Parks & Recreation department:

2025 Chevrolet Silverado - $61,674

Police:

Ford Interceptor police patrol car and upfitting $80,000
Polaris UTV $30,000
Five 700-800 MHz Radios $15,000
Speed monitor Camera $35,000

Water Enterprise fund:
4-wheel drive pickup Toyota Tundra (or similar vehicle) - $50,000

Sewer Enterprise fund:
Retrofit sewer CCTV camera van - $145,000
Chevy 2500 8ft bed single cab $60,000

Mobility & Parking Enterprise fund:
Five parking kiosks - $53,361

10 year Lease purchase:
Public Service Department:
Dump truck – 2024 F-550 4X4 Super Duty - $94,142

Please note, it was decided that a jackhammer attachment for the Polaris and a mini-excavator, $15,000, was needed more than the Polaris Track System, $15,000, so a substitution was made, replacing the Polaris Track System with the Jackhammer attachment in the loan application.

Pros and Cons:
Pro: The City will acquire needed equipment and vehicles
Con: The City will need to appropriate payments to Clayton Holdings, LLC, for the next 10 years or break the Lease Purchase Agreement

Fiscal Impact:
The Capital Improvement Fund will have payments of $78,089.16 for the first five years and $11,470.97 for the second five years.
The Water Enterprise Fund will have five-year payments of $10,877.18.
The Sewer Enterprise Fund will have five-year payments of annual payments of $44,596.45.
The Mobility & Parking Enterprise Fund will have five-year annual payments of $11,608.35.

Workload Impact:
Approximately 10 hours.

Recommended Action:

Move to approve on first reading, Ordinance No. 0125, an ordinance approving a lease purchase agreement with Clayton Holdings, LLC, and set a public hearing for February 18, 2025, at 6:00 p.m., or as soon thereafter as the matter may be heard at second reading.

COUNCIL BILL NO. 0425 **ORDINANCE NO. 0125**

ORDINANCE

AN ORDINANCE APPROVING A LEASE-PURCHASE AGREEMENT WITH CLAYTON HOLDINGS LLC AND AN ESCROW AGREEMENT WITH CLAYTON HOLDINGS LLC AND UMB BANK N.A.

WHEREAS, the City is a home rule municipality with all powers granted by Article XX of the Colorado Constitution and its Home Rule Charter;

WHEREAS, Article XX, § 6 of the Colorado Constitution states: "The statutes of the state of Colorado, **so far as applicable**, shall continue to apply to such cities and towns, except insofar as superseded by the charters of such cities and towns or by ordinance passed pursuant to such charters." Colo. Const. art. XX, § 6 (emphasis added);

WHEREAS, Section 5.8 of the City's Home Rule Charter provides that ordinances adopted by the City Council become effective five days after publication after final passage;

WHEREAS, C.R.S. § 31-15-801 purports to require that municipalities approve long term lease agreements and lease-purchase agreements by ordinance that is not effective for at least thirty (30) days after passage;

WHEREAS, C.R.S. § 31-15-801 conflicts with Section 5.8 of the City's Home Rule Charter, which provides that ordinances are effective five days after publication after final passage;

WHEREAS, C.R.S. § 31-15-801 contains no declaration of statewide concern and specifically applies to a "city" or a "town", which terms have been construed to mean a statutory city and statutory town by the Colorado Court of Appeals in the case of *Allely v. City of Evans*, 124 P.3d 911 (Colo. App. 2005);

WHEREAS, the City Council hereby finds and determines that the procedures for approval of lease-purchase agreements are a matter of purely local concern;

WHEREAS, as a home rule municipality, in the matter of deciding the procedures applicable to the approval of lease-purchase agreements, which is a matter of purely local concern, the City is not subject to those portions of C.R.S. §§ 31-15-801 and -802 which conflict with Section 5.8 of the City's Home Rule Charter;

WHEREAS, the City is entering a State and Municipal Lease/Purchase Agreement ("Lease") dated the 25th day of February, 2025, with Clayton Holdings LLC and an Escrow Agreement with Clayton Holdings LLC and UMB Bank, N.A.;

WHEREAS, the City has carefully reviewed its financing requirements for the current calendar year and reasonably expects that it will not issue more than ten million dollars ($10,000,000) of tax-exempt obligations during the calendar year.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANITOU SPRINGS, COLORADO, THAT:

Section 1: The City be, and hereby is, authorized to enter into the State & Municipal Lease/Purchase Agreement with Clayton Holdings, LLC (attached hereto with related documents, including without limitation the escrow agreement, as **Exhibit A**, collectively referred to as the "Lease") for a period of 120 months.

Section 2: The following officials of the City be, and hereby are, authorized, empowered and directed to sign on its behalf the Lease and any addenda, schedules, notes, UCC financing statements or other instruments issued under the provision of the Lease and any other instrument or document which may be necessary or expedient in connection with agreement upon or fulfillment of the provisions of the Lease.

Printed Name	**Title**	**Signature**
John Graham	Mayor	________________________
Rebecca Davis	Finance Director	________________________
Nicole Ortega	Finance Supervisor	________________________

Section 3: Pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, this Lease be and hereby is designated a "qualified tax-exempt obligation" includable within the ten million dollars ($10,000,000) of the aggregate issues designated as "qualified tax-exempt obligations" for the calendar year within which this Lease is entered into.

Section 4: The City shall not designate more than ten million dollars ($10,000,000) of tax-exempt obligations during the current calendar year as qualified tax-exempt obligations and the City, together with its subordinate entities, does not reasonably expect to issue more than ten million dollars ($10,000,000) of tax exempt obligations during the current calendar year.

Section 5: If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 6: The repeal or modification of any provision of Manitou Springs Municipal Code by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 7: This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 8: This ordinance shall take effect five (5) days after publication following final passage.

Passed on first reading and ordered published this 4th day of February 2025.

____
City Clerk, Elena Krebs

A Public Hearing on this ordinance will be held at the February 18, 2025, City Council meeting. The Council Meeting will be held at 6:00 P.M. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published: February 5, 2025.
City's Official Website and City Hall

Passed on second reading and adopted by Council this ____ day of __________, 2025.

____
Mayor, John Graham

Attest: ___________________________
City Clerk, Elena Krebs

Published: ___________, 2025 _______ (by title or in full)
City's Official Website and City Hall

CLAYTON HOLDINGS, LLC

STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT

Lease Number: 5000217-008

This State and Municipal Lease/Purchase Agreement (the "Lease") is made and entered into on this, the Thirtieth day of January 2025 by and between Clayton Holdings, LLC with offices at 8000 Forsyth Boulevard, Suite 510, St. Louis, Missouri 63105 (together with its successors and assigns, herein called the "Lessor"), and City of Manitou Springs with its principal address at 606 Manitou Avenue, Manitou Springs, Colorado 80829 (together with its permitted successors and assigns, herein called the "Lessee"), wherein it is agreed as follows:

1. **LEASE OF EQUIPMENT:** Lessee hereby requests Lessor to acquire the equipment described in Schedule A attached hereto and made a part hereof. Subject to the terms and conditions hereof, Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor the equipment described in Schedule A, with all replacements, repairs, additions, and accessories incorporated therein or affixed thereto (herein collectively called the "Equipment").

2. **DELIVERY AND ACCEPTANCE:** Lessee agrees to order the Equipment on behalf of Lessor from the supplier of such Equipment. Lessor will not be liable for specific performance of this Lease or for damages if for any reason the supplier delays or fails to fill the order. Lessee will cause the Equipment to be delivered at the location specified in Schedule A (the "Equipment Location"). Lessee is solely responsible for the selection of the Equipment and the vendor from which the Equipment is purchased. Lessee will pay all transportation and other costs, if any, incurred in connection with the delivery and installation of the Equipment. Any delay in such delivery will not affect the validity of this Lease. To the extent funds are deposited with a bank or trust company in an escrow fund for the acquisition of the Equipment, such funds shall be disbursed as provided in the agreement pursuant to which such fund is established (the "Escrow Agreement"). Lessee will immediately accept the Equipment as soon as it has been delivered and is operational, or as soon as any manufacturer or vendor pre-acceptance test period has expired. In the event the Equipment is not accepted by Lessee within thirty (30) days from the date of its delivery, Lessor, at Lessor's sole option, will have the right to terminate this Lease. Lessee will evidence its acceptance of the Equipment by executing and delivering to Lessor a delivery and acceptance certificate in the form of Exhibit B or C, as applicable, to the Escrow Agreement (the "Acceptance Certificate"). Lessee hereby authorizes the Lessor to add to this Lease and to any other description of the Equipment the serial number of each item of Equipment, when available.

3. **TERM**: This Lease will become effective upon the execution hereof by Lessee and Lessor. Lessee's obligation to pay rent under this Lease will commence on the date that funds are advanced by Lessor to pay the vendor of the Equipment or are deposited with a bank or trust company in an escrow fund pursuant to the Escrow Agreement, if any (the "Start Date"), and will extend for an initial term through the end of Lessee's fiscal year containing the Start Date. The term of this Lease is subject to renewal on a year-to-year basis for the number of annual fiscal periods necessary to comprise the lease term as set forth in Schedule C attached hereto and made a part hereof (the "Lease Term"). At the end of the initial term and any renewal term, Lessee will be deemed to have exercised its option to renew this Lease for the next annual renewal term, unless Lessee has exercised its right to terminate the Lease pursuant to Section 8 below.

4. **RENT**: Lessee agrees to pay Lessor the rental payments for the Equipment as set forth in Schedule C (the "Rental Payments"). A portion of each Rental Payment is paid as and represents the payment of interest as set forth in Schedule C. The Rental Payments will be payable without notice or demand, at the office of Lessor (or such other place as Lessor may designate in writing, from time to time) and will commence on the Start Date. For clarity, Lessee hereby authorizes Lessor to update Schedule C with the Start Date and actual due dates for Rental Payments based upon the frequency of payments stated on Schedule C. Any notice, invoicing, purchase orders, quotations or other forms or procedures requested by Lessee in connection with payment will be fully explained and provided to Lessor sufficiently in advance of the payment due date for the completion thereof by Lessor prior to such payment date, but none of the foregoing will be a condition to Lessee's obligation to make any such payment. If Lessee fails to pay any Rental Payment or any other sums under this Lease within ten (10) days when the same becomes due, Lessee shall pay to Lessor (in addition to and not in lieu of other rights of Lessor) a late charge equal to the greater of five (5%) percent of such delinquent amount or Twenty-Five Dollars ($25.00), but in any event not more than the maximum amount permitted by law. Such late charge shall be payable by Lessee upon demand by Lessor and shall be deemed rent hereunder. Lessee acknowledges and agrees that the late charge (i) does not constitute interest, (ii) is an estimate of the costs Lessor will incur as a result of the late payment and (iii) is reasonable in amount. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments hereunder will constitute a current expense of Lessee and will not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee. EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 8 HEREOF, LESSEE'S OBLIGATION TO MAKE RENTAL PAYMENTS SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS AND WILL NOT BE SUBJECT TO ANY SETOFF, DEFENSE, COUNTERCLAIM, ABATEMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER.

   Notwithstanding the foregoing, the interest portion of the Rental Payments on Schedule C will be adjusted, and Lessor will provide Lessee a revised Schedule C reflecting such adjustment in the event that it is determined that any of the interest portions of Rental Payments set forth in Schedule C may not be excluded from Lessor's gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). Lessee agrees that the interest portion of the Rental Payments on Schedule C will be adjusted commencing with the first day of the next succeeding fiscal year of the Lessee, but only if this Lease is renewed for such fiscal year, and thereafter, so that Lessor will be in the same after-tax position that it would have been in had such payment been excluded from the gross income of Lessor under Section 103 of the Code.

5. **AUTHORITY AND AUTHORIZATION:** Lessee represents, warrants and covenants that (a) it will do or cause to be done all things necessary to preserve and keep in full force and effect (i) its existence, and (ii) subject to Section 8 hereof, this Lease; (b) it has complied with all bidding and budgeting requirements where necessary and by due notification has presented this Lease to Lessee's governing body for approval and adoption as a valid obligation on its part and that all requirements have been met and procedures have been followed to ensure the enforceability of this

Lease; (c) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal year period; (d) no event has occurred and no condition exists which, upon the execution of this Lease or with notice or the passage of time or both, would constitute a default under any debt, revenue or purchase obligation which it has issued or to which it is a party (the "Obligation") nor has it been in default under any Obligation at any time during the past five (5) years, and (e) no lease, rental agreement or contract for purchase, to which Lessee has been a party, at any time during the past five (5) years, has been terminated by Lessee as a result of insufficient funds being appropriated in any fiscal period.

6. **REPRESENTATIONS, COVENANTS AND WARRANTIES REGARDING TAX-EXEMPT STATUS**: Lessee warrants and covenants that (i) it is a state, or a political subdivision thereof, within the meaning of Section 103 of the Code, and the related regulations and rulings thereunder; (ii) subject to Section 8 hereof, Lessee intends that its obligation under this Lease will constitute an enforceable obligation issued by or on behalf of a state, or political subdivision thereof, such that the interest portions of Rental Payments as shown in Schedule C, will not be includable in the gross income of Lessor for the purposes of federal income taxation; (iii) this Lease represents a valid deferred payment obligation of Lessee for the amount herein set forth; (iv) Lessee has the legal capacity to enter into this Lease and is not in contravention of any state, county, district, city or town statute, rule, regulation or other governmental provision; (v) during the Lease Term, the Equipment will not be used in a trade or business of any other person or entity; (vi) Lessee will complete and file on a timely basis, Internal Revenue Service form 8038G or 8038GC, as appropriate, in the manner set forth in Section 149(e) of the Code; and (vii) Lessee will not take any action or permit the omission of any action reasonably within its control which action or omission will cause the interest portion of any Rental Payment hereunder to be includable in gross income for federal income taxation purposes.

   Lessee hereby designates the Lease as a “qualified tax-exempt obligation” as defined in Section 265(b)(3)(B) of the Code. The aggregate face amount of all tax-exempt obligations (including the Lease but excluding private activity bonds other than qualified 501(c)(3) bonds) issued or to be issued by Lessee and all subordinate entities thereof during the calendar year in which the Start Date occurs is not reasonably expected to exceed $10,000,000. Lessee and all subordinate entities thereof will not issue in excess of $10,000,000 of tax-exempt obligations (including the Lease, but excluding private activity bonds other than qualified 501(c)(3) bonds) during the calendar year in which the Start Date occurs, without first providing Lessor with an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations acceptable to Lessor, that the designation of the Lease as a “qualified tax-exempt obligation” will not be adversely affected.

   Lessee further represents as follows:

   (a) The estimated total costs of the Equipment will not be less than the total principal amount of the Rental Payments.

   (b) The Equipment has been ordered or is expected to be ordered within six months of the effective date of this Lease, and the Equipment is expected to be delivered and installed, and the Vendor fully paid, within eighteen months of the effective date of this Lease.

   (c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rental Payments, or (ii) that may be used solely to prevent a default in the payment of Rental Payments.

   (d) The Equipment has not been, and is not expected to be, sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the final Rental Payment.

   (e) To the best of Lessee's knowledge, information and belief, the above expectations are reasonable.

7. **APPROPRIATIONS AND ESSENTIAL USE:** Lessee reasonably believes that sufficient funds can be obtained to make all Rental Payments during the Lease Term. The responsible financial officer of Lessee will do all things lawfully within his or her power to obtain funds from which the Rental Payments, including any Rental Payments required by Section 4 hereof, may be made, including making provisions for such payments, to the extent necessary, in each proposed annual budget submitted for approval in accordance with applicable procedures of Lessee. Notwithstanding the foregoing, the decision whether or not to budget or appropriate funds or to extend this Lease for any subsequent annual fiscal period is solely within the discretion of the then current governing body of Lessee. Lessee currently intends to make the Rental Payments for the full Lease Term if funds are legally available therefor, and in that regard Lessee represents that (a) the use of the Equipment is essential to its proper, efficient, and economic functioning or to the services that it provides to its citizens; (b) Lessee has an immediate need for and expects to make immediate use of substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future; and (c) the Equipment will be used by the Lessee only for the purpose of performing one or more of its governmental or proprietary functions consistent with the permissible scope of its authority.

8. **NONAPPROPRIATION OF FUNDS:** In the event insufficient funds are appropriated and budgeted to pay Rental Payments required by Section 4 hereof and any other amounts payable under this Lease, for any fiscal period in which the Rental Payments for the Equipment are due under this Lease, then, without penalty, liability or expense to Lessee, this Lease will thereafter terminate on the last day of the fiscal period for which appropriations were made, except as to (i) the portions of the Rental Payments herein agreed upon for which funds have been appropriated and budgeted or are otherwise available and (ii) Lessee's other obligations and liabilities under this Lease relating to, accruing or arising prior to such termination. Lessee will, not less than sixty (60) days prior to the end of such applicable fiscal period, in writing, notify Lessor of such occurrence, but failure to give such notice will not prevent such termination. In the event of such termination, Lessee agrees to immediately cease use of the Equipment and peaceably surrender possession of the Equipment to Lessor on the day of such termination, packed for shipment in accordance with manufacturer's specifications and eligible for manufacturer's maintenance, and freight prepaid and insured to any location in the continental United States designated by Lessor, all at Lessee's expense. Lessor may exercise all available legal and equitable rights and remedies in retaking possession of the Equipment. If Lessee fails to cease use and deliver possession of the Equipment to Lessor upon termination of this Lease under this section, the termination shall nevertheless be effective but Lessee shall be responsible for the payment of damages in an amount equal to (a) the portion of Rental Payments thereafter coming due that is attributable to the number of days after the termination during which Lessee fails to cease use and deliver possession of the Equipment and (b) any other loss suffered by Lessor as a result of Lessee’s failure to deliver possession of the Equipment.

9. **EXCLUSION OF WARRANTIES; LIMITATIONS OF LIABILITY; DISCLAIMER OF CONSEQUENTIAL DAMAGES**: **LESSEE HAS SELECTED BOTH THE EQUIPMENT AND THE VENDOR(S) FROM WHOM LESSOR IS TO PURCHASE THE EQUIPMENT IN RELIANCE HEREON. LESSEE ACKNOWLEDGES AND AGREES THAT THE EQUIPMENT IS OF A SIZE, DESIGN AND CAPACITY SELECTED BY LESSEE, THAT LESSOR IS NOT A MANUFACTURER, VENDOR, DISTRIBUTOR OR LICENSOR OF SUCH EQUIPMENT, AND THAT LESSOR LEASES THE**

EQUIPMENT AS IS AND HAS NOT MADE, AND DOES NOT HEREBY MAKE, ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, DESIGN, OPERATION, FITNESS FOR USE, OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT WHATSOEVER OR IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF LESSEE, OR ANY OTHER REPRESENTATION, WARRANTY OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO INCLUDING ANY WARRANTIES OF TITLE OR AGAINST INFRINGEMENT OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR PRACTICE, ALL OF WHICH ARE SPECIFICALLY DISCLAIMED BY LESSOR AND IN NO EVENT SHALL LESSOR BE OBLIGATED OR LIABLE FOR ACTUAL, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF OR TO LESSEE OR ANY OTHER PERSON OR ENTITY ARISING OUT OF OR IN CONNECTION WITH THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO THE SALE, LEASE, USE, PERFORMANCE OR MAINTENANCE OF THE EQUIPMENT, INCLUDING INTERRUPTION OF SERVICE, LOSS OF DATA, LOSS OF REVENUE OR PROFIT, LOSS OF TIME OR BUSINESS, OR ANY SIMILAR LOSS, EVEN IF ANY SUCH PERSON IS ADVISED IN ADVANCE OF THE POSSIBILITY OR CERTAINTY OF SUCH DAMAGES AND EVEN IF LESSEE ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS LEASE.

Lessee acknowledges that neither the original vendor nor licensor of the Equipment (including the salespersons of any of them) is an agent of Lessor, nor are they authorized to waive or alter any terms of this Lease. Lessee hereby waives any claim (including any claim based on strict or absolute liability in tort) it might have against Lessor or any assignee of the Lessor for any loss, damage or expense caused by or with respect to the Equipment. Lessor hereby assigns to Lessee during the Lease Term, to the extent permitted by law and so long as no Event of Default has occurred pursuant to Section 20 below, all manufacturer's warranties, if any, that it may have with respect to the Equipment, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's expense. Lessor authorizes Lessee, to the extent permitted by law, to enforce in its own name any warranty, representation or other claim enforceable against the manufacturer. Lessor assumes no responsibility for shipment, delivery, installation or maintenances, and all claims of Lessee with respect thereto, whether for delay, damage or otherwise, will be made against the manufacturer. Lessor, at its option, may provide in its purchase order that the manufacturer agrees that any of such claims may be made by Lessee directly against the manufacturer. The obligation of Lessee to pay the Rental Payments as defined in Section 4 will not be abated, impaired or reduced by reason of any claims of Lessee with respect to the Equipment, including but not limited to its condition, quality, workmanship, delivery, shipment, installation, defects or otherwise.

10. **TITLE TO THE EQUIPMENT:** The Equipment shall be acquired pursuant to a contract or purchase order issued by the City of Manitou Springs, CO, (the “City”) which contract or purchase order shall provide that legal title to the Equipment acquired thereunder be vested in Lessor, subject to the beneficial interest of Lessee hereunder. Notwithstanding this method of acquisition, neither “The City” nor the Lessee shall be deemed to be the “Vendor” of the equipment under this Lease pursuant to the terms of such contract or purchase order. During the Lease Term, title to the Equipment and any and all additions, repairs, replacements or modifications thereto shall be in Lessor; provided, however, that in the event this Lease is terminated by reason of the occurrence of an event described in Sections 3, 20, or 21 hereof, title to the Equipment will be transferred to the Lessee. In the event that the provisions of Section 20 are availed of by Lessor, or in the case of an Event of Nonappropriation as set forth in Section 8 hereof, Lessee will surrender its interest in and possession of the Equipment to Lessor.

11. **PERSONAL PROPERTY:** Lessor and Lessee agree that the Equipment is, and will remain, personal property and will not be deemed to be affixed or attached to real property or any building thereon. Notwithstanding the foregoing, for purposes of providing notice to third parties, Lessee agrees that, upon Lessor’s request, it will provide the legal description of all real property where any of the Equipment is or will be installed, and Lessee agrees that financing statements evidencing Lessor’s security interest may be filed in the real property records. If requested by Lessor, Lessee will, at Lessee's expense, furnish to Lessor landlord or mortgagee waiver with respect to the Equipment.

12. **USE; REPAIRS**: Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and will comply with all laws, ordinances, insurance policies and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of, its possession, use or maintenance. Lessee, at its sole costs and expense, will maintain the Equipment according to the manufacturer's recommended guidelines or the equivalent and meet any and all recertification requirements and will furnish proof of such maintenance, if requested by Lessor and will furnish all needed servicing and parts, which parts will become part of the Equipment. If the Equipment is such as is customarily covered by a maintenance agreement, Lessee will furnish Lessor with a maintenance agreement with a party satisfactory to Lessor.

13. **ALTERATIONS:** Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent, and any permitted alteration or attachment which cannot be readily removed without damaging the Equipment's originally intended function or value will become part of the Equipment.

14. **LOCATION; INSPECTION**: The Equipment will not be removed from, or if the Equipment consists of rolling stock, its permanent base will not be changed from the Equipment Location without Lessor's prior written consent, which consent will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operations.

15. **LIENS AND TAXES**: Lessee will keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee will pay, when due, all charges and taxes (federal, state and local) which may now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment, excluding however, all taxes on or measured by Lessor's income. If Lessee fails to pay said charges and taxes when due, Lessor will have the right, but will not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes for which Lessee is responsible or liable under this Lease, Lessee will, upon demand, reimburse Lessor therefor.

16. **RISK OF LOSS; DAMAGE; DESTRUCTION**: Lessee assumes all risk of loss of or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment will relieve Lessee of the obligation to make the Rental Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee will immediately place the same in good repair (the proceeds of any insurance recovery will be applied to the cost of such repair). If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee, at the option of Lessor, will (a) replace the same with like equipment in good repair; or (b) on the next Rental Payment date pay to Lessor (i) all amounts owed by Lessee under this Lease, including the Rental Payment due on such date, and (ii) an amount not less than the balance of the Rental Payments then remaining unpaid hereunder. In the event that Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Rental Payment and the balance of the Rental Payments then remaining unpaid hereunder, as applicable, to be made by Lessee with respect to the Equipment which has suffered the event of loss.

17. **INSURANCE:** Lessee will, at its expense, maintain at all times during the Lease Term (a) fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insurers as will be satisfactory to Lessor. In no event will the insurance limits be less than the greater of (i) an amount equal to the balance of the Rental Payments then remaining for the Lease Term or (ii) any minimum required by any co-insurance provisions of such insurance, (b) liability insurance that protects Lessor from liability in all events in form and amount satisfactory to Lessor, and (c) workers' compensation coverage as required by the laws of the state in which Lessee is located. Each insurance policy required by clause (b) of the preceding sentence will name Lessee as an insured and Lessor or its assigns as an additional insured and loss payee, as appropriate, and each insurance policy required by the preceding sentence will contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of any such policies will be payable to Lessee and Lessor or its assigns, as their interest may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event of any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice hereof and make available to Lessor all information and documentation relating thereto. Notwithstanding the foregoing, with Lessor's prior written consent, Lessee may self-insure against any and all risks for which insurance is required.

18. **ADVANCES**: In the event Lessee fails to maintain the insurance required by this Lease or fails to keep the Equipment in good repair and operating condition, Lessor may (but will be under no obligation to) purchase the required policies of insurance and pay the premiums on the same and make such repairs or replacements as are necessary and pay the cost thereof. All amounts so advanced by Lessor will become additional rent payable by Lessee. Lessee agrees to pay such amounts with interest thereon from the date paid at the rate of 1.5% per month or the maximum permitted by law, whichever is less. Unless Lessee provides evidence of the insurance coverage required by this Lease, Lessor may purchase insurance at Lessee's expense to protect Lessor's interests hereunder. This insurance may, but need not, protect Lessee's interests. The coverage that Lessor may purchase may not pay any claim that Lessee may make or any claim that may be made against Lessee in connection with the Equipment. Lessee may later cancel any insurance purchased by Lessor, but only after providing evidence that Lessee has obtained insurance as required by this Lease. If Lessor purchases insurance for the Equipment, Lessee will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges Lessor may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance will be added as additional rent. The costs of the insurance may be more than the cost of insurance Lessee may be able to obtain on its own.

19. I**NDEMNIFICATION**: To the extent permitted by law, and solely from legally available funds, Lessee agrees to indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, proceedings, expenses, damages, liabilities or losses (including, but not limited to, attorneys' fees and court costs) arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, possession, use, operation or return and the recovery of claims under insurance policies thereon.

20. **EVENTS OF DEFAULT**: The Term "Event of Default" as used in this Lease, means the occurrence of any one or more of the following events: (a) Lessee fails to make any Rental Payment (or any other payment) as it becomes due in accordance with the terms of this Lease, and any such failure continues for ten (10) days after the date thereof; (b) Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure is not cured within ten (10) days after written notice thereof by Lessor; (c) the discovery by Lessor that any statement, representation or warranty made by Lessee in this Lease or in any document delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (d) Lessee becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or substantial part of its assets, a petition for relief is filed by Lessee under federal bankruptcy, insolvency or similar laws, or a petition in a proceeding under any bankruptcy, insolvency or similar laws, is filed against Lessee and is not dismissed within thirty (30) days thereafter; (e) Lessee suffers an adverse material change in its financial condition or operations from the date hereof and, as a result, Lessor deems itself insecure; or (f) Lessee is in default under any other agreement executed at any time with Lessor or its affiliates, or under any other agreement or instrument by which it is bound.

21. **REMEDIES**: Upon the occurrence of an Event of Default, Lessor shall have the right, at its sole option, to exercise any one or more of the following remedies: (a) by written notice to Lessee, declare an amount equal to all amounts then due under this Lease and all remaining Rental Payments which will become due during the then current fiscal year of Lessee to be immediately due and payable, whereupon the same will become immediately due and payable and such amounts shall thereafter bear interest at the rate of 1.5% per month or the maximum rate permitted by applicable law, whichever is less; (b) by written notice to Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly cease use and return the Equipment to Lessor in the manner set forth in Section 8 hereof, or Lessor, at its option and with or without terminating the Lease Term, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same, without liability to Lessor or its agents for such entry or for damage to property or otherwise; (c) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for (i) all Rental Payments and other payments due to the effective date of such selling, leasing or subleasing, and (ii) for the difference between the net purchase price, rental and other amounts paid by the purchaser, lessee or sublessee pursuant to such sale, lease or sublease and the remaining amounts payable by the Lessee through the end of the then current fiscal year of Lessee hereunder; and (d) exercise any other right, remedy or privilege which may be available to it under applicable law, including the right to (i) proceed by appropriate court action to enforce the terms of this Lease, (ii) recover damages for the breach of this Lease, and (iii) rescind this Lease as to any or all of the Equipment. If Lessee fails to cease use and deliver possession of the Equipment upon the occurrence of an Event of Default, Lessee shall be responsible for the payment of damages in an amount equal to (a) the portion of Rental Payments that is attributable to the number of days after the termination during which Lessee fails to cease use and deliver possession of the Equipment and (b) any other loss suffered by Lessor as a result of Lessee's failure to cease use and deliver possession of the Equipment.

    In addition, Lessee will remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

22. **EARLY PURCHASE OPTION; PREPAYMENT**: Lessee may, upon sixty (60) days prior written notice to Lessor, and provided Lessee has fully paid and performed all other obligations hereunder and provided no Event of Default has occurred and is continuing, pay to Lessor on any regularly scheduled Rental Payment date the applicable amount set forth on Schedule C attached hereto, whereupon title to the Equipment will become unconditionally vested in Lessee, and Lessor will transfer any and all of its right, title and interest in the Equipment to Lessee as is, where is, without warranty, express or implied, except that Lessor will warrant to Lessee that the Equipment is free and clear of any liens created by Lessor.

Upon delivery by Lessee of a final acceptance certificate, any remaining monies in any escrow fund established under the Escrow Agreement shall be paid to Lessor, for credit, first, to the next Rental Payment due, and, second, to the prepayment of the principal portion of future Rental Payments hereunder in the manner directed by Lessor, in its sole discretion, unless Lessor directs that payment of such amount be made in such other manner directed by Lessor that, in the opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor, will not adversely affect the exclusion of the interest portions of Rental Payments from gross income for federal income tax purposes. If any amount is applied against the outstanding principal components of Rental Payments, Schedule C attached hereto will be revised accordingly.

23. **DETERMINATION OF FAIR PURCHASE PRICE**: Lessee and Lessor hereby agree and determine that the Rental Payments payable during the Lease Term represent the fair value of the use of the Equipment and that the amount required to exercise Lessee's option to purchase the Equipment pursuant to Section 22 represents the fair purchase price of the Equipment. Lessee hereby determines that the Rental Payments do not exceed a reasonable amount so as to place Lessee under a practical economic compulsion to renew this Lease or to exercise its option to purchase the Equipment. In making such determinations, Lessee and Lessor have given consideration to (a) the costs of the Equipment, (b) the uses and purposes for which the Equipment will be employed by Lessee, (c) the benefit to Lessee by reason of the acquisition and installation of the Equipment and the use of the Equipment pursuant to the terms and provisions of this Lease, and (d) Lessee's option to purchase the Equipment. Lessee hereby determines and declares that this Lease will result in equipment of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition and installation of the Equipment were performed by Lessee other than pursuant to this Lease. Lessee hereby determines and declares that the Lease Term does not exceed the useful life of the Equipment.

24. **ASSIGNMENT**: Except as expressly provided herein, Lessee will not (a) assign, transfer, pledge, hypothecate or grant any security interest in, or otherwise dispose of, this Lease or the Equipment or any interest in this Lease or the Equipment or (b) sublet or lend the Equipment or permit the Equipment to be used by anyone other than Lessee or Lessee's employees, unless Lessee obtains the prior written consent of Lessor and an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor that such action will not adversely affect the exclusion of the interest portions of the Rental Payments from gross income for federal income tax purposes.

    Lessor, without the consent of Lessee, may assign all or any portion or portions of its right, title and interest in and to this Lease, the Equipment and any other documents executed with respect to this Lease, and/or grant or assign all or any portion or portions of its security interest in this Lease and the Equipment, in whole or in part to various assignees, their agents or trustees (each and any one hereinafter referred to as an "Assignee"). Any such assignment to an Assignee may provide that the Lessor or the Assignee will act as a collection and paying agent for owners of certificates of participation in this Lease, or may provide that a third-party trustee or agent will act as collection and paying agent for any Assignee, provided that any such trustee or agent will maintain registration books as a register of all persons who are owners of certificates of participation or other interest in Rental Payments and Lessee receives written notification of the name and address of the trustee or agent and a copy of the pooling and fractionalization agency or trustee agreement, if any. Any such Assignee will have all of the assigned rights of Lessor under this Lease. Subject to the foregoing, this Lease will inure to the benefit of and will be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto. Any assignment or reassignment of any of Lessor's right, title or interest in this Lease or the Equipment will be effective upon receipt by Lessee of a duplicate original of the counterpart document by which the assignment or reassignment is made, disclosing the name and address of each such Assignee and, where applicable, to whom further payments hereunder should be made. During the Lease Term, Lessee covenants that it will keep a complete and accurate record of all assignments in form necessary to comply with Section 149(a) of the Code and the regulations, proposed or existing, from time to time promulgated thereunder. Lessee agrees to acknowledge in writing any assignments if so required.

    Lessee agrees that, upon notice of assignment, if so instructed it will pay directly to the Assignee, or its trustee or agent without abatement, deduction or setoff all amounts which become due hereunder. Lessee further agrees that it will not assert against any Assignee, or its trustee or agent, any defense, claim, counterclaim or setoff Lessee may have against Lessor.

25. **FINANCIAL STATEMENTS:** Each year during the term of this Lease, Lessee hereby agrees to deliver to Lessor a copy of: (i) annual audited financial statements within one hundred twenty (120) days of Lessee's fiscal year-end; and (ii) within a reasonable period of time, any other financial information Lessor requests from time to time.

26. **NATURE OF AGREEMENT**: Lessor and Lessee agree that upon the due and punctual payment and performance of the installments of Rental Payments and other amounts and obligations under this Lease, title to the Equipment will vest permanently in Lessee as provided in this Lease, free and clear of any interest, lien or security of Lessor therein.

27. **AMENDMENTS**: This Lease may be amended or any of its terms modified in any manner by written agreement of Lessee and Lessor. Any waiver of any provision of this Lease or of any right or remedy hereunder must be affirmatively and expressly made in writing and will not be implied from inaction, course of dealing or otherwise.

28. **NOTICES**: All notices to be given under this Lease must be made in writing and mailed by certified mail to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice is effective upon receipt.

29. **SECTION HEADINGS**: All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

30. **GOVERNING LAW:** This Lease will be governed by the provisions hereof and by the laws of the State where Lessee is located.

31. **FURTHER ASSURANCES**: Lessee will deliver to Lessor (i) an opinion of counsel in substantially the form of Schedule D attached hereto or as Lessor may otherwise request; and (ii) if applicable, a certificate of a duly authorized official as to designation as a qualified tax-exempt obligation. Moreover, Lessee will execute or provide, as requested by Lessor, any documents and information that are reasonably necessary with respect to the transaction contemplated by this Lease.

32. **ENTIRE AGREEMENT:** This Lease, together with the Schedules attached hereto and made a part hereof and other attachments hereto and other documents or instruments executed by Lessee and Lessor in connection herewith, constitute the entire agreement between the parties with respect to the lease of the Equipment, and this Lease will not be modified, amended, altered or changed except with the written consent of Lessee or Lessor.

33. SEVERABILITY: Any provision of this Lease found to be prohibited by law will be ineffective to the extent of such prohibition without invalidating the remainder of this Lease.

34. WAIVER: The waiver by Lessor of any breach by Lessee of any term, covenant or condition, hereof will not operate as a waiver of any subsequent breach hereof.

35. ELECTRONIC TRANSACTIONS. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions 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.

36. ROLE OF LESSOR: Lessor has not acted and will not act as a fiduciary for Lessee or as Lessee's agent or municipal advisor. Lessor has not and will not provide financial, legal, tax, accounting or other advice to Lessee or to any financial advisor or placement agent engaged by Lessee with respect to this Lease. Lessee, its financial advisor, placement agent or municipal advisor, if any, shall each seek and obtain its own financial, legal, tax, accounting and other advice with respect to this Lease from its own advisors (including as it relates to structure, timing, terms and similar matters).

ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT, ARE NOT ENFORCEABLE. TO PROTECT YOU (LESSEE(S) AND US (LESSOR) FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS WE REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS WRITING, WHICH IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US EXCEPT AS WE MAY LATER AGREE IN WRITING TO MODIFY IT.

BY SIGNING BELOW, YOU AND WE AGREE THAT THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN US.

Lessor: Clayton Holdings, LLC	*Lessee: City of Manitou Springs*
Authorized Signature: ______	*Authorized Signature:* ______
Printed Name: ______	*Printed Name: John Graham*
Title: Officer	*Title: Mayor*
Date: ______	*Date:* ______
	EIN: 84-6000692

SCHEDULE A TO
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000217-008

Location of Equipment	
City Hall Street: 606 Manitou Ave City: Manitou Springs State: CO Zip Code: 80829	
Description of Equipment	Equipment Cost
Five (5) new police radios	$15,000.00
One (1) new Polaris UTV	$30,000.00
One (1) new Police car with additional equipment	$80,000.00
One (1) new Speed Monitor Camera	$35,000.00
Public Works Building, Street 101 Banks Pl, City: Manitou Springs, CO 80829	
One (1) new Jackhammer attachment for Polaris	$15,000.00
Four (4) new Pickup Trucks	$241,229.00
One (1) new Super Duty Dump Truck	$94,142.00
One (1) Retrofit sewer CCTV camera van	$145,000.00
Five (5) new Parking Kiosks	$53,361.00
Total	**$708,732.00**

Lessee hereby certifies that the description of the property set forth above constitutes a complete and accurate description of all Equipment as subject to in the Lease.

Lessee: City of Manitou Springs

Authorized Signature: ______________________

Printed Name: John Graham

Title: Mayor

Date: ______________________

SCHEDULE B TO
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000217-008
DELIVERY AND ACCEPTANCE CERTIFICATE

See Exhibits B and C to the Escrow Agreement.

SCHEDULE C
PAYMENT SCHEDULE

Lessee: City of Manitou Springs
Lessor: Clayton Holdings, LLC
Lease Number: 5000217-008
Capital Cost of Equipment (Principal Portion of Rental Payments): $708,732
Start Date: February 25, 2025

Subject to Section 8 of the Lease, Rental Payments are due on the dates and in the amounts shown below:

see amortization schedule attached after this page.

Rental Payment Date	Payment Amount	Amount Credited to Interest	Amount Credited to Principal	Outstanding Principal Balance
~~1/19/2024~~	~~$130,382.60~~	~~$0.00~~	~~$130,382.60~~	~~$469,617.40~~
~~1/19/2025~~	~~$130,382.60~~	~~$20,334.43~~	~~$110,048.17~~	~~$359,569.23~~
~~1/19/2026~~	~~$130,382.60~~	~~$15,569.35~~	~~$114,813.25~~	~~$244,755.98~~
~~1/19/2027~~	~~$130,382.60~~	~~$10,597.93~~	~~$119,784.67~~	~~$124,971.31~~
~~1/19/2028~~	~~$130,382.60~~	~~$5,411.29~~	~~$124,971.31~~	~~$0.00~~
TOTALS:	**$783,210.55**	**$74,478.55**	**$708,732.00**	

In the event Lessee desires to prepay this Lease, it may do so in whole, but not in part, at a purchase price equal to (a) the then current outstanding principal balance shown above; plus (b) a prepayment premium calculated as a percentage of the then current outstanding principal balance, in the following amount: 3%,with respect to any prepayment during the first full year of the Lease Term; 2%, with respect to any prepayment during the second full year of the Lease Term; and 1%, with respect to any prepayment during the third full year of the Lease Term and thereafter; plus (c) unpaid interest accrued on the outstanding principal balance to the prepayment date; and plus (d) all other amounts then payable under this Lease. There is no prepayment penalty if Lessee is using funds other than proceeds of a grant or an actual or anticipated refinancing.

Lessee: City of Manitou Springs

Authorized Signature: ______________________________

Printed Name: John Graham ______________________________

Title: Mayor ______________________________

Date: ______________________________

Compound Period: Annual

Nominal Annual Rate: 4.465%

CASH FLOW DATA

	Event	Date	Amount	Number	Period	End Date
1	Loan	2/25/2025	708,732.00	1		
2	Payment	2/25/2025	145,171.14	5	Annual	2/25/2029
3	Payment	2/25/2030	11,470.97	5	Annual	2/25/2034

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Balance
Loan	2/25/2025				708,732.00
1	2/25/2025	145,171.14	0.00	145,171.14	563,560.86
2025 Totals		145,171.14	0.00	145,171.14	
2	2/25/2026	145,171.14	25,161.74	120,009.40	443,551.46
2026 Totals		145,171.14	25,161.74	120,009.40	
3	2/25/2027	145,171.14	19,803.59	125,367.55	318,183.91
2027 Totals		145,171.14	19,803.59	125,367.55	
4	2/25/2028	145,171.14	14,206.21	130,964.93	187,218.98
2028 Totals		145,171.14	14,206.21	130,964.93	
5	2/25/2029	145,171.14	8,358.91	136,812.23	50,406.75
2029 Totals		145,171.14	8,358.91	136,812.23	
6	2/25/2030	11,470.97	2,250.55	9,220.42	41,186.33
2030 Totals		11,470.97	2,250.55	9,220.42	
7	2/25/2031	11,470.97	1,838.88	9,632.09	31,554.24
2031 Totals		11,470.97	1,838.88	9,632.09	
8	2/25/2032	11,470.97	1,408.83	10,062.14	21,492.10
2032 Totals		11,470.97	1,408.83	10,062.14	
9	2/25/2033	11,470.97	959.57	10,511.40	10,980.70
2033 Totals		11,470.97	959.57	10,511.40	

10	2/25/2034	11,470.97	490.27	10,980.70	0.00	1/30/2025 3:43 PM Page 2
2034 Totals		11,470.97	490.27	10,980.70		
Grand Totals		783,210.55	74,478.55	708,732.00		

Last interest amount increased by 0.01 due to rounding.

Hoffmann Parker Wilson & Carberry | P.C.

Corey Y. Hoffmann
Kendra L. Carberry
Jefferson H. Parker
M. Patrick Wilson

Of Counsel
J. Matthew Mire
Hilary M. Graham
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511 16th Street, Suite 610
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Daniel P. Harvey
Ruthanne H. Goff
Katharine J. Vera
Elizabeth G. LeBuhn
Austin P. Flanagan
Wilson D. Scarbeary

LAST YEAR'S LETTER.
WILL BE REPLACED BY NEW LETTER FOR 2ND READING.

January 19, 2024

Clayton Holdings, LLC
8000 Forsyth Boulevard, Suite 510
St. Louis, Missouri 63105

Re: State and Municipal Lease/Purchase Agreement No. 5000217-007 dated January 3, 2024 (the "Lease"), between Clayton Holdings, LLC ("Lessor") and City of Manitou Springs ("Lessee")

Ladies and Gentlemen:

As legal counsel to Lessee, I have examined (a) the Lease, which, among other things, provides for the sale to and purchase by the Lessee of the Equipment, (b) an executed counterpart of the ordinance or resolution of Lessee which, among other things, authorizes Lessee to execute the Lease, and (c) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions.

Based on the foregoing, I am of the following opinions:

1. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State of Colorado and has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power.

2. Lessee has the requisite power and authority to purchase the Equipment and to execute and deliver the Lease and the Escrow Agreement and to perform its obligations under the Lease and the Escrow Agreement.

3. The Lease, Escrow Agreement, and the other documents either attached thereto or required therein have been duly authorized, approved and executed by and on behalf of Lessee, and the Lease is a valid and binding obligation of Lessee enforceable in accordance with its terms.

4. The authorization, approval and execution of the Lease, Escrow Agreement, and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state and federal laws.

5. There is no current proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal, that I have knowledge of as of the date of this letter, which would adversely affect the transactions contemplated by the Lease and the Escrow Agreement.

Furthermore, I confirm that the name of the Lessee as stated in the Lease, as **City of Manitou Springs** is the exact legal name of the Lessee for all purposes contemplated herein.

All capitalized terms herein shall have the same meaning as in the Lease. Lessor, its successors and assigns and any counsel rendering an opinion on the tax-exempt status of the interest components of Rental Payments are entitled to rely on this opinion.

Very truly yours,

Jeff Parker

Jefferson H. Parker
jhparker@hpwclaw.com

SCHEDULE E-1 TO
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000217-008

WHEREAS, City of Manitou Springs (the “Lessee”) is a political subdivision duly organized under the constitution and laws of the State where Lessee is located;

WHEREAS, it is necessary and desirable and in the best interest of the Lessee, as lessee, to enter into a State & Municipal Lease/Purchase Agreement (the "Lease") with Clayton Holdings, LLC, as lessor (the “Lessor”), for the purposes described therein, including the leasing of the Equipment; and

WHEREAS, the Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Rental Payments scheduled to come due during the current fiscal year and to meet its other obligations, and such funds have not been expended for other purposes

NOW, THEREFORE, BE IT RESOLVED, BY THE GOVERNING BODY OF CITY OF MANITOU SPRINGS, AS FOLLOWS:

Section 1. The Lease and the Escrow Agreement, in substantially the same form as presented to this meeting, and the terms and performance thereof are hereby approved, and the Mayor of the Lessee is hereby authorized to execute and deliver the Lease and the Escrow Agreement, on behalf of the Lessee, with such changes therein as shall be approved by such officer, such approval to be conclusively evidenced by such officer’s execution thereof.

Section 2. The Lessee shall, and the officers, agents and employees of the Lessee are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the Lessee with respect to the Lease and the Escrow Agreement.

Section 3. Lessee hereby designates the Lease as a “qualified tax-exempt obligation” as defined in Section 265(b)(3)(B) of the Internal Revenue Code. The aggregate face amount of all tax-exempt obligations (including the Lease, but excluding private activity bonds other than qualified 501(c)(3) bonds) issued or to be issued by Lessee and all subordinate entities thereof during the current calendar year is not reasonably expected to exceed $10,000,000. Lessee and all subordinate entities thereof will not issue in excess of $10,000,000 of tax-exempt obligations (including the Lease, but excluding private activity bonds other than qualified 501(c)(3) bonds) during the current calendar year without first providing Lessor with an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations acceptable to Lessor, that the designation of the Lease as a “qualified tax-exempt obligation” will not be adversely affected.

Section 4. Moneys sufficient to pay all Rental Payments required to be paid under the Lease during Lessee’s current fiscal year are hereby appropriated to such payment, and such moneys will be applied in payment of all Rental Payments due and payable during the current fiscal year.

Section 5. This Resolution shall take effect and be in full force immediately after its adoption by the governing body of the Lessee.

PASSED AND ADOPTED by the governing body of City of Manitou Springs this ___ day of _______________, 2025.

ATTEST:	City of Manitou Springs
By: ______________________________	By: ______________________________
Printed Name: ______________________	Printed Name: *John Graham*
Title: _____________________________	Title: *Mayor*

SCHEDULE E-2 TO
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000217-008

INCUMBENCY AND AUTHORIZATION CERTIFICATE

The undersigned, a duly elected or appointed and acting of City of Manitou Springs ("Lessee") certifies as follows:

A. **Authorized Signers.** The following listed persons are duly elected or appointed and acting officials of Lessee (the "Officials") in the capacity set forth opposite their respective names below, and the signature of each such Official appearing below is the true and genuine signature of that Official. By order of Lessee's governing body, the Officials identified below have been duly authorized, on behalf of Lessee, to negotiate, execute and deliver the Equipment Lease/Purchase Agreement dated as of January 30, 2025, by and between Lessee and Clayton Holdings, LLC ("Lessor"), the Escrow Agreement dated as of January 30, 2025 among Lessor, Lessee and UMB Bank, N.A., as Escrow Agent (the "Escrow Agreement"), and all documents related thereto and delivered in connection therewith (collectively, the "Agreements").

Name of Official	Title	Signature
John Graham	Mayor	
Rebecca Davis	Finance Director	
Nicole Ortega	Finance Supervisor	

B. **Call-Back Verification.** Lessor may, but is not required, to call back any one of the below-named employees or officials of Lessee prior to approving the disbursement of any funds from the Acquisition Fund established under the Escrow Agreement to verify the request for disbursement, including but not limited to amount, payee, address, ABA and account numbers of the payee or Lessee.

Name	Title	Phone Number
Rebecca Davis	Finance Director	719-685-2548
Nicole Ortega	Finance Supervisor	

Dated: , 2025 By: ______________________________

Name: ______________________________

Title: ______________________________

(The signer of this Certificate cannot be listed under Paragraph A above as authorized to execute the Agreements.)

SCHEDULE F
STATE & MUNICIPAL LEASE/PURCHASE AGREEMENT
Lease No. 5000217-008

ESSENTIAL USE/SOURCE OF FUNDS LETTER

January 30, 2025

Clayton Holdings, LLC
8000 Forsyth Boulevard, Suite 510
St. Louis, Missouri 63105

Re: State and Municipal Lease/Purchase Agreement No. 5000217-008, dated the Thirtieth day of January 2025(the "Lease"), between Clayton Holdings, LLC ("Lessor") and City of Manitou Springs ("Lessee")

Ladies and Gentlemen:

This confirms and affirms that the Equipment described in the Lease is essential to the function of the undersigned or to the service we provide to our citizens.

Further, we have an immediate need for, and expect to make immediate use of, substantially all such Equipment, which need is not temporary or expected to diminish in the foreseeable future. Such Equipment will be used by us only for the purpose of performing one or more of our governmental or proprietary functions consistent with the permissible scope of our authority. Specifically, such Equipment was selected by us to be used as follows:

____
____

The estimated useful life of such Equipment based upon manufacturer's representations and our projected needs is not less than the maximum Lease Term.

Our source of funds for payments of the Rental Payments due under the Lease for the current fiscal year is

____

We currently expect and anticipate adequate funds to be available for all future payments of rent due after the current fiscal year for the following reasons:

____

Very truly yours,

Lessee: City of Manitou Springs

Authorized Signature: ________________________________

Printed Name: John Graham

Title: Mayor

Date: ________________________________

SCHEDULE G
PROOF OF INSURANCE

Insurance Agent Name: ________________________________

Agency Name: ____

Address: ____

Phone Number: _______________________________________

E-Mail: ____

Ladies and Gentlemen:

Please add CLAYTON HOLDINGS, LLC as both co-loss payee and additional insured under the property insurance covering the Equipment listed on attached Schedule A, and as additional insured under the general liability insurance policy. The minimum liability coverage is $1,000,000.00. Please mail or fax an insurance certificate to:

Clayton Holdings, LLC
P.O. Box 11309
St. Louis, MO 63105
Fax # 314-746-3744

Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance.

Please note that the Bank requires 30 day written notice of cancellation of the policy covering leased equipment.

Lessee: City of Manitou Springs

Authorized Signature: ________________________________

Printed Name: John Graham

Title: Mayor

Date: ____

Commerce Bank
Member FDIC

SCHEDULE H

ACH Payment Authorization Form

Lease No. / Loan No: 5000217-008

Lessee / Borrower: City of Manitou Springs

I authorize Commerce Bank ("Commerce") to initiate debit entries and to initiate, if necessary, credit entries and adjustments for any debit entries in error on behalf of CBI Equipment Finance, Clayton Holdings or Commerce Bank as lender or lessor in the amount shown, and from the checking or savings account with the depository institution ("Bank") named below, on the payment due date.

Bank Name: ______________________________

Address: ______________________________

ABA Routing No.: ______________________________

Account No.: ______________________ (X) Checking ( ) Savings

This is a (X) New or ( ) Updated authorization form.
Annual Debit Amount(s): In Accordance with Schedule C
Begin Auto Debit with Invoice Date Due: In Accordance with Schedule C

The final or balloon payment, if different from the Annual payment, will not be auto debited.

I understand that this authorization will remain in full force and effect until I notify COMMERCE BANK at the address or phone number below that I wish to revoke this authorization. I understand that COMMERCE BANK requires at least 5 days prior notice in order to process any such cancellation.

X ______________________________ X ______________________

Borrower / Lessee Signature Date

Note that there is NO charge for this service.
Also, your "Bank" need not be Commerce Bank to benefit from this feature. Any bank account can be auto debited. To commence service please return this form with your document package or **send this signed form and a voided check (unless COMMERCE BANK is already currently debiting this same account for another lease schedule) to:**

COMMERCE BANK
P.O. Box 11309
Clayton, MO 63105 or
LeasingACH@Commercebank.com

To discontinue or amend service, please email the request to the address above or call COMMERCE BANK at 314.746.3726.

ESCROW AGREEMENT

This Escrow Agreement (the "Escrow Agreement"), dated as of the Thirtieth day of January 2025 and entered into among **Clayton Holdings, LLC,** a Missouri Limited Liability Company (together with its successors and assigns, "Lessor"), **City of Manitou Springs** a municipal corporation and political subdivision existing under the laws of Colorado ("Lessee"), and **UMB Bank, N.A.,** a national banking association, as escrow agent (together with its successors and assigns, the "Escrow Agent").

Name of Acquisition Fund: "Manitou Springs SCH 008"
Amount of Deposit into the Acquisition Fund: $708,732.00

TERMS AND CONDITIONS

1. This Escrow Agreement relates to the State and Municipal Lease/Purchase Agreement dated as of the Thirtieth day of January 2025 (the "Lease"), between Lessor and Lessee.

2. Lessor, Lessee and the Escrow Agent agree that the Escrow Agent will act as sole Escrow Agent under the Lease and this Escrow Agreement, in accordance with the terms and conditions set forth in this Escrow Agreement. The Escrow Agent shall not be deemed to be a party to the Lease, and this Escrow Agreement shall be deemed to constitute the entire agreement between Lessor and Lessee and the Escrow Agent.

3. There is hereby established in the custody of the Escrow Agent a special trust fund designated as set forth above (the "Acquisition Fund") to be held and administered by the Escrow Agent in trust for the benefit of Lessor and Lessee in accordance with this Escrow Agreement.

4. Lessor shall deposit in the Acquisition Fund the amount specified above. Moneys held by the Escrow Agent hereunder shall be invested and reinvested by the Escrow Agent upon written order of an authorized Lessee representative, in accordance with the Arbitrage Instructions attached as **Exhibit A**, in Qualified Investments (as defined below) maturing or subject to redemption at the option of the holder thereof prior to the date on which it is expected that such funds will be needed. If an Authorized Lessee Representative fails to timely direct the investment of any moneys held hereunder, the Escrow Agent shall invest and reinvest such moneys in Goldman Sachs Financial Square Treasury Fund #525, which is a Qualified Investment described in 5(vi) below. Such investments shall be held by the Escrow Agent in the Acquisition Fund; any interest and gain earned on such investments shall be deposited in the Acquisition Fund, and any losses on such investments shall be charged to the Acquisition Fund. The Escrow Agent may act as purchaser or agent in the making or disposing of any investment.

5. “Qualified Investments” means, to the extent the same are at the time legal for investment of the funds being invested: (i) direct general obligations of the United States of America; (ii) obligations the timely payment of principal of and interest on which is fully and unconditionally guaranteed by the United States of America; (iii) general obligations of the agencies and instrumentalities of the United States of America acceptable to Lessor; (iv) certificates of deposit, time deposits or demand deposits with any bank or savings institution including the Escrow Agent or any affiliate thereof, provided that such certificates of deposit, time deposits or demand deposits, if not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, are fully secured by obligations described in (i), (ii) or (iii) above; or (v) repurchase agreements with any state or national bank or trust company, including the Escrow Agent or any affiliate thereof, that are secured by obligations of the type described in (i), (ii) or (iii) above, provided that such collateral is free and clear of claims of third parties and that the Escrow Agent or a third party acting solely as agent for the Escrow Agent has possession of such collateral and a perfected first security interest in such collateral; or (vi) money market mutual funds that are invested in securities described in (i), (ii) or (iii) and that are rated “Aaa” by Moody’s Investors Service or “AAAm-G” by Standard & Poor’s Ratings Services or the comparable rating by Fitch IBCA, Inc.

6. Moneys in the Acquisition Fund shall be used to pay for the cost of acquisition of the Equipment listed in the Lease. Such payment shall be made from the Acquisition Fund upon presentation to the Escrow Agent of one or more properly executed Payment Request and Acceptance Certificates, a form of which is attached as **Exhibit B**, executed by Lessee and approved in writing by Lessor, together with the Vendor's invoice specifying the acquisition price of the Equipment described in the Payment Request and Acceptance Certificate. In making any disbursement pursuant to this **Section 6**, the Escrow Agent may conclusively rely as to the completeness and accuracy of all statements in such Payment Request and Acceptance Certificate, and the Escrow Agent shall not be required to make any inquiry, inspection or investigation in connection therewith. Without limiting the foregoing, the Escrow Agent shall have no duty to review, and shall not be responsible for the contents of, invoices delivered to it hereunder. The approval of each Payment Request and Acceptance Certificate by the Lessor shall constitute unto the Escrow Agent an irrevocable determination by the Lessor that all conditions precedent to the payment of the amounts set forth therein have been completed.

7. The Acquisition Fund shall terminate upon the occurrence of the earlier of (a) the presentation of a proper Payment Request and Acceptance Certificate and the Final Acceptance Certificate, a form of which is attached as **Exhibit C**, properly executed by Lessee, (b) 12 months from the date hereof (or such later date as may be agreed to in writing by Lessor and Lessee with notice in writing to Escrow Agent), or (c) the presentation of written notification by the Lessor that the Lease has been terminated pursuant to **Section 8** or **20** of the Lease. Upon termination as described in clause (a) or (b) of this paragraph, any amount remaining in the Acquisition Fund shall be paid to Lessor for application as provided in the Lease. Upon termination as described in clause (c) of this paragraph, any amount remaining in the Acquisition Fund shall immediately be paid to Lessor. The Escrow Agent may rely conclusively upon Lessor's written instructions in disbursing any amounts remaining in the Acquisition Fund upon termination and shall not be responsible in any manner for the exclusion from gross income of interest portions of Rental Payments under the Lease.

8. The Escrow Agent may at any time resign by giving at least 30 days written notice to Lessee and Lessor, but such resignation shall not take effect until the appointment of a successor Escrow Agent. The substitution of another bank or trust company to act as Escrow Agent under this Escrow Agreement may occur by written agreement of Lessor and Lessee. In addition, the Escrow Agent may be removed at any time, with or without cause, by an instrument in writing executed by Lessor and Lessee. In the event of any resignation or removal of the Escrow Agent, a successor Escrow Agent shall be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Escrow Agent shall indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Escrow Agent. Thereupon such successor Escrow Agent shall, without any further act or deed, be fully vested with all the trusts, powers, rights, duties and obligations of the Escrow Agent under this Escrow Agreement and the predecessor Escrow Agent shall deliver all moneys and securities held by it under this Escrow Agreement to such successor Escrow Agent whereupon the duties and obligations of the predecessor Escrow Agent shall cease and terminate. If a successor Escrow Agent has not been so appointed with 90 days of such resignation or removal, the Escrow Agent may petition a court of competent jurisdiction to have a successor Escrow Agent appointed.

9. Any corporation or association into which the Escrow Agent may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Escrow Agent hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

10. The Escrow Agent incurs no responsibility to make any disbursements pursuant to the Escrow Agreement except from funds held in the Acquisition Fund. The Escrow Agent makes no representations or warranties as to the title to any Equipment listed in the Lease or as to the performance of any obligations of Lessor or Lessee.

11. The Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instructions in connection

with the provisions hereof has been duly authorized to do so. The Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of this Escrow Agreement other than its own execution thereof or any instrument deposited with it, nor as to the identity, authority or right of any person executing the same; and its duties hereunder shall be limited to those specifically provided herein.

12. Unless the Escrow Agent is guilty of negligence or willful misconduct with regard to its duties hereunder, Lessee, to the extent permitted by law, and Lessor jointly and severally hereby agree to indemnify the Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Escrow Agreement; and in connection therewith, to indemnify the Escrow Agent against any and all expenses, including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

13. The aggregate amount of the costs, fees, and expenses of the Escrow Agent in connection with the creation of the escrow described in and created by this Escrow Agreement and in carrying out any of the duties, terms or provisions of this Escrow Agreement is a one-time fee in the amount of $250.00 to be paid by Lessee concurrently with the execution and delivery of this Escrow Agreement.

Notwithstanding the preceding paragraph, the Escrow Agent shall be entitled to reimbursement from Lessee of reasonable out-of-pocket, legal or extraordinary expenses incurred in carrying out the duties, terms or provisions of this Escrow Agreement (including attorneys' fees and expense). Claims for such reimbursement may be made to Lessee and in no event shall such reimbursement be made from funds held by the Escrow Agent pursuant to this Escrow Agreement. The Escrow Agent agrees that it will not assert any lien whatsoever on any of the money or Qualified Investments on deposit in the Escrow Fund for the payment of fees and expenses for services rendered by the Escrow Agent under this Escrow Agreement or otherwise.

14. If Lessee, Lessor, the Escrow Agent or any other person shall be in disagreement about the interpretation of the Lease or this Escrow Agreement, or about the rights and obligations, or the propriety of any action contemplated by the Escrow Agent hereunder, the Escrow Agent may, but shall not be required to, file an appropriate civil action to resolve the disagreement. The Escrow Agent shall be entitled to refuse to comply with any demand or claim, as long as such disagreement shall continue, and in so refusing to make any delivery or other disposition of any money, papers or property involved or affected thereby, the Escrow Agent shall not be or become liable to the undersigned or to any other person for its refusal to comply with such demands, and the Escrow Agent shall be entitled to refuse and refrain to act until (a) such civil action has been resolved by full and final adjudication in a court assuming and having jurisdiction over such subject matter, or (b) all differences shall have been adjusted by agreement and the Escrow Agent shall have been notified thereof in writing, signed by all the interested parties. The Escrow Agent shall be indemnified by Lessor and Lessee, to the extent permitted by law, for all costs, including reasonable attorneys' fees and expenses, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under this Escrow Agreement until a final judgment in such action is received.

15. The Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection for any action or non-action taken by the Escrow Agent in accordance with the opinion of such counsel. The Escrow Agent shall otherwise not be liable for any mistakes of facts or errors of judgment, or for any acts or omissions of any kind unless caused by its negligence or willful misconduct.

16. This Escrow Agreement shall be governed by and construed in accordance with the laws of the state of Colorado.

17. In the event any provision of this Escrow Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

18. This Escrow Agreement may be executed in several counterparts, each of which so executed shall be an original. The transactions described herein may be conducted and related documents may be sent and stored by electronic means.

19. This Escrow Agreement may be executed in several counterparts, each of which so executed shall be an original.

20. The parties hereto agree that, for tax reporting purposes, all interest or other income, if any, attributable to the Escrowed Funds or any other amount held in escrow by the Escrow Agent pursuant to this Agreement shall be allocable to the Lessee. The Lessee and Lessor agree to provide the Escrow Agent completed Forms W-9 (or Forms W-8, in the case of non-U.S. persons) and other forms and documents that the Escrow Agent may reasonably request (collectively, "Tax Reporting Documentation") at the time of execution of this Agreement. Additionally, the parties hereto agree that they will provide any information reasonably requested by the Escrow Agent to comply with the USA Patriot Act of 2001, as amended from time to time, and the Bank Secrecy Act of 1970, as amended from time to time (together the "Acts"), which information will be used to verify the identities of the parties to ensure compliance with the terms of such Acts. The parties hereto understand that if such Tax Reporting Documentation is not so certified to the Escrow Agent, the Escrow Agent may be required by the Internal Revenue Code, as it may be amended from time to time, to withhold a portion of any interest or other income earned on the investment of monies or other property held by the Escrow Agent pursuant to this Escrow Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Lessor, Lessee and the Escrow Agent have caused this Escrow Agreement to be executed by their duly authorized representatives.

Clayton Holdings, LLC
LESSOR

By: ____

Title: Officer

City of Manitou Springs
LESSEE

By: ____

Printed Name: *John Graham*
Title: *Mayor*

UMB Bank, N.A.
ESCROW AGENT

By: ____

Title: ____

EXHIBIT A

ARBITRAGE INSTRUCTIONS

These Arbitrage Instructions provide procedures for complying with § 148 of the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exclusion from federal gross income of the interest portions of the Rental Payments under the Lease.

1. Temporary Period/Yield Restriction. Except as described in this paragraph, money in the Acquisition Fund must not be invested at a yield greater than the yield on the Lease. Proceeds of the Lease in the Acquisition Fund and investment earnings on such proceeds may be invested without yield restriction for three years after the Start Date of the Lease. If any unspent proceeds remain in the Acquisition Fund after three years, such amounts may continue to be invested without yield restriction so long as Lessee pays to the IRS all yield reduction payments under § 1.148-5(c) of the Treasury Regulations.

2. Opinion of Bond Counsel. These Arbitrage Instructions may be modified or amended in whole or in part upon receipt of an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations, satisfactory to Lessor, that such modifications and amendments will not adversely affect the exclusion of the interest portions of Rental Payments from gross income for federal income tax purposes.

EXHIBIT B

FORM OF PAYMENT REQUEST AND ACCEPTANCE CERTIFICATE

To: Clayton Holdings, LLC, as Lessor
8000 Forsyth Blvd., Suite 510
St. Louis, Missouri 63105

UMB Bank, N.A., as Escrow Agent
928 Grand Blvd., 12th Floor
Kansas City, MO 64106

Re: Manitou Springs SCH 008 Acquisition Fund established by the Escrow Agreement, dated January 30, 2025 (the "Escrow Agreement") among Clayton Holdings, LLC, as lessor ("Lessor"), City of Manitou Springs ("Lessee") and UMB Bank, N.A., as Escrow Agent (the "Escrow Agent")

Ladies and Gentlemen:

The Escrow Agent is hereby requested to pay from the Acquisition Fund to the person or corporation designated below as Payee, the sum set forth below in payment of a portion or all of the cost of the acquisition of the equipment or the interest portions of Rental Payment(s) described below. The amount shown below is due and payable under the invoice of the Payee attached hereto with respect to the cost of the acquisition of the equipment or payment of the interest portions of Rental Payment(s) and has not formed the basis of any prior request for payment.

The equipment described below is part or all of the "Equipment" that is listed in State and Municipal Lease/ Purchase Agreement dated as of the Thirtieth day of January 2025 (the "Lease") described in the Escrow Agreement.

Equipment: ____

Payee: ___________________________
____
____

Amount: $_________________________

Lessee hereby certifies and represents to and agrees with Lessor and the Escrow Agent as follows:

1. All of the above-listed Equipment has been delivered to and received by the undersigned; all installation or other work necessary prior to the use thereof has been completed; said Equipment has been examined and/or tested and is in good operating order and condition and is in all respects satisfactory to the undersigned and as represented and said Equipment has been accepted by the undersigned and complies with all terms of the Lease. Consequently, you are hereby authorized to pay for the Equipment in accordance with the terms of any purchase orders for the same.

2. In the future, in the event the Equipment fails to perform as expected or represented we will continue to honor the Lease in all respects and continue to make our rental and other payments thereunder in the normal course of business and we will look solely to the vendor, distributor or manufacturer for recourse.

3. We acknowledge that Lessor is neither the vendor nor manufacturer or distributor of the Equipment and has no control, knowledge or familiarity with the condition, capacity, functioning or other characteristics of the Equipment.

4. No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.

5. Lessee is currently maintaining the insurance coverage required by **Section 17** of the Lease

6. The serial number for each item of Equipment which is set forth on Schedule A to the Lease is correct.

APPROVED:	Dated: _____________________, 2025
Clayton Holdings, LLC LESSOR	**City of Manitou Springs** LESSEE
By: ____________________________________	By: ___________________________________
Title: Officer_____________________________	*Printed Name:* ___________________________ *Title:* __________________________________

EXHIBIT C

FINAL ACCEPTANCE CERTIFICATE

[THIS CERTIFICATE IS TO BE EXECUTED ONLY WHEN ALL EQUIPMENT HAS BEEN ACCEPTED]

The undersigned hereby certifies that the equipment described above, together with the equipment described in and accepted by Payment Request and Acceptance Certificates previously filed by Lessee with the Escrow Agent and Lessor pursuant to the Escrow Agreement, constitutes all of the Equipment subject to the Lease.

Dated: ____________________, 2025

City of Manitou Springs
LESSEE

By: ______________________________________

Printed Name: ____________________________
Title: ___________________________________

8038-G QUESTIONNAIRE

Name of Lessee: City of Manitou Springs
Address of Lessee: 606 Manitou Avenue, Manitou Springs, Colorado 80829
Contact Person: Rebecca Davis, Finance Director
Telephone Number: (719) 685-2548
Email Address: rdavis@manitouspringsco.gov
Lessee's FEIN: 84-6000692

GENERAL

In October 2021, the Internal Revenue Service ("IRS") updated Form 8038-G (the form used by Lessees to report the issuance of a tax-exempt obligation). The revised Form 8038-G asks specific questions about written procedures to: (1) monitor private use of assets financed with proceeds of a tax-exempt obligation and, as necessary, to take remedial actions to correct any violations of federal tax restrictions on the use of financed assets; and (2) monitor the yield on the investment of gross proceeds of tax-exempt obligations and, as necessary, make payments of arbitrage rebate earned to the United States. In addition, the revised Form 8038-G asks Lessees to report whether any proceeds will be used to reimburse the Lessee for an expenditure paid prior to issuance. This questionnaire is designed to obtain the information necessary to complete Form 8038-G for the Lease. Lessee will be required to review and approve the information entered prior to signing the 8038-G form.

At this time, the consequences of not having adopted written procedures to monitor private use of financed assets and yield on the investment of gross proceeds of tax-exempt obligations are unknown. If you have further questions, please consult your regular bond or legal counsel.

Part 1 – Written Tax Compliance Procedures

Note: If either of these questions is not answered, we will assume the Lessee has not adopted the described procedures.

1. Has the Lessee established written procedures to monitor compliance with federal tax restrictions for the term of the lease? The written procedures should identify a particular individual within Lessee's organization to monitor compliance with the federal tax requirements related to use of the financed assets and describe actions to be taken in the event failure to comply with federal tax restrictions is contemplated or discovered. **Yes _____No ____**

2. Has the Lessee established written procedures to monitor the yield on the investment of proceeds of the Lease on deposit in an escrow account or similar fund prior to being spent and to ensure that any positive arbitrage rebate earned is paid to the United States? **Yes _____ No ____**

Part 2 – Reimbursement of Prior Expenditures

1. As of the funding date, were any of the proceeds of the Lease used to reimburse Lessee for expenditures paid to acquire the financed assets prior to the funding date of the Lease? **Yes _____ No ____**

__If yes__, please attach a spreadsheet listing the expenditure(s) together with the date paid, vendor paid and purpose of the expenditure or other proof of the expenditure(s) containing this information (i.e. invoices, receipts, cancelled checks).

Items 2 and 3 need to be completed ONLY if the answer to item 1 above is YES.

2. Please attach a copy of Lessee's resolution of intent to finance the financed assets, which includes date of adoption.

3. What is the amount of proceeds of the Lease reimbursed to Lessee? $_______________

BY:____________________________________

NAME: John Graham

TITLE: Mayor

DATE: ____________________________________

UMB Bank, N.A. as Escrow Agent
Fees and Expenses

Manitou Springs SCH 008

Escrow Fee	$250.00
TOTAL	**$250.00**

UMB Contact:
Nicole Tarantino
928 Grand Blvd Floor 12
Kansas City, MO 64106
816-860-3784

Remit To:
UMB Bank, N.A.
928 Grand Blvd Floor 12
Kansas City, MO 64106
Attn: Nicole Tarantino

Wire:
ABA 101 00 0695
AC# 980 000 6823
Acct Name: UMB Trust Department
Attn: Tarantino
REFERENCE: Manitou Springs SCH 007

Clayton Holdings, LLC

8000 Forsyth Boulevard, Suite 510
Saint Louis, Missouri 63105-1797

Invoice Date:	01/30/2025
Invoice Number:	CHOL1211
Due Date:	02/25/2025

INVOICE TO:	City of Manitou Springs 606 Manitou Avenue Manitou Springs, Colorado 80829	REMIT via CHECK TO:	Clayton Holdings, LLC PO Box 800086 Kansas City, MO 64180-0086

ATTENTION: Rebecca Davis, Finance Director

Reference:	First Payment for Lease Agreement 5000217-008	**$145,171.14**
	Invoice Subtotal	**$145,171.14**

	Total	**$145,171.14**

For Questions Concerning This Invoice Please Call 314-746-3686

Compound Period: Annual

Nominal Annual Rate: 4.465%

CASH FLOW DATA

	Event	Date	Amount	Number	Period	End Date
1	Loan	2/25/2025	708,732.00	1		
2	Payment	2/25/2025	145,171.14	5	Annual	2/25/2029
3	Payment	2/25/2030	11,470.97	5	Annual	2/25/2034

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Balance
Loan	2/25/2025				708,732.00
1	2/25/2025	145,171.14	0.00	145,171.14	563,560.86
2025 Totals		145,171.14	0.00	145,171.14	
2	2/25/2026	145,171.14	25,161.74	120,009.40	443,551.46
2026 Totals		145,171.14	25,161.74	120,009.40	
3	2/25/2027	145,171.14	19,803.59	125,367.55	318,183.91
2027 Totals		145,171.14	19,803.59	125,367.55	
4	2/25/2028	145,171.14	14,206.21	130,964.93	187,218.98
2028 Totals		145,171.14	14,206.21	130,964.93	
5	2/25/2029	145,171.14	8,358.91	136,812.23	50,406.75
2029 Totals		145,171.14	8,358.91	136,812.23	
6	2/25/2030	11,470.97	2,250.55	9,220.42	41,186.33
2030 Totals		11,470.97	2,250.55	9,220.42	
7	2/25/2031	11,470.97	1,838.88	9,632.09	31,554.24
2031 Totals		11,470.97	1,838.88	9,632.09	
8	2/25/2032	11,470.97	1,408.83	10,062.14	21,492.10
2032 Totals		11,470.97	1,408.83	10,062.14	
9	2/25/2033	11,470.97	959.57	10,511.40	10,980.70
2033 Totals		11,470.97	959.57	10,511.40	

10	2/25/2034	11,470.97	490.27	10,980.70	0.00	1/30/2025 3:43 PM Page 2
2034 Totals		11,470.97	490.27	10,980.70		
Grand Totals		783,210.55	74,478.55	708,732.00		

Last interest amount increased by 0.01 due to rounding.

Memorandum

Title: Mobility & Parking Enterprise Loan Amounts and Project Costs
From: Rebecca Davis, CPFO, Finance Director, Roy Chaney, Deputy City Administrator & Public Services Director, Juan Alvarez, Mobility/Parking Director
To: Mayor and City Council
CC: City Administrator Denise Howell
Allocated Time: 30 Minutes

February 4, 2025

Purpose:

Staff is seeking approval from City Council on proceeding with obtaining a loan for the Mobility & Parking Enterprise Fund's Dillon Project.

Background:

In 2024, the City purchased the Dillon Motel property and demolished most of the structures except for a building that will be repurposed as the Parking Office and a cinderblock building to be repurposed as a restroom facility. Also, the Hiawatha Gardens building and the Hiawatha Gardens parking lot were studied to determine future use and the best design for utilizing the parking lot along with the Chase property.

The Current Estimated Costs breakout is below. Staff will not know true costs until we receive bids.:

Dillon Property to be open for parking by June:

Dillon parking lot:	$ 500,000
Dillon office/restrooms:	$ 800,000
	$ 1,300,000

Hiawatha Gardens property (restrooms and parking lot):

Design:	$ 500,000
Construction:	$ 2,700,000
	$ 3,200,000
PPRTA funding	1,800,000
Remainder:	$ 1,400,000

Future projects:

Chase Property:	$ 3,600,000
Dillon Bridge:	$ 450,000

Total estimated cost for all of the above is $8,550,000.

The Hiawatha Pavilion is not included above and will require fund raising.

After discussion with our bankers, we have discovered that it will be extremely difficult to obtain a loan for even $1,300,000 with the parking revenues as the only source of loan payments. To obtain financing, we will guarantee the loan payments with General Fund revenues. For the underwriting and approval process for providing a quote, the bank will require the following:

- Detailed information about the project
- Collateral equivalent to the amount of the loan
- The type of structure of the loan, example: 5 years, 4 payments a year
- Mobility & Parking Enterprise Funds financials

For the final documentation process, they may require the following:

- Plans & specs for the project
- Legal description
- Title policies
- Environmental review (possibly)
- Payment performance bonds
- Proof of insurance
- Construction Schedule

After reassessing the above projects, in order to begin the Dillon project as soon as possible and to ensure that the Mobility & Parking Enterprise Fund is not overburdened with too much debt, Staff is recommending that the City takes a phased approach to these capital projects.

Starting with a loan for $1,300,000 for the Dillon parking lot and the Dillon parking office building. Assuming a ten-year loan at 6.5% interest, creates annual loan payments of $177,800.
The Dillon project has the most complete documents, although, we do not know how long the underwriting and approval of quote plus the final documentation process to create the loan paperwork will take.

We should have the plans & specs for the restrooms and parking lot for the Hiawatha Gardens property in the fall of this year and have an estimated figure of $1,400,000, for the project. This phase does not include the Chase property. The plans and specs are required for the loan documents. At this time, Staff requests approval from City Council to seek a 2nd ten-year loan for $1,400,000, with annual payments of $191,500. Once the two projects are complete, Staff recommends paying down the two loans annual debt of an estimated $369,300, before taking on additional debt. If we continue to have good parking revenues, we will pay down the loans faster than the ten-year period.

Estimated fund balance projections including the two loans and utilizing very conservative revenue figures, are the following:

- Amended 2025 - $428,000
- 2026 - $532,000
- 2027 - $664,000
- 2028 - $987,000
- 2028 - $936,000

There is the possibility of using the General Fund to loan the amounts needed for capital projects to the Mobility & Parking Enterprise Fund, I do not recommend this action at this time. At the moment, the General Fund has a very healthy fund balance, but the future is uncertain, and we should maintain this very healthy fund balance for issues that the City could not borrow cash to take care of. I'm thinking specifically of disasters. For FEMA grants, the recipient must provide 20% grant match. If the City does not have the grant match, FEMA will not provide the grant. Infrastructure, like streets and bridges, are not covered by insurance, it's beneficial to have a large fund balance that would be available immediately to take care of situations involving possible infrastructure issues. Due to national economic uncertainty in the future, the fund balance may be needed for operations. As the Finance Director, I must recommend that as long as the City has other options rather than spending down the General Fund fund balance, they should be pursued and spending down the fund balance is only a path to follow when we have no other options.

The Hiawatha Gardens Pavilion, Chase Property and Dillon Bridge will be additional phases for the future.

Pros and Cons:

Pro: Additional parking and restrooms, outside of the City's core, will be made available along with the Mobility & Parking Enterprise Fund personnel being able to move out of the Pool building this year. In 2026, Hiawatha Gardens would be providing restroom facilities and improved parking.

Con: The Mobility & Parking Enterprise Fund will have a debt burden to pay for several years.

Fiscal Impact:

The Mobility & Parking Enterprise Fund will have ten years of annual loan payments of an estimated $369,300. This may be paid off early if Parking revenues remain good.

Workload Impact:

Multiple hours by multiple staff members.

Recommended Action:

Make a Motion to Proceed with the loan in the amount of $1,300,000.

City of Manitou Springs

MOBILITY & PARKING ENTERPRISE FUND'S PROJECTS AND LOAN AMOUNTS

History of Paid Parking within the City

Before the 1970's, Manitou Springs used to have parking meters on Manitou Ave.

History cont.

December 1989

Manitou Springs Metropolitan District was formed.

May 2012

Tajine Alami restaurant parking lot leased for the summer months.

March 2013

Agreement signed with Standard Parking Corp.

October 2015

Tajine Alami Property purchased.

July 2020

Paid Parking management brought in-house.

2021

Hiawatha Gardens & Memorial Park paid parking implemented.

Dillon Property

HISTORY

- 2024 Property purchased
- 2024 Buildings demolished
- 2-story building saved for Mobility & Parking office
- Cinderblock building saved for Restrooms

Hiawatha Gardens Property

HISTORY

- 2015 Property purchased
- Property utilized for Parking
- Use Studies performed with Citizen involvement

Total Projects' Cost-$8,550,000 (Est. as of 1/31/2024)

Dillon Property to be open for parking by June:

Dillon parking lot:	$ 500,000
Dillon office/restrooms:	$ 800,000
	$ 1,300,000

Hiawatha Gardens property:

Design:	$ 500,000
Construction:	$ 2,700,000
	$ 3,200,000
PPRTA funding	- 1,800,000
Remainder:	**$ 1,400,000**

Future projects:

Chase Property:	$ 3,600,000
Dillon Bridge:	$ 450,000

Hiawatha Pavilion –fund raising required

Bank Loan Requirements

- Guaranty the loans with General Fund Revenues
- Detailed information about Projects
- Collateral equivalent to Loan Amount
- Parking Financials
- Plans & Specs for Projects
- Legal Descriptions
- Title Policies
- Environmental Review (possibly)
- Payment Performance Bonds and Proof of Insurance
- Construction Schedule

Guaranteeing with the General Fund

- Subject to annual appropriation
- A guarantee is not considered a grant
- Enterprise status lost (current/subsequent year) only if grant exceeds revenues by 10%
- City "de-bruced" in 1997, thus no TABOR cap issue
- 2023 & 2024 Revenues over $3,000,000.
- If General Fund help used, we plan on M&P Enterprise paying it back
- Collateral does not affect enterprise status, only cash
- Assuming 6.5% interest rate to ensure Enterprise Fund can afford payments, should be lower

In 2021, Stifel, the City's Financial Advisor's Analysis for potential bonding:

3 scenarios:

Stifel has prepared the following bond scenarios for the City's contemplated Parking Enterprise Revenue Bonds:

- Scenario 1: $1.2 million project fund based on historical net revenues from 2019, prior to the pandemic
- Scenario 2: $4.5 million project fund based on the City's budgeted 2021 net revenues
- Scenario 3: $1.7 million project fund based on revised 2021 net revenues assuming $1 million in revenues and $750,000 in expenditures, to provide a more conservative scenario**

Assumptions:

- 15-year term, and 3% borrowing rate, level debt service
- Debt service reserve fund sized at maximum annual debt service
- Costs of issuance ranging from $50,000 - $90,000 depending on the issuance size
- Coverage of 1.5x

	Scenario 1: 2019 Net Revenues	Scenario 2: 2021 Projected Budget Net Revenues	Scenario 3: 2021 Alternative Assumed Net Revenues**
Par Amount	$1,405,000	$5,030,000	$1,955,000
Estimated Cost of Issuance	$50,580	$90,540	$58,650
Estimated Reserve Fund	$120,050	$423,550	$165,600
Project Fund	$1,234,370	$4,515,910	$1,730,750
Estimated Rate	3%	3%	3%
Term (Years)	15	15	15
Total Repayment	$1,765,900	$6,320,150	$2,456,450
Maximum Annual Repayment	$120,050	$423,550	$165,600
Estimated Net Revenues	$180,297	$635,660	$250,000
Debt Service Coverage	1.5	1.5	1.5

Notes:
1. Preliminary and subject to change.
2. Interest rate assumptions are based on current market conditions and assumed credit rating outcomes.
3. Actual results may differ, and Stifel makes no commitment that an underwriter or bank will participate at these levels.

2

Recommendation: PHASES

1st Phase – 2025 Dillon Project

- Obtain bank loan for $1,300,000
- Build Dirt parking lot
- Build Restrooms
- Convert 2-story building – Parking office

2nd Phase – 2026 Hiawatha Gardens Project

- Obtain bank loan for $1,400,000
- Build restrooms facility
- Renovate Parking Lot

Pavilion in a future phase.

Cost of Loans (estimated)

1st Phase – 2025 Dillon Project

- Principal: $1,300,000
- Assumed interest rate: 6.5%
- Repayment Period: 10 years
- Annual payment: $177,800
- Total 10 year: $1,778,000

2nd Phase – 2026 Hiawatha Gardens Project

- Principal: $1,400,000
- Assume interest rate: 6.5%
- Repayment Period: 10 years
- Annual payment: $191,500
- Total 10 year: $1,915,000

Just Learned Friday, 1/31/2025:

Staff has been informed if the Dillon keeps a Dirt Lot longer than a Year, additional Storm Drainage issues need to be managed.

Cost will increase.

Borrow from General Fund?

Keep Healthy Fund Balance for the Unexpected

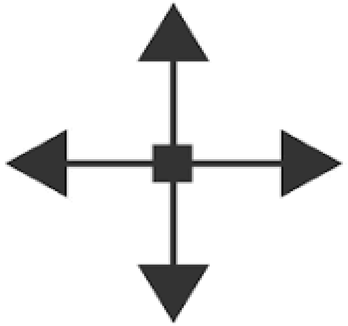
When Cash on Hand is the City's Only Option

- Disasters – FEMA Requires 20% Grant Match to their 80%
- National Economic Uncertainty – May need to cover Operating Costs
- Infrastructure Damage – Not covered by Insurance, Repair requires Cash

Not Recommended

Council Approval Requested

Phased Projects and Bank Loans?



Or, Follow a Different Direction?

Parking Enterprise Loan for Hiawatha and Dillon				
Amount	interest rate	Yearly Payment - 10 year loan	interest rat	Yearly Payment - 15 year loan
$1,300,000	6.50%	$ 177,813	6.50%	$ 136,326
$1,400,000	6.50%	$ 191,490	6.50%	$ 146,812
$2,000,000	6.50%	$ 273,558	6.50%	$ 209,732
$2,700,000	6.50%	$ 369,303	6.50%	$ 283,138
$3,000,000	6.50%	$ 410,337	6.50%	$ 314,597
$4,000,000	6.50%	$ 547,116	6.50%	$ 419,463
$6,000,000	6.50%	$ 820,673	6.50%	$ 629,195
$8,500,000	6.50%	$ 1,162,621	6.50%	$ 891,359